



The Roundtable on Sustainable Biofuels

Canadian Regulatory Benchmark

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About the RSB

- Founded in 2007 as a multi-stakeholder initiative to develop sustainability criteria for bioenergy – Based in Lausanne, Switzerland hosted by the Swiss Federal Institute of Technology (EPFL)
- Over 120 organizations in 30 countries including members of the public, private and non-profit sectors.
- Objective to examine sustainability issues facing biofuels, and promote best practices to mitigate negative impacts, and incent positive ones.
- Resulted in the 12 Principles and Criteria that form the core of the Standard.



Canadian Regulatory Benchmark

Project Objective

- Identify the extent to which Canadian regulatory documents can be used to facilitate compliance with RSB standards

Deliverables

- Identification of relevant legislation that pertains to biofuel operations and the context of the RSB Principles & Criteria.
- Provision of an opinion regarding the presence of overlap between environmental and societal regulation and the RSB Principles & Criteria.
- Identification of the type of evidence of legal compliance which may be used to show compliance with the RSB Principles & Criteria (e.g. legal permits)

Methodology

- Canadian International Grains Institute (CIGI) was hired to review the range of existing laws covered by the RSB standard, and map them to existing laws
- First step employed the use of internet based documents to identify all current statutes and regulations in Canada, related to the bioenergy sector, or issues covered by the RSB standard.
- The laws were then catalogued and examined for specific areas, which were pertinent to the RSB standards, which were then extracted.

Part 1: Review of Legislation

Legislation and regulations relating to the following areas were examined:

- Land ownership and land use
- Labour, Employment Standards, Workplace Safety and Health
- Waste, waste handling, hazardous waste and waste disposal
- Business practices, licensing and permits
- Child labour
- Chemical use, chemical listing
- Environmental protection
- Human rights
- International conventions related to Biodiversity, Wetlands

Part 1: Provision of Judgement

- Opinion of the Canadian International Grains Institute (CIGI) with regard to the overlap that exists between each of the criterion within each of the 12 principles and the Canadian legal framework.
- The overlap is indicated as Yes, No, Partial or Not Applicable (N/A).
- Enforcement credibility taken into consideration as well

Evidence suggested to confirm compliance

- At the end of each criterion section CIGI offered suggested evidences of compliance that might be used.
- Example – Principle 4 (Human and Labor Rights)
 - Copy of union charter
 - Copy of negotiated agreement containing signatures and effective dates
 - Speak to employees directly regarding ability to organize
 - Employee files to determine age (dates of birth)
 - Payroll records for minimum wage
 - Payroll records for equality of pay among employees doing equal work

No	Principle	Legislation & Regulations in place for Compliance / Non-compliance (Yes, Partial, No)	Coverage between Canadian law and RSB Principles (Complete, Partial, Not covered)
4	Human and Labour Rights		
4.a	• Freedom of association & right to collectively bargain	Yes	Partial
4.b	• No slave labour	Yes	Complete
4.c	• No child labour	Yes	Partial
4.d	• Workers free of discrimination of any kind	Yes	Complete

7	Conservation		
7.a	• Conservation values maintained	Yes	Partial
7.b	• Ecosystem function maintained or enhanced	Yes	Partial
7.c	• Protect or create buffer zones	Yes	Partial
7.d.1	• Protect existing ecological corridors	Yes	Partial
7.d.2	• Restore damaged ecological corridors	Yes	Not covered
7.e	• Prevent invasive species	Yes	Complete

RSB Reference	Statute References National & Provincial	Covered
Principle 7.a	<u>National</u> 1. Canadian Environmental Protection Act 2. Canadian Environmental Assessment Act 3. Endangered Species Act <u>Provincial</u> 1. Environment Act 2. Wildlife Act(s) 3. Water, Air Act(s) 4. Soil(s) Act(s)	Partial - Partial coverage exists in Canada with respect to Criterion 7.a. - Producers are increasingly using conservation practices on their farms to ensure sustainability of both the environment and their livelihood. - A conservation impact assessment, following RSB guidelines, is required for new farms or farm expansions.

Comments & Summary

- Regulations are in place that prohibit the conversion of new land without an environmental assessment. Such legal assessments must include the RSB conservation impact assessment requirements.
- The mandated environmental assessments are structured to embrace the conservation impacts and detail mitigation steps to deal with negative effects resulting from the Participating Operator's activities.
- International Union for Conservation of Nature (IUCN) members in Canada focus on the following key areas:
 - [Biodiversity](#) [Climate change](#) [Sustainable energy](#) [Green economy](#) [Human well-being](#)
- Laws, regulations and policy guidelines are present in Canada which overlap with many, but not all, of the minimum requirements listed in Principle 7.a.
- A cut-off date of 1 January 2009 (1 January 2008 for EU-bound biomass) for conversion of native ecosystems must be verified and documented through the use of objective evidence.

Challenges

- Detailed analysis is VERY costly and time consuming.
- Finding the precise “point of overlap” is difficult, as often times it may require juxtaposing language from numerous places.
- In some cases, the RSB was found to be practical, but the law was implemented in an impractical way.
- Bias on the investigator and peer reviewer is difficult to control for

Limitations

- Using laws as a means to demonstrate compliance is difficult because it requires making a judgment call
- How to deal with “partial overlap” is unclear
- Laws are not usually intended to promote positive behavior on the part of the operator, they more often define what is unacceptable.
- Laws rather set limitations for actors to “Stay out of trouble”

Opportunities

- High level “landscape” analysis is very useful to identify the scope of the laws covered.
- Is this a country with higher or lower risk?
- Is there a legal framework for general support?

Conclusion

A legal analysis does not negate the need to develop checklists or auditor guidance, but is very useful to frame the language of checklists and orient the auditors (and operators) to the most important aspects of sustainability in their sector.



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