



Office of Administrative Trials and Hearings
Hearings Division

DECISION

LANCE CHEBIN - NACMIAS LAW FIRM 592 PACIFIC STREET Brooklyn, NY 11217	Summons No: 000846202P et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- NATIONAL DCP LLC Hearing Date: 04/17/2025 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
000846202P	Sustained	02/15/2024	54 E EAST 14 STREET Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA1I	24-163 (F)	Sustained	\$350.00

Findings of Fact & Conclusions of Law

Michael Grasso, DEP

Lance Chebin, Authorized Representative

24-163 (F): Idling motor vehicle engine for more than 1 minute in front of a school.

Petitioner submitted 2 photos, corporate entity information and a link to a video in support of the summons. Petitioner's Exhibits 1-4. Respondent did not dispute that the vehicle's engine was running while parked but claimed that the refrigeration unit required the engine and stated that cables seen in Petitioner's video from the trailer to the vehicle's cab supported their claim. Petitioner replied that their experience was that the vehicle was capable of running the refrigeration independent of the engine.

Respondent's defense is not persuasive. Per 48 RCNY § 6-12(a), once Petitioner established its prima facie case, the critical inquiry becomes whether there is any credible evidence such as testimony or an affidavit from the vehicle's driver that refuted Petitioner's case or otherwise established an affirmative defense. See DEP v. Citnalta Construction Corp., Appeal No. 2201191 (February 23, 2023). The burden therefore passed to Respondent to establish an affirmative defense and they offer no evidence regarding the vehicle except their unsupported claims even though documentation regarding the vehicle can reasonably be supposed to be in Respondent's possession. That there may have been cables from the trailer to the truck's cab does mean that refrigeration required the vehicle's engine to be idling. I credit the statements in the summons and sustain the violation.

	
04/17/2025	04/17/2025
David Pantaleoni, Hearing Officer	Date