

# Fair Labor Association: Independent External Factory Assessment

Assessment Date :

**23 Sep 2021**



## Factory Information

FLA Affiliates	Evergreen Enterprises Inc.
Country	China
Number of Workers	

## Understanding this Report

Companies that join the FLA agree to uphold the FLA Workplace Code of Conduct throughout their entire supply chain. The Code of Conduct is based on International Labour Organization (ILO) standards, and defines labor standards that aim to achieve decent and humane working conditions.

## FLA Code Element

## Number of Violations

Compensation (C)

3

Employment Relationship (ER)

8

Freedom Of Association And Collective Bargaining (FOA)

1

Health, Safety And Environment (HSE)

6

Hours Of Work (HOW)

2

## Assessment Information

Assessor

Openview- China Shenzhen

Assessment Date

23 Sep 2021

Assessment Purpose

Factory Assessment (In-Person)

## ASSESSMENT RESULTS

### Compensation (C)

Benchmark ID	C.12.1
Benchmark Details	All legally mandated deductions for taxes, social insurance, or other purposes shall be deposited each pay period in the legally defined account or transmitted to the legally defined agency. This includes any lawful garnishments for back taxes, etc.
Finding Details	The factory's contributions to five social insurance programs are not in line with legal requirements. Local law requires employers to contribute to social insurance at a rate based on the worker's average monthly wage for the previous year. The factory contributes to pension, work-related injury, and unemployment insurances based on a pay rate of CNY 1,800 (USD 281) per month and contributes to medical and maternity insurances based on a pay rate of CNY 3,676 (USD 574) per month. In reality, all workers' average monthly wages for the previous year were higher than CNY 3,676 (USD 574), ranging from CNY 3,900 (USD 609) to CNY 6,800 (USD 1,063).
Recommendation for Immediate Action	Contribute to social insurance based on worker's actual average monthly wage of previous year.
Compliance Classifications	Immediate Action Required
Local Law	Social Insurance Law of the PRC, Article 12 and Article 60
Benchmark ID	C.1.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning the payment of compensation to workers.

Finding Details	The factory does not provide social insurance to all eligible workers. For the most recent contribution period, there are a total of 22 workers eligible for social insurance contributions. The factory provides 14 out of the 22 eligible workers (63.63%) with pension, work-related injury, medical, maternity, and unemployment insurances. As a supplement, the factory has provided commercial accidental injury insurance to 25 workers, which is valid from April 9, 2021 to April 8, 2022 and has a maximum benefit amount of CNY 100,000 (USD 15,385) per worker.
Recommendation for Immediate Action	Provide social insurance to all eligible workers.
Compliance Classifications	Immediate Action Required
Local Law	The China Labor Law, Article 72
Benchmark ID	C.21.1
Benchmark Details	Employers shall provide all legally mandated benefits, including holidays, leave, bonuses, severance payments and 13th month payments to all eligible workers within legally defined time periods.
Finding Details	The factory does not contribute to the Housing Provident Fund for any of the 22 eligible workers.
Recommendation for Immediate Action	Make the legally required contribution to the Housing Provident Fund for all eligible workers.
Compliance Classifications	Immediate Action Required
Local Law	Regulations on Management of Housing Provident Fund, Article 15
<b>Employment Relationship (ER)</b>	
Benchmark ID	ER.2

Benchmark Details	Employers shall ensure that all legally mandated requirements for the protection or management of special categories of workers, including migrant, juvenile, contract/contingent/temporary, probationary workers, home workers, and pregnant or disabled workers, are implemented. Where local laws and FLA standards differ, the employer is expected to follow the highest applicable standard.
Finding Details	The factory has not hired any disabled workers, which violates the legal requirement that at least 1.5% of the total workforce be composed of disabled workers. Although the factory contributes to the Employment Security Fund in lieu of employing disabled workers as allowed under local law, this practice carries the risk of discrimination based on the FLA Workplace Code and Benchmarks.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.1.1
Benchmark Details	Employers shall have in place written policies and practices and maintain proper and accurate records governing all aspects of employment from recruitment, hiring and probation, including written terms and conditions of employment, job descriptions, administration of compensation, and working hours for all positions, through to retrenchment and termination processes.
Finding Details	The factory does not have policies or procedures governing retrenchment. The termination procedure does not include a method for calculating the worker's final payout.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required

Local Law	
Benchmark ID	ER.6.1
Benchmark Details	Employers shall have written policies and procedures and implement practices that encourage ongoing training of all categories of workers with the goal of raising or broadening skills in order to advance in their careers within the factory or beyond.
Finding Details	The factory has not established written procedures on personnel development that encourage ongoing training with the goal of raising or broadening workers' skills so they can advance in their careers.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.7.1
Benchmark Details	Employers shall have written policies and procedures with regard to performance reviews that outline the review steps and process, demonstrate linkages to job grading, prohibit discrimination, are provided in writing and seek feedback and agreement/disagreement from employees in writing, and that follow all local legal requirements.
Finding Details	The factory has neither established a procedure for performance reviews nor conducted performance reviews for any workers.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

Benchmark ID	ER.8
Benchmark Details	Employers shall have written policies and procedures with regard to promotion, demotion, and job reassignment that outline the criteria, demonstrate linkages to job grading, and prohibit discrimination or use of demotion or job reassignment as a form of penalty or punishment, are provided in writing and seek feedback from employees in writing, and follow all local legal requirements.
Finding Details	The factory has not established written procedures on promotion, demotion, and job reassignment.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.19.1
Benchmark Details	Employers shall maintain on file all documentation needed to demonstrate compliance with the FLA Workplace Code and required laws.
Finding Details	The factory has not received the Evergreen Enterprises Code of Conduct; as a result, management has not communicated the Evergreen Enterprises Code to its workers or supervisors.
Recommendation for Immediate Action	Communicate the Evergreen Enterprises Inc Code, which is in alignment with the FLA Code, to all workers and supervisors through training or by posting the Code at the workplace.
Compliance Classifications	Immediate Action Required
Local Law	
Benchmark ID	ER.1.3



Benchmark Details	Employers should implement an annual, review process with input from workers of all policies, procedures and their implementation to ensure they meet legal requirements and the FLA Workplace Code.
Finding Details	The worker integration component is missing across all employment functions. The factory has not established procedures to request and receive workers' input regarding the creation, implementation, and updating of its policies and procedures. Workers are neither systematically integrated nor consulted in decision-making processes.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	ER.18.4
Benchmark Details	The disciplinary system shall include a third party witness during imposition, and an appeal process.
Finding Details	The factory's disciplinary system does not include a third-party witness during the imposition of discipline or an appeal process.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
<b>Freedom Of Association And Collective Bargaining (FOA)</b>	
Benchmark ID	FOA.10

Benchmark Details	Employers shall refrain from any acts of interference with the formation or operation of workers' organizations, including acts which are designed to establish or promote the domination, financing or control of workers' organizations by employers.
Finding Details	FLA Comment: The Chinese constitution guarantees Freedom of Association; however, the Trade Union Act prevents the establishment of trade unions independent of the sole official trade union – the All-China Federation of Trade Unions (ACFTU). According to the International Labor Organization (ILO), many provisions of the Trade Union Act are contrary to the fundamental principles of freedom of association, including the non-recognition of the right to strike. As a consequence, all factories in China fall short of the ILO standards on the right to organize and bargain collectively. Recently, however, the government has introduced new regulations that could improve the functioning of the labor relations' mechanisms. The Amended Trade Union Act of October 2001 stipulates that union committees have to be democratically elected at members' assemblies and trade unions must be accountable to their members. The trade union has the responsibility to consult with management on key issues of importance to their members and to sign collective agreements. It also grants the trade union an enhanced role in dispute resolution. In December 2003, the Collective Contracts Decree introduced the obligation for representative trade unions and employers to negotiate collective agreements, in contrast to the previous system of non-negotiated administrative agreements.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

## Health, Safety And Environment (HSE)

Benchmark ID	HSE.5.1
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Benchmark Details	All applicable, legally required or recommended elements of safe evacuation shall be complied with, including all of the following elements: posting evacuation plans; the installation and maintenance of fire alarms; the installation and maintenance of emergency lighting; ensuring aisles/exits are not blocked and that workers are not blocked within their workstations; employee education and training; and evacuation procedures and fire drills.
Finding Details	The evacuation markings on the floor of the production workshops are not easily identifiable.
Recommendation for Immediate Action	Clearly mark the evacuation route, including direction of travel, on the floor in the production workshops.
Compliance Classifications	Immediate Action Required
Local Law	
Benchmark ID	HSE.14.1
Benchmark Details	All production machinery, equipment and tools shall be properly guarded and regularly maintained.
Finding Details	The factory has never inspected the lightning protection system located on the roof of the production building.
Recommendation for Immediate Action	Conduct the annual inspection of the lightning protection system and maintain inspection reports, as per legal requirement.
Compliance Classifications	Immediate Action Required
Local Law	Technical Specifications for Inspection of Lightning Protection System in Building, Article 6
Benchmark ID	HSE.4.1

Benchmark Details	Employers shall at all times be in possession of all legally required and valid permits and certificates related to health, safety, and environmental issues, such as: Purchase and storage of chemicals; Fire safety inspections; Machinery inspections; Waste disposal; Environmental licenses/permits; Sanitation permits, including those required for canteens; and Vehicle inspection and driver permits for all employer provided transportation.
Finding Details	Since being founded in 2010, the factory has not conducted the pre-assessment of occupational disease hazards or any assessments of current occupational disease hazards.
Recommendation for Immediate Action	Conduct assessment of current occupational disease hazards and obtain valid reports.
Compliance Classifications	Immediate Action Required
Local Law	The Measures for Supervision and Administration of the "Three Simultaneities" for Occupational Disease Protection facilities at Construction Projects, Article 4
Benchmark ID	HSE.28
Benchmark Details	Employers shall create a system to ensure that all necessary Health and Safety protections are provided for external contractors; including protection when working within , confined spaces, maintenance issues, and general Health and Safety Issues.
Finding Details	The factory does not provide safety information to contractors.
Recommendation for Immediate Action	Provide external contractors with all relevant factory safety information.
Compliance Classifications	Immediate Action Required
Local Law	
Benchmark ID	HSE.17.2

Benchmark Details	Employers shall train workers in proper lifting techniques, and items such as lifting belts shall be provided.
Finding Details	The factory has not developed an ergonomic training program to reduce repetitive-motion stress or injuries. The factory does not provide training on proper lifting techniques to workers in the raw material warehouse.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
Benchmark ID	HSE.17.1
Benchmark Details	Workstations, including seating and standing arrangements and reach required to obtain tools, shall be designed and set-up in such a manner as to minimize bodily strains.
Finding Details	The factory does not provide ergonomic, height-adjustable chairs to quality control workers who work in a sitting position. Packing workers do not utilize the provided anti-fatigue mats while working.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	
<b>Hours Of Work (HOW)</b>	
Benchmark ID	HOW.1.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning hours of work, public holidays and leave.

Finding Details	Overtime hours exceed the legal limit of 36 hours per month. Worker interviews and time records for the period from October 2020 to November 3, 2021 indicate that about 80% of workers worked more than 36 overtime hours per month in May, June, July, August, and September 2021, with a maximum of 66 overtime hours in July 2021.
Recommendation for Immediate Action	Control overtime hours to achieve full compliance with legal requirement.
Compliance Classifications	Immediate Action Required
Local Law	The China Labor Law, Article 41
Benchmark ID	HOW.20
Benchmark Details	Employers shall have in place practices that conduct regular analysis of hours of work in their workplaces and procedures that demonstrate a commitment to progressively reducing excessive hours of work.
Finding Details	The factory production plan is based on a 58-hour workweek. Factory management sets production targets at such a level that workers need to work 18 overtime hours (two overtime hours per day on five weekdays, eight overtime hours on Saturday) per week to meet them.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	

