

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 section 6-17(b) and (c)(2) of Title 48 of the Rules of the City of New York (“RCNY”). This proposed rule would clarify that, where the Department of Consumer and Worker Protection (“DCWP”) is the Petitioner, adjudicated violations of Article 13-F of the New York State Public Health Law would no longer be treated as recommended decisions. Instead, decisions by OATH Hearing Officers will be final, unless an appeal is filed pursuant to 48 RCNY § 6-19.

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 October 30, 2026**. The hearing will be conducted by video conference and is accessible by:

- **Internet Video and Audio.** For access, click:
<https://teams.microsoft.com/meet/279484574251901?p=vqcFxChZPMWbyxoJIC>

When prompted, enter Meeting ID: 279 484 574 251 901

Password: 9it2gk9b

- **Phone.** For access, dial: 1-646-893-7101
- When prompted, enter Meeting ID: 455 592 437#

How do I comment on the proposed rules? Anyone can comment on the proposed rules 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: Frank Ng, General Counsel, 66 John Street, 10th Floor, New York, NY 10038.
- **Fax.** You can fax written comments to OATH, Attention: Frank Ng, General Counsel, at (212) 436-0768.
- **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. Please note that the hearing is for accepting oral testimony only and is not held in a “Question and Answer” format.

Is there a deadline to submit written comments? You may submit written comments until **5:00 p.m. on October 30, 2026**

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 fng@oath.nyc.gov or by telephone at (212) 436-0875 to request a reasonable accommodation. Please tell us by October 27, 2026

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 and 1049 of the New York City Charter authorizes OATH to make this proposed rule. This proposed rule were not included in OATH’s regulatory agenda for this Fiscal Year because the necessity of this rule was not anticipated at the time.

Where can I find OATH’s rules? OATH’s rules are in Title 48 of the Rules of the City of New York.

What rules govern the rulemaking process? OATH must meet the requirements of section 1043 of the New York City Charter when creating or changing rules. 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 amend section 6-17(b) and (c)(2) of Title 48 of the Rules of the City of New York (“RCNY”). The proposed rule would clarify that OATH’s adjudications of violations of Article 13-F of the New York State Public Health Law are no longer to be treated as recommended decisions when the Department of Consumer and Worker Protection (“DCWP”) is the petitioner. Instead, decisions by OATH Hearing Officers will be final, unless an appeal is filed pursuant to 48 RCNY § 6-19.

On November 21, 2025, the Governor signed Chapter 551 of the Laws of 2025 into law. The legislation amends the definition of an “enforcement officer” in New York City for the purposes of enforcing Article 13-F requirements for the sale of tobacco products, herbal cigarettes and

smoking paraphernalia. Specifically, the law adds OATH as an enforcement officer for the purposes of section 1399-ee of the New York State Public Health Law.

DCWP has proposed amending section 6-02 of Title 6 of the Rules of the City of New York to permit OATH to issue final decisions for adjudicated violations of Article 13-F. To avoid confusion or inconsistencies, OATH and DCWP will coordinate to ensure that their respective proposed amendments will become effective on the same date.

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

New material is underlined.

[Deleted material is in brackets.]

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. Subdivision (b) of section 6-17 of Title 48 of the Rules of the City of New York is amended to read as follows:

(b) Except as provided in subdivision (c) or otherwise provided by law, the decision of the Hearing Officer is the final decision unless an appeal is filed pursuant to 48 RCNY § 6-19.

§ 2. Paragraph (2) of subdivision (c) of section 6-17 of Title 48 of the Rules of the City of New York is amended to read as follows:

(2) For all violations of Article 13-F of the New York State Public Health Law[:

(i) where the Department of Consumer Affairs is the petitioner, the Hearing Officer will issue a recommended decision and order, which the Commissioner of such department may adopt, reject or modify, in whole or in part.

(ii), where the Department of Health and Mental Hygiene is the petitioner, the Hearing Officer will issue a recommended decision and order, which the Commissioner of such department may adopt, reject or modify, in whole or in part.

§ 3. This rule takes effect on the same date as a rule entitled Rules Relating to Adjudicatory Proceedings, published by the Department of Consumer and Worker Protection in the City Record, takes effect.

**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: Amendment of Rules Relating to Adjudication of Violations of Article 13-F of the New York State Public Health Law

REFERENCE NUMBER: OATH-ECB-122

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

September 3, 2026
Date

**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: Amendment of Rules Relating to Adjudication of Violations of Article 13-F of the New York State Public Health Law

REFERENCE NUMBER: 2026 RG 049

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
Senior Counsel

Date: 9/3/2026