



FAIR LABOR  
ASSOCIATION®

## INDEPENDENT EXTERNAL ASSESSMENT REPORT



COMPANIES: Mountain Equipment Co-op (MEC)

COUNTRY: China

ASSESSMENT DATE: 09/28/20

ASSESSOR: Openview

PRODUCTS: Apparel

NUMBER OF WORKERS: 800

## 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	2
Health, Safety, and Environment	3

## Findings and Action Plans

### FINDING NO.1

#### IMMEDIATE ACTION REQUIRED

#### FINDING TYPE: Compensation

##### Finding Explanation

1. The factory does not provide social insurance to all eligible workers. There are a total of 673 workers working in the factory, including 58 retired but re-recruited workers and 15 new hires. The factory has provided 471 out of 600 eligible workers (78.5%) with pension, work-related injury, maternity and unemployment insurances, and provided 489 of 600 eligible workers (81.5%) with medical insurance. As a supplement, the factory has provided commercial accidental injury insurance to 750 workers, which is valid from January 1, 2020 to December 31, 2020, and has a maximum benefit amount of 36 months of wages per worker. [C.10, ER.22]

2. The contribution base of the five types of social insurances is not in line with legal requirement.

a) The factory contributes to pension, work-related injury, maternity and unemployment insurances based on the local minimum requirement of CNY 2,400 (USD 353) per month, which is not in line with the legal requirement of contribution based on workers' average monthly wage of the previous year. All workers' average monthly wages of the previous year were higher than the local minimum contribution base, ranging from CNY 3,000 (USD 441) to CNY 8,000 (USD 1,176).

b) The factory contributes to medical insurance based on CNY 3,600 (USD 529) per month, while 50% of workers' average monthly wages of previous year were higher than CNY 3,600 (USD 529). [C.10.1, ER.22]

3.The factory does not contribute to the Housing Provident Fund for any of the 600 eligible workers. [ER.22.1]

##### 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. FLA Workplace Code (Compensation Benchmarks C.10; Employment Relationship Benchmark ER.22)

##### 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 the legally required Housing Provident Fund.

## FINDING NO.2

### 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, which allows a total of 2,432 working hours during the approval implementation period from October 25, 2019 to October 24, 2020. However, 80% of workers worked more than the approval limit of 2,432 hours in one year and worked up to 2,758 hours from October 25, 2019 to September 25, 2020. In accordance with Article 65 of the Opinion of the Ministry of Labor on Several Questions concerning the Implementation of the China Labor Law, enterprises which are approved to adopt the Comprehensive Working Hours System shall calculate working hours based on one week, one month, one quarter, or one year as a cycle. [HOW.1.1]

2.The factory sets a 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 Opinion of the Ministry of Labor on Several Questions concerning 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. <!--[endif]-->Ensure total working hours are in full compliance with the requirements of the Comprehensive Working Hours System.

2. Set a 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.

### FINDING NO.3

#### 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)

### FINDING NO.4

#### IMMEDIATE ACTION REQUIRED

##### FINDING TYPE: Health & Safety

###### Finding Explanation

1. One out of six fire hydrants is blocked with cloth materials in the material warehouse on the first floor of Production Building No.1. [HSE.6.1]
2. One out of two exit signs and one out of two emergency lights in the finish workshop did not illuminate during the onsite test. [HSE.5.1]
3. The factory has not installed needle guards on about 5% of sewing machines in the sewing workshop. [HSE.14.1]

###### Local Law or Code Requirement

The China Fire Prevention Law, Article 16 and Article 28; The Code of Design of Manufacturing Equipment Safety and Hygiene, Article 6.1.6. FLA Workplace Code (Health, Safety and Environment Benchmarks HSE.5, HSE.6 and HSE.14)

###### Recommendations for Immediate Action

1. <!--[endif]-->Ensure all fire hydrants are easily accessible and free from obstruction.

2. <!--[endif]-->Conduct routine maintenance on the exit signs and emergency lights to ensure functionality.

3. <!--[endif]-->Install needle guards on all sewing machines.