

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

Notice of Public Hearing and Opportunity to Comment on Proposed Rule

What are we proposing? The Office of Administrative Trials and Hearings (OATH) proposes to amend its Rules of Practice in chapters 2 and 3 of title 48 of the Rules of the City of New York to make minor updates and correct inconsistencies.

When and where is the Hearing? OATH will hold a public hearing on the proposed rule. The public hearing will take place **from 11:00 a.m. through 12:00 p.m. on July 22, 2021**. The hearing will be conducted by video conference and is accessible by:

- **Internet Video and Audio.** For access, visit:

<https://nyc-oath.webex.com/nyc-oath/j.php?MTID=m27131b7d0c40be9252d20277e1574499>

When prompted, enter **Meeting ID: 173 141 9649**
Password: OATH

- **Phone.** For access, dial: **1-646-992-2010**
When prompted, enter **Meeting ID: 1731419649##**

How do I comment on the proposed rules? Anyone can comment on the proposed rule by:

- **Website.** You can submit comments to OATH through the NYC rules website at <http://rules.cityofnewyork.us/>.
- **Email.** You can email written comments to Rules_Oath@oath.nyc.gov.
- **Mail.** You can mail written comments to OATH, Attention: Joy Thompson, Assistant General Counsel, 100 Church Street, 12th Floor, New York, NY 10007.
- **Fax.** You can fax written comments to OATH, Attention: Joy Thompson, Assistant General Counsel, at 212-361-1900.
- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rules at the public hearing may speak for up to three minutes. Please access the public hearing by internet video and audio or by telephone using the instructions above.

Is there a deadline to submit written comments? You may submit written comments until **5:00 p.m. on July 22, 2021**.

What if I need assistance to participate in the hearing? You must tell us if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You may contact us by email at enolan@oath.nyc.gov or by telephone at (212) 436-0708 to request a reasonable accommodation. Please tell us by July 21, 2021.

Can I review the comments made on the proposed rule? You can review the comments that have been submitted online by visiting the NYC rules website at <http://rules.cityofnewyork.us/>. Shortly after the public hearing, a summary of oral comments and copies of all written comments will be available to the public on OATH's website, at <https://www1.nyc.gov/site/oath/about/legal-resources-and-rule-making.page>.

What authorizes OATH to make this rule? Section 1049(2)(a) of the New York City Charter. This proposed rule is included in OATH's regulatory agenda for this Fiscal Year.

Where can I find OATH's rules? OATH's rules are located in title 48 of the Rules of the City of New York.

What laws govern the rulemaking process? This notice is made according to the requirements of Section 1043 of the New York City Charter.

Statement of Basis and Purpose of Proposed 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 is proposing amendments to clarify its rules. 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.

OATH proposes to amend 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.

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Adjustments and Corrections of Rule Language

REFERENCE NUMBER: 2021 RG 009

RULEMAKING AGENCY: Office of Administrative Trials and Hearings

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: May 5, 2021

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Adjustments and Corrections of Rule Language

REFERENCE NUMBER: OATH-103

RULEMAKING AGENCY: Office of Administrative Trials and Hearings

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro
Mayor's Office of Operations

May 5, 2021
Date