



2011

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

COMPANY: Fossil Inc.
COUNTRY: China
FACTORY CODE: 5900151287J
MONITOR: Verite
AUDIT DATE: August 10, 2011
PRODUCTS: Watches
PROCESSES: Assembly, Inspection, Packing
NUMBER OF WORKERS: 189

FLA Comment: As of 2012, Fossil Inc. has ceased affiliation with FLA and therefore will not be providing any further updates on the pending corrective action plans in this report.



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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: Not all workers participated in social insurance. The last social insurance payment receipts (issued on July 15, 2011) indicated that there were 245 employees in this facility. However, just 96 employees participated in 5 insurance schemes including medical insurance, work-related injury insurance, retirement insurance, unemployment insurance, and maternity insurance.

Remark: The factory got a written social security waiver from the local social insurance bureau to approve its compliance with local requirements. Workers interviews reflected that many workers were unwilling to participated in social insurances and wrote statements that showed they were unwilling to participate. Auditors reviewed these written statement signed by workers.

Plan Of Action: It is recommended that the factory begin increasing coverage to the workers. All employees should be provided with all five types of social insurance. Fossil has recommended to the factory that training be provided to the workers to encourage participation in the insurances that require employee contributions.

Deadline Date: 07/01/2013

Supplier CAP: The factory will begin increasing coverage and will provide a plan that includes implementation dates by the end of August. Training will also be provided to the workers regarding the importance of participating in social insurance and to provide information on the transferability of benefits to ensure worker participation. Training records will be provided once the training has been conducted.

Supplier CAP 12/31/2012

Date:

Action Taken: The factory has begun to increase social insurance coverage and has set a target to provide coverage of all 5 types of insurance to half of the workers by the end of the year. The remaining half will be provided with insurance in 2012. The factory has provided training to the workers on the importance of participating in the insurance schemes. Copies of the training records were provided on January 10, 2012

Plan Complete: No

Plan Complete Date:

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: In some months the regular hourly wage rate were calculated lower than minimum wage standard. The factory set workers' regular wage standards at RMB 950 per month, which was the same as local minimum wage standard. However, the hourly wage calculation of employees was based on actual regular working days in different months, thus caused that in some months the normal hourly wage lower than the legal minimum wage standard.

For instance, there are 22 actual regular working days in June 2011. The regular wage standard was set at RMB 5.40 per hour (950/22/8), which is lower than the minimum wage standard at RMB 5.45 per hour (950/21.75/8).



Plan Of Action: The factory should calculate wages based on the legal standard of 21.75 rather than the number of days per month. Fossil has recommended that training be provided to the workers on the new payment calculations.

Deadline Date: 12/09/2011

Supplier CAP: The factory will calculate all wages based on the legal standard starting in August. The factory will post notification regarding the new wage calculations and will make changes to the factory rules to reflect this.

Supplier CAP Date: 09/01/2011

Action Taken: The factory has begun to calculate wages based on the legal standard of 21.75. Notifications regarding the new wage calculations have been posted and a copy of the new factory rules that reflect the wage change have been provided to the workers.

Plan Complete: No

Plan Complete Date: 09/19/2011

Wages, Benefits and Overtime Compensation: Calculation Basis for Overtime Payments

WBOT.8 Employers shall compensate workers for all hours worked. For workers on a piece rate payment scheme or any other incentive scheme, payments for overtime hours worked shall be calculated by applying the premium rate required by law or this Code on the same payment scheme as is used for calculating wages for normal working hours, unless the payment scheme used leads to higher wages for workers. (S)

Noncompliance

Explanation: In some months the overtime wages were calculated lower than legal standard. Overtime wages were accurately calculated and the overtime payments were 150%, 200% and 300% of employee normal rate for overtime on regular workdays, rest days and official public holidays respectively, which complied with local labor laws. However, the hourly wage calculation of employees was based on actual regular working days in different months, therefore caused in some months the normal hourly wage lower than the one should be against local labor law. For instance, there are 22 actual regular working days in June 2011.

The facility set the regular wage standard at RMB 5.40 per hour (950/22/8), which is lower than the legal one should be set at RMB 5.45 per hour (950/21.75/8). Then, the base for calculation of overtime compensation was lower than legal requirements, which caused insufficient overtime wages as a result.

Plan Of Action: The factory should calculate wages based on the legal standard of 21.75 rather than the actual number of days per month. Fossil has recommended that training be provided to the workers on the new payment calculations.

Deadline Date: 12/09/2011

Supplier CAP: The factory will calculate all wages based on the legal standard starting in August.

Supplier CAP Date: 09/01/2011

Action Taken: The factory has begun to calculate wages based on the legal standard of 21.75. Overtime wages are still calculated based on 100%, 150% and 200% for weekday overtime, weekend overtime and holiday overtime respectively, but are now based on the correct hourly wage calculation.

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; 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 freedom of association, including the non-recognition of the right to strike. As a consequence, all factories in China fall short of the ILO standards on the right to organize and bargain collectively.](#)

[Recently, however, the government has introduced new regulations that could improve the functioning of the labor relations mechanisms. The Amended Trade Union Act of October 2001 does stipulate that union committees have to be democratically elected at members' assemblies and trade unions must be accountable to their members. The trade union has the responsibility to consult with management on key issues of importance to their members and to sign collective agreements. It also grants the trade union an enhanced role in dispute resolution. In December 2003, the Collective Contracts Decree introduced the obligation for representative trade unions and employers to negotiate collective agreements, in contrast to the previous system of non-negotiated administrative agreements.](#)



Plan Of Action: It has been recommended to the factory that workers be encouraged to form committees to address working conditions in the factory and to provide recommendations on improvements to factory management. In addition, it has been recommended to the factory that a policy be created regarding factory committees. Training should also be provided to the workers on the roles and responsibilities of committee members and leaders.

Deadline Date: 01/31/2012

Supplier CAP: The factory has established a policy on freedom of association and collective bargaining.

Supplier CAP Date: 01/10/2012

Action Taken:

Plan Complete: No

Plan Complete Date:



Harassment or Abuse: Discipline/Written Disciplinary System

H&A.5 Employers shall maintain a system of written disciplinary rules, procedures and practices. Disciplinary rules, procedures and practices shall be clearly communicated to all workers. (P)

Noncompliance

Explanation: The facility has disciplinary rules. However, the facility did not defined specific disciplinary measures and procedures. The decisions of disciplinary sanctions were made by supervisors based on common sense and the approval from the General Manager.

Plan Of Action: The factory should develop clear disciplinary procedures that outline the specific steps that will be taken. Workers should be provided with copies of the disciplinary policies and should be trained to ensure they understand them.

Deadline Date: 09/01/2011

Supplier CAP: The factory has begun to develop disciplinary procedures. A copy of the policy will be provided once it is complete.

Supplier CAP Date: 09/01/2011

Action Taken: The factory has added clear disciplinary procedures to the employee handbook and has posted the new policies in the factory. Training on the new policy has been provided to the workers and all new hires are provided with a copy of the employee handbook.

Plan Complete: Yes

Plan Complete Date: 09/19/2011



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: According to the factory rules, workers would be fined if they violate factory rules, including leave his/her position to use toilet without supervisor's approval. Workers interviewed confirmed that they are aware of that there are monetary fines in company's rules and policies. But they also reported that they never had been punished, and they ever heard of other workers being fined. The factory management explained that the factory had never applied the rules of financial penalties, and the intention of making up these rules is to bring workers' attention.

Plan Of Action: The factory should remove these fines from the factory rules. Discipline should be based on a progressive system of warnings rather than monetary fines.

Deadline Date: 09/30/2011

Supplier CAP: The factory will remove the fines from the factory rules and will develop a policy on factory discipline.

Supplier CAP Date: 09/30/2011

Action Taken: The new disciplinary policy that has been distributed to the workers has replaced monetary fines with a progressive system of warnings. All workers have received training on the new disciplinary system. Fossil has been provided with a copy of the new disciplinary policy and training records to indicate that this information was passed to the workers.

Plan Complete: Yes

Plan Complete Date: 09/19/2011

Harassment or Abuse: Discipline/Freedom of Movement

H&A.12 Employers shall not unreasonably restrain the freedom of movement of workers, including movement in canteens, during breaks, using toilets, accessing water, or to access necessary medical attention, as a means to maintain labor discipline. (S)

Noncompliance

Explanation: There were restrictions on using toilets. The leaving position cards used on production lines and go-back records indicated that workers must obtain permission from the supervisor before leaving position to use the toilet. Absentee time was limited to 10 minutes. Worker and management interviews confirmed this.

Plan Of Action: It has been recommended that the factory remove this system. Workers should be allowed free access to the toilets.

Deadline Date: 09/01/2011

Supplier CAP: The factory will remove this policy and will inform all line supervisors that workers are permitted to use the restrooms at all times.

Supplier CAP Date: 09/01/2011

Action Taken: The factory has removed the need for workers to obtain permission to use the restroom and has provided copies of the amended workstation records. Line supervisors have been notified that workers will no longer be required to request permission.

Plan Complete: No

Plan Complete Date:

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 evacuation path in workshops and storage areas are not marked with directional arrows pointing to the emergency exits.

Plan Of Action: The factory should mark all exit paths in the factory. In addition, the factory should develop a process to regularly monitor safety conditions in the factory and make improvements.

Deadline Date: 09/30/2011

Supplier CAP: The factory will mark all exit paths with arrows. In addition, employees will be designated to regularly inspect safety conditions in the factory and make recommendations to management for improvement.

Supplier CAP Date: 09/19/2011

Action Taken: The factory has marked the exit paths with arrows.

Plan Complete: Yes

Plan Complete Date: 09/19/2011

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: In the packing material storage room on the first floor of the production building, many fire extinguishers are blocked by trashcans and other packing materials.

Plan Of Action: The factory should ensure that all fire extinguishers remain accessible. In addition, the factory should develop a process to regularly monitor safety conditions in the factory and make improvements.

Deadline Date: 09/30/2011

Supplier CAP: The factory has cleared the materials from the extinguishers.

Supplier CAP Date: 08/24/2011

Action Taken: The factory moved the materials to allow access to the extinguishers. This will be regularly inspected to ensure that the extinguishers remain clear.

Plan Complete: Yes

Plan Complete Date: 08/24/2011

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: The factory provided personal equipment (PPE) to workers. However there is no warning sign for wearing PPEs in areas where needed.

Plan Of Action: The factory should post signs in areas where PPE should be worn. In addition, training on the importance of PPE should be conducted at regular intervals.

Deadline Date: 09/01/2011

Supplier CAP: The factory has posted signs in areas where PPE should be worn. The factory will provide training to the workers on the importance of using the provided PPE.

Supplier CAP Date: 08/24/2011

Action Taken: Signs have been posted in areas where PPE should be worn and training has been provided to the workers regarding the importance of PPE. In addition, this training will be provided to all newly hired workers. Training records have been provided.

Plan Complete: Yes

Plan Complete Date: 08/29/2011

Health and 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: Workers who handle hazardous chemicals are not trained on safely handling chemicals.

Plan Of Action: The factory should provide regular training on chemical safety. This should be routinely followed up on in the factory to ensure the training is conducted.

Deadline Date: 09/30/2011

Supplier CAP: The factory has conducted chemical safety training.

Supplier CAP Date: 08/24/2011

Action Taken: Chemical safety training has been conducted and will be continued on a periodic basis.

Plan Complete: Yes

Plan Complete Date: 09/19/2011

Health and 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 factory did not retain copies of MSDS for the chemical (n-hexane) used in packing workshop and computerized numerical control workshop.

Plan Of Action: The factory should obtain MSDS for all chemicals used in the factory and should ensure these are posted in areas where the chemicals are used. In addition, the factory should develop a process to regularly monitor safety conditions in the factory and make improvements.

Deadline Date: 09/30/2011

Supplier CAP: The factory has posted MSDS in the packing workshop and the computerized numerical control workshop.

Supplier CAP Date: 08/24/2011

Action Taken: MSDS have been posted. This will be regularly monitored to ensure that the factory remains in compliance.

Plan Complete: Yes

Plan Complete Date: 09/19/2011

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. Workers worked more than 3 hours overtime on regular workdays. Workers worked over 60 overtime hours for each month. Article 41 of Chinese Labour Law states "overtime hours for regular working day shall not exceed 3 hours per day, total overtime hours in one month shall not exceed 36 hours." Typically, workers worked 4-5 overtime hours on most of regular working days, and there were 2-4 regular days in each month they worked up to 6 hours overtime.

2. Weekly working hours exceeded 60 hours. The FLA benchmark states "employees will (i) not be required to work more than the lesser of (a) 48 hours per week and 12 hours overtime or (b) the limits on regular and overtime hours allowed by the law of the country of manufacture or, where the laws of such country will not limit the hours of work, the regular work week in such country plus 12 hours overtime."

The factory management reported that the peak season is usually from May to November in each year. Auditors selected sample workers from different workshops and different positions to review their hours of work in March, May, and July 2011. It was noted that all workers selected had 80-85 total working hours weekly in May and July 2011 (peak months), and 75-82 total working hours weekly in March 2011 (non-peak month).

Plan Of Action: The factory should develop a realistic plan to decrease the amount of overtime conducted. This plan should address the root causes for the excessive overtime and should take steps to address these causes. Fossil CSR has requested that the factory develop and submit a time line with target dates to reduce working hours in the factory.

Deadline Date: 09/30/2011



Supplier CAP: The factory will develop a plan to decrease working hours. The factory has made a goal to initially decrease hours to no more than 72 hours per week by the end of October

Supplier CAP Date: 10/31/2011

Action Taken: The factory has worked to improve efficiency and has partnered with their material suppliers to receive goods on a more consistent basis. This has resulted in the gradual decrease of overtime needed in the factory. Beginning in October, the factory has been able to reduce working hours to 70 hours per week or less. The factory will continue to decrease weekly working hours in 2012.

Plan Complete: No

Plan Complete Date:



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: Workers did not get one day off in seven. The factory management reported that the peak season usually last from May to November in each year. Auditors selected sample workers from different workshops and positions to review their hours of work on March, May, and July 2011. It was noted that:

- 1) In July 2011 (current month), 50% of workers worked for 20 consecutive days without 1 day off and 50% of workers worked for 14 consecutive days
- 2) In May 2011 (peak month), 50% of workers worked for 31 consecutive days without 1 day off and 50% of workers worked for 13 consecutive days
- 3) In March 2011 (non-peak month), 50% of workers worked for 29 consecutive days without 1 day off and 50% of workers worked for 16 consecutive days

Plan Of Action: The factory should ensure that all workers receive at least one day off per week.

Deadline Date: 09/01/2011

Supplier CAP: Beginning August 17th, all workers will receive at least one day off per week. The factory has worked to improve efficiency and has partnered with their material suppliers to receive goods on a more consistent basis. This has resulted in the gradual decrease of days worked without a rest day being provided in the factory. Since October, the factory has been able to provide at least on day of rest to all workers every week.

Supplier CAP Date: 10/01/2011



Action Taken: The factory has begun to provide all workers with one day off per week.

Plan Complete: No

Plan Complete Date:
