



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Michael Nacmias, Esq. - Nacmias Law Firm 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 000939530R et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- TWENTY-FOUR 7 CONTRACTING CORP Hearing Date: 01/15/2026 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$440.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000939530R	Sustained	02/14/2025	8 EAST 48 STREET Manhattan

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

Findings of Fact & Conclusions of Law

The summons alleges violation of Title 24 Chapter 1 of the NYC Administrative Code in that respondent caused or permitted idling of a motor vehicle while parked standing or stopped for longer than 3 minutes. The summons also alleged that there had been a previous violation for the same offense.

Inspector John McLaughlin appeared for the petitioner, The Department of Environmental Protection.

Ilma Babu appeared as an authorized representative for the respondent, Twenty-four 7 Contracting Corp., and denied the violation.

Petitioner relied on the sworn statement of the issuing officer. Petitioner submitted a copy of the idling complaint, two photographs of the cited vehicle, a screenshot showing the prior violation. and a video.

Respondent contended ,the video, did not establish the vehicle was idling without processing equipment in use. Respondent stated that the entire truck was not visible during the video and that active work may have been occurring.

Petitioner stated that the lift gate was not in active use. Petitioner noted that the lift gate was tucked in and that the truck observed directly behind the vehicle would have preented use of the gate.

NYC Administrative Code 24-163(a) provides, in pertinent part, "No person shall cause or permit the engine of a motor vehicle, other than a legally authorized emergency motor vehicle, to idle for longer than three minutes, except as provided in subdivision (f) of this section, while parking as defined in section one hundred twenty-nine of the vehicle and traffic law, standing as defined in section one hundred forty-five of the vehicle and traffic law, or stopping as defined in section one hundred forty-seven of the vehicle and traffic law, unless the engine is used to operate a loading, unloading or processing device."

[A]n idling charge does not fail if the video does not clearly show the truck making an audible engine noise, vibrating, or producing visible emissions. See DEP v. Hub Truck Rental Corp., Appeal No. 2001344 (February 11, 2021) (finding respondent in violation of Code § 24-163 even though other vehicles may have produced the noise and the truck was not vibrating in the video). See DEP v. Bartlett Dairy, Appeal No. 2201546 (March 23, 2023)

"It was not fatal that the video did not show the entire vehicle. It was then Respondent's burden to either refute the charge or establish an affirmative defense. See 48 RCNY § 6-12(a). Here, Respondent merely contested the sufficiency of the video and failed to present evidence to refute the summons or establish an affirmative defense." See DEP v. Aquifer Drilling & Testing Inc, Appeal No. 2300348 (June 29, 2023).

Per § 6-12(b) of Title 48 of the Rules of the City of New York (RCNY), the summons affirming under penalty of perjury that the IO verified Respondent's vehicle idled for longer than three minutes at the cited date, time, and location "through a review of departmental records," was sufficient to establish Petitioner's prima facie case. See DEP v. Academy Lines LLC, Appeal No. 1900379 (May 16, 2019)

Per 48 RCNY § 6-12(a), once Petitioner established its prima facie case, the critical inquiry became whether any credible evidence in the record, such as testimony or affidavits from the vehicle's driver, refuted its case or otherwise established an affirmative defense by a "preponderance of the evidence." See DEP v. Citnalta Construction Corp., Appeal No. 2201191 (February 23, 2023).

Here, respondent challenges the sufficiency of petitioner's evidence to establish an idling charge. Respondent did not submit an affidavit from the driver or other evidence to show that a processing device was in use.

I credit Petitioner's evidence and the factual allegations in the summons which support a violation of the cited code section and find that the respondent did not establish a defense to the violation. Accordingly, the summons is sustained, and the mandatory penalty, as a second offense, is imposed.

Ilene Sussman

01/20/2026

01/20/2026

Ilene Sussman, Judicial Hearing Officer

Date