



FAIR LABOR
ASSOCIATION®

INDEPENDENT EXTERNAL ASSESSMENT REPORT



Verification Assessment

COMPANIES: Nike, Inc
COUNTRY: Malaysia
ASSESSMENT DATE: 12/12/18
ASSESSOR: Donny Triwandhani
PRODUCTS: Apparel
NUMBER OF WORKERS: 831

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.

Previous Report Findings and Verification Results

PREVIOUS FINDING NO.1

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

1. The factory uses two labor agencies to recruit migrant production workers from Myanmar, Vietnam, Sri Lanka, Indonesia, and Nepal for production who sign an employment contract directly with the factory and are directly paid by the factory. The factory currently has 601 migrant workers out of a total of 726 production workers. Interviews with migrant workers showed that the factory takes their original passports at the time of arrival at the airport. Migrant workers are only provided with a copy of their original passport. Based on randomly selected migrant workers at the workplace, none of them kept the original passport. However, three migrant workers from Vietnam who were called by the Human Resources staff to be interviewed in the meeting room were carrying the original passport in their pocket. According to factory management, around 200 migrant workers kept their own passport; however, there was no evidence to support this statement. The factory keeps a written consent letter on their passports being kept at the factory signed by the migrant workers in each workers' personal file. The workers stated that they have no choice other than signing such a consent letter since everyone else is also signing it. Thus, the migrant workers do not have free and easy access to their original passports and are unclear about their rights to keep their passport to themselves. 2. Two migrant workers reported that they went back to their countries of origin for 2-4 weeks of vacation within the past three months and were asked to provide cash deposits equal to the balance of levy (tax for Malaysia government) by the HR department prior to taking their original passport. The cash deposit was returned to the workers after they returned and submitted the passport back to the factory.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.5.8; Forced Labor Benchmark F.7, F.9, and F.10)

Recommendations for Immediate Action

1. Ensure all migrant workers keep their original passports, or establish a system for migrant workers to keep their passports in a safe place, such as individual lockers. Ensure that migrant workers can access their passports at all times without any cash deposit requirements. 2. Regularly train and communicate to migrant workers regarding their rights on Recruitment, Hiring & Personnel Development. Return the passports to the migrant workers who want to keep their passports to themselves.

VERIFICATION RESULT

Finding Status

Remediated

Remediation Details

1. Finding Status Remediated

Explanation: According to assessors' onsite observations and interviews with management and workers, the factory provides each migrant worker with a secure box in which to store their original passport. These boxes are located in a room near the factory's main gate. The workers use their own padlocks to lock their box and keep the keys. The migrant workers use a biometric finger scanner to gain entry to the room. During the verification assessment, all selected migrant workers were able to demonstrate their ability to open their safety box and show assessors their original passport.

2. Finding Status Remediated

Explanation: According to a document review and interviews with management and workers, the factory no longer collects cash deposits from migrant workers before they return to their countries of origin for vacation.

PREVIOUS FINDING NO.2

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

1. The performance review was not conducted for all workers. The review process is more for supervisors and above level. Moreover, there was no procedure of performance reviews that includes steps and processes, demonstrates linkages to job grading, prohibits discrimination, provides written feedback, and complies with legal requirements. 2. There is no procedure on raising or broadening skills in order to advance workers in their careers. No the steps and requirements in the promotion, demotion and reassignment scheme. 3. The factory does not have any procedures on recruitment, hiring and personnel development. 4. The factory does not have procedures to request and/or receive workers' input/feedback regarding the creation, implementation, and updating of its policies and procedures. Workers are neither systematically integrated nor consulted on most of decision-making processes. 5. The factory does not clearly define the responsible person for the following Employment Functions: Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Termination & Retrenchment, Workplace Conduct & Discipline, Grievance System, Environmental Protection. 6. The factory has not developed policies and procedures on review process to ensure updates are made according to local law and FLA Workplace Code requirements. As a result, the factory management does not periodically review its policies and procedures for all Employment Functions, except on Health & Safety.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.1, ER.1.2, ER.1.3, ER.28.1; ER.29, and ER.30)

VERIFICATION RESULT

Finding Status

Partially Remediated

Remediation Details

1. Finding Status Partially Remediated

Explanation: According to a document review and management interviews, the factory established procedures on performance reviews. However, they do not include steps and processes, demonstrate linkages to job grading, provide written results to workers, seek written feedback from workers, or comply with legal requirements. In addition, although the performance review policy applies to all workers, not all workers receive regular performance reviews. In practice, performance reviews are only conducted for new workers during the first six month of employment and for workers who are going to be promoted. [ER.1, ER.29]

Root Causes: The compliance manager overlooked this issue.

2. Finding Status Partially Remediated

Explanation: The factory established procedures regarding promotions and raising or broadening workers' skills in order to advance them in their careers. However, there are still no procedures on the demotion and job reassignment scheme. [ER.1, ER.30]

Root Causes: The compliance manager overlooked this issue.

3. Finding Status Remediated

Explanation: The factory established procedures on Recruitment, Hiring & Personnel Development on January 25, 2018.

4. Finding Status Partially Remediated

Explanation: In practice, the factory requests workers' input and feedback regarding the creation, implementation, and updating of its policies and procedures. Workers are systematically integrated and consulted in decision-making processes. However, there are no procedures established on this topic yet. [ER.1, ER.25]

Root Causes: The factory compliance team is still in the process of creating these procedures after meeting with worker representatives on November 30, 2018.

5. Finding Status Remediated

Explanation: The factory has clearly defined the person in the factory responsible for all of the Employment Functions.

6. Finding Status Partially Remediated

Explanation: In practice, the factory regularly reviews and updates all of its policies and procedures. However, there are no policies and procedures on the review process. [ER.1, ER.29, ER.30, ER.31]

Root Causes: The factory compliance team is still in the process of creating these procedures after meeting with worker representatives on November 30, 2018.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.25, ER.29, ER.30, and ER.31)

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Factory has implemented the performance review program towards general workforce, which means all of the employees, not only the employees that to be promoted will receive a review of its performance at each year. (Please see attached Annex 1.1 annual performance review policy , Annex 1.2 SOP performance review & Annex 1.3 Worker performance review report)
2. Factory has developed the procedure for demotion and job reassignment. (Please see attached Annex 2,1 SOP demotion & Annex 2.2 SOP job reassignment)
3. Factory has developed the worker integration procedure that included the step for how worker input feedback regarding the policy & procedure implementation, creation and update. (Please see attached Annex 3.1 SOP worker integration in policy & procedure update/creation)
4. Factory has developed the policy & procedure review policy and SOP worker integration in policy & procedure update/creation. (Please see attached Annex 3.1 SOP worker integration in policy & procedure update/creation & Annex 3.2 Policy & procedure review policy)

Company Action Plan Update

1. Completed
2. Completed
3. Completed
4. Completed

PREVIOUS FINDING NO.3

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

1. According to Malaysian government regulations, migrant workers headed to the country are required to undergo a medical examination before departing their countries of origin, and are to be re-examined within one month of their arrival in Malaysia, including tests for pregnancy as well as tuberculosis, hepatitis B, syphilis, HIV, malaria and leprosy. A private firm, the Foreign Workers

Medical Examination Monitoring Agency (FOMEMA), which oversees the administration of the medical examinations under a contract with the Malaysian Ministry of Health, provides a list of physicians from which employers can choose a provider to examine their migrant employees. The examination involves recording of the worker's medical history, physical examination, blood tests, urine tests and X-rays. Subsequently, migrant workers are subject to annual medical examinations for the first three years of employment on an annual basis. If the migrant worker tests positive in the abovementioned tests, including pregnancy, during the first three years of employment, the Immigration Department will not renew their work permit and the factory will be required to send the worker back to the country of origin. If the employer continues to employ the migrant worker, the employer is charged with a penalty of RM 10,000 (USD 2467) or 6 months of jail term. An employer, who does not report any of these conditions, including pregnancy, of a migrant worker to the authorities, will also have their security bond confiscated, for which the employer pays between RM 250 (USD 62) and RM1500 (USD 370) depending on the nationality of the migrant worker. The security bond is a legally required bank guarantee for the issuance of the visa for the migrant worker. Based on this law, the factory has sent a number of migrant workers, who failed the medical examination, back to their country of origin. While legal, this practice is in violation of FLA Benchmarks stating that employers shall not, on the basis of a person's health or pregnancy status, make any employment decisions that negatively affect the person's employment status. As a general principle, in cases where the local law and the FLA standard conflict, the stricter of the two standards apply. Therefore, the employer, in collaboration with the buyer and other stakeholders, is recommended to lobby the Malaysian government to change the regulations so that work permit is not contingent on the medical examination of the migrant worker.

Local Law or Code Requirement

FLA Workplace Code (Discrimination Benchmarks ND.9 and ND.10)

VERIFICATION RESULT

Finding Status

Not Remediated

Remediation Details

1. Finding Status: Not Remediated

Explanation: Since the local law has not changed, the factory continues to send migrant workers who fail their medical examinations back to their country of origin. In June 2018, two migrant workers from Nepal failed their medical examinations. While legal, this practice is in violation of FLA Benchmarks stating that employers shall not, on the basis of a person's health or pregnancy status, make any employment decisions that negatively affect the person's employment status. As a general principle, in cases where the local law and the FLA standard conflict, the stricter of the two standards apply. Therefore, the factory, in collaboration with the FLA-affiliate and other stakeholders, is recommended to lobby the Malaysian government to change the regulations so that migrant workers' work permits are not contingent on the results of a medical examination. [ND.5, ND.7, ND.9, ND.10]

Root Causes: The local law has not changed.

Local Law or Code Requirement

FLA Workplace Code (Non-Discrimination Benchmarks ND.5, ND.7, ND.9 and ND.10)

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Foreign worker medical examination are under the rule of Malaysia Immigration Department law and regulation

2. Top management will contact Malaysia Textiles Manufacturing Association (MTMA) to bring this issue to discuss with Malaysia government

PREVIOUS FINDING NO.4

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. The factory includes overtime as a regular practice into production planning. Based on selected 40 sample of time records from January 2015 to November 2015, it was noted that approximately 60% out of the 40 sampled workers in the cutting, sewing, finishing and packing sections worked more than 60 hours per week, ranging from 62 to a maximum of 75.5 hours in February, March, June, August, October and November 2015. Moreover, approximately 10% of them worked daily excessive hours, exceeding the legal limit of 12 hours per day for up to a maximum of 13 hours in June and October 2015.

Local Law or Code Requirement

Employment Act (1955), Sec. 60A(7); FLA Workplace Code (Hours of Work Benchmarks HOW.1.1, HOW.1.3, HOW.8.1, HOW.8.3, and HOW.8.4)

Recommendations for Immediate Action

1. Ensure that workers do not work more than 60 hours per week, including overtime. 2. Ensure that workers do not work more than the legal limit of 12 hours per day. 3. Ensure that overtime is not included in the regular production planning. 4. FLA affiliate Company's Sourcing and Social Compliance teams should: a) implement FLA Principles of Fair Labor and Responsible Sourcing and b) accordingly coordinate on the topics mentioned below to help the factory address its excessive hours issue: How to provide better order forecasts to the factories; Possible workshops/consultancy for the factory on how to improve; 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; Clear guidelines on how and when the factory can use subcontractors and/or temporary workers to avoid excessive overtime.

VERIFICATION RESULT

Finding Status

Remediated

Remediation Details

1. Finding Status (Remediated)

Explanation: The factory no longer includes overtime in production planning. According to a randomly selected sample of time records from the past 12 months, working hours do not exceed 12 hours per day or 60 hours per week. On average, workers work 56 hours per week and at most they work 60 hours per week.

PREVIOUS FINDING NO.5

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Workplace Conduct & Discipline

Finding Explanation

1. The disciplinary procedures do not include the presence of a third-party witness during application of disciplinary actions.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.27.4)

VERIFICATION RESULT

Finding Status

Remediated

Remediation Details

1. Finding Status (Remediated)

Explanation: According to a document review, the factory's Workplace Conduct & Discipline procedures require the presence of a third-party witness during the imposition of disciplinary actions.

PREVIOUS FINDING NO.6

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Environmental Protection

Finding Explanation

1. There is no procedure for reporting environmental concern and protection for workers who raise environmental concerns. 2. The factory does not have an environmental aspect-impact analysis for its surrounding environment. 3. The factory does not train new workers, general workers and supervisors on environmental protection program. 4. The white oil containers are not stored in the secondary containment in chemical storage area. Additionally, used florescent bulbs are stored at the emergency exit near the sample room. 5. Waste records show that the factory is generating hazardous waste, such as chemical container waste and used lighting. However, the waste contractor who collects all waste from factory does not have a legally required license to collect hazardous waste.

Local Law or Code Requirement

Environment Quality (Scheduled Wastes) Regulations (1989), Sec. 8; Environmental Quality Act (1974), Sec. 22(1); FLA Workplace Code (Employment Relationship Benchmarks ER.17.1, ER.31.2, and ER.31.3; Health, Safety & Environmental Benchmarks HSE.1, HSE.4, and HSE.9.1)

Recommendations for Immediate Action

1. Designate an area for hazardous waste storage. Ensure that all hazardous waste is stored in the designated area, including lighting waste. Provide secondary containment for the white oil containers in the chemical storage room. 2. Arrange for a licensed waste collector to collect hazardous waste, as legally required.

VERIFICATION RESULT

Finding Status

Partially Remediated

Remediation Details

1. Finding Status (Partially Remediated)

Explanation: According to a document review, the factory established procedures that enable workers to report environmental concerns and provide protection against retaliation for workers who raise environmental concerns. However, the procedures do not clearly state the steps that should be taken to protect workers against retaliation. [ER.1, ER.31]

Root Causes: The Occupational Health & Safety (OHS) team who created the procedures overlooked this.

2. Finding Status (Partially Remediated)

Explanation: According to a document review, the factory conducted an Environmental Impact Analysis (EIA); however, the analysis did not cover the finished goods warehouse the existing impact controls do not clearly stipulate what needs to be done to minimize air emissions. [HSE.1]

Root Causes:

1. The factory OHS team was in the process of conducting the EIA during the assessment and had not yet analyzed the finished goods warehouse.

2. The DOE officers have not yet scheduled a time to conduct an air emission test at the factory.

3. Finding Status (Partially Remediated)

Explanation: According to a document review, ongoing training on Environmental Protection has been provided to 583 out of 757 employees. All seven supervisors were trained at the same time as the workers, instead of being trained separately so that they could receive more in-depth information. In addition, 22 workers who were hired in December 2018 did not receive orientation training on Environmental Protection. Workers who were hired before December 2018 did receive orientation training on Environmental Protection. [ER.1, ER.15, ER.17]

Root Causes:

1. The Environmental Protection training provided to workers is ongoing training. The 174 workers who have not been trained yet will be trained during the next training session.

2. No one at the factory was aware that supervisors need to be trained differently than workers.

4. Finding Status (Partially Remediated)

Explanation: According to a factory tour, there is secondary containment for the white oil containers in the chemical storage area.

However, used florescent lightbulbs are stored together with new lightbulbs instead of with the other toxic and hazardous waste. In addition, the used lightbulbs are not labeled, which makes it difficult to identify which lightbulbs are new and which are used. [HSE.9]

Root Causes: The OHS team is not aware that there should be a separate storage area for toxic and hazardous waste generated by the factory.

5. Finding Status (Not Remediated)

Explanation: Based on management interview, the company who collects waste from the factory does not have a license to handle hazardous waste. [ER.2, HSE.1, HSE.4]

Root Causes: Management considers it to be cheaper to allow an unlicensed company to collect their waste than to implement their other options, which are:

- a. Engage a government authorized waste handling company;
- b. Obtain authorization from the DOE to dispose of their own toxic and hazardous waste.

Local Law or Code Requirement

Environment Quality (Scheduled Wastes) Regulations (1989), Sec. 8; Environmental Quality Act (1974), Sec. 22(1); FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.2, ER.15, ER.17, and ER.31; Health, Safety & Environmental Benchmarks HSE.1, HSE.4, and HSE.9)

Recommendations for Immediate Action

1. Store used florescent lightbulbs in the toxic and hazardous waste storage area instead of with the new lightbulbs, Label all toxic and hazardous waste, including the used fluorescent lightbulbs.
2. Commission a licensed hazardous waste disposal company to dispose of the factory's hazardous waste. Alternately, obtain a license for the factory to dispose of the hazardous waste itself.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. The steps to protect the workers against retaliation for HSE concern have been added in procedure. (Please see attachment Annex 4 procedure to protection against retaliation for HSE concerns point 7.4)
2. A. Environmental Impact Analysis in finish goods area has been conducted

B. DOE officer was not the one to conduct the air emission test, the air emission test should be conducted by third party certified person.

C. As the finish goods warehouse do not have any machine or equipment that will emit air emission, than no air emission test in this area require.

(Please see attachment Annex 5.1 Environment Impact Assessment at finish goods area)
3. Training for all supervisor included the 7 supervisors has been conducted (Please see attachment Annex 6.1 HSE training for supervisor) and environmental protection training has been conducted to these 174 workers (Please refer attachment Annex 6.2 Environment Protection Training)
4. Lighting bulbs were placed at the specified storage area and label accordingly (Please refer attachment Annex 7 lighting bulb storage area)
5. Factory is in progress to engage with local license hazardous waste collector. (Please see attachment Annex 8 Schedule Waste Handling Company Quotation)

Company Action Plan Update

1. Completed
2. Completed
3. Completed

4. Completed

5. In-progress

PREVIOUS FINDING NO.7

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. Based on Emergency Respond Team (ERT) structure, there is no specific person in charge during an emergency. Also, the team does not have clear rules and responsibilities defined for handling emergency situation. Hence, the structure does not have person in charge for managing fire equipment or arranging the evacuation process, and no steps how to ensure that all personnel, visitors, contractors, service providers are safely evacuated. In addition, the factory does not have a list of employees responsible for managing ERT.
2. Since factory does not have fire risk assessment, fire risk is not properly considered and addressed properly.
3. One fire extinguisher in the sewing department is under pressured. In addition, one hose hydrant in the sewing department is obstructed by cleaning tools.
4. The emergency exit in the cutting department and sample room is blocked by the automatic cutting machines. In addition, one of the three exits in packing and finished good warehouse was locked during the assessment.
5. There are no exit signs in the packing and warehouse area (1 out of 2 exits), and cutting area (1 out of 4 exits).
6. Many evacuation markings on the production floor (yellow line and arrow sign) are blocked by machines in the cutting and sewing sections. According to management, this happened due to a renovation process in factory.
7. The factory does not have any maintenance safety training.
8. The factory does not have appropriate Personal Protective Equipment (PPE) to fight fires, such as breathing apparatuses, axes, helmets, and fire proof jackets.

Local Law or Code Requirement

Occupational Safety and Health (Control of Industrial Major Accident Hazards) Regulations (1996), Sec. 18(1); Factories and Machinery Act (Act 139) (1967), Sec. 13; Factories and Machinery (Safety, Health & Welfare) Regulations (1970), Sec. 21(3); FLA Workplace Code (Employment Relationship Benchmark ER.31.2; Health, Safety & Environment Benchmarks HSE.5.1 and HSE.6.1)

Recommendations for Immediate Action

1. Ensure all firefighting equipment are adequately charged and readily accessible.
2. Ensure that all exit doors are clear of obstructions and unlocked during working hours.
3. Provide exit signs for the exit doors in packing, warehouse, and cutting areas.
4. Ensure all evacuation paths are clear of any obstructions.

VERIFICATION RESULT

Finding Status

Not Remediated

Remediation Details

1. Finding Status (Remediated)

Explanation: According to a review of the Emergency Respond Team (ERT) structure, the factory has appointed an Incident Commander to be in charge during an emergency. There are also people appointed to be in charge of evacuations and the fire-fighting equipment as well. Clear rules and responsibilities are established for each ERT member and there is a list of employees responsible for managing the ERT. There are also steps to ensure that all personnel, visitors, contractors, and service providers are safely evacuated.

2. Finding Status (Remediated)

Explanation: According to a document review, the factory has conducted a fire risk assessment that identifies fire risks and the actions necessary to control these risks.

3. Finding Status (Remediated)

Explanation: According to a factory tour, all of the fire extinguishers are correctly pressurized and none of the hoses are obstructed.

4. Finding Status (Remediated)

Explanation: According to a factory tour, the emergency exits in the cutting department and the sample room are unobstructed. In addition, none of the exits were locked during the assessment.

5. Finding Status (Partially Remediated)

Explanation: According to a factory tour, there are exit signs installed for three exits in the cutting area; the fourth exit in the cutting area is no longer in use. However, there is one exit in the packing and finished goods area that does not have an exit sign. [HSE.1, HSE.5]

Root Causes: The OHS team did not think it was necessary to install an exit sign for the door in the packing and finished goods area since it does not lead directly towards the nearest emergency exit.

6. Finding Status: Remediated

Explanation: According to a factory tour, the evacuation markings are clearly visible, and no blockage found.

Root Causes: N/A

7. Finding Status: (Remediated)

Explanation: According to a document review, the maintenance workers received maintenance safety training in August and December 2018.

8. Finding Status (Not Remediated)

Explanation: According to a document review and management interviews, the factory does not have the appropriate fire-fighting equipment and PPE, such as breathing apparatuses, axes, helmets, and fire proof jackets. [HSE.6, HSE.7]

Root Causes:

1. Management has not purchased this PPE since the factory is only about 4 km from the nearest fire department.
2. The required PPE is very expensive.

Local Law or Code Requirement

Uniform Building by Law Art. 172. (1 – 2), Art 225 (1); FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.5, HSE.6, and HSE.7)

Recommendations for Immediate Action

1. Install illuminated exit signs at every exit in the packing and finished goods area.
2. Provide the appropriate fire-fighting equipment and PPE (i.e. breathing apparatuses, axes, helmets, and fire proof jackets).

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Exit signage at packing has been installed and marking as an exit. (Please refer attachment Annex 9 exit door at finish goods)

2. During yearly fire department inspection, they didn't ask for these equipment to be kept in the factory, furthermore, factory is only 4km away from the nearest fire department. Moreover, factory has issues a letter to confirm with fire department whether it is necessary to provide such equipment as during any fire emergency, all of the people except fire-fighter need to be evacuated from the premises.

Factory has purchased the needed fire-fighting equipment, please refer Annex 10.1 and Annex 10.2

(Please refer attachment Annex 10 quotation of fire-fighting equipment, Annex 10.1 Fire-fighting equipment, Annex 10.2 Fire-fighting equipment)

Company Action Plan Update

1. Completed

2. Completed

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The wiring in the male migrant worker dormitory is not properly maintained. 2. One of the two exits in the male migrant worker dormitory is blocked. 3. One emergency exit in the female migrant dormitory does not have an exit sign to identify it as such. 4. The female migrant worker dormitory does not have clear evacuation lines and evacuation map. According to management, this is due to the renovation process in the dormitory. The factory has a three floor dormitory building with 4 to 8 migrant workers per dorm depending on the size. The migrant workers store personal goods outside the building since the dormitories are too crowded. In addition, the factory also stores materials for construction and renovation outside the building, posing a risk for safe evacuation due to the disorganized environment. 5. The female migrant worker dormitory does not have a first aid box. 6. The male migrant worker dormitory has disorganized electrical cables in the bedroom, and the kitchen and gathering area have not been properly cleaned.

Local Law or Code Requirement

Factories and Machinery Act (Act 1939) (1967), Sec. 25(1)- (c); Workers' Minimum Standards of Housing and Amenities Act (1990), Art. 23; Factories and Machinery (Fencing of Machinery and Safety) Regulations (1970), Sec. 11; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.5.1, HSE.6.1, HSE.13, and HSE.25.1)

Recommendations for Immediate Action

1. Ensure that the wiring in dormitories is properly installed and maintained. 2. Ensure all exits are clear of obstructions. 3. Provide exit signs, clear evacuation lines and evacuation maps in all dormitories. 4. Ensure first aid kits are available in all dormitories. 5. Ensure all dormitories are kept clean and organized.

VERIFICATION RESULT

Finding Status

Partially Remediated

Remediation Details

1. Finding Status: Remediated

Explanation: According to a dormitory tour, the wiring in the men's migrant worker dormitory is properly maintained.

2. Finding Status: Remediated

Explanation: According to a dormitory tour, the exits in the men's migrant worker dormitory are unobstructed.

3. Finding Status: Remediated

Explanation: According to a dormitory tour, the emergency exits in the women's migrant worker dormitory all have exit signs.

4. Finding Status: Partially Remediated

Explanation: According to a dormitory tour, the women's migrant worker dormitory has clear evacuation lines, workers are able to store their personal items inside their rooms, there is enough space for workers inside each room, and there are no construction materials lying around that could pose a risk during an evacuation. In addition, there is an evacuation map posted in the dormitory; however, the map does not indicate the viewer's actual location. [HSE.5, HSE.25]

Root Causes: The person who made the evacuation map is not the same person who posted it. As a result, the map was posted in the wrong location.

5. Finding Status: Remediated

Explanation: According to a dormitory tour, there is a first aid kit in the women's migrant worker dormitory and it is well stocked.

6. Finding Status: Remediated

Explanation: According to a dormitory tour, the electrical cables in the bedrooms in the men's migrant worker dormitory room are organized, and the kitchen and gathering area are clean.

Local Law or Code Requirement

Factories and Machinery (Fencing of Machinery and Safety) Regulations (1970), Sec. 13; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.5 and HSE.25)

Recommendations for Immediate Action

1. Update the evacuation map in the women's migrant worker dormitory so that it indicates the viewer's actual location.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Evacuation map/plan has been displayed at each floor for occupants reference in case of emergency event (please refer attachment Annex 11 evacuation plan at female dormitories)

PREVIOUS FINDING NO.9

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The factory written Health & Safety policies do not include legal or FLA code compliance. In addition, the factory does not communicate any of the Health & Safety documents to migrant workers in their native languages, including material safety data sheets (MSDS).
2. There is no measures to protecting reproductive health to protect reproduction health of employees.
3. The factory does not provide lifting belt for loading and unloading workers. Although the factory provides training on ergonomics, it is not taking proactive steps to reduce repetitive- motion stress/injuries.
4. The factory does not have the, legally required, air-testing tools as safety tools in confine space areas. Therefore, the factory has not conducting air testing as precaution step for confined spaces. Moreover, no rescue equipment for confine space workers is provided by factory. There is no special tasks for areas that are considered dangerous, such as confines spaces.
5. The factory does not have any signs on lockout/tagout LOTO for machines/equipment.
6. The factory has insufficient visual management for safe driving on the factory premise, such as missing indicators, convex mirrors in blunt ends, and reflectors. The factory only has maximum speed signs posted in area that vehicles rarely pass.

Local Law or Code Requirement

Factories and Machinery (Safety, Health & Welfare) Regulations (1970), Sec. 13(2) - (3) - (4); FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.12 and HSE.17.2)

VERIFICATION RESULT

Finding Status

Not Remediated

Remediation Details

1. Finding Status (Partially Remediated)

Explanation: According to a document review, the factory's Health & Safety policies include a statement regarding legal compliance, but no statement regarding FLA Code compliance. In addition, according to the factory OHS team, the Health & Safety documents (including the MSDS) are communicated to the migrant workers in their native languages through a translator; however, this communication is not documented, so there is no evidence that it occurred. [ER.1, ER.2, ER.31]

Root Causes:

1. The OHS team overlooked the need to include the FLA Code requirements in the Health & Safety policy.
2. The OHS team overlooked the need to document the Health & Safety communication.

2. Finding Status (Partially Remediated)

Explanation: According to a document review, the factory established procedures to protect workers' reproductive health, however, they do not include protection for workers who lift heavy objects or operate machinery with a high level of vibration. [ER.1, ER.31, HSE.1, HSE.12]

Root Causes: The OHS team did not realized that lifting heavy objects and operating vibrating machines pose a risk to workers' reproductive health.

3. Finding Status (Partially Remediated)

Explanation: According to a factory tour, the factory provided lifting belts to the six loading and unloading workers, however, these

workers do not consistently wear the belts while working. Furthermore, the ergonomics training provided to workers still does not cover proactive steps to reduce the risk of repetitive-motion stress and injuries, such as a stretching program. [HSE.8, ER.1]

Root Causes:

1. The workers are not aware of the importance of wearing their lifting belts.
2. According to the OHS team, the factory has a stretching program which it informs workers of, but the program is not formally included in the ergonomics training material and is not mandatory.

4. Finding Status (Not Remediated)

Explanation: According to a document review and interviews with the OHS team, confined spaces are considered dangerous, however, the factory does not have the equipment to conduct atmospheric testing before anyone enters a confined space. As a result, the air is not tested before workers enter confined spaces. [HSE.6]

Root Causes: The OHS team does not consider it necessary to conduct atmospheric testing and provide rescue equipment since no one is allowed to enter the confined space. Also, up until now no third party has been engaged to conduct repairs, cleaning, and maintenance for the confined spaces in the factory.

5. Finding Status (Not Remediated)

Explanation: According to a factory tour, idle machines are not tagged for identification. Damaged machines and machines that are undergoing repairs are not locked and tagged out. In addition, an electrical panel near the packing area was undergoing repairs but was not locked and tagged out. [HSE.13, HSE.14]

Root Causes: No one in the factory has been appointed to oversee LOTO implementation.

6. Finding Status (Partially Remediated)

Explanation: According to a site tour, the factory installed one convex mirror in the corner of the road near the loading and unloading area, however, it is too small. In addition, there is no convex mirror installed in the corner behind the factory building. A speed limit sign was also installed and no indicators or reflectors are necessary. [HSE.6]

Root Causes:

1. Passenger cars only drive in the front yard, so the OHS team did not think it was necessary to install any convex mirrors besides the one near the loading and unloading area which was installed for the forklift operators to use.
2. The OHS team also thought that the mirror was big enough for the forklift operators to use.

Local Law or Code Requirement

Guidelines on Reproductive Health Policy & Programs at The Workplace DOSH Ministry of HR Malaysia 2002 Article 5.1 Development of a Reproductive Health Policy and Programs in the Workplace; FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.2, and ER.31; Health, Safety & Environment Benchmarks HSE.1, HSE.6, HSE.8, HSE.12, HSE.13, and HSE.14)

Recommendations for Immediate Action

1. Ensure that the loading and unloading workers wear their lifting belts while working.
2. Purchase air-testing equipment and perform atmospheric testing before anyone enters a confined space. Provide rescue equipment when workers enter confined spaces. Post warning signs on confined spaces.
3. Implement a LOTO program by locking and tagging out machines and equipment when necessary.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. FLA Code compliance has been added in factory's health and safety policy. Moreover, policy has been translated into worker's native language and training has been conducted towards general workforce. Furthermore, Safety Data sheet training has been conducted and documented (Please refer attachment Annex 12.1 Health & Safety Policy, Annex 12.2 Health & Safety policy training and Annex 12.3 MSDS Training)

2. Procedure to protect workers reproductive health has been reviews. Manual lifting, vibration and stress factors were included and added in the procedure. (Please refer attachment Annex 13 reproductive procedure)

3. Lifting belt was provided to loading/unloading workers, training has been conducted towards these workers. Moreover, repetitive stretching exercise has been conducted to all the workers. (please refer attachment Annex 14.1 Ergonomic training & Repetitive Stretching Exercise photos & Annex 14.2 Notice for Stretching Exercise)

4. In progress to purchase atmospheric testing equipment in confined space. (Please refer attachment Annex 15 Quotation for Atmospheric testing equipment, Annex 15.1 Atmospheric Testing Equipment, Annex 15.2 Invoice of Atmospheric Testing Equipment)

Factory has purchased the needed atmospheric testing equipment in confined space. Please refer Annex 15.1 and Annex 15.2

5. Sewing machines that undergo repairs were tagged with warning tag that not allowed any unauthorized person to operate this machine. (Please refer attachment Annex 16.1 LOTO at machine, Annex 16.2 LOTO in charge personnel, Annex 16.3 LOTO procedure and Annex 16.4 LOTO training)

6. Convex mirror has been installed at the corner side of the behind and front of factory. (Please refer attachment Annex 17 convex mirror)

Company Action Plan Update

1. Completed

2. Completed

3. Completed

4. Completed

5. Completed

6. Completed

PREVIOUS FINDING NO.10

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Training (Macro)

Finding Explanation

1. The factory's orientation training does not include information on the following Employment Functions: Compensation, Hours of Work, Industrial Relations & Freedom of Association, and Grievance System. In addition, workers do not receive written documentation that substantiates all the issues covered in orientation. 2. Supervisors do not receive specific training on the following Employment Functions: Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Termination & Retrenchment, Industrial Relations & Freedom of Association, Workplace Conduct & Discipline, and Grievance System. 3. The factory does not communicate the policy and procedures and possible updates on workers' participation and representation to the general workforce. 4. There is no ongoing training to employees on the following Employment Functions: Recruitment, Hiring & Personnel Development, Termination & Retrenchment, and Industrial Relations & Freedom of Association.

Local Law or Code Requirement

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

VERIFICATION RESULT

Finding Status

Partially Remediated

Remediation Details

1. Finding Status (Partially Remediated)

Explanation: The orientation training provided to new workers covers the following Employment Functions: Compensation; Hours of Work; Industrial Relations; and Grievance System. Local workers receive written documentation that substantiates all of the issues covered during orientation, however, migrant workers do not receive this documentation in their native language(s). [ER.15, ER.25, C.17, HSE.14]

Root Causes: The compliance team is still in the process of translating the orientation training materials into many different languages

that will be given to new migrant workers.

2. Finding Status (Remediated)

Explanation: According to the training records and interviews with leaders and supervisors, supervisors receive specific training on the following Employment Functions: Recruitment, Hiring & Personnel Development; Compensation; Hours of Work; Termination & Retrenchment; Industrial Relations; Workplace Conduct & Discipline; and Grievance System.

3. Finding Status (Remediated)

Explanation: The factory communicates with the general workforce regarding its policies, procedures, and updates regarding workers' participation and representation.

4. Finding Status (Remediated)

Explanation: According to the training records and interviews with management and workers, workers receive ongoing training on the following Employment Functions, among others: Recruitment, Hiring & Personnel Development; Termination & Retrenchment; and Industrial Relations. These training sessions took place on November 3 and December 1, 6, and 8, 2018.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.15 and ER.25; Compensation Benchmark C.17; Health, Safety & Environment Benchmark HSE.14)

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Factory has translated the orientation training program into worker native languages and a copy of the training document has been distributed to worker. (Please see attached Annex 18 worker orientation in native languages)

PREVIOUS FINDING NO.11

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 not established procedures to request and/or receive workers' input/feedback regarding the creation, implementation, and updating of its policies and procedures. Workers are neither systematically integrated nor consulted in decision-making processes.

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.3 and ER.25.2)

VERIFICATION RESULT

Finding Status

Partially Remediated

Remediation Details

1. Finding Status (Partially Remediated)

Explanation: The factory works with worker representatives from each nationality in order to receive workers' input and feedback regarding the creation, implementation, and updating of its policies and procedures. Workers are systematically integrated and consulted in decision-making processes. However, there are no procedures on this topic yet. [ER.1, ER.25]

Root Causes: The factory compliance team is still in the process of creating these procedures after meeting with worker representatives on November 30, 2018.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Factory has developed the worker integration procedure that included the step for how worker input feedback regarding the policy & procedure implementation, creation and update. (Please see attached Annex 3.1 SOP worker integration in policy & procedure update/creation)

New Findings and Action Plans

NEW FINDING NO.1

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Environmental Protection

Finding Explanation

1. The factory uses R22 as a cooling agent in 14 out of 16 air conditioner units. R22 is classified as an Ozone Depleting Substance (ODS). [HSE.1]
2. The person in the factory responsible for handling waste does not have a certificate of competency. [ER.1, ER.2, HSE.1, HSE.4, HSE.9]
3. According to a document review, the factory does not have a toxic and hazardous waste inventory. [ER.2, HSE.1, HSE.2]

Local Law or Code Requirement

Environmental Quality (Refrigerant Management) Regulations 1999, Regulation 4; Environmental Quality Act 1974 Sec. 22(1) and Article 22; Act of Occupational Safety and Health Year 1999 Chapter VI Art 14; FLA Workplace Code (Employment Relationship Benchmarks ER.1 and ER.2; Health, Safety & Environment Benchmarks HSE.1, HSE.2, HSE.4, and HSE.9)

Recommendations for Immediate Action

1. Phase out the use of R22. Instead, use an environmentally friendly cooling agent.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. In progress to phase out the R22 air conditioner. (Please refer attachment Annex 19 Quotation of Non-Inverter Air Conditional)
2. Factory has appointed the certified staff to responsible in handling the hazardous waste. (Please refer attachment Annex 20 Competent person certificate)
3. Inventory for toxic and hazardous waste has been provided (Please refer attachment Annex 21 inventory of toxic and hazardous waste)

Company Action Plan Update

1. In Progress
2. Completed
3. Completed

NEW FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The health clinic facilities do not have the following:
 - a. Sink with tap water;
 - b. Antiseptic hand wash soap;
 - c. Paper towels;
 - d. Splints for arms and legs;
 - e. Disposable plastic aprons;
 - f. Separate disposable waterproof waste bags for hazardous and non-hazardous materials;
 - g. Spinal immobilization equipment (i.e. a cervical collar and spinal board); and
 - h. A flash light. [HSE.1, HSE.6, HSE.18, HSE.19]
2. Assessors observed one technician drinking out of a refilled plastic bottle made out of PET 1 (which is not safe to reuse) instead of using a refillable bottle made out of PET 5. [HSE.23]
3. The water dispenser located near the dining area in the men's dormitory is dirty. [HSE.19, HSE.23, HSE.25]
4. The factory's illness records do not identify root causes or preventive actions. [HSE.1]
5. The seating provided in the sewing area is not adjustable. [HSE.17]
6. There is no rescue equipment available when workers enter confined spaces and the confined spaces are not marked with "Danger, Do Not Enter" signs. [HSE.6]
 - a.

Local Law or Code Requirement

Appendix 8 of Guidelines on First Aid in The Workplace (2nd Edition) DOSH Ministry of HR Malaysia 2004, Recommended Facilities For A First-Aid Point 1 – 13; Factories and Machinery (Safety, Health & Welfare) Regulations (1970), Sec. 30 (1 – 3.2); Act 447 Electrical Supply Act 1990 Restriction of connection with the earth 48. (1); Factory Machinery (Building Operations and Works of Engineering Construction Safety) Regulations 1986, section 16; Factories and Machinery Act 1967 (ACT 139) P.U. (A) 114/1983 Factories and Machinery (Safety, Health and Welfare) Regulations 1970 (REVISED – 1983) Section 22; Occupational Safety and Health Act 1994 OSH (Notification of Accident, Dangerous Occurrence, Occupational Poisoning and Occupational Disease) Regulations 2004: Act 514 Section 15.2.b; Industry Code of Practice For Safe Working on a Confined Space 2010 Article 3.2; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.6, HSE.17, HSE.18, HSE.19, HSE.23, and HSE.25)

Recommendations for Immediate Action

1. Provide the required clinic facilities.
2. Provide workers with reusable water bottles that are made out of PET 5.
3. Regularly clean the water dispenser in the men's dormitory.
4. Identify root causes and preventive actions for workers' illnesses.
5. Provide adjustable seating for workers in the sewing area.
6. Ensure that rescue equipment is available whenever workers enter confined spaces. Post warning signs on each confined space that state "Danger, Do Not Enter."

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Required clinic facilities has been provided except the sink with tap water. (Please refer attachment Annex 22.1 health clinic facilities ,Annex 22.2 Quotation of portable sink water tap & Annex 22.3 Sink with water tap) Factory has installed the sink with water tape in the health clinic. (Please refer attachment Annex 22.3)

2. Drinking water training has been conducted and workers are remind to not use PET 1 repeatedly (Please refer attachment Annex 23 drinking water training)

3. Water dispenser at men's dormitory has been clean up and check regularly (Please refer attachment Annex 24 water dispenser at dining area and regular checklist)
4. Workers has been interviewed and investigate to determine the root cause of their illness (Please refer attachment Annex 25 illness record root cause analysis & preventive action)
5. In progress provided adjustable chair (Please refer attachment Annex 26 Quotation of adjustable chair)
6. Warning post has been displayed at confined space (Please refer attachment Annex 27 confined space signage) .Factory is still in progress to provide confined space equipment.

Company Action Plan Update

1. Completed
2. Completed
3. Completed
4. Completed
5. In-progress
6. In-progress

NEW FINDING NO.3

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The fire extinguishers in the men's and women's dormitory kitchens are ABC type fire extinguishers that are not compatible with fires caused by gas and cooking oil. The stoves in the dormitory kitchens fuel use Liquified Petroleum Gas (LPG). [HSE.6, HSE.25]
2. The loading gate in the finished goods warehouse is used as an exit. This poses a risk to workers as this exit is blocked during the loading process. [HSE.5]
3. The surface of the evacuation aisles in the sewing lines is not smooth, which could cause workers to trip during an evacuation. [HSE.5]

Local Law or Code Requirement

Factories and Machinery (Safety, Health & Welfare) Regulations (1970), Sec.10c, Sec.21. Sec 22 ; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.5, HSE.6, and HSE.25)

Recommendations for Immediate Action

1. Replace the ABC type fire extinguishers in the dormitory kitchens with K type fire extinguishers.
2. Stop using the loading gate as an exit.
3. Repair the surface of the evacuation aisles.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Existing fire extinguisher has been replaced with K type in the dormitory kitchen (Please refer attachment Annex 28 K Type Fire extinguisher)
2. In progress to install another exit to replace the loading gate
3. In progress to repair the uneven floor.

Company Action Plan Update

1. Completed
2. In Progress
3. In Progress

NEW FINDING NO.4

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The electrical panels in the cutting area and the warehouse are equipped with safety rods. [HSE.1, HSE.13]
2. There are a number of issues with the electrical panels in the men's and women's dormitories. They are not equipped with safety rods, there are no rubber mats in front of the panels, the switches are not labeled, and the tape used for electrical current isolation is not electrical tape. [HSE.1, HSE.13, HSE.25]
3. There are wires in the electrical panel near the packing area that have been spliced and isolated with non-electrical tape. [HSE.1, HSE.13]

Local Law or Code Requirement

Act 447 Electricity Supply Act 1990 Restriction of connection with the earth 48. (1); Electrical Installation of Building - Code of Practice Buildings – Code of Practice.MS 1979.2007 Article 4.2.1 COP 04; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.13, HSE.25)

Recommendations for Immediate Action

1. Install safety rods for the electrical panels in the cutting area and warehouse.
2. Install safety rods, provide rubber mats, and label the switches in the electrical panels in the dormitories. Do not use non-electrical tape for electrical purposes.
3. Do not splice or isolate wires with tape. Use an electrical current stopper or electrical connector instead.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Safety rods at cutting and warehouse area has been added and installed. (please refer attachment Annex 29 safety rod in cutting and warehouse department)
2. Safety rods, rubber mats has been provided in dormitories. All the switches were labeled accordingly, also wires in the electrical panel been connected by using electrical connector (Please refer the attachment Annex 30 Safety rod, rubber mates, label electrical switches and use of electrical connectors in dormitories)
3. Wires in the electrical panel near the packing area have been connected by the electrical connector. (Please refer attachment Annex 31 Electrical panel at packing area)

Company Action Plan Update

1. Completed
2. Completed
3. Completed