



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

Decision

MABEL OGHOJA FOR - NACMIAS LAW FIRM PPLC 592 OACIFIC PACIFIC NEW YORK, NY 11217	Summons# : 000827619R et al. (1 summonses) DEPT OF ENVIRONMENTAL PROTECTION, -against- HUGH O' KANE ELECTRIC CO INC Hearing Date : 2/24/2025 Hearing Location : Remote Type of Hearing : By Telephone
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Total Penalty Amount : 600.00	Community Service(Hr): Not Applicable
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SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000827619R	Sustained	11/08/2023	702 5 AVENUE, Manhattan

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

Total Penalty for Summons: 600.00

Findings of Facts & Conclusions of Law

I sustain the summons and impose the \$600.00 statutory third offense penalty.

Mabel Ogbojafor (Representative) appeared at the teleconference hearing for respondent HUGH O' KANE ELECTRIC CO INC (Respondent) and waived her rights to translation services and the presence of the issuing officer (I/O). Antwan Gibbs appeared telephonically for petitioner Department of Environmental Protection (DEP).

Respondent was cited for a third offense violation of Section 24-163 of the Administrative Code of the City of New York (Code) for a motor vehicle's engine idling longer than three minutes.

Code Section 24-163(a) provides, in pertinent part, 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 three minutes." Petitioner may issue a summons based on a complaint filed by a citizen together with evidence of such violation. See Code Section 24-182(a)-(b); Academy Lines LLC, 1900531.

Code Section 24-163(a) provides, in pertinent part, 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 three minutes . . . unless the engine is used to operate a loading, unloading or processing device."

Code Section 24-104 defines "process" as:

"any industrial, commercial, agricultural or other activity, operation, manufacture or treatment in which chemical, biological and/or physical properties of the material or materials are changed, or in which the material(s) is conveyed or stored without changing the material(s) (where such conveyance or storage system is equipped with a vent(s) and is non-mobile), and which emits air contaminants to the outdoor atmosphere. A process does not include an open fire, operation of a combustion installation, or incineration of refuse other than by-products or wastes from processes."

Code Section 24-182(a) provides:

"Any natural person, other than personnel of the department and other employees of the city of New York authorized by law to serve summonses for violations of the code, may serve upon the department a complaint, in a form prescribed by the department, alleging that a person has violated any provision of this code or order or regulation promulgated by the commissioner or the board, except with respect to sections 24-143 and 24-163 of this code, but still applicable . . . trucks as defined in section one hundred fifty eight of the vehicle and traffic law, together with evidence of such violation." See also Academy Lines LLC, 1900531 (petitioner may issue a summons based on a complaint filed by a citizen together with evidence of such violation).

In addition to the summons, Petitioner submitted (i) the redacted idling complaint; (ii) three photos of the cited vehicle; (iii) the details for the two cited prior violations; and (iii) a 3min41sec video of the purportedly idling vehicle (the video was not uploaded into ATAS due to technological and storage limitations). Representative did not dispute the cited prior violations and denied this summons without rebuttal. I credit the summons as well as Petitioner's documentary, photographic evidence and videographic evidence and find that Petitioner has

established a third offense violation of Code Section 24-163 by a preponderance of the evidence. Accordingly, sustain the summons and impose the 600.00 third offense statutory penalty.



03/03/2025

03/03/2025

Thomas Finn, Hearing Officer

Date