



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Michael Nacmias, Esq. - Nacmias Law Firm 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 000896018K et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- UNITED NATURAL FOODS INC Hearing Date: 11/14/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$0.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000896018K	Dismissed	05/14/2024	12 ASTOR PLACE Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA11	24-163 (F)	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

Respondent, United Natural Foods Inc., was issued a summons for violating NYC Administrative Code Section 24-163(f), Idling of motor vehicle engine for more than 1 minute while adjacent to a school – 1st offense. The vehicle was a Truck with IN License Plate # 2818661 observed on May 14, 2024, from 9:50 a.m. to 9:51 a.m., at 12 Astor Place in New York, New York, parked adjacent to the Hetrick-Martin Institute and M586 Harvey Milk High School.

Section 24-163(f) states that "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 one minute if such motor vehicle is adjacent, as determined by rule, to any public school under the jurisdiction of the New York city department of education or to any non-public school that provides

educational instruction to students in any grade from pre-kindergarten to the twelfth grade level, 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, and provided that idling of an engine of a school bus may be permitted to the extent necessary: (1) for mechanical work; (2) to maintain an appropriate temperature for passenger comfort; or (3) in emergency evacuations where necessary to operate wheelchair lifts. It shall be an affirmative defense that any such school was not easily identifiable as a school by signage or otherwise at the time a violation of this subdivision occurred."

At the hearing Petitioner, NYC Department of Environmental Protection, was represented by Inspector Leah Smith. Ilma Babu appeared for the Respondent, United Natural Foods Inc., as the authorized representative.

Petitioner submitted an evidence packet containing photos of the vehicle identifying the license plate number and company logo with name and address, the redacted Citizen's Idling Complaint with Acknowledgement, USDOT info, and a video taken by the civilian complainant (Petitioner's Exhibit 1).). Inspector Smith stated that the truck has a refrigeration unit and lift gate but neither were in use on the video. No use of processing device during the video that would require the engine to run. Additionally, the truck was idling adjacent to the school on the same side of the street. there is audible engine noise on the video and there was no processing device in use during this time.

Ms. Babu denied the violation and asserted the affirmative defense that the school was not clearly visible. Respondent's rep stated that the school has to be readily identifiable as a school with signage.

In response, Inspector Smith agrees with the Respondent that it is an affirmative defense and there is nothing in video that would clearly identify it as a school and on Google maps there is not a clear image, only a school flag.

I credit the testimony and evidence offered on behalf of the Respondent. I find that Petitioner 's video shows that there was no indication that the truck was parked adjacent to a school. I find that Respondent established the affirmative defense that the school cited in the summons was not readily identifiable.

Accordingly, this summons is Dismissed.

Eva Marie Russo-Lane

11/28/2025

11/28/2025

Eva Marie Russo-Lane, Judicial Hearing Officer

Date