



**OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS**  
Hearings Division

**DECISION**

|                                                                                    |                                                                                                                                                                                                                                                                                |
|------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>LANCE CHEBIN - NACMIAS LAW FIRM</b><br>592 PACIFIC STREET<br>Brooklyn, NY 11217 | <b>Summons No: 000785632Z et al. (1 Summons)</b><br><br><b>DEPT OF ENVIRONMENTAL PROTECTION,</b><br><br><b>-against-</b><br><br><b>FORT MEAT INC</b><br><br><b>Hearing Date: 12/30/2024</b><br><br><b>Hearing Location: Remote</b><br><br><b>Type of Hearing: By Telephone</b> |
|------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                              |
|----------------------------------------------|
| <b>Total Penalty Amount: \$350.00</b>        |
| <b>Community Service(Hr): Not Applicable</b> |

| SUMMONS #  | SUMMARY DISPOSITION | DATE OF OCCURRENCE | PLACE OF OCCURRENCE                                  |
|------------|---------------------|--------------------|------------------------------------------------------|
| 000785632Z | Sustained           | 01/20/2023         | COURT ST BETWEEN UNION ST<br>AND SACKETT ST Brooklyn |

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

**Findings of Fact & Conclusions of Law**

This telephone hearing was held on December 30, 2024. Petitioner, NYCDEP, appeared by Representative Leah Smith. Respondent, Fort Meat Inc., appeared by Lance Chebin, Authorized Representative. He waived translation services, counsel and the appearance of the Issuing Officer (IO).

This summons alleges a violation of NYC Administrative Code 24-163 (Idling of motor vehicle). In the summons, the Issuing Officer (IO) affirmed, as verified by a review of DEP records, that on 1/20/2023, a citizen-complainant observed a truck with NY License Plate #3746D1PC idling for longer than three minutes from 8:45:53 am to 8:49:28 am, at Court Street between Union Street and Sackett Street.

Ms. Smith relied on the sworn statements of the IO in the summons, and she submitted a copy of the citizen complaint (P-1), three photos depicting the truck, its name DOT number and its license plate taken by the citizen-complainant (P-2, 3 & 4), and a copy of the truck's refrigeration unit manual (P-5). She also submitted a video in excess of three minutes which could not be uploaded as evidence due to the size of the file. The video was taken by the citizen-complainant at the time of the alleged violation, and it depicts audible engine noise emanating from Respondent's truck. Ms. Smith stated that there was no lift gate open.

Mr. Chebin reviewed Petitioner's evidence and stated that he had no objection to said evidence. He argued that Respondent had a refrigeration device that required the engine to be on. He did not submit any evidence on behalf of Respondent.

Ms. Smith argued that based on the information contained in the refrigeration manual (P-5), the refrigeration unit on Respondent's truck can run independently, without the engine being on. She also argued that Respondent failed to demonstrate that the engine must be on to operate the refrigeration unit.

NYC Administrative Code § 24-163 states in relevant part that "No person shall cause or permit the engine of a motor vehicle to idle for longer than three minutes, unless the engine is used to operate a loading, unloading or processing device..."

I credit the Petitioner's evidence and the Issuing Officer's affirmed statements in the summons regarding the citizen's complaint concerning the idling of Respondent's truck engine. I find that Respondent permitted the idling of its engine for more than three minutes while parked. I further find that Respondent failed to produce any evidence such as testimony or affidavits from the vehicle's driver to establish an affirmative defense "by a preponderance of the evidence." (See DEP v. G & F Design Appeal No. 2301482 (December 21, 2023). Citing to DEP v. Academy Lines LLC, Appeal No. 1900379 (May 16, 2019); DEP v. Hub Truck Rental Corp., Appeal No. 2001344 (February 11, 2021); DEP v. Citnalta Construction Corp., Appeal No. 2201191 (February 23, 2023.)). I also find that Respondent did not establish a valid defense to this charge. This violation is sustained and a penalty of \$350 is imposed.

*Barbara Halper*

01/03/2025

01/03/2025

Barbara Halper, Hearing Officer

Date