



COMPANIES: Creative Converting

COUNTRY: United States

ASSESSMENT DATE: 09/23/16

ASSESSOR: Miriam Rodriguez

PRODUCTS: Apparel

NUMBER OF WORKERS: 481

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: Termination & Retrenchment

Finding Explanation

- 1.The factory does not have a policy or procedures on Retrenchment. As a result, the factory has also not communicated their Retrenchment policy and procedures with the general workforce.
- 2.The factory's Termination & Retrenchment policies and procedures do not require management to consult with workers and/or their representatives before reaching a final decision on layoffs.
- 3.The factory does not provide ongoing training to workers or specific training to supervisors on Retrenchment.
- 4.One of the temporary employment agencies' handbook does not outline or advise workers, whether potential or active, if the agency follows Wisconsin "at will" employment guidelines. The employment agency requires workers to sign the following statement: "If I am unable to complete the assignment, and that if I fail to give this notice, I will be paid at minimum wage," meaning the temporary workers' last paycheck will be docked, reducing their wage from \$12.00 per hour to the federal minimum wage of \$7.25 per hour. This requirement of a one week notice and punitive action would violate Wisconsin's "at will" employment guidelines.
- 5.The factory does not periodically review its policies and procedures on Retrenchment and does not update these policies and procedures according to local law/FLA regulations.

Local Law or Code Requirement

Wisconsin "At Will" Employee Guidelines; FLA Workplace Code (Harassment or Abuse Benchmark H/A.2; Employment Relationship Benchmarks ER.1, ER.10.2.3, ER.16.1, ER.17.1, ER.27.2.1, and ER.32.3

COMPANY ACTION PLANS

Action Plan no 1.

Description

The company is going to be working on developing layoff guidelines and is consulting with remedial action for the verbiage of temp agency contract with their employees

Planned completion date

09/08/18

FINDING NO.2

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

1. Temporary workers hired through temporary employment agencies do not have a direct employment relationship with the factory. At the time of the assessment, there were 35 workers hired through temporary employment agencies out of 391 manufacturing employees. The factory does not have contracts with the temporary employment agencies that ensure equality of compensation and workplace standards or give the factory the power to directly pay temporary workers' wages.
2. The factory's personnel files for active temporary agency workers assigned to the factory are limited; they only include documents related to training and time clock records. Permanent personnel files for temporary workers are only maintained by the temporary employment agency.
3. The factory does not correctly complete Employment Eligibility forms (I-9). During a record review, assessors identified three I-9 forms (out of 21) which were either missing a date of hire or were not signed by the HR manager or the employee.
4. The factory has not posted the FLA Workplace Code in common areas, nor communicated the Code to all workers.

Local Law or Code Requirement

Control of Employment of Aliens 8 C.F.R., Section 274a.2; FLA Workplace Code (Employment Relationship Benchmarks ER.1.1, ER.6.1, ER.11.5, and ER.16.1)

COMPANY ACTION PLANS

Action Plan no 1.

Description

We are working with legal and temporary agencies to establish a contract with all agencies we work with. We conducted an I9 audit of employee data. We are evaluating the FLA posting.

Planned completion date

09/08/18

FINDING NO.3

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Compensation

Finding Explanation

The factory only provides seniority and fringe benefits to permanent workers. Interviews with factory management confirmed that workers are converted to the factory's payroll from the temporary employment agency's payroll if the company has an open job position for a qualified individual. During 2016, approximately 29 temporary workers have been converted to permanent workers, and four other temporary workers are expected to be hired as permanent workers in the September/October 2016 period. However, when workers are converted to the factory's payroll and become permanent workers, their seniority is dated to their first day as a permanent worker, rather than their first day as a temporary worker at the factory. This practice does not comply with the FLA Code and Benchmarks which stipulate that for any temporary worker who becomes a permanent worker, seniority and other fringe benefits must be dated from their first day as a temporary worker.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.12)

COMPANY ACTION PLANS

Action Plan no 1.

Description

Our guidelines are that seniority and fringe benefits begin at the date of full-time employment. We will continue to follow these guidelines.

Planned completion date

FINDING NO.4

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

- 1.Management does not maintain records identifying all pregnant women and nursing mothers who are entitled to legal protections concerning working hours, as per the Fair Labor Standards Act. However, factory management provides access to the nurse's office for any female employee who requests such accommodations.
- 2.The FLA affiliate's employee handbook (also used by the factory) states that "[a]ll employees are expected to be flexible in their shift assignments and may be required to work overtime and/or a twelve (12) hour schedule subject to business needs." In practice, however, the factory does not implement this clause.
- 3.The factory periodically reviews its policies and procedures on Hours of Work, but it does not make sure that these policies and procedures are updated according to the FLA Workplace Code and Benchmarks.

Local Law or Code Requirement

Fair Labor Standards Act (FLSA), Section 7(R); FLA Workplace Code (Hours of Work Benchmarks HOW.5.1 and HOW.8.2)

Recommendations for Immediate Action

Do not require workers to work overtime. Revise the employee handbook and remove any mention of required overtime. Communicate this new policy to workers.

COMPANY ACTION PLANS

Action Plan no 1.

Description

We are in compliance with federal and state laws regarding hours of work and identification/resources for pregnant women.

Planned completion date

09/08/18

Company Action Plan Update

We have added additional staffing and equipment, and continue to do so, to reduce the amount of overtime needed but still run into periods where overtime is a necessity. When meeting customer needs requires the use of overtime, we try to give as much notice as possible and give consideration to the needs of our employees and give them leeway if personal obligations come up that affect their ability to work overtime. We are also working on process improvements with scheduling to further reduce OT needs. Our 3 - 4 year plan to reduce and minimize overtime is attached. We are in compliance with federal and state laws regarding hours of work and identification/resources for pregnant women.

FINDING NO.5

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

- 1.The factory does not have policies or procedures on Industrial Relations.
- 2.The factory does not cover Industrial Relations, including Freedom of Association, during the orientation training provided to new workers.
- 3.The factory does not provide ongoing training on Industrial Relations for the general workforce.
- 4.The factory does not provide specific training for the relevant supervisors on Industrial Relations.
- 5.Since the factory does not have policies and procedures on Industrial Relations, management does not regularly communicate with the general workforce on Industrial Relations, nor does it have established procedures for consulting with workers' representatives.
- 6.Since the factory does not have policies and procedures on Industrial Relations, management does not conduct a periodic review of

these policies and procedures and update them according to local laws/FLA regulations.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.1, ER.1.2, ER.1.3, ER.15.1, ER.16.1, ER.17.1, and ER.26)

COMPANY ACTION PLANS

Action Plan no 1.

Description

We are in compliance with all state and federal laws regarding these postings, policies and practices

Planned completion date

09/08/18

Company Action Plan Update

We are in compliance with all state and federal laws regarding these postings, policies and practices

FINDING NO.6

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Workplace Conduct & Discipline

Finding Explanation

1.The factory does not ensure that all Workplace Conduct procedures are updated according to FLA Code requirements.
2.The factory's procedures on Workplace Conduct does not outline how workers can appeal disciplinary actions taken against them or require a third-party witness to be present during the imposition of disciplinary actions.
The temporary employment agencies utilized by the factory have not developed a progressive disciplinary system, nor communicated that system to their workers.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.1, ER.27.1, and ER.27.4)

COMPANY ACTION PLANS

Action Plan no 1.

Description

We are in compliance with state and federal laws and have a Conflict Resolution policy that outlines paths for action by an employee

Planned completion date

09/08/18

Company Action Plan Update

We feel that the third party complaint system - My Safeworkpalce serves as an appeal process and we train on our Conflict Resolution process and steps annually. Human Resources is always involved with the manager for any discipline issues.

FINDING NO.7

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1.The factory provides all Personal Protective Equipment (PPE) to workers free of charge – including safety glasses, hearing protection, and gloves – except for safety shoes. Every two years, the factory allocates up to \$200.00 to each worker towards the cost of a pair of safety shoes and the worker is responsible for the balance of the cost.
2.The temporary employment agencies do not reimburse workers for the cost of safety shoes.

Local Law or Code Requirement

FLA Workplace Code (Health, Safety & Environment Benchmark HSE.7)

Recommendations for Immediate Action

1. Provide workers with all forms of PPE, including safety shoes, free of charge.
2. Provide temporary workers with safety shoes, free of charge, or ensure that the employment agencies fully reimburse workers for the cost of safety shoes.

COMPANY ACTION PLANS

Action Plan no 1.

Description

We are in compliance with state and federal regulations. https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=FEDERAL_REGISTER&p_id=20094

The first exception addresses non-specialty safety-toe protective footwear and non-specialty prescription safety eyewear. (See 29 CFR 1910.132(h)(2); 1915.152(f)(2); 1917.96(a); 1918.106(a); 1926.95(d)(2)) The regulatory text makes clear that employers are not required to pay for ordinary safety-toe footwear and ordinary prescription safety eyewear, so long as the employer allows the employee to wear these items off the job-site.

We also offer reimbursement for employees for this equipment, but not total cost.

Planned completion date

09/08/18

Company Action Plan Update

If employees are hired on fulltime, we will reimburse them for the safety wear they had to purchase.

FINDING NO.8

NOTABLE FEATURE

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

The factory has a partnership with a vocational rehabilitation facility that provides employment opportunities for adults who face barriers to traditional employment. The factory has been participating in this program for the last 10 years. The vocational rehabilitation facility screens potential candidates for placement at various businesses and locations. Through job skills assessments and community job coaches, individuals over the age of 18 are placed at the factory to work in the display section of the warehouse. These individuals are trained to pack and set up the display cases to be used in stores to display paper products (cups, plates, and tablecloths). At the time of the assessment, there were 20 to 30 participants working at the factory. The work schedules are adjusted for these workers, but they work 8 hours per day from 7 AM to 3 PM. The participants are not paid by the factory- they receive a stipend and assistance from Health & Human Services (a government agency).