



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

ILMA BABU - NACMIAS LAW FIRM PLLC 592PACIFIC STREET Brooklyn, NY 11217	Summons No: 000897308N et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- HUGH OKANE ELECTRIC CO INC Hearing Date: 02/03/2026 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
000897308N	Sustained	05/30/2024	INTERSECTION OF BROADWAY AND W 41 ST Manhattan

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

Findings of Fact & Conclusions of Law

ILMA BABU appeared as the authorized representative of the named respondent. Inspector Gibbs for the Department. The summons cites a violation of 24-163 as a third offense.

The Petitioner submitted the idling summons affidavit and complaint, priors, and photos.

A video which exceeded three minutes was played into the record and described.

The respondent contended that the video does not allow one to see if work is being done and one cannot hear the engine

above the ambient noise.

I find the sworn account of the issuing officer to be credible, and that it establishes the charge. The respondent failed to set forth a valid legal defense. I could hear steady engine noise throughout the video despite other ambient sounds. Furthermore, In Appeal No. 2201516 DEP v. L & S Mechanical Services LLC February 23, 2023, it was held that "Code § 24-163(a) provides, in pertinent part, that "[n]o person shall cause or permit the engine of a motor vehicle . . . to idle for longer than three minutes. . . ." Petitioner's summons, affirmed by the IO, was sufficient to establish its prima facie case that the citizen complainant observed Respondent's truck's engine idling for longer than three minutes. See DEP v. Academy Lines LLC, Appeal No. 1900379 (May 16, 2019). The Board notes that a video is not essential for establishing Petitioner's case, though the citizen-complainant must supply one to DEP. See DEP v. US Crane Rigging LLC, Appeal No. 1901330 (October 24, 2019). Even where a video is presented, the charge does not fail if the video does not clearly show the truck vibrating, producing visible emissions, or making audible engine noise. See DEP v. Hub Truck Rental Corp., Appeal No. 2001344 (February 11, 2021); DEP v. American Alternative Energy, Appeal No. 1901744 (March 19, 2020); DEP v. SMC Stone International Inc., Appeal No. 1901308 (October 10, 2019). In such cases, the critical inquiry is whether the respondent has sustained its burden to refute Petitioner's evidence or otherwise establish a defense. See § 6-12(a) of Title 48 of the Rules of the City of New York. Although Respondent's representative argued that the video was inconclusive, he failed to provide any evidence to show that the vehicle's engine was turned off during the cited time period. See DEP v. American Alternative Energy, Appeal No. 1901744 (March 19, 2020)."

For all the foregoing reasons, the summons is sustained.

Amy Jill Baranoff

02/03/2026

02/03/2026

Amy Jill Baranoff, Judicial Hearing Officer

Date