



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

ILMA BABU - NACMIAS LAW FIRM PLLC 592 PACIFIC STREET Brooklyn, NY 11217	Summons No: 000974300P et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- NATIONAL DCP LLC Hearing Date: 05/06/2026 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: **\$440.00**

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

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000974300P	Sustained	12/16/2024	101 WEST 23 STREET Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA1E	24 -163	Sustained	\$440.00

Findings of Fact & Conclusions of Law

Ilma Babu appeared for Respondent by phone. Senior Inspector John McLaughlin, DEP, appeared by phone.

The summons alleges that a truck with IN Plate #2923706 idling from 12:47 pm to 12:50 pm on 12/16/24. Second offense.

The DEP submitted the following: the redacted complaint (P1); photos of truck (P2); prior (P3); Dept of State identification of truck (P4); and video (P5)

Ms. Babu denied the charge and said the truck needed to be on for the refrigerator unit. She submitted a letter from National

NDCP stating that they are delivery trucks operate lift gates for the purpose of making deliveries. They keep the engine one to keep the lift gates charged. And there are refrigerator units which must also stay on to maintain frozen and refrigerated products. (R1) An affidavit from the driver. (R2). Also, an Indiana Registration Cab Card (R3) and a driver manifest (R4).

Under Appeal No. 2201546, DEP v. Bartlett Dairy, March 23, 2023, OATH Appeals held a Respondent's submission of a letter from the driver stating the engine was necessary to run a refrigeration unit, without further substantiation, was insufficient to establish a defense.

I credit the summons and evidence submitted by petitioner. I find the cited truck was idling for more than 3 minutes. I find pursuant to Appeal No. 2201546 that respondent's submission of a letter from the driver stating the engine was necessary to run a refrigeration unit, without further substantiation, was insufficient to establish a defense. The Registration Cab Card did not do that either (R3) nor a letter (R1) telling the NYC EPA that they are allowed to idle.

Therefore, I find Respondent is in violation of the rule. Summons sustained. Ms. Babu did not contest the previous violation. Second violation.

E. Barrett

05/15/2026

05/15/2026

Elizabeth Barrett, Judicial Hearing Officer

Date