



2010

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

COMPANY: New Balance Athletic Shoe, Inc.

COUNTRY: China

FACTORY CODE: 97001510871

MONITOR: Openview Service Limited

AUDIT DATE: October 11 – 12, 2010

PRODUCTS: Garments

PROCESSES: Cutting, Riveting, Stuffing,
Sewing, Ironing, Inspection, Packing

NUMBER OF WORKERS: 175

FLA Comment: This report was submitted to the FLA and the FLA-affiliated company by the accredited independent external monitor. Despite deadline reminders and extensions for submission of a corrective action plan, the FLA has not received a plan to address the noncompliances raised in the report. Therefore, the report is posted in its current state and will be updated once a corrective action plan has been submitted to and reviewed by the FLA.



CONTENTS:

Wages, Benefits and Overtime Compensation: Holidays, Leave, Legal Benefits and Bonuses _____ 3
Wages, Benefits and Overtime Compensation: Worker Wage Awareness _____ 4
Freedom of Association: Right to Freely Associate _____ 5
Harassment or Abuse: Discipline/Written Disciplinary System _____ 6
Code Awareness: _____ 7
Health and Safety: Written Health and Safety Policy _____ 8
Health and Safety: Safety Equipment and First Aid Training _____ 9
Health and Safety: Machinery Maintenance and Worker Training _____ 10
Hours of Work: Time Recording System _____ 11
Hours of Work: Annual Leave _____ 12

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: According to the social insurance payment receipt provided by factory management and interviews with workers and management, it was noted that the factory only provided pension for 120 out of 175 employees; medical insurance for 18 employees; maternity and unemployment insurance for 57 employees; and work-related injury insurance for 66 employees.

Legal Reference: China Labor Law, Article 73

**Plan Of
Action:**

**Deadline
Date:**

**Action
Taken:**

Plan Complete: No

**Plan Complete
Date:**

Wages, Benefits and Overtime Compensation: Worker Wage Awareness

WBOT.22 Employers shall make every reasonable effort to ensure workers understand the wages, including the calculation of wages, incentives systems, benefits and bonuses they are entitled to in a factory and under applicable laws. To this end, employers shall communicate orally and in writing to all workers all relevant information in the local language or language(s) spoken by the workers, if different from the local language. (P)

Noncompliance

Explanation: [Although the factory had established policies regarding paid leaves and wage calculation method, most workers interviewed were not aware of those policies.](#)

[Legal Reference: China Labor Contract Law, Article 8](#)

**Plan Of
Action:**

**Deadline
Date:**

**Action
Taken:**

**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: **Monitor's Note:** Currently, 3 out of 175 workers are members of trade union. 1 out of total 3 trade union members is the warehouse keeper; the other 2 are office clerks.

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.

**Plan Of
Action:**

**Deadline
Date:**

**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: Based on observation during document review and management interviews, it was noted that the factory did not set up written disciplinary rules and procedures.

**Plan Of
Action:**

**Deadline
Date:**

**Action
Taken:**

**Plan No
Complete:**

**Plan
Complete
Date:**

Code Awareness:

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

Noncompliance

Explanation: Worker and management interviews, along with on-site observation, found that there was no confidential noncompliance reporting mechanism which allowed factory workers to contact New Balance.

**Plan Of
Action:**

**Deadline
Date:**

**Action
Taken:**

**Plan No
Complete:**

**Plan
Complete
Date:**

Health and Safety: Written Health and Safety Policy

H&S.3 Employers are required to develop, maintain and regularly review a written health and safety policy. The policy must, at the very least, be aimed at complying with legal minimum safety and health standards, regulations and procedures. (P)

Noncompliance

Explanation: Based on observation during document review and management interviews, it was noted there was no written health and safety policy in the factory. This policy must, at the very least, be aimed at complying with legal minimum health and safety and standards, regulations and procedures.

**Plan Of
Action:**

**Deadline
Date:**

**Action
Taken:**

**Plan No
Complete:**

**Plan
Complete
Date:**

Health and Safety: Safety Equipment and First Aid Training

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

Noncompliance

Explanation: Visual inspection found that:

1. There were no fire extinguishers in the finished products or stuffing material warehouses.
2. Most fire extinguishers in the factory were BC type, which are not suitable for a potential solid material fire in the factory. It was observed during the factory tour that only 2 pieces in the packing workshop were suitable for ABC-type fire extinguishers.

Legal references: 1. China Fire Prevention Law, Article 16; 2. Code of Distribution and Design for Fire Extinguishers in Buildings, Article 4.2

**Plan Of
Action:**

**Deadline
Date:**

**Action
Taken:**

Plan Complete: No

**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: On-site observation found that several sewing machines in the factory were not equipped with needle guards.

Legal reference: Code of Design of Manufacturing Equipment Safety and Hygiene, Article 6.1.6

**Plan Of
Action:**

**Deadline
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: Provided time records were inaccurate or incomplete based on the below findings:

- 1. Daily output records found in sewing department showed that workers worked 3 Saturdays (July 3, July 31, September 18) and 1 Sunday (September 26) in 2010. However, time records provided by management reflected that no workers worked on those days.
- 2. All interviewed workers reported that they could only have 2 days off per month during peak season, including the previous 3 months. But, time records provided by management indicated that no workers worked on any Sundays from September 2009 to September 2010.

**Plan Of
Action:**

**Deadline
Date:**

**Action
Taken:**

**Plan No
Complete:**

**Plan
Complete
Date:**



Hours of Work: Annual Leave

HOW.14 Employers shall provide workers with paid annual leave as required under local laws, regulations and procedures. (S)

Noncompliance

Explanation: Based on management and worker interviews, along with review of leave records, it was identified that factory only provided 5 days of paid annual leave for workers who had served the factory for more than 10 years, or even 20 years. This violates the local law which requires that 10 days of annual paid leave should be provided to workers if they have served the factory for 10 - 20 years; 15 days of annual paid leave should be given if they have worked at the factory for more than 20 years.

Legal Reference: Regulations on Paid Annual Leave for Employees, Article 3

**Plan Of
Action:**

**Deadline
Date:**

Action Taken:

**Plan No
Complete:**

**Plan
Complete
Date:**
