



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

LANCE CHEBIN - NACMIAS LAW FIRM 592 PACIFIC STREET NEW YORK, NY 11217	Summons No: 000861399N et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- ANY PENSKE LEASING AND RENTAL COMP Hearing Date: 06/10/2025 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
000861399N	Sustained	02/20/2024	ON WEST 35TH STREET BTWN 7TH & 8TH AVES Manhattan

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

Findings of Fact & Conclusions of Law

Petitioner New York City Department of Environmental Protection (DEP) was represented by DEP court representative LEAH SMITH.

Respondent PENSKE LEASING AND RENTAL COMPANY was represented by authorized representative LANCE CHEBIN of the Nacmias Law Office.

Respondent was charged with a violation of § 24-163 of the Administrative Code of the City of New York (Code) for idling a motor vehicle engine for longer than three minutes. This was charged as a third or subsequent violation.

I find the Issuing Officer's sworn-to summons narrative and submitted documentary evidence to be credible and persuasive.

Respondent's representative stated that he had reviewed the video evidence previously provided to him and denied the violation without further rebuttal. Respondent's representative did not challenge the repeat status of the violation.

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. Petitioner is therefore not required to submit a video at the hearing to establish its case. See DEP v. TM & T Service Station Inc., Appeal No. 1901827 (March 19, 2020), though citizen-complainants must supply one to DEP along with their complaint. See DEP v. U-Haul Co. of Arizona Inc., Appeal No. 2001342 (January 14, 2021). Even where a video is presented, the charge does not fail if the video does not clearly show the vehicle vibrating, producing visible emissions, or making audible engine noise. See DEP v. Hub Truck Rental Corp., Appeal No. 2001344 (February 11, 2021). In such cases, once Petitioner has established its prima facie case, the critical inquiry is whether the respondent has sustained its burden to refute Petitioner's evidence or otherwise establish a defense. See 48 RCNY § 6-12(a).

Code § 24-163(a) provides that no one shall permit the idling of a motor vehicle engine for longer than three minutes unless the engine is used to operate a loading, unloading, or processing device.

The credible evidence, here the sworn-to summons narrative of the Issuing Officer, is sufficient to establish, and I find, that respondent was in violation on the date of the offense. The violation is SUSTAINED, and I impose the third and subsequent penalty of \$600.

Mark Goichman

06/11/2025

06/11/2025

Mark Goichman, Hearing Officer

Date