



**FAIR LABOR**  
ASSOCIATION®

*Improving Workers' Lives Worldwide*



**NEW ERA CAP COMPANY**  

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**ASSESSMENT FOR REACCREDITATION**

June 2010

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## NEW ERA CAP'S COMPLIANCE PROGRAM

New Era Cap Company was approved by the Board of the Fair Labor Association (FLA) for affiliation as a Participating Company in 2003. The FLA Board of Directors accredited New Era Cap's labor compliance program in June 2007. This assessment for reaccreditation of New Era Cap's labor compliance program covers the period 2007-2009. It is based on information provided by the company in its annual reports to the FLA, verified through visits to headquarters and to field offices, a review of Independent External Monitoring (IEM) and Independent External Verification (IEV) conducted by FLA accredited monitors at New Era Cap's applicable facilities during 2007-2009, and the company's participation in FLA projects and value-added programs.

New Era Cap Company produces and markets headwear under license to U.S. professional sports leagues — such as Major League Baseball (MLB), the National Basketball Association (NBA), and the National Hockey League (NHL) — as well as to colleges and universities.

The company is headquartered in Buffalo, New York, and has sales offices in the United States, Canada, Japan, Hong Kong, England, France, and Germany. Headwear sold by New Era Cap is manufactured in contract factories, and company-owned manufacturing facilities in the United States.

New Era Cap's Code of Conduct and Social Compliance Program was developed in 2003 with the objective of ensuring the labor and environmental standards adopted by the company are observed worldwide in the manufacture of its products. The head of the program is the Vice-President of Global Human Resources, who reports directly to the company's President. During the review period for reaccreditation, New Era Cap hired a full-time dedicated Compliance Manager as well as a joint Compliance Coordinator (see below).

The Vice President of Global Human Resources continues to provide leadership to New Era Cap's Social Compliance Program. Furthermore, the VP for Global Human Resources is responsible for managing industrial relations issues and the relationship with labor unions and setting/ implementing global policies and procedures related to code compliance. The Social Compliance Manager, who reports to the VP of Global Human Resources, provides managerial and technical leadership and support for New Era Cap's Social Compliance Program and the implementation of its Code of Conduct, FLA Workplace Standards and any other social compliance programs as directed by management. There is also a Health and Safety Manager, who also reports to the VP of Global Human Resources, who is directly responsible for the development, evaluation and management of all health and safety initiatives at New Era Cap facilities.



*2009 Benefits of Supply Chain Partnerships Symposium*



*Central Safety & Health Committee, New Era Derby, NY facility*

Since September 2009, in coordination with an FLA Participating Supplier, New Era Cap has a Compliance Coordinator based in Shenzhen, China. The Compliance Coordinator, who is an FLA Participating Supplier employee, reports directly and jointly to the FLA Participating Supplier Human Resource Director and the New Era Cap Compliance Manager. He provides support in Code of Conduct compliance and implementation of international best practices with regard to labor standards, human resources, health, safety and environmental issues.

New Era Cap continues to use independent social monitoring companies to conduct internal monitoring. An accredited FLA monitor conducts assessments mainly in the United States while internal monitoring abroad is conducted by monitoring organizations such as FLA accredited monitors.

The New Era Cap social compliance program is integrated and works closely with the Operations Group, overseen by the Director of Quality. The Director of Quality supports the compliance program and ensures it is aligned with operations; this includes having the Quality Assurance Manager in Asia participate in audits, routine follow ups on corrective action plans, and other projects as requested by the Director of Quality and/or the Compliance Manager.

New Era Cap is an active member of the FLA Monitoring Committee, Communications Committee, and Steering Committee of the Sustainable Compliance Leadership initiative. New Era Cap's Vice President of Global Human Resources served as an industry member of the FLA Board of Directors during 2007 and 2008.

## **ACCREDITATION OF NEW ERA'S LABOR COMPLIANCE PROGRAM**

In June 2007, the FLA Board of Directors voted to accredit New Era Cap's labor compliance program. The Board accepted FLA staff's recommendation based on an assessment that included an audit at headquarters (in April 2007) and visits to the field. FLA staff interviewed New Era Cap's staff at its Buffalo, New York, headquarters, examined documents, and reviewed factory records to confirm that most audits and tracking charts are maintained on file. FLA staff also visited the [factory], interviewed a sourcing staff member, union chair and union members, examined sample reports from the hotline service, reviewed records of New Era Cap internal audit and observed a New Era Cap internal audit being conducted. Lastly, the FLA confirmed New Era Cap reports include analysis of non-compliances and took into consideration all the IEMs of New Era Cap's factories conducted by FLA-accredited monitors during 2003-2006.

By accrediting New Era Cap's labor compliance program, the FLA Board formally recognized that the program fulfilled the requirements set forth by the FLA and those in the monitoring plan that New Era Cap submitted upon affiliating with the FLA. The FLA staff assessment concluded that during the implementation period, New Era Cap had aligned its compliance program with the FLA standards, benchmarks, and protocols, and met all of the requirements of FLA participation with respect to their applicable facilities. The FLA staff assessment also stated New Era Cap was working on improving in all of the areas covered by the accreditation review. This evidence supported FLA's recommendation of accreditation to the board of New Era Cap's compliance program. New Era Cap's accreditation report is available online at [www.fairlabor.org/report/new-era-cap-company-assessment-accreditation](http://www.fairlabor.org/report/new-era-cap-company-assessment-accreditation).

## ASSESSMENT FOR REACCREDITATION OF NEW ERA CAP'S LABOR COMPLIANCE PROGRAM

FLA staff has assessed New Era Cap's labor compliance program and its operation in 2007-2009 against obligations of participating companies in the FLA and the benchmarks for accreditation agreed by the Board of Directors. In particular, the assessment sought to determine whether New Era Cap's labor compliance program continued to achieve the high performance standards demonstrated during the initial implementation period.

The assessment concluded in 2007-2009, New Era Cap's labor compliance program continued to meet or exceed performance standards established during the initial implementation period, recognized by the Board of Directors in June 2007 when it approved accreditation of the program. Staff conclusions and recommendations for continued efforts are noted in Section 4.

Selected New Era Cap actions and initiatives during 2007-2009 to maintain high standards and strengthen its labor compliance program are described below. Additional feedback was provided to New Era Cap in a separate document.

**1. ADOPTS AND COMMUNICATES A CODE:** *Formally adopts a code that meets or exceeds FLA standards; informs all suppliers in writing; posts the code in a prominent place in supplier facilities in the local languages of workers and managers; ensures that workers are informed orally and educated at regular intervals (to take account of labor turnover); obtains written agreement of suppliers to submit to periodic inspections/audits, including by accredited external monitors, to remediate instances of noncompliances with FLA Workplace Standards that arise, and to inform employees about those standards.*

- New Era Cap has adopted and continued to communicate the FLA Workplace Code of Conduct standards to management and workers of owned and contract factories. New Era Cap has continued to provide the Supplier Compliance Guide to active factories, which is acknowledged by factories through a signed receipt. A copy of the Code of Conduct is sent to new factories immediately after they have been approved for business. Since 2009, New Era Cap has issued new Code of Conduct posters for China factories with updated contact information to enable workers to make complaints about factory conditions directly to New Era Cap. FLA staff reviewed copies of these documents at New Era headquarters.

- New Era Cap continues to convey to suppliers in writing its expectations about employee awareness of the Code of Conduct. At United States-owned factories, New Era Cap has continued to conduct monthly employee training on code elements. A 79-page Supplier Compliance Guide has been created for use by contract and joint-venture suppliers abroad; it includes sections on Code of Conduct requirements, commitment to provide worker orientation about labor rights, the creation of a confidential reporting channel, submitting to compliance assessments, and timely remediation. Suppliers are required to acknowledge receipt and understanding of the Guide. The expectation is all supplier factories establish and promote a worker education program, create a grievance procedure and accept independent assessment, and conduct remediation of noncompliances in a timely manner. FLA staff reviewed copies of the training material provided to suppliers and confirmed the training of factory workers was comprehensive and addressed all elements of the code.

**2. TRAINS INTERNAL COMPLIANCE STAFF:** *Identifies the staff or service provider responsible for implementing their compliance program; ensures that they had training in all the areas under their responsibility, including, as appropriate, international and national labor standards, local languages, occupational and production risk factors, and techniques for monitoring, interviewing, and remediating; updates that training at regular intervals.*

- A significant milestone in New Era Cap's compliance program occurred in 2008 when a full time Social Compliance Manager was hired to oversee the company's program. The incumbent of this position has been key in promoting and educating other departments about the importance of compliance. The Social Compliance Manager has participated in various internal meetings with sourcing and other departments and at the same time has provided Global Operations with the opportunity to actively participate and provide perspectives about potential training exercises for factories. In September 2009, a Compliance Coordinator, based in Shenzhen, was hired jointly by New Era Cap and an FLA Participating Supplier to serve as liaison on compliance activities and communications between the two companies. The Compliance Coordinator participated in an FLA orientation conducted at the FLA Participating Supplier.
- The FLA confirms in 2008 and 2009, New Era Cap compliance staff have participated in FLA meetings and played an active role in the activities of the Communications Committee, Monitoring Committee and the Sustainable Compliance Leadership Steering Committee.
- New Era Cap continues to use FLA accredited third party monitors to perform independent assessments at their facilities. Orientation is provided to third party monitors by New Era Cap's Compliance Manager. Documentation regarding external monitors used by New Era and the contents of the orientation provided to such monitors was reviewed by the FLA during the headquarters visit. The orientation by the Compliance Manager was corroborated by the monitors during individual conversations with FLA staff.

**3. PROVIDES EMPLOYEES WITH CONFIDENTIAL REPORTING CHANNELS:** *Encourages the establishment of grievance procedures at supplier facilities; provides channels for Company employees and workers at those facilities to contact the Company directly and confidentially if warranted; ensures the channel is secure, so workers are not punished or prejudiced for using it.*

- Through meetings and other forms of communication, New Era Cap has continued to encourage suppliers to put in place grievance policies and procedures. Since the implementation of the Compliance Management Analysis and Profile (MAP) Initiative, New Era Cap has been concentrating on improving Human Resources (HR) management systems at contract suppliers, with training and

employee development (which includes grievance procedures) a core functional area of compliance management. In 2009, during the Benefits of Supply Chain Symposium, New Era Cap spoke of its emphasis on creating, implementing and maintaining effective grievance procedures, highlighting the benefits to employees and employers. This was confirmed by FLA staff who attended the Symposium and through a review of documents at headquarters. New Era Cap has drawn from its experience as a manufacturer and employer to demonstrate the benefits of confidential reporting mechanisms and the value of employee engagement. Based on independent validations or assessments conducted by third party monitors accredited by the FLA by the end of 2009 all of the suppliers had established grievance policies and procedures, training and communication channels with workers that included accountability elements, i.e., factory staff responsible for implementation and enforcement of policy and procedures. The FLA staff reviewed related documentation during a visit to New Era Cap's headquarters.

- New Era Cap has continued to provide workers with multiple channels for confidential reporting at company-owned and -operated facilities. Workers are informed about available channels during their initial orientation (when first hired) and during refresher training on New Era Cap's non-harassment and complaint policy and procedures. All U.S.-based facilities are covered by a collective bargaining agreement, which includes formal grievance procedures with progressive steps that eventually include arbitration. Furthermore, New Era Cap contracts with two independent service providers for confidential reporting by employees of its U.S. factories: an anonymous internet/phone based reporting mechanism, and a counseling service. With respect to contract factories, in 2009, New Era Cap issued a new code of conduct poster for factories in China which includes updated contact information for reporting non-compliances.
- During the period 2007-2009, IEMs conducted at New Era Cap facilities resulted in one noncompliance finding related to providing employees with confidential reporting channels. Since then, New Era Cap has launched an initiative to improve HR management systems that include grievance procedures. While New Era Cap maintains several communication channels with workers in contract factories, it is not clear to the FLA whether the confidential reporting mechanisms are providing the desired results and therefore we recommend New Era evaluate the effectiveness of the various communications channels.

**4. CONDUCTS INTERNAL MONITORING:** *Internally monitors an appropriate sampling of suppliers to assess compliance, which includes worker interviews, records review, occupational safety and health review, practices of suppliers in relation to the FLA Workplace Standards; collects, verifies, and quantifies compliance with workplace standards; analyzes the monitoring results and implemented remediation plans to address non-compliance issues; tracks the progress of remediation.*

- New Era Cap continues to monitor annually 100% of its sewing contractors through third-party monitors (accredited by the FLA). The FLA reviewed New Era Cap internal audit records confirm the company's internal audit targets and performance. All internal monitoring audits are unannounced and start with an opening meeting, records review, factory walk-through, worker/management interviews, and a discussion of findings during the closing meeting. Starting in 2008, all compliance audits reports and related documentation have been organized and maintained in electronic files on the company's server. The FLA staff was able to review audits and the Master Factory List, managed and updated by the Compliance Manager, which allows the company to track down approvals, audit dates, remediation plans and follow-ups. The electronic files also include an audit summary for each supplier which captures remedial action plans.
- New Era Cap has piloted a new assessment approach, MAP, aimed at enhancing compliance performance by focusing on management systems assessment. The new approach consists of vendor self-assessments, goal setting and third party validation for continuous compliance performance improvement. Validations are conducted by third-party auditors accredited by the FLA and consist of

thorough audits covering records review, management and worker (confidential) interviews, physical inspection. By November 2009, the FLA staff verified that nine strategic factories (responsible for the bulk of New Era's production) had completed MAP validations or assessments. An innovative element of the MAP approach is the ability to assign a quantitative value to factory performance with respect to each of the compliance management functions, i.e., Hiring, Compensation & Benefits, Managing Hours, Discipline and Grievance, Training and Employee Development, Health & Safety, Cooperation in New Era's Compliance Program, Employee Engagement \ Labor Relations and Accountability. Suppliers complete a self-assessment and their performance is checked during validation, with results compared to determine performance levels and areas of potential improvement. FLA staff reviewed materials on MAP with New Era staff during a headquarters visit.

**5. SUBMITS TO INDEPENDENT EXTERNAL MONITORING (IEM):** *Provides the FLA with an accurate, up-to-date factory list, factory profile, access letters to factories, etc.; ensures that the suppliers selected for IEMs cooperate with the FLA monitors; cooperates with FLA requests for information, clarification, and follow-up in the IEM process.*

- New Era Cap continued to meet this requirement and has promptly provided the FLA with additional information as appropriate. During the period 2007-2009 there were no instances of factories supplying New Era Cap refusing to cooperate with FLA accredited monitors conducting IEMs or IEVs.

**6. COLLECTS AND MANAGES COMPLIANCE INFORMATION:** *Maintains a data base; generates up-to-date lists of its suppliers when required; analyzes compliance findings; reports to the FLA on those activities.*

- In 2008, New Era Cap created an electronic filing system to maintain compliance related information and to ensure timely remediation and company follow ups. The Master Factory List tracks factory approvals, audit dates, noncompliances and action plan follow-ups. FLA staff reviewed the Master Factory List during a visit to New Era Cap's headquarters and can confirm that the systems function very effectively.
- The FLA also confirms that New Era Cap has provided annual reports to the FLA on a regular basis containing all required elements and shows New Era Cap analysis of their audit results. New Era Cap has provided the FLA with its factory list as required and has provided updates upon request.

**7. REMEDIATES IN A TIMELY MANNER:** *Upon receiving the internal and independent external monitoring reports, contact the supplier concerned (within a reasonable time frame) to agree to a remediation plan that addresses all compliance issues identified by the monitor; implement a remediation plan regarding the noncompliances and the actions taken to prevent the recurrence of such noncompliances; within sixty (60) days, supply the FLA with the remediation plan citing all progress made and a timeline for outstanding items; confirm the completion of remediation; condition future business with contractors and suppliers upon compliance standards.*

- New Era Cap systematically reviews IEM audit reports against the Workplace Code of Conduct and FLA compliance benchmarks. During 2007-2009, New Era Cap has continued to communicate with FLA's accredited monitors to ask for findings clarifications when needed. The Social Compliance Manager works with HR staff and factory management to determine the parameters of meaningful remediation plans, using root cause analysis, and including timeline for completion. The severity of the noncompliance findings guides the timelines, frequency of follow-up visits, and expectations for factory reporting.



- New Era Cap continues to focus on preventative remediation. In 2008, the company adopted the compliance corrective action plan (CAP) format, which is an Excel document that includes root-cause analysis, action plan, person accountable and a deadline date. It requires the supplier to perform basic root-cause analysis to describe why the noncompliance occurred and identify sustainable solutions. New Era Cap staff participates in this process if it is deemed that the work of the factory has not been sufficient. As appropriate, New Era Cap encourages suppliers to engage labor standards consultancies to obtain advisory services related to labor law, human resources management, and health and safety. FLA staff reviewed documentation demonstrating the use of preventative remediation and the use of root cause analysis in the development of remediation action plans.
- The New Era Cap compliance team submits timely remediation plans to their IEMs that seek to be sustainable and are based on root cause analysis.

**8. TAKES ALL STEPS NECESSARY TO PREVENT PERSISTENT FORMS OF NONCOMPLIANCE:**

*Analyze compliance information to identify persistent and/or serious forms of noncompliance; establish and implement programs designed to prevent the major forms of such noncompliance; take steps to prevent recurrence in other applicable facilities where such noncompliance may occur.*

- The Compliance MAP initiative seeks to prevent noncompliances before they occur. Using root cause analysis as a tool, and in collaboration with factory management, New Era Cap's Social Compliance Manager uses noncompliance findings and remediation development to analyze persistent noncompliance issues and develop strategies to prevent recurrence. New Era Cap has focused on two most common and persistent areas of noncompliances -- identified through internal monitoring as well as through FLA IEMs -- namely, failure to provide accurate records and lack of awareness or attention to health and safety management.
- New Era has also emphasized training, partnership building, and best-practice sharing through supplier forums to address persistent noncompliance issues. In 2009, New Era Cap held its first Compliance Seminar, "Leadership in Health & Safety Management," for its suppliers, which focused on promoting the building blocks of health & safety management and success factors based on New Era Cap's domestic health and safety programs. FLA staff attended this forum in China. FLA staff also observed a New Era follow-up visit to address issues found during an [Federal agency] audit and can confirm New Era's emphasis on preventative systems. During the visit, FLA staff observed discussions about the assignment of point people to oversee health and safety more effectively and to ensure on-going training of workers; a discussion of health and safety systems and best-practices was also conducted during a factory tour.

**9. CONSULTS WITH CIVIL SOCIETY:** *Maintains links to organizations of civil society involved in labor rights and utilize, where companies deem necessary, such local institutions to facilitate communication with Company employees and employees of contractors and suppliers in the reporting of noncompliance with the workplace standards; consults knowledgeable local sources as part of its monitoring activities; consults periodically with the legally constituted unions representing employees at the worksite regarding the monitoring process and utilize the input of such unions where appropriate; assure the implementation of monitoring is consistent with applicable collective bargaining agreements.*

- New Era Cap has continued to engage with civil society organizations in its key sourcing countries (China and Vietnam). In 2008, the VP of Global Human Resources participated in the FLA's Stakeholder Forum "Labor Law Reform in China: Opportunities and Challenges for Improving Workers' Lives" held in Kunshan, near Shanghai, which brought local and international trade unions, NGOs, companies and

universities together to discuss issues related to China's labor law reform. New Era Cap has encouraged suppliers in Vietnam to participate in tripartite meetings held by the FLA in preparation for the implementation of FLA 3.0 in that country. New Era Cap has also engaged with other multi-stakeholder initiatives.

- In February of 2008, New Era Cap and [union] entered into a three (3) year agreement covering the workers at New Era's Mobile, Alabama Distribution Center. The agreement followed an organizing campaign involving multiple CSOs. New Era Cap and [union] also agreed to a neutrality agreement which, permitted the union to organize workers at New Era's Jackson facility. The [union] later organized Jackson employees and New Era Cap and the [union] successfully negotiated a collective bargaining agreement. The employees at New Era's facilities in Derby, New York and Demopolis, Alabama were represented by the [union]. New Era Cap regularly met with the unions at each of the facilities. Union representatives participated in the opening and closing meetings during compliance audits. There is evidence of training exercises for managerial and supervisory positions about the collective bargaining agreements and the importance of compliance.
- On November 19, 2009, New Era Cap announced consolidation of its U.S. facilities which initiated a process of consultations with union representatives, employees, community, and local/state economic development officials in Alabama and New York. Agreements were reached with both unions over the plant closures which resulted in comprehensive severance packages for workers at the plants which were to close.

**10. PAYS DUES AND MEETS OTHER PROCEDURAL REQUIREMENTS:** *Pay annual dues; pay IEM administrative and monitoring fees; sign and honor required FLA contracts; submit factory lists, a standardized annual report, and other information in complete form and on time.*

- New Era Cap has paid all dues and administrative and monitoring fees to the FLA in full and on time; all contracts have been signed and honored; factory lists and annual report have been submitted in complete form and on time.

## CONCLUSION

Reaccreditation of New Era's compliance program should not be interpreted as a guarantee against issues and risks in the supply chain. Rather, reaccreditation indicates that the company has the systems in place to proactively identify and remediate those risks. Reaccreditation is not granted automatically, and is only renewed every three years following a satisfactory FLA evaluation of labor compliance systems and activities during the timeframe. FLA will continue to conduct standard due diligence activities on New Era. To check an affiliate's accreditation status, visit [www.fairlabor.org/accreditation](http://www.fairlabor.org/accreditation).