

U.S. Department of Labor

Occupational Safety and Health Administration

Syracuse Area Office

3300 Vickery Road

North Syracuse, NY 13212

Phone: (315)451-0808 FAX: (315)451-1351

OSHA Website Address: <http://www.osha.gov>



Citation and Notification of Penalty

To:

AGRO FARMA INC

and its successors

David Sheldon, Env. Health & Safety Dir.

669 County Road 25

New Berlin, NY 13411

Inspection Number: 315849406

Inspection Date(s): 10/12/2011- 03/12/2012

Issuance Date: 03/13/2012

Inspection Site:

669 County Road 25

New Berlin, NY 13411

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 mail a notice of contest to the U.S. Department of Labor Area Office at the address shown above. Please refer to the enclosed booklet (OSHA 3000) which outlines your rights and responsibilities and which should be read in conjunction with this form. 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, 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 enclosed booklet and the additional information provided related to the Debt Collection Act of 1982.) Make your check or money order payable to "US 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.

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.

Employer Rights and Responsibilities - The enclosed booklet (OSHA 3000) outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

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.

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 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 03/13/2012. The conference will be held at the OSHA office located at Syracuse Area Office, 3300 Vickery Road, North Syracuse, NY, 13212 on _____ at _____.

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



Citation and Notification of Penalty

Company Name: AGRO FARMA INC
Inspection Site: 669 County Road 25, New Berlin, NY 13411

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

29 CFR 1910.95(g)(5)(i): Baseline audiograms were not established within 6 months of an employee's first exposure for each employee whose exposure to noise equaled or exceeded an 8 hour time weighted average of 85 dBA:

a) At the facility on or about 8/22/11: The employer did not provide baseline audiograms to 2 employees who were exposed to noise levels exceeding 85 dBA for an 8 hour time weighted average.

Abatement certification must be submitted for this item.

Date By Which Violation Must be Abated:	04/15/2012
Proposed Penalty:	\$ 4000.00

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

29 CFR 1910.95(g)(6): New audiograms were not obtained annually for each employee exposed to noise at or above an 8 hour time weighted average of 85 dBA:

a) At the facility, on or about 8/22/11: The employer did not provide annual audiograms to 3 employees who were exposed to noise at levels above 85 dBA for an 8 hour time weighted average.

Abatement certification must be submitted for this item.

Date By Which Violation Must be Abated:	04/15/2012
---	------------



Citation and Notification of Penalty

Company Name: AGRO FARMA INC
Inspection Site: 669 County Road 25, New Berlin, NY 13411

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

29 CFR 1910.95(g)(8)(ii)(b): Employees 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) At the facility, on or about 8/22/11: The employer did not ensure that 3 employees who had audiometric testing results showing a Standard Threshold Shift were refitted, retrained and provided hearing protection with greater attenuation.

Abatement certification must be submitted for this item.

Date By Which Violation Must be Abated: 04/15/2012

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

29 CFR 1910.119(c)(1): The employer did not develop a written plan of action regarding the implementation of the employee participation required by 29 CFR 1910.119:

a) At the facility, on or about 10/12/11: The employer did not develop a complete written plan of action regarding the implementation of employee participation in the process safety management program, where 3 ammonia refrigeration systems contained greater than 10000 lbs of anhydrous ammonia.

Abatement certification must be submitted for this item.

Date By Which Violation Must be Abated: 04/15/2012
Proposed Penalty: \$ 5000.00



Citation and Notification of Penalty

Company Name: AGRO FARMA INC
Inspection Site: 669 County Road 25, New Berlin, NY 13411

Citation 1 Item 3a Type of Violation: **Serious**

29 CFR 1910.119(d): The employer did not develop a written compilation of process safety information on hazardous chemicals in the process, the technology of the process, and the equipment in the process before conducting the process hazard analysis:

a) At the facility, on or about 10/12/11: Where ammonia refrigeration systems MS1 and MS3 contained greater than 10000 lbs of anhydrous ammonia, the employer did not have complete process safety information for technology and equipment available for review.

Abatement certification must be submitted for this item.

Date By Which Violation Must be Abated:	04/15/2012
Proposed Penalty:	\$ 7000.00

Citation 1 Item 3b Type of Violation: **Serious**

29 CFR 1910.119(e)(1): The employer did not perform an initial process hazard analysis (hazard evaluation) on processes covered by 29 CFR 1910.119:

a) At the facility, on or about 10/12/11: Where ammonia refrigeration systems MS1, MS3, and DS4 each contained greater than 10000 lbs of anhydrous ammonia, the employer did not perform an initial process hazard analysis.

Abatement certification must be submitted for this item.

Date By Which Violation Must be Abated:	04/15/2012
---	------------



Citation and Notification of Penalty

Company Name: AGRO FARMA INC
Inspection Site: 669 County Road 25, New Berlin, NY 13411

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

29 CFR 1910.119(h)(2)(v): The employer did not periodically evaluate the performance of contract employers in fulfilling their obligations as specified in 29 CFR 191.119(h)(3):

- a) At the facility, on or about 10/12/11: The employer did not periodically evaluate the safety performance of contract employers, who work around 3 ammonia refrigeration systems, each which contained greater than 10000 lbs of anhydrous ammonia.

Abatement certification must be submitted for this item.

Date By Which Violation Must be Abated:	04/15/2012
Proposed Penalty:	\$ 5000.00

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

29 CFR 1910.119(j)(2): The employer did not establish and implement written procedures to maintain the on-going mechanical integrity of process equipment:

- a) At the facility, on or about 10/12/11: The employer did not establish complete and current procedures to maintain the mechanical integrity of the process equipment on 3 ammonia refrigeration systems which contained greater than 10000 lbs of anhydrous ammonia.

Abatement certification must be submitted for this item.

Date By Which Violation Must be Abated:	04/15/2012
Proposed Penalty:	\$ 5000.00



Citation and Notification of Penalty

Company Name: AGRO FARMA INC
Inspection Site: 669 County Road 25, New Berlin, NY 13411

Citation 1 Item 6 Type of Violation: **Serious**

29 CFR 1910.119(l)(1): The employer did not establish and implement written procedures to manage changes to process chemicals, technology, equipment, and procedures; and, changes to facilities that affect a covered process:

a) At the facility, on or about 10/12/11: The employer did not establish complete written procedures to manage changes to ammonia refrigeration systems containing greater than 10000 lbs of anhydrous ammonia.

Abatement certification must be submitted for this item.

Date By Which Violation Must be Abated:	04/15/2012
Proposed Penalty:	\$ 7000.00

Citation 1 Item 7 Type of Violation: **Serious**

29 CFR 1910.119(n): The employer shall establish and implement an emergency response action plan for the entire plant in accordance with the provisions of 29 CFR 1910.38. In addition, the emergency action plan shall include procedures for handling small releases.

a) At the facility, on or about 10/12/11: An emergency action plan for the facility was not complete, in that it did not specify persons that would take on all roles of responsibility in the program.

Date By Which Violation Must be Abated:	Corrected During Inspection
Proposed Penalty:	\$ 5000.00



Citation and Notification of Penalty

Company Name: AGRO FARMA INC
Inspection Site: 669 County Road 25, New Berlin, NY 13411

Citation 1 Item 8a Type of Violation: **Serious**

29 CFR 1910.1200(f)(5)(i): The employer did not ensure that each container of hazardous chemicals in the workplace was labeled, tagged or marked with the identity of the hazardous chemical(s) contained therein:

- a) **Staging Area for Osgood 3 Filler, on or about 9/22/11: A plastic drum of AFCO 4325, containing hydrogen peroxide, on a cart for the foaming unit was not labeled as to its contents.**
- b) **Product Saver Room, on or about 11/28/11: Two 55 gallon drums of Auto-Mated Cleaner, an alkaline degreaser, and a 55 gallon drum of sodium hypochlorite were not labeled as to their contents.**

Date By Which Violation Must be Abated:	Corrected During Inspection
Proposed Penalty:	\$ 6000.00

Citation 1 Item 8b Type of Violation: **Serious**

29 CFR 1910.1200(f)(5)(ii): The employer did not ensure that each container of hazardous chemicals in the workplace was labeled, tagged or marked with the appropriate hazard warnings:

- a) **Staging area for Osgood 3 filler, on or about 9/22/11: A plastic drum of AFCO 4325, containing hydrogen peroxide, on a foaming unit cart was not labeled as to its appropriate hazard warnings**
- b) **Product saver room, on or about 11/28/11: A plastic pail being used for alkaline manual cleaner had a label which read chlorine dioxide, and was not labeled as to its appropriate hazard warnings.**

Date By Which Violation Must be Abated:	Corrected During Inspection
--	------------------------------------

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

Inspection Number: 315849406
Inspection Dates: 10/12/2011 - 03/12/2012
Issuance Date: 03/13/2012



Citation and Notification of Penalty

Company Name: AGRO FARMA INC
Inspection Site: 669 County Road 25, New Berlin, NY 13411

Citation 1 Item 9 Type of Violation: **Serious**

29 CFR 1910.1200(h)(3)(iii): Employee training did not include the measures employees can take to protect themselves from chemical hazards, including specific procedures the employer had implemented to protect employees from exposure to hazardous chemicals such as appropriate work practices and personal protective equipment to be used:

- a) Auto-Zitro Pack area, on or about 12/12/11: A chemical, AFCO 4325, containing Hydrogen Peroxide was being used for area sanitation, and an employee did not understand appropriate foot PPE to be worn while sanitation operation was performed, including protective boots.

Abatement certification must be submitted for this item.

Date By Which Violation Must be Abated:	04/15/2012
Proposed Penalty:	\$ 6000.00



Citation and Notification of Penalty

Company Name: AGRO FARMA INC
Inspection Site: 669 County Road 25, New Berlin, NY 13411

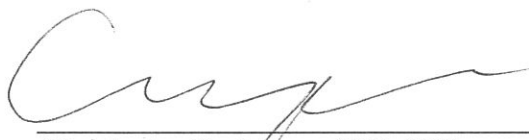
Citation 2 Item 1 Type of Violation: **Other**

29 CFR 1904.10(a): The employer failed to record on the OSHA 300 Log an employee's Standard Threshold Shift (STS) in hearing in one or both ears, when the employee's total hearing level was 25 decibals (dB) or more above audiometric zero (averaged at 2000, 3000, and 4000 Hz) in the same ear(s) as the STS:

a) At the facility, on or about 9/9/11: 3 cases where employees experienced a Standard Threshold Shift were not recorded on the 2011 OSHA 300 injury log.

Abatement certification must be submitted for this item.

Date By Which Violation Must be Abated:	04/15/2012
Proposed Penalty:	\$ 1000.00



Christopher R. Adams, CIH, CSP
Area Director

U.S. Department of Labor

Occupational Safety and Health Administration

Syracuse Area Office

3300 Vickery Road

North Syracuse, NY 13212

Phone: (315)451-0808 FAX: (315)451-1351

OSHA Website Address: <http://www.osha.gov>



INVOICE/ DEBT COLLECTION NOTICE

Company Name: AGRO FARMA INC
Inspection Site: 669 County Road 25, New Berlin, NY 13411
Issuance Date: 03/13/2012

Summary of Penalties for Inspection Number 315849406

Citation 1, Serious	= \$	50000.00
Citation 2, Other	= \$	1000.00
TOTAL PROPOSED PENALTIES	= \$	51000.00

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 the full amount due and will cash the check or money order as if these restrictions or conditions 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.

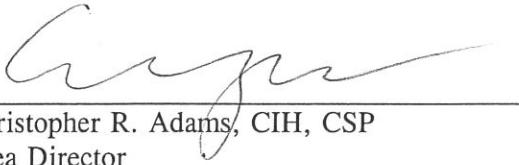
Pursuant to the Debt Collection Act of 1982 (Public Law 97-365) and regulations of the U.S. Department of Labor (29 CFR Part 20), the Occupational Safety and Health Administration is required to assess interest, delinquent charges, and administrative costs for the collection of delinquent penalty debts 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 5%. 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.



Christopher R. Adams, CIH, CSP
Area Director

3/13/2012

Date

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration
3300 Vickery Road
North Syracuse, New York 13212-4531
Telephone 315-451-0808
FAX (315) 451-1351
OSHA Website Address: <http://www.osha.gov>

(l)

3/13/12

AGRO FARMA INC
David Sheldon, Env. Health & Safety Dir.
669 County Road 25
New Berlin, NY 13411

Reference: Inspection # 315849406

Dear Mr. Sheldon:

In an effort to reduce the paperwork burden on employers, OSHA instituted the Abatement Verification Standard, 29 CFR 1903.19, in May of 1997. This standard allows the employer to provide a letter certifying, where indicated, that an item was corrected in lieu of providing copies of documents that verify abatement. The requirement for certification is indicated in the citation by the following language: **"Abatement certification must be submitted for this item."**

In some circumstances, documentation is required **in addition to** the certification letter. This documentation may include, for example, photographs, air sampling results, purchase orders, copies of cited programs. The requirement for documentation is indicated in the citation by the following language: **"Abatement documentation must be submitted for this item."**

These abatement responses must be prepared and received in this office by the date(s) indicated on the citation. Where the citation item reads, **"Corrected During Inspection,"** no further response is necessary.

Copies of any abatement certification and documentation submitted to OSHA must be posted for those employees who were exposed to the hazard. This posting must remain posted for **three working days** after submitting the letter to OSHA.

An optional abatement certification letter has been enclosed for your convenience. Please return the response to us at the above address or fax number for the following items:

Citation 1 Item 1 a,b,c

Citation 1 Item 2

Citation 1 Item 3 a,b

Citation 1 Item 4

Citation 1 Item 5

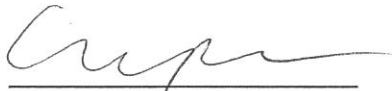
Citation 1 Item 6

Citation 1 Item 9

Citation 2 Item 1

If you have any questions, please contact *the Assistant Area Director, Jeff Prebish* at extension 3034.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Adams', written over a horizontal line.

Christopher R. Adams, CIH, CSP
Area Director
Syracuse Area Office

encl.

ABATEMENT CERTIFICATION

AGRO FARMA INC
669 County Road 25
New Berlin, NY 13411

Reference: Inspection # 315849406

In accordance with 29 CFR 1903.19, Abatement Verification, this document is being offered to certify that abatement has been accomplished for the citations noted below.

I certify that all employees and their representatives have been informed of the abatement action taken on these violations. Additionally, I attest that the information contained in this document is accurate.

Signature

Typed or Printed Name

Date

Citation # 1 , Item # 1a was corrected on (date) _____ by (describe corrective action): _____

_____.

Citation # 1 , Item # 1b was corrected on (date) _____ by (describe corrective action): _____

_____.

Abatement Certification Cont'd

Inspection # 315849406

Citation # 1, Item # 1c was corrected on (date) _____ by (describe corrective action): _____

_____.

Citation # 1, Item # 2 was corrected on (date) _____ by (describe corrective action): _____

_____.

Citation # 1, Item # 3a was corrected on (date) _____ by (describe corrective action): _____

_____.

Citation # 1, Item # 3b was corrected on (date) _____ by (describe corrective action): _____

_____.

Citation # 1, Item # 4 was corrected on (date) _____ by (describe corrective action): _____

_____.

Abatement Certification Cont'd

Inspection # 315849406

Citation # 1, Item # 5 was corrected on (date) _____ by (describe corrective action): _____

_____.

Citation # 1, Item # 6 was corrected on (date) _____ by (describe corrective action): _____

_____.

Citation # 1, Item # 9 was corrected on (date) _____ by (describe corrective action): _____

_____.

Citation # 2, Item # 1 was corrected on (date) _____ by (describe corrective action): _____

_____.