



**FAIR LABOR**  
ASSOCIATION®

## INDEPENDENT EXTERNAL ASSESSMENT REPORT



**COMPANY: American Eagle Outfitters, Inc.**  
**COUNTRY: Haiti**  
**ASSESSMENT DATE: 11/19/12**  
**MONITOR: FLA Assessor Team (Americas)**  
**PRODUCTS: Apparel**  
**PROCESSES: Sew, Other**  
**NUMBER OF WORKERS: 5232**  
**ASSESSMENT NUMBER: AA000000029**

### FLA Comments

American Eagle Outfitters, Inc. ceased affiliation with FLA at the end of 2013. Therefore, the company will not be reporting to FLA on the remedial efforts regarding issues identified in this report.

### What's Included in this Report

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*Improving Workers' Lives Worldwide*

# Understanding this Assessment Report

This is a report of a workplace assessment conducted by Fair Labor Association assessors following FLA's Sustainable Compliance methodology (SCI), which evaluates a facility's performance in upholding fair labor standards through effective management practices throughout the entire employment life cycle.

This report identifies violations and risks of noncompliance with the Fair Labor Association Workplace Code of Conduct in its assessment of the employment functions, and includes a description of the root causes of violations, recommendations for sustainable and immediate improvement, and the corrective action plan for each risk or violation as submitted by the company. This document is not a static report; rather, it reflects the most recent progress updates on remediation in the "Progress Update" section for each finding.

## Glossary

**De minimis:** a de minimis factory is a factory (1) with which the Company contracts for production for six months or less in any 24-month period; or (2) in which the Company accounts for 10% or less of the annual production of the facility. The FLA Charter states that in no event shall de minimis facilities constitute more than 15% of the total of all facilities of a Company, and the list of facilities designated as de minimis by a Company is subject to the approval of the FLA. Please note that collegiate-producing factories cannot count as de minimis.

**Facility performance:** how a facility rates in terms of a particular employment or management function, with 100% being the best possible score.

**Fair labor standards:** the minimum requirement for how workers should be treated in a workplace, as outlined in the [FLA Workplace Code of Conduct](#).

**Employment life cycle:** all aspects of an employee's relationship with the employer, from date of hire to termination or end of employment.

**Code violation:** failure to meet standards outlined in the FLA Workplace Code of Conduct in the workplace implementation of employment or management functions.

**Company action plan:** a detailed set of activities outlined by the sourcing company and/or direct employer to address FLA findings.

**Employment functions:** The different components of the relationship between management and employees in a factory. An employment function is a process regulating an aspect of the employment relationship, such as the recruitment of workers. All employment functions together constitute the employment relationship between an employer and an employee.

1. Recruitment, Hiring & Personnel Development (e.g., performance reviews)
2. Compensation (e.g., wages, health care)
3. Hours of Work (e.g., overtime, documentation of working hours)
4. Industrial Relations (e.g., collective bargaining agreements)
5. Grievance System (e.g., worker communication with management)
6. Workplace Conduct & Discipline (e.g., discrimination, harassment)
7. Termination & Worker Retrenchment (e.g., downsizing, resignation)
8. Health & Safety (e.g., exposure to chemicals)
9. Environmental Protection (e.g., energy saving)

**Management functions:** violations or risks related to an employment function could be caused by the absence – or a problem in the operation – of any one of the management functions or in more than one.

1. Policy
2. Procedure
3. Responsibility & Accountability
4. Review Process
5. Training
6. Implementation
7. Communication & Worker Involvement
8. Support & Resources (only for the in-depth level)

**Finding:** indicators of potential gaps between desired and actual performance of the workplace on different employment functions.

### Finding type

- *Immediate action required:* discoveries or findings at the workplace that need immediate action because they not only

constitute an imminent danger, risk the workers' basic rights, threaten their safety and well-being or pose a clear hazard to the environment, but also are clear non-compliances with the FLA Workplace Code of Conduct and local laws. Examples include a finding by the assessor that crucial fire safety elements are not in place or that there is underpayment of wages and/or worker entitlements or that there is direct discharge of waste water, etc.

- *Sustainable improvement required*: findings that require sustainable and systematic actions. The factory will be asked to tackle the underlying root causes and to do so in a long-term and systematic manner to bridge the gap between actual and desired performance. Examples include a finding by the assessor that there is lack of termination policies and procedures in the workplace, lack of grievance system, etc.
- *Notable feature*: indicates a remarkable feature or best practice at a workplace. Examples might include workers' wages and benefits that are significantly above the industry average, or community benefits such as free daycare.

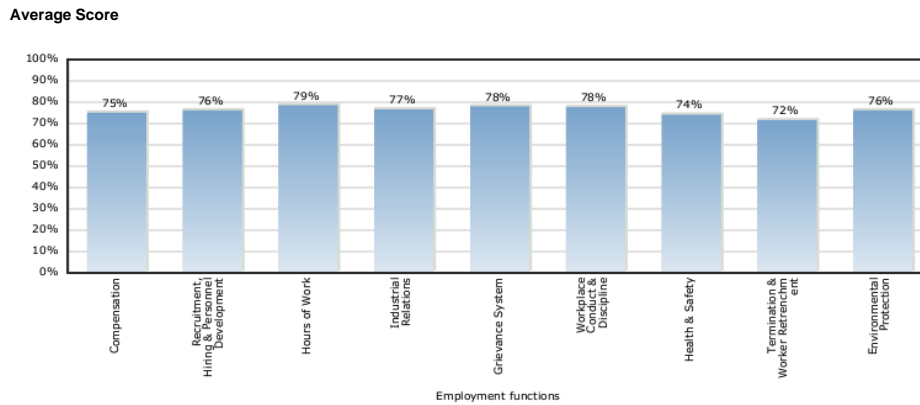
**Local law or Code Requirement**: applicable regulations and standards in a workplace, which serve as the basis for an assessment, as per local law or FLA Workplace Code of Conduct. When these two do not concur, the stricter of the two standards applies.

**Root causes**: a systemic failure within an employment function, resulting in a "finding." Findings are symptoms of underlying problems or "root causes." Consider, for example, the case of workers not wearing hearing protection equipment in a high noise area. The most expedient conclusion might be that the worker did not use the hearing protection equipment because such equipment was not provided by management. However, upon a more thorough evaluation of available information, the assessor might find that the worker was indeed supplied with hearing protection equipment and with written information about the importance of wearing hearing protection, but was not trained on how to use the equipment and that use of the equipment was not enforced in a consistent manner by management.

**Uncorroborated Risk of Noncompliance**: indicates a serious issue that has surfaced during the assessment, but one which the assessors were not able to corroborate through additional sources of information (e.g., allegation of retaliation against a worker by the factory management for participating in the assessment).

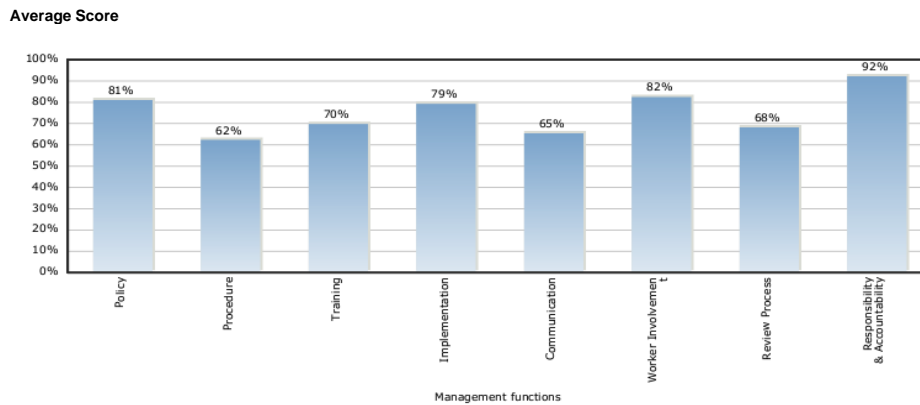
## Score by Employment Function

Scores indicate a factory's performance related to a specific employment function based on an FLA assessment. A score of 100 percent indicates flawless operation of an employment function. A score of less than 100 percent indicates need for improvement.



## Score by Management Function

Scores indicate a factory's performance related to a specific management function based on an FLA assessment. A score of 100 percent indicates flawless operation of a management function. A score of less than 100 percent indicates need for improvement.



## Score Summary

Scores indicate the strength of management functions as they relate to different elements of the employment relationship (employment functions). For example (reading left to right), a score of 100 percent in the cell on the top left corner would indicate the existence of appropriate policies related to recruitment, hiring and personnel development.

Management Functions	Recruitment, Hiring & Personnel Development	Compensation	Hours of Work	Industrial Relations	Grievance System	Workplace Conduct & Discipline	Termination & Worker Retrenchment	Health & Safety	Environmental Protection	Aggregate Score
Policy	71.43%	87.5%	100%	89%	85.71%	61.11%	72.22%	83.33%	83.33%	<b>81.52%</b>
Procedure	78.13%	73.86%	73.33%	52.17%	80%	66.67%	45.23%	47.16%	82.76%	<b>66.59%</b>
Responsibility & Accountability	78.57%	90%	92.86%	90%	90%	90%	90%	91.67%	79.4%	<b>88.06%</b>
Review Process	81.82%	75%	93.75%	70%	70.83%	81.82%	77.27%	81.82%	81.67%	<b>79.33%</b>
Training	65.56%	73.89%	83%	73.08%	73%	70.14%	57.94%	71.84%	66.04%	<b>70.5%</b>
Implementation	85.33%	68.97%	71.53%	90%	83.33%	92.59%	78.18%	83.22%	73.33%	<b>80.72%</b>
Communication	56.25%	65%	81.25%	0%	77.78%	75%	0%	87.5%	45%	<b>54.2%</b>
Worker Involvement	100%	N/A	N/A	100%	100%	N/A	N/A	75%	0%	<b>75%</b>
Aggregate Score	<b>77.14%</b>	<b>76.32%</b>	<b>85.1%</b>	<b>70.53%</b>	<b>82.58%</b>	<b>76.76%</b>	<b>60.12%</b>	<b>77.69%</b>	<b>63.94%</b>	

## Summary of Code Violations

Companies that join the FLA agree to uphold the FLA Workplace Code of Conduct throughout their entire supply chain. The Code of Conduct is based on International Labour Organization (ILO) standards, and defines labor standards that aim to achieve decent and humane working conditions.

While it is important to note when violations of the FLA Workplace Code of Conduct occur, the purpose of these assessments is not simply to test compliance against a particular benchmark, but rather to develop an understanding of where and how improvements can be made to achieve sustainable compliance. Code of Conduct violations can be found throughout the course of an assessment of the employment and management functions, and are addressed in companies' action plans.

FLA Code Element
Compensation
Employment Relationship
Harassment and Abuse
Hours of Work
Health, Safety and Environment
Non-Discrimination

## Findings and Action Plans

### FINDING NO.1

#### COMPENSATION

#### FINDING TYPE: Immediate Action Required

##### Finding Explanation

Haitian Law states that piece rate employees are entitled to the legal minimum wage (300 Gourdes per day, equivalent to USD \$7.14) based on an 8-hour workday for a maximum of 48 hours a week. The factory, however, operates, in average, 10 hours a day from Monday to Thursday, 9 hours on Friday and 4 additional hours on Saturdays; as a result, most workers work for more than 48 hours a week to earn the legal minimum wage plus some overtime. Consequently, not all overtime is being fully compensated.

##### Local Law or Code Requirement

Haitian Law CL-09-2009-010, Article 2.2; FLA Workplace Code (Employment Relationship benchmark ER.22.1; Compensation benchmarks C.1 and C.2)

##### Root Causes

1. Management is saving on production costs by not paying some workers the legal minimum wage;
2. Factory has not adjusted its daily production planning to the new legal requirements on minimum wage;
3. Workers lack awareness on how to properly calculate the new legal minimum wage.

### **Recommendations for Immediate Action**

1. Adjust the production planning to 8 hours a day, so that piece rate employees are able to earn the legal minimum wage by working the 8-hour shift or fully compensate workers for all overtime performed;
2. Retroactively compensate workers for any proportional unpaid overtime from October 1st to the day of the assessment, as per the local labor law.

## **FINDING NO.2**

### **COMPENSATION**

#### **FINDING TYPE:** Immediate Action Required

#### **Finding Explanation**

Employees who work 48 or more hours a week do not receive compensation corresponding to the weekly rest day they are entitled to, as mandated by law.

#### **Local Law or Code Requirement**

Haitian Labor Code, Article 107; FLA Workplace Code (Employment Relationship benchmark ER.22.1; Compensation benchmark C.1)

#### **Root Causes**

1. Management saves on production costs by not compensating the workers for rest day;
2. Lack of an oversight system to ensure that all employees who have worked 48 hours or more per week receive the relevant payment for the rest day;
3. Lack of worker and worker representative awareness on rest day calculation and payment.

#### **Recommendations for Immediate Action**

Provide rest day payment to all employees who have worked 48 hours a week or more.

## **FINDING NO.3**

### **COMPENSATION**

#### **FINDING TYPE:** Sustainable Improvement Required

#### **Finding Explanation**

Due to the lack of social security medical services and infrastructure in the region, factory management does not pay the social security contributions and, instead, has chosen to have its own medical facilities on site. Workers, union representatives, and management have agreed to this arrangement.

#### **Local Law or Code Requirement**

FLA Workplace Code (Employment Relationship ER.22.1; Compensation benchmark C.1)

#### **Recommendations for Immediate Action**

1. Social security contributions would reduce workers' income without workers receiving the medical services they would be entitled to;
2. Due to the lack of medical facilities in the region, factory management has taken upon themselves to make basic medical services available to workers;
3. Absence of governmental oversight to ensure full compliance with social security contributions.

## **FINDING NO.4**

### **HOURS OF WORK**

#### **FINDING TYPE:** Sustainable Improvement Required

### **Finding Explanation**

1. During the second week of November 2012, 68 employees worked a 7-day period (including the rest day) without receiving a 24 consecutive hours of rest in the following week.
2. Factory exceeds the legal limits for overtime for those employees in Maintenance and Packing. According to Haitian labor law, overtime shall not exceed 80 hours per quarter. However, the average overtime that these employees worked for this period was 120 hours, which also exceeds the 60 hours per week limit as per FLA Code.

### **Local Law or Code Requirement**

Haitian Labor Code, Article 98; FLA Workplace Code (Hours of Work benchmarks HOW.2 and HOW.8.3)

### **Root Causes**

1. Inadequate preparation for dealing with production orders means staffing levels may be out of sync with production volumes;
2. Production and capacity planning is deficient and does not include safeguards to prevent employees from working more than 80 overtime hours per quarter;
3. Not enough buyer oversight to identify and address possible reasons behind excessive overtime;
4. No regular analysis of hours of work with a view to progressively reducing excessive hours of work.

## **FINDING NO.5**

### **HOURS OF WORK**

#### **FINDING TYPE: Immediate Action Required**

### **Finding Explanation**

1. 1 worker was seen eating at their workstation during lunchtime;
2. Most workers do not rest for the entire 1-hour lunchtime; it was observed that the majority of workers take their lunch for approximately 30 minutes, and then go back to their workstations to continue performing their work.

### **Local Law or Code Requirement**

Haitian Labor Code, Article 95; FLA Workplace Code (Hours of Work benchmarks HOW.1.1 and HOW.3)

### **Root Causes**

1. No monitoring mechanisms or internal procedures to ensure that all workers rest the whole lunchtime;
2. There are no adequate resting facilities available for workers to have their meals.

### **Recommendations for Immediate Action**

Ensure that all workers rest during the whole 1-hour lunchtime.

## **FINDING NO.6**

### **INDUSTRIAL RELATIONS**

#### **FINDING TYPE: Sustainable Improvement Required**

### **Finding Explanation**

Factory has not created and implemented an industrial relations policy and the relevant procedures.

### **Local Law or Code Requirement**

FLA Workplace Code (Employment Relationship benchmark ER.1.1)

### **Root Causes**

1. Management's lack of awareness of FLA Industrial Relations Code requirements and benchmarks;
2. Management has not seen the need for developing/implementing industrial relations policy and procedures;
3. This issue has never been brought to the factory's attention during previous external audits.

## FINDING NO.7

### WORKPLACE CONDUCT & DISCIPLINE

**FINDING TYPE:** Sustainable Improvement Required

**Finding Explanation**

50% of interviewed workers claim that some supervisors commit verbal abuse, by yelling at them or talking to them in a rude and inappropriate manner.

**Local Law or Code Requirement**

FLA Workplace Code (Harassment or Abuse benchmark H/A.5)

**Root Causes**

1. Lack of an effective monitoring system by management to ensure that the workplace is free from verbal abuse;
2. Ineffective training for supervisors and chief department staff on non-harassment and verbal abuse, including implementation of disciplinary actions when applicable;
3. Inadequacy of the system in place to address all verbal abuse allegations raised by employees.

## FINDING NO.8

### ENVIRONMENTAL PROTECTION

**FINDING TYPE:** Immediate Action Required

**Finding Explanation**

1. Factory's environmental protection policy does not include a commitment to minimize environmental impact with respect to the: a) conservation and use of energy and water and b) management of solid waste;
2. It was observed that the factory stores its solid waste outdoors, without proper precautions, before a third-party company in charge of the final disposal collects it.

**Local Law or Code Requirement**

FLA Workplace Code (Employment Relationship benchmarks ER.31.1 and ER.31.3)

**Root Causes**

1. The revised FLA Workplace Code and Benchmarks now include environmental protection requirements, which are new for Companies and their supplier base;
2. Lack of a contingency procedure to store solid waste in cases where the third-party company in charge of the final disposal fails to arrive in a timely manner to collect the waste;
3. No technical knowledge on solid waste management;
4. There is no one responsible for monitoring the adequate implementation of the solid waste storage/disposal procedures.

**Recommendations for Immediate Action**

Factory management is to delimit and isolate a temporary designated area outdoors for solid waste.

## FINDING NO.9

### HEALTH AND SAFETY

**FINDING TYPE:** Immediate Action Required

**Finding Explanation**

1. Most sewing machine operators and 1 employee in the stain removal area were observed not to be wearing personal protective equipment (PPE);
2. 1 employee in the stain removal area was wearing inappropriate PPE, the mask and gloves were not adequate to protect



them from the chemicals;

3. Eyewash system in the stain removal area was not properly working due to water outage;
4. Some material safety data sheets (MSDS) have not been translated to the employees' local language (Creole).

#### **Local Law or Code Requirement**

Haitian Labor Code, Article 439 #8; FLA Workplace Code (Health, Safety & Environmental benchmarks HSE.2, HSE.7, and HSE.8)

#### **Root Causes**

1. Lack of an oversight mechanism to ensure the effective usage of the relevant PPE;
2. No management commitment to maintain all MSDS in the local language;
3. No effective training for employees on the usage of PPE;
4. Lack of training for responsible staff on providing appropriate PPE to employees.

#### **Recommendations for Immediate Action**

1. Translate MSDS to local language and post all MSDS for chemicals currently used and stored in the workplace;
2. Provide appropriate PPE to all employees, according to the chemical(s) being used or stored.

## **FINDING NO.10**

### **HEALTH AND SAFETY**

#### **FINDING TYPE: Immediate Action Required**

#### **Finding Explanation**

There is a large piece of wood that is used as a "door" to separate solid waste from sewing production lines; but it is not safely installed, carrying a risk of falling on workers who are walking around it.

#### **Local Law or Code Requirement**

FLA Workplace Code (Health, Safety & Environmental benchmark HSE.19)

#### **Root Causes**

1. Lack of an oversight mechanism to ensure that all of the workplace is safe and free from any occupational risks for workers;
2. No occupational risk analysis has been conducted.

#### **Recommendations for Immediate Action**

Place the large wooden piece in a safe position and equip the area with all of the necessary safety devices to avoid risk of injury to the employees.

## **FINDING NO.11**

### **HEALTH AND SAFETY**

#### **FINDING TYPE: Sustainable Improvement Required**

#### **Finding Explanation**

Factory does not follow the Lock-Out/Tag-Out (LOTO) procedure when machine maintenance is conducted.

#### **Local Law or Code Requirement**

FLA Workplace Code (Health, Safety & Environmental benchmark HSE.19)

#### **Root Causes**

1. Lack of management knowledge and expertise on how to implement the LOTO procedure;
2. Factory management does not see the need to implement the LOTO procedure.

## FINDING NO.12

### HEALTH AND SAFETY

#### FINDING TYPE: Immediate Action Required

##### Finding Explanation

1. Factory does not have the legally required number of nurses in place. Under Haitian law, there should be at least 5 nurses for every 200 employees. Given the current size of the workforce, the factory needs to hire at least 4 additional nurses;
2. There is insufficient number of seats for employees to take their lunch.

##### Local Law or Code Requirement

Haitian Labor Code, Articles 439 #7 and 479; FLA Workplace Code (Health, Safety & Environmental benchmarks HSE.18.1, HSE.18.2, and HSE.19)

##### Root Causes

1. It is not a priority for factory management to provide employees with all legal provisions on medical facilities and premises for taking meals;
2. Management's unwillingness to incur additional costs for building a rest area for workers and for hiring additional nurses.

##### Recommendations for Immediate Action

1. Hire the legally required number of nurses;
2. Build the proper facilities for employees to take their meals and a sufficient number of seats, as required by local law.

## FINDING NO.13

### COMMUNICATION & WORKER INVOLVEMENT

#### FINDING TYPE: Sustainable Improvement Required

##### Finding Explanation

1. The worker integration component is missing throughout all of the employment functions. This indicates that the factory has not established procedures to receive workers' input/feedback on the creation and updating of its policies and procedures. Workers are neither systematically integrated nor consulted on the decision-making processes regarding policy and procedure creation.

##### Local Law or Code Requirement

FLA Workplace Code (Employment Relationship benchmark ER.25.2)

##### Root Causes

1. Lack of management understanding of what worker integration entails and how to implement this management function;
2. Management's lack of awareness of FLA Workplace Code and Benchmarks;
3. Management has not seen the need to formalize a worker integration process.

## FINDING NO.14

### COMPENSATION

#### FINDING TYPE: Uncorroborated Risk of Non Compliance

##### Finding Explanation

Based on worker interviews, their salary is not enough to cover all basic needs and provide a discretionary income.

##### Local Law or Code Requirement

FLA Workplace Code (Compensation benchmark C.1.3)

### **Root Causes**

1. The Haitian apparel industry currently does not provide wages that allow for the fulfillment of basic needs plus a discretionary income;
2. Management lacks awareness of FLA's Workplace Code and Benchmarks;
3. The issue has never been brought to management's attention before;
4. There is no wage structure in the factory that would enable workers to progressively earn a wage level that meets basic needs.