

City of New York
Office of Administrative Trials and Hearings

Notice of Adoption of Rule

Pursuant to the authority vested in the Office of Administrative Trials and Hearings (OATH) by sections 1043, 1049, and 1049-a of the New York City Charter, OATH has adopted amendments adding a new chapter 8 to title 48 of the Rules of the City of New York to comply with section 1043(g) of the New York City Charter (City Administrative Procedure Act), which permits any person to petition a city agency to consider the adoption of a rule and requires each agency to have rules creating a procedure for such petitions.

A proposed version of these amendments was published in The City Record on November 17, 2021. A public hearing was held on December 21, 2021. No testimony regarding the amendments was given at the public hearing, and OATH did not receive any written comments from the public.

Statement of Basis and Purpose of Rule

The Office of Administrative Trials and Hearings (OATH) has adopted amendments adding a new chapter 8 to title 48 of the Rules of the City of New York to comply with section 1043(g) of the New York City Charter (City Administrative Procedure Act), which permits any person to petition a city agency to consider the adoption of a rule and requires each agency to have rules creating a procedure for such petitions.

Chapter 8 of title 48 of the Rules of the City of New York sets forth the procedures that petitioners must follow in petitioning OATH to consider a new rule. It also sets forth the procedures OATH must follow in considering and responding to petitions. Additionally, it requires OATH to deny or approve petitions within 60 days and sets forth procedures for denying or granting petitions.

OATH's authority for this rule is found in sections 1043, 1049, and 1049-a of the New York City Charter.

Deleted material is in [brackets].
New text is underlined.

Section 1. Title 48 of the Rules of the City of New York is amended by adding a new Chapter 8 to read as follows:

Chapter 8: Petitions for Rulemaking

§ 8-01 Scope. These rules govern the procedures by which the public may submit to the Office of Administrative Trials and Hearings (OATH) petitions for rulemaking, pursuant to § 1043(g) of the New York City Charter (City Administrative Procedure Act), and the procedures for OATH’s consideration and disposition of such petitions.

§ 8-02 Definitions. As used in this chapter:

City Administrative Procedure Act. “City Administrative Procedure Act” means the requirements for rulemaking by agencies of the City of New York specified in chapter 45 of the New York City Charter.

Commissioner. “Commissioner” means OATH’s Chief Administrative Law Judge and Chairperson of the Environmental Control Board.

Person. “Person” means an individual, partnership, corporation, or other legal entity, and any individual or entity acting in a fiduciary or representative capacity.

Petition. “Petition” means a request that OATH adopt a rule.

Petitioner. “Petitioner” means the person who files a petition.

Rule. “Rule” has the same meaning as in § 1041(5) of the New York City Charter.

§ 8-03 Procedures for Submitting Petitions.

(a) Any person may petition the Commissioner to adopt a rule. The petition must include:

(1) The proposed language of the rule;

(2) Petitioner’s arguments in support of adoption of the rule;

(3) The name, address, telephone number, and e-mail address of the petitioner or the petitioner’s authorized representative;

(4) The signature of petitioner or his or her representative.

(b) Any change in the information provided pursuant to paragraph three of subdivision (a) of this section must be reported promptly in writing to OATH by (1) mail to OATH at 66 John Street, 11th Floor, New York, N.Y. 10038, ATTN: General Counsel; or (2) e-mail to Rules_Oath@oath.nyc.gov.

§ 8-04 Procedures for Consideration of and Responses to Petitions.

(a) When a petition submitted in proper form is received, the Commissioner, or his or her representative, will deny or approve the petition within 60 days from the date the petition was received.

(b) The Commissioner, or his or her representative, will either deny the petition in a written statement or grant the petition by stating in writing his or her intention to initiate rulemaking by a specified date.

(c) The Commissioner, or his or her representative, may grant the petition in whole or in part and is not bound by the proposed language in the petition.

(d) The Commissioner, or his or her representative, may amend or modify the language of the rule as proposed in the petition at his or her discretion.