



February 3, 2024

Kerri E. Neifeld
Commissioner
Office for People with Developmental Disabilities
44 Holland Ave.
Albany, NY 12229

Rohit T. Aggarwala
Commissioner

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Dear Commissioner Neifeld:

I am writing to you to raise the NYC Department of Environmental Protection's ("DEP") concerns with a New York State Office for People with Developmental Disabilities ("OPWDD") requirement that vehicles used for services contracted by OPWDD maintain certain internal temperatures. In practice, this requirement may cause these vehicles to run afoul of the City of New York's engine idling restrictions by requiring them to keep their engines running even while stopped. On behalf of DEP, I respectfully request that OPWDD consider amending your contracts to explicitly provide that vehicles must comply with the City of New York's engine idling restrictions and help to ensure that your contractors are moving towards vehicle electrification.¹

By way of background, OPWDD contracts with companies that provide services to transport people with disabilities. We are aware of at least one contract with OPWDD that contains a temperature clause which may be inconsistent with Section 24-163 of the Air Code. Pursuant to law, DEP oversees the enforcement of these, and other provisions of, the Air Code.

Although we appreciate the vital service that such companies provide to those with developmental disabilities, the Air Code's restrictions on engine idling also serve an extremely important role in helping to maintain the health and safety of all of the City's residents and visitors. DJ Transportation, a company under contract with OPWDD, has applied for a variance from the City's idling restrictions, citing their contract with the State, which they assert mandates that an internal temperature be maintained, at all times, for the comfort of those passengers with special needs. We have not been able to identify provisions in law or regulation that mandate an interior temperature for disabled transportation passengers at all times.

The OPWDD contract requires State vendors to comply with all federal, state and local laws and regulations of any government agency having jurisdiction over the transportation to be provided. The City's Air Code is generally applicable to all vehicles, including DJ Transportation's vehicles. The provisions of the OPWDD contract, at Section 4, Subdivision D, requiring DJ

¹ See NYC Administrative Code, § 24-163; 15 R.C.N.Y. §39-01 (collectively, the "Air Code").

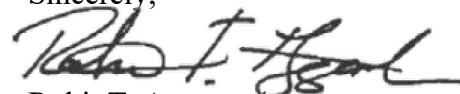
Transportation's vehicle operators to maintain certain air conditioning, heating, and climate control system temperatures at all times, even when the vehicle is stopped for periods in excess of three minutes, or one minute in a school zone, may be in conflict with the requirements of the Air Code.²

To ensure alignment between New York State policy and New York City regulations, DEP requests that OPWDD amend your contracts to explicitly provide that vehicles transporting persons with developmental disabilities must comply with the NYC Air Code, specifically Section 24-163. Operators of these vehicles will need to either shut off their engine when standing or parked within three minutes if not adjacent to a school, and within one minute if the vehicle is adjacent to a school.

As a preferred alternative, OPWDD could consider requiring their vendors by contract to take steps to either modify or replace their fleet to not be in violation of the Code by installing anti-idling technology or electrifying their fleet. DEP has been receptive to issuing variances for fleets that have a clear commitment and a fast timeline to fleet electrification.

Thank you for your attention to this matter. We would be happy to meet to discuss these issues further with you or your staff.

Sincerely,



Rohit T. Aggarwala
Commissioner

c: Mark Page, Executive Director, Bureau of Environmental Compliance
Marcella Eckles, Deputy General Counsel, Environmental Affairs Bureau of Legal Affairs
Russell Pecunies, Senior Enforcement Counsel Bureau of Legal Affairs
Richard Costa, Senior Counsel, Bureau of Legal Affairs

² DJ Transportation's vehicles may idle in excess of three minutes, or one minute in a school zone, where the vehicle is stopped or parked to load and unload passengers.