

May 20, 2024

Robert Joseph  
Senior Environmental Engineer  
Air Quality Division/Warren District  
Michigan Department of Environment,  
Great Lakes and Energy  
27700 Donald Court  
Warren, Michigan 48092-2793

By E-Mail Only

**Re: Your Violation Notice Dated May 15, 2024**  
**SRN: N5145, Macomb County**  
**Industrial Metal Coating ("IMC")**

Dear Mr. Joseph and Attorney Jennifer Rosa:

This responds to your May 15, 2024 Violation Notice which is attached hereto for your convenience.

1. The Violation Notice indicates, in part, "the odors that were detected were of sufficient intensity, frequency and duration so as to constitute a violation...."
2. On behalf of IMC, we searched the law and the promulgated regulations and we cannot locate or identify an enforceable standard for sufficient intensity, sufficient frequency and sufficient duration.

We view the word sufficient as an adjective suggesting a defined level.

Please provide the regulatory and enforceable sufficient intensity so that IMC can better review and respond to this allegation.

Please provide the regulatory and enforceable sufficient frequency so that IMC can better review and respond to this allegation.

Please provide the regulatory and enforceable sufficient duration so that IMC can better review and respond to this allegation.

3. IMC asserts that this Violation Notice is imposing an enforceable sanction on IMC based on standards that are not adopted as a statute or as a rule via the rulemaking process under the relevant administrative procedures. It is our understanding that your agency may exercise legislative type powers by using the rulemaking process under Chapter 3 of

the Michigan Administrative Procedures Act. You are using these three (3) standards to bind IMC and IMC suggests that this is improper unless the standards are promulgated as rules. Please direct us to the appropriate rules that establish the criteria related to intensity, frequency and duration for enforcement purposes. This is a matter of due process that allows IMC to adequately assert a defense to the Violation Notice. If these are guidelines, then the guideline can bind EGLE but not any other person.

4. The facility records show that you arrived at front of the IMC building at 4:29. The operations had been shut down about forty (40) minutes earlier. You came in the building to review the oven and met with IMC representative Lena.
5. In your Violation Notice you indicate "visible emissions (opacity 5%) observed emanating from the facility's e-coat curing oven's northern and center-west stack". This fact allegation is impossible.
6. You indicate the complaint was from a driver. IMC does not have signage. IMC questions how a random driver could identify IMC.

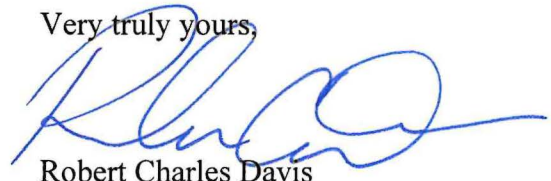
Based on this Violation Notice, IMC met with Mr. Steve Zervas of Trinity Consultants. We are engaging the services of Trinity Consultants to analyze the issues in your Violation Notice.

Trinity will be engaged to assess the possibility of odors from the IMC operations under varying wind, weather and time of day conditions. Trinity will also examine the possibility of odors from several complainant locations. In doing so, Trinity needs the regulatory standards for sufficient intensity, frequency and duration as those levels are used for enforcement purposes.

IMC asserts that the Violation Notice is premised on unenforceable standards. This objection applies to each Violation Notice issued against IMC. If promulgated rules concerning sufficient intensity, frequency and duration are provided forthwith, IMC will relay those factors to its consultants for consideration.

In the meantime, IMC will continue to deploy one (1) or two (2) persons to the perimeter of the facility on a daily basis to monitor for odors.

Very truly yours,



Robert Charles Davis



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF  
ENVIRONMENT, GREAT LAKES, AND ENERGY  
WARREN DISTRICT OFFICE



PHILLIP D. ROOS  
DIRECTOR

May 15, 2024

Philip Oliver, President  
Industrial Metal Coating  
6070 18 Mile Road  
Sterling Heights, Michigan 48314

SRN: N5145, Macomb County

Dear Philip Oliver:

**VIOLATION NOTICE**

On May 9, 2024, the Department of Environment, Great Lakes, and Energy (EGLE), Air Quality Division (AQD), conducted an odor survey in the surrounding area of Industrial Metal Coating (IMC) located at 6070 18 Mile Road, Sterling Heights, Michigan. The purpose of the odor investigation was to investigate an odor complaint the AQD received on May 1, 2024, regarding nuisance odors associated with the operations at Industrial Metal Coating.

During the investigation, staff observed the following:

Process Description	Rule/Permit Condition Violated	Comments
E-coat process	R 336.1901	A distinct and definite objectionable odor was detected downwind of IMC. The odor was strong enough that it would cause a person to attempt to avoid it completely (odor intensity ranging from 3 to 4). The same odor was detected at IMC's E-coat curing oven area.

In the professional judgment of AQD staff, the odors that were detected were of sufficient intensity, frequency, and duration so as to constitute a violation of Rule 901 of the administrative rules promulgated under Act 451 and General Condition number 6 of PTI number 25-16B.

AQD staff detected nuisance odors downwind of Industrial Metal Coating on Mound Round between 18 Mile Road and Elmridge Road and then visited the facility and verified that the odors were indeed originating from the facility's E-coat curing oven.



Philip Oliver, President  
Industrial Metal Coating  
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The cited General Condition number 6 of PTI number 25-16A is also enforceable as paragraph 5.7 of Consent Judgment, AQD number 2021-95-CE.

Please initiate actions necessary to correct the cited violation and submit a written response to this violation notice by May 22, 2024, (which coincides with 5 business days from the date of this letter per Section 5.7(C) of the Consent Judgment). The written response should include: a report identifying the corrective action(s) to resolve the alleged violation and any evidence gathered by Industrial Metal Coating in the conduct of its investigation supporting its findings. If such investigation identifies one or more underlying site conditions that are the cause of the alleged violation, then Industrial Metal Coating shall provide a written response that will include the condition(s) that are the cause of the alleged violation, including a plan identifying any changes to processes or procedures and/or capital expenditures required, and the time frame within which it will commit to implement such remedial actions.

Please submit the written response to Robert Joseph at EGLE, AQD, Warren District, at 27700 Donald Court, Warren, Michigan 48092, or Josephr4@michigan.gov and submit a copy to Jenine Camilleri, Enforcement Unit Supervisor at EGLE, AQD, P.O. Box 30260, Lansing, Michigan 48909-7760.

If Industrial Metal Coating believes the above observations or statements are inaccurate or do not constitute violations of the applicable legal requirements cited, please provide appropriate factual information to explain your position.

Thank you for your attention to resolving the violation cited above and for the cooperation that was extended to me during my inspection of Industrial Metal Coating. If you have any questions regarding the violation or the actions necessary to bring this facility into compliance, please contact me at the number listed below.

Sincerely,



Robert Joseph  
Senior Environmental Engineer  
Air Quality Division  
586-506-9564

cc: Annette Switzer, EGLE  
Christopher Ethridge, EGLE  
Brad Myott, EGLE  
Jenine Camilleri, EGLE  
Joyce Zhu, EGLE  
Jennifer Rosa, Michigan Department of Attorney General