



COMPANIES: Cutter & Buck  
COUNTRY: China  
ASSESSMENT DATE: 08/31/20  
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
Hours of Work	2
Employment Relationship	3
Health, Safety, and Environment	12
Nondiscrimination	3

## Findings and Action Plans

### FINDING NO.1

#### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Recruitment, Hiring & Personnel Development

##### Finding Explanation

1. The factory has not signed employment contracts with any of the four temporary workers working in cutting and labeling processes and does not contribute to social insurance or commercial accident insurance for them. The factory pays these temporary workers directly. There is no procedure outlining the compensation, benefits, hours for these temporary workers. [ER.7.1, ER.22.1, C.10.1]

##### Local Law or Code Requirement

Law of Employment Contract of PRC, Article 10; The China Labor Law, Article 72. FLA Workplace Code (Employment Relationship Benchmarks ER.7 and ER.22; Compensation Benchmark C.10)

##### Recommendations for Immediate Action

1. <!--[endif]-->Sign employment contracts with all temporary workers. Contribute to social insurance or commercial accident insurance for all temporary workers.

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

An employment contract for temporary workers needs to be provided. A training document for induction of temporary workers needs to be provided

## Company Action Plan Update

Training of appropriate staff has been done

Action Plan no 2.

### Description

CAP attached

## FINDING NO.2

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Compensation

##### Finding Explanation

1. There are 398 workers including 36 retired but re-recruited workers and two new hires in the factory. Total 360 workers are eligible for social insurance contribution. The factory provides pension, unemployment, medical, work-related injury and maternity insurances to 40 out of 360 (11%) eligible workers. In addition, the factory contributes to commercial accident insurance for 30 workers that is valid from September 1, 2020 to August 31, 2021 with maximum compensation amount of CNY 30,000 (USD 4,387) per worker. [C.1]

2. The contribution base of the five types of social insurances is not in line with legal requirement. The factory contributes to pension and unemployment insurances based on CNY 3,072 (USD 449) per month and contributes to medical, work-related injury and maternity insurances based on CNY 3,501 (USD 512) per month, which is not in line with legal requirement of contribution based on worker's average monthly wage of previous year. 100% of workers' average monthly wages of previous year were higher than CNY 3,072 (USD 449) and about 90% of worker's average monthly wages of previous year were higher than CNY 3,501 (USD 512). [C.10.1]

3. The factory does not provide Housing Provident Fund for any workers. [ER.22.1]

4. The factory has no policies or procedures on sick leave. In addition, there are no records showing workers taking sick leave during the past 12 months. About 90% of the interviewed workers are unaware of this legal benefit. [HOW.16]

##### Local Law or Code Requirement

The China Labor Law, Article 72; Social Insurance Law of the PRC, Article 12 and Article 60; Regulations on Management of Housing Provident Fund, Article 15; The Opinion of the Ministry of Labor on Several Questions Concerning the Implementation of the China Labor Law, Article 59. FLA Workplace Code (Employment Relationship Benchmark ER.22; Compensation Benchmarks C.1 and C.10; Hours of Work Benchmark HOW.16)

##### Recommendations for Immediate Action

1. <!--[endif]-->Provide social insurance to all eligible workers.

2. <!--[endif]-->Contribute to social insurance based on worker's average monthly wage of previous year.

3. <!--[endif]-->Provide all workers with legally required Housing Provident Fund.

4. <!--[endif]-->Establish policy and procedure on sick leave and provide training to workers. Provide workers with paid sick leave as per legal requirement.

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

Factory needs to comply with local law concerning Social insurance contribution requirements. Factory needs to follow the law regarding Housing Provident Fund and providing it to workers as required. Not determined whether factory is yet making monetary contributions as required by law

#### Company Action Plan Update

Workers have been trained on Social Insurance knowledge and benefits.  
Training documents attached. Factory has set up a social insurance fund and advised workers of the plan and benefits

Factory has developed a documented sick leave policy and has communicated the policy to factory staff

## FINDING NO.3

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Hours of Work

#### Finding Explanation

1. Overtime hours exceeded the legal limit of 36 hours per month. Time records for the period from August 2019 to August 2020 and worker interviews indicate that the monthly overtime hours for about 85% of the sampled workers exceeded 36 in all reviewed months, with a maximum of 87 overtime hours in November 2019. [HOW.1.1]

2. The factory sets production plan based on 60 hours per week (two overtime hours per day on five workdays and ten overtime hours on Saturday). Factory management sets production targets and production system at a level that workers need to work 20 overtime hours per week. [ER.24]

#### Local Law or Code Requirement

The China Labor Law, Article 41. FLA Workplace Code (Employment Relationship Benchmark ER.24; Hours of Work Benchmark HOW.1)

#### Recommendations for Immediate Action

1. <!--[endif]-->Ensure overtime hours do not exceed legal limit of 36 hours per month.
2. Set production plan based on regular working hours. Adjust production targets so that workers do not need to work overtime to meet them.
3. <!--[endif]-->Ensure that overtime is not included as a general practice into the factory's production planning. FLA affiliate Company's Sourcing and Social Compliance teams should:
  - 1) Implement FLA Principles of Fair Labor and Responsible Sourcing and
  - 2) Accordingly coordinate on the topics mentioned below to help the factory address its excessive hours issue:

- a. How to provide better order forecasts to the factories;
- b. Possible workshops/consultancy for the factory on how to improve productivity/quality;
- c. Clear guidelines on how to extend shipment deadlines in case of contingencies;
- d. Steps that factory management must follow if overtime is inevitable (steps for how to communicate with the brand's Sourcing and Social Compliance teams);
- e. Clear guidelines on the calculation and setting of reasonable production targets that will not demand work beyond regular working hours or during breaks;
- f. Clear guidelines on how and when the factory can use subcontractors and/or temporary workers to avoid excessive overtime.

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

Factory needs to eliminate excessive overtime and comply with Chinese law permitting no more than 36 hours of overtime per month

#### Company Action Plan Update

Factory is actively recruiting additional staff, cross-training current staff to improve efficiency, and committed to improving production planning. They are also developed a documented incentive plan for employees to refer new workers to Pengxu. .

## FINDING NO.4

## SUSTAINABLE IMPROVEMENT REQUIRED

### FINDING TYPE: Industrial Relations

#### Finding Explanation

1. FLA Comment: 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, 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

Factory needs to comply with the current Chinese Amended Trade Union Act of October 2001 and the Collective Contracts Decree of 2003

### Company Action Plan Update

Nanchang Pengxu has signed a collective bargaining agreement with Union employee representatives to become compliant with the 2001 Act and the 2003 Decree

## FINDING NO.5

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Health & Safety

##### Finding Explanation

1. The factory occupies 60% of the 1st, 2nd and 3rd floor and all 4th floor of one 7-story production building. The factory has not centralized the fire alarms internally or with other fire alarms in the same building. In addition, the factory has not installed backup battery for all fire alarms. [HSE.5.1]
2. The factory has never hired a qualified company to conduct inspection for firefighting equipment. [HSE.6.1]
3. The factory has not installed exit signs or emergency lights on either of the two safety exits in the sampling room with about 40 square meters of floor space and seven workers inside during working hours. [HSE.5.1]
4. One out of two safety exits in the finished goods warehouse is locked from the outside. About 80% of individual workstations, two fire extinguishers and one evacuation sign are blocked with materials in the Sewing Department on the second floor of the production building. About 30% of evacuation passages are blocked with materials in production workshops and material warehouse. [HSE.5.1, HSE.6.1]

##### Local Law or Code Requirement

The Code of Design on Building Fire Protection and Prevention, Article 10.1.6, Article 10.3.1 and Article 10.3.5; China Fire Prevention Law, Article 16 (3) and Article 16 (4). FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.5 and HSE.6)

##### Recommendations for Immediate Action

1. <!--[endif]-->Install a centralized fire alarm system with backup battery in the shared production building.
2. <!--[endif]-->Hire a qualified company to conduct annual inspection for firefighting equipment.
3. <!--[endif]-->Install exit signs and emergency lights on both safety exits in the sampling room.
4. <!--[endif]-->Unlock the safety exit in the finished goods warehouse. Conduct routine inspection to ensure all workstations, evacuation passages, firefighting equipment and evacuation signs are unblocked and free from obstruction.

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

Factory needed to be aware of how to build and maintain an effective fire safety system.. Emergency lights and exit signs need to be made functional. Evacuation routes and exits need to be maintained in an open and unimpeded manner.

#### Company Action Plan Update

Fire detection/alarm system has been set up properly with centralized power and backup batteries in each alarm. Factory had created a policy document and checklist for the inspection of the system. Factory has contracted with a service provider to test the alarm system annually. Factory has assigned staff to ensure no materials blocking or impeding evacuation routes, and that all exit doors are unlocked or open during working hours

## FINDING NO.6

### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Health & Safety

#### Finding Explanation

1. The factory has not conducted the pre-assessment of occupational disease hazards, assessment of the effects of occupational disease hazards or assessment of current conditions of occupational disease hazards since the factory started operation at the current location in 2017. [HSE.1]
2. The factory stores materials and goods against pillars and walls with no clearance in raw material warehouse and finished goods warehouse. [HSE.1]
3. The factory provides metal gloves to cutting workers in Cutting Department. However, about 90% of cutting workers are not wearing metal gloves when operating cutting machines. [HSE.8]
4. The factory has never conducted inspection on the lightning protection system in the production building. [HSE.13]
5. The factory places combustible materials under or close to 10% of the electrical switch boards and cabinets in production area. [HSE.13]
6. The factory does not install finger guards or eye protection shields on sewing machines. [HSE.14.1]

#### Local Law or Code Requirement

Rules for Warehouse Fire Prevention Safety Management, Article 18; The Law of the China on Work Safety, Article 42; The China Law of Prevention and Control of Occupational Diseases, Article 17 and Article 18; Technical Specifications for Inspection of Lightning Protection System in Building, Article 6; Electricity Safety Guidelines, Article 5.1.1; Code of Design of Manufacturing Equipment Safety and Hygiene, Article 6.1.6. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.1, HSE.8, HSE.13 and HSE.14)

#### Recommendations for Immediate Action

1. <!--[endif]-->Conduct the pre-assessment of occupational disease hazards, assessment of the effects of occupational disease hazards or assessment of current conditions of occupational disease hazards as per legal requirement.
2. <!--[endif]-->Store materials and goods at least 0.5m clearance from walls and 0.3m clearance from pillars in all warehouses as per legal requirement.

3. <!--[endif]-->Strengthen training on personal protective equipment (PPE) and monitor workers to use PPE consistently during working hours.
  
4. <!--[endif]-->Conduct annual inspection on the lightning protection system and maintain inspection reports.
  
5. <!--[endif]-->Remove combustible materials and keep all electrical switch boards and cabinets unblocked in production area.
  
6. <!--[endif]-->Install finger guards and eye protection shields on all sewing machines.

## COMPANY ACTION PLANS

### Action Plan no 1.

#### Description

Training and inspections need to be arranged for all areas

#### Company Action Plan Update

1. In Process: Policy drafted now factory to create Occupational Hazard status assessment and record keeping system 2. Completed. Warehouse workers re-trained on proper material storage methods. 3. Completed: Factory trained cutting workers on safety procedures and the necessity of wearing metal chain gloves. 4. In process: Factory is applying for lighting system protection system to be performed annually. 5. Completed: Factory has trained workers to ensure flammable materials are not stored near switch boards and all switch boards and cabinets are freely accessible. 6. Completed: Factory has provided equipment safety training to all sewing machine operators to stress the use and benefits of needle guard use

### Action Plan no 2.

#### Description

see previous submit

#### Company Action Plan Update

see previous submit