



FAIR LABOR
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INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: New Era Cap Co., Inc
COUNTRY: Guatemala
ASSESSMENT DATE: 11/22/18
ASSESSOR: Francisco Chicas
PRODUCTS: Apparel
NUMBER OF WORKERS: 489

Summary of Code Violations

Companies that join the FLA agree to uphold the FLA Workplace Code of Conduct throughout their entire supply chain. The Code of Conduct is based on International Labour Organization (ILO) standards, and defines labor standards that aim to achieve decent and humane working conditions.

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

Findings and Action Plans

FINDING NO.1

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

1. No orientation training is provided to new workers; instead, management provides workers with a copy of the factory's Policies & Procedures. Workers must read, sign, and return their copy to factory management. [ER.15.1, ER.15.3]

3. The factory conducts no worker performance reviews. [ER.29.1]

4. The factory has no written Policies & Procedures for worker performance reviews. [ER.1.1, ER.29.1]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.1, ER.15, ER.29.1)

COMPANY ACTION PLANS

Action Plan no 1.

Description

1, Orientation Training was provided to workers on Jan 15, 2019.

3, New Era will ensure factory to conduct worker performance review.

4, The worker performance review were implemented as a part of the procedures in the Hiring policy.

Planned completion date

01/25/19

Company Action Plan Update

Worker performance review has been conducted.

FINDING NO.2

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Compensation

Finding Explanation

The factory has not established childcare services, as legally required. Under Guatemalan law, all employers with more than 30 female workers must establish on-site childcare for children under three years old. [ER.22.1, ND.8.1.1]

Local Law or Code Requirement

Labor Code, Article 155; FLA Workplace Code (Employment Relationship Benchmark ER.22.1; Nondiscrimination Benchmark ND.8.1.1)

COMPANY ACTION PLANS

Action Plan no 1.

Description

The industrial complex that will establish the childcare for all 5 factories in the complex. The compliance staff of the factory has a meeting with the park by end of Feb, 2019 . Plan is to have the childcare running by end of 2019.

Planned completion date

06/21/19

Company Action Plan Update

Since the on-site child care is under construction, the factory now contacting the external child care facility until the child care of the industrial park that the factory located is functioned.

1/17/2020 updated by James Lee : Factory is seeking for an off-site child care facility until the child care of the industrial park that the factory located is ready.

2/11/2020 updated by James Lee : Factory is still waiting for the confirmation letter from the external child care. There are some internal change in the child care because of change of government in Guatemala. Factory is planning to have the external child care at the end of February 2020.

2/12/2020 updated by James Lee : Factory already sign the service contract with the external child care and will start using the nursery service at the end of February.

FINDING NO.3

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. Approximately 204 production workers (around 38% of the workforce) have not received their entitled 15 consecutive days of annual leave, as mandated by national law. [ER.22.1, HOW.1.1, HOW.11]

2. The employment application includes a question on worker overtime availability, unrelated to the applicant's skills or abilities for the position. [HOW.8.5]

Local Law or Code Requirement

Labor Code, Articles 130, 131 and 133; FLA Workplace Code (Employment Relationship Benchmark ER.22.1; Hours of Work Benchmarks

Recommendations for Immediate Action

1. Provide workers with annual leave, per legal requirements; specifically, provide eligible workers with fifteen consecutive days off. Workers get the right to annual leave, in every year of service, and the employer has 60 days after the worker has achieved one year of service to provide the vacations.
2. Remove the question regarding a worker's ability to perform overtime from factory job applications.

COMPANY ACTION PLANS

Action Plan no 1.

Description

- 1, The annual leave has been provided to all the employees from 21st December 2018 to 7th January 2019, relevant proof will be provide for review.
- 2, The application form has been revised to remove question on workers' ability to perform overtime.

Planned completion date

01/11/19

Company Action Plan Update

- 1, Still waiting for the factory to provide evidence of the annual leave that provided to workers.

1/17/2020 updated by James Lee : Factory is making a vacation plan of 2020 for workers and ensure all employees can entitle 15 consecutive days of annual leave in 2020.

2/18/2020 updated by James Lee : Factory already set up the holiday policy and annual leave plan for workers.

FINDING NO.4

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Termination & Retrenchment

Finding Explanation

The factory termination policies & procedures are incomplete, as they do not include specific steps regarding resignations or retrenchments. [ER.1.1, ER.19.1]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.1 and ER.19.1)

COMPANY ACTION PLANS

Action Plan no 1.

Description

The factory termination policies and procedures are being updated and reviewed by management, and will be in place before end of March 2019.

Planned completion date

02/22/19

Company Action Plan Update

The termination policies and procedures has been updated which included specific steps regarding resignations or retrenchments.

FINDING NO.5

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Workplace Conduct & Discipline

Finding Explanation

1. Disciplinary procedures include no appeal process for disciplinary actions. [ER.27.4]

2. The factory disciplinary system has no clear criteria to define severity, so there is a risk of arbitrary implementation of verbal or written warnings and suspensions. [ER.27.1]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.27)

COMPANY ACTION PLANS

Action Plan no 1.

Description

1, The appeal process is obtained to the updated Disciplinary Procedure and will be communicate to worker at the end of Feb, 2019.

2, The criteria of the factory disciplinary system will be defined and communicated to employees by end of February 2019.

Planned completion date

02/22/19

Company Action Plan Update

The appeal process is obtained to the updated Disciplinary Procedure and communicated to employees.

James Lee update on Feb 11, 2020 : The first Disciplinary Procedure Training was conducted in Jan 2020.

FINDING NO.6

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Grievance System

Finding Explanation

The only suggestion box available at the factory is within sight of sewing production line workers. [ER.25.3]

Local Law or Code Requirement

FLA Benchmarks FLA Workplace Code (Employment Relationship Benchmark ER.25.3)

Recommendations for Immediate Action

Place the suggestion box in a location to ensure workers can confidentially share suggestions and grievances.

COMPANY ACTION PLANS

Action Plan no 1.

Description

New Era will ensure factory to remove the suggestion box to a confidential location before end of March 2019.

Planned completion date

01/11/19

Company Action Plan Update

Suggestion box has been relocated to the confidential location.

FINDING NO.7

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Environmental Protection

Finding Explanation

The factory environmental impact assessment and license are not up-to-date, as they do not include the boiler operation; as a result, the factory has not regularly monitored air emissions or implemented protective measures to manage the environmental impacts of air emissions. [HSE.1]

Local Law or Code Requirement

Law of Environment Protection and Enhancement; Articles 08 and 25 (Section E); Regulations on Environment Evaluation, Control and Follow-up, Articles 3 (Section 3), 8 (Section M), 38 and 39; FLA Workplace Code (Health, Safety & Environment Benchmark HSE.1)

Recommendations for Immediate Action

Update environmental impact assessment and license through the Ministry of Environment to include the boiler operation.

COMPANY ACTION PLANS

Action Plan no 1.

Description

The factory is proceeding the Environmental Impact Assessment & License update and should be able to obtain an updated EIA and Environmental License by end of March, 2019.

Planned completion date

01/11/19

Company Action Plan Update

The Environmental Impact Assessment & License will be updated in the beginning of March, 2020.

1/17/2020 update by James Lee : Factory is working with the local authority to update the Environmental Impact Assessment & License.

2/18/2020 update by James Lee : Factory is still working with the local authority for updating the Environmental Impact Assessment & License, pls find attached the document to identify the application is in proceeding.

FINDING NO.8

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

The onsite factory clinic does not have the legally required Health License. [HSE.1, HSE.4]

Local Law or Code Requirement

Health Code, Article 121; FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1 and HSE.4)

Recommendations for Immediate Action

Obtain permit for onsite health clinic.

COMPANY ACTION PLANS

Action Plan no 1.

Description

Factory is working on obtaining legally required Health License for the on-site factory clinic.

Planned completion date

01/18/19

Company Action Plan Update

Factory now is hiring the new doctor for the on-site factory clinic since the previous one is left.

1/17/2020 updated by James Lee : Factory is still hiring the new doctor for its clinic in the factory for obtaining the Health License.

2/18/2020 updated by James Lee : Factory is working in this issue and will have reply at the end of July 2020 approximately.

FINDING NO.9

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

The water pressure of the eyewash station for Stain Removal is not high enough to effectively clean workers' eyes, if needed. [HSE.6.1]

Local Law or Code Requirement

FLA Workplace Code (Health, Safety & Environment Benchmark HSE.6.1)

Recommendations for Immediate Action

Ensure water pressure of eyewash station for Stain Removal is high enough to effectively clean workers' eyes if needed.

COMPANY ACTION PLANS

Action Plan no 1.

Description

New Era are ensured the factory to check and test the eye wash station regularly.

Planned completion date

12/04/18

Company Action Plan Update

The water pressure of the eyewash station has been adjusted to make it functional.

FINDING NO.10

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The factory has added one mezzanine to the original building structure, but management has not yet commissioned a structural engineering assessment to ensure the mezzanine is structurally sound. [HSE.1]
2. Two fire extinguishers and one alarm button in the Exporting Warehouse are blocked by boxes containing finished goods. [HSE.1, HSE.5.1]

Local Law or Code Requirement

Occupational Health and Safety Regulations, Governmental Agreement 229-2014, Articles 4 (section c), 60 and 130; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.5.1)

Recommendations for Immediate Action

1. Commission structural engineering assessment to ensure the newly-added mezzanine meets safety standards.
2. Ensure paths to fire extinguishers and alarm buttons in the Exporting Warehouse are clear at all times.

COMPANY ACTION PLANS

Action Plan no 1.

Description

- 1, The factory will discontinue using the mezzanine from end of March, and will dispose of the unused material that is kept there.
- 2, New Era will ensure factory to monitor all of the Fire Fighting Equipment and alarm buttons are free to access.

Planned completion date

01/25/19

Company Action Plan Update

- 1, Factory is discontinue using the mezzanine from end of March, and disposed of the unused material that is kept there.
- 2, Fire Fighting Equipment and alarm buttons are free to access.

FINDING NO.11

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. No chairs used in the sewing production lines are ergonomic, as required by local law. [HSE.1, HSE.17.1]
2. Three Heat Transfer workers did not have floor mats, while two Ironing floor mats were damaged. [HSE.1, HSE.7]
3. The factory's Preventive Plan of Occupational Risks has not been approved by an accredited doctor, as legally required. [HSE.1]
4. Interviewed workers were unaware of the channels available to report occupational risks to factory management. [ER.1.2, ER.16.1]

5. The factory has no monitoring system to ensure buses that transport workers meet all safety conditions. Currently, the factory uses four buses to transport approximately 240 workers. [ER.31.1]

6. The factory has no procedures in place to protect the reproductive health of pregnant or lactating workers. [ER.31.1, ND.8.1]

Local Law or Code Requirement

Occupational Health and Safety Regulations, Governmental Agreement 229-2014, Articles 79, 4, 302; FLA Workplace Code (Health, Safety & Environment Benchmarks HSE.1, HSE.7, and HSE.17.1; Employment Relationship Benchmarks ER.1.2, ER.16.1, and ER.31.1; Nondiscrimination Benchmark ND.8.1)

COMPANY ACTION PLANS

Action Plan no 1.

Description

1, New Era will ensure factory the chairs used in the sewing production lines are ergonomic as required by local law.

2, Factory will install the floor mats to Heat Transfer & ironing sections.

3, New Era will ensure the factory's Preventive Plan of Occupational Risks will be approved by an accredited doctor as legally required.

4, New Era will ensure all workers of the factory are aware of the channels available to report occupational risks to factory management.

5, New Era will ensure factory to establish & implement the monitoring system to ensure buses that transport workers meet all safety conditions.

6, New Era will ensure factory will have the procedures in place to protect the reproductive health of pregnant or lactating workers.

Planned completion date

06/21/19

Company Action Plan Update

1, Still waiting for factory to provide the evidence for the chairs use in the sewing production lines are ergonomic as required by local law. 2, Floor mats are installed and training are provided to workers of Heat Transfer & ironing sections. 3, Still waiting for factory to provide the evidence for the Preventive Plan of Occupational Risk that approve by an accredited doctor as legally required. 4, The training record for workers about the awareness of the channels available to report occupational risk to factory management is provided for review. 5, The monitoring system to ensure buses that transport workers meet all safety conditions is in place and implementing every week. 6, The procedures to protect the reproductive health of pregnant or lactating workers is provided for review.

1/17/2020 updated by James Lee : Factory's compliance staff is working with the factory top management for making a plan for changing the chairs with ergonomic function in the sewing section.

2/12/2020 updated by James Lee : Factory is working with the doctor on the Occupational health and safety plan. The plan will be ready on Feb 15.

2/18/2020 updated by James Lee : Factory has obtained the Preventive Plan of Occupational Risks with approved by an accredited doctor as legally required.

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Training (Macro)

Finding Explanation

The factory does not provide ongoing training on the factory's policies and procedures for workers or supervisors; in May 2018, all workers participated in 15-minute training sessions, in which workers learned about freedom of association and collective bargaining, child labor, health and safety, excessive overtime, wages, and the prohibition of harassment, abuse, and forced labor. However, these topics were not explained in depth. The majority of workers interviewed still did not understand grievance systems, disciplinary procedures, calculation of benefits, overtime premiums, the limit of overtime hours per week, what constitutes sexual harassment, or their right to freedom of association and collective bargaining, or environmental protection. [ER.1.2, ER.15.2]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1.2 and ER.15.2)

COMPANY ACTION PLANS

Action Plan no 1.

Description

New Era will ensure factory provide ongoing training on the factory's policies and procedures for all workers or supervisors.

Planned completion date

02/22/19

Company Action Plan Update

The factory hired external service provider to conduct the ongoing training and related training records are provided for review.

FINDING NO.13

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Communication & Worker Involvement (Macro)

Finding Explanation

The factory has not established procedures to integrate worker feedback into the creation, implementation, or revision of its policies and procedures. Workers are neither systematically integrated nor consulted in decision-making processes. [ER.1.3, ER.25.2]

Local Law or Code Requirement

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

COMPANY ACTION PLANS

Action Plan no 1.

Description

New Era will work with factory to establish the procedures to integrate worker feedback into the creation, implementation, or revision of its policies and procedures, as well as ensure workers will be integrated and consulted in decision-making processes.

Planned completion date

02/22/19

Company Action Plan Update

Still waiting for factory to provide the procedures for review.

1/17/2020 updated by James Lee : Factory top management is working with workers for preparing the procedures to integrate worker feedback into the creation, implementation, or revision of its policies and procedures.

2/18/2020 updated by James Lee : Factory is finalizing the feedback that provided by Health & Safety committee for improving the safety conditions, and will issue the written procedures.

FINDING NO.14

NOTABLE FEATURE

FINDING TYPE: Compensation

Finding Explanation

Factory management subsidizes 50% of the total cost of transportation for workers who travel to the factory; workers only pay 10 Quetzales daily (~1.33 USD). 240 of 540 workers utilize this benefit.

Local Law or Code Requirement

N/A

Recommendations for Immediate Action

N/A

COMPANY ACTION PLANS

Action Plan no 1.

Description

Confirmed with factory that the benefits of subsidizes 50% of total cost of transportation are already covered to all workers.

Planned completion date

12/04/18

FINDING NO.15

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

Employment contracts were missing from all worker personnel files, in a sample review of 21 files. All files belong to new workers, and management noted 100 similar cases for workers with employment contracts authorized by the Ministry of Labor. In all cases, workers have not yet received copies of their employment contracts. [ER.2.1, C.1.2]

Local Law or Code Requirement

Labor Code, Articles 27 and 28; FLA Workplace Code (Employment Relationship Benchmark ER.2.1; Compensation Benchmark C.1.2)

Recommendations for Immediate Action

Maintain copies of employment contracts in workers' personnel files and provide workers with copies of their employment contracts.

COMPANY ACTION PLANS

Action Plan no 1.

Description

New Era has ensure the factory to provide copies of employment contracts in accordance of Legal requirement.

Company Action Plan Update

All employees are now provided with copies of their employment contracts, from Jan 28, 2019.