OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

DECISION

TIFFANY IRIZARRY - NACMIAS LAW FIRM, PLLC 592 PACIFIC STREET BROOKLYN,NY 11217	**Summons No:** 000994099K et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- NATIONAL DCP LLC **Hearing Date:** 09/22/2026 **Hearing Location:** Remote **Type of Hearing:** By Telephone

Total Penalty Amount:**$0.00**

Community Service(Hr): **Not Applicable**

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000994099K	Dismissed	01/13/2025	7121 18 AVE Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA1F	24 -163	Dismissed	$0.00

Findings of Fact & Conclusions of Law

Summons: 000994099K

Hearing date: 9/22/26

Appearing for petitioner: NA (No representatives)

Witness(es):

Appearing for respondent: T. Irizarry, as authorized representative

Witness(es):

The charge dated 1/13/2025, was idling for more than three minutes, third offense.

Respondent testified that it conceded the prior violations.

Respondent testified it delivers perishable food, and uses lift gates that the truck engine operates by keeping the batteries of the gates charged.

Further, the vehicle has an attached Thermo King refrigeration unit, which requires the truck engine to be on at all times to retain a cool temperature.

Respondent presented a memo from respondent company, and a Thermo King Manual in support.

Findings of Fact and Conclusions of Law:

I credit respondent's evidence.

I find respondent has established the defense allowed in the cited section of law.

("**§ 24-163 Operation of motor vehicle; idling of engine restricted.**

(a) No person shall cause or permit the engine of a motor vehicle, other than a legally authorized emergency motor vehicle, to idle for longer than three minutes, except as provided in subdivision (f) of this section, while parking as defined in section one hundred twenty-nine of the vehicle and traffic law, standing as defined in section one hundred forty-five of the vehicle and traffic law, or stopping as defined in section one hundred forty-seven of the vehicle and traffic law, unless the engine is used to operate a loading, unloading or processing device. . . .:)

Accordingly, I dismiss the charge.

09/24/2026

09/24/2026

Clive Morrick, Judicial Hearing Officer	Date

OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

Decision

TIFFANY IRIZARRY - NACMIAS LAW FIRM, PLLC 592 PACIFIC STREET BROOKLYN,NY 11217	Summons# : 000912033X et al. (2 summonses) DEPT OF ENVIRONMENTAL PROTECTION, -against- NATIONAL DCP LLC Hearing Date : 9/22/2026 Hearing Location : Remote Type of Hearing : By Telephone

Total Penalty Amount : 0.00	**Community Service(Hr):** Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000912033X	Dismissed	10/21/2024	2231 86 STREET, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	BA51	24 -163	Dismissed	0.00

Total Penalty for Summons: 0.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000916298J	Dismissed	12/16/2024	812 64 STREET, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	BA51	24 -163	Dismissed	0.00

Total Penalty for Summons: **0.00**

Findings of Facts & Conclusions of Law

Summons: 000912033X

Hearing date: 9/22/26

Appearing for petitioner: NA (No representatives)

Witness(es):

Appearing for respondent: T. Irizarry, as authorized representative

Witness(es):

The charge dated, 10/21/2024, was idling for more than three minutes, first offense.

Respondent testified the vehicle delivers fresh fish and uses a Thermo King refrigeration unit to keep it cool. While operating the driver cannot turn the truck's engine off.

Respondent presented the manual for the Thermo King model she testified was used. Salient portions read as follows:

"Operator's Manual V-Series Units with Direct Smart Reefer V-100, V-200, V-200s, V-300, V-500, V-600, V-800, V 1000 and Spectrum units.

"Operating Instructions

General Operation

In truck-driven units, temperature control is based on two values. . .

Starting the Unit Engine Operation

1. Start the vehicle.

2. Press the On/Off Key located in the HMI. The HMI display will be activated.

3. Check the setpoint, and adjust if necessary.

Electric Standby Operation

1. Connect the external power supply to the electric power receptacle. Verify the power supply is of the correct voltage and phase for the unit."

Findings of Fact and Conclusions of Law:

I credit respondent's evidence.

I find the defense that respondent was operating a processing device as defined in the cited section of law, is valid.

("**§ 24-163 Operation of motor vehicle; idling of engine restricted.**

(a) No person shall cause or permit the engine of a motor vehicle, other than a legally authorized emergency motor vehicle, to idle for longer than three minutes, except as provided in subdivision (f) of this section, while parking as defined in section one hundred twenty-nine of the vehicle and traffic law, standing as defined in section one hundred forty-five of the vehicle and traffic law, or stopping as defined in section one hundred forty-seven of the vehicle and traffic law, unless the engine is used to operate a loading, unloading or processing device. . . .

Further, RCNY **§ 39-01 Definitions:**

"Processing Device. For purposes of § 24-163 of the Administrative Code, the term "processing device" shall mean:

(1) a device that accomplishes the function for which the vehicle or equipment was designed, other than transporting goods or people, via a mechanical connection to the engine, including but not limited to operating a lift, crane, pump, drill, hoist, or mixer; or

(2) a system that controls the environment of temperature-sensitive cargo or substances, including but not limited to food, provided that such cargo or substances are being transported in a vehicle designed for the transportation of such cargo or substances.)

Accordingly, I dismiss the charge.

Summons: 000916298

Hearing date: 9/22/26

Appearing for petitioner: NA (No representatives)

Witness(es):

Appearing for respondent: T. Irizarry, as authorized representative

Witness(es):

The charge dated 12/16/2024, was idling for more than three minutes, first offense.

Respondent testified the vehicle delivers fresh fish and uses a Thermo King refrigeration unit to keep it cool. While operating the driver cannot turn the truck's engine off.

For the reasons stated in companion summons 000912033X, dismissed on 9/22/2026, and in reliance on the same evidence submitted, I find respondent has established a defense of the use of a processing device.

Accordingly, I dismiss the charge.

09/23/2026

09/23/2026

Clive Morrick, Hearing Officer | Date