

**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 to indicate that findings made by Hearing Officers in proceedings filed by the Business Integrity Commission (BIC), related to violations of the City's trade waste laws and rules, are recommendations to BIC rather than final decisions.

When and where is the Hearing? OATH will hold a public hearing on the proposed rule. The public hearing will take place **from 1:00 p.m. through 2:00 p.m. on February 22, 2023**. 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=mc3d3d8f42c30d0f6be138a5581c818f5>

When prompted, enter Meeting ID: 2344 379 0408
Password: OATH

Phone. For access, dial: 1-646-992-2010

When prompted, enter Meeting ID: 2344 379 0408##

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: David Kim, Assistant General Counsel, 66 John Street, 11th Floor, New York, NY 10038.
- **Fax.** You can fax written comments to OATH, Attention: David Kim, Assistant General Counsel, at (212) 436-0713.
- **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 February 22, 2023**.

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 February 17, 2023.

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(a), 1048, 1049, and 1049-a of the New York City Charter authorize OATH to make this proposed rule. This proposed rule is not included in OATH's regulatory agenda for this Fiscal Year, because it was not contemplated at the time the regulatory agenda was created.

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? OATH must comply with 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 City Charter.

Statement of Basis and Purpose of Proposed Rule

The Office of Administrative Trials and Hearings (OATH) proposes to amend its Rules of Practice for the Hearings Division, found in chapter 6 of title 48 of the Rules of the City of New York, to indicate that findings made by Hearing Officers in trade waste proceedings filed by the Business Integrity Commission (BIC) are recommendations to BIC rather than final decisions and orders. This rule change will ensure that proceedings filed in the Hearings Division by BIC for violations of trade waste laws and rules under chapter 1 of title 16-A of the New York City Administrative Code, and rules promulgated pursuant to that chapter, are adjudicated as required by section 16-518(a) of the Administrative Code.

New material is underlined.

Deleted material is in [brackets].

Section 1. Subdivision (c) of section 6-17 of title 48 of the Rules of the City of New York is amended by adding a new paragraph (5) to read as follows:

(5) For all summonses issued by the Business Integrity Commission pertaining to violations of trade waste laws under title 16-A of the New York City Administrative Code, and of any rules promulgated thereunder, the Hearing Officer will issue a recommended decision and order, which the Business Integrity Commission may adopt, reject or modify, in whole or in part.

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-5036**

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

RULE TITLE: Hearings on Trade Waste Violations

REFERENCE NUMBER: 2021 RG 085

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: January 12, 2022

**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: Hearings on Trade Waste Violations

REFERENCE NUMBER: OATH-ECB-111

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

January 12, 2022
Date