2009

FAIR LABOR ASSOCIATION
INDEPENDENT EXTERNAL VERIFICATION REPORT*

COMPANY: NK Apparel Co., Ltd.
COUNTRY: Thailand
FACTORY CODE: 610074845GV
MONITOR: Kenan Institute Asia
AUDIT DATE: July 31 – August 1, 2008
PRODUCTS: Sportswear
PROCESSES: Fabric Inspection, Cutting, Embroidery, Sewing, Ironing
NUMBER OF WORKERS: 4368

*To read the original IEM report of this factory, please visit the FLA website here.
For an explanation on how to read this report, please visit the FLA website here.
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Wages, Benefits and Overtime Compensation: Holidays, Leave, Legal Benefits and Bonuses

WBOT.5 Employers shall provide all legally mandated holidays, leave, benefits and bonuses, such as official holidays, annual leave, sick leave, severance payments and 13th month payments, to all eligible workers within legally defined time periods. In addition, all leave and bonuses shall be calculated correctly. (S)

Noncompliance

Explanation: The company policy stated clearly that workers do not need to submit the medical certificate when taking sick leave for 1-2 days. However, most of the workers understood that they have to send the medical certificate to their supervisor at any time, even when taking sick leave for one day. They thought that if they could not produce the medical certificate, they would not receive wages for that day.

Plan Of Action:

1. Training.
2. Communication.
3. Correct the payment.

Deadline Date: 08/30/2008

Supplier CAP:

1. Refresh training about sick leave policy, based on definition in the worker manual, for all leaders and supervisors;
2. Communicate the sick leave policy to workplace by mass communication;
3. Provide the training to all HRM section staff to correct payment calculations in any cases of workers taking sick leave without a medical certificate, even if for 1-2 days.

Supplier CAP Date: 08/30/2008

Action Taken:

1. Factory had provided the training about legally mandated holidays, leave benefits and bonuses for all leaders and supervisors since August 17-18/November 9-10, 2009.
2. Factory had set up and implemented mass communication to the workplace about the sick leave policy (August 17-18, 2009).
3. HR manager had provided the training about legally mandated holidays, leave benefits and bonuses to all HRM staff, in order to ensure they understood the correct wage calculations for employees. (Training date: August 8, 2009.)
Plan Complete: Yes

Plan Complete Date: 08/20/2009

Action Verified: No

Action Verified Text: As determined from management, worker interviews and document review, it was noted that factory trains supervisors and line leaders on the legal provisions of sick leave. The legal provisions do not require the presence of a medical certificate if the sick leave taken is less than 3 days. The selective interview of a few supervisors and nine workers indicated they were aware of the provisions. The verification of payrolls showed no evidence of noncompliance. It is, however, recommended that factory develop orientation materials on sick leave guidelines in consistency with the one used for training supervisors/line leaders. In the closing meeting, factory management representative was of the view of providing sick leave guidelines in the leave form, so that workers are aware of their entitlement. This is subject to verification.

Action Verified Date: 10/15/2009

Follow-Up Plan of Action: Remediation Plan:

1. Revise the training material about the sick leave provisions for new workers in the orientation program;

2. Set up the summary table of Wage and Welfare to communicate to workplace;

3. Refresh training about leave provisions for all;

3.1. On-site communication to the workers;

3.2. Announce through mass communication;

3.3. Provide the training course to all line leaders, managers.
Harassment or Abuse: Discipline/Monetary Fines and Penalties

H&A.8 Employers shall not use monetary fines and penalties as a means to maintain labor discipline, including for poor performance or for violating company rules, regulations, and policies. (S)

Noncompliance

Factory issued monetary fine policy effective September 12, 2009. Under the policy, which was endorsed by HR manager, workers are subject to return tools and belongings when they leave the job or are terminated. Failure to do so within two weeks will give way for the factory to make deductions according to item cost (ID card: 20 Baht, Worker’s Manual: 6 Baht, apron: 50 Baht, locker key: 25 Baht, safety belt: 400 Baht, safety shoes: 400 Baht, and new 4 uniforms provided each year: 400 Baht), before transferring final payment into worker’s bank account. According to factory management, the policy stemmed from the pressure from the Customs-Trade Partnership Against Terrorism (C-TPAT) side, which was reported to require measures which ensured that items carrying factory names are returned, in order to prevent terrorism risks. But this is noncompliance as per the Thai Labor Protection Act, Section 76.

Plan Of Action:
Give up the payment deduction and set up the factory’s property control procedure.

Deadline Date: 03/15/2010

Supplier CAP:
1. Give up the payment deduction;
2. Set up the factory’s property control procedure.

Supplier CAP Date: 03/01/2010

Action Taken:
1. Factory has given up the payment deduction, executed March 1, 2010;
2. Factory has set up the factory’s property control procedure, executed March 1, 2010.

Plan Complete: Yes

Plan Complete Date: 06/28/2010
Child Labor: Employment of Young Workers

CL.6 Employers shall comply with all relevant laws that apply to young workers (i.e., those between the minimum working age and the age of 18) including regulations relating to hiring, working conditions, types of work, hours of work, proof of age documentation, and overtime. (P)

Noncompliance

Based on interviews, it was noted that factory employs juvenile workers whose ages are between 16-18 years old (<5%). Supervisors have a basic understanding of the protection provisions for these young workers. However, there was no written policy, regulation or procedure in place regarding the employment and protection of juvenile workers (as well as apprentices or vocational students). Policies, regulations and procedures would ensure such work was carried out in accordance with conditions prescribed under the Thai Labor Protection Act.

Plan Of Action:
Set up and announce “Juvenile Labor Employment Policy.”

Deadline Date: 03/15/2010

Supplier CAP:
1. Set up “Juvenile Labor Employment Policy.”
2. Announce the policy by posting it on information boards and communicating it via HR mass communication.
Supplier CAP 03/01/2010

Date:

Action Taken:

1. Factory had set up “Juvenile Labor Employment Policy,” executed March 1, 2010;
2. Factory had posted the policy onto all information boards in place;
3. Factory had communicated the policy via HR mass communication on March 1, 2010 and repeated again on March 4, 2010.

Plan Complete: Yes

Plan Complete Date: 03/15/2010

Action Verified: No

Action Verified Text:

Action Verified Date:
Health and Safety: Document Maintenance/Worker Accessibility and Awareness

H&S.2 All documents required to be available to workers and management by applicable laws (such as health and safety policies, MSDS, etc.) shall be made available in the prescribed manner and in the local language or language(s) spoken by the workers if different from the local language. (P)

Noncompliance

Explanation: The factory does not post a list of Health and Safety Committee members (or their updated meeting minutes) on the prominent board in each department. There is however, a list of the committee members posted on the information board in [Building name].

Plan Of Action:
1. Communicate this information through factory mass communication.
2. Communicate this information by posting it on the information boards of all departments.

Deadline Date: 08/30/2008

Supplier CAP:
1. Communicate through factory mass communication:
   1.1. List of Health and Safety Committee members;
   1.2. Meeting minutes of Health and Safety Committee (weekly).
2. Communicate by posting on the information boards of all departments:
   2.1. List of Health and Safety Committee members;
   2.2. Meeting minutes of Health and Safety Committee (weekly).

Supplier CAP Date: 08/30/2008

Action Taken:
1. Factory had communicated the list of Health and Safety Committee members and the meeting minutes through mass communication.
2. Factory had posted name list and meeting minutes onto all information boards, and the meeting minutes will be updated monthly.

Plan Complete: Yes
Plan Complete Date: 08/30/2008

Action Verified: No

Action Verified Text: Ongoing:
Based on factory walkthrough, factory posted the list of Health and Safety Committee members and their monthly meeting minutes on the notice board in each production section. Nevertheless, some sections failed to post the minutes on a regular basis. According to the factory internal procedures, the safety officers who take the minutes are responsible for disseminating the minutes via email to each department. Thus, the section leader or clerk of the particular section is responsible for printing the document and posting it on the notice board. Evidence found during the verification audit was that one supervisor failed to print and post the document; yet, no one followed up or took action on it. Therefore, the minutes posted on that board were outdated. Factory is recommended to set up a follow up or monitoring mechanism on the posting of Health and Safety Committee’s meeting minutes to ensure consistency of implementation across the factory.

Action Verified Date: 10/15/2009

Follow-Up Plan of Action:

Remediation plan:
1. Make the subject a topic in Safety Audit (Monthly audit by Safety Officer).
2. Set up a contact/responsible person in each area to handle the information board updates.
3. Provide training to contact/responsible person on the information board update procedure.
Health and Safety: Evacuation Requirements and Procedure

H&S.9 All applicable legally required or recommended elements of safe evacuation (such as posting of evacuation plans, the installation and maintenance of an employee alarm and emergency lighting systems, ensuring aisles/exits are not blocked and that workers are not blocked within their workstations, employee education, evacuation procedures, etc.) shall be complied with. Workers shall be trained in evacuation procedures. Alarm systems shall be regularly tested and evacuation drills shall be undertaken at least annually. (S)

Noncompliance

Explanation: The factory did not post fire exit signs and directional arrows on the floor on every floor of NC1 and NC2 dormitory buildings.

Plan Of Action: Set up/post fire exit signs and directional arrows based on the requirement. (Thai law/customer requirement)

Deadline Date: 10/30/2008

Supplier CAP: 1. Post the fire exit signs; 2. Paint the directional arrows on the floor.

Supplier CAP Date: 10/30/2008

Action Taken: Factory had posted the fire exit signs and painted the directional arrows on the floor of dormitories NC1 and NC2.

Plan Complete: Yes

Plan Complete Date: 11/03/2008

Action Verified: No

Action Verified Text: 
Health and Safety: Personal Protective Equipment

H&S.11 Workers shall be provided with effective and all necessary personal protective equipment (such as gloves, eye protection, hearing protection, respiratory protection, etc.) to prevent unsafe exposure (such as inhalation or contact with solvent vapors, noise, dust, etc.) to health and safety hazards, including medical waste. (S)

Noncompliance

Explanation: 1. The factory provided PPE for forklift drivers such as helmets, dust masks and safety shoes, but they are unwilling to wear them.

2. Tag-in and lock-out, tag stating “In Repairing Process” or yellow banner sign in place was not hanging while maintenance staff repaired sewing machines and thread-spinning machine (No. 19 in CD line).

Plan Of Action:
1. Provide safety awareness training to all the forklift drivers;
2. Set up and apply tag-in/lock-out; provide training to all mechanics.

Deadline Date: 06/30/2010

Supplier CAP:
1. Provide safety awareness training to all the forklift drivers;
2. Set up and implement tag-in/lock-out tools; provide refresher training to all mechanics.

Supplier CAP Date: 

Action Taken:
1. Provided training about safety awareness to all the forklift drivers, the training date was February 17, 2009;
2. Factory had set up and implemented the tag-in/lock-out tools and provided refresher training to all mechanics on June 15, 2009.
Health and Safety: Machinery Maintenance and Worker Training

H&S.18 All production machinery, equipment and tools shall be regularly maintained and properly guarded. Workers shall receive training in the proper use and safe operation of machinery, equipment and tools they use. Employers shall ensure safety instructions are either displayed/posted near all machinery or are readily accessible to the workers. (S)

Noncompliance

Explanation: Some machines have no working instructions (WI) or safe working instructions (SWI). E.g., Gerber machines in cutting department and fusing machines have SWI, but they are written in English.

Plan Of Action:

1. Translate the work instructions of Gerber machines and fusing machines into Thai language.
2. Post work instructions onto Gerber machines and fusing machines.
3. Provide training about work instructions to the responsible operators.

Deadline Date: 08/30/2008
1. MTN manager --> Translate the work instructions of Gerber machines and fusing machines into Thai language.

2. PMTN manager --> Post the work instructions onto Gerber machines and fusing machines;

3. Provide training about work instructions to responsible operators; training was done by MTN manager.

**Supplier CAP** 08/30/2008

**Date:**

**Action Taken:**

1. Factory, by maintenance manager, had translated the WI of Gerber machines and fusing machines into Thai language.

2. Maintenance manager had posted WI (Thai) onto Gerber machines and fusing machines in cutting department.

3. Maintenance manager had provided the training about WI to all concerned mechanics and concerned operators.

**Plan Complete:** Yes

**Plan Complete Date:** 08/30/2010

**Action Verified:** No

**Action Verified Date:** 10/15/2009

**Ongoing:**

The factory posted work instructions in local language on the problematic fusing machine uncovered during the 2008 IEM audit. However, the factory failed to install/post similar safe work instructions on several other Gerber cutting, spreading machines, i.e., those in Building 6. Factory reported that this stemmed from a lack of coordination between the Safety Officer Team and the Production Team in doing safe working instructions for operating machines.
Follow-Up Plan of Action:

Remediation plan:

1. Safety officer providing meeting to all cutting supervisors and managers;
2. Enlarging the SWI posting for all machines in Cutting department for both NC1 and NC2;
3. Providing on the job training to all concerned operators by host supervisors.

Health and Safety: Bodily Strain

H&S.20 Workstations, including seating and standing arrangements and reach required to obtain tools, shall be designed and set-up in such a manner as to minimize bodily strains. Employers shall train workers in proper lifting techniques and items such as belts shall be provided. (S)

Noncompliance

Lack of stools provided to packing workers who stand. As determined from grievance records, workers in this packing workstation complained and requested stools to alternate their standing position. No evidence that factory took proactive action to resolve or minimize the bodily strain problem. A recent internal audit at [Factory name] also indicated that factory had never educated employees, supervisors and managers on identifying, analyzing and solving ergonomics problems.

Plan Of Action:

Provide training and set up campaign to promote proper ergonomics.

Deadline Date:
03/05/2010

Supplier CAP:
1. Provide training (proper ergonomics, bodily strain problems, resolving bodily strain, minimization of workers’ bodily strain) section by section;
2. Promote the understanding of proper ergonomics;
3. Provide stools to all packing workstations.

Supplier CAP Date:
03/03/2010
1. Safety Officer had provided training, section by section, on ergonomics, bodily strain problems, resolving bodily strain and minimization of workers’ bodily strain.

2. Safety Officer had set up a schedule for communicating, via HR mass communication, ergonomics aspects to the workplace.

3. Safety officer had provided stools to all packing workstations.

Plan Complete: Yes

Plan Complete Date: 06/30/2010

Action Verified: No

Action Verified Text:

Action Verified Date:
Health and Safety: Bodily Strain

H&S.20 Workstations, including seating and standing arrangements and reach required to obtain tools, shall be designed and set-up in such a manner as to minimize bodily strains. Employers shall train workers in proper lifting techniques and items such as belts shall be provided. (S)

Noncompliance

Explanation:
1. The factory does not provide chairs with back support for all pregnant workers and all workers in production lines.
2. The factory does not provide a non-slip mat (which prevents strain on joints, legs and back) for some workers in ironing section.

Plan Of Action:
1. Provide chairs with back support to pregnant workers.
2. Provide non-slip mats for all workers in the ironing section.

Deadline Date: 09/30/2008

Supplier CAP:
1. Check name list and line of pregnant workers;
2. Modify or order chairs with back support;
3. Modify or order non-slip mats.

Supplier CAP Date: 09/30/2008

Action Taken: Factory had provided chairs with back support for all pregnant workers based on the pregnant registration record and actual checklist, in lines by safety officer.

Plan Complete: Yes

Plan Complete Date: 06/30/2010

Action Verified: No
Action Verified Text:

Pending:
Based on visual inspection, chairs with back support were provided to pregnant workers in sewing and other production lines. But factory failed to provide chairs with back support to pregnant workers who perform QC tasks. Currently, they sit on stools without back support. A memorandum dated September 29, 2009 requesting 64 chairs with back support for pregnant workers was verified. However, there is no evidence of management’s approval yet. As for ironing section, non-slip mats were available and provided to workers.

Action Verified Date: 10/15/2009

Follow-Up Plan of Action:
Remediation plan:
1. Provide chairs with back support to all existing pregnant workers in factory;
2. Provide non-slip mats to all ironing workers.

Hours of Work: Extraordinary Business Circumstance/Forced Labor
HOW.11 In case of extraordinary business circumstances, employers shall make reasonable efforts to secure voluntary overtime work prior to mandating involuntary overtime. Employers must get workers voluntary consent periodically for all overtime that is above the 12 hours as provided for in the Code and that is not due to extraordinary business circumstances. (P)

Noncompliance

Explanation: Attendance and payroll records during January-July 2008 revealed that workers in packing section had worked up to 35.5 hrs of overtime per week; this is just below the maximum legal limit of hours per week. A review of overtime hours from February to July revealed between 12-24 hours per week in each working department; thus, the factory has provided overtime working hours for the workers in excess of the 12 hours a week as per FLA requirements.

Plan Of Action:
1. Set up the proactive warning report from HR department --> to factory.
2. Promote working hours control policy into workplace.

Deadline Date: 10/31/2008
Supplier CAP:

1. Develop internal software program to screen/sort any persons of risk that work over the requirement (export data from working hour record program) --> complete by February 25, 2009.

2. Promote working hour policy into workplace; pass through factory mass communication; provide meeting and/or training to all leaders and supervisors.

Supplier CAP Date: 10/31/2008

Action Taken:

1. Factory set up a monitoring warning system for working by the Safety Officer. Will submit the name list of persons who have a risk of working over the requirement to production managers/director. (Twice a week: Wednesday and Friday.)

2. Factory had promoted working hour policy in workplace: mass communication, meeting/training to all readers and supervisors, in-line promotion (set up campaign to promote working hour policy to workplace, section by section).

Plan Complete: Yes

Plan Complete Date: 06/30/2010

Action Verified: No

Action Verified Date: 10/15/2009

Ongoing:
Based on interviews with HR representatives, the internal software program to screen for persons at risk of working excessively each week was introduced in late July 2009. Factory management also reported that a procedure is in place for asking for permission to work more than 60 hours/week from a concerned brand if necessary. Recent evidence of approval request to adidas Group for working more than 60 hours/week at the cutting section, dated September 29, 2009 was verified.

Follow-Up Plan of Action:

Remediation plan:

1. Summarize working hours data of cutting section during September-December, 2009;

2. Submit evidence to FLA.
**Hours of Work: Sick Leave/Restrictions**

HOW.20 Employers shall not impose any undue restrictions on sick leave. Any factory restrictions or procedures regarding sick leave, such as informing the employer as soon as possible, the provision of medical certificates, the use of designated doctors or hospitals, etc., must be in line with local laws, regulations and procedures and must be communicated in full to all workers. (S)

**Noncompliance**

**Explanation:** The company policy stated clearly that workers do not need to submit a medical certificate when taking sick leave for 1-2 days. However, most workers understood that they have to send the medical certificate to their supervisor at any time when taking sick leave, even if for one day. They thought that if they could not produce the medical certificate, they would not receive wages for that day.

**Plan Of Action:**
1. Training;
2. Communication;
3. Correct the payment.

**Deadline Date:** 08/30/2008

**Supplier CAP:**
1. Refresh training about sick leave policy based on definition in the worker manual to all leaders and supervisor;
2. Communicate the sick leave policy to workplace by mass communication;
3. Provide the training to all HRM section staff to correct payment calculations in any cases of workers taking sick leave without a medical certificate, even if for 1-2 days.

**Supplier CAP Date:** 08/30/2008

**Action Taken:**

**Plan Complete:** Yes

**Plan Complete Date:** 08/30/2008
As determined from management, worker interviews and document review, it was noted that factory trains supervisors and line leaders on the legal provisions of sick leave. The legal provisions do not require the presence of a medical certificate if sick leave taken is less than 3 days. The selective interview of a few supervisors and nine workers indicated they were aware of the provisions. The verification of payrolls showed no evidence of noncompliance. It is, however, recommended that factory develop orientation materials on sick leave guidelines in consistency with the one used for training supervisors/line leaders. In the closing meeting, factory management representative was of the view of providing sick leave guidelines in the leave form so that workers are aware of their entitlement. This is subject to verification.

Action Verified Date: 10/15/2009

Remediation Plan:
1. Revise training material about sick leave provisions for new workers in orientation program;
2. Set up the summary table of Wage and Welfare to communicate to workplace;
3. Refresh training about leave provisions for all:
   3.1. On-site communication to the workers;
   3.2. Announce through mass communication;
   3.3. Provide training course to all line leaders and managers.