OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

DECISION

TIFFANY IRIZARRY - NACMIAS LAW FIRM, PLLC 592 PACIFIC STREET BROOKLYN,NY 11217	**Summons No:** 001014646K et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- NAT TECH LLC **Hearing Date:** 08/31/2026 **Hearing Location:** Remote **Type of Hearing:** By Telephone

Total Penalty Amount:**$440.00**

Community Service(Hr): **Not Applicable**

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
001014646K	Sustained	04/28/2025	408 7th AVENUE Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA1E	24 -163	Sustained	$440.00

Findings of Fact & Conclusions of Law

Petitioner, NYC Department of Environmental Protection, issued a summons to Respondent, Nat Tech LLC, for violating NYC Administrative Code Section 24-163, Idling of motor vehicle engine for more than 3 minutes – 2nd offense. The Issuing Officer indicated on the summons that a Van with NY Plate # 10552NC was observed idling on April 28, 2025, from 11:22 p.m. to 11:27 p.m., at 408 7th Avenue, in New York, New York. The I.O. further indicated that Respondent has received 1 prior violation for the same offense.

Section 24-163 states that "No person shall or permit the engine of a motor vehicle…to idle for longer than three minutes…" Section 24-163 (f) provides for exceptions when the engine is used to operate a processing device, for mechanical work, or to

maintain appropriate temperature for passenger comfort.

At the hearing, Michael Grosso appeared for the Petitioner, NYC Department of Environmental Protection. Tiffany Irizary from the Nacmias Law Firm appeared on behalf of Respondent, Nat Tech LLC, as its authorized representative.

Petitioner relied upon the sworn statement of the Issuing Officer contained in the summons and submitted an evidence packet containing 2 photos of the vehicle identifying the license plate number and company name and logo; the redacted NYC Citizen's Idling Complaint; and a video taken by the civilian complainant (Petitioner's Exhibit 1). Mr. Grosso stated that on the video there is audible engine noise throughout and no processing device in use requiring the vehicle's engine to be idling.

Ms. Irizary denied the violation and stated that Respondent is not contesting the prior violation. As for the video, there is traffic contributing to the noise and workers doing work in a manhole. This company does electrical work. At the 4:02 mark you see the back of the truck. For most of the video you don't see the back so don't know if they are using it.

In Appeal No. 2400960, the Board held that the video is not fatal to the summons. "While Petitioner is not required to submit the citizen complainant's video at the hearing, even where a video has been presented, it is not fatal to the summons that it does not clearly show the vehicle vibrating, producing visible emissions, or making audible engine noise. See DEP v. Hub Truck Rental Corp. Appeal No. 2001344 (February 11, 2021). Rather, per 48 RCNY § 6-12(a), once Petitioner established its prima facie case, the critical inquiry became whether Respondent sustained its burden to refute Petitioner's evidence or otherwise establish a defense, such as by testimony or an affidavit from the vehicle's driver. See DEP v. Citnalta Construction Corp., Appeal No. 2201191 (January 26, 2023). The Board finds no such evidence was presented here. In the absence of probative evidence to contest Petitioner's case, the summons was properly sustained. See DEP v. Genco Lee Renovation Inc., Appeal No. 2200829 (September 29, 2022)."

I credit the testimony and evidence submitted by the Petitioner. I find that Petitioner established the violation of the cited Code. I also find that Respondent did not contest the prior violation, challenged Petitioner's video evidence, and did not offer any evidence to rebut Petitioner's case or establsih a valid defense. As the Appeal Board held "In the absence of probative evidence to contest Petitioner's case, the summons was properly sustained."

Accordingly, this summons is Sustained and the 2nd offense penalty is imposed.

09/15/2026

09/15/2026

Eva Marie Russo-Lane, Judicial Hearing Officer	Date