



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

ILMA BABU - NACMIAS LAW FIRM PLLC 592 PACIFIC STREET NEW YORK,NY 11217	Summons No: 000897239Z et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- PENSKE TRUCK LEASING CORPORATION Hearing Date: 12/03/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount:\$350.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000897239Z	Sustained	08/28/2024	490 BROADWAY Manhattan

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

Findings of Fact & Conclusions of Law

This hearing was conducted remotely by telephone. Ilma Babu appeared for Respondent. Insp. Michael Grosso appeared for Petitioner Department of Environmental Protection (DEP). Respondent is charged with a violation of section 24-163 of the New York City Administrative Code.

Through email Petitioner provided an evidence packet with information and pictures regarding the vehicle (P. Exs. 1-4); and a video of the vehicle, P. Ex. 5, which due to its size was not uploaded and will instead be uploaded into this tribunal's shared digital folder.

Petitioner stated that the video showed the engine was on, the vehicle had not moved, the engine did not turn on which showed it was idling the entire recording and stated there were no loading, unloading or processing. Further Petitioner stated no workers were visible that whose presence could have been used to show that there was loading or unloading.

Respondent stated that there were individuals working and that at minute 7:45 the engine can be heard starting, that the vehicle had not been idling the whole recording.

A worker is seen at the beginning going to the back, where there was a step ladder. Throughout the video there was no indication that a processing device was in use, nor did Respondent argue there was a processing device. Respondent stated they were working, but did not provide evidence to show what work was being done or if it included a processing device. Regarding noise levels around 7:45 the base noise that indicated the engine was on stayed constant through the video, although around that time the engine was heard being accelerated more than once, before the truck left.

The summons sets a prima facie case, and a video may support Petitioner's case, but Petitioner does not have to submit a video into evidence. Respondent stated that work was going on but provided no evidence or testimony. Respondent also stated the vehicle turned on at 7:45 but provided no evidence or testimony and that was also not consistent with what the video showed.

I thus find that Respondent did not refute Petitioner's case or establish a defense to the violation.

The summons is thus sustained, and the statutory penalty is imposed.

Daniel A Vazquez

12/22/2025

12/22/2025

Daniel Vazquez-Diaz, Judicial Hearing Officer

Date