



COMPANIES: vineyard vines LLC

COUNTRY: China

ASSESSMENT DATE: 07/17/19

ASSESSOR: Openview

PRODUCTS: Accessories [items, such as handbag clasps, that are affixed to other products]

NUMBER OF
WORKERS: 2500

FLA Comments

This report was submitted to the FLA and the FLA affiliated company by the assessor. Despite deadline reminders and extensions for submission of a corrective action plan, the FLA has not received a plan to address the risks and noncompliances raised in the report. Therefore, the report is posted in its current state and will be updated once a corrective action plan has been submitted to and reviewed by the FLA.

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.

FLA Code Element	Number of Violations
Compensation	1
Hours of Work	3
Employment Relationship	16
Health, Safety, and Environment	12
Freedom of Association	4

Findings and Action Plans

FINDING NO.1

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Recruitment, Hiring & Personnel Development

Finding Explanation

1. The factory does not hire any disabled workers, which is a violation of legal requirements that state at least 1.5% of the total workforce should be composed of disabled workers. Although the factory contributes to the Employment Security Fund in lieu of employing disabled workers as allowed under the local law, this practice carries the risk of discrimination based on FLA Workplace Code of Conduct and Benchmarks. [ND.2]
2. The factory has not conducted performance reviews for any workers. [ER.29.1]
3. Workers do not receive a copy of the workplace rules or written documentation that substantiates all the issues covered in orientation. [ER.15.3]
4. There is no written job description prepared for production positions. [ER.1.1]

Local Law or Code Requirement

Regulations on the Employment of Persons with Disabilities, Article 8. FLA Workplace Code (Non-discrimination Benchmark ND.2; Employment Relationship Benchmarks ER.1, ER.15 and ER.29)

FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. The contribution base of the Housing Provident Fund is not in line with legal requirements. The factory contributes to Housing

Provident Fund based on local minimum requirement of CNY 2,420 (USD 352) per month before April 1, 2019 and CNY 2,480 (USD 360) per month since April 1, 2019 for non-local rural workers (about 73%), which is not in compliance with legal requirement of contribution based on worker's average monthly wage of last year. About 90% of workers' average monthly wages of last year were higher than local minimum contribution base, ranging from CNY 3,000 (USD 436) to CNY 4,000 (USD 582). [ER.22.2]

2. According to Employee Handbook and worker interviews, the factory does not take workers' external seniority (previous job experience prior to factory employment) into account when calculating annual leave, as required by law. [C.6]

Local Law or Code Requirement

Regulations on Management of Housing Provident Fund, Article 17; Regulations on Annual Leave for Employees, Article 2. FLA Workplace Code (Employment Relationship Benchmark ER.22; Compensation Benchmark C.6)

Recommendations for Immediate Action

1. Calculate annual leave based on worker's cumulative working experience (working age).

FINDING NO.3

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. The factory has obtained a written approval for adopting a Comprehensive Working Hours System, valid from February 1, 2018 to January 31, 2019 and from February 1, 2019 to January 31, 2020 respectively. The total working hours for about 40% of workers exceeded the approval limit of 2,432 hours during the period from February 1, 2018 to January 31, 2019, ranging from 2,440 to 2,676 hours. [HOW 1.1]

2. The factory production plan is based on 48 hours per week. Factory management sets production targets and production system at a level that workers need to work 8 overtime hours per week. [ER.24]

Local Law or Code Requirement

Instruction on the Implementation of the China Labor Law, Article 65, FLA Workplace Code (Employment Relationship Benchmark ER.24; Hours of Work Benchmark HOW.1)

Recommendations for Immediate Action

1. Ensure total working hours in full compliance with the requirements of the Comprehensive Working Hours System.

2. Set production plan based on regular working hours.

FINDING NO.4

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

1. The factory has a trade union that was established in 2008 under the ACFTU (All China Federation of Trade Unions). Workers did not vote to join the ACFTU, instead the factory management decided to affiliate the factory with the union. [FOA.12]

2. The factory does not make efforts to introduce its Freedom of Association Policy and the trade union to workers when inviting workers to join the trade union. About 80% interviewed workers don't know whether they are members of the trade union or not. [FOA.11]

3. The factory pays the union dues on behalf of the workers, instead of the workers paying themselves. [FOA.5]

4. The Collective Bargaining Agreement (CBA) in the factory only restates the general legal requirements and provides no additional benefits to the workers. None of workers are provided with a copy of the CBA and none of the interviewed workers are aware of the CBA. [FOA.1, ER.16.2]

5. Five union committee members were re-elected in April 2019. But three out of five union committee members are production supervisors. Additionally, the Chairman of union committee is HR Specialist, who is actually appointed by the factory. [FOA.11]

6. FLA Comments: The Chinese constitution guarantees Freedom of Association; however, the Trade Union Act prevents the establishment of trade unions independent of the sole official trade union – the All-China Federation of Trade Unions (ACFTU). According to the International Labor Organization (ILO), many provisions of the Trade Union Act are contrary to the fundamental principles of freedom of association, including the non-recognition of the right to strike. As a consequence, all factories in China fall short of the ILO standards on the right to organize and bargain collectively. Recently, however, the government has introduced new regulations that could improve the functioning of the labor relations' mechanisms. The Amended Trade Union Act of October 2001 stipulates that union committees have to be democratically elected at members' assemblies and trade unions must be accountable to their members. The trade union has the responsibility to consult with management on key issues of importance to their members and to sign collective agreements. It also grants the trade union an enhanced role in dispute resolution. In December 2003, the Collective Contracts Decree introduced the obligation for representative trade unions and employers to negotiate collective agreements, in contrast to the previous system of non-negotiated administrative agreements. [FOA.2]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.16; Freedom of Association Benchmarks FOA.2 and FOA.11)

FINDING NO.5

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Workplace Conduct & Discipline

Finding Explanation

1. Disciplinary records are not kept in workers' personnel files. [ER.27.3.4]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.27)

FINDING NO.6

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The factory does not provide any personal protective equipment (PPE) for the fire brigade. [HSE.5.1]

2. Two emergency exit doors have insufficient width; one door in the cutting workshop and one door in the warehouse are 0.82 meters, while the national standard is 0.9 meters. [HSE.5.1]

3. While the factory posts names and photos of first aid trained workers throughout the factory; the factory does not post the contact information for medical emergencies. [HSE.6.1]

4. The factory provides anti-fatigue mats to workers on the standing posts like ironing workers, however, the factory does not provide adjustable chairs with armrest to workers on the sitting posts like sewing workers. Additionally, the factory does not provide ergonomic training to workers. There are sewing, cutting and ironing posts where workers are under ergonomic risk for sitting or standing for hours and repeating the same work. [HSE.17]

5. There are four fixed ladders installed on the exterior wall of the two 2-floor buildings (each building has two ladders). However, all four ladders are only equipped with partial safety cages on the top of the ladders. [HSE.14.1]

Local Law or Code Requirement

The Code of Design on Building Fire Protection and Prevention (GB50016-2014), Article 3.7.5. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.5, HSE.6, HSE.14 and HSE.17)

Recommendations for Immediate Action

1. Provide PPE to fire brigade to fight fires.

2. Ensure emergency exit doors have sufficient width for evacuation.

3. Post contact information for medical emergencies.

4. Install sufficient safety cages for the fixed ladders.

FINDING NO.7

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The safety instruction on the embroidery machine is in English, not in the local Chinese language. [HSE.14.3]
2. The factory provides free meals (lunch and supper) to all workers through purchasing from local catering company, however, the factory does not keep food samples to prevent food born illness. [HSE.19]
3. Based on management interviews and records, the factory has not had accidents or incidents in the last 12 months. However, the first aid kit use records indicate 2 workers used Bandages in December 2018. The factory did not track or investigate these incidents. [ER.31.2.5]
4. The factory provides tags and locks to mechanics; however, the factory does not have lockout-tagout procedures and does not provide any relevant training to the mechanics. [HSE.14]
5. The factory uses negative incentives to ensure that workers use machinery and tools safely. According to discipline records, one sewing worker got a written warning for not using eye-protective guard when operating the sewing machine in May 2019. [HSE.15]

Local Law or Code Requirement

The Food Safety Operation Specifications for Catering Service, Article 7.9.2. FLA Workplace Code (Employment Relationship Benchmark ER.31; Health, Safety and Environment Benchmarks HSE.14, HSE.15 and HSE.19)

Recommendations for Immediate Action

1. Post safety instruction in local language Chinese on embroidery machine.
2. Keep food sample for at least 48 hours.
3. Track and investigate all work-related accidents and incidents.
4. Stop using negative incentives and provide more training to ensure that workers use machinery and tools safely.

FINDING NO.8

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Environmental Protection

Finding Explanation

1. The factory does not have secondary containment for about 10 empty machine oil containers in hazardous waste storage area. Additionally, the hazardous waste storage area does not have a spillkit. [HSE.9.1]

Local Law or Code Requirement

The Standard for Pollution Control on Hazardous Waste Storage (GB 18597-2001), Article 6.2.5. FLA Workplace Code (Health, Safety and Environment Benchmark HSE.9)

Recommendations for Immediate Action

1. Provide secondary containment for empty machine oil containers.

FINDING NO.9

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Policies & Procedures (Macro)

Finding Explanation

1. The factory has policies and procedures on promotion and job reassignment. However, there are no policies or procedures on demotion. [ER.30.1]
2. The disciplinary system does not include workers' right to have a third-party witness present during imposition of the disciplinary action. [ER.27.4]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.27 and ER.30)

FINDING NO.10

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Training (Macro)

Finding Explanation

1. The factory does not provide orientation training to new workers on Retrenchment. [ER.15.1]
2. The factory does not provide specific training to managers or supervisors on Employment Functions including Personnel Development, Workplace Conduct & Discipline, Grievance System and Retrenchment. [ER.17.1]
3. The factory does not provide ongoing training to workers on Employment Functions including Personnel Development and Retrenchment. [ER.1.2]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmarks ER.1, ER.15 and ER.17)

FINDING NO.11

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Review Process (Macro)

Finding Explanation

1. The factory has not conducted management or internal reviews to ensure that policies and procedures are updated according to local laws and the FLA Workplace Code and Benchmarks for all Employment Functions. [ER.1.3]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.1)

FINDING NO.12

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Communication & Worker Involvement (Macro)

Finding Explanation

1. The worker integration component is missing from all Employment Functions. This indicates that the factory has not established procedures to receive worker input/feedback on the creation, implementation, and revision of its policies and procedures. Furthermore, workers are neither systematically integrated, nor consulted in the decision-making processes. [ER.1.3]

Local Law or Code Requirement

FLA Workplace Code (Employment Relationship Benchmark ER.1)