

U.S. Department of Labor  
Occupational Safety and Health Administration

1400 Old Country Road, Suite 208  
Westbury, NY 11590  
Phone: (516)334-3344 FAX: (516)334-3326  
OSHA Website Address: <http://www.osha.gov>



## Citation and Notification of Penalty

To:  
~~John Rotchford~~  
Wilbar International, Inc.  
  
and its successors  
50 Cabot Court  
Hauppauge, NY 11788

Inspection Number: 315535237  
Inspection Date(~):07/12/2011-07/14/2011  
Issuance Date: 09/01/2011

Inspection Site:  
50 Cabot Court  
Hauppauge, NY 11788

*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.*

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. Please read the following paragraphs which outline your rights and responsibilities. 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 at **516-334-3344** between **9:00 a.m. and 4:00 p.m.** for an appointment, 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 violations which you do not contest, you should notify the U.S. Department of Labor Area Office promptly by letter that **you** have **taken** appropriate corrective **action** within the time frame set forth on this Citation. Please inform the Area Office **in** writing of the abatement steps you have taken and of their dates, together with adequate supporting **documentation, e.g.,** drawings or photographs of corrected conditions, **purchase/work** orders related to abatement actions, air sampling results, etc. Attached is a fill-in the blank form letter for your **use** to assist you in meeting this requirement.

**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.

You should be aware that OSHA publishes information in 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.

**Internet Posting Notice** - You should be aware that OSHA publishes information on its inspection and citation activity on the Internet under provisions of the Electronic Freedom of Information Act. The information related to your inspection will be available thirty (30) calendar days after the Citation Issuance Date. ~~You are encouraged to review the information concerning your establishment at~~ "<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 09/01/2011. The conference will be held at the OSHA office located at , 1400 Old

Country Road, Suite 208, Westbury, NY, 11590 on \_\_\_\_\_ at \_\_\_\_\_

Employees and/or representatives of employees have a right to attend an informal conference.



## **Citation and Notification of Penalty**

Company Name: Wilbar International, Inc.  
Inspection Site: 50 Cabot Court, Hauppauge, NY 11788

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

29 CFR 1910.95(c)(1): A continuing, effective Hearing Conservation Program as described in 29 CFR 1910.95(c) through (o) was not instituted when employee noise exposures equaled or exceeded an 8-hr time-weighted average sound level (TWA) of 85 dBA:

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- a) On or about 7/14/11; In the saw area - an employee operating the "Pistorius" angle cutting machine #505 was exposed to noise at an 8-hour Time Weighted Average (TWA) of 98.9 dBA based on an 80 dBA threshold. This is equivalent to a noise dose of 342.1%.
- b) On or about 7/14/11; In the cutting area - an employee operating the chop saw # 501 was exposed to noise at an 8-hour TWA of 89.5 dBA based on an 80 dBA threshold. This is equivalent to a noise dose of 93.2%.
- c) On or about 7/14/11; In the punch press area - an employee operating the Niagara # 409 punch press was exposed to noise at an 8-hour TWA of 90.1 dBA based on an 80 dBA threshold. This is equivalent to a noise dose of 101.6%

The employer has not instituted an effective hearing conservation program for employees exposed to noise at an 8-hour TWA of 85 dBA or more based on an 80 dBA threshold.

#### **ABATEMENT NOTE:**

A continuing effective Hearing Conservation Program, shall be provided at no cost to all affected employee(s) Elements essential to a Hearing Conservation Program include at a minimum:

#### **1.EMPLOYEE MONITORING**

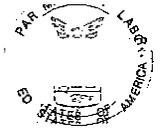
The employer shall monitor each employee exposed to sound levels at or above the permissible 8-hr TWA of 85 decibels (dBA) of the results of their exposure monitoring.

#### **2.EMPLOYEE NOTIFICATION**

The employer shall notify each employee exposed to sound levels at or above the permissible 8-br TWA of 85 decibels (dBA) of the results of their exposure monitoring.

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See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



## **Citation and Notification of Penalty**

Company Name: Wilbar International, Inc.  
Inspection Site: 50 Cabot Court, Hauppauge, NY 11788

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### 3. AUDIOMETRIC TESTING

The employer shall establish and maintain a Audiometric Testing Program. This program must be available to all employee(s) whose exposure equals or exceeds an 8-hr TWA of 85 decibels (dBA). The audiometric testing shall be provided annually to all effected employee(s).

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### 4. HEARING PROTECTORS

The employer shall make hearing protectors available to all employees exposed to noise at an 8-hour TWA of 85 dBA or greater at no cost to the employee.

### 5. EMPLOYEE TRAINING PROGRAM

The employer shall institute a training program for all employee(s) who are exposed to noise at or above an 8-hr TWA or 85 decibels (dBA). This training program shall be provided to affected employee(s) on an annual basis.

### 6. EMPLOYEE RECORDKEEPING

The employer shall maintain an accurate record of all employees exposed to sound levels at or above the permissible 8-hr TWA of 85 decibels (dBA) of the results of their exposure monitoring.

Note: The employer is required to **submit** abatement certification for this item in accordance with **29 CFR 1903.19**.

Date By Which Violation Must be Abated:	10/18/2011
Proposed Penalty:	\$ 4500.00



**Citation and Notification of Penalty**

**Company Name:** Wilbar International, Inc.  
**Inspection Site:** 50 Cabot Court, Hauppauge, NY 11788

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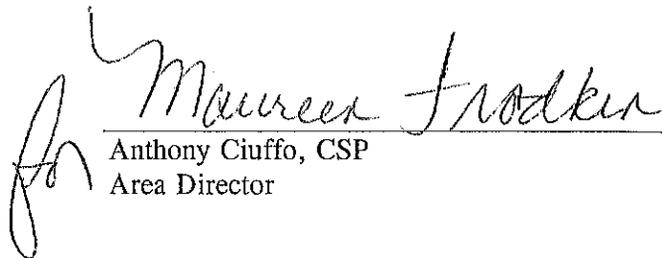
**Citation 1 Item 2** Type of Violation: **Serious**

29 CFR 1910.253(b)(2)(ii): Assigned storage spaces for cylinders was not located where cylinders could not be knocked over or damaged by passing or falling objects, or subject to tampering by unauthorized persons:

- a) In the receiving area - two argon cylinders next to a roll-up door where forklifts frequently travel, were not secured; on or about 7/14/11.

Note: Because **abatement** of this violation is already **documented** in the case file, the employer need not submit certification or **documentation** of abatement of this violation as normally required by **29 CFR 1903.19**.

Date By Which Violation Must be Abated:	Corrected During Inspection
Proposed Penalty:	\$ 3600.00

  
\_\_\_\_\_  
Anthony Ciuffo, CSP  
Area Director

**U.S. Department of Labor**  
Occupational Safety and Health Administration



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**INVOICE/  
DEBT COLLECTION NOTICE**

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**Company Name:** Wilbar International, Inc.  
**Inspection Site:** 50 Cabot Court, Hauppauge, NY 11788  
**Issuance Date:** 09/01/2011

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**Summary of Penalties for Inspection Number 315535237**

**Citation 1, Serious** = \$ **8100.00**  
**TOTAL PROPOSED PENALTIES** = \$ **8100.00**

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To avoid additional charges, please remit payment promptly to this Area Office for the total amount of the uncontested penalties summarized above. Make your check or money order payable to "DOL/OSHA". Please indicate OSHA's Inspection Number (indicated above) on the remittance.

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

If a personal check is issued, it will be converted into an electronic fund transfer (EFT). This means that our bank will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will then usually occur within 24 hours and will be shown on your regular account statement. You will not receive your original check back. The bank will destroy your original check, but will keep a copy of it. If the EFT cannot be completed because of insufficient funds or closed account, the bank will attempt to make the transfer up to 2 times.

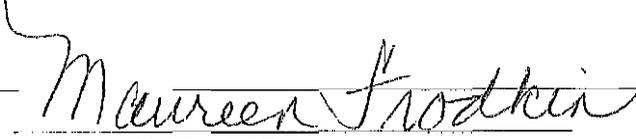
Pursuant to the Debt Collection Act of 1982 (Public Law 97-365) and regulations of the U.S. Department of Labor (29 CFR Part 20), the Occupational Safety and Health Administration is required to assess interest, delinquent charges, and administrative costs for the collection of delinquent penalty debts for violations of the Occupational Safety and Health Act.

**Interest.** Interest charges will be assessed at an annual rate determined by the Secretary of the Treasury on all penalty debt amounts not paid within one month (30 calendar days) of the date on which the debt amount becomes due and payable (penalty due date). The current interest rate is 3%. Interest will accrue from the date on which the penalty amounts (as proposed or adjusted) become a final order of the Occupational Safety and Health Review Commission (that is, 15 working days from your receipt of the Citation and Notification of Penalty), unless you

file a notice of contest. Interest charges will be waived if the full amount owed is paid within 30 calendar days of the final order.

Delinquent Charges. A debt is considered delinquent if it has not been paid within one month (30 calendar days) of the penalty due date or if a satisfactory payment arrangement has not been made. If the debt remains delinquent for more than 90 calendar days, a delinquent charge of six percent (6%) per annum will be assessed accruing from the date that the debt became delinquent.

Administrative Costs. Agencies of the Department of Labor are required to assess additional charges for the recovery of delinquent debts. These additional charges are administrative costs incurred by the Agency in its attempt to collect an unpaid debt. Administrative costs will be assessed for demand letters sent in an attempt to collect the unpaid debt.

  
\_\_\_\_\_  
for Anthony Ciuffo, CSP  
Area Director

Date 9/1/11

## EMPLOYER REQUIREMENTS FOR ABATEMENT VERIFICATION

09/01/2011

***Wilbar International, Inc.***  
***50 Cabot Court***  
***Hauppauge, NY 11788***

INSPECTION NO. 315535237

In accordance with 29 CFR 1903.19, Abatement Verification, effective May 30, 1997, employers are required to certify that abatement has been accomplished and, under certain circumstances, are required to submit documented proof of abatement of cited violations. The enclosed OSHA-2 Citation and Notification of Penalty has been annotated as to which items require abatement certification and which require abatement certification and documentation. Please list the specific method of correction and the date of correction for each citation item requiring abatement certification on the enclosed blank *Abatement Verification Letter*. In addition, please submit documentation for those items requiring abatement certification and documentation. Examples of such documentation would be evidence of purchase or repair of equipment, photographic or video evidence of abatement or other written evidence.

This information must be submitted to our office ***within ten (10) days of the date each violation must be abated.***

***If abatement cannot be accomplished by the date identified on the citation,*** please call this office at 516-334-3344, before that date, for appropriate procedures to modify an abatement date.

Wilbar International, Inc.  
50 Cabot Court  
Hauppauge, NY 11788

\_\_\_\_\_  
(date)

Anthony Ciuffo, CSP, Area Director  
U.S. Department of Labor- OSHA  
1400 Old Country Road, Suite 208  
Westbury, NY 11590

INSPECTION NO. 315535237

**ABATEMENT VERIFICATION LETTER**

Citation # \_\_\_\_\_ Item # \_\_\_\_\_ was corrected on (date) \_\_\_\_\_

Explain how condition(s) were corrected

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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Citation # \_\_\_\_\_ Item # \_\_\_\_\_ was corrected on (date) \_\_\_\_\_

Explain how condition(s) were corrected

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\_\_\_\_\_  
\_\_\_\_\_

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Citation # \_\_\_\_\_ Item # \_\_\_\_\_ was corrected on (date) \_\_\_\_\_

Explain how condition(s) were corrected

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Citation # \_\_\_\_\_ Item # \_\_\_\_\_ was corrected on (date) \_\_\_\_\_

Explain how condition(s) were corrected

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Citation # \_\_\_\_\_ Item # \_\_\_\_\_ was corrected on (date) \_\_\_\_\_

Explain how condition(s) were corrected

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**I certify that all employees and their representatives have been informed of all abatement action taken on these violations.**

**I attest that the information contained in this document is accurate.**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Typed or Printed Name**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Date**

**FOR OSHA USE ONLY**

ABATEMENT STATUS:	
ACCEPTABLE [   ]	UNACCEPTABLE [   ]
INCOMPLETE [   ]	
ABSOLUTE PROOF OF ABATEMENT OUTSTANDING: YES [   ] NO [   ]	
RECOMMENDED FOLLOW UP: YES [   ] NO [   ]	
_____ OSHA ASSISTANT AREA DIRECTOR	_____ DATE