



2010

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

COMPANY: American Eagle Outfitters, Inc

COUNTRY: China

FACTORY CODE: 9800151172I

MONITOR: Level Works Ltd.

AUDIT DATE: October 13 – 14, 2010

PRODUCTS: Decorations

PROCESSES: Assembly, Inspection, Packing

NUMBER OF WORKERS: 380



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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: Insufficient social insurance coverage. Only 270 out of 380 workers participated in all 5 kinds of social insurance. (Factory also bought commercial accident insurance from [Insurance company name] for 180 factory workers.)

Sources: document review, management interview

Legal Reference: PRC Labor Law, Article 72

Plan Of Action: Root causes: a) employee turnover rate is too high; thusly, is hard to cover social insurance for these new employees in 1 month, b) facility cannot cover some new employees' social insurance as the previous facility did not remove them from their insurance program, and c) some employees are about to retire and not willing to join social insurance in facility.

Immediate action: Identify root cause and look for solution.

Continuous corrective action: Provide social insurance to new employees within 2 months.

Deadline Date: 09/01/2011



Action Taken: [June 15, 2011](#): American Eagle Outfitters (AEO) internal team conducted a follow-up visit:

1. Latest social insurance receipts from May indicate 254 employees joined 5 types of social insurance, while facility has around 330 employees.

2. Root cause identified for employees who are not covered: a) new employees need to apply for employment approval (need 15 work days to obtain it), b) some employees don't clear all payments of social insurance (they owed social insurance premiums and are required to pay all premiums to social insurance department so facility could cover these employees under facility's social insurance program), c) previous company did not close social insurance for new employees, d) 2 employees are over the legal age for joining social insurance program. Regarding a) and b), company will solve them before the end of July 2011. Regarding c), they will need to look for another solution and identify the next stages.

[Update \(November 2011\)](#): Coverage for social insurance has been raised from 76% in May 2011 to 93% in November 2011. Facility still has few cases of employees not being provided with social insurance due to root causes a) and b) above and plans to address them before end of December 2011.

Plan Complete: No

Plan Complete Date:

Freedom of Association: Right to Freely Associate

FOA.2 Workers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization. The right to freedom of association begins at the time that a worker seeks employment, and continues through the course of employment, including eventual termination of employment, and is applicable as well to unemployed and retired workers. (S)

Noncompliance

Explanation: **FLA Comment:** The Chinese constitution guarantees Freedom of Association (FOA); 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 ILO, many provisions of the Trade Union Act are contrary to the fundamental principles of FOA, 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. However, the government has introduced new regulations that could improve the functioning of the labor relations mechanisms. The Amended Trade Union Act of Oct. 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. Trade unions also have an enhanced role in dispute resolution. In Dec. 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. Note: Based on pre-audit information gathering and the monitor's experience, no "independent" unionization is allowed in the PRC. Therefore, workers are not free to join any such organization; however, this is not in the control of the factory management, it is the control of the central government. There is labor union in many factories, but the union belongs to ACFTU and union representatives are assigned by factory management instead of elected by the workers.

Monitor's Note: All workers are members of local ACFTU branch.



**Plan Of
Action:**

Immediate action:

1. Educate existing employees on the functions of unions and how to elect worker representatives. Document training records and procedure.
2. Arrange election of worker representatives and document records.
3. Post list of worker representatives after election.

Continuous corrective action:

1. Establish procedures on union functions and election of worker representatives.
2. Educate new employees and existing employees on this new procedure and document records.

**Deadline
Date:**

07/31/2011

**Action
Taken:**

June 15, 2011: AEO internal team conducted a follow-up visit:

1. Training records on electing employee representatives and functions of unions for existing and new employees not documented.
2. Election of employee representatives completed April 21, 2011; voting records documented.
3. Candidates for employee representative were assigned by Preparation Committee of union (facility's management), as employees didn't have much interest in the election and no candidates were proposed. Facility agrees to have employees propose candidates for employee representative and to hold another election after training is completed.
4. Facility established a union in 2008 and is registered with local government.

**Plan
Complete:**

No

**Plan
Complete
Date:**

Code Awareness:

GEN.1 Establish and articulate clear, written workplace standards. Formally convey those standards to Company factories as well as to licensees, contractors and suppliers.

Noncompliance

Explanation: Company did not provide code of conduct (COC) to factory, and did not communicate its association with the FLA to factory management.

Sources: document review, management interview

Legal Reference: FLA Benchmark

**Plan Of
Action:**

Immediate action:

1. AEO to provide COC to facility compliance staff and ask them to post it in visible places.
2. Message of AEO's association with the FLA will go through to relative compliance staff through email communication.
3. This message will also go to new suppliers when they are set up.
4. Factory will ensure message goes directly to compliance manager.

Continuous corrective action:

1. AEO internal visits or third-party visit will ensure that COC is in place.
2. Facility compliance manager will check if updated COC is available.
3. Refresh existing employees with COC standards and include this training in new employee orientation.

**Deadline
Date:** 07/31/2011



Action Taken: [March 24, 2011](#): AEO provided facility COC in local language; it has been posted on work floor. COC training records, such as photos and attendee lists provided. Facility will draft a procedure regarding main contacts of FLA messages.

[June 15, 2011](#): AEO internal team conducted a follow-up visit:

1. AEO COC posted on entrance gate of production floor in local language and is visible for employees.
2. Facility has maintained procedure regarding contact information of FLA message, which states a) main contact and secondary contacts for FLA messages in the facility; b) AEO contacts whom facility can contact for FLA messages.

Plan Complete: Yes

Plan Complete Date: 06/15/2011

Code Awareness:

GEN.2 Ensure that all Company factories as well as contractors and suppliers inform their employees about the workplace standards orally and through the posting of standards in a prominent place (in the local languages spoken by employees and managers) and undertake other efforts to educate employees about the standards on a regular basis.

Noncompliance

Explanation: Company COC not posted; workers are not informed of Company COC.

Sources: document review, management interview

Legal Reference: FLA Benchmark

**Plan Of
Action:**

Immediate action:

1. AEO will provide COC to facility compliance staff and ask them to post it in visible places.

Continuous corrective action:

1. AEO internal visits or third-party visit will ensure that COC is in place.
2. Facility compliance manager will check if updated COC is available.
3. Refresh existing employees on COC standards and include this training in new employee orientation.

**Deadline
Date:** 07/31/2011

**Action
Taken:** March 24, 2011: AEO has provided COC in local language to facility and it has been posted on work floor. COC training records, such as photos and attendee lists have been provided.

June 15, 2011: AEO internal team conducted a follow-up visit:

1. Training on AEO COC for new employees does not include freedom of association.
2. AEO COC posted on entrance gate of production floor in local language and is visible for employees.
3. Training on AEO COC provided to new employees and last training for new employees completed May 18, 2011. Training for existing employees completed February 25, 2011.

Plan **No**
Complete:

Plan
Complete
Date:

Code Awareness:

GEN.3 Develop a secure communications channel, in a manner appropriate to the culture and situation, to enable Company employees and employees of contractors and suppliers to report to the Company on noncompliance with the workplace standards, with security that they shall not be punished or prejudiced for doing so.

Noncompliance

Explanation: No confidential noncompliance reporting mechanism in place that allows factory workers to contact company directly.

Sources: document review, management interview

Legal Reference: FLA Benchmark

Plan Of Action: Currently, AEO has service providers to facilitate external grievance system in South China and plans to extend this to North China suppliers next year, where a hotline and email address will be made available to workers. AEO internal assessors also pass contact information to workers when they visit facility.

Deadline Date: 03/31/2011

Action Taken:

Plan **No**
Complete:

Plan
Complete
Date:

Health and Safety: Safety Equipment and First Aid Training

H&S.10 All safety and medical equipment (such as fire fighting equipment, first aid kits, etc.) shall be available in sufficient numbers throughout the factory, maintained and stocked as prescribed and easily accessible to workers. A sufficient number of workers shall be trained in first aid and fire fighting techniques. (S)

Noncompliance

Explanation: 2 fire extinguishers in packing section installed directly on the ground.

Source: factory tour

Legal Reference: PRC Code for Design of Extinguisher Distribution in Buildings (GB 50140-2005), Article 5.1.3 stipulates that portable fire extinguishers shall be installed in a way that the height from the top of extinguisher to the floor should be less than 1.50m, and the height from the bottom of extinguisher to the floor should not be less than 0.08m. Boxes containing fire extinguishers should not be locked.

Plan Of Action:

Immediate action:

Mount fire extinguishers at proper height as per local law.

Continuous corrective action:

1. Health and Safety Officer conducts regular inspections on fire extinguishers and documents inspection records.
2. Hold regular meetings and trainings with supervisors and team leaders regarding health and safety conditions in facility.

**Deadline
Date:** 07/31/2011



Action Taken: [March 24, 2011](#): Fire extinguishers mounted. Procedure regarding internal inspection on health and safety issues established. Trainings provided to educate supervisors on reporting health and safety issues.

[June 15, 2011](#): AEO internal team conducted a follow-up visit:

1. Facility has a Health and Safety Committee and holds regular meetings to discuss preventive plans and health and safety issues, but regular meeting records are documented.
2. Fire extinguishers are placed in boxes and not locked.
3. Monthly inspections conducted on fire extinguishers; last inspection was completed June 8, 2011.
4. Health and safety training provided to employees upon joining facility and on an annual basis.

Plan Complete: No

Plan Complete Date:

Hours of Work: General Compliance Hours of Work

HOW.1 Employers shall comply with all local laws, regulations and procedures concerning hours of work, public holidays and leave. (S)

Noncompliance

- Explanation:**
1. Around 95% of production workers worked overtime for 0 – 12.5 hours a day and 37 – 128 hours per month in November 2009, January 2010 and August 2010.
 2. Around 50% of production workers worked 61 – 76.5 hours a week in November 2009, January 2010 and August 2010.

Source: document review (attendance records)

Legal References: PRC Labor Law, Article 41; FLA Benchmark

Plan Of Action: Immediate action: Identify root cause of excessive overtime hours and look for solution.

Continuous corrective action: Facility internal compliance team has started to track working hours day by day and has tried to adjust weekly work hours to be less than 60 since June 2010. In 2011, work hours can be controlled to within 60 hours a week. (June 30, 2011 for identifying root cause; December 31, 2011 for corrective action plan; December 31, 2012 for proof of improvement)

Deadline Date: 12/31/2012

Action Taken: June 15, 2011: AEO internal team conducted a follow-up visit:

1. Time records from February, March and April 2011 reviewed and weekly hours not exceeding 60. However, daily overtime hours are up to 3 – 4 hours from February to April 2011 and monthly overtime hours are 40 – 79.5 hours from February to April 2011.
2. Facility management stated that facility does not have obvious peak/low seasons and has an internal system to control weekly work hours. Facility management will check employees' work hours every 2 days and adjust their overtime hours in the following days, so as to avoid excessive weekly hours.
3. Facility management agreed to control daily overtime hours to be no more than 3 hours by October 31 2011, and will look for solutions for controlling monthly overtime hours for the next step.

Plan Complete: No



**Plan
Complete
Date:**
