



2011

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

COMPANY: Scentsy
COUNTRY: China
FACTORY CODE: 1250015553J
MONITOR: Level Works Limited
AUDIT DATE: November 7 – 8, 2011
PRODUCTS: Housewares
PROCESSES: Painting, Assembly,
Inspection, Packing
NUMBER OF WORKERS: 349



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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: Only 383 out of 451 workers had participated in medical insurance, work-related injury insurance, and childbearing insurance; only 91 out of 451 employees had participated in retirement insurance and unemployment insurance (with written waiver obtained from the local social insurance bureau).

Sources: document review, management interview

Legal References: The PRC Labor Law Article 72; Social Insurance law of the PRC Article 9, Article 20, Article 29, Article 39, and Article 49

Plan Of Action: [Factory name] currently offers work-related injury insurance and accident insurance with a term of 1 year. The company also offers medical insurance, life insurance, and unemployment insurance. There is a waiting time of 1 month for new employees to join the various insurance plans.

Deadline Date:

Action Taken: [Factory name] purchased a group insurance plan for 120 employees to make sure every worker will have insurance. All forms of insurance (4) are available to every worker and there is a short wait period for insurance eligibility of only 1 month.

Plan Complete: No

Plan Complete Date:



Wages, Benefits and Overtime Compensation: False Payroll Records

WBOT.19 Employers shall not use hidden or multiple payroll records in order to hide overtime, to falsely demonstrate hourly wages, or for any other fraudulent reason. Payroll records maintained shall be authentic and accurate. (P)

Noncompliance

Explanation: The compliance status of "overtime hours," "overtime wages," and "minimum wages" could not be verified due to the following record inconsistencies: a) per review of Daily Production Records in A line of Assembly Sections, there were daily production records on September 18 and 25, 2011 (Sundays); however, the provided attendance records indicated that the related workers in these sections rested on those days; b) per review of material releasing and receiving records in material warehouse, there were material releasing and receiving records on September 4 and 11, October 9, 2011 (Sundays); however, the provided attendance records indicated that the related worker rested on those days; and c) per review of key log book in production line, there were key-taking records for releasing material in warehouse on June 19, September 4 and 11, 2011 (Sundays); however, the provided attendance records indicated that the related workers in these sections rested on those days.

Sources: document review (production, time attendance records), employee interview

Reference: FLA Benchmarks

Plan Of Action: During the audit it was not clearly stated that the production department employees have Sunday off. The production department does work on Sunday to prepare shipments and schedules 1 day off during the week. The rest of the company has Sundays off. Employees are paid overtime and have 1 day off during the week. Every worker has at least one day off per week, and for nearly all employees that day is Sunday. However, the production department works on Sunday and so has a different day off each week. The security guards that work during the weekend also have a weekday off in lieu of Sunday.

Deadline Date:

Action Taken: The factory HR department did verify that the production workers do work on Sunday and have a day off during the week. All employees are paid overtime and have 1 day off during the week. When overtime is needed, employees fill out a request for overtime, which is then submitted to and approved by management. Even if an employee requests overtime, that time is limited to no more than 2 hours/day. This process is verified through checking attendance punch cards and the employment policy 4.3.

Plan No
Complete:

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. Notes: Per management and worker interviews, there was a labor union in the factory. The union president and representatives were selected by workers. It is registered under the ACFTU. 100% of employees had participated in the union.



Plan Of Action: 100% of Scentsy's workers participated in the factory's labor union. The union has representatives from every department in the factory: Administration, Finance, Purchasing, Production, and Quality Control. The employees elect union members every 3 years and membership in the union is voluntary.

Deadline Date:

Action Taken: Scentsy has verified the auditor's findings and has acquired additional information to illustrate how the labor union at [Factory name] operates.

Plan Complete: No

Plan Complete Date:

Health & 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: The first aid kit on on the 2nd floor of the production building was empty.

Source: factory tour

Reference: FLA Benchmarks

Plan Of Action: All first aid kits have been fully stocked with first aid materials. These kits will be checked and filled on a regular basis. These kits will be checked and filled monthly by the following employees: [Employee name], Chief of the Production Line; [Employee name], the Administrative department clerk; [Employee name] Chief of the Quality Control line; [Employee name] Clerk of the Research and Development Department; [Employee name] of the Buyer's Department, and [Employee name], clerk of the Quality Control department. A copy of the list used to update the first aid kits on a monthly basis and pictures of the first aid kits have been sent to the FLA for review.

Deadline

Date:

Action Taken: All first aid kits have been fully stocked with first aid materials. We have verified that individuals are responsible for the monthly updates and that the updates are occurring. We also verified the medicine sign-out sheet, which helps track which things in the kit need to be replaced. A copy of that as well as images of the first aid kit and its check list have been sent to the FLA for review.

Plan Complete: Yes

Plan Complete Date: 05/07/2013

Health & 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: The factory has only provided cotton masks (instead of gas masks) to its workers in painting section.

Source: factory tour

Legal Reference: The Safety Manufacturing Law, Article 37

Plan Of Action: Cotton masks have been replaced with gas masks. Training has been implemented for the correct use and wear of gas masks in the work area. The gas masks were purchased at the personal protective equipment (PPE) specialty store. [Factory name] has initiated training by the Administrative Department on the masks' correct usage. This training is limited to affected employees — namely those involved in factory work, which requires gas masks. Additional signage has been added to ensure awareness and availability of the new masks.

Deadline

Date:

Action Taken: Cotton masks have been replaced with gas masks. Training has been implemented for the correct use and wear of gas masks in the work area. We've followed through and verified that the gas masks are present and followed through to make sure appropriate use trainings were being utilized. Pictures of employees wearing the new masks and of the mask storage area have been sent to the FLA for review. Because not all of [Factory name's] workforce requires the use of a gas mask, trainings were limited to those employees with jobs requiring the use of the masks.

Plan Complete: Yes

Plan Complete Date: 05/07/2013

Health & Safety: Chemical Management and Training

H&S.13 All chemicals and hazardous substances shall be properly labeled and stored in accordance with applicable laws. Labels shall be placed in the local language and the language(s) spoken by workers, if different from the local language. Workers shall receive training, appropriate to their job responsibilities, concerning the hazards, risks and the safe use of chemicals and other hazardous substances. (S)

Noncompliance

Explanation: There were no labels for identification attached to chemicals used in this factory, such as solvent.

Source: factory tour

Legal Reference: The Regulation of Chemical Safety Usage in Workplace, Article 19

Plan Of Action: All chemical containers used in the factory have been correctly identified and labeled and the Chief of the Production Line is responsible for ensuring correct identification and labeling. The labels are printed in-house and are in the local language, which is Chinese. The labels are checked once monthly to ensure they remain in good condition. The supplier of the chemicals provides the Material Safety Data Sheets (MSDS), which are also checked monthly for their condition.

Deadline

Date:

Action Taken: All chemicals containers used in the factory have been correctly identified and labeled by the Chief of the Production Line. This position is also responsible for checking the condition of the labels on a monthly basis to ensure they remain in good condition.

Plan Complete: No

Plan Complete Date:

Health & Safety: Material Safety Data Sheets/Worker Access and Awareness

H&S.14 Material Safety Data Sheets (MSDS) for all chemicals used in the factory must be available at the usage and storage sites of the chemicals, in the local language and the language(s) spoken by workers, if different from the local language. Workers shall have free access to MSDS. (P)

Noncompliance

Explanation: The chemicals stored on the 1st floor of the production building were found without MSDS.

Source: factory tour

Legal Reference: The Regulation For Chemical Usage Safety in Work Place, Clause 27

Plan Of Action: All MSDS sheets are in Chinese, the local language of the factory workers. The MSDS sheets come with the products from suppliers. The Chief of the Production Line is also responsible for updating the MSDS sheets.

Deadline Date:

Action Taken: We verified the MSDS process through factory communications and sent photos of labeled chemicals to the FLA for review. We also plan to have members of our Supply Chain verify the status of the MSDS sheets on a visit to [Factory name] next month to ensure they are still there.

Plan Yes
Complete:

Plan 05/07/2013
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: Despite the fact that provided time records did not represent the actual working hours due to inconsistencies noted, through verification with related factory records and worker interviews, the monthly overtime hours of around 80% workers ranged from 40 to 74 in September 2011.

Source: document review; worker and management interviews

Legal Reference: PRC Labor Law, Article 41

Plan Of Every worker has at least 1 day off per week, and for nearly all employees that day is
Action: Sunday. However, the production department works on Sunday and so has a different day off each week. The security guards that work during the weekend also have a weekday off in lieu of Sunday.

Deadline
Date:

Action The factory HR department did verify that the production workers do work on Sunday
Taken: and have a day off during the week. All employees are paid overtime and have 1 day off during the week. When overtime is needed, employees fill out a request for overtime, which is then submitted to and approved by management. Even if an employee requests overtime, that time is limited to no more than 2 hours/day. This process is verified through checking attendance punch cards and the employment policy 4.3. We have been working on ensuring overtime is really limited to 2 hours a day and are working to verify time cards match this request. This has been a longer process to work through and we continue to monitor the situation.



Plan **No**
Complete:

Plan
Complete
Date:

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: The compliance status of "overtime hours," "overtime wages," and "minimum wages" could not be verified due to the following record inconsistencies: a) per review of Daily Production Records in A line of Assembly Sections, there were daily production records on September 18 and 25, 2011 (Sundays); however, the provided attendance records indicated that the related workers in these sections rested on those days; b) per review of material releasing and receiving records in material warehouse, there were material releasing and receiving records on September 4 and 11, October 9, 2011 (Sundays); however, the provided attendance records indicated that the related worker rested on those days; and c) per review of key log book in production line, there were key-taking records for releasing material in warehouse on June 19, September 4 and 11, 2011 (Sundays); however, the provided attendance records indicated that the related workers in these sections rested on those days. Sources: document review (production records and time attendance records), employee interview Reference: FLA Benchmarks

Plan Of Action: The factory HR department did verify that the production workers do work on Sunday and have a day off during the week. All other employees have Sunday off. Employees are paid overtime and have 1 day off during the week. Every worker has at least 1 day off per week, and for nearly all employees that day is Sunday. However, the production department works on Sunday and so has a different day off each week. The security guards that work during the weekend also have a weekday off in lieu of Sunday. We have been working to ensure overtime does not exceed 2 hours a day, but this has been difficult.



Deadline

Date:

Action

Taken:

The factory HR department did verify that the production workers do work on Sunday and have a day off during the week. All employees are paid overtime and have 1 day off during the week. When overtime is needed, employees fill out a request for overtime, which is then submitted to and approved by management. Even if an employee requests overtime, that time is limited to no more than 2 hours/day. This process is verified through checking attendance punch cards and the employment policy 4.3. We have been working on ensuring overtime is really limited to 2 hours a day and are working to verify time cards match this request. This has been a longer process to work through and we continue to monitor the situation.

Plan

No

Complete:

Plan

Complete

Date:
