



COMPANIES: Evergreen Enterprises Inc.

COUNTRY: China

ASSESSMENT DATE: 08/11/16

ASSESSOR: FLA China

PRODUCTS: Apparel

NUMBER OF WORKERS: 300

FLA Comments

The FLA conducted a review of the corrective action plan for this assessment. Despite deadline reminders and extensions for submission of a revised corrective action plan, the FLA has not received a response to its recommended revisions. Therefore, the report is posted in its current state and will be updated once a revised corrective action plan has been submitted to the FLA. Upon receipt (and acceptance) of the CAP for this factory, the comment will be removed and the report will be published with the accepted CAP.

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: Training (Macro)

Finding Explanation

1. Adequate training, specific or ongoing, is not provided for any of the Employment Functions; this includes orientation training, supervisor training and on-going training.
2. Orientation training does not cover the following Employment Functions: Recruitment, Hiring and Personnel Development, Industrial Relations & Freedom of Association, Grievance System, Termination & Retrenchment, and Environmental Protection.
3. Workers do not receive written documentation that includes any of the issues covered during orientation.
4. The factory does not train any of the supervisors on national law, regulation, or the FLA Workplace Code in any of the Employment Functions.
5. The factory does not update the training module on a regular basis for any Employment Functions, except for Health & Safety training.
6. The factory does not provide any ongoing training to regular workers and managerial staff on updated factory policies, procedures, or legal requirements.
7. The factory does not provide any skill-based training for new workers or ongoing training to workers to raise or broaden their skills for career advancement.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.2, ER.15.1, ER.15.2, ER.15.3, ER.17.1, ER.17.3, ER.27, and ER.28)

FINDING NO.2

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Policies & Procedures (Macro)

Finding Explanation

1. There are no written policies or procedures regulating Personnel Development.
2. The training policies or procedures do not include steps to encourage ongoing training to raise or broaden skills for career advancement.
3. There are no policies or procedures for performance reviews.
4. There are no policies or procedures for Retrenchment. There are no procedures to determine termination payout; however, the termination payout is paid as per legal requirements based on termination payment records.
5. The policies and procedures on Environment Protection are incomplete, and do not include a commitment to minimize environmental impacts with respect to energy, air emissions, water, waste, hazardous materials, and other significant environmental risks. There are no

procedures to enable workers to raise environmental concerns or to report environmental emergencies.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.1, ER.19.1, ER.28.1, ER.29.1, ER.31.2.4, ER.31.2.5, ER.31.3 and ER.32.1; Health, Safety & Environment Benchmark HSE.1)

FINDING NO.3

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Review Process (Macro)

Finding Explanation

The factory has not developed policies and procedures on the review process to ensure updates are made according to local law and FLA Workplace Code requirements. As a result, they have not conducted internal reviews for the following Employment Functions: Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Termination & Retrenchment, Industrial Relations & Freedom of Association, Workplace Conduct & Discipline, Grievance System, Environmental Protection, and Health & Safety.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.3, ER.29.1.1, ER.30.2, and ER 31.2)

FINDING NO.4

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

The factory has hired only one disabled worker, which is in violation of local legal requirements that state that at least 1.5% of the total workforce should be comprised of disabled workers. There are 111 workers in the factory, therefore there should be at least two disabled workers. Although the factory contributes to the Employment Security Fund in lieu of employing disabled workers as allowed under the local law, this practice carries a risk of discrimination.

Local Law or Code Requirement

The Regulations of Employment for Disability Person, Article 8; FLA Workplace Code (Employment Relationship Benchmark ER.3; Nondiscrimination Benchmarks ND.1, and ND.2.1)

FINDING NO.5

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. The factory provided all five types of legally mandated social insurance to all workers. However, the factory does not provide social insurance based on workers' actual wages. For 56 out of 111 workers (50%) whose monthly wages range from CNY2903 (USD386.20) to CNY6352 (USD845.10), the social insurance was paid based on the local minimum contribution base of CNY2878 (USD382.90), rather than their actual monthly wages.
2. The factory does not contribute to the legally required Housing Provident Fund for 66 out of 111 (60%) workers.
3. The factory calculates paid annual leave on the number of years workers have worked in the factory rather than by their cumulative years of working experience prior to and including the factory, which is required by law. The factory currently gives workers five or ten days of annual leave; however, approximately 40% of workers are eligible for more than the five to ten days of factory-provided annual leave based on their cumulative working experience, about half of whom were eligible for 20 days of annual leave.
4. The factory does not pay any of the piece-rated workers the legally defined premium rates for overtime hours. The production workers (64 out of 111) are paid the piece-rated wage, while non-production workers (47 out of 111) are paid the monthly-rated wages. The overtime wages for monthly-rated workers are paid according to legal law requirements. However, the factory has only paid 100% of the normal wage rate to all piece-rated workers for weekday and weekend overtime hours in past year (from July 2015 to June 2016), which is less than the legally required 150% and 200% of the normal rate wage for weekday and weekend overtime respectively.

5. The factory does not pay the normal wage rate to any of the piece-rated workers for statutory holidays, as per the legal requirement (8-hours at 100% of the normal wage rate).

Local Law or Code Requirement

The PRC Labor Law, Articles 44, 51, 72 and 73; The Housing Fund Management Regulation, Articles 15 and 17; The Worker Paid Annual Leave Regulation, Article 2; FLA Workplace Code (Employment Relationship Benchmark ER.22.1; Hours of Work Benchmarks HOW.11, and HOW.14; Compensation Benchmarks C.1, C.6, and C.7)

Recommendations for Immediate Action

1. Provide legally mandated insurance to all workers based on their actual monthly wage.
2. Provide annual leave to all workers based on their cumulative working experience, as stated by local law.
3. Pay overtime wages to all piece-rated workers according to legal law.
4. Pay basic wage to all piece-rated workers for statutory holidays.

FINDING NO.6

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Communication & Worker Involvement (Macro)

Finding Explanation

1. The factory does not formally communicate its policies and procedures to the general workforce and management staff for any of the Employment Functions.
2. The methods that the factory uses to communicate are not effective or comprehensive; this includes an insufficient introduction of factory rules to workers during orientation and the incomplete posting of relevant policies and procedures on site.
3. All interviewed supervisors and general workers roughly understood some policies and procedure, however, they are not fully aware of all policies and procedures on the following: hiring policy; overtime limitation; compensation package and legal benefits; grievance channel and tracking system; disciplinary rule; and the appeal procedure. There are no follow-ups planned to communicate updates and legal revisions.
4. The worker integration component is missing for all Employment Functions. The factory has not established procedures to receive worker input or feedback on the creation, implementation, and revision of its policies and procedures. Workers are neither systematically integrated nor consulted in the decision-making processes. The factory never arranges consultation meetings with workers or union representative before management reaches their final decisions on layoffs.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.2, ER.1.3, ER.16.1 ER.25.1, ER.25.2, ER.27.3, ER.30.2, and ER.32; Compensation Benchmark C.17)

FINDING NO.7

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. The daily and monthly overtime hours exceed the legally required limit of three hours of overtime per day and 36 hours per month respectively. The daily overtime hours for 60% of general workforce (workers in all departments) exceeded the legal limit of three hours per day, ranging from 3.5 to five hours in the past year (from July 2015 to June 2016). The monthly overtime hours for 90% of the general workforce (workers in all departments) exceeded the legal limit of 36 hours per month, ranging from 67 to 185 hours in the past year except for February 2016 (when the Chinese New Year holidays fell).
2. The weekly working hours for 80% of general workforce (workers in all departments) exceed 60 hours, ranging from 62 to 85 hours per week, in the past year (from July 2015 to June 2016).
3. The factory does not schedule workers to receive at least one day off (24 consecutive hours of rest) for every 7-day period, though workers could easily refuse Sunday shifts. The consecutive working days for 30% of general workforce (workers in all departments) exceed 6 days, ranging from 7 to 30 consecutive days during the peak seasons (from December 2015 and January 2016).
4. The factory's production target requires workers to work 55 hours per week on a regular basis.

Local Law or Code Requirement

The PRC Labor Law, Articles 38 and 41; FLA Workplace Code (Hours of Work Benchmarks HOW.1.1, HOW.1.3, HOW.2, HOW.8.1, and HOW.8.3)

Recommendations for Immediate Action

1. Ensure that workers do not work overtime more than the legal limit of three hours per day and 36 hours per month.
2. Ensure that workers do not work more than 60 hours per week.
3. Ensure that workers receive at least one day off (24 consecutive hours of rest) for every 7-day working period.
4. Ensure that production planning is based on 40 hours of work per week and does not include overtime.
5. FLA affiliate Company's Sourcing and Social Compliance teams should implement FLA Principles of Fair Labor and Responsible Sourcing and, to help the factory address its excessive hours issue, accordingly coordinate on the following topics: how to provide better order forecasts to the factories; possible workshops/consultancy for the factory on how to improve productivity/quality; clear guidelines on how to extend shipment deadlines in case of contingencies; steps that factory management must follow if overtime is inevitable (steps for how to communicate with the brand's Sourcing and Social Compliance teams); clear guidelines on the calculation and setting of reasonable production targets that will not demand work beyond regular working hours or during breaks; and clear guidelines on how and when the factory can use subcontractors and/or temporary workers to avoid excessive overtime.

FINDING NO.8

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

1. The factory has a trade union under the ACFTU (All-China Federation of Trade Unions) that was established in 2010. However, there are neither records on file that indicate that any elections have been held nor any written operational procedures that pertain to such elections.
2. Factory management automatically enrolls all workers as trade union members without workers' consent. About 95% of the interviewed workers do not know whether they are members of the trade union or not. Factory management pays the union dues rather than the workers themselves.
3. Instead of being elected by workers directly, the factory management assigns the union representative.
4. 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.

Local Law or Code Requirement

FLA Workplace Code (Freedom of Association Benchmarks FOA.2, FOA.10, and FOA.11)

FINDING NO.9

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Workplace Conduct & Discipline

Finding Explanation

The disciplinary system does not include a third party witness during the imposition of disciplinary action and the appeal process.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.27.4)

FINDING NO.10

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Environmental Protection

Finding Explanation

1. The factory mixes the storage of hazardous waste and non-hazardous waste in the spraying and assembly workshops.
2. The factory has not installed anti-leakage container for any of the chemicals used and stored in the chemical warehouse or spraying and assembly workshop.

Local Law or Code Requirement

The PRC Law of Prevention and Treatment of Environmental Pollution by Solid Wastes, Article 58; The Regulations on the Safety Administration of Dangerous Chemicals, Article 20; FLA Workplace Code (Health, Safety, & Environment Benchmarks HSE.1, and HSE.9.1)

Recommendations for Immediate Action

1. Separate the hazardous wastes from non-hazardous wastes for storage.
2. Install an anti-leakage facility for all chemicals being used and stored in the factory.

FINDING NO.11

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The factory does not provide seated workers with chairs that are adjustable and have backrests to minimize injuries.
2. The factory does not provide standing workers with anti-fatigue mats.
3. There is no training provided to loading workers on lifting techniques. The factory does not provide loading workers with lifting belts.
4. The factory did not obtain an occupational disease hazard assessment report before operating in 2001. It has not conducted an assessment of the current conditions of occupational disease hazards, as legally required.
5. The factory does not provide regular occupational health checks to any of the workers who are exposed to dust and noise in the drilling, spraying and polishing workshop or who are in contact with hazardous chemicals in the assembly and spraying workshops.
6. The factory has provided personal protective equipment (PPE) and training to relevant workers, but workers do not use it properly. None of the workers who are exposed to high decibel noise in the drilling and polishing workshops wear ear-plugs; none of the workers who are in contact with chemicals in the assembly workshop wear active-carbon masks or rubber gloves. There is an insufficient number of safety exits in the finished goods warehouse and canteen. There is only one safety exit in the finished goods warehouse, which has an area of about 350 square meters with one worker. There is also only one safety exit in the canteen which has an area of about 150 square meters and a capacity of around 80 workers at dinner time.
7. The factory has not installed a fire alarm in the drilling and spraying workshops and has installed only a local (isolated) fire alarm rather than a centralized fire alarm in other production areas. Furthermore, the factory has not installed a backup battery for the fire alarm system.
8. The factory has not posted an emergency evacuation map in the drilling and spraying workshops.
9. The factory has not installed an exit sign above eight of the 16 safety exits (50%) in the production areas. Of the eight exits with signs, the factory has installed only fluorescent exit signs rather than the illuminated exit signs connected to an external power source with battery backup, as legally required.
10. The factory has not installed emergency lighting above five of the 16 safety exits (30%) in the production areas.
11. The factory mounts 58 of the 72 fire extinguishers (80%) at a height of about 1.7 to two meters above the floor, which is higher than legally required 1.5 meters above the floor.
12. The factory has not installed insulation covers on 17 of the 56 exposed power switch boxes (30%) in the production areas.
13. The factory has not installed eye washing facilities in either the chemical usage area or storage area.
14. The factory does not post safety labels on any of the chemical containers being used and stored in the chemical warehouse or the spraying and assembly workshops.
15. The factory does not provide first aid kits in each workshop.

Local Law or Code Requirement

The PRC Law of Prevention and Control of Occupational Diseases, Articles 16, 17, 20, 22, 26 and 36; The Safety Manufacturing Law, Article 42; The Fire Safety of Building Design Regulation (GB50016-2014), Article 10.3.5; The Fire Safety of Building Design Regulation (GB50016-2014), Article 3.8.2, 5.5.8 and 10.3.4; The Code for Design of Extinguisher Distribution in Buildings (GB 50140-2005) Article 5.1.3; The General Guide for Safety of Electric User, Article 6.7; The Regulation For Chemical Usage Safety in Work Place, Article 14; The Hygienic standards for the Design of Industrial Enterprises (GBZ1-2010) 8.3.3; FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.4, HSE.5.1, HSE.6.1, HSE.7, HSE.8, HSE.9.1, HSE.13, HSE.17.1 and HSE.17.2)

Recommendations for Immediate Action

1. Provide lifting belts to all loading workers and train all relevant workers on safe lifting techniques.
2. Arrange for a licensed service provider to conduct an assessment of the current conditions for occupational disease hazards.
3. Provide yearly occupational health examination to all workers who are exposed to dust and noise and in contact with hazardous chemicals.

4. Ensure that all workers who are exposed to high decibel noise or in contact with chemicals properly wear the appropriate PPE.
5. Ensure there are at least two safety exits each in the canteen and finished goods warehouse.
6. Install a centralized and battery powered fire alarm system in the factory.
7. Post an evacuation map in all workshops.
8. Install illuminated exit signs with electricity above all safety exits.
9. Install emergency lighting above all safety exits.
10. Mount the fire extinguishers at the proper, legal height.
11. Install insulation covers on all power switch boxes.
12. Install eye washing facility in chemical usage and storage area.
13. Post safety labels on all chemical containers.
14. Equip first aid kit in each workshop.