OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

Decision

TIFFANY IRIZARRY - NACMIAS LAW FIRM, PLLC 592 PACIFIC STREET BROOKLYN,NY 11217	**Summons# : 001009031H et al. (6 summonses)** **DEPT OF ENVIRONMENTAL PROTECTION,** **-against-** **NAT TECH 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
001009031H	Dismissed	11/05/2025	150 W 51 St , Manhattan

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
001009035P	Dismissed	10/16/2025	Madison Ave and E 44 St , Manhattan

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
001009039M	Dismissed	10/07/2025	W 37 St and Broadway , Manhattan

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
001009040J	Dismissed	03/27/2025	Broadway and 50 St , Manhattan

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
001009072Y	Dismissed	08/06/2025	509 5 Ave , Manhattan

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
001009076L	Dismissed	07/30/2025	1295 6 Ave , Manhattan

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

Tiffany Irizarry for Respondent

DEP Waived Appearance

The summons alleges unlawful idling and it carries a $350 fine. Respondent asserted that a processing device was in use and submitted the video as well as a supporting affidavit which states for each summons in relevant part:

"Our technicians operate our splice lab, which requires the use of the engine in order to power our fiber optic splicing equipment, power the interior lights as well as the testing devices used while our technicians perform splicing work. We cannot run our equipment via battery as our equipment will drain the battery. Further, our trucks are certified clean idle."

The processing device exemption is an affirmative defense where respondent has to burden of proving that the device was in actual use or where the operation was imminent. DEP v. Liberty Contracting, Appeal No. 2501428 (Jan. 29, 2026). DEP v. Shred Services, Appeal No. 2500657 (July 31, 2025)(idling is only exempted while the device is actually being operated or about to be operated – where operation is "imminent.").

I find that Respondent met its burden of establishing that processing device was in use. In each summons, workers are seen near the truck, cables are seen running from the truck and a safety area is created near the trucks with cones. Accordingly, each of the summonses are dismissed.

09/22/2026 **09/22/2026**

Mitchell Rubinstein, 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 No:** 001009100M et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- NAT TECH LLC **Hearing Date:** 09/22/2026 **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
001009100M	Sustained	06/17/2025	60 Madison Ave Manhattan

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

Findings of Fact & Conclusions of Law

Tiffany Irizarry for Respondent

DEP Waived Appearance

The summons alleges unlawful idling and it carries a $350 fine. Respondent asserted that a processing device was in use and submitted the video as well as a supporting affidavit which states in relevant part:

"Our technicians operate our splice lab, which requires the use of the engine in order to power our fiber optic splicing

equipment, power the interior lights as well as the testing devices used while our technicians perform splicing work. We cannot run our equipment via battery as our equipment will drain the battery. Further, our trucks are certified clean idle."

The processing device exemption is an affirmative defense where respondent has to burden of proving that the device was in actual use or where the operation was imminent. DEP v. Liberty Contracting, Appeal No. 2501428 (Jan. 29, 2026). DEP v. Shred Services, Appeal No. 2500657 (July 31, 2025)(idling is only exempted while the device is actually being operated or about to be operated – where operation is "imminent." . .here the shredder's operation was not shown to be imminent.)

I find that Respondent has not met its burden of establishing that a processing device was in use or its use was imminent . A review of the video shows a truck idling for longer than 3 minutes with no activity. The hazzard lights are on and there is no driver in the vehicle. While a worker does walk by, there was no evidence that they were in the process of laying the cables and the safety cones, used to mark off the area, are inside the truck. Therefore, the summons is sustained and a $ 350 fine is iimposed.

09/22/2026 09/22/2026

Mitchell Rubinstein, Judicial Hearing Officer **Date**