



2009

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

COMPANY: Esquel Group
COUNTRY: Malaysia
FACTORY CODE: 890046447H
MONITOR: OneStep Co., Limited
AUDIT DATE: November 19-20, 2009
PRODUCTS: Woven Garments, Men's
Shirts, Basic Ladies Blouses
PROCESSES: Warehouse (Material),
Marker, Cutting, Embroidery, Sewing,
Wet Processing/Wrinkle-Free Treatment,
Ironing, Folding, Packing, Shipping
NUMBER OF WORKERS: 2635



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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: Inconsistencies found between the time recording system and the production records. Although production records showed some workers working overtime up to 5 hours per day on some days of November 2009, these hours were not fully reflected in the time recording system. Due to this discrepancy, the monitors were unable to verify whether workers are paid overtime premium properly.

Plan Of Action: We conducted an investigation to understand the inconsistencies in the timekeeping system and found that out of the 3 instances noted by the auditors, 2 instances were related to human error in the manual recording process for compensation. One timekeeping error was made when there was insufficient input (or work) for piece rate workers, the other was due to 6 workers working when they were not swiped in. We also confirmed that the compensation for these workers tallied with the explanation above. We will, however, work on the necessary improvements in the system to more clearly record times (and pay) when there is not enough input (work) for workers to do to earn their expected piece rate salaries due to problems in the supply chain.

Upon completion of the investigation, disciplinary action was taken for the respective supervisors and management staff related to their oversight action that resulted in workers working without being swiped in. A strong message about the importance of clear and consistent records was sent to the entire team. We will continue to ensure that all managers and supervisors understand that all work hours must be recorded properly in the timekeeping system, and will also stress the importance of accurately filling out any manual record keeping books, so that we do not see these types of "inconsistencies" again. In addition, a rebriefing session on Esquel Code and OT policies is being held for all managers and supervisors and targeted to complete by March 12, 2010.

Deadline 03/12/2010

Date:

Action

Taken:

Plan Yes

Complete:

**Plan
Complete
Date:**

Forced Labor: Personal Worker Identification and Other Documents

F.15 Workers shall retain possession or control of their passports, identity papers, travel documents or any other personal legal documents. Employers shall not retain any such documents to restrict workers' access to them for any reason whatsoever, including in order to ensure that workers shall remain in employment in the factory. (S) Employers may obtain copies of original documents for record-keeping purposes.

Noncompliance

Explanation: Based on a sampling of 105 migrant worker records/interviews, 98 of them are keeping their passports with the company, while the other 7 have their passports in their possession. There is also a system for those keeping their passports with the management to access their passports within 24 hours.

Plan Of Action: After introducing our new policy which makes "choice" and "access" very clear, 27 workers requested to keep their own passports. As of now, 13 of the 27 have given their passports back to the factory asking that the factory safekeep them and 4 workers have absconded, leaving only 10 that have chosen to keep their own passports. Factory will communicate with workers by posting a notice on the revised policy and reminding them about their right to keep and access their own passports through an open Worker-Management communication system, including a Workers' Representative Meeting.

Deadline Date: 03/31/2010

Action Taken:

Plan Complete: Yes

**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: It is explicitly stated in migrant workers' contracts that they shall not join the trade union in the factory. In fact, none of the migrant workers are members of the union.

Plan Of Action: The contracts reviewed are older versions of our foreign worker contracts. We have not recruited any foreign workers since the beginning of 2008. The updated version of the contract does not include this statement. We will communicate to foreign workers about their right to join the union. Although it's worth noting that on a practical level, foreign workers do not generally have the language skills to participate fully in discussions with the local trade union. Having said that, the factory will continue to communicate to foreign workers about their right to join the union (freedom of association) during CSR briefings and orientation.

Deadline Date: 12/31/2010

Action Taken:

Plan Complete: No

Plan Complete Date:



Harassment or Abuse: Discipline/Verbal Abuse

H&A.11 Employers shall not use any form of verbal violence, including screaming, yelling, or the use of threatening, demeaning, or insulting language, as a means to maintain labor discipline. (S)

Uncorroborated Evidence of Noncompliance

Explanation: Some workers complain that the doctors and nurses scold them every time they visit the in-house clinic, even though the visit has been approved by immediate supervisors.

Plan Of Action: Based on our follow up, we think this might be related to language barriers, and/or misunderstandings. We will continue to remind the doctor and nurses to maintain a pleasant and professional attitude when interacting with the workers, and that if they cannot understand what the workers communicate, to call in for the translators. In a situation of confirmed "verbal harassment," we will then follow the company disciplinary procedure for such issues.

Deadline Date: 02/28/2010

Action Taken:

Plan Complete: Yes

Plan Complete Date:

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)

Uncorroborated Evidence of Noncompliance

Explanation: According to worker interviews, workers are not allowed to leave the factory premises during their lunch break. During the audit, the workers were observed to not go outside the factory. However, there is no record or evidence of disciplinary action against workers for leaving the factory during the lunch break.

Plan Of Action: For a bit of local context, workers come to and return home from work through company provided transportation. The factory is located inside an export processing zone and given that the lunch time is only 30 minutes, it's not very practical for workers to try to walk into the town area or shops during their lunch break and then return. We have not had requests for this; however, we will conduct a briefing session for workers to reiterate that they have freedom of movement during lunch breaks. We will review the procedure if they need to exit the factory during that time.

Deadline Date: 03/12/2010

Action Taken:

Plan Complete: Yes

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: 1. It was observed that not all the emergency exits in production buildings A and B have emergency lighting systems installed to help workers see exit paths in case of emergency.

2. It was observed that some exits in the material warehouse were not functioning as emergency exits but still had an exit signs posted.

Plan Of Action: 1. In the progress of installing the emergency lighting. Expected to be completed by end of March 2010.

2. The "exit" signage that was at the non-functioning emergency exit at the warehouse had been removed since November 24, 2009.

Deadline Date: 03/31/2010

Action Taken:

Plan Complete: Yes

Plan Complete Date:

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: It was observed that some workers in production Facility A did not wear slippers/shoes while operating sewing machines.

Plan Of Action: HR has conducted training sessions on the need to wear proper shoes while operating sewing machines. Factory had conducted the Worker Representative Meeting to remind them on the proper dress code issue (wearing proper shoes for work). The factory will also be having communication with supervisors to remind them of their responsibility to help ensure that workers are wearing proper shoes for work. Also, factory will post notice at the factory and dormitories as a reminder. There will be warning/disciplinary actions for workers who break the regulations.

Deadline Date: 03/31/2010

Action Taken:

Plan Complete: Yes

Plan Complete Date:

Health and Safety: Machinery Maintenance and Worker Training

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

Noncompliance

Explanation: 1. From management discussion and observation, it is noted that factory does not have a procedure for energy control. Log-out and tag-out are not applied when performing maintenance work.

2. It was observed that there are many buttoning machines without plexiglass for eye protection. Many of them were observed to have been removed.

Plan Of Action: We will establish a new P&P on energy control, and include lock-out and tag-out procedures. Estimate to complete the procedure by March 12, 2010. We started to install the plexiglass for all the buttoning and buttonhole machines. This was completed by January 11, 2010.

Deadline Date: 03/12/2010

Action Taken:

Plan Complete: Yes

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: From the time record review, it is noted that about 20% to 50% of total workers in the factory worked 1 Sunday on February 22, 2009 and 1 Sunday on August 23, 2009, which means they worked 13 days consecutively. Nor were they given a compensatory day off subsequently.

Plan Of Action: We will attempt to ensure no Sunday work going forward. In the rare cases when this might happen, we will do our best to provide workers with a compensatory day off.

Deadline Date: 08/23/2009

Action Taken:

Plan Complete: No

Plan Complete Date:



Hours of Work: Meal and Rest Breaks

HOW.3 Employers shall provide reasonable meal and rest breaks, which, at a minimum, must comply with local laws. (S)

Noncompliance

Explanation: It was observed during the lunch break in Facility A that some workers did not have lunch and continued to work.

Plan Of Action: We have repeatedly informed all workers to take a break at lunch, and we also switch off the lights during lunch and the break times. We do recognize that some of them might randomly sit and engage in their work voluntarily when they have finished lunch early, but this is of their own choice, not due to the management/supervisors asking them to do so. We will continue to try to ensure that all workers are taking their lunch break for the full time. Factory will advise the employees that they need to have their lunch break. If we see them working in the line, we will communicate this to them during orientation and any other regular communication sessions.

Deadline 03/31/2010

Date:

Action

Taken:

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: Inconsistencies found between the time recording system and the production records. Although production records showed some workers working overtime up to 5 hours per day some days in November 2009, these hours were not fully reflected in the time recording system. Due to this discrepancy, the monitors were unable to verify actual working hours.

Plan Of Action: Same comments as noted above, (re: inconsistent records) as this finding is noted in both the compensation and hours of work section. Upon completion of the investigation, disciplinary action was taken for the respective supervisors and management staff related to their oversight action that resulted in workers working without being swiped in. A strong message about the importance of clear and consistent records was sent to the entire team. We will continue to ensure that all managers and supervisors understand that all work hours must be recorded properly in the timekeeping system. We will also stress the importance of accurately filling out any manual record keeping books, so that we do not see these types of "inconsistencies" again. In addition, a rebriefing session is being held for all managers and supervisors and targeted to be completed by March 12, 2010.

Deadline Date: 03/12/2010

Action Taken:

Plan Complete: Yes

Plan Complete Date:
