

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No.
)	(Enforcement - Air)
)	
SEATING CONCEPTS, INC.,)	
an Illinois corporation,)	
)	
Respondent.)	

NOTICE OF FILING

TO: Jeffery D. Jeep
Jeep & Blazer, LLC
24 N.. Hillside Avenue
Suite A
Hillside, Illinois 60162

Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Ste. 11-500
Chicago, Illinois 60601

PLEASE TAKE NOTICE that on this date I filed with the Office of the Clerk of the Illinois Pollution Control Board a Complaint, Notice of Filing, and a Certificate of Service on behalf of the People of the State of Illinois, a copy of which is attached and herewith serve upon you.

Section 103.204(f) of the Pollution Control Board Procedural Rules, 35 Ill. Adm. Code 103.204(f) provides: "Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney."

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN,
Attorney General of the
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: 

ANDREW J. NICHOLAS
Assistant Attorney General
Environmental Bureau
69 W. Washington St., Suite 1800
Chicago, Illinois 60602
312/814-2069

DATE: September 25, 2009

THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
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SEATING CONCEPTS, INC.,)	
an Illinois corporation,)	
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Respondent.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of the Respondent, SEATING CONCEPTS, INC., as follows:

COUNT I

CONSTRUCTION OF EMISSION SOURCES WITHOUT A PERMIT

1. This Complaint is brought by the Attorney General on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA") pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2008).
2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2008), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").

3. At all times relevant to this Complaint, Respondent Seating Concepts, Inc. ("Respondent" or "SCI") was, and is, an Illinois corporation, duly authorized to transact business in the State of Illinois.

4. The Respondent manufactures chairs, tables, and related products at its facility located at 125 Connell Street, Rockdale, Will County, Illinois ("facility" or "site") using an open molding and centrifugal casting operation.

5. At its facility, the Respondent utilizes a gelcoat applicator controlled by a booth filter pad, a resin applicator controlled by a booth filter pad; an FRP grinder controlled by a booth filter pad; a metal chop saw; five welders, and two lacquer applicators controlled by booth filter pads; a stain applicator controlled by a booth filter pad; a paint applicator controlled by a booth filter pad; two powder coat applicators controlled by filter cans; a phosphate bath, nine glue pot applicators, one cast polymer kettle, one glue spreader, and one powder coat oven (collectively "emission units" or "emission sources").

6. Between 2001 and 2007, the exact dates best known to Respondent, Respondent installed one gelcoat applicator, one resin applicator, two lacquer applicators, one paint applicator, one powder coat applicator, nine glue pot applicators, one simalfa glue applicator, and one cast polymer kettle.

7. On information and belief, since at least 2003, the Respondent's emission units have had the potential to emit ("PTE") volatile organic material ("VOM") and/or hazardous air pollutants ("HAP") above the major source thresholds.

8. On July 31, 2007, the Illinois EPA inspected the Respondent's facility. The inspector observed Respondent was operating its emission sources without permits and in apparent violation of the Board's regulations at 35 Ill. Adm. Code Subtitle B.

9. On December 12, 2007, the Illinois EPA issued Violation Notice (VN) A-2007-00186 to the Respondent.

10. The Respondent responded to the VN with a proposed Compliance Commitment Agreement ("CCA") on January 30, 2008.

11. On February 13, 2008, representatives of the Illinois EPA and the Respondent met pursuant to Section 31 of the Act, 415 ILCS 5/31 (2008).

12. On March 5, 2008, the Respondent submitted a revised CCA to the Illinois EPA.

13. On March 25, 2008, the Illinois EPA rejected the Respondent's proposed CCA.

14. On May 5, 2008, the Illinois EPA issued a Notice of Intent to Pursue Legal Action ("NITPLA") to the Respondent.

15. Representatives of the Illinois EPA and Seating Concepts met pursuant to the NITPLA on May 29, 2008.

16. Will County is located in an area classified, pursuant to the Clean Air Act, 42 U.S.C. 7401 *et seq.*, as an "ozone nonattainment area."

17. Section 9 of the Act, 415 ILCS 5/9 (2008) provides, in pertinent part, as follows:

No Person Shall:

- (a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act.
- (b) Construct, install, or operate any equipment, facility, vehicle, vessel, or aircraft capable of causing or contributing to air pollution or designed to prevent air pollution of any type designated by Board regulations, without a permit granted by the Agency, or in violation of any conditions imposed by such permit.

* * * *

18. Section 201.142 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code

201.142, provides, as follows:

No person shall cause or allow the construction of any new emission source or any new air pollution control equipment, without first obtaining a construction permit from the Agency, except as provided in Section 201.146 or Section 201.170(b) of this Part.

19. Section 211.410 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code

211.410, provides, as follows:

"Air pollution control equipment" means any equipment or apparatus of a type intended to eliminate, prevent, reduce or control the emission of air contaminants to the atmosphere.

20. Section 201.102 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code

201.102, provides, in pertinent part, as follows:

* * * *

"Construction": commencement of on-site fabrication, erection or installation of an emission source or of air pollution control equipment.

* * * *

"Emission Source": any equipment or facility of a type capable of emitting specified air contaminants to the atmosphere.

* * * *

"New Air Pollution Control Equipment": any air pollution control equipment, the construction or modification of which is commenced on or after April 14, 1972.

* * * *

"New Emission Source": any emission source, the construction or modification of which is commenced on or after April 14, 1972.

* * * *

21. Section 3.02 of the Act, 415 ILCS 5/3.02 (2008), contains the following definition:

“AIR POLLUTION” is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

22. Section 3.06 of the Act, 415 ILCS 5/3.06 (2008), provides, as follows:

“CONTAMINANT” is any solid, liquid, gaseous matter, any odor, or any form of energy, from whatever source.

23. Section 3.315 of the Act, 415 ILCS 5/3.315 (2008), provides the following definition:

“Person” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

24. The Respondent, an Illinois corporation, is a “person” as that term is defined by 415 ILCS 5/3.315 (2008).

25. VOM and HAP emitted from Respondent’s emission units at its site are “contaminants” as that term is defined by 415 ILCS 5/3.06 (2008).

26. Respondent’s emission units are equipment capable of causing or contributing to air pollution or are designed to prevent air pollution.

27. Respondent’s emission units are “emission sources” capable of emitting specified air contaminants to the atmosphere.

28. The Respondent installed the following emission units; the gelcoat applicator, the resin applicator, the two lacquer applicators, the paint applicator, the powder coat applicator, the

nine glue pot applicators, the simalfa glue applicator, and the cast polymer kettle, without obtaining a construction permit from the Illinois EPA.

29. By installing the emission units at its facility without a construction permit, the Respondent violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2008), and Section 201.142 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.142.

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, SEATING CONCEPTS, INC.:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that Respondent violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2008), and Section 201.142 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.142;
3. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
4. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter;
5. Awarding to Complainant its costs and reasonable attorney's fees; and
6. Granting such other relief as the Board may deem appropriate and just.

COUNT II

OPERATION OF EMISSION SOURCES WITHOUT A PERMIT

1-23. Complainant realleges and incorporates by reference herein paragraphs 1 through 17 and 19 through 24 of Count I, as paragraphs 1 through 23 of this Count II.

24. Section 201.143 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.143, provides, as follows:

No person shall cause or allow the operation of any new emission source or any new air pollution control equipment of a type for which a construction permit is required by Section 201.142 without first obtaining an operating permit from the Agency, except for such testing operations as may be authorized by the construction permit.

25. Beginning in 2001, on dates best known to the Respondent, and continuing until 2003, when Respondent's PTE exceeded the major threshold and Respondent was required to obtain a CAAPP permit, the Respondent operated the gelcoat applicator, the resin applicator, the stain applicator, two powder coat applicators, and a powder coat oven without an operating permit from the Illinois EPA.

26. Respondent's gelcoat applicator, resin applicator, stain applicator, powder coat applicators, and powder coat oven are equipment of a type capable of emitting specified air contaminants to the atmosphere, were installed after April 14, 1972, and are therefore "new emission sources" as that term is defined by 35 Ill. Adm. Code 201.102.

27. By operating new emission sources at its facility without obtaining an operating permit from the Illinois EPA, the Respondent violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2008), and Section 201.143 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.143.

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, SEATING CONCEPTS, INC.:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

2. Finding that Respondent violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2008), and Section 201.143 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.143;
3. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
4. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter;
5. Awarding to Complainant its costs and reasonable attorney's fees; and
6. Granting such other relief as the Board may deem appropriate and just.

COUNT III

FAILURE TO PAY CONSTRUCTION PERMIT FEES

1-23. Complainant realleges and incorporates by reference herein paragraphs 1 through 17 and 19 through 24 of Count I as paragraphs 1 through 23 of this Count III.

24. Section 9.12 of the Act, 415 ILCS 5/9.12 (2008), provides, as follows:

- a) An applicant for a new or revised air pollution construction permit shall pay a fee, as established in this Section, to the Agency at the time that he or she submits the application for a construction permit. Except as set forth below, the fee for each activity or category listed in this Section is separate and is cumulative with any other applicable fee listed in this Section.

* * * *
- j) If the owner or operator undertakes construction without obtaining an air pollution construction permit, the fee under this Section is still required. Payment of the required fee does not preclude the Agency or the Attorney General or other authorized persons from pursuing enforcement against the applicant for failure to have an air pollution construction permit prior to commencing construction.

25. Section 211.4370 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 211.4370, provides as follows:

"Owner or operator" means any person who owns, operates, leases, controls, or supervises a source, an emission unit or air pollution control equipment.

26. The Respondent owns, operates, controls or supervises the emission units and air pollution control equipment at its facility, and, therefore is an "owner or operator" as those terms are defined by 35 Ill. Adm. Code 211.4370.

27. The Respondent failed to pay construction permit fees to the Illinois EPA prior to installing the gelcoat applicator, the resin applicator, the two lacquer applicators, the paint applicator, the powder coat applicator, the nine glue pot applicators, the simalfa glue applicator, and the cast polymer kettle between 2003 and 2007, on dates best known to the Respondent.

28. By failing to pay construction permit fees to the Illinois EPA prior to construction of emission sources, the Respondent violated Section 9.12(a) and (j) of the Act, 415 ILCS 5/9.12(a) and (j) (2008).

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, SEATING CONCEPTS, INC.:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that Respondent violated Sections 9.12(a) and (j) the Act, 415 ILCS 5/9.12(a) and (j) (2008);
3. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

4. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter;

5. Awarding to Complainant its costs and reasonable attorney's fees; and

6. Granting such other relief as the Board may deem appropriate and just.

COUNT IV

FAILURE TO SUBMIT COMPLETE AND TIMELY ANNUAL EMISSIONS REPORTS

1-25. Complainant realleges and incorporates by reference herein paragraphs 1 through 17, and 19 through 24 of Count I, and paragraphs 25 and 26 of Count III, as paragraphs 1 through 25 of this Count IV.

26. Section 201.302(a) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), provides, as follows:

The owner or operator of any emission unit or air pollution control equipment, unless specifically exempted in this Section, shall submit to the Agency as a minimum, annual reports detailing the nature, specific emission units and total annual quantities of all specified air contaminant emissions; provided, however, that the Agency may require more frequent reports where necessary to accomplish the purpose of the Act and this Chapter.

27. Section 254.137 of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 254.137, provides, in pertinent part, as follows:

Reporting Schedule

- a) All Annual Emissions Reports are due by May 1 of the year following the calendar year in which the emissions took place.

* * * *

28. Section 254.132(a) of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm.

Code 254.132(a), provides, in pertinent part, as follows:

- a) Failure to file a complete Annual Emissions Report by the applicable deadlines prescribed in Section 254.137(a) of this Subpart shall be a violation of this Part and 35 Ill. Adm. Code 201.302(a).

* * * *

29. Section 211.1950 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code

211.1950, provides the following definition:

Emission Unit

"Emission unit" means any part or activity at a stationary source that emits or has the potential to emit any air pollutant.

30. The gelcoat applicator, resin applicator, FRP grinder, metal chop saw, welders, lacquer applicators, stain applicator, paint applicator, powder coat applicators, phosphate bath, glue pot applicators, cast polymer kettle, glue spreader, powder coat oven, and the corresponding booth filter pads and filter cans at the Respondent's facility are "emission units" and/or "air pollution control equipment" as those terms are defined by 35 Ill. Adm. Code 211.410 and 211.1950.

31. The Respondent failed to file Annual Emissions Reports ("AER") for calendar years 2001 and 2002 with the Illinois EPA.

32. The Respondent failed to timely file AERs for calendar years 2003 through 2006 with the Illinois EPA. AERs for calendar years 2003 through 2006 were not filed until January 30, 2008.

33. By failing to file AERs for the years 2001 and 2002, the Respondent violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2008), and Section 201.302(a) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a).

34. By failing to timely file AERs by the applicable deadlines for the years 2003 through 2006, the Respondent violated Sections 254.132(a) and 254.137 of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a) and 254.137, and thereby violated Section 201.302(a) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Section 9(a) of the Act, 415 ILCS 5/9(a) (2008).

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, SEATING CONCEPTS INC.:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that Respondent violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2008), and Section 201.302(a) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), and Sections 254.132(a) and 254.137 of the Illinois EPA's Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a) and 254.137;
3. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
4. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter;
5. Awarding to Complainant its costs and reasonable attorney's fees; and
6. Granting such other relief as the Board may deem appropriate and just.

COUNT V

OPERATING A MAJOR STATIONARY SOURCE WITHOUT A CAAPP PERMIT

1-19. Complainant realleges and incorporates by reference herein paragraphs 1 through 17, 23 and 24 of Count I, as paragraphs 1 through 19 of this Count V.

20. Section 39.5 of the Act, 415 ILCS 5/39.5 (2008), provides, in pertinent part, as follows:

* * * *

5. Applications and Completeness

- a. An owner or operator of a CAAPP source shall submit its complete CAAPP application consistent with the Act and applicable regulations.

* * * *

6. Prohibition

* * * *

- b. After the applicable CAAPP permit or renewal application submittal date, as specified in Subsection 5 of this Section, no person shall operate a CAAPP source without a CAAPP permit unless the complete CAAPP permit or renewal application for such source has been timely submitted to the Agency.

* * * *

21. Section 39.5 of the Act, 415 ILCS 5/39.5 (2008), provides, in pertinent part, as follows:

2. Applicability

- a. Sources subject to this Section shall include:
1. Any major source as defined in paragraph (c) of this subsection.

* * * *

- c. For purposes of this Section, the term “major source” means any source that is:

* * * *

- iii. A major stationary source as defined in part D of Title I of the Clean Air Act including:

- A. For ozone nonattainment areas, sources with the potential to emit 100 tons or more per year of volatile organic compounds or oxides of nitrogen in areas classified as “marginal” or “moderate”, ... 25 tons or more per year in areas classified as severe...

* * * *

22. Section 211.4970 of the Board’s Air Pollution Regulations, 35 Ill. Adm. Code

211.4970, provides, as follows:

“Potential to emit (PTE)” means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restriction on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is federally enforceable.

23. Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2008), provides, in pertinent part, as follows:

“CAAPP” means the Clear Air Act Permit Program, developed pursuant to Title V of the Clean Air Act.

“CAAPP permit”...means any permit issued, renewed, amended, modified or revised pursuant to Title V of the Clean Air Act.

“CAAPP source” means any source for which the owner or operator is required to obtain a CAAPP permit pursuant to subsection 2 of this Section.

“Owner or operator” means any person who owns, leases, operates, controls, or supervises a stationary source.

“Source” means any stationary source (or any group of stationary sources) that are located on one or more contiguous or adjacent properties that are under common control of the same person (or persons under common control) and that belongs to a single major industrial grouping...

“Stationary source” means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under Section 112(b) of the Clean Air Act.

“Regulated air pollutant” means the following:

1. Nitrogen oxides (NO_x) or any volatile organic compound.

* * * *

24. Section 39.5(5)(x) of the Act, 415 ILCS 39.5(5)(x) (2008), provides, in pertinent part, as follows:

The owner or operator of an existing source that has been excluded from the provisions of this Section under subsection 1.1 or subsection 3(c) of this Section and that becomes subject to the CAAPP solely due to a change in operation at the source shall submit its complete CAAPP application consistent with this subsection at least 180 days before commencing operation in accordance with the change in operation.

25. At all times relevant to this Complaint, the Respondent’s facility was located in an ozone nonattainment area.

26. Respondent’s facility is located in an area that is currently classified as a moderate nonattainment area for ozone.

27. Beginning in April 2003, when the Respondent's potential to emit increased to 25 tons per year, and continuing until 2004, Respondent's facility was located in an area classified as severe nonattainment area for ozone.

28. Beginning in April 2003, Respondent's emission sources have had the potential to emit 25 tons or more per year of VOM, and therefore are "major stationary sources" as that term is defined by 415 ILCS 5/39.5(2)(c) (2008).

29. Beginning in April 2003, Respondent's major stationary sources are "CAAPP sources" as that term is defined by 415 ILCS 5/39.5(1) (2008).

30. Respondent was required to submit an application for a CAAPP permit no later than October 2002, the exact date best known by the Defendant.

31. Respondent did not submit an application for a CAAPP permit to the Illinois EPA until February 13, 2008, and currently operates without the requisite CAAPP permit.

32. By failing to timely apply for a CAAPP permit and by operating a major stationary source without a CAAPP permit, the Respondent violated Sections 39.5(5)(a) and (6)(b) of the Act, 415 ILCS 5/39.5(5)(a) and (6)(b) (2008).

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, SEATING CONCEPTS INC.:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that Respondent violated Sections 39.5(5)(a) and (6)(b) of the Act, 415 ILCS 5/39.5(5)(a) and (6)(b) (2008);
3. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

4. . Assessing against Respondent a civil penalty of ten thousand dollars (\$10,000) for each day of the violation;
5. Awarding to Complainant its costs and reasonable attorney's fees; and
6. Granting such other relief as the Board may deem appropriate and just.

COUNT VI

VIOLATION OF NEW SOURCE REVIEW NEW EMISSION SOURCE STANDARDS

1-25. Complainant realleges and incorporates by reference herein paragraphs 1 through 17, and 19 through 26 of Count I, as paragraphs 1 through 25 of this Count VI.

26. Pursuant to authority granted under the Act, the Board has promulgated standards applicable to new major stationary sources of contaminants, at 35 Ill. Adm. Code, Part 203 (“Board’s Major Source Regulations”).

27. Section 203.201 of the Board’s Major Source Regulations, 35 Ill. Adm. Code 203.201, provides, in pertinent part, as follows:

Prohibition

In any nonattainment area, no person shall cause or allow the construction of a new major stationary source or major modification that is major for the pollutant for which the area is designated a nonattainment area, except as in compliance with this Part for that pollutant. In areas designated nonattainment for ozone, this prohibition shall apply to new major stationary sources or major modifications of sources that emit volatile organic materials or nitrogen oxides...

28. Section 203.206 of the Board’s Major Source Regulations, 35 Ill. Adm. Code 203.206, provides, in pertinent part, as follows:

* * * *

- (b) The following constitute a major stationary source:
 - (1) For an area designated as nonattainment for ozone,

a major stationary source is a stationary source which emits or has the potential to emit volatile organic material in an amount equal to or greater than the following:

* * * *

(C) 25 tons per year in an area classified as severe nonattainment for ozone:

* * * *

29. Section 203.127 of the Board's Major Source Regulations, 35 Ill. Adm. Code 203.127, provides as follows:

Nonattainment Area

An area designated by USEPA as nonattainment for a given pollutant pursuant to Section 107 of the Clean Air Act.

30. Section 203.128 of the Board's Major Source Regulations, 35 Ill. Adm. Code 203.128, provides, in pertinent part, as follows:

"Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design.

* * * *

31. Section 203.203(a) of the Board's Major Source Regulations, 35 Ill. Adm. Code 203.203(a), provides, in pertinent part, as follows:

(a) A construction permit is required prior to actual construction of a new major source or major modification.

* * * *

32. Between 2003 and 2007, the Respondent installed the gelcoat applicator, resin applicator, lacquer applicators, paint applicator, powder coat applicator, glue pot applicators, simalfa glue applicators and cast polymer kettle, which resulted in an increase in its potential to emit.

33. At all times relevant to this Complaint, the Respondent was located in an ozone nonattainment area, and beginning in 2003, its emission sources have had the potential to emit 25 tons or more per year of VOM, and are therefore new major stationary sources.

34. By installing the gelcoat applicator, resin applicator, lacquer applicators, paint applicator, powder coat applicator, glue pot applicators, simalfa glue applicators, and cast polymer kettle, the Respondent constructed a new major source or made a major modification to its existing source.

35. By constructing a new major source or major modification to an emission source without first having applied for and obtained a construction permit from the Illinois EPA, the Respondent violated Section 203.201 and 203.203 of the Board's Major Source Regulations, 35 Ill. Adm. Code 203.201 and 203.203, and thereby violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2008).

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, SEATING CONCEPTS INC.:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that Respondent violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2008), and Sections 203.201 and 203.203 of the Board's Major Source Regulation, 35 Ill. Adm. Code 203.201 and 203.203;
3. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

4. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter;
5. Awarding to Complainant its costs and reasonable attorney's fees; and
6. Granting such other relief as the Board may deem appropriate and just.

COUNT VII

ADDITIONAL RECORD KEEPING AND REPORTING VIOLATIONS

1-21. Complainant realleges and incorporates by reference herein paragraphs 1 through 17, 23 and 24 of Count I, and paragraphs 25 and 26 of Count III, as paragraphs 1 through 21 of this Count VII.

22. Section 218.672 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.672, provides, in pertinent part, as follows:

- a) Any owner or operator of a polyester resin products manufacturing process which is subject to the requirements of this Subpart shall comply with the following:
 - 1) By a date consistent with Section 218.106 of this Part, or upon initial start-up of a process subject to this Subpart, the owner or operator of the subject process shall certify to the Agency that the process will be in compliance with Section 218.666(a) of this Subpart on and after a date consistent with Section 218.106 of this Part, or on and after the initial start-up date as demonstrated by testing in accordance with Section 218.668 of this Subpart. Such certification shall include:
 - A) The name and identification number of each polyester resin products manufacturing process at the source;
 - B) The name and identification number of each polyester resin material used in these processes, the means by which it may be applied and the classification of the polyester resin material under Section 218.666(a)(1)(A) of this Subpart;

- C) The particular operating requirement with which each polyester resin material will comply, the actual monomer content of the material (percent by weight) and other relevant data to show compliance with the operating requirement, including:
 - i) For each polyester resin material which is classified as a material used for products requiring corrosion resistant or fire retardant materials, a material used for products requiring tensile strength of 10,000 psi or more, or a clear gel coat, justification for such classification if the material is applied to comply with the monomer content limitation of Section 218.666(a)(1)(A)(i), (ii), or (iii), respectively, of this Subpart;

* * * *

- D) A description of the testing which was performed, in accordance with Section 218.668 of this Part, to determine the monomer content of polyester resin materials and the information in subsections (a)(1)(C)(ii), (iii) and (iv) and (a)(1)(D) above, including data, calculations, and descriptions and results of the sampling and analysis that the owner or operator has relied upon to show compliance with Sections 218.666(a)(1) and (2) of this Subpart;
 - E) For spraying operations, the equipment for spraying polyester resin materials and the equipment for touch up and repair;
 - F) The method by which the owner or operator will create and maintain records required in subsections (b)(2) and (b)(3) below; and
 - G) An example of the format in which the records required in subsections (b)(2) and (b)(3) below will be kept.
- 2) On and after a date consistent with Section 218.106 of this Part or on and after initial start-up date, the owner or operator of a subject process shall collect and record the following information to maintain a complete record of all polyester resin materials which are used by such polyester resin products manufacturing process. This information shall be maintained at the source for a period of three years:

- A) The name and identification number of each polyester resin material used in the process;
- B) The particular operating requirement with which each polyester resin material will comply, the actual monomer content of the material (percent by weight) and other relevant data to show compliance with the operating requirement, including:
 - i) For each polyester resin material which is classified as a material used for products requiring corrosion resistant or fire retardant materials, a material used for products requiring tensile strength of 10,000 psi or more, or a clear gel coat, justification for such classification if the material is applied to comply with the monomer content limitation of Section 218.666(a)(1)(A)(i), (ii), or (iii), respectively, of this Subpart;

* * * *

- C) A description of the testing which was performed, in accordance with Section 218.668 of this Part, to determine the monomer content of polyester resin materials and the information in subsections (a)(1)(C)(ii), (iii) and (iv) and (a)(1)(D) above, including data, calculations, and descriptions and results of the sampling and analysis that the owner or operator has relied upon to show compliance with Section 218.666(a)(1) of this Subpart;
- D) The processes and applications for which each polyester resin material may be used in compliance with applicable operating requirements, including:
 - i) For each polyester resin material which is classified as a material used for products requiring corrosion resistant or fire retardant material or a material used for products requiring tensile strength of 10,000 psi or more which is applied to comply with the monomer content limitation of Section 218.666(a)(1)(A)(i) or (ii), respectively, of this Subpart, the required products or circumstances for the materials' use;

* * * *

- E) For each polyester resin material which is applied in a spraying operation, the type of spray equipment with which the material will be applied so as to comply with Section 218.666(a)(2) of this Subpart.
- 3) On and after the date consistent with Section 218.106 of this Part, or on and after the initial start-up date, the owner or operator of a subject process shall collect and record all of the following information each day for each process and maintain the information at the source for a period of three years:
 - A) The name, identification number and amount of each polyester resin material applied on each process; and
 - B) The specific data identified pursuant to Section 218.672(a)(2)(D) of this Subpart to confirm that the polyester resin material was applied in such a manner that it complied with the applicable operating requirement.
- 4) On and after a date consistent with Section 218.106 of this Part, the owner or operator of a subject process shall notify the Agency:
 - A) Of any violation of the operating requirements of this Subpart by sending a copy of such record to the Agency within 30 days following the occurrence of the violation; and

* * * *

23. Beginning on a date better known to the Respondent, and continuing through the present date, the Respondent did not maintain the required records for its polyester resin products manufacturing operation and failed to submit required notification of compliance and deviation to the Illinois EPA.

24. By failing to submit the required reports and maintain the required records for its polyester resin products manufacturing operation, Respondent violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2008), and Section 218.672(a) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.672(a).

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully

request that the Board enter an order against the Respondent, SEATING CONCEPTS INC.:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that Respondent violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2008), and Section 218.672(a) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.672(a);
3. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
4. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter;
5. Awarding to Complainant its costs and reasonable attorney's fees; and
6. Granting such other relief as the Board may deem appropriate and just.

COUNT VIII

VIOLATION OF FEDERAL NESHAP STANDARDS

1-20. Complainant realleges and incorporates by reference herein paragraphs 1 through 16 and 23 through 26 of Count I, as paragraphs 1 through 20 of this Count VIII.

21. The National Emissions Standards for Hazardous Air Pollutants ("NESHAP") are emission standards set by the U.S. EPA for an air pollutant that may cause an increase in fatality or serious illness. The standards are authorized by Section 112 of the Clean Air Act and the regulations are published in the Code of Federal Regulations ("CFR"), 40 C.F.R., Parts 61 and 63.

22. Section 9.1 of the Act, 415 ILCS 5/9.1 (2008), provides, in pertinent part, as follows:

* * * *

- (d) No person shall:
 - (1) violate any provisions of Sections 111, 112, 165 or 173 of the Clean Air Act, as now or hereafter amended, or federal regulations adopted pursuant thereto...

* * * *

23. Section 63.5840 of the Code of Federal Regulations, 40 C.F.R. § 63.5840, provides, in pertinent part, as follows:

* * * *

Open molding and centrifugal casting operations that elect to meet a organic HAP emissions limit on a 12-month rolling average must initiate collection of the required data on the compliance date, and demonstrate compliance 1 year after the compliance date.

* * * *

24. Section 63.5895 of the Code of Federal Regulations, 40 CFR § 5895, provides, in pertinent part, as follows:

* * * *

- (c) You must collect and keep records of resin and gel coat use, organic HAP content, and operation where the resin is used if you are meeting any organic HAP emissions limits based on an organic HAP emissions limit in Tables 3 or 5 of this subpart...Resin use records may be based on purchase records if you can reasonably estimate how the resin is applied. The organic HAP content records may be based on MSDS or on resin specifications supplied by the resin supplier.

* * * *

25. Section 63.5905 of the Code of Federal Regulations, 40 CFR § 5905, provides, in pertinent part, as follows:

- (a) You must submit all of the notifications in Table 13 to this subpart that apply to you by the dates specified in Table 13 to this subpart. The notifications are described more fully in 40 CFR part 63, subpart A, reference in Table 13 to this subpart.

* * * *

26. Table 13 of subpart WWWW requires the Respondent to submit to the Illinois EPA, the following:

- (1) a notice of intent to construct an affected source, and
- (2) a notice of actual dates of startup of an affected source within 15 days of startup.

* * * *

27. Section 63.5910 of the Code of Federal Regulations, 40 CFR §63.5910, provides, in pertinent part, as follows:

- (a) You must submit each report in Table 14 to this subpart that applies to you.

* * * *

28. Under Table 14 of subpart WWWW, beginning in 2003 the Respondent was required to submit semi-annual compliance reports to the Illinois EPA.

29. Section 63.5915(a) of the Code of Federal Regulations, 40 CFR § 63.5915(a) provides, in pertinent part, as follows:

- (a) You must keep the records listed in paragraphs (a)(1) through (3) of this section
 - (1) A copy of each notification and report that you submitted to comply with this subpart, including all documentation supporting any Initial Notification or Notification of Compliance Status that you submitted, according to the requirements in §63.10(b)(2)(xiv).
 - (2) The records in §63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction.

- (3) Records of performance tests, design, and performance evaluations as required in §63.10(b)(2).

* * * *

30. The Respondent's emission sources are subject to the NESHAP emission standards for reinforced plastic composites production.

31. The Respondent failed to initiate collection of required data in 2006 on its compliance date, and failed to demonstrate compliance one (1) year after its compliance date.

32. By failing to initiate collection of required data in 2006 on its compliance date, and failing to demonstrate compliance one (1) year after its compliance date, Respondent violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2008), and Sections 63.5840 of the Code of Federal Regulations, 40 C.F.R. § 63.5840.

33. The Respondent failed to keep required records of resin and gelcoat use, organic HAP content, and operation.

34. By failing to keep required records of resin and gelcoat use, organic HAP content, and operation where resin is used, Respondent violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2008), and Section 63.5895(c) of the Code of Federal Regulations, 40 CFR § 63.5895(c).

35. The Respondent failed to notify the Illinois EPA of its intent to construct an affected source and provide the actual dates of startup of affected sources within 15 days of startup.

36. By failing to submit a notice to the Illinois EPA of its intent to construct an affected source and notice of the actual dates of startup of affected sources within 15 days of

startup, Respondent violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2008), and Section 63.5905(a) of the Code of Federal Regulations, 40 CFR § 63.5905(a).

37. Respondent did not submit semi-annual compliance reports to the Illinois EPA.

38. By failing to submit semi-annual compliance reports to the Illinois EPA, Respondent violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2008), and Section 63.5910(a) of the Code of Federal Regulations, 40 CFR § 63.5910(a).

39. Respondent failed to keep copies of notifications and reports submitted to the Illinois EPA; records related to startup, shutdown, and malfunction; or records of performance tests, and design and performance evaluations.

40. By failing to keep copies of notifications and reports submitted to the Illinois EPA; records related to startup, shutdown, and malfunction; or records of performance tests, and design and performance evaluations, Respondent violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2008), and Section 63.5915(a) of the Code of Federal Regulations, 40 CFR § 63.5915(a).

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, SEATING CONCEPTS, INC.:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

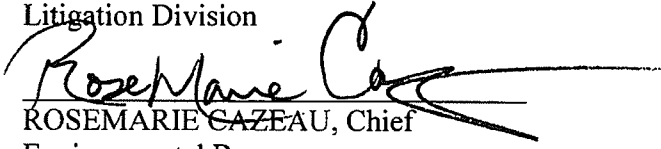
2. Finding that Respondent violated Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2008), and Sections 63.5840, 63.5895(c), 63.5905(a), 63.5910(a), and 63.5915(a) of the Code of Federal Regulations, 40 CFR §§ 63.5840, 63.5895(c), 63.5905(a), 63.5910(a), and 63.5915(a);

3. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
4. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation has continued thereafter;
5. Awarding to Complainant its costs and reasonable attorney's fees; and
6. Granting such other relief as the Board may deem appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS
ex rel. LISA MADIGAN
Attorney General
of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY:


ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

OF COUNSEL

ANDREW J. NICHOLAS
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Environmental Bureau
69 W. Washington St., Suite 1800
Chicago, Illinois 60602
312-814-2069

CERTIFICATE OF SERVICE

I, ANDREW J. NICHOLAS, an Assistant Attorney General, do certify that I caused to be served on this 25th day of September 2009, the foregoing Notice of Filing, Complaint, and a Certificate of Service, upon the persons listed on said Notice by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois.



ANDREW J. NICHOLAS