2010

Fair Labor Association
Independent External Verification Report *

COMPANY: New Era Cap Co., Inc.
COUNTRY: China
FACTORY CODE: 270015843GV
MONITOR: Openview Service Limited
AUDIT DATE: November 30, 2010
PRODUCTS: Caps
PROCESSES: Cutting, Sewing, Shaping, Ironing, Inspection, Packing
NUMBER OF WORKERS: 410

*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: 1) Workers are not provided with paid annual leave, paid sick leave and paid holidays.

2) 45% of workers are enrolled in 4 kinds of social insurances: pension, occupational injury, maternity, and unemployment. No workers are enrolled in medical insurance.

Sources: document review, worker interviews and management interviews

Legal References: Article 2 of Measures on Having a holiday for National Annual Leave and Memorial Days: (a) Having a 1-day holiday for New Years (January 1) (b) Having a 3-day holiday for Spring Festival (the lunar New Year's Eve, the first 2 days of lunar January) (c) Having a 1-day holiday on Tomb-Sweeping Day (the lunar Tomb-Sweeping Day) (d) Having a 1-day Holiday on Labor Day (May 1) (e) Having a 1-day holiday on the Dragon-boat Festival (the lunar Dragon Boat Festival) (f) Having a 1-day holiday on the Mid-Autumn Festival (the lunar Mid-Autumn Festival) (g) Having a 3-day holiday on National Day (October 1, 2, 3). Article 6 of Measures on Having a holiday for National Annual Leave and Memorial Days: Where the national holidays happen to be on a Saturday or Sunday, they shall have an additional day off. Article 72 of PRC Labor Law (Chapter 9 Social Security and Benefits): Management and employees must participate in social insurance programs. Article 73 PRC Labor Law: Workers shall be provided with social insurance benefits under the following circumstances: (a) retirement; (b) illness; (c) disability caused by work-related injury or occupational disease; (d) unemployment and (e) child bearing. Article 73 of PRC Labor Law (Chapter 9 Social Insurance and Welfare): Social insurance contributions shall be fulfilled in full and on time. Article 51 of PRC Labor Law (Chapter 5 Wages and Salaries): Wages and salaries shall be paid to laborers when they have legal holidays or take leave for marriage or mourning and/or participate in social activities as defined by the law. Article 58 of Implementation of PRC Labor Law: Female employees must be paid primary wages during their maternity leave. Article 59 of Implementation of PRC Labor Law: Employees who are ill or hospitalized, must be paid no less than 80% of the Local Minimum standard during their legal healing period. Article 62 of PRC Labor Law: Childbearing women shall be entitled to maternity leave no shorter than 90 days. Regulations for Special Protection on Female Workers, Article 8: The maternity leave for childbearing women is 90 days. 15 days is for leave before the child is born. Providing that multiple children are born at once, there shall be 15 additional days off for each child. In the event of a miscarriage, the female worker could get maternity leave with proof given by the local hospital.

Details of the Noncompliances:

1) The factory states that they pay workers by a piece rate, which makes it difficult to calculate how much they should pay workers for leave or holidays.

2) The workers that are not enrolled in the social insurances are migrant workers. They do not want to enroll in social insurances because it is difficult to collect these insurance benefits when they no longer work in the area. The factory maintains statements from the workers who are not enrolled in the social insurances. The statements explain that the workers do not want to be enrolled in the social insurances.

3) Workers are paid based on a piece rate. When they ask for leave or they are on holidays, they do not have a production volume so they are not paid.

4) (a) 45% of workers are enrolled in 4 kinds of social insurances: pension, occupational injury, maternity, and unemployment. Factory has obtained a written waiver issued by the local labor and security bureau. (b) No workers are enrolled in medical insurance. Factory also has obtained a written waiver issued by the local labor and security bureau stating that since the factory is located in the **AREA NAME** Industrial Zone, it is allowed to not participate in medical insurance.

Plan Of Action: For all findings, the supplier was requested to provide a root cause analysis of why the non-compliances occurred and an action plan to correct and prevent the issue from occurring in the future. Once the plan was received and reviewed by NEC (New Era Cap), a conference call was held on October 28, 2008 to agree on priorities and time frames. NEC conducted an on-site visit to the factory on November 10, 2008 and a full independent verification audit is planned for the post-Chinese New Year 2009.

Deadline Date: 01/30/2009

Supplier CAP: Supplier: The official Spring Festival holiday takes 3 days, while our workers enjoy 15-20 days. This special vacation system does contain annual leave.

Supplier CAP: strictly follow the legal regulation

Supplier CAP Date: 01/30/2009

Action Taken: January 9, 2009: NEC held a meeting with the factory management to review the CAP status and make recommendations. According to payroll, reviewed workers received paid holidays in October, but this will need to be independently verified. Not all workers are covered by social insurance and NEC was not provided with a breakdown of the factory's enrollment figures for the 5 different types of insurance. The factory was asked to provide a more detailed update on the current status and a proposed plan to provide social insurance in compliance with the PRC law.

February 19, 2009: Factory confirmed the requirements with the social insurance bureau and agreed to provide the 5 different types of social insurance.

February 2009: Factory completed the Compliance MAP self-assessment and identified annual goals related to Wages and Benefits.

July 14-July 15, 2009: Compliance MAP validation audit conducted by [Additional auditor name]. Report confirms that all legally mandated benefits are now paid to workers and all workers are covered by all 5 types of insurance. There is designated staff responsible for ongoing wages and benefits compliance. The HR manager is responsible for a tracking system to ensure all social insurance contributions are complete and up to date.

Plan Complete: Yes

Plan Complete Date: 07/15/2009

Action Verified: No

Action Verified Text: Ongoing: Through checking payroll records for the period from November 2009 to October 2010, interviews with management and workers, it was found that the factory provided 5 days of paid annual leave and paid public holidays. Through checking the social insurance receipts and payroll records, and worker and management interviews, it was noted that all employees were enrolled in 5 kinds of social insurance: pension, medical, unemployment, work-related injury, and maternity insurance. Factory had a sick leave policy, but it did not define the payment terms of sick leave. Workers did not know if sick leave would be paid or not, and there was no evidence that showed that the factory had paid for any sick leave.

Action Verified Date: 11/30/2010

Follow Up Plan of Action: Verification CAP March 2, 2011: The factory has a policy on paid sick leave. During the visit, it was verified that the policy was communicated to the workers and 10 employees were provided paid sick leave in the last 6 months.

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Wages, Benefits and Overtime Compensation: Minimum Wage

WBOT.2 Employers shall pay workers at least the legal minimum wage or the prevailing industry wage, whichever is higher. (S)

Noncompliance

Explanation: Uncorroborated Evidence of Noncompliance: Since the time records are fake, it cannot be verified whether workers get the local minimum wages during the regular working hours.

Sources: document review and worker interviews

Legal References: Article 48 of PRC Labor Law (Chapter 5 Wages and Salaries): Employer shall pay workers wages no less than the government-established minimum. Article 12 of Regulation for Minimum Wage: Provided that an employee had worked normally, the payment he could get should be no less than the minimum wage except for the following items: (a) overtime payment; (b) special allowances for the middle shift, the night shift, working in high temperatures, low temperatures, in a mine or in a toxic environment; (c) other benefits regulated by law and regulations.

The facility does not maintain a reasonable number of workers, so it is difficult to keep the working hours within 60 hours per week. However, the clients require the factory to keep the weekly working hours within 60 hours. The fake records make it difficult for the auditor to verify the local minimum wage issue. Details of the noncompliance: The discrepancies between time records and on-site production records: (1) As per broken needle records, it was noted that there was a broken needle record on September 14, 2008, but the time records showed that all the sewing workers were on rest that day. (2) As per packing records, it was discovered that there were 5 sheets of packing records on September 21, 2008. However, time records showed that no packing workers were working on that day. (3) As per fire drill records, 1 fire drill was carried out on May 11, 2008, in which all the workers participated in it. However, time records showed that all the workers were on rest on that day.

Plan Of Action: NEC requires that its suppliers maintain accurate and complete payroll records that demonstrate payment of all regular and overtime wages, as required by law. Accurate wage payment was agreed to be a priority in this action plan, with regular monitoring and updates to NEC.

Deadline Date: 11/30/2008

Supplier CAP:	Factory will pay correct OT premiums immediately for hourly and piece rate workers (150% on normal work days, 200% on rest days and 300% on holidays) - factory will hire additional workers instead of working excessive OT.
Supplier CAP Date:	11/30/2008
Action Taken:	October 2008: Factory hired a new payroll manager and informed NEC that they had changed their wage payment system to an hourly system for all workers. November 10, 2008: NEC met with the new payroll manager and observed implementation of the new payroll and OT payment system. January 9, 2009: NEC held a meeting with factory management to review the CAP status and make recommendations. According to the payroll reviewed, workers received proper OT compensation but this will need to be independently verified. February 2009: Factory completed our Compliance MAP self-assessment and identified annual goals in Wages and Benefits. July 14- July 15, 2009: Compliance MAP validation audit conducted by [Additional auditor name]. According to the audit report, based on provided payroll records, payroll is accurate and reflects regular and OT wages, and deductions. A variety of production and other records were crosschecked, and no inconsistencies were detected in this assessment.
Plan Complete:	No
Plan Complete Date:	
Action Verified:	No
Action Verified Text:	Pending: Because the time records for the period from November 2009 to November 2010 were inaccurate and incomplete, the compliance status of minimum wage issues could not be verified. (Please see HOW.6 for details)
Action Verified Date:	11/30/2010

Follow Up Plan of Action: Verification CAP March 3, 2011: Since January 1, 2011, the factory adopted a new payroll system based on an hourly system with a productivity bonus. Employees were informed about the new payroll system on December 28, 2010, as well as trained on the wage policies and wage calculation for overtime wages. Based on employee interviews conducted on March 2, 2011, employees recall the training but some were still unclear about how to calculate their OT wage.

Wages, Benefits and Overtime Compensation: Overtime Compensation for Piece Rates and Other Incentive Schemes

WBOT.12 Employers shall not set production targets, piece rates, or any other incentive or production system at such a level that the payment for overtime work performed is less than the premium pay required by law. (S)

Noncompliance

Explanation: The production workers only received 100% of the piece unit for all their overtime hours, not 150% of the piece unit for the regular overtime hours and 200% of the piece unit for the weekend overtime hours. The factory needs a system to determine whether the production pieces are done during the regular hours or overtime hours.

Sources: document review, worker interviews and management interviews

Legal Reference: Article 13 of Interim Regulation on the Payment of Wages: Piece workers who are required to work overtime after they finish production quotas must be paid no less than 150% (regular work days), 200% (days of rest), or 300% (on statutory holidays) of the normal piece-rate during regular working hours.

Details of the non-compliance: The factory only calculates the production pieces for workers but does not make a distinction over whether the pieces are done after the regular working hours or during overtime hours.

Plan Of Action: NEC requires that its suppliers maintain accurate and complete payroll records that demonstrate payment of all regular and overtime wages, as required by law. Accurate wage payment was agreed to be a priority in this action plan, with regular monitoring and updates to NEC.

Deadline Date: 11/30/2008

Supplier CAP:	Factory will pay correct OT premiums immediately for hourly and piece rate workers (150% of the piece rate on normal work days, 200% of the piece rate on rest days and 300% of the piece rate on holidays) - and the factory will hire additional workers instead of having workers work excessive OT.
Supplier CAP Date:	11/30/2008
Action Taken:	October 2008: Factory hired a new payroll manager and informed NEC that they had changed their wage payment system to an hourly system for all workers. November 10, 2008: NEC met with the new payroll manager and observed implementation of the new payroll and OT payment system. January 9, 2009: NEC held a meeting with the factory management to review the CAP status and make recommendations. According to the reviewed payroll, workers received proper OT compensation but this will need to be independently verified. February 2009: Factory completed our Compliance MAP self-assessment and identified annual goals for Wages and Benefits. July 14-July 15, 2009: Compliance MAP validation audit conducted by [Additional auditor name]. According to the audit report, based on provided payroll records, payroll is accurate and reflects regular and OT wages, and deductions. As per employee and management interviews, and document review, pay slips provided to workers show the number of hours worked, and regular and OT itemized pay, and deductions.
Plan Complete:	Yes
Plan Complete Date:	03/02/2011
Action Verified:	No
Action Verified Text:	Pending: Based on a review of the payroll records for the period between November 2009 to October 2010, and interviews with workers and management, it was noted that: Even though there are no production targets or any similar systems, the piece rate production workers are still not paid OT premiums.
Action Verified Date:	11/30/2010

Follow Up Plan of Action: Verification CAP March 2, 2011: Since January 1, 2011, the factory adopted a new payroll system based on an hourly system with a productivity bonus. Employees were informed about the new payroll system on December 28, 2010, as well as trained on the wage policy and the wage calculation for overtime wages. Based on employee interviews conducted on March 2, 2011, employees recall the training but some were still unclear about how to calculate their OT wage. February payroll was verified through employee interviews and no concerns were identified. Workers are paid OT premiums according to the law.

Wages, Benefits and Overtime Compensation: Accurate Calculation and Recording of Wage Compensation

WBOT.17 All payments to workers, including hourly wages, piecework, benefits, bonuses, and other incentives shall be calculated and recorded accurately. (S)

Noncompliance

Explanation: New finding on November 30, 2010: According to the labour contracts, workers should be paid by a monthly rate, but actually they are paid by a piece rate.

Legal Reference: Article 29 of the China Labor Contract Law

Plan Of Action: Verification CAP: Since January 1, 2011, the factory adopted a new payroll system based on an hourly system with a productivity bonus. Employees were informed about the new payroll system on December 28, 2010, as well as trained on the wage policy and wage calculation for overtime wages. Based on employee interviews conducted on March 2, 2011, employees recall the training but some were still unclear about how to calculate their OT wages. February payroll was verified through employee interviews and no concerns were identified.

Deadline Date: 03/02/2011

Action Taken:

Plan Complete: No

Plan Complete Date:

Action Verified: No

Action Verified Text:

Action Verified 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: Noncompliance: There are really no free unions in China. This facility has no trade union currently. None of the workers interviewed showed interest in establishing a union.

Sources: management interviews, document review

Legal Reference: Article 7 of the PRC Labor Law: Laborers have the right to participate in and organize trade unions. Unions represent and safeguard the legal interests of workers and workers should be allowed to proceed with activities independently. 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 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 of consulting 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 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.
Plan Of Action:	In January 2009 NEC is launching a new initiative aimed at improving the HR management systems performance of contract suppliers. Labor relations and collective bargaining are components of this management system review, and the first step will be to analyze the supplier's policies, procedures, and capacity in these areas.
Deadline Date:	03/31/2009
Supplier CAP:	
Supplier CAP Date:	02/28/2009
Action Taken:	February 2009: Factory completed our Compliance MAP self-assessment and identified annual goals in different areas of employee engagement including: employee participation in health and safety, performance reviews, grievance processes and production decisions; management training in labor relations; and collective contracts. July 14- July 15, 2009: Compliance MAP validation audit conducted by [Additional auditor name]. The report notes the following: 1) There is an Employee Representative Committee in the factory, and employee representatives will participate in the Grievance Process. 2) The factory provided related trainings for management periodically. 3) 5 worker representatives are on the Environment, Health and Safety committee. Overall, the factory scored 67% in the area of employee engagement.
Plan Complete:	No
Plan Complete Date:	
Action Verified:	No

Action Verified Text:	Ongoing: Based on records review, interviews with management and workers, it was noted that there was an Employee Representative Committee in the factory, and 4 worker representatives were elected by employees in 2009.
Action Verified Date:	11/30/2010
Follow Up Plan of Action:	Verification CAP: We have had ongoing initiatives with this factory to improve overall levels of employee engagement in the factory. Over the course of 2010, the factory increased the proportion of "front-line" (operator level) employees in the EHS committee, and since May, the factory has involved employees in the monthly safety inspections conducted at the factory.

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
Explanation:	Although deductions have never taken place, there is a notice posted in the over-lock of the sewing workshop indicating that workers would have 5 RMB deducted when they do not clean their workstations. Sources: factory tour, worker interviews and management interviews
Plan Of Action:	In January 2009, NEC is launching a new initiative aimed at improving the HR management system performance of contract suppliers. This will include establishing disciplinary procedures based on an escalating scale of verbal and written warnings prior to termination and prohibit the use of any monetary fines or restrictions of freedom of movement.
Deadline Date:	03/31/2009
Supplier CAP:	Adopt a more humanistic method on implementing factory policy.
Supplier CAP Date:	01/30/2009

Action Taken:	January 9, 2009: NEC held a meeting with factory management to review CAP status and discuss HR system review and improvement planning in 2009. As mentioned above, this includes establishing disciplinary procedures in accordance with FLA requirements. February 2009: Factory completed our Compliance MAP self-assessment and identified annual goals in the area of Grievance and Discipline. July 14- July 15, 2009: Compliance MAP validation audit conducted by [Additional auditor name]. According to the audit report, no usage of monetary fines was reported. The factory received a score of 100% in this area.
Plan Complete:	Yes
Plan Complete Date:	07/15/2009
Action Verified:	No
Action Verified Text:	Ongoing: A poster in the factory showed that RMB100 would be deducted if workers asked for personal leave, and RMB12.5 would be deducted if workers were 1 hour late. Based on a review of the records, interviews with workers and management, no actual deduction case was found.
Action Verified Date:	11/30/2010
Follow Up Plan of Action:	Verification CAP March 2, 2011: The factory has a progressive disciplinary system in place. Based on management and employee interviews, no monetary deductions take place.

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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: New Era (the FLA affiliate) fails to provide its Code of Conduct to the facility.

Sources: document review and management interviews

Plan Of Action: The supplier has been provided with the FLA Code of Conduct in English and Chinese. During January 2009, NEC is launching a new initiative aimed at improving the HR management systems performance of its contract suppliers. This includes a review of the factory's training program on their policies and procedures.

Deadline Date: 03/31/2009

Action Taken: January 9, 2009: NEC held a meeting with factory management to review the CAP status and discuss HR system review and improvement planning in 2009. NEC also provided management with information on the benefits and business case for an effective training program.

February 2009: Factory completed our Compliance MAP self-assessment and identified annual goals in the area of Training and Employee Development.

July 14-July 15, 2009: Compliance MAP validation audit conducted by [Additional auditor name]. According to the audit report, the factory provided a new orientation for all employees on the factory's policies and procedures; health and safety risks and prevention; employment terms such as wages and benefits; the factory's anti-harassment procedures and how to report violations; grievance and disciplinary procedures; and workers' right to freedom of association. Refresher training is also provided. In March 2009 the factory hired a new HR staff person with a background in training, which has improved performance in this area. Overall the factory rated 76% in this area.

Plan Complete: Yes

Plan Complete Date: 07/15/2009

Action Verified:	No
Action Verified Text:	Completed: Using on site observation and interviews with the management, it was noted that the factory posted the New Era Code of Conduct at the entrance of the production buildings.
Action Verified Date:	11/30/2010
Follow Up Plan of Action:	Verification CAP: The factory conducts a new employee orientation and occasionally conducts refresher training on factory policies and procedures.

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:	The New Era Code of Conduct is not posted and the factory management and workers have not been informed or trained on it. Sources: document review, worker interviews and management interviews
Plan Of Action:	NEC encourages its suppliers to conduct their own HR training on the rights and responsibilities of employees and management. This training should be based on the factory's policies and rules and workers' rights under local law. In January 2009, NEC is launching a new initiative aimed at improving the HR management systems performance of contract suppliers. Training and employee development is a key pillar of this initiative and will be addressed as part of a holistic management systems review.
Deadline Date:	
Action Taken:	January 9, 2009: NEC held a meeting with factory management to review the CAP status and discuss the HR system review and improvement planning in 2009. NEC also provided management with information on the benefits and business case for an effective training program.

February 2009: Factory completed our Compliance MAP self-assessment and identified annual goals in the areas of training and employee development.

July 14-July 15, 2009: [Additional auditor name] conducted a Compliance MAP validation audit. According to the audit report, the factory provided a new orientation for all employees on the factory's policies and procedures; health and safety risks and prevention; employment terms such as wages and benefits; the factory's anti-harassment procedures and how to report violations; grievance and disciplinary procedures; and workers' right to freedom of association. Refresher training is also provided. In March 2009 the factory hired a new HR staff person with a background in training which improved performance in this area. Overall the factory rated 76% in this area.

Plan Complete: Yes

Plan Complete Date: 07/15/2009

Action Verified: No

Action Verified Text: Completed: Through interviews with management and workers and through reviews of training records, it was noted that New Era's Code of Conduct was communicated to workers through posters and a new employee training.

Action Verified Date: 11/30/2010

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: New Era fails to develop a secure communication channel in the factory to enable its suppliers' employees to report to NEC on issues of noncompliance.

Sources: document review, worker interviews and management interviews

Plan Of Action: As above, in January 2009, NEC is launching a new initiative aimed at improving the HR management systems performance of contract suppliers. An effective internal grievance mechanism is a critical component of this and will be addressed as part of a holistic management systems review. In the interim, NEC contact information is provided on the CoC poster in the facility.

Deadline Date: 03/31/2009

Action Taken: January 9, 2009: NEC held a meeting with factory management to review the CAP status and discuss HR system review and improvement planning in 2009. NEC also provided management with information on the benefits and business case for an effective grievance mechanism.

February 2009: Factory completed our Compliance MAP self-assessment and identified annual goals in the areas of Grievance Procedures and Discipline.

July 14-July 15, 2009: Compliance MAP validation audit conducted by [Additional auditor name]. According to the audit report, there are written grievance procedures in place that guarantee non-retaliation, outline clear steps in the process (such as responsibilities and timeframes for investigations and responses to the complainant) and involve the participation of employee representatives. The factory posts a summary of issues raised and management's responses on bulletin board and discusses them with employee representatives through meetings. In addition, the HR manager tracks and maintains a record on the dates, types of complaints/grievances, their resolutions and time frames. The factory received a 100% score in this area.

Plan Complete: Yes

Plan Complete Date: 07/15/2009

Action Verified: No

Action Verified Text: Completed: Through on-site observation and interviews with workers, it was noted that New Era's contact number was posted, and workers knew how to report noncompliances to New Era.

Action Verified Date:	11/30/2010

Miscellaneous: Illegal Subcontracting

MISC.1 Illegal Subcontracting

	Noncompliance
Explanation:	1) Facility has not conveyed FLA's or New Era's Code of Conduct to its subcontractors. 2) Facility has no 1 overseeing their subcontractors to ensure that their contracts are implemented in compliance with FLA or New Era Code elements. Sources: document review, management interviews
Plan Of Action:	NEC and the supplier have agreed that as an immediate priority, the supplier should focus on making sustainable improvements in their own facility. Monitoring compliance of its washing or embroidery subcontractors could be a longer-term goal.
Deadline Date:	
Action Taken:	July 14-July 15, 2009: Compliance MAP validation audit conducted by [Additional auditor name]. According to the report there is no unauthorized subcontracting.
Plan Complete:	Yes
Plan Complete Date:	07/15/2009
Action Verified:	No
Action Verified Text:	Completed: Through interviews with management and checking the records, it was noted that the factory did not distribute productions to sub-contractors, but they provided New Era's Code of Conduct to service providers and suppliers through fax and emails.

Action Verified Date:	11/30/2010

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:	New finding on November 20, 2010: On-site observation revealed that flammable materials were stored in the stairwells of the production building. Legal Reference: Article 7.4.1 of Code of Fire Safety on Building Design (GB50016-2006)
Plan Of Action:	Verification CAP: The factory removed the materials immediately following the audit and committed to conducting more thorough monthly inspections.
Deadline Date:	03/02/2011
Action Taken:	
Plan Complete:	No
Plan Complete Date:	
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: There are no ergonomic policies or practices adopted in the facility. Facility does not have an ergonomic program in place. Facility does not provide ergonomic chairs to those with sitting jobs or floor mats to those with standing jobs.

Sources: document review, factory tour and management interviews

Plan Of Action: Ergonomic policies and practices will be addressed as part of an overall review of the health and safety management systems of the factory.

Deadline Date: 03/31/2009

Action Taken: January 9, 2009: NEC held a meeting with factory management to review the CAP status and discuss HR system review and improvement planning in 2009. NEC also provided management with information on the benefits and the business case for a comprehensive health and safety management system.

February 2009: Factory completed NEC's Compliance MAP self-assessment and identified annual goals for Health and Safety issues.

April 27, 2009: Factory attended NEC's Leadership in Health and Safety Management seminar.

July 14-July 15, 2009: Compliance MAP validation audit conducted by [Additional auditor name]. According to the audit report, the factory's overall score in health and safety management systems was 86%. The assessment is used to rate health and safety performance in sub-categories including accountability, employee engagement, policies/procedures/training, inspections, reporting, documentation and measurement. As part of this report, it was noted that the factory conducts ergonomic inspections.

Plan Complete:	No
Plan Complete Date:	
Action Verified:	No
Action Verified Text:	Pending: No improvement on this issue was noted during this audit. A management interview indicated that the factory could not solve this problem.
Action Verified Date:	11/30/2010
Follow Up Plan of Action:	Verification CAP March 2, 2011: While the factory has made a number of improvements in safety management over the last few years, they still do not provide ergonomic chairs to workers that sit. This practice is still relatively uncommon in China, and awareness of ergonomics is generally low. We are planning on including ergonomics as part of our annual safety seminar in 2012.

Health and Safety: Medical Facilities

H&S.21 Medical facilities shall be established and maintained in factories as required by applicable laws. Medical staff shall be fully licensed and recognized under applicable local rules and regulations. An appropriate number of medical staff shall be on duty during all working hours, including any type of overtime, as required under local law. An appropriate stock of medical supplies shall be maintained at all times. Medicines of which the expiration date has passed must be replaced immediately and disposed of in a safe manner. (P)

Noncompliance

Explanation:	New finding on November 30, 2010: On-site observation found that except for a bottle of eye drops, no other first aid supplies were stored in the first aid box. Legal Reference: Article 23 of the China Law on Prevention and Control of Occupational Diseases
Plan Of Action:	Verification CAP: The factory has equipped the first aid kits as necessary, and conducts monthly inspections of their first aid boxes to ensure they are appropriately stocked.

Deadline Date: 03/02/2011

Action Taken:

Plan Complete: No

Plan Complete Date:

Action Verified: No

Action Verified Text:

Action Verified 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: New finding on November 30, 2010: The working hours per week cannot be confirmed since the time records the factory provides are inaccurate and incomplete. Details are described as below:

1) It was noted that there were broken needle records on October 4, 2010 and October 5, 2010, but the time records show that all the sewing workers had a rest day on those days. It was also confirmed that 9 out of 25 workers interviewed said that they worked on those 2 days.

2) As per the sewing output records, it was found that workers worked on November 28, 2010 (Sunday), but no time record was kept for that day.

Plan Of Action:	Verification CAP: March 2, 2011: The factory confirmed that 30 employees were required to work on October 4, 2010 and October 5, 2010 and 9 workers were required to work on November 28, 2010 to repair products. The 9 workers who worked on November 28, 2010 were paid the 200% OT rate in the November 2010 payroll. The workers that worked on October 4 and October 5 were paid a separate back payment in December, and signed off saying that they received the amount owed. A sampling of these workers were interviewed and confirmed that they received back pay for those days, and were informed of the wage policy requiring that any repair work must also be compensated.
Deadline Date:	
Action Taken:	
Plan Complete:	Yes
Plan Complete Date:	03/02/2011
Action Verified:	No
Action Verified Text:	
Action Verified Date:	

FAIR LABOR ASSOCIATION

Hours of Work: Rest Day

HOW.2 Workers shall be entitled to at least one day off in every seven-day period. If workers must work on a rest day, an alternative day off must be provided within that same seven-day period or immediately following the seven-day period. (P)

Noncompliance

Explanation: The facility fails to provide workers with at least 1 day off in each 7-day period. Details of the noncompliances:

1) As per the broken needle records, it was noted that there was a broken needle record on September 14, 2008 (Sunday), but the time records showed that all the sewing workers were on rest on that day.

2) As per the packing records, it was discovered that there were 5 sheets of packing records on September 21, 2008 (Sunday). However, the time records showed that no packing workers were working on that day.

3) As per the fire drill records, there was 1 fire drill that all the workers participated in that was carried out on May 1, 2008 (Sunday). However, the time records showed that all the workers were on rest on that day.

Sources: document review and worker interviews

Legal Reference: Article 38 of PRC Labor Law: Employer shall guarantee that its laborers have at least 1 day off per week.

Plan Of Action: Managing work hours is another issue that can only be addressed sustainably with effective management systems, accountability, communication and production planning. These elements will also be assessed as part of NEC's management systems initiative and review in 2009. In the interim, the supplier has agreed to control work hours, and make records available during subsequent verification audits.

Deadline Date: 03/31/2009

Supplier CAP: Supplier CAP: Improve the condition via flexible management.

Supplier CAP Date:

Action Taken: In October 2008, the factory hired a new payroll manager and informed NEC that they changed their wage payment system to an hourly system for all workers.

November 10, 2008: NEC met with the new payroll manager and observed the implementation of the new payroll and hour records for October.

January 9, 2009: NEC held a meeting with factory management to review the CAP status and discuss the HR system review and improvement planning in 2009. Best practices in managing working hours were highlighted as well as the business case for avoiding excessive overtime.

February 2009: Factory completed our Compliance MAP self-assessment and identified goals in the area of Working Hours.

July 14- July 15, 2009: Compliance MAP validation audit conducted by [Additional auditor name]. According to the audit report, workers worked for 5 days a week (40 hours/week) and production capacity is based on 40 hours/week. A computer bar code system recorded the workers' attendance. A variety of production and other records were crosschecked, and no inconsistency was detected in this assessment. According to management and employee interviews and document review, production targets and schedules are based on realistic labor efficiency rates based on manual + machine process time + allowances and orders. In addition, there is a designated HR staff that has regular communication with the production department and monitors the working hour trends and root causes of overtime. The overall score for the factory in this area was 91%.

Plan Complete: No

Plan Complete Date:

Action Verified: No

Action Verified Text: Pending: Whether 1 day off per 7 was given to workers or not can not be confirmed since the time records the factory provided were inaccurate and incomplete.

Details are described below: It was noted that there were broken needle records on October 4 and October 5, 2010, but the time records showed that all the sewing workers were on rest on those days. It was also confirmed by 9 out of 25 workers interviewed said that they worked on those 2 days. As per the sewing output records, it was found that workers worked on November 28, 2010 (Sunday), but no time records were kept for that day.

Action Verified Date: 11/30/2010

Follow Up Plan of Action: Verification CAP March 2, 2011: The factory confirmed that 30 employees were required to work on October 4 and October 5 and 9 workers were required to work on November 28 to repair products. The 9 workers who worked on November 28 were paid the 200% OT rate according to the November 2010 payroll. The October 4 and October 5 workers were paid a separate back payment in December, and signed off that they received the amount owed. A sampling of these workers were interviewed and based on these interviews, they confirmed that they received back pay for those days, and were informed of the wage policy requiring that any repair work must also be compensated. The factory will work on a continuous improvement system in order to avoid Sunday work.

Hours of Work: Time Recording System

HOW.6 Time worked by all workers, regardless of compensation system, shall be fully documented by time cards or other accurate and reliable recording systems such as electronic swipe cards. Employers are prohibited from maintaining multiple time-keeping systems and/or false records for any fraudulent reason, such as to falsely demonstrate working hours. Time records maintained shall be authentic and accurate. (P)

Noncompliance

Explanation: Facility uses the electric time tracing system and presents the records based on the above system, but they are false. Details of the noncompliances:

1) As per the broken needle records, it was noted that there was 1 broken needle record on September 14, 2008 (Sunday), but the time records showed that all the sewing workers were on rest on that day.

2) As per the packing records, it was discovered that there were 5 sheets of packing records on September 21, 2008 (Sunday). However, the time records showed that no packing workers were working on that day.

3) As per the fire drill records, there was 1 fire drill that all the workers participated in that was carried out on May 1, 2008 (Sunday). However, the time records showed that all the workers were on rest on that day.

Sources: document review and management interview

Plan Of Action: Managing work hours is another issue that can only be sustainably addressed using effective management systems, accountability, communication and production planning. These elements will also be assessed as part of NEC's management systems initiative and review in 2009. In the interim, the supplier has agreed to control work hours and make records available during subsequent verification audits.

Deadline Date: 03/31/2009

Supplier CAP: Supplier CAP: Improve the condition via flexible management

Supplier CAP Date:

Action Taken: In October 2008, the factory hired a new payroll manager and informed NEC that they changed their wage payment system to an hourly system for all workers.

November 10, 2008: NEC met with the new payroll manager and observed the implementation of the new payroll and hour records for October.

January 9, 2009: NEC held a meeting with the factory management to review the CAP status and discuss the HR system review and improvement planning in 2009. Best practices for managing working hours were highlighted as well as the business case for avoiding excessive overtime.

February 2009: Factory completed our Compliance MAP self-assessment and identified goals in the area of Working Hours.

July 14-July 15, 2009: Compliance MAP validation audit conducted by [Additional auditor name]. According to the audit report, workers worked for 5 days a week (40 hours/week) and production capacity is based on 40 hours/week. A computer bar code system recorded all workers' attendance. A variety of production and other records were crosschecked, and no inconsistency was detected in this assessment. According to management and employee interviews and document review, production targets and schedules are based on realistic labor efficiency rates based on manual + machine process time + allowances and orders. In addition, there is a designated HR staff that has regular communication with the production department and monitors the working hour trends and root causes of overtime. The overall score for the factory in this area was 91%.

Plan Complete: Yes

Plan Complete Date: 03/02/2011

Action Verified: No

Action Verified Text: Pending: Whether the working time was fully recorded or not can not be verified due to the time records the factory provided that were inaccurate and incomplete. Details are described below:

1) There were broken needle records on October 4 and October 5, 2010, but the time records showed that all the sewing workers were on rest on those days. It was also confirmed that 9 out of 25 workers interviewed said that they worked on those 2 days.

2) As per the sewing output records, it was found that workers worked on November 28, 2010 (Sunday), but no time record was kept for that day.

Action Verified Date: 11/30/2010

Follow Up Plan of Action: Verification CAP March 2, 2011: The factory confirmed that 30 employees were required to work on October 4 and October 5 and 9 workers were required to work on November 28 to repair product. The 9 workers who worked on November 28 were paid the 200% OT rate according to the November 2010 payroll. The October 4 and October 5 workers were paid a separate back payment in December, and signed off saying that they received the amount owed. A sampling of these workers were interviewed and based on the interviews, it was confirmed that they received back pay for those days, and were informed of the wage policy that requires that any repair work must also be compensated.

Hours of Work: Maintenance of Reasonable Levels of Staff

HOW.7 Employer personnel practices shall demonstrate an effort to maintain a level of staffing that is reasonable in view of predictable or continuing fluctuations in business demand. (P)

Noncompliance

Explanation: Facility constantly needs to hire temporary workers to finish the orders on time. Details of the noncompliance: There are eight temporary workers in the facility in case there are urgent orders. Due to the tight export tax, the business is not as flourishing as before. Management states the cost for permanent workers is too high.

Sources: document review and management interview

Plan Of Action:	Managing work hours is another issue that can only be sustainably addressed with effective management systems, accountability, communication and production planning. The factory's designated HR (personnel) staff should have regular communication with the production department, and monitor working hour trends and root causes of overtime, to ensure that the workforce meets production needs. This is 1 component of the HR system review that commenced in January 2009.
Deadline Date:	03/31/2009
Action Taken:	February 2009: Factory completed our Compliance MAP self-assessment and identified goals in the area of Working Hours. July 14-July 15, 2009: Compliance MAP validation audit conducted by [Additional auditor name]. According to the audit report, production targets and schedules are based on realistic labor efficiency rates based on manual + machine process time + allowances and orders. The factory process to add additional shifts or hire additional workers is tied to schedules and efficiency rates. In addition, there is a designated HR staff that has regular communication with the production department and monitors the working hour trends and root causes of overtime. The overall score for the factory in this area was 91%.
Plan Complete:	Yes
Plan Complete Date:	07/15/2009
Action Verified:	No
Action Verified Text:	Completed: Through on-site observation, interviews with management and workers, it was confirmed that no temporary workers had been hired in the factory since 2008.
Action Verified Date:	11/30/2010

Hours of Work: Overtime/Calculation Over Period Longer Than One Week

HOW.10. Employers are allowed to calculate normal hours of work as an average over a period of longer than one week where local laws, regulations and procedures provide for such a possibility but only when all formal and procedural requirements attached to such calculation (for instance, obtaining official permission from the relevant authorities or limits to the period during which such calculations can be made) are met. The basis for such calculation shall, however, remain at all times the lesser of 48 hours per week or legal limits on hours of work in the country of manufacture or, where such legal limits do not exist, the regular work week in such country. (S)

Uncorroborated Evidence of Noncompliance

Explanation: The average working hours for the over-lock sewing workers is 68 hours per week and other departments do an average of 65 hours per week.

Details of noncompliance: Since the working hour records are not reliable, the exact working hours cannot be calculated. However according to the worker interviews, there is no obvious peak season so the working hours for different months are nearly the same. The average working hours for the over-locking sewing workers (10 workers) is 68 hours per week and other departments are averaging 65 hours per week.

Sources: worker interview replies to the questions on working hours

Legal References: Article 5: Providing that the system of comprehensively calculated working hours is executed, in the period of comprehensively calculated working hours, the actual working hours could exceed 8 hours (or 40 hours) on a specific day (or week). But the total actual working hours shall be no more than the total normal working hours as regulated by law. The excess part shall be regarded as overtime and paid according to Article 44.1 of PRC Labor Law. If the employee is asked to work on legal holidays, the overtime payment should be paid as regulated by Article 44.3 of the PRC Labor Law. Besides, the average hours of overtime each month shall be no more than 36 hours. Article 41 of PRC Labor Law (Chapter 4 Working Hours, Rest Days and Holidays): Employees should not be allowed to work more than 3 overtime hours per day and 36 overtime hours per month.

Plan Of Action: Managing work hours is another issue that can only be addressed sustainably with effective management systems, accountability, communication and production planning. These elements will also be assessed as part of NEC's management systems initiative and review in 2009. In the interim, the supplier has agreed to control the work hours, and make records available during the subsequent verification audits.

Deadline Date:

Supplier CAP:	Supplier CAP: Improve the condition via flexible management and management of rush orders from customers
Supplier CAP Date:	
Action Taken:	In October 2008, the factory hired a new payroll manager and informed NEC that they changed their wage payment system to an hourly system for all workers. November 10, 2008: NEC met with the new payroll manager and observed the implementation of new payroll and hour records for October. January 9, 2009: NEC held a meeting with the factory management to review the CAP status and discuss the HR system review and improvement planning in 2009. Best practices for managing work hours were highlighted as well as the business case for avoiding excessive overtime. February 2009: Factory completed our Compliance MAP self-assessment and identified goals in the area of Working Hours. July 14-July 15, 2009: Compliance MAP validation audit conducted by [Additional auditor name]. According to the audit report, workers worked for 5 days a week (40 hours/week) and production capacity is based on 40 hours/week. A computer bar code system recorded the attendance of all the workers. A variety of production and other records were crosschecked, and no inconsistency was detected in this assessment. According to management and employee interviews and document review, production targets and schedules are based on realistic labor efficiency rates based on manual + machine process time + allowances and orders. In addition, there is a designated HR staff that has regular communication with the production department and monitors the working hour trends and root causes of overtime. The overall score for the factory in this area was 91%.
Plan Complete:	Yes
Plan Complete Date:	07/15/2009
Action Verified:	No
Action Verified Text:	Completed: Based on a review of the payroll records, interviews with factory management and workers, it was noted that there was no comprehensive working hour system in the factory.

Action Verified Date: 11/30/2010