



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

LANCE CHEBIN - NACMIAS LAW FIRM 592 PACIFIC STREET Brooklyn, NY 11217	Summons No: 000818507H et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- SKYWAY TRUCKING LLC Hearing Date: 12/30/2024 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
000818507H	Sustained	10/30/2023	510 WEST 52 STREET Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA1I	24-163 (F)	Sustained	\$350.00

Findings of Fact & Conclusions of Law

This telephone hearing was held on December 30, 2024. Petitioner, NYCDEP, appeared by Representative Leah Smith. Respondent, Skyway Trucking appeared by Lance Chebin, Authorized Representative, He waived translation services, counsel and the appearance of the Issuing Officer (IO),

This summons alleges a violation of NYC Administrative Code 24-163(f) (Idling of motor vehicle in front of school). In the summons, the Issuing Officer (IO) affirmed, as verified by a review of DEP records, that on 10/30/2023, while adjacent to Hudson Way immersion School, a citizen observed a truck with NJ License Plate #XGZC27 idling for longer than one minutes from 2:40:19 pm to 2:42:28 pm at 510 W. 52nd Street.

Ms. Smith submitted the following evidence: the redacted complaint (P-1), and 2 photos depicting the Respondent's truck, name and license plate, taken by the citizen-complainant, (P-2 & 3). She also submitted a video which could not be uploaded as evidence due to the size of the file. The video was taken by the citizen-complainant at the time of the alleged violation and Ms. Smith stated that it depicts audible sounds emanating from Respondent's truck which was adjacent to a school.

Mr. Chebin reviewed Petitioner's evidence. He stated that Respondent denied this the allegations in the summons. He did not provide any testimony or evidence to rebut this violation.

§ 24-163 (f) states that "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 one minute if such motor vehicle is adjacent, as determined by rule, to any public school under the jurisdiction of the New York city department of education or to any non-public school that provides educational instruction to students in any grade from pre-kindergarten to the twelfth grade level, 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, and provided that idling of an engine of a school bus may be permitted to the extent necessary: (1) for mechanical work; (2) to maintain an appropriate temperature for passenger comfort; or (3) in emergency evacuations where necessary to operate wheelchair lifts. It shall be an affirmative defense that any such school was not easily identifiable as a school by signage or otherwise at the time a violation of this subdivision occurred."

I credit the Issuing Officer's affirmed statements in the summons and Petitioner's evidence regarding the citizen's complaint concerning the idling of the engine of Respondent's truck adjacent to the Hudson Way Immersion School. I find that Respondent permitted the idling of its engine for more than one minute while adjacent to a school and that Respond did not establish a defense to this charge. This violation is sustained and a penalty of \$350 is imposed.

	
12/30/2024	12/30/2024
Barbara Halper, Hearing Officer	Date