



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

ILMA BABU - NACMIAS LAW FIRM PLLC 592 PACIFIC STREET Brooklyn, NY 11217	Summons No: 000935776Z et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- P CITIWIDE CONTAINER SERVICE COR Hearing Date: 12/30/2025 Hearing Location: Remote Type of Hearing: By Telephone
--	---

Total Penalty Amount: \$350.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000935776Z	Sustained	01/27/2025	87-17 ROOSEVELT AVENUE Queens

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

Findings of Fact & Conclusions of Law

Petitioner appeared through Inspector Antwan Gibbs. Respondent appeared through registered representative Ilma Babu.

Summons 000935776Z charged a violation of Administrative Code 24-163, prohibiting the idling of a motor vehicle engine for longer than 3 minutes. A citizen observed a truck with NY plate 41657PF idling on 1/27/2025 from 2:06:08 pm to 2:10:35 pm at 87-17 Roosevelt Avenue.

This was charged as a first offense.

In support of the summons, Petitioner played a video that was viewed during the hearing, and submitted the summons with service (Exhibit 1), the citizen complaint (Exhibit 2), and photographs (Exhibit 3).

Respondent provided Exhibit A, a statement from an employee of the Petitioner, stating 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. This is a standard safety requirement for commercial vehicles equipped with air brakes. Also, this interaction was part of the work being performed at the location as evidenced by the container loaded on top."

Petitioner argued that pressurizing the air brakes is mechanical maintenance, and that mechanical maintenance is not a processing device. He cited *DEP v. J. Scaramella Trucking LTD*, Appeal No. 2501246 (November 20, 2025).

Code § 24-163 prohibits idling a motor vehicle engine for longer than three minutes while parking, standing, or stopping, unless the engine is used to operate a loading, unloading or processing device. Per § 6-12(b) of Title 48 of the Rules of the City of New York (RCNY), the issuing officer's summons, affirming under penalty of perjury that he verified Respondent's vehicle idled for longer than three minutes at the cited date, time and location, based on a review of DEP records, was sufficient to establish Petitioner's prima facie case. See *DEP v. Academy Lines LLC*, Appeal No. 1900379 (May 16, 2019).

Respondent argued conflicting positions: that the container on the back shows that the truck was in use, and that the truck was pressurizing the air brakes because it was about to move. I find that Respondent has not proven a defense to the charge.

Accordingly, the summons is sustained as a first offense.



12/31/2025

12/31/2025

Theresa Leary, Judicial Hearing Officer

Date