

**State of California**

Department of Industrial Relations  
Division of Occupational Safety and Health  
Fremont District Office  
39141 Civic Center Drive, Suite 310  
Fremont, CA 94538  
Phone: (510) 794-2521 Fax: (510) 794-3889

**Inspection #:** 1495466  
**Inspection Dates:** 09/29/2020 - 12/29/2020  
**Issuance Date:** 12/30/2020  
**CSHO ID:** O1907  
**Optional Report #:** 013-21

**Citation and Notification of Penalty**

**Company Name:** SO MO CO Labor Supply

**Establishment DBA:**

and its successors

**Inspection Site:** 39660 Hudson Rd  
Soledad, CA 93960

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

**Title 8 CCR Section 3395(d)(1). Heat Illness Prevention in Outdoor Places of Employment.****(d) Access to shade.**

**(1) Shade shall be present when the temperature exceeds 80 degrees Fahrenheit. When the outdoor temperature in the work area exceeds 80 degrees Fahrenheit, the employer shall have and maintain one or more areas with shade at all times while employees are present that are either open to the air or provided with ventilation or cooling. The amount of shade present shall be at least enough to accommodate the number of employees on recovery or rest periods, so that they can sit in a normal posture fully in the shade without having to be in physical contact with each other. The shade shall be located as close as practicable to the areas where employees are working. Subject to the same specifications, the amount of shade present during meal periods shall be at least enough to accommodate the number of employees on the meal period who remain onsite.**

**Reference: Title 8 CCR Section 3395(b). Definitions.**

**"Shade" means blockage of direct sunlight. One indicator that blockage is sufficient is when objects do not cast a shadow in the area of blocked sunlight. Shade is not adequate when heat in the area of shade defeats the purpose of shade, which is to allow the body to cool. For example, a car sitting in the sun does not provide acceptable shade to a person inside it, unless the car is running with air conditioning. Shade may be provided by any natural or artificial means that does not expose employees to unsafe or unhealthy conditions and that does not deter or discourage access or use.**

Prior to and during the course of the inspection, including, but not limited to, on September 29, 2020, the employer failed to provide adequate shade for its employees who were working outside harvesting kale, in that the employer did not furnish sufficient shade to enable employees using the shade during breaks/meals to maintain a safe physical distance from coworkers of at least six feet in all directions, thus exposing the employees to unhealthy conditions relating to COVID-19 and deterring or discouraging use of the shade.

Or in the alternative:

**Title 8 CCR Section 3203(a). Injury and Illness Prevention Program.**

**(a) Effective July 1, 1991, every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program (Program). The Program shall be in writing and, shall, at a minimum:**

**(4) Include procedures for identifying and evaluating work place hazards including scheduled periodic inspections to identify unsafe conditions and work practices. Inspections shall be made to identify and evaluate hazards:**

**(A) When the Program is first established;**

**(B) Whenever new substances, processes, procedures, or equipment are introduced to the workplace that represent a new occupational safety and health hazard; and**

**(C) Whenever the employer is made aware of a new or previously unrecognized hazard.**

**(6) Include methods and/or procedures for correcting unsafe or unhealthy conditions, work practices and work procedures in a timely manner based on the severity of the hazard:**

**(A) When observed or discovered; and,**

**(B) When an imminent hazard exists which cannot be immediately abated without endangering employee(s) and/or property, remove all exposed personnel from the area except those necessary to correct the existing condition. Employees necessary to correct the hazardous condition shall be provided the necessary safeguards.**

Prior to, and during the course of the inspection, including, but not limited to, on September 29, 2020, the employer failed to effectively implement its Injury and Illness Prevention Program in that it did not identify, evaluate, or correct unhealthy conditions or work practices relating to COVID-19 that affected its employees who were working outside harvesting kale. The employer did not furnish sufficient shade to enable employees using the shade during breaks/meals to maintain a safe physical distance from coworkers of at least six feet in all directions.

**Date By Which Violation Must be Abated:**

**Corrected During Inspection**

**Proposed Penalty:**

**\$5400.00**

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

**Title 8 CCR Section 3203(a). Injury and Illness Prevention Program.**

**(a) Effective July 1, 1991, every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program (Program). The Program shall be in writing and, shall, at a minimum:**

**(4) Include procedures for identifying and evaluating work place hazards including scheduled periodic inspections to identify unsafe conditions and work practices. Inspections shall be made to identify and evaluate hazards:**

**(A) When the Program is first established;**

**(B) Whenever new substances, processes, procedures, or equipment are introduced to the workplace that represent a new occupational safety and health hazard; and**

**(C) Whenever the employer is made aware of a new or previously unrecognized hazard.**

**(6) Include methods and/or procedures for correcting unsafe or unhealthy conditions, work practices and work procedures in a timely manner based on the severity of the hazard:**

**(A) When observed or discovered; and,**

**(B) When an imminent hazard exists which cannot be immediately abated without endangering employee(s) and/or property, remove all exposed personnel from the area except those necessary to correct the existing condition. Employees necessary to correct the hazardous condition shall be provided the necessary safeguards.**

Prior to and during the course of the inspection, including, but not limited to September 29, 2020, the employer failed to implement and maintain an effective Injury Illness Prevention Program (IIPP) in that it did not identify, evaluate, or correct the unhealthy conditions or work practices relating to SARs-CoV-2, the virus causing COVID-19, in the following instances:

1. The employer did not require or ensure the use of face coverings by employees at the worksite.
2. The employer did not ensure employees maintained a safe physical distance from each other of at least six feet in all directions at the workplace while harvesting kale.

**Date By Which Violation Must be Abated:** **Corrected During Inspection**  
**Proposed Penalty:** **\$5400.00**

Kelly Tatum  
Compliance Officer / District Manager