



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

ILMA BABU - NACMIAS LAW FIRM PLLC 592PACIFIC STREET NEW YORK,NY 11217	Summons No: 000894451M et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- BLUETRITON BRANDS INC Hearing Date: 11/06/2025 Hearing Location: Remote Type of Hearing: By Telephone
--	--

Total Penalty Amount:\$350.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000894451M	Sustained	05/13/2024	ON MADISON AVE BETWEEN 39TH STREET AND 40TH STREET Manhattan

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

Findings of Fact & Conclusions of Law

I find Respondent BLUETRITON BRANDS INC in violation of NYC Administrative Code § 24-163 for idling motor vehicle engine for more than 3 minutes.

Ilma Babu appeared for Respondent at a telephone hearing held on November 6, 2025. Leah Smith appeared for Petitioner NYC Department of Environmental Protection (DEP).

Petitioner DEP charged respondent with a violation of NYC Admin Code § 24-163 for idling of a motor vehicle engine for more than 3 minutes.

At the telephone hearing, Petitioner's representative submitted into evidence two photographs and a video. The photographs and the video are made part of the record as Petitioner's Exhibit 1. In addition, Petitioner submitted a copy of the NYC Citizen Idling Complaint, and a copy of the summons with proof of service, and the information about the vehicle's ownership from the DMV. The Citizen Idling Complaint, the proof of service and the DMV information, are made part of the Record as Petitioner's Exhibit 2.

Petitioner's Ex. 1 is comprised of photographs taken on the day and time of the violation, and they show details of the vehicle, including the license plate number 3560920.

In addition, Ex. 1 contains a video that depicts the cited vehicle. The video lasts from 5/28/2024 at 10:52 AM to 5/28/2024 at 10:56 AM. The video depicts the cited vehicle, as it is parked at the cited location. During the video, audible sound of what appears to be the vehicle's engine can be heard. The video does not show that the vehicle was using any processing equipment, such as loading or unloading equipment at the time.

Petitioner's Ex. 2 contains the citizen's description of the violation:

"I observed the stated vehicle idling in excess of 3 minutes. The vehicle was not actively using a processing or loading device"

Petitioner's Ex. 2 also contains the citizen's acknowledgement which states as follows:

"I am the person who took the video, and witnessed and/or observed the alleged violation of Section 24-163 and all evidence submitted in connection with this complaint. However, Ravinder Singh is submitting this information on my behalf. Pursuant to Section 24-182 of the Administrative Code of the City of New York, I affirm that I have read and adhered to all the requirements that are contained in this Section and have reviewed all the information to be true and accurate prior to submitting this complaint, to the best of my knowledge. I further affirm that all statements on this form are true and accurate and that I understand false statements are punishable as a Class A Misdemeanor pursuant to section 210.45 of the Penal Law."

Petitioner's representative rested on the summons and the evidence submitted.

Respondent's representative did not offer any evidence but argued that there was background noise in the video, and the engine of the truck was not audible, and the lights were not on.

I find that the Respondent here failed to refute the allegation in the summons or to raise a valid defense. The Petitioner established a prima facie case that Respondent left its vehicle idling for more than three minutes. Petitioner may issue a summons based on a complaint filed by a citizen together with evidence of such violation. See Code § 24-182(a)-(b); *DEP v. Academy Lines LLC*, Appeal No. 1900531 (June 6, 2019). The IO's review of the evidence submitted by the citizen complainant forms the basis for his affirmation on the summons that he personally observed the commission of the violation or

verified its existence through a review of departmental records. See 48 RCNY § 6-12(b) (a summons affirmed under penalty of perjury will be admitted as prima facie evidence of the facts stated therein); and 48 RCNY § 6-12(c) (hearsay evidence, where relevant, material, and reliable, is admissible in OATH hearings).

Here, the IO affirmed under penalty of perjury that he reviewed departmental records and concluded that Respondent idled its truck for more than three minutes. Thus, the affirmed-to summons, which includes the time, date, location, and essential facts describing the violation, established Petitioner's prima facie case. See 48 RCNY § 6-12(a). Additionally, Petitioner presented (1) the citizen's Idling Complaint Form which indicated that he observed a vehicle with NY plate number 3560920 idling at the cited location, from 5/28/2024 at 10:52 AM to 5/28/2024 at 10:56 AM and (2) the citizen's acknowledgment swearing to first-hand knowledge of the matter set forth in the complaint and depicted in the video.

I find that, according to Ex. 1 and Ex. 2, Respondent's vehicle was idle from 5/28/2024 at 10:52 AM to 5/28/2024 at 10:56 AM. To refute the idling charge, it was incumbent on Respondent to provide affirmative evidence that the vehicle's engine was not idling or that the exemption applied. Respondent's representative failed to do either.

Moreover, while Petitioner is not required to submit the citizen complainant's video at the hearing, even where a video has been presented, it is not fatal to the summons that it 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).

Accordingly, the violation of NYC Administrative Code § 24-163 is sustained.



11/10/2025

11/10/2025

George Drakopoulos, Judicial Hearing Officer

Date