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BEFORE THE HEARING BOARD OF THE
SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

In the Matter of

SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT,

Petitioner,

vs.

FLEXFIRM HOLDINGS LLC,

[Facility ID No. 187620]

Respondent.

CASE NO. 6239-1

**[JOINT PROPOSED] FINDINGS AND
DECISION FOR A SECOND
MODIFIED~~N~~ ORDER FOR
ABATEMENT**

Health and Safety Code § 41700 and District
Rules 402, 1128, and 1147

Date: ~~May 28, 2024~~ November 6, 2024

Time: 9:30 a.m.

Place: Hearing Board
South Coast Air Quality
Management District
21865 Copley Drive
Diamond Bar, CA 91765

1 **FINDINGS AND DECISION OF THE HEARING BOARD**

2 This petition for a modification and extension of an Order for Abatement was heard on May
3 28, 2024, pursuant to notice and in accordance with the provisions of California Health and Safety
4 Code Section 40823 and District Rule 812. The following members of the Hearing Board were
5 present: Micah Ali, Chair; Robert Pearman, Vice Chair; Mohan Balagopalan; Cynthia Verdugo-
6 Peralta; and Dr. Jerry P. Abraham, MD, MPH, CMQ~~Cynthia Verdugo Peralta, Chair; Robert~~
7 ~~Pearman, Vice Chair; Dr. Jerry P. Abraham; Micah Ali; and Mohan Balagopalan.~~ Petitioner,
8 Executive Officer, was represented by Sheri Hanizavareh, Principal Deputy District Counsel, and
9 Josephine Lee, Senior Deputy District Counsel.

10 Respondent, Flexfirm Holdings LLC (hereinafter referred to as “Respondent” or “Flexfirm”),
11 was ~~represented by Anthony Andres.~~ represented by Malissa Hathaway McKeith, Esq. Flexfirm was
12 not previously represented by legal counsel. At the prior hearings, Flexfirm was represented by CEO
13 Albert Castillo and its technical consultant, Tony Andres. A stipulated Modified Order for Abatement
14 (“First Modified Order”) was entered effective May 28, 2024.

15 Following the First Modified Order, Flexfirm retained legal counsel, Malissa Hathaway
16 McKeith, Esq., Environmental Infrastructure Consultants, LLC, and consultant, Yasmine Stutz of
17 Ramboll Americas Engineering Solutions, Inc. (“Ramboll”). Since that time, the parties have met
18 and conferred both telephonically and in person on numerous occasions to address the compliance
19 challenges facing Flexfirm as a coatings manufacturer. Subsequent to the First Modified Order,
20 Flexfirm sampled its materials and coatings to determine VOC content, and it has run two source
21 tests to determine capture and control efficiencies pursuant to Rule 1128. Flexfirm has made a
22 number of operational changes to its existing equipment. The District has not issued any Notices of
23 Violations for approximately 90 days.

24 The following proposed Stipulated Second Modified Order for Abatement (“Second
25 Modified Order”) reflects Flexfirm’s commitment to purchase new equipment and to file permits to
26 construct and to operate allowing it to comply with District rules. It also reflects agreements with
27 staff in the interim for Flexfirm to continue operations under specified conditions while new
28 equipment is purchased, designed and constructed.

1 The public was given the opportunity to testify. The matter was submitted and evidence
2 received. The Hearing Board finds and decides as follows:

3 **FINDINGS OF FACT**

4 1. Petitioner is a body corporate and politic established and existing pursuant to Health
5 and Safety Code §40000, *et seq.* and §40400, *et seq.*, and is the sole and exclusive local agency with
6 the responsibility for comprehensive air pollution control in the South Coast Basin.

7 2. Respondent Flexfirm Holdings LLC operates a facility subject to the jurisdiction of
8 the District. Flexfirm operates a textile coating facility located at 2300 N. Chico Ave, South El
9 Monte, CA 91733 (“Facility”). Its Facility ID Number is 187620.

10 3. The District ~~has previously~~ received over five hundred odor complaints from January
11 2023 through ~~the present~~ May 2024 from the surrounding area near Flexfirm alleging the Facility as
12 the source of the odor. The District ~~has~~ traced the odors back to Flexfirm on ~~numerous~~ several
13 occasions. The District alleges that Respondent is in violation and has been in violation of District
14 Rule 402 since at least May 22, 2023. The District has issued thirteen Notices of Violations alleging
15 a violation of District Rule 402 and Health and Safety Code section 41700 between May 22, 2023,
16 and May 10, 2024.

17 4. Flexfirm owns and operates a Coating/Curing Oven with Afterburner under Permit to
18 Operate G52678 (“VOC Oven” and “Afterburner”), and a Coating/Curing Oven under Permit to
19 Operate G75719 (“Non-VOC Oven”) [collectively “Equipment”].

20 5. The Equipment is subject to District Rule 1128.

21 6. Flexfirm conducted a source test of the Afterburner in November 2023. The results
22 of the source test demonstrated a VOC destruction efficiency of 74.5%, which did not meet the Rule
23 1128 requirement of a VOC destruction efficiency of at least 95%.

24 7. Flexfirm has installed and maintained a non-resettable totalizing fuel meter on the
25 Afterburner that may be used to demonstrate less than one pound of NOx per day averaged over a
26 calendar month pursuant to Rule 1147(g)(1)(B).

27 *Updates Since the First Modified Order*

1 8. Since the May 2024 hearing, Flexfirm has hired new legal counsel and consultant
2 Ramboll.

3 9. Flexfirm has implemented operational changes voluntarily and/or in accordance with
4 the First Modified Order, including:

- 5 • Sealed up openings, improving the inward velocity in the oven, matched the limit
6 controlled and the temperature controllers to reflect a more uniform temperature
7 indication;
- 8 • Provided afterburner gas usage records for January 2023 to present to South Coast
9 AQMD;
- 10 • Performed sampling and VOC analysis of all coating materials and provided results
11 to South Coast AQMD;
- 12 • Recalibrated the modulating damper motor and firing rate gas valve to smooth out the
13 operation;
- 14 • Contacted the afterburner temperature controller representative as to methods of fine-
15 tuning the instrument to optimize its operation to improve the temperature
16 oscillations;
- 17 • Purchased a new exhaust variable frequency drive motor;
- 18 • Made repairs to the inner ducting to prevent leaks;
- 19 • Installed a new viewing port to observe characterization of the flame;
- 20 • Adjusted production to stay under 230,550 scf of gas per month, which it has
21 accomplished since August 2024; and
- 22 • Increased maintenance.

23 10. Since the hearing on May 28, 2024 to date, the District has issued only three Notices
24 of Violation alleging a violation of District Rule 402 and Health and Safety Code section 41700
25 based on verified complaints. No Notices of Violation for odor nuisance have been issued since
26 August 7, 2024.

27 11. On or around June 20, 2024, pursuant to the First Modified Order, Flexfirm conducted
28 a second source test of the Afterburner through a third-party source test company, Alliance

1 Technologies. The source test results demonstrated a destruction efficiency of <95.7% and were
2 submitted to the South Coast AQMD for expedited evaluation on or around August 16, 2024.

3 12. South Coast AQMD Source Test Engineering determined that source test results could
4 not be used to determine compliance with Rule 1128 due to deficiencies in the test methodology
5 conducted by Alliance Technologies, which biased the destruction efficiency high. Alliance
6 Technologies is a third-party contractor listed on the District's Lab Approval Program. After the
7 District's Source Test Engineering division determined that the results could not be used to determine
8 Rule 1128 compliance, Flexfirm again paid Alliance Technologies to conduct another source test to
9 determine Rule 1128 compliance. The follow-up source test was conducted on October 15, 2024,
10 with Ramboll and District staff present. Those results are still pending.

11 7.13. To demonstrate compliance with Rule 1128 and Rule 1147, Flexfirm has committed
12 to purchasing either a new afterburner and permanent total enclosure or, alternatively, a new
13 afterburner and ovens. Either option requires significant investment of capital as well as the time
14 and expense of designing, permitting and constructing the equipment. The advantage of installing
15 an afterburner and permanent total enclosure instead of a completely new oven is the reduced time
16 for construction and the substantially lower costs. Flexfirm's consultants and District staff are
17 diligently working to determine which option is most feasible.

18 **CONCLUSION**

19 1. The continued operation of the Equipment ~~will~~may result in violations of District
20 Rules 203, 1128, and ~~may result in violations of~~ Rule 1147 and odor nuisances in violation of
21 District Rule 402 and Health and Safety Code Section 41700.

22 2. The issuance of the prayed for Stipulated ~~Order for Abatement~~Second Modified
23 Order is not expected to result in the closing or elimination of an otherwise lawful endeavor, but if
24 it does result in such closure or elimination, it would not be without a corresponding benefit in
25 reducing air contaminants.

26 3. This Stipulated Second Modified Order ~~Order for Abatement~~ is not intended to be
27 nor does it act as a variance.
28

1 and Afterburner and/or Afterburner and permanent total enclosure in compliance with Rule
2 1128(c)(2) and Rule 1147 Table 2 – NOx and CO Emissions Limits.

3 Condition 20: Respondent shall, within One Hundred Twenty (120) calendar days of
4 issuance of this Second Modified Order, provide copies of purchase orders for all components and
5 services necessary to construct and install the New Equipment to South Coast AQMD staff
6 (astewart@aqmd.gov and amartinez2@aqmd.gov). Respondent shall pay for expedited shipping
7 and/or delivery for all components and services as available.

8 Condition 21: Respondent shall, within thirty (30) days after permit to construct issuance by
9 the District for the New Equipment, submit a source test protocol to the District for approval to
10 determine compliance with Rule 1128 and Rule 1147 for the New Equipment.

11 Condition 22: Respondent shall complete construction of the New Equipment no later than
12 six (6) months after permit to construct issuance by the District, unless a written extension is
13 requested to and approved by South Coast AQMD (cgill@aqmd.gov). The request for extension
14 shall be supported by documentation setting forth the reason for delay and shall not exceed 90
15 calendar days unless further extension is approved by this Board.

16 Condition 23: Within thirty (30) calendar days of completing construction of the New
17 Equipment, Respondent shall conduct a source test pursuant to the requirements of the approved
18 source test protocol to determine Rule 1128 and Rule 1147 compliance. In addition, Respondent
19 shall notify the South Coast AQMD (astewart@aqmd.gov and amartinez2@aqmd.gov) of the
20 following:

- 21 a. A source test notification no less than ten (10) calendar days prior to the scheduled
22 source test date;
- 23 b. A notification of source test completion within 3 business days; and
- 24 c. A copy of the source test results within 3 business days of receipt.

25 Condition 24: Respondent shall request expedited review and processing of both the Source
26 Test Protocol and the Source Test Report to the South Coast AQMD by submitting the Expedited
27 Evaluation Request Form 222-XST.

1 Condition 25: Parties shall appear before the Hearing Board for a status/modification hearing
2 on March 25, 2025.

3 Condition 26: The Hearing Board may modify this Order for Abatement without the
4 stipulation of the parties upon a showing of good cause therefore, and upon making the findings
5 required by Health and Safety Code Section 42451(a) and District Rule 806(a). Any modification
6 of the Order shall be made only at a public hearing held upon 10 days published notice and
7 appropriate written notice to Respondent.

8 Condition 27: Unless terminated earlier, the Hearing Board shall retain jurisdiction over this
9 matter until December 30, 2025, at which time this Order for Abatement, if it has not been properly
10 extended, shall expire.

11 Condition 28: This Order for Abatement does not act as a variance, and Respondent is
12 subject to all rules and regulation of the District, and with all applicable provisions of California
13 law. Nothing herein shall be deemed or construed to limit the authority of the District to issue
14 Notices of Violation, or to seek civil penalties, criminal penalties, or injunctive relief, or to seek
15 further orders for abatement, or other administrative or legal relief.

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17 **FOR THE BOARD:** _____

18 **DATED:** _____

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20 Reviewed by Malissa Hathaway McKeith, Representative for Respondent

21 Prepared by Josephine Lee and Sheri Hanizavareh, Attorneys for Petitioner

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