



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

DECISION

ILMA BABU - NACMIAS LAW FIRM PLLC 592 PACIFIC STREET Brooklyn, NY 11217	Summons No: 000953463R et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- CITYWIDE CONTAINER SERVICE CORP Hearing Date: 03/10/2026 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
000953463R	Sustained	02/28/2025	115 CLAREMONT AVENUE 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 000953463R was conducted by telephone conference call on March 10, 2026.

Respondent CITYWIDE CONTAINER SERVICE CORP appeared at the hearing through authorized representative 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 of a motor vehicle engine for more than three minutes. It is indicated as a first offense.

Respondent challenges a video provided by Petitioner prior to the hearing taken by the citizen complainant. In support, Respondent submits the video and points out that around the 1:10 mark, there is a worker at the back of the vehicle. Respondent argues that this indicates work was taking place at the time of the violation.

I credit the statements contained in the summons and find a violation of 24-163 as alleged.

Code § 24-163(a) provides that no person shall cause or permit the engine of a motor vehicle to idle for longer than three minutes unless the engine is used to operate a "loading, unloading or processing device." The Board has found that this limited exception only applies if the vehicle is actually engaged in using such a device at the time the engine is running. See *NYC v. Jenna Concrete Corp.*, Appeal No. 40554 (October 26, 2006); *NYC v. Sergio Visquerras*, Appeal No. 1400923 (November 20, 2014). In addition, "[t]he law does not allow vehicles to run their engines in excess of three minutes in anticipation of, or preparatory to, activities that might be exempt from the idling restrictions." See *DEP v. Mobile Lifts LLC*, Appeal No. 2101861 (March 24, 2022).

Respondent's representative's general statement that work was being done at the back of the truck related to crushing is insufficient to establish an affirmative defense. Respondent's representative did not provide any specific evidence that the truck's trash compactor was in operation during the cited timeframe, such as a statement from the vehicle's driver or the worker who is seen with a black garbage bag behind the truck. That a worker was seen at the rear of the garbage truck either taking a bag out or preparing to place it inside does not prove that the processing device was actually engaged while the truck was idling.

Accordingly, the summons is sustained, and the standard penalty imposed.



03/10/2026

03/10/2026

Alexandra Saker, Judicial Hearing Officer

Date