



FAIR LABOR
ASSOCIATION®

INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Tervis Tumbler
COUNTRY: United States
ASSESSMENT DATE: 12/14/17
ASSESSOR: Miriam Rodriguez
PRODUCTS: Apparel
NUMBER OF WORKERS: 550

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

The facility's Equal Employment Opportunity policy statement listed (revised Feb 2017 employee handbook) lacks the following categories: sexual orientation, political opinion, social group, union affiliation or sympathy. This policy statement does not align with FLA Code. ER.3

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.3.)

COMPANY ACTION PLANS

Action Plan no 1.

Description

Sexual orientation, political opinion, social group, union affiliation or sympathy are not covered under the Equal Employment Opportunity policy. Tervis has added to our policy sexual orientation and social group.

Planned completion date

09/10/18

Company Action Plan Update

See attachment of the additional language added to the employee handbook.

FINDING NO.2

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

1. Several of the personnel files provided by one of the temporary employment agencies contained errors in the I-9 documentation (Employment Eligibility Verification). The errors included incomplete or missing information, as well as unsigned or undated submission of the document; 60% of the files reviewed contained these errors. ER.1
2. There is a lack of standard contract language with employment agencies, which specifically imparts power to the facility to directly pay wages to temporary workers. The facility does not conduct review or validate that the labor agencies are meeting the labor law or expectations of the facility. Currently the facility has 130 temporary workers hired through the labor agencies. ER.6

Local Law or Code Requirement

Immigration Reform and Control Act of 1986 (IRCA), FLA Workplace Code (Employment Relationship Benchmarks ER.1.1 and ER.6)

COMPANY ACTION PLANS

Action Plan no 1.

Description

Tervis has spoken with current temporary staffing agencies as well as ones that are being vetted, on ensuring that all I-9's are properly and timely completed.

Tervis will add in random audits on the staffing agencies files.

Tervis is working with the staffing agencies to update contract language to add payment of wages and right to audit.

Planned completion date

09/10/18

Company Action Plan Update

See above for progress.

FINDING NO.3

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Compensation

Finding Explanation

Seniority and fringe benefits are not provided to temporary workers converted to permanent employment status. Workers who are converted from the temporary labor agency to the factory's payroll have their seniority dated as from the start date of permanent employment, rather than the first work day as a temporary or contracted worker at the factory. According to the temporary labor agency, twenty five to thirty (30) workers were converted in 2017 converted to permanent status. This practice violates FLA benchmark stipulating that for any temporary worker who becomes permanent employee, seniority and other fringe benefits eligibility must be dated from the first date as a temporary worker. ER.12

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.12)

COMPANY ACTION PLANS

Action Plan no 1.

Description

Tervis does not agree with the finding. All employees that are converted from the staffing agency to Tervis payroll are given their seniority date with the staffing agency as well as fringe benefits effective as of conversion date (as long as they have worked 90 days with Tervis as a temporary employee.

Planned completion date

09/10/18

Company Action Plan Update

See above for finding.

FINDING NO.4

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

- 1.The current documentation kept by the factory does not identity the pregnancy status of female workers who have requested accommodations for lactation or other pre-or post-maternity needs. The current employee handbook does not include any accommodation for pregnancy or maternity status of female workers. ND.8.1, HOW.5.1
- 2.One of the temporary labor agencies relies on hand written time sign sheets to record the hours of work for the temporary workers assigned to the facility. This particular agency provides 135 workers in various departments or areas at the facility. ER.23.3
- 3.The factory infrequently requires involuntary overtime; the factory required all employees to work on Friday, November 24 and Saturday, November 25 of 2017. HOW.8.5
- 4.The facility's current policy on Overtime Pay of the facility's handbook (revision date Feb 2017) does not explicitly state that any or all overtime hours are consensual on the part of the worker. The handbook states "When it is necessary to work overtime, all employees are expected to take the customer's needs into consideration and comply with the schedule to the extent possible." HOW.8.2

Local Law or Code Requirement

Fair Labor Standards Act, Section 7 (Break Time for Nursing Mothers, March 2010); FLA Workplace Code (Employment Relationship Benchmarks ER.23.3;Nondiscrimination Benchmark ND.8.1; Hours of Work Benchmark HOW.5.1, HOW.8.2, and HOW.8.5)

Recommendations for Immediate Action

Ensure that all overtime is entirely voluntary.

COMPANY ACTION PLANS

Action Plan no 1.

Description

- a. Current payroll/HRIS system does not have the ability to track identity of pregnancy status in female workers. Tervis' intranet has a calendar where lactating mothers can reserve the Mother's Room for nursing and no management approval is needed. Handbook has been updated outlining this (attached below)
- b. All agency employees in 2018 and forward will use some sort of time keeping device to track attendance.
- c. Friday, November 24 (day after Thanksgiving) will remain a working day for all employees under Operations. We need all Operations employees to work Saturday, November 25 (Saturday after Thanksgiving) but does not give disciplinary action to any employee who cannot work that date.
- d. Handbook has been updated on overtime language.

Planned completion date

09/10/18

Company Action Plan Update

See notes above.

FINDING NO.5

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Workplace Conduct & Discipline

Finding Explanation

One of the temporary labor agencies does not have a disciplinary policy. Instead the factory management reports any behavior or action by a temporary worker which may violate the factory's workplace rules or regulations to the temporary labor agency. This agency did not have any steps for progressive discipline. ER.11.4

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.11.4)

COMPANY ACTION PLANS

Action Plan no 1.

Description

Tervis is working with all staffing agencies to ensure there is a disciplinary policy that the temporary employee is aware of and acknowledged.

Planned completion date

09/10/18

Company Action Plan Update

See above.

FINDING NO.6

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Environmental Protection

Finding Explanation

- 1.The factory does not segregate hazardous and non-hazardous waste. Electronic materials were co-mingled with cardboard, and gloves and rags used in the helix printing process are discarded directly in normal plastic bins. ER.1
- 2.The factory has not trained workers on reducing the environmental impact of the new stainless steel production process. ER1.1

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.1)

COMPANY ACTION PLANS

Action Plan no 1.

Description

Tervis has the City of Venice and OSHA come through our facility (in 2017) to check for environmental impacts. We do not co-mingle hazardous and non-hazardous waste. Tervis will include all of this for our stainless new hire training going forward.

Planned completion date

09/10/18

Company Action Plan Update

Employees are trained and aware Tervis does not co-mingle hazardous and non-hazardous waste.

FINDING NO.7

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

- 1.The facility has not conducted nor documented emergency evacuation drills with workers of the third shift during 2017. HSE.5.2
- 2.One interior room adjacent to the production area, which are used for different portions of the production process, did not have emergency exit signs or lights. HSE.5
- 3.The majority of workers in the main production area have arranged the materials carts so that there is no exit point. In case of an emergency evacuation these workers would not be able to exit their workstations without significant difficulty. HSE.5.1
- 4.Several aisles are partially blocked by materials and moving equipment. HSE.5.1
- 5.Materials and cardboard cartons are blocking one fire extinguisher in the main production area. HSE.6.1
- 6.Caution tape was across one of the emergency exit doors in the main production area. During the walkthrough management explained that this was unrelated to the door and had it removed. The assessor confirmed that the door functions. HSE.5

Local Law or Code Requirement

FLA Workplace Code (Health, Safety, and Environment Benchmarks HSE.5.1, HSE.5.2, and HSE.6.1)

Root Causes

1. Conduct emergency evacuation drills for all shifts.
2. Install emergency exit signs and lights for the interior rooms.
3. Ensure that works are not boxed in to their work areas.
4. Ensure that no items are blocking the evacuation routes.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. 3rd Shift was not operating in 2017 so there was no fire drill to be ran. Fire drill has been ran on all five shifts in 2018 (documentation attached)
2. Correct signage is being evaluated at this time.
3. Material carts are all on wheels and can be easily moved in case of emergency evacuation. Tervis has implemented safety walks on the floor three times per week to ensure aisles are open.
4. All materials that were blocking the aisles have been moved and Tervis has implemented safety walks on the floor three times per week to ensure the safety of employees.
5. Caution tape was removed and door functions.

Planned completion date

09/10/18

Company Action Plan Update

See above, items completed.

FINDING NO.8

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The cable for the forklift charging station was repaired using electrical tape. HSE.16
2. The power plug for the helix process heat treatment machine was hanging partially out of the socket with the tines visible. Carts of materials for the machine are placed directly in front of this plug and are likely causing it to be pulled from the socket. HSE.16
3. There is an unlabeled chemical bottle mixed with other chemical bottles in the helix printing area. HSE.9.1

Local Law or Code Requirement

FLA Workplace Code (Health, Safety, and Environment Benchmarks HSE.9 and HSE.16)

Recommendations for Immediate Action

1. Repair the charging station cable with heat-shrink tubing.
2. Ensure that all machines are safely attached to power outlets.
3. Label all chemical bottles.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Tervis has replaced the cable to the forklift charging station. No use of electrical tape.
2. The electrical power plug has been repaired.
3. The chemical bottle is clearly labeled in the helix printing station.

Planned completion date

09/10/18

Company Action Plan Update

See above, all items completed

FINDING NO.9

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

The facility declared mandatory shutdown for 6 days in March 2017. Workers were required to use voluntary time off to receive wage payments during this period. HOW.19.2

Local Law or Code Requirement

FLA Workplace Code (Hours of Work Benchmark HOW.19.2)

COMPANY ACTION PLANS

Action Plan no 1.

Description

Tervis makes every attempt we can to prevent any shutdowns of the plant and will keep doing so.

Planned completion date

09/10/18

Company Action Plan Update

Tervis makes every attempt we can to prevent any shutdowns from occurring.

FINDING NO.10

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Policies & Procedures (Macro)

Finding Explanation

- 1.The factory does not have a formal written policy and procedures governing any aspects or modes of Retrenchment. Additionally, the factory has not provided communication and training to any workers or worker representatives on retrenchment. Due to a lack of policy and procedures, the facility management has not conducted periodic review of the same. ER.1, ER.16, ER.32
- 2.The factory does not have a formal written policy and procedures regarding Industrial Relations and Freedom of Association. The facility has not provided communication and training to all level of workers or worker representatives. Due to a lack of policy and procedures, the facility management has not conducted periodic review of the same. FOA.2, ER.1, ER.17.1, ER.25.1
- 3.The factory does not have formal written policy and procedures regarding Grievances, including a mechanism for anonymous reporting of a grievance. The facility has not provided communication to all workers. The facility has not provided training, whether at hire or at annual refresher, to all level of worker. Due to a lack of policy and procedures, the facility management has not conducted periodic review of the same. ER.1, ER.2, ER.16, ER.25

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.16, ER.17, ER.25, and ER.32: Freedom of Association Benchmark FOA.2)

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. All employees releases during reduction in force are not eligible for rehire. Policy will not be added to the employee handbook.
2. Tervis has placed all the standard labor law posters throughout all employee bulletin boards.
3. Tervis employee handbook has policies on bringing forward grievances and talks about our open door policy, anonymous intranet site where employees can send questions and comments to company owners.

Planned completion date

09/10/18
Company Action Plan Update
See above