



2010

FAIR LABOR ASSOCIATION INDEPENDENT EXTERNAL MONITORING REPORT

COMPANY: American Eagle Outfitters, Inc.

COUNTRY: Vietnam

FACTORY CODE: 9800841183I

MONITOR: Global Standards

AUDIT DATE: December 1, 2010

PRODUCTS: Garments

PROCESSES: Cutting, Sewing, Finishing

NUMBER OF WORKERS: 4975



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Wages, Benefits and Overtime Compensation: Other - Wages, Benefits and Overtime Compensation

Other

Noncompliance

Explanation: Factory does not sign contract annex with every worker, in case their salary is increased. Therefore, wage rates paid are higher than the rates in the labor contracts in employees' files.

Sources: record review (labor contract, payroll), worker and management interviews

Legal Reference: Labor Code, Article 33 [In the course of implementation of a labor contract, any party who wishes to modify the contents thereof shall give notice of its intention to the other party at least 3 days in advance. The modification of the labor contract may be effected by way of amendments to the existing labor contract or by the conclusion of a new labor contract.]

Plan Of Action: Immediate Action: Sign contract annex with all relevant employees.

Follow-Up Work:

1. Establish policy/procedure to address the issue.
2. Provide training to responsible party.
3. Establish a system to conduct internal audits on a regular basis to verify implementation.

Deadline Date: 06/30/2011

Supplier CAP: 02/15/11: Facility will sign the contract annex with all employees once their salary is increased. Factory's HR team will verify on a regular basis.

Supplier CAP Date:

Action Taken: 07/01/11: Factory signed 2 annex contracts with all employees that experienced a change in wages; 1 copy kept by the employee, the other kept in the employee's personnel file. Factory's HR team monitors changes in employees' wages on a monthly basis and provides annexes in a timely manner.

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: Vietnam has not ratified ILO Conventions 87 or 98. Under Vietnamese law, all unions are required to affiliate with the single trade union, the Vietnam General Confederation of Labor (VGCL), which is affiliated with the Communist Party. With respect to such union monopolies, the ILO Committee on Freedom of Association (FOA) has stated that "the rights of workers to establish organizations of their own choosing implies ... the effective possibility of forming ... [trade unions] independent both of those which exist already and of any political party." Vietnam's legal framework is therefore not compatible with the ILO Principles on Freedom of Association and, as such, all factories in Vietnam fail to comply with the FLA Code standard on Freedom of Association.

Plan Of Action: Since legally, the country only recognizes 1 union in Vietnam, the factory is required to:

1. Increase the number of worker representatives.
2. Closely monitor the latest trend in the country with respect to labor union law; report to American Eagle Outfitters (AEO); and make necessary changes to the current structure should there be any new/revised law regarding labor unions.

Deadline 04/30/2012
Date:



Supplier CAP: 02/15/11: Factory is planning an internal meeting to discuss the possible changes in the number of worker representatives.

Supplier CAP Date:

Action Taken: 07/01/11: The trade union consists of 10 worker representatives from the factory and 2 representatives from the government side. The reviewed document showed that the latest election was held in June 2010. A conversation between the representative from the government side and the assessor indicated that employees usually go to the government side's representative for consultation, so issues can be solved right away. However, no proper written records were recently kept, as the last written records provided for review were dated back in May 2010. The government side's representative confirmed that they will maintain all interaction with employees in a timely and orderly manner going forward.

Plan Complete: No

Plan Complete Date:

Freedom of Association: Grievance Procedure

FOA.26 Employer shall have in place written grievance procedures that allow first an attempt to settle grievances directly between the worker and the immediate supervisor but that, where this is inappropriate or has failed, it is possible for the worker to have the grievance considered at one or more steps, depending on the nature of the grievance and the structure and size of the enterprise. Employers shall ensure that the grievance procedures and applicable rules are known to workers. (P)

Noncompliance

Explanation: The factory has written grievance procedures; however, they are not posted anywhere in the factory or communicated to the workers. There are suggestion boxes placed in the workshops and canteen. Workers do not use the boxes, as they do not understand the functioning of the suggestion box system.

Sources: record review, walkthrough, worker and management interviews

**Plan Of
Action:**

Immediate Action:

1. Post relevant grievance procedures in local languages at appropriate areas.
2. Provide training on factory's grievance system to all employees.

Follow-Up Work:

1. Develop yearly training agenda for relevant department to follow.
2. Establish a system to conduct an internal audit on a regular basis on employees' awareness of the grievance system.

**Deadline
Date:** 08/31/2011

**Supplier
CAP:** 02/15/11: Factory is in the planning stage of posting the grievance procedures in appropriate areas and training all supervisors on the grievance system.

**Supplier
CAP Date:**

**Action
Taken:** 07/01/11: Factory posted the grievance procedures next to the suggestion boxes; the procedures have been broadcasting through public announcements. Employees randomly selected for a casual conversation understood the grievance procedures available at the facility.

Plan No
Complete:

Plan
Complete
Date:

Harassment or Abuse: General Compliance Harassment or Abuse

H&A.1 Employers shall comply with all local laws, regulations and procedures concerning discipline, violence, harassment and abuse. (S)

Noncompliance

Explanation: Discipline practices are not in accordance with legal requirements on procedures. I.e., workers are disciplined for violations not written in the labor regulations and dismissed without a verification meeting.

Sources: record review, worker and management interviews

Legal Reference: Labor Code, Article 87.4 [A record on the proceedings concerning disciplinary action shall be made.]

Plan Of Action: Immediate Action: Cease all discipline practices that are not in accordance with legal regulations.

Follow-Up Work:

1. Establish policy and procedure on discipline practice in accordance with the country's legal requirements.
2. Provide training to all employees on the aforementioned policy/procedures.
3. Establish a system to conduct an internal audit on a regular basis on factory's discipline practice and employees' awareness.

Deadline 08/31/2011
Date:



Supplier CAP: 02/15/11: Factory is in the stage of aligning written policy and discipline practice procedures in accordance with local law.

Supplier CAP Date:

Action Taken: 07/01/11: Factory revised policy and discipline practice procedures to be in accordance with local law; it was agreed upon by the Trade Union. The policy and procedure are posted and documented; they were provided to all employees through broadcasting a public announcement.

Plan Complete: No

Plan Complete Date:

Harassment or Abuse: Security Practices/Body Searches

H&A.15 All security practices shall be gender-appropriate and non-intrusive, so that the dignity of the worker concerned is protected when a search is undertaken. Searching of bags and other personal items to prevent theft is acceptable. Body searches and physical pat-downs shall only be undertaken when there is a legitimate reason to do so and upon consent of the worker, unless a state official with the power to do so (such as police officer) has ordered the search. Body searches cannot be undertaken in public and the person who undertakes the search shall be of the same sex as the person who is being searched. (S)

Noncompliance

Explanation: Factory security conducts pat downs of each worker before they go out to the toilets. Only 1 male and 1 female security staff conducts the pat downs. The pad downs are done in public, by the exit doors. There are no legitimate reasons for doing pat downs constantly throughout the day within the factory floor.

Sources: worker and management interviews

| | |
|---------------------------|--|
| Plan Of Action: | <p>Immediate Action:</p> <ol style="list-style-type: none"> 1. Gain consent for pat downs from employees. 2. Arrange a private area for pat downs to take place. 3. Arrange back-up security guard of the same sex should there be any absence. <p>Follow-Up Work:</p> <ol style="list-style-type: none"> 1. Provide training to security guards on body searches. 2. Establish a system to conduct an internal audit on a regular basis to verify implementation. |
| Deadline Date: | 04/30/2012 |
| Supplier CAP: | <p>The reason for pat downs is to decrease the amount of stolen merchandise in our factory, which could be sold in local markets; there have been cases in the past when employees stole garments. Pat downs are the best way to prevent stealing, especially theft of our main items, lightweight garments that are easy to take from the work place by wrapping them around the waist and legs. Pat downs are a very light search of employees by security officials of the same sex. No separate rooms can be provided, due to limited space on the work floor.</p> <p>02/15/11: Factory is in the stage of: getting consent for pat downs from all of employees and providing training to security on body searches. HR is planning to hire a back-up security guard of the same sex in case there are any absences.</p> |
| Supplier CAP Date: | |
| Action Taken: | 07/01/11: Currently, factory has a total of 6 male and 28 female guards in the facility. All employees signed a consent form agreeing to the pat-down practice. Employees randomly selected for a causal conversation understood the reason for the pat-down practice and they are fine with it. Factory is asked to set up a policy in regard to the authorization of the pat-down practice; they will share it with all employees once it is available. |
| Plan Complete: | No |

**Plan
Complete
Date:**

Non-Discrimination: General Compliance Non-Discrimination

D.1 Employers shall comply with all local laws, regulations and procedures concerning non-discrimination. (S)

Noncompliance

Explanation: Factory has an ABC grading system used to award bonuses to workers. There are no objective skill tests or written guidelines for this system. Grades are awarded subjectively by supervisors, making workers open to abuse and discrimination. I.e., pregnant workers/nursing mothers who leave work an hour early as per law do not receive an A grade.

Sources: record review; worker and management interviews

**Plan Of
Action:**

Immediate Action:

1. Remove the practice where pregnant employees and nursing mothers cannot get an A grade.
2. Establish written policy/guidelines/ system as to how different grades are a) awarded and b) achieved.

Follow-Up Work: Provide training to all employees on the guidelines/system.

**Deadline
Date:**

04/30/2012

**Supplier
CAP:**

02/15/11: Factory is in the stage of making a clear policy on the ABC grading evaluation and will post the policy in appropriate areas so it is easily visible by employees.

**Supplier
CAP Date:**

Action Taken: 07/01/11: The revision of the bonus' grading system was finalized in May 2011. The document reviewed showed that a broadcast through the public announcement system was done for all employees May 9, 2011 and that relevant information is posted in appropriate areas. The system comes into effective in June 2011, but June wages are yet to be issued by this follow-up assessment, so verification will have to wait until the next visit. Employees randomly selected for a causal conversation understood how the system works and what the grading criteria was.

Plan Complete: No

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: Code of Conduct (COC) posters were posted in English and Vietnamese for AEO, but no direct channel exists for workers to contact AEO directly. AEO has not conducted COC training for management and worker awareness of COC principles is weak.

Sources: visual inspection; worker and management interviews

Plan Of Action: AEO is in the process of developing a strategy for communication channel in China, as there is appropriate capacity to manage the area. However, AEO will consider developing communication channels in other regions that AEO supports once there are sufficient capacity and resources to do so.

Deadline Date: 06/30/2012

Action Taken: 07/01/11: AEO is in the process of developing a communication channel strategy in China.

Plan Complete: No

Plan Complete Date:

Health and Safety: General Compliance Health and Safety

H&S.1 Employers shall comply with all local laws, regulations and procedures concerning health and safety. (S)

Noncompliance

Explanation: Monitors observed signs of smoking and cigarette butts just outside the boiler room, despite the No Smoking policy. There are no designated smoking areas for workers.

Source: visual inspection

Plan Of Action: Immediate Action: Enhance employees' knowledge on factory's No Smoking policy.

Follow-Up Work:

1. Provide training to employees regarding the newly assigned smoking area and No Smoking policy.

2. Establish a system to conduct an internal audit on a regular basis of factory's health and safety performance and employees' awareness.

Deadline Date: 08/31/2011

Supplier CAP: 02/15/11: Factory is in the stage of assigning a smoking area for employees to use and posting a sign marked "Smoking Area" with an ash tray provided.

Supplier CAP Date:

Action Taken: 07/01/11: Smoking area is assigned and policy has been set up and announced to all employees through the public announcement system in January 2011. Employees randomly selected for a casual conversation know where to go if they want to smoke.

Plan Complete: No

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: Fire extinguishers in non-production areas (e.g., boiler room) were not checked regularly.

Source: visual inspection

Plan Of Action: Immediate Action: Check the fire extinguishers in the boiler room.
Follow-Up Work:

1. Develop a monthly checking plan (including section/position of fire equipment).
2. Establish a system to conduct an internal audit on a regular basis of factory's health and safety performance.

Deadline Date: 06/30/2011

Supplier CAP: 02/15/11: Submitted proofs reflect that fire extinguishers in the boiler room have been checked. Factory will monitor all extinguishers on a monthly basis based on a logbook.

Supplier
CAP Date:

Action Taken: 07/01/11: All randomly inspected fire extinguishers are checked on the 10th of each month during the follow-up assessment.

Plan Complete: No

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: Personal protective equipment (PPE) is available in the factory, but signs about PPE requirements are not posted, i.e., in cutting and spot-cleaning rooms. Workers use cutting gloves, but they are too big and uncomfortable for daily use.

Source: visual inspection

Plan Of Action: Immediate Action:

1. Post signs about PPE requirements in the local language in all appropriate areas.
2. Provide fitted gloves to employees in the cutting section. Follow-Up Work: Establish a system to conduct an internal audit (if do not already have) on a regular basis of factory's health and safety performance.

Deadline Date: 06/30/2011



Supplier CAP: 02/15/11: Factory is in the stage of looking for smaller gloves for employees who work in the cutting section.

Supplier CAP Date:

Action Taken: 07/01/11: PPE poster posted at cutting and spot cleaning sections and PPE was used in these sections during this follow-up assessment. Training was conducted in May and June 2011 for relevant employees.

Plan Complete: No

Plan Complete Date:

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: Hazardous chemicals are not handled safely and properly. Between the 2 chemicals used for spot removal (Pull Out 2, CW #1 Cleaning Washer), material safety data sheets (MSDS) are posted for only 1 chemical (Pull Out 2) in the spot-removal sections. Chemical inventory form was drafted, but never used. There are no chemical storage areas in the factory. Training materials on chemical safety do not involve any information on CW #1 Cleaning Washer. Workers do not demonstrate awareness or understanding of chemical safety.

Source: visual inspection



Plan Of Action: Immediate Action: Establish chemical handling policy/procedures.
Follow-Up Work:
1. Provide training to all employees who are in contact with chemicals (e.g., spot cleaner, chemical handling person in charge) and document training records well.
2. Establish a system to conduct an internal audit on a regular basis of factory's health and safety performance and employees' awareness.

Deadline Date: 08/31/2011

Supplier CAP: 02/15/11: Chemicals in the spot-cleaning room are provided with secondary containment.

Supplier CAP Date:

Action Taken: 07/01/11: Chemical handling policy is established and was posted at the chemical warehouse during the follow-up assessment. MSDS for all chemicals in use are posted at spot-cleaning section and chemical warehouse. Training for chemical users was conducted in February 9, 2011, regarding the MSDS for all chemicals in use and how to handle chemicals.

Plan Complete: No

Plan Complete Date:

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: MSDS information was missing for CW #1 Cleaning Washer. Source: visual inspection

Plan of Action: Immediate Action: Ensure MSDS is available for all chemicals and in the appropriate language.

Follow-Up Work:

1. Provide training to chemical-handling persons so they are aware of relevant MSDS.
2. Establish a system to conduct an internal audit on a regular basis of factory's health and safety performance.

Deadline Date: 08/31/2011

Supplier CAP: 02/15/11: MSDS for CW #1 has been posted in the appropriate language.

Supplier CAP Date:

Action Taken: 07/01/11: MSDS for all chemicals in use, including CW #1, were posted during this follow-up assessment.

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: Most sewing machines have eye shields, but a few lack needle guards.

Source: visual inspection

Legal Reference: Labor Code, Article No 98

Plan Of Action: Immediate action: Ensure all machinery is equipped with safety devices.

Follow-Up Work:

1. Train supervisors to report any missing safety device to the relevant department.
2. Establish a system to conduct an internal audit on a regular basis of factory's health and safety performance.

Deadline Date: 08/31/2011

Supplier CAP: 02/15/11: All needle guards and eye shields have been installed on the sewing machines.

Supplier CAP Date:

Action Taken: 07/01/11: Needle guards and eye shields were installed in all randomly checked sewing machines during this follow-up assessment.

Plan Complete: No

Plan Complete Date:

Health and Safety: Toilets

H&S.23 Employers shall establish the number of toilets required under applicable laws within reasonable distance of the workplace. (S)

Noncompliance

Explanation: Toilets are neither clean nor hygienic and had strong odors.

Source: visual inspection

Plan Of Action: Immediate Action: Ensure all toilets are of reasonable cleanliness.

Follow-Up Work:

1. Establish a daily cleaning schedule.
2. Establish a system to conduct an internal audit (if do not already have) on a regular basis of factory's health and safety performance.

Deadline Date: 08/31/2011

Supplier CAP: Factory believes that toilets are wet at all times. They appear to be dirty due to the frequent use; factory is planning to repaint the toilets and open the roof/ceiling to release the smell.

02/15/11: Toilets will be cleaned 8 times a day.

Supplier CAP Date:

Action Taken: 07/01/11: Toilets are cleaned 8 times a day and the odors are at an acceptable level.

Plan Complete: No

Plan 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: The document review revealed that workers exceeded the weekly legal limit of 16 hours overtime for several weeks in September 2010, and the annual legal limit of 300 hours overtime for 2010 until October 2010. In the selected sample of 35 workers, 27 workers worked from 67-69.5 OT hours during 2 weeks of September 2010; 9 workers worked from 64-69.5 OT hours during 1 week in September 2010.

Sources: time record review, payroll (and other relevant records) review from May-October 2010, worker and management interviews

Legal Reference: Labor Code, Article 69 [The number of additional hours worked shall not exceed 4 hours a day, 16 hours per week, and 300 hours a year.]

Plan Of Action: Factory is required to set up a series of objectives over a period of time to lower employees' working hours.

Deadline Date: 06/30/2012

Supplier CAP: Factory's production schedule is normally based on 48-60 hours per week, according to the orders at hand. However, the reason for the exception in September 2010 was that the productivity for 1 style was low, given the set target (as per production planning); therefore, the results was excessive overtime. There are 2 shifts for major sections such as sewing and finishing, in order to diversify the workload and ultimately minimize the need for overtime. Factory has a system to track individual OT on a regular basis to the extent it is possible to control weekly work hours to within 60 and yearly overtime to within 300.

02/15/11: Factory is planning the schedule not to exceed 60 hours per week and to control things so OT hours do not exceed the legal limit of 300 hours.

Supplier CAP Date:

Action Taken: 07/01/11: Accumulated overtime from January-May 2011 for randomly selected employees reached a maximum of 160.5. Therefore, a follow-up visit is required at the end of the year to verify if the increase in shift helps to control the yearly hours of overtime. The majority of sampled employees' weekly work hours were within 60 hours from January-June 2011.

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: Factory does not provide at least a 30-minute break for workers when they work OT for over 2 hours after regular work hours end.

Sources: time record review, payroll (and other relevant records) review from May-October 2010, worker and management interviews

Legal Reference: Circular No.15/2003/LBTBXH-TT dated 06/03/2003 [In cases where laborers work overtime for more than 2 hours a day, before the overtime work, employers must arrange for them an additional rest time of least 30 minutes, which shall be counted into the overtime].

Plan Of Action: Provide a 30-minute dinner break to employees if they are to work over 2 hours of overtime for the day.

Deadline Date: 07/31/2012



Supplier CAP: The reason to move the break to the end of the OT work (on days with more than 2 hours of OT) is because employees would like to leave earlier; moving the break to the end means that employees earn wages for the 30-minute break. Worker representatives have agreed upon the aforementioned practice.

02/15/11: Mutual agreement between worker representatives to move the break to after the overtime work has been announced through the public announcement system.

Supplier CAP Date:

Action Taken: 07/01/11: For the majority of sampled employees, the daily OT work was no more than 1.5 hours from January-June 2011. However, 2 sampled sewing employees worked more than 1.5 hours of overtime in April, and reached a maximum of 3.5 hours a day. Factory management said that this happened rarely in 2011, but admitted that some employees are required to stay behind a bit longer so that the rest of employees can move forward. Factory management promised this would be closely monitored. A follow-up visit is required to verify for overall control in 2012.

Plan Complete: No

Plan Complete Date: