



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

Decision

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592 Pacific Street 1st Floor
Brooklyn, NY 11217

Summons# : 000902405Z et al. (3 summonses)

DEPT OF ENVIRONMENTAL PROTECTION,

-against-

NATIONAL DCP LLC

Hearing Date : 6/16/2025

Hearing Location : Remote

Type of Hearing : By Telephone

Total Penalty Amount : 700.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000902405Z	Dismissed	03/31/2023	501 WEST 43RD STREET, Manhattan

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	BA1K	24-163 (F)	Dismissed	0.00

Total Penalty for Summons: 0.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000902413Z	Sustained	11/06/2024	189 BROADWAY, 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
000902440Y	Sustained	06/27/2024	542 EAST 14TH 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

Findings of Facts & Conclusions of Law

Petitioner, NYC Department of Environmental Protection, issued 3 separate summonses to Respondent, National DCP LLC, for violating NYC Administrative Code Section 24-163, Idling of motor vehicle engine for more than 3 minutes.

1.Summons number 000902405Z was issued for violating Section 24-163(f), Idling of motor vehicle engine for more than 1 minute while adjacent to a school – 3rd or subsequent offense, when a Truck with IN Plate # 2389989 was observed idling on March 31, 2023, from 10:45 a.m. to 10:51 a.m., at 501 West 43rd Street in New York, New York, while adjacent to M479 Beacon High School. The Issuing Officer further indicated that Respondent has received 2 prior summonses for the same offense.

1.Summons number 000902440Y was issued for violating Section 24-163(f), Idling of motor vehicle engine for more than 1 minute while adjacent to a school – 1st offense, when a Truck with IN Plate # 3155834 was observed idling on June 27, 2024, from 9:20 a.m. to 9:21 a.m., located at 542 East 14th Street, in New York, New York, while adjacent to Bright Horizons at East Village.

1.Summons number 000902413Z was issued for violating Section 24-163, Idling of motor vehicle engine for more than 3 minutes – 1st offense, when a Truck with IN Plate # 3160411 was observed idling on November 6, 2024, from 7:42 a.m. to 7:47 a.m., at 189 Broadway in New York, New York.

Section 24-163 states that “No person shall or permit the engine of a motor vehicle...to idle for longer than three minutes...” Section 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.”

At the hearing, John McLaughlin represented the Petitioner, NYC Department of Environmental Protection. Michael Sargo, Esq., represented the Respondent, National DCP LLC.

Mr. McLaughlin relied upon the sworn statement of the Issuing Officer contained in these 3 summonses and submitted evidence packets for each summons containing photos of the company name /address and license, redacted idling complaint, videos, NYS Division of Corporations screenshot; and Company snapshot for safety rating (Petitioner's Exhibit 1 saved under each respective summons number). Mr. McLaughlin also stated that no activity or work was taking place during the video.

In response, Mr. Sargo stated that as to summons 405Z, the video does not show the rear of the truck so you don't know if there was active work taking place. As to summons 440Y, Mr. Sargo stated that on the video it looks like the truck was at an intersection and waiting for the light. As the end of the video, the truck just drove away. Additionally, not clear that it was a school zone. It must be easily identifiable and from the video you do not see a school anywhere and submitted a screenshot as evidence in support (Respondent's Exhibit A).

Mr. McLaughlin stated that under the law, adjacent is defined as being on any block with an entrance or exit. The Respondent has the burden to prove that there was not a school in that location. Once DEP alleges this violation, burden shifts to the Respondent that the school not there.

I credit the testimony and evidence offered on behalf of the Petitioner and Respondent. I find that the Petitioner establish the violation of the cited Code contained in the 3 summonses through the photos, video, and Citizen's Idling Complaint. As to summons 405Z, Respondent challenged the sufficiency of the video evidence. I agree that that video is insufficient to establish the violation of Section 24-163(f). The video mainly shows the sidewalk and stairs and Respondent's truck is on the video for a minimal amount of time; the video also only shows the front and one side of the truck, not the rear so it is not

clear is any loading or unloading was taking place at that time. As to summons 440Y, my review of the video shows that the truck was idling and was not merely at the intersection waiting for the light to change. I observed a side door in the truck open at one point in the video, as well as thru traffic going through the intersection while the truck remained idling. Additionally, the school, Bright Horizons, is located on that same block at 526 East 14th Street. As to summons 413Z, I do not find that Respondent established a valid defense.

Accordingly, summons number 000902405Z is Dismissed; summons number 000902440Y is Sustained and the 1st offense penalty is imposed; and summons number 000902413Z is Sustained and the 1st offense penalty is imposed.



06/24/2025

06/24/2025

Eva Marie Russo-Lane, Hearing Officer

Date