

**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 to 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.

A proposed version of these amendments was published in The City Record on January 17, 2023. A public hearing was held on February 22, 2023. 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) is amending 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 ensures 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.

Deleted material is in [brackets].

New text is underlined.

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