



COMPANIES: Evergreen Enterprises Inc.

COUNTRY: China

ASSESSMENT DATE: 08/27/18

ASSESSOR: Openview

PRODUCTS: Collectibles [such as figurines, coins, spoons, mugs]

NUMBER OF WORKERS:

FLA Comments

Evergreen Enterprises has ceased sourcing from this factory due to a change in the business relationship between Evergreen Enterprises and the factory. The factory ceased communication with Evergreen Enterprises prior to submitting a remediation Plan. Evergreen Enterprises attempted to follow up with the factory on several occasions, but did not receive a response. Therefore the report appears without an action plan and there will be no future updates from Evergreen Enterprises.

Summary of Code Violations

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.

While it is important to note when violations of the FLA Workplace Code of Conduct occur, the purpose of these assessments is not simply to test compliance against a particular benchmark, but rather to develop an understanding of where and how improvements can be made to achieve sustainable compliance. Code of Conduct violations can be found throughout the course of an assessment of the employment and management functions, and are addressed in companies' action plans.

Findings and Action Plans

FINDING NO.1

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

1. The factory has hired no disabled workers, which is a violation of legal requirements that state at least 1.5% of the total workforce must be composed of disabled workers. Furthermore, the factory does not contribute to the Employment Security Fund, in lieu of employing disabled workers, as allowed under the local law. [ER.3, ND.2]

2. The factory does not have written policies or procedures outlining the process for performance reviews; therefore, the factory does not conduct performance reviews for employees. [ER.29.1]

3. There are no policies or procedures regarding workers' Personnel Development. [ER.1.1, ER.28.1, ER.29.1]

4. None of the production positions have a written job description. [ER.1.1]

Local Law or Code Requirement

Regulation on the Employment of the Disabled, Articles 8 and 9. FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.3, ER.28 and ER.29; Non-discrimination Benchmark ND.2)

FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. Based on review of social insurance payments from August 2017 to July 2018, and worker and management interviews, the factory is not providing sufficient social insurance coverage for the employees. In July 2018, 48% of employees were covered by pension, unemployment, medical, and maternity insurances, and 100% of employees were covered by work-related injury insurance. The factory also provides group commercial accidental injury insurance for 36 employees, valid from May 3, 2018 to May 2, 2019, with a maximum benefit of CNY 360,000 (USD 52,705) per employee. In addition, the contribution base of the social insurance options is not aligned with the legal requirement. The current monthly contribution of CNY 3,055 (USD 448) is not aligned with the legal requirement of 30% of workers' monthly wages (CNY 3,056 to CNY 4,200 (USD 448 to USD 616)). [ER.22, C.1, C.10.1]

2. The factory does not pay into the legally required Housing Provident Fund for any workers. [ER.22, C.1, C.10]

Local Law or Code Requirement

China Labor Law, Articles 72 and 73; Social Insurance Law of the PRC, Articles 12 and 58; Regulations on Management of Housing Provident Fund, Articles 2, 3 and 15. FLA Workplace Code (Employment Relationship Benchmark ER.22; Compensation Benchmarks C.1 and C.10)

Recommendations for Immediate Action

1. Provide all workers with all required social insurance. Calculate social insurance based on 30% of workers' actual monthly wages.

FINDING NO.3

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. According to the time records for the period from August 2017 to August 26, 2018 and worker interviews, 90% of workers' monthly overtime hours exceeded 36 per month in the reviewed period, except February 2018, with a maximum of 62 hours in December 2017. [HOW.1.1]

2. The factory production plan is based on a 48 to 58 hour work week. Factory management sets production targets, piece rates, and any other incentive or production system at a level such that workers need to work 8 to 18 overtime hours per week. [HOW.8.1]

3. Based on document review and interviews with workers and management, the factory does not conduct an analysis of regular working hours with the aim to progressively reduce excessive hours of work. [HOW.1.2]

Local Law or Code Requirement

China Labor Law, Article 41. FLA Workplace Code (Hours of Work Benchmarks HOW.1 and HOW.8)

Recommendations for Immediate Action

1. Ensure overtime hours do not exceed the legal limit of 36 overtime hours per month.

FINDING NO.4

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Termination & Retrenchment

Finding Explanation

1. There are no policies and procedures regarding Termination or Retrenchment. [ER.19.1, ER.32.1]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.19 and ER.32)

FINDING NO.5

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

1. There are no policies or procedures at the factory regarding industrial relations. [ER.26, FOA.1]

2. FLA Comments: 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. [FOA.2]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.26; Freedom of Association Benchmarks FOA.1 and FOA.2)

FINDING NO.6

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Workplace Conduct & Discipline

Finding Explanation

1. Workers do not receive a copy of the workplace rules during orientation or written documentation that substantiates all the issues covered in orientation. [ER.15.3]
2. The factory's disciplinary system does not include a third party witness or appeal process. [ER.27.1, 27.4]
3. The records of disciplinary actions are maintained in a centralized file but not in workers' personnel files. [ER.27.3.4]
4. Workers do not sign all written records of disciplinary actions taken against them. [ER.27.3.3]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.15 and ER.27)

FINDING NO.7

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Grievance System

Finding Explanation

1. The management does not maintain grievance records. Based on interviews with workers and management, there were few grievances in recent years, so management handled grievances verbally or through meetings with employees. [ER.2, ER.25]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.2 and ER.25)

FINDING NO.8

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. Health, Safety & Environment management policies and procedures do not meet the necessary requirements to identify and minimize risk. The factory has no policy to ensure all personnel, visitors, contractors, and service providers can safely evacuate, and does not identify all special categories of workers [ER.31.1]. The factory does not have a list of equipment or machines that require lockout and tagout [HSE.14.1]. The factory does not provide guidance on the lightning protection system [HSE.13] or concerning the health and safety of external contractors or service providers [ER.31.1].
2. The factory has not conducted an internal safety risk assessment for the production areas. [HSE.7, HSE.14]
3. The factory does not conduct ergonomics management for workers, like taking steps to reduce repetitive-motion stress or injuries, and does not have adjustable workstations for sitting workers. There are no removable armrests or proper backrests on chairs for seated

workers. There are no anti-fatigue mats provided for standing workers. [HSE.17.1]

4. Traffic lanes and walking paths are not marked on the factory premises. The factory has neither assessed nor adopted any visual management aids to ensure that workers use safe driving practices on factory premises, such as indicators, convex mirrors on blunt ends, reflectors, etc. [HSE.5.1]

5. The factory does not provide safety information to contractors. [ER.31.1]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.31; Health, Safety & Environment Benchmarks HSE.5, HSE.7, HSE.13, HSE.14 and HSE.17)

FINDING NO.9

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. There are sixty workers who use chemicals or are exposed to loud noises. The factory only provides occupational health examinations for those sixty workers during their employment. The factory does not provide examinations before and after these workers are employed at the factory, which violates legal requirements. [HSE.1]

2. There is no secondary containment for the chemicals used onsite in the painting workshop. Additionally the painting workshop does not have a sufficient number of spill kits. A chemical container used in the drawing workshop is not labeled. [HSE.9]

3. Drinking cups are placed in the painting workshop where chemicals are used. [HSE.23]

4. Although the factory provides face masks and gloves to the relevant workers, three gluing workers and nine drawing workers were not using them. [HSE.8]

5. The factory does not periodically test the lightning protection system in the factory buildings. [HSE.13]

Local Law or Code Requirement

The China Law of Prevention and Control of Occupational Diseases, Article 36; The Regulation for Safety of Dangerous Chemical, Article 20; The Regulation of Chemical Safety Usage in Workplace, Article 19; The Hygienic standards for the Design of Industrial Enterprises, Article 7.1.2; The Law of the China on Work Safety, Article 42; Technical Specifications for Inspection of Lightning Protection System in Building, Article 6. FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.7, HSE.9, HSE.13 and HSE.23)

Recommendations for Immediate Action

1. Provide examinations before and after these workers hold their work posts.
2. Install secondary containment and attach safety labels to the chemical containers.
3. Provide safe places for workers to store drinking cups.
4. Train and monitor workers to wear Personal Protection Equipment (PPE) properly.
5. Test the lightning protection system in the factory buildings and maintain the test reports.

FINDING NO.10

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. There is no rescue equipment available for the confined spaces in the factory. [HSE.6]

2. Combustible materials (plastic bags) are stored under the stairwell on the first floor in the production building. [HSE.1, HSE.5]

3. The fire alarm system does not have a backup battery. [HSE.5]
4. There are no privacy doors for the toilets in the public restroom in the production building. The factory does not provide toilet paper or soap in the toilets. [HSE.20]
5. The firefighting equipment stored near some workplaces are covered with dirt, including those in the spare area of the first floor of the production building, the blanking workshop on the first floor of the production building, the packing workshop on the third floor, and the painting workshop on the fourth floor of the production building. [HSE.19]
6. The factory does not track workers' illnesses. [HSE.3]

Local Law or Code Requirement

The Code of Design on Building Fire Protection and Prevention, Article 6.4.1; The China Fire Prevention Law, Article 28. FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.3, HSE.5, HSE.6, HSE.19 and HSE.20)

Recommendations for Immediate Action

1. Provide rescue equipment for confined spaces.
2. Remove the combustible materials from the stairwell and store in an appropriate storage area.
3. Install a backup battery for the fire alarm system.
4. Install doors for the public restroom and provide soap and toilet paper in the restroom.
5. Maintain cleanliness of all workplaces and personal protective equipment.

FINDING NO.11

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Environmental Protection

Finding Explanation

1. The wastewater from washing paint and banana oil off of tools and containers is discharged into the storm sewer without collection or pre-treatment. [HSE.1]
2. The factory's Environmental Protection policies do not include a statement of the factory management's general support of energy and water efficiency, or a commitment to minimize impacts with respect to air emissions, waste, hazardous materials and other applicable environmental risks. [ER.31]
3. The factory does not have procedures to manage the factory's environmental impact on its surroundings. [ER.31]

Local Law or Code Requirement

The China Law of Prevention and Treatment of Water Pollution, Article 29; FLA Workplace Code (Employment Relationship Benchmark ER.31; Health, Safety & Environment Benchmark HSE.1)

Recommendations for Immediate Action

1. Collect and treat waste water before discharging into the sewage system.

FINDING NO.12

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Review Process (Macro)

Finding Explanation

1. The factory does not regularly review and update its policies and procedures for any of the Employment Functions. [ER.1, ER.29, ER.30, ER.31]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.29, ER.30, and ER.31)

FINDING NO.13

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Training (Macro)

Finding Explanation

1. The factory does not provide workers with orientation training on the following Employment Functions: Recruitment, Hiring & Personnel Development; Termination & Retrenchment; and Environmental Protection. [ER.1, ER.15]
2. There is no specific training for managers on the following Employment Functions: Recruitment, Hiring & Personnel Development; Compensation; Hours of Work; Industrial Relations; Grievance System; Workplace Conduct & Discipline; Termination & Retrenchment; and Environmental Protection. [ER.1, ER.17, ER.27]
3. There is no ongoing training on the following Employment Functions: Recruitment, Hiring & Personnel Development; Compensation; Hours of Work; Industrial Relations; Grievance System; Workplace Conduct & Discipline; Termination & Retrenchment; and Environmental Protection. [ER.1, ER.28, ER.29, ER.30]
4. The factory does not conduct specific workplace safety trainings for designated employees with special responsibilities, such as chemical warehouse workers and maintenance workers. [HSE.9, HSE.14]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.15, ER.17, ER.27, ER.28, ER.29, and ER.30; Health, Safety and Environment Benchmarks HSE.9 and HSE.14)

FINDING NO.14

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Communication & Worker Involvement (Macro)

Finding Explanation

1. The worker integration component is missing across all Employment Functions. This indicates that the factory has no established procedures to request or receive workers' feedback regarding the creation, implementation, or updating of its policies and procedures. Workers are neither systematically integrated nor consulted in decision-making processes. [ER.1, ER.25]
2. The workplace rules, Health & Safety information, laws regarding workers' rights with respect to Freedom of Association, Compensation, Hours of Work, and any other legally required information, and the FLA Code, are not posted throughout the workplace common areas. [ER.16]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.16, and ER.25)

FINDING NO.15

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Responsibility & Accountability (Macro)

Finding Explanation

1. The factory has not formally defined in writing the person(s) accountable for Employment Functions. Furthermore, it has not formally defined the person(s) with ultimate accountability. [ER.1, ER.31]
2. There is no management sign-off on the factory's policies and procedures. [ER.1]