

**U.S. Department of Labor**  
Occupational Safety and Health Administration  
800 Dolorosa  
Suite 203  
San Antonio, TX 78207  
Phone: 210-472-5040 FAX: 210-472-5045



## Citation and Notification of Penalty

**To:**  
IFCO SYSTEMS NORTH AMERICA INC  
and its successors  
5250 TACCO STREET  
SAN ANTONIO, TX 78244

**Inspection Number:** 315629386  
**Inspection Date(s):** 12/02/2011-01/11/2012  
**Issuance Date:** 03/13/2012

**Inspection Site:**  
5250 TACCO DR  
SAN ANTONIO, TX 78244

*The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.*

### **Please read the following paragraphs which outline your rights and responsibilities.**

This Citation and Notification of Penalty (this Citation) describes violations of the Occupational Safety and Health Act of 1970. The penalty(ies) listed herein is (are) based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties proposed, unless within 15 working days (excluding weekends and Federal holidays) from your receipt of this Citation and Notification of Penalty you enter into an Informal Settlement Agreement or you mail a notice of contest to the U.S. Department of Labor Area Office at the address shown above. Issuance of this Citation does not constitute a finding that a violation of the Act has occurred unless there is a failure to contest as provided for in the Act or, if contested, unless this Citation is affirmed by the Review Commission or a court.

**Posting** - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and Federal holidays), whichever is longer. **The penalty dollar amounts need not be posted and may be marked out or covered up prior to posting.**

**Informal Conference** - An informal conference is not required. However, if you wish to have such a conference you may request one with the Area Director during the 15 working day contest period. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation(s) and/or penalty(ies).

If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must take care to schedule it early enough to allow time to contest after the informal conference, should you decide to do so. Please keep in mind that a written letter of intent to contest must be submitted to the Area Director within 15 working days of your receipt of this Citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, call our office between 8:00 a.m. and 4:30 p.m. for an appointment, please **complete, remove and post the page 4 Notice to Employees** next to this Citation and Notification of Penalty as soon as the time, date, and place of the informal conference have been determined. Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far. If conditions warrant, we can enter into an informal settlement agreement which amicably resolves this matter without litigation or contest.

**Right to Contest** - You have the right to contest this Citation and Notification of Penalty. You may contest all citation items or only individual items. You may also contest proposed penalties and/or abatement dates without contesting the underlying violations. Unless you inform the Area Director in writing that you intend to contest the citation(s) and/or proposed penalty(ies) within 15 working days after receipt, the citation(s) and the proposed penalty(ies) will become a final order of the Occupational Safety and Health Review Commission and may not be reviewed by any court or agency.

**Penalty Payment** - Penalties are due within 15 working days of receipt of this notification unless contested. (See the attached Invoice/Debt Collection Notice for details of the Debt Collection Act of 1982.) Make your check or money order payable to "DOL-OSHA". Please indicate the Inspection Number on the remittance.

OSHA does not agree to any restrictions or conditions or endorsements put on any check or money order for less than the full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

**Notification of Corrective Action** - For each violation which you do not contest, you are required by 29 CFR 1903.19 to submit an Abatement Certification to the Area Director of the OSHA office issuing the citation and identified above. The certification must be sent by you within 10 calendar days of the abatement date indicated on the citation. For **Willful** and **Repeat** violations, documents (examples: photos, copies of receipts, training records, etc.) demonstrating that abatement is complete must accompany the certification. Where the citation is classified as **Serious** and the citations states that abatement documentation is required, documents such as those described above are required to be submitted along with the abatement certificate. If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item. Attached are two fill-in-the blank form letters for your use to assist you in meeting this requirement.

**All abatement verification documents must contain the following information:** 1) Your name and address; 2) the inspection number (found on the front page); 3) the citation and citation item number(s) to which the submission relates; 4) a statement that the information is accurate; 5) the signature of the employer or employer's authorized representative; 6) the date the hazard was corrected; 7) a brief statement of how the hazard was corrected; and 8) a statement that affected employees and their representatives have been informed of the abatement.

The law also requires a copy of all abatement verification documents, required by 29 CFR 1903.19 to be sent to OSHA, also be posted at the location where the violation appeared and the corrective action took place.

**Employer Discrimination Unlawful** - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been

discriminated against may file a complaint no later than 30 days after the discrimination occurred with the U.S. Department of Labor Area Office at the address shown above.

**Notice to Employees** - The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the U.S. Department of Labor Area Office at the address shown above and postmarked within 15 working days (excluding weekends and Federal holidays) of the receipt by the employer of this Citation and Notification of Penalty.

**Abatement Methods** - The employer is not limited to abatement methods suggested by OSHA; i.e., methods explained are general and may not be effective in all cases. Other methods of abatement may be equally or more appropriate. Ultimate responsibility for determining the most appropriate abatement method rests with the employer, given its superior knowledge of the specific conditions at its worksite.

**Inspection Activity Data** - You should be aware that OSHA publishes information on its inspection and citation activity on the Internet under the provisions of the Electronic Freedom of Information Act. The information related to your inspection will be available 30 calendar days after the Citation Issuance Date. You are encouraged to review the information concerning your establishment at [www.OSHA.gov](http://www.OSHA.gov). If you have any dispute with the accuracy of the information displayed, please contact this office.



## NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citation(s) issued on 03/13/2012. The conference will be held at the OSHA office located at 800 Dolorosa, Suite 203, San Antonio TX 78207 on \_\_\_\_\_ at \_\_\_\_\_. Employees and/or representatives of employees have a right to attend an informal conference.

**ABATEMENT CERTIFICATION**

REFERENCE:           IFCO SYSTEMS NORTH AMERICA INC           315629386  
                          5250 TACCO STREET  
                          SAN ANTONIO, TX 78244

PLEASE FILL IN ABATEMENT/CORRECTION METHOD INCLUDING DATE COMPLETED FOR EACH ITEM CITED AND RETURN TO THE AREA DIRECTOR. Supporting documentation shall be included; e.g., drawings/photographs, purchase/work orders, air sampling results, or any other related information to show corrections. Abatement verification must be posted and certified as being true and correct. Responses are due **within 10 calendar days** from each abatement date and must be postmarked within the 10 calendar day period.

When the item indicated **QUICK FIX** or **CORRECTED DURING INSPECTION**, the compliance officer witnessed the abatement/correction during the inspection, and no response is required.

Citation 1, Item 1: Serious

DESCRIBE CORRECTIVE ACTION TAKEN & PROVIDE DATE CORRECTED:

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Citation 1, Item 2: Serious

DESCRIBE CORRECTIVE ACTION TAKEN & PROVIDE DATE CORRECTED:

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Citation 1, Item 3: Serious

DESCRIBE CORRECTIVE ACTION TAKEN & PROVIDE DATE CORRECTED:

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Citation 1, Item 4: Serious

DESCRIBE CORRECTIVE ACTION TAKEN & PROVIDE DATE CORRECTED:

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Citation 1, Item 5: Serious

DESCRIBE CORRECTIVE ACTION TAKEN & PROVIDE DATE CORRECTED:

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Citation 2, Item 1: Other

DESCRIBE CORRECTIVE ACTION TAKEN & PROVIDE DATE CORRECTED:

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Citation 2, Item 2: Other

DESCRIBE CORRECTIVE ACTION TAKEN & PROVIDE DATE CORRECTED:

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IFCO SYSTEMS NORTH AMERICA INC  
5250 TACCO STREET  
SAN ANTONIO, TX 78244

315629386

I attest that the information contained in this document is accurate and that the affected employees and their representatives have been informed of the abatement activities described in this certification.

Certification of Abatement Response by: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_





## Citation and Notification of Penalty

**Company Name:** IFCO SYSTEMS NORTH AMERICA INC  
**Inspection Site:** 5250 TACCO DR, SAN ANTONIO, TX 78244

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### Citation 1 Item 1 Type of Violation: **Serious**

29 CFR 1910.95(c)(1): The employer did not administer a continuing, effective hearing conservation program, as described in paragraphs (c) through (o) of this section, whenever employee noise exposures equal or exceed an 8-hour time-weighted average (TWA) sound level of 85 decibels measured on the A scale (slow response) or, equivalently, a dose of fifty percent:

- a) A reman who operated a pneumatic nail gun was exposed to continuous noise at 379.5 % of the permissible daily noise exposure (8-hour Time Weight Average sound level of 85 dBA) during the 448 minute sampling period on January 9, 2012. For a full eight hour work shift this exposure would be equivalent to an average sound level of 99.6 dBA. Exposure calculations included a zero increment for the 32 minutes not sampled.
- b) A reman who operated a pneumatic nail gun was exposed to continuous noise at 386.7 % of the permissible daily noise exposure (8-hour Time Weight Average sound level of 85 dBA) during the 459 minute sampling period on January 9, 2012. For a full eight hour work shift this exposure would be equivalent to an average sound level of 99.7 dBA. Exposure calculations included a zero increment for the 21 minutes not sampled.
- c) An employee who operated a pallet dismantler was exposed to continuous noise at 337.1 % of the permissible daily noise exposure (8-hour Time Weight Average sound level of 85 dBA) during the 438 minute sampling period on January 9, 2012. For a full eight hour work shift this exposure would be equivalent to an average sound level of 98.7 dBA. Exposure calculations included a zero increment for the 42 minutes not sampled.
- d) A pallet builder who operated a pneumatic nail gun was exposed to continuous noise at 303.0% of the permissible daily noise exposure (8-hour Time Weight Average sound level of 85 dBA) during the 492 minute sampling period on January 9, 2012. For a full eight hour work shift this exposure would be equivalent to an average sound level of 98.0 dBA.
- e) An employee who operated a Rotochopper was exposed to continuous noise at 243.7% of the permissible daily noise exposure (8-hour Time Weight Average sound level of 85 dBA) during the 492 minute sampling period on January 9, 2012. For a full eight hour work shift this exposure would be equivalent to an average sound level of 96.4 dBA.

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See pages 1 through 8 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



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- f) An employee who operated a Trim Trac Saw was exposed to continuous noise at 218.7% of the permissible daily noise exposure (8-hour Time Weight Average sound level of 85 dBA) during the 491 minute sampling period on January 9, 2012. For a full eight hour work shift this exposure would be equivalent to an average sound level of 95.6 dBA.
  - g) A pallet builder who operated a pneumatic nail gun was exposed to continuous noise at 225.1% of the permissible daily noise exposure (8-hour Time Weight Average sound level of 85 dBA) during the 491 minute sampling period on January 9, 2012. For a full eight hour work shift this exposure would be equivalent to an average sound level of 95.8 dBA.
  - h) A pallet builder who operated a pneumatic nail gun was exposed to continuous noise at 139.5% of the permissible daily noise exposure (8-hour Time Weight Average sound level of 85 dBA) during the 485 minute sampling period on January 9, 2012. For a full eight hour work shift this exposure would be equivalent to an average sound level of 92.4 dBA.
  - i) A pallet builder who operated a pneumatic nail gun was exposed to continuous noise at 146.0 % of the permissible daily noise exposure (8-hour Time Weight Average sound level of 85 dBA) during the 349 minute sampling period on January 9, 2012. For a full eight hour work shift this exposure would be equivalent to an average sound level of 92.7 dBA. Exposure calculations included a zero increment for the 131 minutes not sampled.
  - j) A pallet builder who operated a pneumatic nail gun was exposed to continuous noise at 129.5 % of the permissible daily noise exposure (8-hour Time Weight Average sound level of 85 dBA) during the 478 minute sampling period on January 9, 2012. For a full eight hour work shift this exposure would be equivalent to an average sound level of 91.8 dBA. Exposure calculations included a zero increment for the 2 minutes not sampled.

Date By Which Violation Must be Abated: 04/06/2012  
Proposed Penalty: \$ 5500.00



**Citation and Notification of Penalty**

**Company Name:** IFCO SYSTEMS NORTH AMERICA INC  
**Inspection Site:** 5250 TACCO DR, SAN ANTONIO, TX 78244

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**Citation 1 Item 2 Type of Violation: **Serious****

29 CFR 1910.95(g)(8)(ii)(B): Employees already using hearing protectors were not refitted, retrained and provided hearing protectors which offer greater attenuation when a comparison of the annual and baseline audiograms indicated a standard threshold shift had occurred:

- a) On or about December 02, 2011, and at times prior thereto, a pallet builder experienced a standard threshold shift and was not refitted and retrained in the use of hearing protectors after receiving a hearing test on September 13, 2011.
- b) On or about December 02, 2011, and at times prior thereto, a grinder operator experienced a standard threshold shift and was not refitted and retrained in the use of hearing protectors after receiving a hearing test on September 13, 2011.
- c) On or about December 02, 2011, and at times prior thereto, a pallet builder experienced a standard threshold shift and was not refitted and retrained in the use of hearing protectors after receiving a hearing test on September 13, 2011.

Date By Which Violation Must be Abated: 04/06/2012  
Proposed Penalty: \$ 7000.00



**Citation and Notification of Penalty**

Company Name: IFCO SYSTEMS NORTH AMERICA INC  
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**Citation 1 Item 3** Type of Violation: **Serious**

29 CFR 1910.95(i)(3): The employer did not give the employees an opportunity to select their hearing protectors from a variety of suitable hearing protectors:

- a) On or about December 02, 2011, and at times prior thereto, employees were not afforded the opportunity to select from a variety of hearing protectors. The employer provided one type of hearing protection in the form of Max Lite Howard Leight pre-shaped foam earplugs.

Date By Which Violation Must be Abated: 04/06/2012  
Proposed Penalty: \$ 5500.00

**Citation 1 Item 4** Type of Violation: **Serious**

29 CFR 1910.95(i)(4): The employer did not provide training in the use and care of all hearing protectors provided to employees:

- a) On or about December 02, 2011, and at times prior thereto, employees were not provided with effective training on the effects of being exposed to continuous noise and how to properly wear hearing protection. Employees were exposed to the hazards of noise.

Date By Which Violation Must be Abated: 04/06/2012  
Proposed Penalty: \$ 7000.00



**Citation and Notification of Penalty**

**Company Name:** IFCO SYSTEMS NORTH AMERICA INC  
**Inspection Site:** 5250 TACCO DR, SAN ANTONIO, TX 78244

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**Citation 1 Item 5** Type of Violation: **Serious**

29 CFR 1910.95(i)(5): The employer did not ensure proper initial fitting and supervise the correct use of all hearing protectors:

- a) On or about December 02, 2011, and at times prior thereto, employees were not adequately supervised on the correct use of hearing protection. Employees using formable ear plugs were observed without fully inserting the ear plugs to effectively block the ear canal. They were also observed wearing the ear plugs in the outer ear only. Employees were exposed to the hazards of noise.

Date By Which Violation Must be Abated:  
Proposed Penalty:

04/06/2012  
\$ 7000.00



**Citation and Notification of Penalty**

**Company Name:** IFCO SYSTEMS NORTH AMERICA INC  
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**Citation 2 Item 1** Type of Violation: **Other**

29 CFR 1904.10(a): The employer did not record a case on the OSHA 300 Log when an employee's hearing test (audiogram) revealed that the employee had experienced a work-related Standard Threshold Shift (STS) in hearing in one or both ears, and the employee's total hearing level was 25 decibels (dB) or more above audiometric zero (averaged at 2000, 3000, and 4000 Hz) in the same ear(s) as the STS:

- a) On or about December 02, 2011, and at times prior thereto, the employer did not record an employee's Standard Threshold Shift of 12 dB. A pallet builder had a persistent hearing loss of 11.67 dB documented by audiometric testing on September 11, 2011. The employee's shift occurred in the left ear with a total hearing level approximately 35 dB above audiometric zero.
- b) On or about December 02, 2011, and at times prior thereto, the employer did not record an employee's Standard Threshold Shift of 12 dB. A grinder operator had a persistent hearing loss of 11.67 dB documented by audiometric testing on September 11, 2011. The employee's shift occurred in the left ear with a total hearing level approximately 35 dB above audiometric zero.
- c) On or about December 02, 2011, and at times prior thereto, the employer did not record an employee's Standard Threshold Shift of 14 dB. A pallet builder had a persistent hearing loss of 14.3 dB documented by audiometric testing on September 11, 2011. The employee's shift occurred in the right ear with a total hearing level approximately 43 dB above audiometric zero and the audiometric test was adjusted for the effects of aging.

Date By Which Violation Must be Abated:  
Proposed Penalty:

04/06/2012  
\$ 1000.00

See pages 1 through 8 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



**Citation and Notification of Penalty**

Company Name: IFCO SYSTEMS NORTH AMERICA INC  
Inspection Site: 5250 TACCO DR, SAN ANTONIO, TX 78244

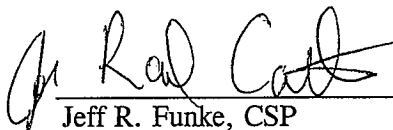
Citation 2, Item 2 Type of Violation: Other

29 CFR 1910.134(d)(1)(ii): The employer did not select a NIOSH-certified respirator. The respirator shall be used in compliance with the conditions of its certification:

- a) On or about December 02, 2011, and at times prior thereto, the employer provided employees with single strap nuisance dust masks. The employer did not provide NIOSH-approved dust masks for employees under the voluntary use of respirators.

Date By Which Violation Must be Abated:  
Proposed Penalty:

04/06/2012  
\$ 0.00

  
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Jeff R. Funke, CSP  
Area Director