



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

ILMA BABU - NACMIAS LAW FIRM PLLC 592 PACIFIC STREET BROOKLYN,NY 11217	Summons No: 000935084H et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- CITYWIDE CONTAINER SERVICE CORP Hearing Date: 12/23/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount:\$350.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000935084H	Sustained	03/31/2025	149 EAST 46 STREET Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA51	24 -163	Sustained	\$350.00

Findings of Fact & Conclusions of Law

The hearing on summons number 000935084H was conducted via telephone conference call on December 23, 2025.

Respondent P CITYWIDE CONTAINER SERVICE CORP appeared at the hearing through attorney Ilma Babu. Petitioner Department of Environmental Protection, by Michael Grosso, waived its appearance via email due to a lack of available representatives.

The Issuing Officer alleges in the summons that Respondent violated New York City Administrative Code 24-163 for idling a motor vehicle engine for more than three minutes. It is indicated as a first offense.

Respondent states that the vehicle fits within the processing device exception, as it is a "heavy-duty roll off truck" that contains air brakes that require the engine to be on in order to build up sufficient pressure in the braking system. Respondent also argues that the vehicle needs to be idling in order for the vehicle to continue operating /crushing. In support, Respondent submits the 6 minute 10 second video taken by the citizen complainant, as well as an email from Respondent's company explaining that heavy-duty roll-off trucks require the engine to remain on "for a short period before driving off" in order to build sufficient air pressure in the braking system.

The Board has repeatedly held that an air brake system like the one described is not a processing device. *See, e.g., DEP v. Mottco Contracting Corp*, Appeal No. 2200260 (May 26, 2022); *DEP v. Colgate Scaffolding*, Appeal No. 2400455 (May 30, 2024). Therefore, waiting for sufficient build up of the air brake system does not serve as a recognized defense.

I do not credit Respondent's claims that "crushing" was taking place. The video clearly shows that no activity was taking place at the rear of the vehicle at the time of the violation.

I credit the statements contained in the summons and find a violation of 24-163 as alleged. As Respondent does not put forth a recognized defense, the summons is sustained, and the standard penalty imposed.



12/26/2025

12/26/2025

Alexandra Saker, Judicial Hearing Officer

Date