



FAIR LABOR
ASSOCIATION®

INDEPENDENT EXTERNAL ASSESSMENT REPORT



Verification Assessment

COMPANIES: W.L. Gore & Associates GmbH
COUNTRY: China
ASSESSMENT DATE: 09/25/19
ASSESSOR: Openview
PRODUCTS: Apparel
NUMBER OF WORKERS: 500

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
Employment Relationship	2
Health, Safety, and Environment	4
Freedom of Association	2

Previous Report Findings and Verification Results

PREVIOUS FINDING NO.1

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

The monthly overtime hours of 77% workers during the last 12 months from December 2014 to November 2015 exceeded the legal monthly limit of 36 hours, (except for January and February 2015), ranging from 42 hours to a maximum of 82 hours.

Local Law or Code Requirement

The PRC Labor Law, Articles 41; FLA Workplace Code (Hours of Work Benchmarks HOW.1.1 and HOW.8.1)

Recommendations for Immediate Action

1. Ensure that monthly overtime hours do not exceed the legally required limit of 36 hours per month.
2. 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:
 1. How to provide better order forecasts to the factories;
 2. Possible workshops/consultancy for the factory on how to improve productivity/quality;
 3. Clear guidelines on how to extend shipment deadlines in case of contingencies;
 4. Steps that factory management must follow if overtime is inevitable (steps for how to communicate with the brand's Sourcing and Social Compliance teams);
 5. Clear guidelines on the calculation and setting of reasonable production targets that will not demand work beyond regular working hours or during breaks;
 6. Clear guidelines on how and when the factory can use subcontractors and/or temporary workers to avoid excessive overtime.

VERIFICATION RESULT

Finding Status
Not Remediated

Remediation Details

1. (Not Remediated) According to the time records for the period from September 2018 to September 2019, about 80% of workers' monthly overtime hours exceeded the legal limit of 36 per month in all the reviewed months, with a maximum of 84 overtime hours in December 2018 and August 2019. [HOW.1.1]

Local Law or Code Requirement

China Labor Law, Article 41. FLA Workplace Code (Hours of Work Benchmark HOW.1)

Recommendations for Immediate Action

1. Ensure overtime hours do not exceed 36 in a month.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Ensure that monthly overtime hours do not exceed the legally required limit of 36 hours per month.
2. Factory will reach out to brands how they can support factory avoiding overtime - how to provide better order forecasts to the factories; clear guidelines on how to extend shipment guidelines in case of contingencies etc. Besides factory is thinking about possible workshops/ consultancy on how to improve productivity/quality; contingencies as well as clear guidelines on the calculation and setting of reasonable production targets that will not demand work beyond regular working hours or during break

PREVIOUS FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

The sitting chairs provided to seated workers are not adjustable and do not have backrests to minimize workers' bodily strains. The factory does not provide a lifting belt to the loading workers. The factory started production at the current site in 2006; however, the factory did not obtain any occupational hazard assessment reports before starting its operation in 2006 as legally required.

Local Law or Code Requirement

The PRC Law of Prevention and Control of Occupational Diseases Article 17; FLA Workplace Code (Employment Relationship Benchmarks ER.2.1; Health, Safety & Environment Benchmarks HSE.1, HSE.4, HSE.5.4, HSE.17.1, and HSE.17.2)

Recommendations for Immediate Action

1. Provide lifting belts to all loading workers.
2. Arrange for a licensed service provider to conduct the assessment of current situation of occupational hazards.

VERIFICATION RESULT

Finding Status
Partially Remediated

Remediation Details

1. (Partially Remediated) The factory plans to improve this issue gradually. At current stage, the factory provides chairs with removable armrests and proper backrests to workers working in sitting position in the embroidering and downing-filing workshops only. These chairs are still not adjustable. The chairs provided to other workers working in sitting position in sewing and packing workshops are still not adjustable and do not have backrests to minimize workers' bodily strains. In addition, the factory does not provide anti-fatigue mats to workers working in standing position in the cutting and the ironing workshops. [HSE.17.1]

2. (Remediated) The factory provides lifting belts and specific training on lifting techniques to all loading workers.

3. (Not Remediated) The factory has not conducted pre-assessment of occupational disease hazards, assessment of effects of occupational disease hazards control, or assessment of current condition of occupational disease hazards since the construction completed in 2006. [HSE.1]

Local Law or Code Requirement

Law of the People's Republic of China on the Prevention and Control of Occupational Diseases, Article 17 and Article 18. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1 and HSE.17)

Recommendations for Immediate Action

1. Arrange for a licensed service provider to conduct the assessment of the current situation of occupational hazards.

COMPANY ACTION PLANS

Action Plan no 1.

Description

Factory will arrange an assessment related to occupational disease hazards from a licensed service provider.

Provide anti-fatigue mats to workers in standing positions in the cutting & ironing workshops.

Factory will create a plan how to extend chairs with backrests and armrests to all departments.

Company Action Plan Update

Factory has already started the process to find a licensed service provider conducting the hazard assessment. Unfortunately they haven't found this kind of service provider in their region. Gore asked auditor for any recommendation how to find local service provider. The recommended webpage was shared with factory but unfortunately didn't help to find local service provider. Factory will further explore to find appropriate local provider.

Anti-fatigue mats were provided to all workers in standing positions in cutting & ironing department.

Embroidery room and down-filling room have bigger space in workers's station so that chairs with arm/ backrests fit without creating inconveniences. However not at all working stations are big enough for the new chairs. As a next step factory will provide chairs with arm/backrest for snapping department. For those already using chair with arm/ backrests factory will gradually change to adjustable chairs (30th April 20)

New Findings and Action Plans

NEW FINDING NO.1

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. The factory doesn't contribute to the Housing Provident Fund for any workers. [ER.22.1]
2. The factory does not provide social insurance to all eligible workers. There are total 1,456 workers in the factory, including 145 recruited after retirement workers and 37 new hires. In the latest paid month of September 2019, the factory only provided 899 out of 1,274 eligible workers (70.6%) with pension insurance, 973 out of 1,274 eligible workers (76.4%) with medical and maternity insurances, 1,100 out of 1,274 eligible workers (86.3%) with unemployment insurance and 1,160 out of 1,274 eligible workers (91%) with work-related injury insurance. In addition, the factory provides commercial injury insurance to 380 workers that is valid from February 1, 2019 through January 21, 2020 and has a maximum benefit amount of CNY 300,000 (USD 41,967). [C.1, ER.22]
3. The contribution base of the five types of social insurances is not in line with legal requirements. The factory contributes to work-related injury, medical, maternity, unemployment and pension insurances based on the local minimum base line of CNY 3,368 (USD 471) per month, which is not in compliance with legal requirement of contribution based on worker's average monthly wage of previous year. About 60% of workers' average monthly wages of previous year were higher than local minimum contribution base, ranging from CNY 3,400 (USD 476) to CNY 4,600 (USD 643). [C.10, ER.22]

Local Law or Code Requirement

Regulations on Management of Housing Provident Fund, Article 15; China Labor Law, Article 72; Social Insurance Law of the PRC, Article 12 and Article 60. FLA Workplace Code (Employment Relationship Benchmark ER.22; Compensation Benchmarks C.1 and C.10)

Recommendations for Immediate Action

1. <!--[endif]-->Provide Housing Provident Fund to all eligible workers.
2. <!--[endif]-->Provide social insurance to all eligible workers.
3. <!--[endif]-->Contribute to social insurance based on worker's average monthly wage of previous year.

COMPANY ACTION PLANS

Action Plan no 1.

Description

Factory needs to provide housing provident fund & social insurance to all eligible workers. The contribution to the social insurance needs to be based on workers' monthly average wage of previous year.

NEW FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. The factory production plan is based on six days per week, including five regular working days from Monday to Friday and one day of overtime on Saturday. The factory management sets production targets and production system at a level that workers need to work overtime hours on Saturday per week. [ER.24]
2. About 70% of female workers in lactation period are arranged to work same amount of overtime hours as other workers, including 2 overtime hours on regular workdays and 8 overtime hours on Saturdays. Although the factory management provided overtime application of female workers in lactation period to demonstrate that they are willing to work same overtime hours as other workers, this practice is still not in line with the law. [ND.8.1]
3. The factory does not provide daily one-hour breastfeeding leave during work hours to female workers in lactation period. [ND.8.1]

Local Law or Code Requirement

Special Rules on the Labor Protection of Female Employees, Article 9. FLA Workplace Code (Employment Relationship Benchmark ER.24; Non-discrimination Benchmark ND.8)

Recommendations for Immediate Action

1. <!--[endif]-->Set production plan based on regular working hours. Adjust production targets so that workers do not need to work overtime to meet them.
2. <!--[endif]-->Ensure female workers in lactation period do not work overtime.
3. <!--[endif]-->Provide one-hour breastfeeding leave each day during work hours to female workers in lactation period as per legal requirement.

COMPANY ACTION PLANS

Action Plan no 1.

Description

Factory needs to ensure that workers in lactation period don't work overtime. Besides factory will provide 1 hour breastfeeding leave per day for workers in lactation period.

Company Action Plan Update

Factory created a mandatory policy for workers in lactation period to ensure workers in lactation period don't work overtime as well as providing daily 1 hour breastfeeding leave during working hours. This policy was introduced to workers, posted in the factory and a meeting was held with worker committee.

NEW FINDING NO.3

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

1. The union structure is not fully independent from the management interference. The chairman of trade union is freely elected by workers. However, the chairman is an office administration clerk and not a general worker from workshop, who may not be able to fully understand workers' concerns or protect workers' right. [FOA.10]

2. The factory does not fully comply with the terms defined in the Collective Bargaining Agreement. The Collective Bargaining Agreement indicates that the factory provides sufficient social insurance to all workers and ensure workers' monthly overtime hours do not exceed 36 as per legal requirement. However, the factory only provides social insurance to some eligible workers with contribution based on the local minimum base line, and the monthly overtime for most workers exceeds the legal limit of 36 hours in a month. [FOA.19.1]

3. 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 (Freedom of Association Benchmarks FOA.2, FOA.10 and FOA.19)

COMPANY ACTION PLANS

Action Plan no 1.

Description

The incumbent chairman will encourage more workers to participate in union works and will try to identify the potential ones to help them become the next chairman. It is with hope that workers will see more candidates to choose in the next election. Next election will take place in Aug 2020

Company Action Plan Update

Factory is looking for solutions to control the overtime from production planning.

It's difficult to the fact that workers want to work overtime 2 hours per day to increase their wage. If factory does not offer to work overtime, workers will most likely start working at another factory in the neighbor exercising overtime.

NEW FINDING NO.4

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The current Health and Safety Risk Assessment is incomplete and does not cover the down-filling process. [HSE.1]
2. The factory provides disposable non-woven masks to workers operating grinding machines, rather than anti-dust masks. [HSE.7]
3. The factory stores combustible materials including cartons, plastic bags and sundries in one of the two evacuation stairwells on the first floor of both dormitory buildings. Note: The factory removed all combustible materials from the stairwells before the end of assessment. [HSE.5.1]
4. The factory does not provide secondary containment for all four air compressors where machine oil has leaked to the ground. The factory does not clean up in a timely manner as per the requirement in the chemical management procedure. [HSE.9]

Local Law or Code Requirement

Law of the China on Work Safety, Article 42; Code of Design on Building Fire Protection and Prevention, Article 6.4.1; Regulation for Safety of Dangerous Chemical, Article 20. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.5, HSE.7 and HSE.9)

Recommendations for Immediate Action

1. <!--[endif]-->Provide anti-dust masks to workers with hazardous exposure to dust.
2. <!--[endif]-->Keep all evacuation stairwells free from obstructions at all times.
3. <!--[endif]-->Provide appropriate secondary containment for the air compressors and clean up the leaked machine oils in a timely manner.

COMPANY ACTION PLANS

Action Plan no 1.

Description

Factory is going to provide anti-dust masks and train workers accordingly.

Factory will have mechanics present during the maintenance service & will ensure no oil spilled on the floor after the service. Besides factory will provide appropriate secondary containment for the air compressors and clean up the leaked machine oils in a timely manner.

Company Action Plan Update

Factory changed the non-disposable masks to anti-dust masks and trained workforce accordingly.

Factory removed oil on the floor & placed the second containment with sand for engine oil.

Action Plan no 2.

Description

Factory has to ensure evacuation stairwells are kept free from obstructions at all times. Factory will provide training to H&S Managers and also inform canteen contractor about the safety policy.

Company Action Plan Update

Stairwells have been already cleared before end of the audit. Besides training was provided to H&S Manager and canteen

contractor to keep all evacuation stairwells free at all times.