



WORKER RIGHTS CONSORTIUM

**WORKER RIGHTS CONSORTIUM ASSESSMENT
EAGLE SPEED MARKETING (THAILAND)
FINDINGS, RECOMMENDATIONS AND STATUS**

August 1, 2011

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Report of Worker Rights Consortium Factory Assessment at Eagle Speed Marketing

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A. Introduction

This report outlines the WRC's findings and recommendations concerning labor practices at the Eagle Speed Marketing apparel factory (Eagle Speed) in Thailand. Eagle Speed is located in Ladkrabang Industrial Zone, not far from the Suvarnabhumi Airport, in the eastern part of Bangkok. The factory employs roughly 1,100 workers.

Eagle Speed produces sports apparel for several buyers including university licensees Nike, Inc. and VF Corporation. Eagle Speed also supplies Salomon, AG, a division of the Finnish firm, Amer Sports.

While Eagle Speed had not been disclosed as a producer of university-licensed goods, workers at Eagle Speed reported that garments bearing the logos of several WRC member universities had been produced at the factory. This testimony was credible and mutually corroborative and it is the WRC's conclusion that Eagle Speed is a collegiate supplier and should have been disclosed as such. It should be noted that Eagle Speed's parent company also owns a factory named Eagle Pack (formerly, CPPC Public, Ltd.) which has been disclosed as producing university licensed goods for VF.

The WRC initiated its investigation of working conditions at Eagle Speed in January 2010 after receiving a complaint that more than twenty workers, who had objected to being demoted from their usual production jobs to work in a "general administrative support" division – where their duties included cleaning the factory – were being confined by the management in one of the company offices. As discussed below, the WRC found that while workers were allowed to leave this room to use the toilet and at the end of the workday, the practice was psychologically abusive to the affected workers, and requested to the company that it be ceased.

The WRC's subsequent investigation, whose findings are detailed in this report, determined that this incident was related to a restructuring of the factory's production system which had involved certain other violations of workers' rights, and identified other conditions in the factory which also failed to comply with buyer and university Codes of Conduct. As we report below, however, Eagle Speed responded positively to recommendations from the WRC for correcting these violations and significant improvements in the working environment were achieved.

1. Areas of Observed Compliance

Pursuant to the WRC's investigative protocols, the WRC's research focused on those areas where violations of labor standards were alleged by complainants. The WRC did not reach findings of compliance or noncompliance in areas not discussed in this report.

The WRC notes, however, that in certain areas which were not subjects of this investigation, Eagle Speed maintains labor practices that are superior to those generally prevailing in other Thai garment factories. Specifically, unlike most Thai garment companies, Eagle Speed provides free meals to all its workers. All staff, including cleaners, production workers and managers all

receive the same meal. Also unlike the majority of factories assessed by the WRC in Thailand, the factory's supply of drinking water is properly filtered using equipment that is checked regularly.

2. Areas of Documented Noncompliance

On the basis of the evidence gathered, the WRC documented the factory's noncompliance with Thai law, international labor standards and university and college Codes of Conduct in several areas, including:

- a. Wages, Benefits and Labor Contracts
- b. Disciplinary Process and Grievance Procedures, and
- c. Health and Safety

The WRC's findings in these areas are detailed in this report.

Where instances of noncompliance were documented, the WRC provided Eagle Speed with a detailed outline of its findings, their evidentiary basis, and an accompanying set of recommendations for corrective action. The WRC is pleased to report that Eagle Speed responded positively by agreeing to implement the changes recommended.

Eagle Speed's implementation of the WRC's recommendations has resulted in substantial improvements in working conditions at the factory. Moreover, to its credit, Eagle Speed management, on its own accord, has agreed to certain measures to improve the factory's labor relations, including providing the union that represents its workers, the Eagle Speed Labour Union, with office space on the premises, and, for a time, permitting employees who are union committee members to handle grievances and attend to occupational health and safety matters on company time.¹

This progress is attributable, in large part, to good faith efforts by the management to work with the WRC on labor rights compliance issues. The WRC will continue its engagement with Eagle Speed to ensure that the progress made thus far is sustained and that any outstanding issues are resolved.

B. Methodology

The WRC's investigation was carried out by its regional and country representatives, and included in-depth interviews with production workers, supervisors, and managers, and well as a review of relevant documents and multiple inspections of the factory. The findings outlined in his memorandum are based on the following sources of evidence:

¹ The WRC notes that in August 2010 management reversed this practice and required union committee members to return to the production lines full time.

- In-depth interviews with forty-four Eagle Speed production employees. Thirty-one of these workers were interviewed offsite in locations agreeable to workers and thirteen were interviewed onsite;
- Interviews with six members of Eagle Speed management, including the company's plant manager, production manager, personnel manager, accountant, safety officer and one line supervisor;
- Onsite review of relevant documents, including internal work rules, company policies, and payroll records;
- Communication with Nike, VF and Salomon vendor compliance officers.
- Physical inspections of the factory concerning occupational health and safety issues on January 28 and March 18, 2010;
- Consultation with an expert in relevant Thai labor and employment laws.

C. Findings, Recommendations and Current Status

The following section reviews, in each area of code compliance, the WRC's findings and recommendations, Eagle Speed's response and the status of remedial measures taken by the company, as verified by the WRC. Except where otherwise indicated, for each area of code compliance:

- Initial findings and recommendations are based on investigative work performed by the WRC between January 12 and February 3, 2010 including onsite inspections conducted on January 28 and 29, 2010. These findings and recommendations were communicated to Eagle Speed on February 16, 2010.
- Discussions of Eagle Speed's responses to the WRC are based on communications from the company to the WRC between January, October 2010 and January 2011.
- The WRC's verification of remedial action and further recommendations are based on a visit to Eagle Speed on March 18, 2010 and follow up worker interviews between July 2010 and June 2011

1. Wages, Benefits and Labor Contracts

a) Restructuring Process

Findings

At the beginning of January 2010, Eagle Speed carried out a major restructuring of the company which included a reorganization of its sewing lines. As outlined below, the restructuring process resulted in illegal, though, ultimately, temporary, demotions of employees from production to janitorial work.²

² The Thai Supreme Court has held that under Thai labor law "demoting a worker to a lesser position, even if the [worker's] wages remain the same, is a transfer that is considered illegal and unfair." Supreme Court Opinion No. 868/2548 (2005); *also*, Opinion No. 1179/2540 (1997) (stating that "[...] the order to change the work duties from

As part of the restructuring process, all production workers, including cutters, sewers and “welders” (employees who operate ultrasonic sewing machines), were eligible for reassignment. While the majority of these employees were placed in positions similar to those they held before the restructuring, seventy-four workers were assigned to the general administrative support division, where they were to be assigned tasks in other departments as needed on a daily or weekly basis. There is no evidence that management targeted any protected class of employees in selecting these workers for reassignment.

Eagle Speed’s management failed to provide the seventy-four affected workers with any information about the restructuring process prior to initiating it. Instead, on January 7, 2010, these workers were asked to leave the sewing, cloth welding and cutting lines to help clean the production floor and trim trees on the premises, in order to help renovate the factory in preparation for a visit by buyers.

Workers, believing they were only being reassigned temporarily, carried out these tasks as directed. On January 9, however, the company’s safety officer told a number of the affected workers that they would be assigned to clean the factory buildings on a permanent basis.

Several days later, the seventy-four workers were instructed by their line leaders to sign letters indicated that they were requesting to be transferred. The line leaders did not explain to the workers why they needed to sign the letters, and told them “just sign!”

The letters stated, inaccurately, that the workers, themselves, were requesting transfers, rather than the factory management. Soliciting these letters from employees constituted a violation of Thai law.³ Moreover, the letters did not specify to which positions the workers supposedly wished to be transferred.

Out of the seventy-four workers who were asked to sign the letters, fifty-one agreed, while twenty-three refused. Most of workers interviewed by the WRC who signed the letters indicated that they had felt pressured to do so.

Some of the fifty-one workers who signed the letters found themselves assigned to positions similar to those they previously had held. Others, however, found themselves without a regular position and transferred to any line where assistance was needed. For example, one worker testified that, after he had signed the transfer letter, he was told to assist in different divisions in the factory for one week at a time. The constant transfers became a source of stress, as he never knew where he would work the following week.

The twenty-three workers who had refused to continue cleaning the factory or sign the transfer letters demanded to return to their former positions. On January 13, the factory management

weaving to general duties [which include sweeping garbage in the warehouse and cleaning the surrounding area] is not a fair order”).

³ See, Thailand Civil and Commercial Code §155 (“A declaration of intention made with the connivance of the other party which is fictitious is void. ... If a declaration fictitious under paragraph one is made to conceal another juristic act, the provisions of law relating to the concealed act shall be applied.”)

called these workers to a meeting. When workers explained they wanted to return to their previous jobs on the sewing and “welding” lines, management explained that these lines were “closed” and that their requests could not be met.

When these twenty-three workers persisted in refusing to accept their new work assignments, the factory management asked them to stay in the factory’s meeting room until a solution was found. On January 21, two of these workers were called to meet the company’s acting human resource manager who told them that they were being dismissed and gave them termination letters to sign. Upon reviewing these letters, the workers found that there was a discrepancy between the names of the employees who were being terminated and the names under the signature lines on the letters and refused to sign them.

Later in the same day, one of these workers was told by a manager that the factory’s director had ordered him back to work at his previous position. The next day, this worker returned to work at his former position. This worker testified that because he was one of the more outspoken employees in the group of twenty-three workers who refused to be reassigned, the management had sought to separate him from that group.

While the meeting room where the twenty-three workers were directed to stay was air conditioned and workers could leave to use the toilet or when otherwise necessary, the management’s directive for these twenty-three workers to remain isolated from the rest of the workforce constituted a form of psychological harassment which violated university and buyer Codes of Conduct.⁴

The segregation of these employees was understood by the plant’s other workers as a sign that the twenty-three workers were being punished. The factory management set up a new production line to accommodate the affected employees, but this line was placed in a dark poorly ventilated storage building isolated from the main factory building.

Eagle Speed’s management stated to the WRC that it had no intention of penalizing the affected workers. However, while the WRC did not find any evidence of a punitive motive on the part of the management, the manner in which the process was handled – failure to inform workers in advance or elicit workers’ suggestions as to possible alternatives, pressuring workers to sign false documents, and, in particular, restricting workers to the meeting room for an extended period of time, constituted a failure to treat workers with dignity and respect and thus did not comply with university Codes of Conduct.

The management also indicated that it expected the workers’ assignment to the newly created general administrative support division to be a temporary arrangement, while the factory implemented a new production system. The WRC finds the explanation credible as, by the time the WRC visited the factory on January 28 and 29, several of the fifty-one workers who had

⁴ See, e.g., University of Washington, Code of Conduct, (“Harassment or Abuse: Every employee shall be treated with dignity and respect. No employee shall be subject to any physical, sexual, psychological or verbal harassment or abuse.”); *accord*, Fair Labor Association, Workplace Code of Conduct.

signed the transfer letters already had been transferred to positions similar to those they previously held.

Recommendations

The WRC recommended that Eagle Speed's management take the following actions:

- Provide the remaining twenty-two workers who refused to sign the transfer letters and have not been transferred back to their original positions with a choice between transfer to positions that are similar to their previous jobs, or separation with full severance and payment of accrued benefits. If the workers chose to remain at Eagle Speed Marketing, then the management provide them with a letter guaranteeing that they will not be subjected to discrimination.
- Review the reassignment of the fifty-one workers who signed transfer letters and offer these workers the following: (1) For workers who are currently working in a position similar to their previous positions, a proper transfer letter that clearly indicates their prior and current positions at the factory; and (2) For workers currently working in a position that is different than their previous one, a choice of transferring back to a position similar to their previous position, or continuing to work in their current position. Workers should also be issued legitimate transfer letters to replace the inaccurate ones they had been asked to sign.
- Going forward, if the company needs to change its production system, it should involve workers and their representatives in the planning process, provide more information and greater explanation concerning the need for restructuring and the expected results.
- If there is a need to transfer workers to positions that are different than their current positions, the company should define the new positions clearly and confirm that workers genuinely consent, before the transfers take place.⁵

Factory Management's Response and Current Status

The management agreed to the recommendations of the WRC regarding the remaining twenty-two workers who had refused to sign the transfer request letters and, to its credit, acted swiftly to correct this issue. On February 2, 2009, the management held a meeting with the twenty-two workers with the presence of the union representing the workers at Eagle Speed, the Welfare Committee, and an official from the Department of Labor Protection and Welfare. Pursuant to the WRC's recommendation, workers were offered a choice of transferring to positions that are similar to their previous positions, or separation with full severance pay and payment of accrued benefits. At the meeting, twenty-one of the workers chose separation and one worker decided to continue working at the factory. Severance benefits were paid to the twenty-one workers the following day.

⁵ See, Supreme Court Opinion No. 7920/2543 (interpreting §§ 5, 19 and 20 of the Thai Labor Relations Act as restricting the circumstances under which an employees may be involuntarily transferred to an inferior position).

On June 23, 2010, the management provided workers with a statement guaranteeing nondiscriminatory treatment of the one worker who had decided to continue working at the company when the twenty-one other employees chose to be separated and the outspoken worker who had been transferred back to his original position on January 21, 2010. The letter stated that the company had informed the two workers that there would not be any discrimination against them after their reinstatement and that these workers would receive the same benefits as other employees. Subsequent communication with these workers revealed that there have been instances of discrimination against them since their reinstatement.

Between March 24 and August 24, 2010, the management provided the WRC with documents showing that the company transferred an additional nineteen workers back from the general administration support division to regular positions in the factory. During the same period, however, twenty-two other employees who had been assigned to the general administration support division had resigned from the factory. Ten more workers remained at the company, however, who had been assigned to the general administration support division but had not yet been offered reassignment to regular positions at the factory. Finally, the company still had not rescinded the letters it had solicited from the affected employees that falsely stated that they had voluntarily requested transfers.

On January 14, 2011 Eagle Speed informed the WRC as to the status of the remaining ten workers in the general administration support division. One had resigned from the company; three had been transferred back to production positions, while the remaining six workers had requested to stay in their current positions.

However, Eagle Speed still has not issued these employees corrected letters indicating that they were transferred to these positions at the behest of the management rather than at the workers' own request. Eagle Speed has provided the WRC with a template of a transfer letter which the company intends to use in future circumstances of this kind, however, which states that the transfer in question is initiated by the factory's management instead of requested by the affected worker.

b) Failure to Inform Workers Concerning the Factory's Retirement Policy

Findings

The WRC found that, contrary to Thai law, Eagle Speed's management had not provided workers with any information concerning the company's retirement policy.⁶ When questioned by the WRC, factory management was not even able to confirm whether the company had a retirement policy.

⁶ See, Thailand Labor Protection Act ("Labor Protection Act") §108 (1998) ("[A]n Employer shall disseminate and post the work rules in a prominent position in the workplace, for the information and inspection by the employees at their convenience.").

After reviewing the company's internal work rules, however, the WRC found that the company has a retirement policy. The policy states that workers are eligible to retire at the end of the month immediately following their sixtieth birthday. Under Thai law, employees who chose to retire are entitled to receive accrued severance benefits from their employer.⁷ Informing workers of the company's retirement policy would have helped the company carry out its restructuring process in a more cooperative fashion, as at least one of the affected workers had the right to choose to retire at that time.⁸

Recommendations

The WRC recommended that the management announce its retirement policy over the factory's public announcement system and post it prominently on company bulletin boards.

Factory Management's Response and Current Status

The management posted the information and held a series of informational sessions with the entire workforce during March where the retirement policy of the company was explained. In addition, the management also reviewed the language of the retirement policy to clarify that workers have the right to severance benefits when they retire. The WRC considers this issue fully resolved.

c) Canteen Facility

Findings

Eagle Speed Marketing provides employees with daily meals. As noted, the factory's policy is to serve all employees and managers the same food. While the WRC's onsite inspection of the plant in January 2010 found hygiene at the canteen to be adequate, a serious case of food poisoning in September 2009 had led to persistent concerns among the factory's workers about food safety. Shortly after the food poisoning incident, Eagle Speed had adopted a comprehensive food safety policy that includes food quality checks by the plant's safety officer and monthly inspections by the legally mandated in-plant labor-management occupational health and safety committee ("OHS committee").

While the WRC did not observe any problems related to hygiene at the canteen during its site visit, worker interviews, a review of inspection notes made by the OHS committee and submissions to the suggestion box, and observations made during a follow up visit on March 18, 2010 identified certain areas where improvement was needed, including problems with inadequate dishwashing,⁹ and failure to prepare a sufficient amount of food for the entire

⁷ See, Labor Protection Act §118 (1998).

⁸ Supreme Court Opinion No. 4732/2548 (holding that an employee has the right to chose retirement with full legal severance pay upon reaching retirement age).

⁹ See, Ministry of Public Health, Bureau of Food and Water Sanitation, Department of Health, Food Sanitation Requirements for Canteens § 17 ("[Cleaning utensils and food containers in accordance with food sanitation standards must follow these steps: **Step 1**, Eliminate food scraps and fats by chemical cleaning, for instance by using liquid detergent (Note: The chemicals used must be specifically intended to clean utensils.); **Step 2** disposal of all

workforce. With regard to the latter concern, workers reported that the last group of employees in a shift to go on break often were served instant noodles rather than the higher quality food provided to the rest of the workforce.

Recommendations

The WRC recommended that Eagle Speed management take the following actions:

- Emphasize to canteen personnel the need for proper dishwashing and include washing procedures in the facility's regular internal inspection.
- Increase the amount of food prepared so that all workers are able to obtain the standard meal.

Factory Management's Response and Current Status

The management agreed to adopt the WRC's recommendations. The dishwashing area was refurbished with a new sink and racks to improve the washing process. The company's safety officer was directed to provide training in hygiene and sanitation to the canteen personnel. The management also asked the employees' union to help monitor cleanliness in the canteen.

According to workers interviewed by the WRC, conditions improved after the union's involvement. The canteen increased the amount of food it prepared in order to ensure that there was sufficient food for all workers. Since August 2010, however, when the factory's management requested that union representatives no longer involve themselves in monitoring the canteen, workers again report that the amount of food prepared is insufficient.

The WRC will continue to monitor these issues and may issue further recommendations.

2. Disciplinary Process and Grievance Procedure

a) Improper Discipline and Inadequate Grievance Procedure

Findings

On September 25, 2010, four employees were punished by the company's safety officer with a written warning and were banned from working overtime for a period of thirty-five days. The reason given was that the workers had been quarreling.

Two of the affected workers complained to their union that the punishment had been excessive. On September 27, 2010, the union submitted a request to the factory's human resources department asking for a review of the discipline imposed upon the two workers.

the chemicals used to clean by using clean water, where the utensil either be rinsed by water flowing from a faucet or water in at least two wash basins. If wash basins are used the water in both basins must be clean.”).

Before any such a review could take place, however, one of the four workers resigned. On October 7, 2010, the safety officer called the three remaining disciplined workers and demanded apologies from them, scolding them for asking the union to handle their grievances.

The WRC's concerns in this instance regard the form of discipline that was applied and the functioning of the company's grievance procedure. Specifically, discipline in this case was ordered by the plant safety officer, which appeared to be outside her scope of authority and expertise.

The punishment itself was inconsistent with the company's internal work rules, which do not mention prohibition on working overtime as a potential form of discipline.¹⁰ The company's use of this punishment therefore violated Thai labor laws, which require that a company must register its internal work rules with the Department of Labor Protection and Welfare at the time when they are implemented.¹¹ Prohibiting an employee from working overtime also constitutes a use of an economic penalty as a disciplinary measure, which violates – if not in their letter, then at least in their spirit and intent – domestic and international labor standards.¹²

The WRC also found that the factory's grievance procedure existed in name only. Workers and union representatives were informed by the factory's human resources department that discipline could not be rescinded or altered because it had already been meted out. International labor standards of good practice recommend that grievance procedures should have the potential to result in the employer reversing the challenged decision.¹³

Finally, the company safety officer violated employees' right to freedom of association when she scolded the employees for asking the union to handle their grievance. This conduct demonstrated a failure to respect workers' right under Thai law and international labor standards of good practice to exercise freedom of association through union representation in the grievance process.¹⁴

¹⁰ Eagle Speed Marketing, Internal Work Rules § 7.38 (“[T]he disciplinary action in case the employee breaks the disciplinary rules shall depend on the gravity of the charge. The decision will take into account the intention / environment / corporation / and good past behavior as well as future benefits of the company on an individual basis. The employee may receive one or more of the following punishments: a) Verbal warning b) Written warning c) Suspension and d) Termination.”).

¹¹ See, Labor Protection Act § 108 (“[T]he employer shall [...] deliver a copy of the rules to the Director-General or a person entrusted by the Director-General within seven days from the date of their announcement of application. The Director-General or a person entrusted by the Director-General shall have the power to order and Employer to amend any rule that is inconsistent with the law within a specified period of time.”).

¹² See, Department of Labor Protection and Welfare Thai Labor Standard 8001 § 5.7.1 (“It is not allowed for the company to deduct wages or reduce wages as a disciplinary punishment, no matter the circumstances.”); Fair Labor Association, Workplace Code of Conduct, Harassment and Abuse Compliance Benchmark.2 (“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.”).

¹³ See, ILO Recommendation 130 (Examination of Grievances) § 11 (“Grievance procedures should be so formulated and applied that there is a real possibility of achieving at each step provided for by the procedure a settlement of the case freely accepted by the worker and the employer.”).

¹⁴ See, Labor Relations Act § 98 (“[F]or the benefits of its members, a labor union shall have the following power and duties to: [...] (4) provide advisory services for solving problems or eliminating disagreements relating to administration and working methods.”); see, also, ILO Recommendation 130 (Examination of Grievances) § 2

Recommendations

The WRC recommended that Eagle Speed's management take the following actions:

- Rescind the prohibition on the affected employees working overtime, effective immediately.
- Together with the union representing the factory's workers, develop and implement a functioning grievance procedure in accordance with Thai Law.¹⁵
- Review the responsibilities of the safety officer and require her to apologize to the four workers for scolding them for bringing their grievance to their union.

Factory Management's Response and Current Status

On October 15, 2010, the factory's human resource manager reported that the three workers were being allowed to work overtime again. He further indicated that the company was adopting a new grievance procedure, and that the scope of the safety officer's duties had been clarified to be consistent with the company's human resources regulations.¹⁶

To the knowledge of the WRC, the safety officer has not issued any apology to the four workers for the actions taken against them. The WRC will continue to monitor this issue closely.

3. Health and Safety

a) Unreasonable Restrictions on Toilet Access

("[A]ny worker who, acting individually or jointly with other workers, considers that he has grounds for a grievance should have the right--(a) to submit such grievance without suffering any prejudice whatsoever as a result; and (b) to have such grievance examined pursuant to an appropriate procedure.").

¹⁵ See, Labor Protection Act § 109 ("[T]he lodgments of grievances under §108 (7) shall contain at least the following particulars: 1) Scope and meaning of grievances. 2) Method and steps of dealing with grievances. 3) Investigation and consideration of grievances. 4) Procedure for settlement of grievances; and 5) Protection for the claimant and any involved persons.").

¹⁶ See, Labour Relations Act, §§ 50 ("[A]n employer must arrange for a meeting with the Employees' Committee at least once every three months [...] in order to: [...]2) carry out discussion on the prescription of working regulations which would be beneficial to both the employer and employees."), 45 ("[I]n a place of business having fifty or more employees, an employees' committee may be established by the employees. Where more than one-fifth of the total number of employees at a place of business are members of a labor union, the employees committee shall be composed of employees of such place of business whose number appointed by the labor union shall be more than the number of committee members who are not members of the labor union. If more than one-half of the total number of employees at a place of business is members of a labor union, the labor union may appoint all of the members of the employees committee."); also, ILO Recommendation 130 (Examination of Grievances) § 6 ("[W]orkers' organizations or the representatives of the workers in the undertaking should be associated, with equal rights and responsibilities, with the employers or their organizations, preferably by way of agreement, in the establishment and implementation of grievance procedures within the undertaking, in conformity with national law or practice.").

Findings

The WRC found that workers were required to obtain a toilet pass from their line leaders whenever they had to leave the production area to use the toilet. However, although each line has approximately twenty-six workers, and, therefore, multiple workers may need to use the toilet at one time – each line only had two toilet passes.

Workers testified that if they were found using the toilet without a pass, they risked discipline. Workers testified that as a result of this system, they were sometimes unable to use the toilets when they needed to do so and felt the experience of being denied access to go to the toilet as humiliating. The management stated that the toilet passes were introduced to reduce loitering and unauthorized breaks by workers. The implementation of this policy, however, harms workers' health and basic dignity.¹⁷

Recommendations

The WRC noted to Eagle Speed management that restricting employee access to toilets violated international labor standards of good practice and applicable Codes of Conduct,¹⁸ and that, therefore, the toilet pass system must be terminated. The WRC suggested that if the management believed that a problem with loitering existed at the factory, it should seek alternative means of addressing the issue which did not entail collective punishment or harming workers' health and dignity. A similar recommendation was made by VF Corporation, which, in a separate

¹⁷ See, Constitution of the Kingdom of Thailand (2007) ¶¶ 4 (“[T]he human dignity, right, liberty and equality of the people shall be protected.”), 44 (“[A] person shall enjoy the right to work safety and welfare and to living security irrespective of whether he is employed or unemployed in accordance with the provisions of the law.”); *for a discussion of the health impacts of restricting toilet access, see*, U.S. OSHA Memorandum on Interpretation of 29 CFR 1910.141(c)(1)(i) (Apr. 6, 1998) (“[M]edical studies show the importance of regular urination, with women generally needing to void more frequently than men. Adverse health effects that may result from voluntary urinary retention include increased frequency of urinary tract infections (UTIs), which can lead to more serious infections and, in rare situations, renal damage (see, e.g., Nielsen, A. Waite, W., ‘Epidemiology of Infrequent Voiding and Associated Symptoms,’ *Scand. J Urol Nephrol Suppl.*, 157). UTIs during pregnancy have been associated with low birth weight . . . See, Naeye, R.L., ‘Causes of the Excess Rates of Perinatal Mortality and the Prematurity in Pregnancies Complicated by Maternity Urinary Tract Infections,’ *New England J. Medicine* 300-315, 819-823 (1979). Medical evidence also shows that health problems, including constipation, abdominal pain, diverticulitis, and hemorrhoids, can result if individuals delay defecation (see National Institutes of Health (NIH) Publication No. 95-2754, July 1995).”).

¹⁸ See, ILO Recommendation 164 (Occupational Safety and Health) §10(f) (“[T]he obligation [is] placed on the employer . . . (f) to ensure that work organisation, particularly with respect to hours of work and rest breaks, does not adversely affect occupational safety and health.”); also, VF Corporation, *Facility Compliance Guidelines for VF Manufacturers* 7 (stating that “toilets should be . . . always accessible”); Reebok, *Human Rights Guidelines* 41 (3d ed. 2001) (stating that factory rules relating to toilet use must not “demean the workers or restrict their individual right to go to the toilet when necessary”); Nike, *Code Leadership Standards* § 4 (“The contractor must allow employees to move freely within their designated work areas during work hours, including being allowed access to . . . toilet facilities.”). For a detailed discussion of access to toilets as a health and safety issue see, e.g., OSHA Memorandum, *supra*, n. 18 (“[T]he language and structure of the general industry sanitation standard reflect the Agency's intent that employees be able to use toilet facilities promptly. The standard requires that toilet facilities be ‘provided’ in every workplace. The most basic meaning of ‘provide’ is ‘make available.’ . . . Toilets that employees are not allowed to use for extended periods cannot be said to be ‘available’ to those employees . . . Timely access is the goal of the standard.”).

communication, described the use of toilet passes as “an inappropriate practice” which the factory “should abolish” and “replace with a “freedom of movement policy.”

Factory Management’s Response and Current Status

While initially expressing concern about eliminating toilet passes, management subsequently agreed to adopt the recommendation of the WRC, which were seconded by certain company’s buyers, including VF Corporation, to discontinue this practice. In March 2010, the WRC confirmed that the factory had eliminated the toilet pass system.

b) Washrooms

Findings

The WRC’s inspection of the workplace and testimony from workers revealed that the factory’s washrooms generally lacked soap and toilet paper. Such supplies are essential elements of a safe and hygienic workplace.¹⁹

The WRC did confirm that the company provides an adequate number of toilets for both female and male workers and has installed sinks in the washrooms. However, several of the toilets for female employees were not working, and, in its visit on March 18, 2010, the WRC observed that they had not been repaired.

Recommendations

The WRC recommended that Eagle Speed’s management take the following actions:

- Ensure that soap and toilet paper of adequate quality and quantity is readily available in each of the factory’s washrooms.
- Ensure that toilets that become inoperative are repaired in a timely manner.

Factory Management’s Response and Current Status

Management installed electric hand dryers in several of the washrooms during the WRC visit to the factory in March 2010. In June 2010, management sent the WRC photographs and a list of repair work that had been completed in the washrooms. The WRC was able to confirm the repair work from worker interviews; however the WRC was initially informed that hand dryers had not yet been installed in all of the factory’s washrooms. The company installed the remaining dryers in August and sent photographs to the WRC. Workers still report, however, that soap is not always available in the washrooms and that the toilet areas are dirty.

¹⁹ See, Ministry of Labor Notification on Providing Welfare in the Workplace (2006) § 2 (“[T]he employer must keep the toilets and bathrooms clean and hygienic on a daily basis.”).

c) Fire Safety

Findings

The WRC found that the fire safety measures at the factory, which include safety exits, fire drills, and installation of fire extinguishers, are generally adequate. However, during its factory inspection the WRC identified two work areas where the company had not installed a sufficient number of fire extinguishers. The WRC also found that several of the fire extinguishers that were present were not readily accessible due to products and materials being stacked near them.²⁰

On the main production floor of Building Four, only three fire extinguishers were installed, though under Thai law more are required.²¹ Additionally, on the second floor of Building One, there were no fire extinguishers at all on the side where the water cooling system was installed. As a result, the distance from that side of the building to the nearest fire extinguisher measures longer than the legal maximum of twenty meters.²²

The factory management explained that the lack of fire extinguishers in Building 3 was due to unfinished renovations in that structure. The management explained that the extinguishers had been taken down while that portion of the building was being painted, and would be replaced.

Recommendations

The WRC recommended that Eagle Speed's management take the following actions:

- Ensure that an adequate number of fire extinguishers are installed and that all are easily accessible, in accordance with applicable regulations.²³
- Ensure that, during renovations, when fire extinguishers may not be kept in their normal locations, alternative arrangements are made so that extinguishers remain available in all areas.

Factory Management's Response and Current Status

Management agreed to install additional fire extinguishers. On its follow-up visit to the factory, the WRC noted that in newly renovated areas, as well as on the second floor on Building One, additional fire extinguishers had been installed. The WRC found, however, that in several other areas, access to existing fire extinguishers was still partially blocked, and, again, asked the company to address the issue. According to workers, by June 2010, the company removed the

²⁰ See, Ministry of Interior Notification on Working Safety Relating to Protection and Prevention of Fire for Employees (1991) §19 (1) (“[T]he fire extinguishing equipment must be installed where clearly seen and can be taken out for use with ease”).

²¹ Id. at § 16 (describing how many extinguishers per square meter are needed.)

²² Id. at §16(2a) (“[...] [I]n case the employer has installed two units of fire extinguishers, or more, each unit shall be installed at distance of not more than twenty meters apart.”).

²³ Id. at §§ 16 and 19.

obstacles and ensured access to fire extinguishers. The WRC will continue to monitor this issue and may issue further recommendations.

d) Access to First Aid Kits

Findings

The WRC found that Eagle Speed had installed first aid kits in each factory building and had stocked them with medicine and first aid supplies. However, some of the first aid kits were found to be locked, posing a delay in accessing their contents in case of an emergency. Management explained that the first aid kits were primarily to be used during overtime hours and that the management had assigned certain workers to be responsible for keeping the keys. During regular working hours, the company said, workers could visit the factory's nurse in its onsite clinic if they needed medical attention. The WRC noted that first aid kits should be accessible at all times to address unforeseen emergencies.

Recommendations

The WRC recommended that the company ensure that first aid kits remain unlocked at all times.

Factory Management's Response and Current Status

Management agreed to ensure that the first aid kits would be kept unlocked. However, during its follow-up inspection of the factory, the WRC noted that some first aid kits remained locked and that some kits contained expired medicines or lacked required materials. More recently, workers indicated that only one nurse is working in the factory's clinic and there is less prescription medicine available. The WRC will continue to monitor this issue and may issue further recommendations.

e) Chemical Vapors

Findings

Workers testified that on the production floor there is a pervasive chemical smell, which emanates from an adjacent factory operated by a different company that manufactures watches. These odors occur frequently, mainly during the afternoons. When workers discussed the odor with the company's safety officer, they were told that there was nothing that Eagle Speed could do about this problem.

As a separate but related matter, on its follow-up visit to the factory on March 18, 2010 the WRC learned that the wall-mounted evaporative pad system used to cool the factory is periodically cleaned with hydrogen peroxide. The safety officer explained that she uses ten cubic centimeters of hydrogen peroxide per 800 liter tank of water. It is unclear from the explanation provided by the safety officer whether this method is sanctioned by the provider of the evaporative cooling pads, and/or poses any hazards to workers. Hydrogen peroxide vapor is a known respiratory

irritant.²⁴ It is also unclear whether this use of hydrogen peroxide is a potential source of the periodical chemical smells.

Recommendations

The WRC recommended that Eagle Speed's management take the following actions:

- While the WRC recognizes that Eagle Speed does not have any direct control over emission of chemical vapors by the adjacent factory, the management should discuss this matter with the other factory's managers.
- The management should instruct the safety officer that complaints from workers concerning this issue should be given proper consideration,²⁵ including discussion at meetings of the plant's Occupational Health and Safety Committee.
- The management should clean the evaporative cooling pads in accordance with the instructions provided by the manufacturer and/or seek advice from relevant authorities regarding alternative cleaning methods.

Factory Management's Response and Current Status

Eagle Speed's management explained to the WRC that it would ask the office of the Ladkrabang Industrial Estate, which houses both Eagle Speed and the adjacent factory, to look into the chemical odor. At the time of the WRC's follow up visit to Eagle Speed on March 18, 2010, no progress had been made in relation to this matter.

In June 2010, the safety officer and human resources manager at Eagle Speed visited the adjacent factory and met with its production manager and safety officer. An agreement was reached that the adjacent factory would contain and remove the source of chemical vapors. The WRC will continue to monitor this issue and may issue further recommendations.

Regarding the use of hydrogen peroxide, Eagle Speed's management replied on August 24, 2010 that it would cease using this chemical for the purpose of cleaning the evaporative cooling pads. Instead the company will clean the evaporative cooling pads manually with water pressure every two months. Eagle Speed provided photographic evidence of the cleaning of the evaporative cooling pads.

²⁴ See, U.S. OSHA Occupational Safety and Health Guideline for Hydrogen Peroxide, <http://www.osha.gov/SLTC/healthguidelines/hydrogenperoxide/recognition.html>.

²⁵ See, Ministry of Labor Regulation on Definition of Standards in Administration and Management of Safety, Health and Environment at the Workplace § 22 (4) (as amended, 2010) ("[T]he employer must provide access of various information relating to workplace safety management to the employees.").