

**City of New York
Office of Administrative Trials and Hearings**

Notice of Adoption of Rule

Pursuant to the authority set forth in paragraph (a) of subdivision 2 of section 1049 of the New York City Charter, and chapter 45 of the Charter, generally, which authorize the Chief Administrative Law Judge of the Office of Administrative Trials and Hearings (OATH) to establish rules of conduct, OATH has adopted amendments clarifying the Rules of Practice for its Trials and Hearings Divisions.

The Environmental Control Board voted to approve a proposed version of these amendments on June 10, 2021. A proposed version of these amendments was published in The City Record on June 18, 2021. A public hearing was held on July 22, 2021. No testimony regarding the amendments was given at the public hearing, and OATH did not receive any written comments from the public. The Environmental Control Board voted to approve a final version of these amendments on August 12, 2021.

Statement of Basis and Purpose of Rule

The Office of Administrative Trials and Hearings (OATH) periodically reviews and updates its rules to correct typographical errors; fix cross-references to rules that have been updated, amended, or deleted; ensure consistency with plain-language guidelines; and provide improved guidance with regard to its Trials and Hearings Division procedures. Accordingly, OATH is amending portions of its Rules of Practice for its Trials and Hearings Divisions in chapters 2 and 3 of title 48 of the Rules of the City of New York to fix cross-references.

The provisions of chapter 2 amended in sections one and two of this rule apply to cases brought by the New York City Commission on Human Rights, pursuant to the City Human Rights Law, codified in title 8 of the New York City Administrative Code.

The provision of chapter 3 amended in section three of this rule applies to certain actions brought by the Environmental Control Board.

[Deleted material is in brackets.]

New material is underlined.

Section 1. Subdivision (c) of section 2-29 of title 48 of the Rules of the City of New York is amended to read as follows:

(c) Sanctions. Failure to comply with or object to a discovery request in a timely fashion as provided by §1-33 of this title may result in the imposition of sanctions as appropriate, including those specified in §1-33[(e)](d)(3) of this title.

§ 2. Subdivision (b) of section 2-30 of title 48 of the Rules of the City of New York is amended to read as follows:

(b) As provided by the Commission's rules (47 RCNY § [1-74] 1-63), failure of a party to seek interlocutory review of a decision or order does not preclude that party from making such challenge to the Commission in connection with the Commission's review of a report and recommendation in a case, provided that the party timely made its objection known to the administrative law judge and that the grounds for such challenge must be limited to those set forth to the administrative law judge.

§ 3. Subdivision (a) of section 3-21 of title 48 of the Rules of the City of New York is amended to read as follows:

(a) Scope. This section governs cease and desist actions brought by the Board pursuant to Administrative Code §§ 24-178, 24-257, or 24-524, after Respondent has had notice and an opportunity for a hearing on the violations alleged pursuant to the provisions of §§ [24-184] 24-178, 24-263, or 24-524, as appropriate, and has failed to comply with orders issued by the Board in such proceedings.