

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

In The Matter Of:)

Superior Profiles, Inc.)

Air Facility ID No. 706-0016)

Florence, Lauderdale County, Alabama)
_____)

CONSENT ORDER No. 05-003 CAP

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, §§22-22A-1 through 22-22A-16, Code of Alabama 1975, as amended, the Alabama Air Pollution Control Act, §§ 22-28-1 through 22-28-23, Code of Alabama 1975, as amended, and the ADEM Administrative Code of Regulations ("ADEM Admin. Code R.") promulgated pursuant thereto, and without the adjudication of any issues of fact or law and upon the consent of the parties concerned hereto, the Alabama Department of Environmental Management (hereinafter, the "Department") makes the following FINDINGS:

1. Superior Profiles, Inc. (hereinafter, "Superior Profiles") owns and operates a wood molding manufacturing facility located at Route 6, McIntyre Lane in Florence, Lauderdale County, Alabama, under the authority of ADEM Major Source Operating Permit No. 706-0016 (hereinafter, "the Permit"), issued September 1, 2000.

2. The Alabama Department of Environmental Management is a duly constituted agency of the State of Alabama pursuant to §§22-22A-1 through 22-22A-16, Code of Alabama (1975), as amended.



3. Pursuant to §22-22A-4(n), Code of Alabama (1975), as amended, the Department is the state air pollution control agency for purposes of the federal Clean Air Act, 12 U.S.C. 7401 through 7671q, as amended. In addition, the Department is authorized to administer and enforce the provisions of the Alabama Air Pollution Control Act, §§22-28-1 through 22-28-23, Code of Alabama (1975), as amended.

4. Superior Profiles was issued Major Source Operating Permit (MSOP) 706-0016 on September 1, 2000.

5. Section No. 4 for Unit 002 of the Permit requires that the cyclone be visually observed on a daily basis.

6. Section No. 5 for Unit 002 of the Permit requires that a logbook of the observations be kept for five years.

7. General Proviso No. 9 of the Permit requires reports to be certified for truth, accuracy and completeness.

8. General Proviso No. 21 (a) of the Permit requires a report regarding deviations be submitted at least every six months.

9. On November 6, 2003, the Department received the annual compliance statement for October 31, 2002 to October 31, 2003 for this facility, wherein Superior Profiles certified that the facility was in compliance with all of the permit conditions, to include having daily observation logbooks.

10. On January 26, 2004, ADEM personnel inspected the facility and requested to review the facility's observation logbooks for Permit Unit 002. The last daily inspection was March 2003.

11. On March 12, 2004, the Department issued a Notice of Violation (NOV) to Superior Profiles for failure to maintain records and to submit reports as required in the Permit and for submitting inaccurate reports.

12. The Department received a response to the NOV from Superior Profiles on April 1, 2004.

13. Superior Profiles neither agrees nor disagrees with the Findings presented in this Consent Order, but, in an effort to cooperate with the Department and to comply with the provisions of the Alabama Air Pollution Control Act, Superior Profiles has consented to the terms of this Consent Order.

14. The Department has agreed to the terms of this Consent Order in order to resolve the violations cited in this Consent Order, and the Department had determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

ORDER

Based upon the foregoing FINDINGS and pursuant to §§22-22A-5(10), 22-22A-5(12), 22-22A-5(18), 22-28-10(2) and 22-28-18, Code of Alabama (1975), as amended, and with the consent of Superior Profiles, it is hereby ORDERED:

A. That not later than 45 days after the effective date of this Consent Order, Superior Profiles shall pay to the Department a civil penalty in the amount of Eight Thousand Dollars (\$8,000.00) for the violations cited herein.

B. That immediately upon the effective date of this Consent Order, Superior Profiles shall be in compliance with all requirements of its Major Source Operating Permit and shall take all actions as are necessary to prevent the recurrence of such violations.

C. That this Consent Order shall apply to and be binding upon both parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Consent Order certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this Consent Order, to execute the Consent Order on behalf of the party represented and to legally bind such party.

D. That, subject to the terms these presents and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the violations which are cited in this Consent Order.

E. That Superior Profiles is not relieved from any liability if it fails to comply with any provision of this Consent Order.

F. That, for purposes of this Consent Order only, Superior Profiles agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in a court of competent jurisdiction, including, but not limited to, Montgomery County Circuit Court. Superior Profiles also agrees that, in any action brought by the Department to compel compliance with the terms of this Agreement, Superior Profiles shall be limited to the defenses of *Force Majeure*, compliance with this Agreement, and physical

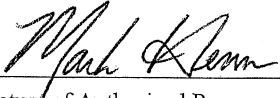
impossibility. A *Force Majeure* is defined as any event arising from causes that are not foreseeable and are beyond the reasonable control of Superior Profiles, including its contractors and consultants, which could not be overcome by due diligence (i.e., causes which could have been overcome or avoided by the exercise of due diligence will not be considered to be beyond the reasonable control of Superior Profiles) and which delays or prevents performances by a date required by the Consent Order. Events such as unanticipated or increased costs of performance, changed economic circumstances, normal precipitation events, or failure to obtain federal, state or local permits shall not constitute *Force Majeure*.

G. That the sole purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances referenced herein. Should additional facts and circumstances be discovered in the future concerning the facility which would constitute possible violations not addressed in this Consent Order, then such future violations shall be addressed in Orders as may be issued by the Director, litigation initiated by the Department, or such other enforcement action as may be appropriate, and Superior Profiles shall not object to such future orders, litigation, or enforcement action based on the issuance of this Consent Order if future Orders, litigation, or other enforcement action address new matters not raised in this Consent Order.

H. That, by agreement of the parties, this Consent Order shall be considered final and effective immediately upon execution signature of all parties. This Consent Order shall not be appealable, and Superior Profiles does hereby waive any hearing on the terms and conditions of same.

Executed in duplicate with each part being an original.

Superior Profiles, Inc.



(Signature of Authorized Representative)

Mark Henn

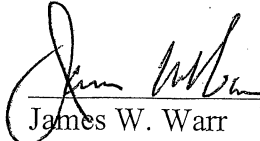
(Printed Name of Authorized Representative)

Manager

Title

Date Signed: 7/27/04

**Alabama Department of
Environmental Management**



James W. Warr
Director

Date Signed: 13 Oct 2004