

State of California

Department of Industrial Relations
Division of Occupational Safety and Health
Fremont District Office
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Fremont, CA 94538
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Inspection #: 1495252
Inspection Dates: 09/28/2020 - 01/06/2021
Issuance Date: 01/06/2021
CSHO ID: P7724
Optional Report #: 009-21

**Citation and Notification of Penalty**

Company Name: Elkhorn Packing Co. LLC

Establishment DBA:

and its successors

Inspection Site: 1200 Old Stage Road
Salinas, CA 93902

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

T8 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:

(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:

Prior to, and during the course of the inspection, including, but not limited to, on September 28, 2020, the employer failed to effectively implement its Injury and Illness Prevention Program (IIPP) in that it did not identify, evaluate, or correct the following unhealthy conditions or work practices relating to SARs-CoV-2, the virus causing COVID-19, that affected its employees who were working outside harvesting lettuce:

Instance 1: The employer did not ensure that employees maintained a safe physical distance from each other of at least six feet in all directions while taking their rest breaks/meals and without the use of face coverings. [3203(a)(4) &(6)]

Instance 2: The employer did not furnish sufficient shade to enable employees using the shade during rest breaks/meals to maintain a safe physical distance from coworkers of at least six feet in all directions. [3203(a)(4) &(6)]

Instance 3: The employer did not install physical barriers between workers who were not working at a safe physical distance from each other of at least six feet in all directions to separate them while harvesting lettuce alongside the harvesting machine. [3203(a)(4) &(6)]

Or, in the alternative to Instance 2:

T8 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 T8 CCR 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 28, 2020, the employer failed to provide adequate shade for its employees who were working outside harvesting lettuce, in that the employer did not furnish sufficient shade to enable employees using the shade during breaks/meals to maintain a 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. [3395(d)(1)]

Or, in the alternative to Instance 3:

T8 CCR Section 5141(a). Control of Harmful Exposure to Employees.

(a) Engineering Controls. Harmful exposures shall be prevented by engineering controls whenever feasible.

Prior to and during the course of the inspection, including, but not limited to, on September 28, 2020, the employer failed to prevent potentially harmful exposures of its employees to COVID-19 airborne particles by ensuring the use of feasible engineering controls, including but not limited to, physical barriers, such as Plexiglas shields or other impermeable dividers or partitions, to separate employees while harvesting lettuce alongside the harvesting machine.

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

**Corrected During Inspection
\$5400.00**

Kelly Tatum
Compliance Officer / District Manager