

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION
2 OF THE STATE OF OREGON
3

4 IN THE MATTER OF:) BEST WORK PRACTICES
DAIMLER TRUCKS NORTH) AGREEMENT
5 AMERICA LLC,)
6 a Delaware limited liability company.) No. AQ/V-NWR-2019-109

7 WHEREAS:

8 1. Daimler Trucks North America LLC, a Delaware limited liability company
9 (Daimler), owns and operates a heavy-duty truck manufacturing facility at 6936 North
10 Fathom Street, Portland, Oregon (the Facility). The truck manufacturing process at the
11 Facility includes base coat, top coat and clear coat coating applications to chassis, cabs and
12 other heavy-duty truck parts. These coating operations emit volatile organic compounds
13 (VOCs) that have the potential to be odorous.

14 2. On July 10, 2013, the Department of Environmental Quality (DEQ) issued
15 Daimler Oregon Title V Operating Permit No. 26-2197 (Permit). The Permit authorizes
16 Daimler to discharge VOCs and other air contaminants in accordance with the requirements,
17 limitations and conditions of the Permit. Condition 6 of the Permit prohibits Daimler from
18 allowing emissions of odorous matter in such a manner as to cause a public nuisance, in
19 accordance with Oregon Administrative Rule (OAR) 340-208-0300.

20 3. Residents near the Facility have regularly complained to DEQ that strong
21 paint-type odors emanate from the Facility. In response, from October 14, 2014 to January
22 18, 2018, DEQ conducted odor surveys and gathered evidence to document the intensity and
23 frequency of coating-based odors emitted from the Facility.

24 4. By letter dated August 15, 2018, DEQ informed Daimler that, based on the
25 evidence DEQ gathered, the Facility may be creating a suspected nuisance and invited
26 Daimler to enter into a Best Work Practices Agreement (BWPA).

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5. Between January 19, 2018, and the present, Daimler has implemented the following actions to reduce the potential for odors at the Facility:

- A. Implementation of Hazardous Air Pollutant-free touch up paint; and
- B. Replacement of conventional spray guns with reduced pressure (RP) spray guns for top coat and chassis painting.

6. In accordance with OAR 340-208-0320(1), sources may voluntarily enter into an agreement with DEQ to implement specific practices to abate suspected nuisance conditions, including odors. Compliance with a Best Work Practices Agreement (BWPA) constitutes compliance with OAR 340-208-0300 for the identified suspected nuisance while the BWPA is in effect, including after incorporation of the BWPA terms into Daimler’s air permit. (OAR 340-208-0310(2)).

7. By entering into this BWPA, Daimler neither admits nor denies the allegations related to or arising from any of the matters addressed in this BWPA.

NOW THEREFORE, it is stipulated and agreed that:

8. This BWPA is being entered into voluntarily by Daimler and DEQ to memorialize Daimler’s commitment to implement specific actions to minimize odors and to develop enforceable milestones that will enable the implementation of odor control measures in an expeditious manner.

9. Pursuant to OAR 340-208-0320(5), DEQ has consulted and will continue to consult with complainants with standing in this matter throughout the development, preparation, implementation, modification, and evaluation of this BWPA.

10. Pursuant to OAR 340-208-0320(1), this BWPA is an Order requiring Daimler to mitigate odors by complying with the following schedule and conditions:

1 A. By January 1, 2023, limit volatile organic compounds (VOC) from all
2 surface-coating operations at the Facility to 39 tons per year. VOCs attributable to touch-up
3 of previously coated components, adhesive usage, cleaning solvent usage and from paint
4 application to miscellaneous parts will not be counted against the 39 tons per year limit (paint
5 application to miscellaneous parts does not include chassis or cab painting). Daimler may
6 temporarily increase VOC emissions from painting operations in the event of unforeseen
7 supply issues, provided that, prior to allowing surface-coating VOC emissions to exceed 39
8 tons per rolling 12 month period, Daimler must provide to DEQ written notice of the cause of
9 the increase, the anticipated duration and the odor mitigation measures that Daimler will
10 employ during that time period. Nothing about this provision would alter Daimler's
11 obligations to seek pre-construction approval under OAR 340-210-0215. Nothing about this
12 condition in subparagraph 10.A would subject Daimler's netting basis to reduction under
13 OAR 340-222-0046.

14 B. After January 1, 2023, the Facility will retain a VOC PSEL of 86 tpy
15 and the netting basis will be reduced to 86 tpy under OAR 340-222-0046.

16 C. Until such time as Daimler is below 39 tpy of VOC from all surface-
17 coating operations on a rolling 12 month basis, the company shall implement the following
18 best work practice measures for all surface coating operations at the Facility:

19 (1) Within 180 days of the date this BWPA is finalized,
20 develop and implement a standard practice for use in determining the feasibility of using
21 factory premix paint from an offsite supplier. Submit standard practice procedure to DEQ for
22 review and an opportunity to provide comments to DTNA regarding such procedure;

23 (2) Continue to use only high-solids pre-mixed coatings
24 where Daimler has already initiated use;

25 (3) Within 90 days of the date this BWPA is finalized,
26 submit to DEQ for review and approval a plan for a study of the use of high solids clear

1 coat. The plan must include specific metrics for measuring feasibility. DEQ may reasonably
2 modify the plan to ensure that it includes adequate methods to gauge feasibility. If DTNA
3 concludes that DEQ's modifications are unreasonable, then it must object to them within 10
4 days, and propose a new plan within 30 days. If DEQ notifies DTNA within 10 days that it
5 will not approve the revised plan, then the parties agree to schedule a meeting within 10 days
6 at which they will negotiate in good faith to reach agreement on a plan.

7 (4) Within 180 days of the date DEQ approves the study
8 plan submitted pursuant to subparagraph 10.C(3), conduct a study of the feasibility of
9 conversion to high solids clear coat and submit a report to DEQ on the findings. The report
10 shall contain specific metrics for measuring feasibility so DEQ can make an adequate
11 determination.

12 (5) Within 210 days of the date the high-solids clear coat
13 study is finalized, implement use of high-solids clear coat where Daimler's study determined
14 use was feasible;

15 (6) Continue to use RP spray guns for all surface coating
16 applications at the Facility currently using RP spray guns unless a lower emitting technology
17 is substituted;

18 (7) Within 90 days of the date this BWPA is finalized,
19 develop and implement a robust preventative maintenance (PM) plan for the RP spray guns
20 at the Facility. Upon completion of the PM plan, submit a copy of the plan to DEQ;

21 (8) Continue to use current VOC-free, high solids chassis
22 coating activator until such time as the paint vendor changes at which time Daimler will use a
23 VOC-free moderate solids (or better) chassis coating activator; and

24 (9) When any coating is changed or reformulated, evaluate
25 the odor potential of the revised coating compared to existing coating and implement odor
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1 mitigation strategies when the revised coating has greater odor potential compared to the
2 existing coating.

3 D. Within 360 days of the date this BWPA is finalized, evaluate the use
4 of electrostatic coating technology for chassis surface coating at the Facility and submit an
5 evaluation report to DEQ. If Daimler concludes that electrostatic coating is feasible, safe, and
6 does not result in a significant impact to product quality and durability, then the evaluation
7 report must include a schedule for conversion to electrostatic coating for DEQ's approval and
8 Daimler must immediately begin implementation of the approved schedule.

9 11. If any event occurs that is beyond Daimler's reasonable control and that
10 causes or may cause a delay or deviation in performance of the requirements of this BWPA,
11 Daimler must immediately notify DEQ verbally of the cause of delay or deviation and its
12 anticipated duration, the measures that have been or will be taken to prevent or minimize the
13 delay or deviation, and the timetable by which Daimler proposes to carry out such measures.
14 Daimler must confirm in writing this information within five (5) working days of the onset of
15 the event. It is Daimler's responsibility in the written notification to demonstrate to DEQ's
16 satisfaction that the delay or deviation has been or will be caused by circumstances beyond
17 the control and despite due diligence of Daimler. If Daimler so demonstrates, DEQ may
18 extend times of performance of related activities under this BWPA, as appropriate.
19 Circumstances or events beyond Daimler's control include, but are not limited to, disease,
20 acts of nature, unforeseen strikes, work stoppages, fires, explosion, riot, sabotage, or war.
21 Increased cost of performance or consultant's failure to provide timely reports may not be
22 considered circumstances beyond Daimler's control.

23 12. In accordance with OAR 340-208-0320(1), DEQ and Daimler may amend the
24 terms of this BWPA by mutual written consent of both parties.

25 13. DEQ may amend the schedule and conditions in this BWPA upon finding that
26 such modification is necessary to protect public health. DEQ will provide Daimler a

1 minimum of thirty (30) days written notice prior to issuing an Amended BWPA modifying
2 any schedules or conditions, and the conditions will be immediately effective. If Daimler
3 contests the Amended BWPA the applicable procedures for conduct of contested cases in
4 such matters will apply (ORS Chapter 183, OAR Chapter 340, Division 011 and OAR 137-
5 003-0501 to 0700).

6 14. Daimler agrees that this BWPA shall be binding on Daimler and its respective
7 successors, agents, and assigns. The undersigned representative of Daimler certifies that he
8 or she is fully authorized to execute and bind Daimler to this BWPA. No change in
9 ownership or corporate or partnership status relating to the Facility will, in any way, alter
10 Daimler's obligation under this BWPA, unless otherwise approved in writing by DEQ.

11 15. Daimler agrees to release and waive any and all claims of any kind, known or
12 unknown, past or future, against the State of Oregon or its agencies, instrumentalities,
13 employees, officers, or agents, arising out of the matters and events relating to the matter set
14 out in the Notice, including but not limited to any claim under federal or state law for
15 damages, declaratory or equitable relief, under 42 USC § 1983 et seq, and for attorney fees or
16 costs.

17 16. All reports, notices and other communications required under or relating to
18 this BWPA should be sent to: Dave Kauth, Oregon DEQ – Northwest Region office, 700 NE
19 Multnomah Street, Suite 600, Portland, Oregon 97232, or at: kauth.dave@deq.state.or.us.

20 17. Daimler acknowledges that it has actual notice of the contents and
21 requirements of this BWPA and that failure to fulfill any of the requirements hereof would
22 constitute a violation of this BWPA and subject Daimler to potential enforcement under
23 OAR Chapter 340, Division 12.

24 18. This BWPA will terminate when DTNA provides written notification to DEQ
25 of its intent to terminate the agreement or when DEQ provides written notification to Daimler
26 of one of the following:

1 A. DEQ has incorporated conditions and requirements relating to the
2 actions required in Paragraphs 10.A., 10.B., and 10.C. into Daimler's Oregon Title V
3 Operating Permit; or

4 B. DEQ determines that the activities that were the subject of this BWPA
5 no longer occur.

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7 AGREED.

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DAIMLER TRUCKS NORTH AMERICA LLC

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10 8/24/20
Date


Brian Burton

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General Counsel and Secretary

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AGREED. IT IS SO ORDERED:

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DEPARTMENT OF ENVIRONMENTAL QUALITY and
14 ENVIRONMENTAL QUALITY COMMISSION

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16 8/24/20
Date

By: Nina DeConcini
Nina DeConcini
NW Region Administrator
on behalf of DEQ pursuant to OAR 340-012-0170 and
OAR 340-208-0320(1)
on behalf of the EQC pursuant to OAR 340-011-0505

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