

**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 add 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.

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 December 21, 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=m1325c356cef1b8dbab78726dbe7c27eb>

When prompted, enter Meeting ID: **2337 811 0958**
Password: **OATH**

- **Phone.** For access, dial: **1-646-992-2010**
When prompted, enter Meeting ID: **2337 811 0958##**

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/>.
- **E-mail.** You can e-mail written comments to Rules_Oath@oath.nyc.gov.
- **Mail.** You can mail written comments to OATH, Attention: Joy Thompson, Assistant General Counsel, 66 John Street, 11th Floor, New York, NY 10038.
- **Fax.** You can fax written comments to OATH, Attention: Joy Thompson, Assistant General Counsel, at (212) 436-0714.
- **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 December 21, 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 e-mail at enolan@oath.nyc.gov or by telephone at (212) 436-0708 to request a reasonable accommodation. Please tell us by **December 20, 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? Sections 1043, 1049, and 1049-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

The Office of Administrative Trials and Hearings (OATH) proposes to add 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.

The proposed chapter 8 of title 48 of the Rules of the City of New York would set forth the procedures that petitioners must follow in petitioning OATH to consider a new rule. It would also set forth the procedures OATH must follow in considering and responding to petitions. Additionally, it would require OATH to deny or approve petitions within 60 days and would set 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.

**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: Submission and Processing of Rulemaking Petitions

REFERENCE NUMBER: 2021 RG 083

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: November 1, 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: Submission and Processing of Rulemaking Petitions

REFERENCE NUMBER: OATH-ECB-110

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

November 4, 2021
Date