



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: 000827671Y et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- WESTMORELAND CONSTRUCTION INC Hearing Date: 02/25/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$600.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000827671Y	Sustained	11/10/2023	120 WOOSTER STREET Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA1F	24 -163	Sustained	\$600.00

Findings of Fact & Conclusions of Law

The respondent was represented by Mabel Ogbojafor. The petitioner was represented by Insp. Dantney Parks. The summons alleges that the respondent's vehicle was observed idling for more than three minutes as a third offense. The respondent has noted that towards the end of the video, you can see a worker getting on and off of the lift gate which has been on the ground for the entirety of the video. The respondent's representative argues that this indicates that there was ongoing activity necessitating the idling of the truck engine. However, it was noted that this occurred after more than three minutes of recording had passed, and the lift gate never moved as it was already on the ground at the start of the video. During the prior three and a half minutes no activity was observed around the cited truck and there has been no evidence presented by the respondent to indicate that the video was inaccurate.

Based on the above, I find that the petitioner has established the charged violation by a preponderance of the evidence. The respondent has failed to either rebut the allegation or establish a valid defense thereto. As such the summons is sustained. There being no dispute that this violation is a third offense, the penalty is assessed as a third violation.



02/26/2025

02/26/2025

Patricia Cardoso, Hearing Officer

Date