OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

DECISION

TIFFANY IRIZARRY - NACMIAS LAW FIRM, PLLC 592 PACIFIC STREET BROOKLYN,NY 11217	**Summons No:** 001023770M et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- DIAMOND CHEMICAL CO INC **Hearing Date:** 09/28/2026 **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
001023770M	Sustained	06/04/2025	On West 47 Street between 9th Avenue and 8th Avenue Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA1J	24-163 (F)	Sustained	$440.00

Findings of Fact & Conclusions of Law

A hearing was held telephonically on September 28, 2026 in connection with summons number 001023770M.

Supervisor Michael Grosso appeared for the Petitioner.

Representative Tiffany Irizarry appeared for the Respondent.

The Petitioner relied upon a Redacted Idling Complaint, vehicle identification photos, photo of Ramon Aponte Park signage, the summons, affidavit of service, prior violation summons ending in 474J and a 5 minute 5 second video.

The Respondent sought dismissal of the summons based on a client affidavit indicates that the vehicle with plate number XKEH65 was delivering at 132 West 44th Street on the date of occurrence to and a list of the chemicals that the vehicle was transporting to 132 West 44th Street.

The Petitioner's document submissions and the 5:05 video will be admitted into the record as evidence.

The Respondent's document submission are admitted into the record as evidence.

The sworn statement of the Issuing Officer is credited and corroborated by the Redacted Idling Complaint, vehicle identification photos and the 5:05 video presented by the Petitioner at the hearing. Both the affidavit from the Respondent's representative and the list of items presented by the Respondent at the hearing supporting the purpose of the vehicle at the location where it was observed with the engine in operation on the date of occurrence are credited. However, none of the information presented at the hearing serves as an affirmative defense to refute the notice of violation. Therefore, the summons will be sustained. In connection with the applicable penalty, the Petitioner did not produce documentation reflecting the prior summons ending in 474J which the Respondent was found in violation for. As such, in sustaining the instant summons, the applicable penalty for a second offense violation of N.Y.C. Administrative Code Section 24-163(F) in the amount of $440.00 will be imposed.

April Forbes

09/28/2026

09/28/2026

April Forbes, Judicial Hearing Officer | Date