



FAIR LABOR
ASSOCIATION[®]

INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Lakeshirts, Inc.

COUNTRY: Mexico

ASSESSMENT DATE: 12/03/18

ASSESSOR: VeLar

PRODUCTS: Apparel

NUMBER OF WORKERS:

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: Responsibility & Accountability (Macro)

Finding Explanation

The factory has no written policy regarding the responsible or accountable person for Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Industrial Relations, Workplace Conduct & Discipline, Grievance System, Environmental Protection, Health & Safety, Termination & Retrenchment and ultimate Responsibility/Accountability for the factory. [ER.1]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.1)

COMPANY ACTION PLANS

Action Plan no 1.

Description

-We are working on the elaborations of the policies and procedures, at the end of May they will be ready. we attach the policies and procedures

Company Action Plan Update

Attached are the Policies and Procedures

FINDING NO.2

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Policies & Procedures (Macro)

Finding Explanation

The factory has no written policies for Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Industrial Relations,

Workplace Conduct & Discipline, Grievance System, Environmental Protection, Health & Safety, or Termination & Retrenchment. [ER.1, ER.23, ER.25, ER.27, ER.28, ER.29, ER.30, ER.31 and ER.32]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.23, ER.25, ER.27, ER.28, ER.29, ER.30, ER.31 and ER.32).

COMPANY ACTION PLANS

Action Plan no 1.

Description

-We are working on the elaborations of the policies and procedures, at the end of May they will be ready. we attach the policies and procedures

Company Action Plan Update

Attached are the Policies and Procedures.

FINDING NO.3

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Training (Macro)

Finding Explanation

1. Since there are no policies or procedures, the factory has not provided new workers with specific training on Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Industrial Relations, Workplace Conduct & Discipline, Grievance System, Environmental Protection, Health & Safety, or Termination & Retrenchment. [ER.1, ER.15, HSE.5]

2. Due to the lack of policies and procedures, the factory has not provided supervisors with specific or recorded training on Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Industrial Relations, Workplace Conduct, Grievance System, Environmental Protection, Health & Safety, or Termination & Retrenchment. [ER.17, ER.27]

3. The factory has not provided workers with ongoing training on Recruitment, Hiring & Personnel Development, Compensation, Hours of Work, Industrial Relations, Workplace Conduct, Grievance System, Environmental Protection, Health & Safety, or Termination & Retrenchment. [ER.1]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.15, ER.17, ER.27; Health, Safety & Environment Benchmark HSE.5)

COMPANY ACTION PLANS

Action Plan no 1.

Description

-We are working on the elaborations of the policies and procedures, at the end of May they will be ready. we attach the policies and procedures

FINDING NO.4

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

1. The factory has not developed job descriptions for all different positions, including operative and administrative employees. [ER.1, ER.29.1, ER.30.2, ER.31.2]
2. Two employees were hired the day before the audit and were working without a labor contract. These employees did not have personnel files and assessors were unable to verify payment information. [ER.1.1]
3. There are no evaluation or promotion procedures in place; therefore, employees are not periodically evaluated. [ER.29.1]
4. The factory does not maintain information on contracted workers. [ER.1.]

Local Law or Code Requirement

Federal Labor Law Article 24; FLA Workplace Code (Employment Relationship Benchmark ER.1, ER.29.1, ER.30.2 and ER.31.2)

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Annex the file with the job description in a clear and detailed manner. 2. currently all employees have a work contract, this will no longer happen 3. No salary evaluations are conducted, as of today we will document this observation. annex the protocol that we will follow 4. We have all the files of our workers up to date, there is no employee that does not have a contract.

Company Action Plan Update

1. The factory has attached the missing job descriptions.
2. pending
3. pending
4. Attached is the document about contracted workers

Action Plan no 2.

Description

1. The factory established an area of hazardous waste, attach photographs.
2. The factory is hiring the services of a company that handles hazardous waste, at the time they will send the invoice that covers the service.
3. The factory has not completed this evaluation yet, they are working on the logistics part.
4. The factory has stored the chemical substances with the corresponding MSDS sheet.
5. The company that will be responsible for the collection of chemical waste will be responsible for providing training to employees, they are waiting for the training date.
6. The evaluation is not yet finished, it will be ready by the middle of May.

Company Action Plan Update

1. The factory established an area of hazardous waste, attach photographs.

2. pending
3. pending
4. attached is the factories information on contracted workers

FINDING NO.5

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. Overtime is paid at a 50% premium above the regular hourly wage, instead of the legally required 100% premium above the regular hourly wage. [C.4]
2. Annual leave is not allowed within six months of hire; some employees receive this benefit two years after their hire date. [HOW.11]
3. There were two payroll records presented, one in which overtime hours are adjusted to reflect correct payment, and a second version with the real overtime hours reflecting payment lower than the legal requirement. [C.16]
4. The factory does not fulfill the legal protocol for profit sharing. Instead of convening a Profit-Sharing Commission with employer and employees' representatives elected by workers, the employer selects all Commission members. Also, instead of providing the Commission with attendee and payment records and allowing them to develop the profit-sharing project, the employer directly develops the profit-sharing project. Finally, the employer does not publish the profit-sharing project. [C.1]

Local Law or Code Requirement

Federal Labor Law Articles 67, 81, 125; FLA Workplace Code (Compensation Benchmarks C.1, C.4, and C.16; Hours of Work Benchmark HOW.11).

Recommendations for Immediate Action

1. Pay overtime in accordance with the law. Provide back pay to workers who have not been compensated correctly for overtime worked.
2. Ensure employees can use their leave within six months of hire, as established by law.
3. Maintain one set of accurate payroll records.
4. Complete the Profit-Sharing process established by law to allow employees to participate in the process and raise any concern.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. the correct calculation of the extra time is already being done, annex the last payroll with the correction
2. All employees can receive their vacations when they want, they do not have to wait two years.
3. the correct calculation of the extra time is already being done, annex the last payroll with the correction
4. The protocol was not correct, but if the results were published, for the next distribution of utilities the corresponding protocol will be followed.

FINDING NO.6

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

The Mexican law establishes that the day shift limit is 48 hours and that employees must have a resting period of at least 30 minutes during the shift.

However, the same law defines the working shift as the total time an employee is at the employer's disposition. There is Jurisprudence which considers that when the resting time is less than 60 minutes, the employee is still at the employer's disposition; therefore, this resting time (although it complies with the minimum of 30 minutes), must be considered as part of the total hours of the working shift, even if employees do not work during their rest. Since the factory's regular working hours are from Monday to Friday from 7:00 a.m. to 5:00 p.m., with two resting periods of 30 minutes each, one from 9:00 a.m. to 9:30 a.m. and from 1:00 p.m. to 1:30 p.m., resting periods are considered legally part of the shift. Therefore, the working shift includes 50 hours in total, exceeding the legal limit by two hours. [HOW.1.1]

Local Law or Code Requirement

Federal Labor Law Article 61; FLA Workplace Code (Hours of Work Benchmark HOW.1.1)

Recommendations for Immediate Action

Ensure that the regular weekly working hours are in compliance with legal standards.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. the time of rest to adjust so that all the personnel have their schedule at 12:00 noon, file of the new contract signed is attached

Company Action Plan Update

1. the time of rest to adjust so that all the personnel have their schedule at 12:00 noon, file of the new contract signed is attached

FINDING NO.7

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

1. Employees are not aware of who the Union representatives are and some employees are not aware of the union's existence. A copy of the Collective Bargaining Agreement is published in the building. [FOA.1]

2. The factory does not provide any space for the labor union representative inside the factory. [FOA.15]

3. There is no evidence that employees are given the ability to join or not join the labor union during the hiring process. Employees and employer confirm that they are not asked or informed of union participation. [FOA.2]

4. There is no evidence of employees' election of the Labor Union representatives. [FOA.10]

5. The collective bargaining agreement was negotiated between the labor union and the managers. Therefore, there was no opportunity for workers to raise concerns with the agreement. Workers were not aware of the negotiation process. [FOA.10, FOA.16]

6. The factory has not provided employees with a copy of the collective bargaining agreement. [ER.15]

7. There is no communication channel clearly established between employees and the administration. All employees know the owner and feel free to contact him, however, there is no confidential channel or specific protocol to ensure confidentiality or follow up. [ER.25]

8. Employees have not received training on the Internal Rules Handbook and have not received a copy of this document. [ER.27]

Local Law or Code Requirement

FLA Workplace Code (Freedom of Association Benchmarks FOA.2, FOA.10, FOA.15, FOA.16; Employment Relationship Benchmarks ER.15, ER.25, ER.27)

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Employees were made aware of who their union is, all signed the sheet where they state they have knowledge of this subject.
2. On the advice of their law firm, this is not recommended for their company.
3. New hires are made aware of everything related to the workers' union.
4. New hires are made aware of everything related to the workers' union.
5. On the advice of their law firm, this is not recommended for their company.
6. On the advice of their law firm, this is not recommended for their company.
7. It is clearly established, only that they do not have a manual to back it up, the factory is working on this point.
8. Factory is working on this point

Company Action Plan Update

Points 1-6 have been remediated.

FINDING NO.8

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Workplace Conduct & Discipline

Finding Explanation

Disciplinary actions are recorded in employee personnel files but there is no evidence that workers have the right to have a third-party witness during the process. [ER.27.4]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.27.4)

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. We are changing the way to apply some disciplinary action, this with the presence of witnesses whose signature is in the format, is attached format

FINDING NO.9

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Grievance System

Finding Explanation

The factory has not established a grievance system in the factory and, therefore, the factory does not track records of complaints, questions, or concerns raised by employees. [ER.25]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.25)

COMPANY ACTION PLANS

Action Plan no 1.

Description

Please see attachment of Grievance System

Company Action Plan Update

The factory has a suggestion box and the procedure to be followed is documented in case of any eventuality.

FINDING NO.10

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Environmental Protection

Finding Explanation

1. The factory has not registered as a microgenerator of hazardous waste. [HSE.1, HSE.4]
2. The factory has no written plan to reduce environmental impact, nor written policies, guidelines or metrics to control or reduce it. [HSE.1]

Local Law or Code Requirement

General Law for the Prevention and Integral Management of Waste Article 48; FLA Workplace Code (Health, Safety, and Environment Benchmarks HSE.1 and HSE.4)

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. we still do not have this record, we wait for authorization by the corresponding authority
2. this procedure is not yet finished in its entirety, it is a long process that requires more time. By the end of May it will be ready.

FINDING NO.11

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The fire risk assessment and the firefighting program are missing. [HSE.2]
2. There is no evidence of fire drills performed in the last twelve months. [HSE.5.3]
3. The factory has not had a noise level assessment. [HSE.13]
4. The Health and Safety Commission members have not received proper training. [HSE.1]

5. The Health and Safety Commission does not perform injury analysis and there is no illness tracking or analysis. [HSE.3]
6. The lighting assessment is missing. [HSE.13]
7. The factory has not developed Health & Safety Guidelines for subcontractors hired to install new machinery and the new operation area. [HSE.1]
8. The factory is not taking proactive steps to reduce repetitive-motion stress or injuries. [HSE.1]

Local Law or Code Requirement

Mexican Official Norm NOM-002-STPS-2010 Points 5.1, 5.7; Mexican Official Norm NOM-004-STPS-19995 Point 5.4; Mexican Official Norm NOM-011-STPS-2001 Point 5.2; Mexican Official Norm NOM-019-STPS-2011 Point Points 5.9 (a-c)5.13; Mexican Official Norm NOM-025-STPS-2008 Point 12.1; FLA Workplace Code (Health, Safety and Environment Benchmark HSE.1, HSE.2, HSE.3, HSE.5, HSE.13)

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. please see attached 2. please see attached 3. pending 4. pending 5. pending 6. please see attached 7. pending 8. pending

Company Action Plan Update

1. The factory has a program, the corresponding program is attached. 2. Factory has performed an evacuation drill. 3. This study is in the process of evaluation 4. The training is pending, the factory does not have an estimated training date as of yet. 5. The factory is conducting bioreactors to track diseases and injuries, they have the corresponding file. 6. The factory has the study of lighting. 7. The contractor who made the electrical installation took the security measures that they considered pertinent, TDC is not responsible for the security management of the companies that it contracts. 8. Pending.

FINDING NO.12

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The General Firefighting Training Program is missing. This training is required for all workers. Only brigade members have been trained on fire fighting. [HSE.1, HSE.5.1]
2. Even though there is enough space to evacuate and the door is permanently open, there are no specific aisles, nor signs on the floor to guide workers, emergency doors are not identified, and the meeting point is not labeled. [HSE.1, HSE.5.1]
3. No fire alarm has been installed in the factory. [HSE.1, HSE.5.1]
4. Since new operations and new machinery has been installed in the factory, four out of six fire extinguishers are blocked by materials and furniture. [HSE.1, HSE.5.1]

Local Law or Code Requirement

Mexican Official Norm NOM-002-STPS-2010 Point 5.8, 5.10, 7.15(a), 7.16(a), 7.2(b), 8.1(b); FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1 and HSE.5.1).

Recommendations for Immediate Action

1. Develop the General Firefighting Training Program and deliver training to all employees.
2. Put up signs on the evacuation aisles, emergency exits, and the meeting point.
3. Install a fire alarm in the factory and test the alarm regularly.
4. Keep all fire extinguishers unblocked.

COMPANY ACTION PLANS

Action Plan no 1.

Description

Factory send update in attachment.

Company Action Plan Update

1. The factory has an internal protection system, and the corresponding study is attached for reference.
2. The meeting point and the corresponding signs are shown through photographs
3. The factory has an alarm system in place, they have also sent the corresponding maintenance bioreactors.
4. Currently all fire extinguishers are free and clear, photographs are attached.

FINDING NO.13

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. No sewing machines have needle safety guards. [HSE.1, HSE.14]
2. The factory has no machine safety maintenance and operation training. [HSE.1, HSE.14]
3. The factory has not had a risk assessment for PPE selection and assignment for the different positions. [HSE.1, HSE.2]
4. There is no evidence of PPE delivery and no training has been provided to employees in PPE use, revision, placement, cleaning, limitations, maintenance, storage, or final disposition. [HSE.1, HSE.7, HSE.8]
5. The electrical installation is in process and the grounding system study has not been completed. [HSE.1, HSE.13]
6. The factory has not developed nor implemented a Lock out-Tag out system. The LOTO equipment is missing. [HSE.1, HSE.13]

Local Law or Code Requirement

Mexican Official Norm NOM-004-STPS-19995 point 7.1 (a), 7.2.1 (a); Mexican Official Norm NOM-017-STPS-2008 point 5.2, 5.3, 5.4, 5.6; Mexican Official Norm NOM-029-STPS-2011 8.1 (d); FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.2, HSE.7, HSE.8, HSE.13, and HSE.14)

Recommendations for Immediate Action

1. Install needle safety guards in all sewing machines. Provide training to workers on the use of safety guards.
2. Deliver machine safety maintenance and operation training to all relevant workers.
3. Develop the risks assessment for PPE selection and assignment for each position.
4. Provide the required PPE and deliver training in PPE use, revision, placement, cleaning, limitations, maintenance, storage, or final disposition.
5. Complete the grounding system study.
6. Develop and implement a Lock out-Tag out system. Obtain and keep available the LOTO equipment.

FINDING NO.14

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Environmental Protection

Finding Explanation

1. There is no hazardous waste area or separation of hazardous waste, such as oils, from chemical containers. [HS.1, HSE.9.1]
2. There is no evidence of hazardous waste disposal. [HSE.1, HSE.9.1]
3. The factory has no chemical risk assessment to analyze the potential risks of dangerous chemical substances; and in consequence has no Chemicals' safe handling, transportation, or storage program. [HSE.1, HSE.2]
4. Chemicals are not labeled or stored with the corresponding MSDS attached. [HSE.1, HSE.9.1]
5. Employees have not received training on safe chemical handling, storage, or disposal. [HSE.1, HSE.9.2]
6. The factory has not had a Working Environment assessment, required to determine the existence of chemical pollutants in the working environment. The assessment should include concentration levels and exposure times of chemicals as an impact on workers' health. [HSE.1, HSE.13]

Local Law or Code Requirement

General Law for the Prevention and Integral Management of Waste Articles 48, 54; Mexican Official Norm NOM-005-STPS-1998 Points: 5.2, 5.3, 5.13, 8(a); Mexican Official Norm NOM-010-STPS-1999 Point 5.3; FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.2, HSE.9, and HSE.13)

Recommendations for Immediate Action

1. Establish a hazardous waste area with the legally required conditions.
2. Dispose hazardous waste in accordance with the legal requirements.
3. Perform the chemical risk assessment to analyze the potential risks of dangerous chemical substances; and develop chemicals' safe handling, transportation, and storage program.
4. Store all chemicals labeled and keep the corresponding MSDS available in the operation area.
5. Provide employees with the required training on safe chemical handling, storage, or disposal.
6. Perform the Working Environment assessment, and take the corresponding measures to protect workers' health.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. please see attachment
2. please see attachment
3. pending
4. please see attachment
5. pending
6. pending

Company Action Plan Update

1. Factory has established an area of hazardous waste
2. Factory is hiring the services of a company that handles hazardous waste, at this time they have send us the invoice that covers the service.

3. The factory has not completed this evaluation yet, they are working on the logistics part.
4. They have stored the chemical substances with the corresponding MSDS sheet
5. The company that will be responsible for the collection of chemical waste will be responsible for providing training to employees, the factory is waiting for the training date.
6. The evaluation is not yet finished