



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

Decision

Michael Nacmias, Esq. - Nacmias Law Firm
592 Pacific Street 1st Floor
Brooklyn, NY 11217

Summons# : 000825283N et al. (4 summonses)

DEPT OF ENVIRONMENTAL PROTECTION,

-against-

ON PENSKE TRUCK LEASING CORPORATI

Hearing Date : 2/20/2025

Hearing Location : Remote

Type of Hearing : By Telephone

Total Penalty Amount : 1,400.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000825283N	Sustained	12/12/2023	ON WEST 17TH STREET , Manhattan

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	BA11	24-163 (F)	Sustained	350.00

Total Penalty for Summons: 350.00



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1	BA11	24-163 (F)	Sustained	350.00

Total Penalty for Summons: 350.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000825347N	Sustained	01/05/2024	526 NINTH AVENUE , Manhattan

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	BA51	24 -163	Sustained	350.00

Total Penalty for Summons: 350.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000832701M	Sustained	01/23/2024	ON W 14 STBETWEEN HIGH LINE AND, Manhattan

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	BA51	24 -163	Sustained	350.00

Total Penalty for Summons: 350.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000832714L	Sustained	01/09/2024	ON WEST 25TH STREETBETWEEN 6TH,

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	BA51	24 -163	Sustained	350.00

Total Penalty for Summons: 350.00

Findings of Facts & Conclusions of Law

The consolidated hearing on summonses 000832701M, 000832714L, 000825283N, and 000825347N was conducted by telephone via Court Call on February 20, 2025. John McLaughlin represented Petitioner. Respondent appeared through authorized representative Lance Chebin.

Summonses 000832701M, 000832714L, and 000825347N each charge a violation of Administrative Code (Code) § 24-163 for idling of a motor vehicle engine for more than three minutes as a first offense. In each summons, the respective issuing officer (IO) affirmed per Department of Environment Protection Records that a citizen observed the vehicle identified in the summons idling for longer than three minutes at the dates, times, and locations specified in the respective summons. Petitioner rested on the summons. Respondent denied the allegation but offered no rebuttal.

Code § 24-163(a) prohibits the idling of a motor vehicle engine in excess of three minutes while parked, standing, or stopped. Per § 6-12(b) of Title 48 of the Rules of the City of New York (RCNY), a summons affirmed under penalty of perjury will be admitted as prima facie evidence of the facts stated therein. See DEP v. Citnalta Construction Corp., Appeal No. 2201191 (February 23, 2023); DEP v. TM & T Service Station Inc., Appeal No. 1901827 (March 19, 2020). Here, each IO verified the idling of Respondent's vehicle for more than three minutes at the cited date, time, and location based on review of DEP records. I credit the IO's affirmed statements in each summons and find that each summons was sufficient to establish Petitioner's respective prima facie case. See DEP v. Citnalta Construction Corp., Appeal No. 2201191 (February 23, 2023); DEP v. TM & T Service Station Inc., Appeal No. 1901827 (March 19, 2020). For each summons, Respondent provided a denial, which is insufficient to rebut Petitioner's prima facie case, and offered no rebuttal.

Each summons is sustained.

Summons 000825283N charges a violation of Administrative Code (Code) § 24-163(f) for idling of a motor vehicle engine for more than one minute while adjacent to a school identified as Winston Preparatory. The issuing officer (IO) affirmed per Department of Environment Protection Records that a citizen observed the vehicle identified in the summons idling for longer than one minute at the date, time, and location specified in the summons. Petitioner rested on the summons. Respondent denied the allegation but offered no rebuttal.

Section 24-163(f) provides in relevant part "No person shall cause or permit the engine of a 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"

Per § 6-12(b) of Title 48 of the Rules of the City of New York (RCNY), a summons affirmed under penalty of perjury will be admitted as prima facie evidence of the facts stated therein. See DEP v. Citnalta Construction Corp., Appeal No. 2201191 (February 23, 2023); DEP v. TM & T Service Station Inc., Appeal No. 1901827 (March 19, 2020). Here, the IO verified the idling of Respondent's vehicle for more than one minute at the cited date, time, and location based on review of DEP records, and also identified the adjacent school. I credit the IO's affirmed statements and find that the summons was sufficient to establish Petitioner's prima facie case. See DEP v. Citnalta Construction Corp., Appeal No. 2201191 (February 23, 2023); DEP v. TM & T Service Station Inc., Appeal No. 1901827 (March 19, 2020). Respondent provided a denial, which is insufficient to rebut Petitioner's prima facie case, and offered no rebuttal.

The summons is sustained.



02/20/2025

02/20/2025

Michael Gallagher, Hearing Officer

Date

