



FAIR LABOR
ASSOCIATION®

INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Fenix Outdoor International AG

COUNTRY: Vietnam

ASSESSMENT DATE: 08/27/20

ASSESSOR: Openview

PRODUCTS: Equipment

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.

FLA Code Element	Number of Violations
Compensation	2
Hours of Work	2
Employment Relationship	3
Health, Safety, and Environment	15
Nondiscrimination	3

Findings and Action Plans

FINDING NO.1

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Compensation

Finding Explanation

1. The factory does not pay resigned workers for holidays in final payout. For instance, the last working days for six resigned sample workers were September 3, 2019 and September 7, 2019. The factory did not pay those workers the holiday pay for Independence Day on September 2, 2019 in the final payout as per the legal requirement. [ER.22.1]
2. The factory pays workers that transfer jobs a reduced wage that is less than 85% of the previous wage rate starting from the effective transfer date. This is not in line with the legal requirement that workers transferred to another department should be paid 100% of the previous wage rate for the first 30 days from the effective transfer date, and at least 85% of the previous wage rate after the first 30 days. For instance, Worker A transferred from the Office Department to the Quality Control Section on May 1, 2020 and is paid VND 5,413,000 (USD 233) per month since May 1, 2020. This wage is about 78.56% of the previous wage rate of VND 6,890,000 (USD 297) per month. [C.1]
3. The factory pays all 12 onsite contract security guards VND 12,500 (USD 0.54) per hour, which is lower than legal minimum wage of VND 18,846 (USD 0.8) per hour. [ER.11.2, C.2]
4. The factory does not provide mandated social insurance to all onsite contract canteen workers. Nine out of 19 canteen workers started working in the factory during the period from April 2016 to February 27, 2020. However, they are not provided with the mandated social insurance as per legal requirement. [C.1, ER.22]
5. Security guards are not paid the premium overtime pay for work beyond 48 hours per week as local law requires. (C.7, C.5)

Local Law or Code Requirement

Vietnam Labor Code, Article 31, Article 91, Article 96 and Article 115; Decree 90/2019/NĐ-CP, Article 3; Law on Social Insurance, Article 2; Normal Working Hours Article 104. FLA Workplace Code (Employment Relationship Benchmarks ER.11 and ER.22; Compensation Benchmark C.1, C.2, C.7, C.5)

Recommendations for Immediate Action

- . Pay resigned workers for holidays in final payout as per legal requirement.
- . Pay workers at 100% of previous wage rate for the first 30 days from the effective transfer date and at least 85% of previous wage rate

- afterwards for job transfer.
3. Work with service provider to pay security guards at least legal minimum wage.
 4. Work with service provider to provide all eligible workers with mandated social insurance.
 5. Work with service provider to provide premium overtime payments to security guards.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Pay resigned workers for holidays in final payout as per legal requirement.
2. Pay workers at 100% of previous wage rate for the first 30 days from the effective transfer date and at least 85% of previous wage rate afterwards for job transfer.
3. Work with service provider to pay security guards at least legal minimum wage.
4. Work with service provider to provide all eligible workers with mandated social insurance.
5. Work with service provider to provide premium overtime payments to security guards.

FINDING NO.2

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Hours of Work

Finding Explanation

1. The regular working hours of the onsite contract security guards exceed 48 hours per week. Security guards work a total of 72 regular hours per week, i.e. 12 regular hours per day in two shifts from 6:00 to 18:00 and from 18:00 to 6:00 of the following day for six days per week. [HOW.1.1]
2. Total working hours of the onsite contract security guards exceed 60 hours per week. Time records for the period from August 2019 to July 2020 and worker interviews indicate that all 12 onsite contract security guards worked 72 hours in each week during the reviewed period. [HOW.1.3]

Local Law or Code Requirement

The Vietnam Labor Code, Article 104. FLA Workplace Code (Hours of Work Benchmark HOW.1)

Recommendations for Immediate Action

1. <!--[endif]-->Ensure regular working hours do not exceed 48 per week.
2. Control total working hours do not exceed 60 per week.

COMPANY ACTION PLANS

Action Plan no 1.

Description

- 1.Ensure regular working hours do not exceed 48 per week.
- 2.Control total working hours do not exceed 60 per week.

FINDING NO.3

SUSTAINABLE IMPROVEMENT REQUIRED

FINDING TYPE: Industrial Relations

Finding Explanation

1. FLA Comment: Vietnam has not ratified ILO Convention 87. Under Vietnamese law, all unions are required to affiliate with the single trade union, the Vietnam General Confederation of Labor (VGCL), which is affiliated with the Communist Party. With respect to such union monopolies, the ILO Committee on Freedom of Association has stated that “the rights of workers to establish organizations of their own choosing implies... the effective possibility of forming... [trade unions] independent both of those which exist already and of any political party.” Vietnam’s legal framework is therefore not compatible with the ILO Principles on Freedom of Association and, as such, all factories in Vietnam fail to comply with the FLA Code standard on Freedom of Association. [FOA.2, FOA.10]

Local Law or Code Requirement

FLA Workplace Code (Freedom of Association Benchmarks FOA.2 and FOA.10)

COMPANY ACTION PLANS

Action Plan no 1.

Description

On the new labor law which will be effective in Jan 2021, Employees of enterprises are entitled to establish, join and participate in activities of internal employee organizations and the representative organizations of employers shall have equal rights and obligations in protection of the legitimate rights and interests of employees in labor relations.

Company Action Plan Update

On the new labor law which will be effective in Jan 2021, Employees of enterprises are entitled to establish, join and participate in activities of internal employee organizations and the representative organizations of employers shall have equal rights and obligations in protection of the legitimate rights and interests of employees in labor relations.

FINDING NO.4

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The factory has conducted a risk assessment. However, the risk assessment does not cover the automatic cutting machine, the laser cutting machine, the automatic paint spraying machine and metal detectors. In addition, the factory does not conduct a survey with workers during the risk assessment as per the legal requirement. [HSE.1]

2. The factory has installed a guardrail on the mezzanine in the semi-product warehouse in Building C. However, the guardrail gates are kept open. In addition, the covers for the sewage system's underground tank are kept open. [HSE.13]

3. The factory provides an occupational health examination to workers with hazardous exposure to chemicals. However, the factory does not provide an occupational health examination to sewing workers with hazardous exposure to fabric dust as per the legal requirement. [HSE.1]
4. The factory does not provide secondary containment for glue bottles and cans used in the glue mixing areas. In addition, there is a hole in the secondary containment of the chemical tanks in the wastewater treatment plant. [HSE.9.1]
5. The factory does not maintain the material safety data sheet (MSDS) for one chemical named P-99. There are ten five-liter cans of P-99 currently stored in the chemical warehouse, but it has not been used in the workshops yet. [HSE.10.1]
6. The factory does not install finger guards on 20 automatic sewing machines and does not install eye protection guards on two out of six sewing machines in the sewing production line in Building B. [HSE.14.1]
7. The factory does not post the safety operation manual for the automatic cutting machine and the laser cutting machine. In addition, the operation buttons of those machines are marked in Chinese and English rather than in the local language of Vietnamese. [HSE.14.3]

Local Law or Code Requirement

Circular 07/2016/TT-BLDTBXH, Article 3 and Article 5; Vietnam Labor Code, Article 138; Law 84/2015/QH13. Occupational Safety and Hygiene, Article 7 and Article 21; Law on Chemical (No. 06/2007/QH12), Article 29 and Article 37. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.9, HSE.10, HSE.13 and HSE.14)

Recommendations for Immediate Action

1. <!--[endif]-->Conduct risk assessment that covers all risks and appropriate ways to eliminate and control hazards. Conduct a survey with workers during the risk assessment.
2. <!--[endif]-->Keep guardrail gates closed on the mezzanine except during loading and unloading, and keep underground tank covers closed at all times to eliminate the risk of falling.
3. <!--[endif]-->Provide an occupational health examination to sewing workers with hazardous exposure to fabric dust.
4. <!--[endif]-->Provide secondary containment for all chemical containers. Secondary containment should be free of holes to prevent spills or leaks.
5. <!--[endif]-->Maintain MSDS for all chemicals and post MSDS in areas where chemicals are used or stored.
6. <!--[endif]-->Install finger guards on all automatic sewing machines and install eye protection guards on all sewing machines.
7. <!--[endif]-->Post the safety operation manual for the automatic cutting machine and laser cutting machine. Mark the operation buttons in the local language of Vietnamese.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. Conduct risk assessment that covers all risks and appropriate ways to eliminate and control hazards. Do a survey with workers during the risk assessment.
2. Assigning one HSE staff to check all safety issues at the factory every day to ensure guardrail gates closed on the mezzanine except during loading and unloading, and keep underground tank covers closed at all times to eliminate the risk of falling.
3. Providing an occupational health examination to sewing workers with hazardous exposure to fabric dust on 2021
4. Providing secondary containment for glue bottles and cans used in the glue mixing areas, fill a hole in the secondary containment of the chemical tanks in the wastewater treatment plant to prevent spills or leaks.
5. Posting MSDS of P-66 and all chemicals.
6. Install the finger guards on all automatic sewing machines and install eye protection guards on all sewing machines.
7. Post the safety operation manual for the automatic cutting machine and the laser cutting machine, translate operation buttons to Vietnamese languages.

FINDING NO.5

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Health & Safety

Finding Explanation

1. The factory does not have an emergency light installed on one out of two emergency exits in the finished goods warehouse in Building C. One out of three emergency lights in the warehouse of Building B was out of order during the onsite test. [HSE.5.1]
2. Two out of four emergency exits in the finished goods warehouses in Building B and Building C are blocked with products and trolleys. [HSE.5.1]
3. The factory does not post an evacuation map in the finished goods warehouse in Building C. [HSE.5.1]
4. The factory does not hire an authorized company to inspect the heat detectors every six months. The last inspection was conducted in 2017 when the heat detectors were installed. [HSE.5.3]
5. The factory does not hire an authorized company inspect the sprinkler system on an annual basis. The last inspection was conducted in 2017 when the sprinkler system was installed. [HSE.6.1]
6. The factory has not installed fire extinguishers in the gas storage room, air compressor room, hazardous waste storage areas, chemical storage areas or the semi-product storage area in Building C. In addition, fencing and tables are obstructing two out of six fire hoses in the canteen and finished goods warehouse. [HSE.6.1]

Local Law or Code Requirement

Decree 79/2014/ND-CP, Article 7; Vietnam Standard TCVN 3890:2009, Clause 5.1.1, Clause 6.2.2, Clause 7.2.2, Clause 10.1 and Clause 10.1.5. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.5 and HSE.6)

Recommendations for Immediate Action

1. <!--[endif]-->Install an emergency light on all emergency exits. Conduct routine maintenance to ensure emergency lights are functional and in good condition.
2. <!--[endif]-->Ensure emergency exits are unblocked and free from obstruction.
3. <!--[endif]-->Post an evacuation map in all workshops and warehouses throughout the factory.
4. <!--[endif]-->Hire an authorized company to conduct inspection for the heat detectors at least every six months and maintain inspection reports.
5. <!--[endif]-->Hire an authorized company to conduct an annual inspection for the sprinkler system and maintain inspection reports.
6. <!--[endif]-->Install fire extinguishers as per the legal requirement. Ensure firefighting equipment is unblocked and free from obstruction.

COMPANY ACTION PLANS

Action Plan no 1.

Description

- 1.Install emergency light on all emergency exits.
- 2.Regularly check all safety issues at the factory every day to ensure emergency exits are unblocked and free from obstruction.
3. Posting evacuation map in the finished goods warehouse in Building C.
- 4.hire an authorized company form Jan 2021 to conduct inspection for the heat detectors at least every six months and maintain inspection reports.
- 5.hire an authorized company Jan 2021 to conduct an annual inspection for the sprinkler system and maintain inspection reports.
- 6.install fire extinguishers in the gas storage room, air compressor room, hazardous waste storage areas, chemical storage areas or the semi-product storage area in Building C.

In addition, the factory will assign one HSE staff to check all safety issues at the factory every day.

IMMEDIATE ACTION REQUIRED

FINDING TYPE: Environmental Protection

Finding Explanation

1. The actual influent flow of production wastewater is 154 to 176 m3/day-night within a 24-hour period, which is higher than the legal approval for a wastewater treatment plant of 150 m3/day-night within a 24-hour period. [HSE.1]

Local Law or Code Requirement

LAW No. 55/2014/QH13, Article 20. FLA Workplace Code (Health, Safety and Environment Benchmark HSE.1)

Recommendations for Immediate Action

1. <!--[endif]-->Upgrade production wastewater treatment plant to adopt higher influent flow.

COMPANY ACTION PLANS

Action Plan no 1.

Description

1. During the re-inspection, it was discovered that the operator of the wastewater treatment system had incorrect data (compared with the amount of water input).

They will retrain this employee to accurately record wastewater treatment system metrics by recording each day at the same time.