



WORKER RIGHTS CONSORTIUM

**WORKER RIGHTS CONSORTIUM
FACTORY ASSESSMENT
PRODUCTORA CLINIMEX INDUSTRIAL (MEXICO)**

**FINDINGS AND RECOMMENDATIONS
November 19, 2010**

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A. Introduction

This report outlines the WRC's findings and recommendations concerning labor practices at Productora Clinimex Industrial, an apparel manufacturing facility in Mexico.

Productora Clinimex is located in Localidad de Jesús Gómez Portugal, Pabellón de Arteaga, part of the greater metropolitan area of the city of Aguascalientes, in the state of Aguascalientes. Aguascalientes is an industrial city which is home to a number of large manufacturing plants that produce automobile components; Productora Clinimex is one of just a handful of textile factories in the region. At the time of the WRC's visit to the factory in early May 2010, the factory employed 318 workers.

The WRC undertook a compliance assessment of Productora Clinimex pursuant to its role as the independent monitor for the City and County of San Francisco under its Sweatfree Contracting Ordinance, which sets labor rights standards for manufacturers of apparel supplied by vendors.¹ Productora Clinimex was disclosed by vendor Airgas, Inc. as a manufacturer of products supplied to Airgas by Kimberly Clark Corporation that Airgas, in turn, provides to San Francisco. As such, Productora Clinimex is covered by the provisions of the Sweatfree Contracting Ordinance.²

The WRC's investigation was conducted by WRC representatives, along with a researcher from the Mexico-based nonprofit organization PODER and Dr. Luis Perez Pantoja, a medical doctor affiliated with the Autonomous Metropolitan University in Mexico City and a specialist in occupational health. The WRC's assessment team inspected the factory on May 4, 2010. In-depth offsite interviews with workers were held both before and after the inspection. The WRC also reviewed substantial documentation which was supplied to the WRC by Productora Clinimex following the site visit.

The Sweatfree Contracting Ordinance requires suppliers to comply with all applicable domestic labor and employment law,³ as well as certain additional labor standards including payment of a living wage and protections for the rights of women workers. The assessment identified noncompliance with the Sweatfree Contracting Ordinance's requirements in the following areas: freedom of association, legally mandated benefits, wages and hours (with respect to voluntary overtime and non-poverty wage), harassment and abuse of employees, and occupational health and safety. The WRC issued recommendations for corrective action in each area.

Productora Clinimex responded positively to the WRC's findings and recommendations, agreeing to take meaningful corrective action in most areas where noncompliance was identified. The company also provided the WRC with substantial documentation

¹ *Codified as*, San Francisco, Cal., Administrative Code, ch.12.U ("Code")(2005), as amended, Feb. 11, 2010: <http://www.sfgsa.org/Modules/ShowDocument.aspx?documentid=6894>.

² *Ibid.*

³ *See*, Code, ch. 12.U.3. (a) ("Each Contractor and Subcontractor, regarding any Worker, shall comply with all human and labor rights and labor standards imposed by treaty or law on the country in which the Goods are made or assembled, and shall not engage in Sweatshop Labor.").

demonstrating compliance where the initial evidence gathered indicated potential violations. The actions pledged by Productora Clinimex, when implemented, will remedy the great majority, but not all, of the instances of noncompliance that were identified. It should be noted, however, that the WRC has not verified implementation of these remedial actions at this time.

B. Methodology

Sources of Evidence

The WRC's findings are based on the following sources of evidence:

- Interviews with seven members of Productora Clinimex's management including: Javier Buenrostro, Plant Manager, Alfredo Pontón, Director of Systems and Planning, Arturo Valderrama, Production Manager, Manuel Donato de Luna, Human Resources Manager, Ernesto Díaz, Human Resources Manager, Juana María Tovar, Human Resources Assistant, and Beatriz Córdoba, Quality Control Manager
- An interview with the factory's onsite physician, Miguel Hernández
- Interviews with three current Productora Clinimex production supervisors
- Interviews with twenty current production workers, the majority of whom were interviewed offsite
- Interviews with representatives of the *Sindicato de Trabajadores y Expendedores de la Industria de la Confección, Costura y Bordado y Similares* (Clothing, Sewing and Embroidery Workers' Union), a union that is party to a collective bargaining agreement with Productora Clinimex covering the plant's employees: Eliseo Hernández Charqueño, General Secretary, and María del Rosario Rodríguez Gómez, Labor Secretary. The union is affiliated with the *Confederación de Trabajadores de México* ("CTM") (Mexican Workers' Confederation).
- A physical inspection of the plant focused on occupational health and safety issues
- A review of relevant documents, including the company's payroll registry, financial statement, and annual accident report, as well as the collective bargaining agreement between the union and the company
- An interview with Juan Antonio Reynoso, president of the *Junta Local de Conciliación y Arbitraje* (Local Board of Conciliation and Arbitration) of Aguascalientes
- An interview with representatives of the *Servicio Nacional de Empleo* (National Employment Service) for Aguascalientes: Claudia Rodríguez, General Director, and Dora Alicia Acuña, Training Coordinator
- Review and analysis of relevant Mexican labor and employment laws

The WRC's findings based on this evidence, and corresponding recommendations for corrective action, are outlined in the following section.

C. Findings, Recommendations, and Company Response

This section reviews, as applicable for each area of code compliance, the WRC's findings and recommendations, and the response of Productora Clinimex.

The portions of this section that discuss the WRC's findings and recommendations relate to the WRC investigation of the factory, which was conducted between February 1 and May 15, 2010, including an onsite inspection of the factory on May 4, 2010. The WRC communicated these findings and recommendations to Productora Clinimex in detailed memoranda dated June 14 and July 8, 2010.

The company response portion of this section refers to Productora Clinimex's communications to the WRC regarding the corrective action it will take in response to these findings and recommendations which were described in memoranda dated June 30 and August 2, 2010. To the company's credit, Productora Clinimex, in numerous respects, not only agreed to take corrective action in response to our findings, but, upon further request by the WRC, committed to strengthen such measures to more adequately address the issues that were raised.

I. Freedom of Association

Findings

The WRC's inquiry found persuasive evidence that Productora Clinimex has entered into what is termed in Mexico an "Employer Protection Collective Bargaining Agreement" (or colloquially, "protection contract"). Because such agreements provide no or virtually no meaningful benefits to workers, are not the product of genuine exercise of freedom of association and collective bargaining, and are intended to prevent legitimate union organizing and authentic collective bargaining, they violate workers' right to freedom of association under Mexican labor law, international labor standards, and provisions of the Sweatfree Contracting Ordinance.

According to an authority on the subject, protection contracts are "... simulated collective bargaining agreements, agreed upon behind closed doors between the employer, a union functionary and a labor lawyer. They exclusively serve the interests of the employer and the union, and, endorsed by the *Secretaría del Trabajo y Previsión Social* (STPS) and/or the *Junta Local de Conciliación de Arbitraje* (JLCA), they prevent an authentic union from demanding the representation of workers' rights."⁴

The WRC found that Productora Clinimex has entered into such an agreement with the *Sindicato de Trabajadores y Expendedores de la Industria de la Confección, Costura y Bordado y Similares*. A review of the agreement itself found that its contents are,

⁴ José Alfonso Bouzas Ortiz, *Evaluación de la contratación colectiva en el Distrito Federal*, (Friedrich Ebert Foundation, June 2009) (unofficial WRC translation).

overwhelmingly, no more than a recitation of rights already guaranteed to workers under Mexican law. Moreover, interviews with workers indicated that they at no time participated in an election, petition, or other formal process to establish the union as the representative of workers at the factory for the purposes of collective bargaining. Neither management nor the CTM provided credible evidence to the contrary. Indeed, workers unanimously stated that they were unaware that there was a union at the factory, that they had never been invited to a union meeting or assembly, nor had they interacted with union representatives on any issue. These findings are consistent with classic protection unionism as practiced in Mexico, where workers are frequently unaware that their employer has signed a collective bargaining agreement that covers their conditions of employment.⁵

Of additional concern, the agreement contains a so-called “exclusion clause,” which requires the company to fire any worker should he or she resign or be expelled from the union.⁶ Thus, in order to work at the factory, workers must retain membership in an organization whose “representation” they did not choose, and be party to an agreement which they did not ratify and which provides them with virtually no meaningful benefit. Moreover, if workers seek to form or associate with a legitimate union in order to engage in authentic collective bargaining, the company can and must fire them.

Because such circumstances blatantly deny workers’ rights to exercise freedom of association and engage in collective bargaining. Productora Clinimex’s signing of the protection contract represents a violation of Mexican Federal Labor Law,⁷ Convention 87 of the International Labor Organization (“ILO”), and the Sweatfree Contracting Ordinance.⁸

Recommendations

The WRC recommended that Productora Clinimex take the following actions to help restore workers’ rights to freedom of association and collective bargaining:

⁵ Indeed, in many instances, workers only come to learn that they are ‘represented’ by a union and covered by a collective bargaining agreement when they seek to organize a legitimate union and discover that an existing protection contract prevents them – legally and practically – from doing so. *See, e.g.,* Dan La Botz, *Mask of Democracy: Labor Suppression in Mexico* 54 (South End Press, 1992).

⁶ In 2001, the Mexican Supreme Court held that the enforcement of such clauses against dissident union members violates freedom of association. Under Mexican law, the holding will not constitute binding precedent until a total of five consistent rulings are made on the same subject. *See, Lance Compa, Justice for All: The Struggle for Worker Rights in Mexico* (American Center for International Labor Solidarity, 2009). Even absent this holding, however, there is ample authority that protection contracts of the type that Productora Clinimex has signed violate workers’ rights to freedom of association and collective bargaining. *See, Ortiz, supra*, n. 4.

⁷ *See, Ley Federal del Trabajo* (Federal Labor Law) (“L.F.T.”), arts. 357, 358 and 386.

⁸ *See, Code*, ch. 12.U.3. (m) (“Contractors and Subcontractors shall demonstrate commitment to best practices and continuous improvement in management practices to eliminate Sweatshop Labor, including the right to freedom of association and collective bargaining.”).

- Provide all employees with a copy of the Collective Bargaining Agreement that the company has signed with the CTM.
- Remove and, until doing so, refrain from enforcing the “exclusion clause” in the collective bargaining agreement with CTM. No worker should be subject to any form of retaliation for resigning from the union and/or seeking to organize or associate with another labor organization.
- Issue a statement to the workforce, both verbally and in writing, stating that workers at Productora Clinimex have the right to join a union of their choosing and that management will in no way interfere with this choice nor take any adverse action in response to any decision that a worker makes in this regard.

Productora Clinimex Response

In response to the WRC’s recommendations, Productora Clinimex committed to:

- Negotiate with CTM representatives the elimination of the “exclusion clause” from the collective bargaining agreement by December 2010.
- Immediately post a copy of the current collective bargaining agreement for workers’ review at the factory.
- Immediately issue a statement to employees that Productora Clinimex recognizes the right of workers to join any union of their choosing and that the company will not retaliate against any employee for her or his involvement in any union.

Productora Clinimex also affirmed to the WRC its commitment to respect its employees’ right to seek assistance or advice from any other union without interference from company representatives.

The WRC reiterates that provision of a copy of the collective bargaining agreement to each employee is a necessary remedial step as, unlike simply posting the agreement in the plant, this would ensure workers’ ability to review the agreement at a place and time of their own choosing, with greater assurance of confidentiality. The WRC also notes that additional remedial measures may be necessary in this area, particularly, should workers seek to associate with another union or external organization.

II. Legally Mandated Benefits: Health Care

Findings

Mexican law establishes that employers must enroll their employees in the national healthcare plan, the *Instituto Mexicano del Seguro Social* (IMSS).⁹ Productora Clinimex told the WRC that its total workforce consists of 318 employees, among whom are employees of not only Productora Clinimex, but also two outside employment agencies, Servizac and MMAIND.

During the WRC's onsite inspection, the factory's management provided documentation indicating that 111 of these workers, all of whom are employed directly by Productora Clinimex, are covered by the IMSS health insurance plan. Offsite interviews with workers corroborated this information. These workers reported no problems accessing health care services at IMSS clinics.

However, at the time of the inspection, the company was unable to provide documentation establishing that those workers at the factory who are employed by the Servizac and MMAIND are enrolled in the national healthcare plan. In offsite interviews, some of these workers reported that they are unable to obtain health care services from IMSS to which they are entitled by law.

Servizac workers reported that they experienced numerous problems obtaining basic health care at IMSS clinics in Aguascalientes. Some workers were told that "the company [Servizac] does not exist," while others were informed that they could not receive healthcare from IMSS in Aguascalientes because the company is located in the neighboring state of Zacatecas and, therefore, they must travel to Zacatecas in order to receive treatment from a clinic there.

Workers stated that they had complained to Productora Clinimex's human resources staff about the problem and were told that the company would resolve it. However, at the time that the workers were interviewed, the issue remained unresolved. Many workers reported having to pay to receive basic medical attention at private clinics, at significant cost to themselves and their families.

Workers employed through MMAIND were largely unaware of the status of their health care coverage. Many of the workers reported that they did not have a written employment agreement with MMAIND and/or had not received other documentation needed to access IMSS clinics.

Productora Clinimex told the WRC that it strongly encourages employees who become ill to see a doctor who is retained by the company to regularly visit the factory, or, if the doctor is not present, to either speak with him by telephone, or see the plant receptionist, who dispenses over-the-counter medicines to employees herself. Factory managers were unable to document, however, that the company doctor is credentialed in workplace health issues, as required by Mexican law.¹⁰

⁹ See, Ley del Seguro Social (Social Security Law), arts. 12 and 15.

¹⁰ See, Reglamento federal de seguridad, higiene y medio ambiente de trabajo (Federal Regulation of Workplace Safety, Hygiene and Environment), ("Reglamento") art. 142. Law No. NOM-03-STPS.

Moreover, the WRC found that the factory does not require the physician to conduct medical exams of all new employees, maintain medical records of examination and treatment of workers, or conduct periodic exams of all employees, all of which are required under Mexican law.¹¹ Finally, the physical space provided at the factory clinic for treatment and examination of workers is, in the view of the medical doctor on the WRC's assessment team, too small and lacks adequate privacy for employees.

Recommendations and Requests for Further Information

The WRC recommended that Productora Clinimex take the following actions with respect to provision of health care to the factory's workers:

- Ensure that every person working at Productora Clinimex, irrespective of their formal employer, is enrolled in the national health care program and receives full access to health care, as required by Mexican Law.
- Meet with representatives of the IMSS to ensure that those workers at the factory who are employed by Servizac are able to receive health care at local IMSS clinics, and are not required to travel out-of-state to Zacatecas in order to receive medical attention. If such an arrangement is not feasible, Productora Clinimex should add these workers to its own payroll or find an employment agency in Aguascalientes through which workers can receive full medical benefits in accordance with the Mexican Social Security Law.
- Take steps to ensure that the factory clinic, in all other respects, complies with Mexican law, including the following: certifying that its company doctor has proper training in workplace health issues; providing medical examinations to all employees at the time they begin work at Productora Clinimex and regularly thereafter; maintain confidential medical files for all employees; and, provide an onsite health clinic of sufficient size to permit examinations and treatment while respecting workers' privacy.

Productora Clinimex Response

Productora Clinimex stated that all of the company's own employees, including those whose employment contracts are with Servizac and MMAIND, are currently registered with the IMSS, and that the company makes all contributions for these workers required under the Social Security Law and associated regulations. The company presented the WRC with substantial documentation to this effect.

The company also indicated that it regularly meets with IMSS representatives, and agreed to request that IMSS provide all the factory's workers with access to the IMSS clinic or hospital that is closest to their residence.

¹¹ See, Reglamento, art. 14, Law No. NOM-03-STPS.

In response to the WRC's request for documentation regarding the company doctor's qualifications, the company provided the WRC with the documentation demonstrating that the doctor has occupational health training.

Significantly, the company agreed that by December 2010 its company doctor would begin to conduct medical evaluations of all employees and would maintain medical records on each worker. Clinimex further committed to providing an adequate space for these exams per the WRC's recommendation.

III. Wage and Hour

a. Mandatory Overtime

Findings

Offsite worker testimony indicated that workers are required by factory management to perform overtime. Mandatory overtime is prohibited by the Sweatfree Contracting Ordinance, except in certain circumstances which are not present here.¹²

Workers testified that if an employee refuses to perform overtime as requested, supervisors later will retaliate with various forms of harassment, including refusing to grant requests for personal leave and/or are subject to harassing treatment by their supervisors. Workers testified that they are often required to perform overtime with little or no advance notice. These practices violate the Sweatfree Contracting Ordinance's prohibition on mandatory overtime.

Recommendations

The WRC recommended that Productora Clinimex ensure that overtime hours are worked on a completely voluntary basis and that no worker is subject to retaliation for refusing to work overtime. The WRC recommended that the company issue a statement to employees to this effect. Additionally, the WRC recommended that Clinimex implement a system by which workers can indicate in writing their willingness to perform overtime when offered by the company.

Productora Clinimex Response

Productora Clinimex committed to prepare and circulate in the plant, without delay, a document stating workers' right to decide freely whether or not to work overtime, in accordance with Mexican law. The company also agreed to prepare a form which each employee will sign when working overtime confirming their willingness to do so.

¹² See, Code, ch. 12U.3 (g).

b. San Francisco's Non-Poverty Wage Requirement

Findings

The Section 12U.3 (b) of the Sweatfree Contracting Ordinance states:

Each Contractor and Subcontractor shall pay at least the following minimum wages to Workers: (1) to Workers working in the United States a base hourly wage, to be set and adjusted annually by the Director, to produce for 2,080 hours worked, an annual income equal to or greater than the U.S. Department of Health and Human Services most recent poverty guidelines for a family of three plus an additional 20 percent of the wage level paid, including without limitation amounts paid as hourly wages or health benefits or retirement benefits; and (2) for Workers working in countries other than the United States, a wage, to be set and adjusted annually by the Director, that shall be comparable to the wage for domestic manufacturers established above, adjusted to reflect the country's level of economic development by using the World Bank's most recent Gross National Income per capita Purchasing Power Parity Index.

San Francisco has established a non-poverty wage figure for Mexico, based on data provided by the World Bank, under which workers in Mexico manufacturing products procured by its vendors must be paid the equivalent of US \$3.24 per hour.¹³ Converted to Mexican pesos using the present exchange rate of 12.94 pesos per dollar¹⁴, the non-poverty wage amounts to 41.92 Mexican pesos per hour.

Workers at Productora Clinimex currently earn a guaranteed base salary of 86 pesos per day. Workers can supplement this base salary by earning an attendance bonus of 60.20 pesos per week (approximately 8.60 pesos per day) if they have perfect on-time attendance and do not ask for any personal leave during the entire work week as well as a production bonus of up to 350 pesos per week (approximately 50 pesos per day).

The guaranteed base salary Productora Clinimex pays to workers is, therefore, less than one third of the non-poverty wage required under the Sweatfree Contracting Ordinance. Even if they receive the attendance bonus and the maximum production bonus, which are not guaranteed and which most workers do not receive every week – most workers' pay still amounts to roughly 51% of the non-poverty wage figure. Workers indicated to the WRC that the wages they receive are not sufficient to meet their basic living expenses.

¹³ Office of Labor Standards Enforcement (San Francisco, Cal.), *Sweatfree Contracting Ordinance (Administrative Code Chapter 12U) Current Wage Rates for Overseas* (2010), <http://www.sfgsa.org/Modules/ShowDocument.aspx?documentid=6884>.

¹⁴ See, Interbank Exchange Rate, June 8, 2010.

Recommendations

The WRC recommended that the base wage at Productora Clinimex be raised to meet San Francisco's non-poverty wage standard. To make this feasible, the WRC recognizes the need for the company's customers to adjust the prices that they pay for products. For its part, Clinimex could help achieve this goal by incorporating the attendance and production bonuses into the base wage and adopting other management practices to achieve the same efficiency purposes.

Because labor costs for garments manufactured in developing countries typically account for only 0.5-1.5% of prices paid by consumers in the United States, the WRC anticipates that the non-poverty wage standard could be met with only a nominal increase in cost to the end users. Toward this end, the WRC recommended that the company should participate, as quickly as possible, in a consultation process with its buyers and other stakeholders to develop a plan to implement the non-poverty wage.

Productora Clinimex Response

In response to this recommendation, Productora Clinimex committed to immediately review the non-poverty wage standard established by San Francisco with its buyers and investors. The WRC recommends that relevant parties convene to discuss next steps and develop a plan of action on this issue.

IV. Harassment and Abuse

Findings

Mexican law¹⁵ and the Sweatfree Contracting Ordinance¹⁶ both prohibit verbal and physical harassment and abuse of workers. The WRC's assessment identified two instances of noncompliance in this area.

First, workers reported that their line supervisors frequently address them in an abusive or demeaning manner. Much of the workers' testimony on this subject concerned two particular supervisors, Maria del Carmen Martinez Cruz and Obed Arellano Saucedo. Workers stated that these supervisors frequently shout at them for working too slowly.

Workers said that some supervisors called them "good-for nothing" as well as using coarser terms that the workers did not want to repeat. Workers described instances in which such verbal abuse reduced employees to tears.

¹⁵ See, L.F.T., art. 132 (requires employers to "maintain due consideration for workers, abstaining from mistreatment of words or acts") (unofficial WRC translation).

¹⁶ See, Code, ch. 12U.3. H. (prohibiting all "illegal harassment or abuse" of covered workers). The conduct described here constitutes illegal harassment and abuse under Mexican labor law. See, L.F.T., art. 132.

Second, the factory maintains a performance monitoring system that publicly shames workers for not meeting the company's productivity standards. The workforce is organized into production modules in which production bonuses are awarded according to the productivity of the entire module. Above each worker's sewing machine, managers post one of two cards: a green card with a happy face, indicating that the worker is meeting the company's quality and productivity goals, or a red card with a sad face indicating the contrary.



According to workers, this system creates a high-pressure environment in which workers feel pressed to produce rapidly or be blamed by their peers for inadequate performance. Workers describe this system of public castigation as demeaning and, at times, humiliating. The WRC considers the system a form of harassment.

Recommendations

In order to address violations identified in this area, the WRC recommended that Productora Clinimex require that supervisors and managers treat workers with dignity and respect, and refrain from shouting, yelling, or using demeaning language with employees. Specifically, the WRC advised that the company establish a clear disciplinary policy with respect to verbal harassment. Progressive discipline should be applied to any supervisor or manager who continues to engage in verbal harassment and abuse.

Additionally, the WRC recommended a complete elimination of the “red card / green card” system as inconsistent with a respectful work environment, noting that there are numerous alternative programs in use in the apparel industry for motivating employees and incentivizing productivity.

Productora Clinimex Response

With respect to the treatment of workers by supervisors, Productora Clinimex assured the WRC that it will take steps necessary to ensure that supervisors and managers refrain from behavior that violates workers' dignity, and that the company would, by July 2010, provide training to supervisors and administrative personnel concerning appropriate treatment of employees.

With respect to the “red card / green card” system, Productora Clinimex agreed to eliminate this practice, effective immediately. It indicated that it would evaluate, together

with employees, an alternative incentive system.

V. Occupational Safety and Health

The WRC's inspection of Productora Clinimex identified the following areas of noncompliance with Mexican laws and regulations on occupational safety and health:

a. Production Equipment and Ergonomics

Findings

The WRC noted the following violations of Mexican workplace health and safety laws:¹⁷

- In the cutting department, employees are required to work in positions that put them at risk for musculoskeletal injuries.



- The pedals of many sewing machines are in poor condition.



- Some sewing machines lack needle guards.

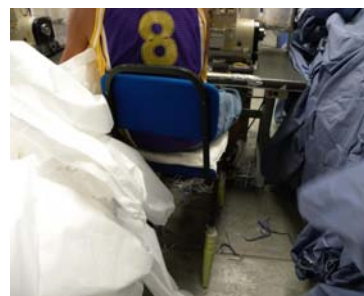


¹⁷ See, Reglamento, arts. 35 and 102, Law No. NOM-03-STPS.

- Work stations are arranged in a manner that requires movements of the upper extremities that put workers at risk of musculoskeletal injuries.



- The height of the tables at which sewing machine operators work cannot be adjusted by the worker.
- Chairs are made of inadequate materials and are not designed for sewing machine operators. They lack lumbar support and their front edges are straight. Chairs cannot be adjusted to an individual worker's height or size and, in some cases, the height of a chair has been raised with used thread cones. The base of the chair lacks wheels or swivel.



Recommendations

The WRC recommended that Productora Clinimex take the following actions:

- Thoroughly review the plant's ergonomics and equipment and make changes necessary to comply with the Mexican Federal Safety, Hygiene and Environment in the Workplace Regulation.
- Repair or replace sewing machine pedals that are in poor condition.
- Install needle guards on all sewing machines and instruct workers on their importance.
- Repair or replace tables to ensure that those in use are adjustable to each individual worker's height.
- Assess ergonomic arrangements in both the cutting and sewing departments in order to eliminate required movements which may cause long-term physical injuries for workers.
- Supply production workers with ergonomic chairs that provide lumbar support, are adjustable horizontally and vertically, and have wheels and a swivel base.

Productora Clinimex Response

Productora Clinimex committed to carry out a complete analysis of Mexican regulations on safety, hygiene and environment in the workplace and implement the changes necessary for compliance by December 2010.

With regard to replacing and repairing sewing machine pedals and installing needle guards, the company indicated that it would take these steps as part of a preventative and corrective maintenance plan to be completed no later than September 2010. The company also agreed to repair, replace or modify tables and chairs as needed between July 2010 and June 2011. Finally, Clinimex said it would immediately assess work arrangements in the cutting and sewing departments to eliminate the need for movements that may cause long-term physical injury.

b. Plant Hygiene and Safety

Findings

The Mexican Federal Safety, Hygiene and Environment in the Workplace Regulation requires that factories be assessed with regard to heat, dust and noise levels, air quality,

and lighting.¹⁸ Clinimex indicated to the WRC that the factory has not undergone these legally-required assessments.

Recommendations

The WRC recommended that Productora Clinimex commission a diagnostic analysis of heat, dust and noise levels, air quality, and lighting in the factory to ensure compliance with Mexican laws and regulations.

Productora Clinimex Response

Productora Clinimex committed to having heat, dust and noise levels, air quality, and lighting in the factory assessed in accordance with Mexican laws and regulations, no later than June 2011.

c. Health and Safety Committee

Findings

Mexican law requires that any facility employing 50 or more workers establish a Health and Safety Committee that includes both managers and non-management employees.¹⁹

The company presented the WRC with a document demonstrating that Productora Clinimex established a plant Health and Safety Committee on April 27, 2010. However, the committee's establishment and composition does not meet the legal requirements. First, the existing committee is comprised solely of confidential (i.e., management) employees and, contrary to the applicable law, does not include any production workers. Second, the Committee is comprised solely of employees of Servizac and does not include Productora Clinimex employees. Third, the committee was established just days before the WRC's inspection, while Mexican law requires that a health and safety committee be established at a facility within 30 working days of its opening.²⁰

Recommendations

The WRC recommended that Productora Clinimex establish a Health and Safety Committee with representation from all three firms with workers at Productora Clinimex, as well as each of the plant's departments.

Productora Clinimex Response

Productora Clinimex presented the WRC with a document by which the Health and Safety Committee of Servizac employees at Productora Clinimex was established. The

¹⁸ See, Reglamento, arts. 17, 76, 82, 93, 96 and 99, Law No. NOM-03-STPS.

¹⁹ See, L.F.T., art. 509; Reglamento, art. 123, Law No. NOM-019-STPS.

²⁰ See, Reglamento, art. 123, Law No. NOM-019-STPS.

company agreed to amend the document and modify the Committee's composition to include employees from each of the plant's departments as well as at least one production worker from the each firm with employees at the facility – Productora Clinimex, Servizac, and MMAIND. The company agreed to take these actions by September 2010.

d. Fire Safety

Findings

The WRC's found that the factory failed to take certain fire safety precautions required under Mexican law.²¹ First, the company had not assessed fire risks in the plant, a particular concern because, approximately three years ago, there was a significant fire at the facility.

Second, while the plant has some dry chemical fire extinguishers, it lacks other basic fire safety equipment, including CO2 extinguishers, water hydrants, smoke detectors and automatic sprinklers.

Third, the pattern department had no fire extinguishers whatsoever and chemical products were stored there in an unsafe manner. (See photos)



Fourth, the plant had not trained any of its personnel in prevention and evacuation with respect to fires.

Recommendations

The WRC recommended that the company take the following steps regarding fire safety: (a) commission an assessment of fire hazards at the facility; (b) install CO2 extinguishers and ensure that the plant meets Mexican legal standards with regard to the number of hydrants, smoke detectors, and automatic sprinklers; (c) ensure that chemicals used in the pattern department are stored safely; and (d) designate members of its staff to receive training in matters of fire prevention and evacuation.

Productora Clinimex Response

The company agreed to (a) assess fire risk hazards at the facility, (b) review the placement of extinguishers to ensure compliance with Mexican laws and regulations, (c)

²¹ See, Reglamento, arts. 26, 27, and 28, Law No. NOM-002-STPS.

store chemicals used in the pattern department safely, and (d) train staff members in fire prevention and emergency evacuation. It committed to take these steps by September 2010.

e. Civil Protection Program

Findings

Management reported to WRC investigators that Productora Clinimex does not currently have a civil protection plan – plan for training personnel on fire prevention and firefighting, first aid, and emergency evacuation - which is required under the Civil Protection Law for the State of Aguascalientes.²²

Recommendations

The WRC recommended that Productora Clinimex establish a civil protection program, in according with the legal requirements.

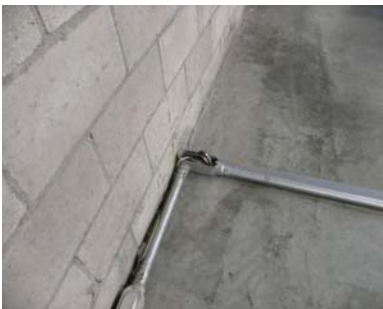
Productora Clinimex Response

The company committed to initiating, no later than December 2010, meetings with the State's Civil Protection Department in order to solicit its recommendations for establishing a Civil Protection program that meets the legal standard.

f. Electrical System

Findings

The WRC's onsite assessment found unprotected cables and unmarked electrical panels in the production area, conditions which violate Mexican health and safety regulations.²³



²² See, Ley de Protección Civil para el Estado de Aguascalientes, art. 5.

²³ See, Reglamento, art. 42, Law No. NOM-001-SEDE.

Recommendations

The WRC recommended that Productora Clinimex bring its electrical system into compliance with Mexican law.

Productora Clinimex Response

The company committed to inspecting and repairing, as needed, the plant's electrical system to ensure that it meets Mexican legal requirements

g. Gas Lines

Findings

The WRC's assessment found that at least one gas line in the plant is unanchored and unmarked, which is a violation of applicable regulations.²⁴



Recommendations

The WRC recommended that gas lines be modified to comply with Mexican legal requirements.

Productora Clinimex Response

The company committed to inspect and repair, as needed, the factory's gas installations in accordance with Mexican legal requirements by December 2010.

h. Warehouse

Findings

²⁴ See, Reglamento, art. 54, Law No. NOM-026-STPS.

The WRC's onsite assessment identified a number of safety risks in the factory's warehouse. There are no markings in the warehouse to indicate the maximum height to which pallets can be stacked and the WRC observed that some pallets were stacked excessively high. In addition, forklifts used in the warehouse lacked rearview mirrors and fire extinguishers, and had exposed electrical wiring. These conditions violate Mexican occupational safety regulations.²⁵



Recommendations

The WRC recommended that Productora Clinimex take measures to bring the factory's warehouse into legal compliance, including clearly marking, and limiting storage of materials on pallets to, the maximum legal height. The WRC further advised that the company equip and repair its forklifts to comply with Mexican law.

Productora Clinimex Response

Productora Clinimex agreed to reorganize the warehouse area to comply with the legal requirements by December 2010. It further committed to ensure that its forklifts comply with Mexican law by September 2010.

i. Accommodations for Pregnant Workers

Findings

Workers reported that pregnant employees are often obligated to work in a standing position for their entire shift, to fold and pack cardboard boxes, which forces them to work in a position that puts unnecessary strain on the pregnant workers. During the WRC's onsite assessment investigators also observed that a pregnant employee was working for an extended period of time in a standing position. These conditions violate Mexico's Federal Labor Law.²⁶

²⁵ See, Reglamento, art. 35, Law No. NOM-006-STPS.

²⁶ See, L.F.T., art. 170.

Recommendations

The WRC recommended that to comply with Mexican law the company provide accommodations for pregnant workers, including allowing them to remain seated while working. If it is not possible for a pregnant worker to perform her job while sitting, she should be temporarily reassigned to a position that permits this.

Productora Clinimex Response

Productora Clinimex agreed to immediately implement the WRC's recommendations.