



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

Decision

LANCE CHEBIN - NACMIAS LAW FIRM
592 PACIFIC STREET
BROOKLYN, NY 11217

Summons# : 000879679N et al. (1 summonses)

DEPT OF ENVIRONMENTAL PROTECTION,

-against-

HUGH OKANE ELECTRIC CO INC

Hearing Date : 7/30/2025

Hearing Location : Remote

Type of Hearing : By Telephone

Total Penalty Amount : 600.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000879679N	Sustained	03/20/2024	1300 AVENUE OF THE AMERICAS, 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

Summons 000879679N alleges a repeat violation of § 24-163 of the Administrative Code of the City of New York (Code), for idling of a motor vehicle engine for more than three minutes. The summons is charged as a third offense.

Petitioner, Department of Environmental Protection, appeared by John McLaughlin.

Respondent, HUGH OKANE ELECTRIC CO, appeared by Lance Chebin, authorized representative.

Petitioner's representative relied on the IO's statements on the summons and submitted two photographs of the cited vehicle; evidence of the prior violations; a NYC redacted citizen idling complaint; and a video.

Respondent's representative did not dispute the IO's statements, but contended the complainant's video showed loading and unloading work being performed in the back of the vehicle with its rear door open.

Petitioner replied that the complainant's video showed that no active work was being performed by the cited vehicle that would have required its engine to idle for over three minutes.

Code § 24-163 prohibits idling a motor vehicle engine for longer than three minutes while parking, standing, or stopping. Petitioner established the Code § 24-163 charge through the IO's affirmed statements on the summons, buttressed by the evidence submitted by the citizen-complainant. See 48 RCNY § 6-12(b) (a summons affirmed under penalty of perjury is prima facie evidence of the facts stated therein). The burden then shifted to Respondent to present evidence refuting Petitioner's case or otherwise establishing a defense. See DEP v. Academy Express, LLC, Appeal No. 1901519 (March 3, 2020); 48 RCNY § 6-12(a).

Code § 24-163 contains several exemptions from the prohibition on idling. One such exemption is that the cited vehicle was actively loading or unloading at the time of the alleged offense. However, the Board has ruled that a lift gate must be actively in use in order to meet the exception of loading or unloading a vehicle. See DEP v. Approved Storage & Waste Hauling Inc., Appeal No. 2001382 (January 14, 2021); DEP v. Metroexpress Services LLC, Appeal No. 2201113 (December 15, 2022) (violation sustained where lift gate not in active use at time of issuance); DEP v. Utopia Leasing Inc., Appeal No. 2200383 (June 30, 2022) (same); DEP v. La Rabia Cargo Transport LLC, Appeal No. 2300661 (September 28, 2023) (same). On this record, I find no evidence that loading or unloading was taking place at the time of the violation. Here, the video shows no active work being performed that would have required the engine to idle for the duration of the complainant's video. The mere fact that Respondent's vehicle was being hand loaded is insufficient to establish a defense that it was using the engine to operate a loading device during the observed idling. Consequently, the truck was not exempt from the three-minute idling limit. See DEP v. All Around Town Trucking Services Inc., Appeal No. 2100039 (March 17, 2021).

I credit the IO's statements on the summons.

Accordingly, the repeat violation is sustained and the third offense penalty imposed.

	
07/30/2025	07/30/2025
Kevin Lawner, Hearing Officer	Date

**IF YOU ARE FOUND IN VIOLATION, AND ARE NOT ELIGIBLE OR DO NOT CHOOSE
COMMUNITY SERVICE, YOU MUST PAY THE PENALTY WITHIN 30 DAYS OF THE DECISION
DATE OR 35 DAYS IF MAILED.**

- To pay by mail, send a check or money order to the Dept. of Finance Commissioner, P.O. Box 2307, Peck Slip Station, New York, NY 10272. The check or money order should be made out to "Finance Commissioner, City of New York." Write the summons number on the check or money order.
- To pay in person, bring a check, money order or credit card and this decision to any OATH Hearings Division location between 8:30 a.m. to 4:30 p.m.
- To pay online using a credit or debit card, go to www.nyc.gov/citypay/oath

If you do not pay the penalty, the City may: (1) file papers with the Civil Court ("docket a judgment"), (2) charge you a late fee, and (3) continue attempts to collect the debt.

**CAN I DO
COMMUNITY
SERVICE?**

If your summons is for the type of offense that gives you a Community Service option you can choose to complete Community Service instead of paying a penalty. Your decision will give you that option. You have to complete your Community Service by the deadline in the decision or else you will end up owing the penalty. You can even do your Community Service on the day you receive your decision.

**COMPLETION OF
COMMUNITY
SERVICE**

The Help Center will arrange for you to complete your Community Service. The Help Center is run by the Ombudsperson/*Pro Se* Clerk at OATH and is located at each Hearing Division in all five boroughs. To schedule your Community Service, call, email or visit a Help Center location.

How to Contact the Help Center to Schedule Community Service:

Manhattan: (212) 436-0845 CSmanhattan@oath.nyc.gov
Brooklyn: (718) 923-6216 CSbrooklyn@oath.nyc.gov
Queens: (718) 393-6044 CSqueens@oath.nyc.gov
Bronx: (718) 503-5565 CSbronx@oath.nyc.gov
Staten Island: (718) 876-2314 CSstateniland@oath.nyc.gov

If you complete your Community Service by the deadline in the decision, you will receive a Certificate of Completion and will not have to pay a penalty. If you need an extension to complete your Community Service, please contact the Help Center.

If you do not complete your Community Service by the deadline, you will have to pay the penalty.

**NON-DISCLOSURE
FOR SUMMONSES
ELIGIBLE FOR
COMMUNITY
SERVICE**

If you either completed the Community Service or paid the penalty, OATH will remove your identifying information from public records related to your case.

If you do not complete the Community Service or pay the penalty, your identifying information may remain on public records related to your case.

**IF YOU DISAGREE
WITH THE DECISION,
YOU MAY APPEAL IT**

To submit your appeal, you **MUST** use OATH's online or mail-in appeal forms available on OATH's website at www.nyc.gov/oath/appeal. Instructions for filing an appeal may be found on the form and OATH's website.

Your appeal **MUST** be received by the OATH Hearings Division **within 30 days** of the decision date, or 35 days if the decision was mailed to you.

To appeal you **may need to** pay the full penalty stated in this decision.

- If you cannot pay because of financial hardship, you may ask to not pre-pay by submitting with your appeal a Financial Hardship Application, available on OATH's website.
- If you are eligible and choose to perform Community Service instead of paying the penalty, you do not have to pay the penalty or complete the Community Service to appeal.

**APPEAL BY
ENFORCEMENT
AGENCY**

If you wish to answer an appeal filed by an enforcement agency, you **MUST** use OATH's Response To Appeal form. Instructions for filing an answer may be found on the form and OATH's website.

Your answer must be received **within 30 days** of the date of the enforcement agency's appeal, or 35 days if it was mailed to you.

If the enforcement agency wins the appeal, you may have to pay a penalty or, if eligible, complete Community Service even if your case was originally dismissed after the hearing.

**For more information,
visit OATH's website www.nyc.gov/oath
or call 1-844-OATH-NYC**

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