

RAINFOREST ALLIANCE POLICY

Audits for Certificate Holders based in Brazil

Version 1



**RAINFOREST
ALLIANCE**



The Rainforest Alliance is creating a more sustainable world by using social and market forces to protect nature and improve the lives of farmers and forest communities.

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For any question related to the precise meaning of the information contained in the translation, please refer to the official English version for clarification. Any discrepancies or differences in meaning due to translation are not binding and have no effect for auditing or certification purposes.

More information?

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SA-R-GA-1-V1.1 - Certification and Auditing Rules. SA-R-GA-2-V1.1 - Rules for Certification Bodies. SA-S-SD-1-V1.1 – Sustainable Agriculture Standard, Farm Requirements. SA-S-SD-2-V1.1 – Sustainable Agriculture Standard, Supply Chain Requirements.			
Replaces:			
Policy for Certification Processes: Operation Identification and social risk mitigation in Brazil.			
Applicable to:			
Certificate holders and approved CBs of the Rainforest Alliance 2020 Certification Program, for audits conducted in Brazil.			
Country/Region:			
Brazil.			
Crop:		Type of Certification:	
All crops in the scope of the Rainforest Alliance certification system; please see Certification Rules.		Farm and Supply Chain Certification.	

This policy document is binding. This means that it must be adhered to; therefore, this policy supersedes any related rules or requirements contained in the documents listed in the section "linked to" and/or "replaces" for those party or parties as indicated in the "applicable to" section.

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INTRODUCTION

The Rainforest Alliance is a growing network of people who are inspired and committed on working together to achieve our mission of conserving biodiversity and ensuring sustainable livelihoods. In July 2020 we have published our new 2020 Certification Program with unique features enabling sustainable farming across the globe.

Bearing in mind that one of the pillars of our new certification program is the alignment and contextualization with local structures that may add value to Rainforest Alliance assurance strategies, the aim of this policy is to align requirements of our Certification Rules and Sustainable Agriculture Standard with local legislation requirements in Brazil. This policy brings further clarification on how to interpret the requirements set forth in the binding documents of the Sustainable Agriculture Standard in light of Brazilian applicable law.

DEFINITIONS

Definitions indicated in the binding documents of the Sustainable Agriculture Standard 2020.

Applicable law	National and ratified international laws that apply in a given context or situation. National laws include the laws and regulations of all jurisdictions within a nation (local, regional, and national). International laws to which nations have acceded are also considered as applicable law, as per Annex S1: Glossary.
Forced labor	All work or service required of any person under the menace of any penalty and for which the said person has not offered herself or himself voluntarily. A person is classified as being in forced labor if they are engaged in work that is involuntary (without the free and informed consent of the worker) <u>and</u> is exacted through threats, penalties, or some form of coercion. Further examples on involuntariness and coercion indicated in the Annex S1.
Requirement applicability	In the case that an applicable law or CBA is stricter than a requirement in the standard, such law or CBA will prevail unless such law has become obsolete. In the case that an applicable law or CBA is less strict than a requirement in the standard, the requirement in the standard will prevail, unless the requirement explicitly allows for such law or CBA to apply, as per requirement 1.2.1 of the Farm Requirements and the Supply Chain requirements.

For the purpose of this document, the term "The Standard" refers to the Rainforest Alliance Sustainable Agriculture Standard 2020.



1. GENERAL CONDITIONS

- 1.1. All farm audits shall happen during harvest season, which is the period from the first day of the start of the harvest to 3 months after¹.
- 1.2. For Certificate Holders (CH) and CBs (CBs) the definition of forced labor provided in the Annex S1 shall be expanded to include the legal provisions in Article 149 of the Brazilian Penal Code, which typifies analogous conditions to slavery. Such definition adds factors such as exhaustive working hours, forced duties, degrading working conditions and mobility restrictions; given that the applicable law is stricter² than the Rainforest Alliance (RA) definition, such applicable law will apply.
- 1.3. For Certificate Holders (CH) and CBs (CBs) the definition of “worst forms of child labor” provided in the Annex S1 shall include the Brazilian regulation on this matter. Pursuant to Article 403 of the Consolidation of Labor Laws, no labor is allowed for individuals under 16 years old, except from the apprentice work, which is allowed for individuals from 14 years old.
- 1.4. The CBs shall assess compliance of CHs considering such expanded definitions when auditing Social Requirements (Chapter 5) and other applicable requirements of The Standard.
- 1.5. All provisions of this policy shall be observed in all Rainforest Alliance 2020 audits., Non-compliance may lead to certificate suspension and/or cancellation³ of the certificate.

2. AUDIT PREPARATION

- 2.1. CBs shall conduct an investigation of lawsuits and notices of violation issued by the Labor Inspectors Audit (“Auditoria-Fiscal do Trabalho”) prior to any farm and supply chain audit⁴ carried out against The Standard, considering the following:
 - i) The investigation is applicable for all farm and supply chain audits.
 - ii) The investigation of lawsuits shall be done in the public databases available in the Regional Labor Court(s) website and/or in the Regional Labor Court(s)’ courthouse in which the CH is located; and the investigation of notices of violation issued by the Labor Inspectors Audit (“Auditoria-Fiscal do Trabalho”) shall be done in the public database available in the Labor Inspection (“Inspeção do Trabalho”) website. The investigation shall be complemented by a self-declaration of the CH, which shall provide copies of the complaints, judgments, appellate decisions, and notices of violation, pursuant to clause 2.1.iii of this policy, if applicable. The CB may request that the CH conduct the survey in the available public databases and present the results and respective clearance certificate(s). Such information must be true. Proven fraud or omission of information shall result in decertification.
 - iii) The investigation shall include the following scope of lawsuits and proceedings of the last 5 years (to the extent available from the data gathered pursuant to clause 2.1.ii of this policy):
 - (1) Labor class actions presented by trade unions and workers’ representative organizations, public interest civil actions (“ações civis públicas”) and lawsuits for the execution of consent decrees presented by labor prosecution offices.
 - (2) Notices of violation issued by the Labor Inspectors Audit (“Auditoria-Fiscal do Trabalho”).
 - iv) CB shall report the investigation using the Certification Application Form (CAF) tool provided by RA in the tab 2a.Risk Assessment, section c. Lawsuit Investigation.

¹ 2020 Certification and Auditing Rules, clause 1.5.21.

² Requirement 1.2.1 of the Sustainable Agriculture Standard.

³ 2020 Certification and Auditing Rules, clause 1.7.14.

⁴ 2020 Certification and Auditing Rules, clause 2.3.19.u.



- 2.2. CBs shall prepare the audits considering the applicable laws, country risk assessment and the general risk assessment prior to any audit⁵ carried out against The Standard, considering the following:
 - i) The Audit Risk Assessment shall contain a mandatory consultation of the Dirty List of Employers Who Submitted Workers to Analogous Slavery Conditions, commonly known as the “Dirty List” or, in case such list ceases to exist, another list published with the same objective. The consultation result shall be indicated using the CAF tool provided by RA in the tab 2a.Risk Assessment, section c. Lawsuit Investigation.
 - ii) The CB shall conduct off-site investigations⁶ and stakeholder consultations⁷ with regionally active trade unions to assess other critical labor risks which were not found during the other steps of the preparation of the audits. If there is no active trade union in the region, the CB shall indicate this fact and the efforts made to contact trade unions.
 - iii) The Audit Risk Assessment shall contain a mandatory consultation of the IBAMA Seizure List, using the CAF tool provided by RA in the tab 2a.Risk Assessment, section c. Lawsuit Investigation.
- 2.3. CBs shall develop an audit plan before every audit⁸ and it shall clearly indicate in the audit agenda which additional actions are going to be conducted to specifically address the risks identified⁹ in the consultations indicated in section 2.1 and 2.2 in this policy.
- 2.4. CBs shall report the CAF tool fully filled out according to RA Certification and Auditing Rules and of this policy upon requesting a license for RA Certification.
- 2.5. All files and evidences of such consultations shall also be kept in the Certification Body Quality Management System¹⁰.

3. AUDIT CONDUCT

- 3.1. Brazil is considered a high-risk country for social topics, thus all additional rules for social audits prescribed in the Certification and Audit Rules Annex AR4 are applicable for all sectors.
- 3.2. CBs shall always conduct off-site investigations¹¹ and stakeholder consultations¹² with regionally active trade unions to determine which workers in the audit scope are affiliated and assess potential violations of the freedom of association. Such information shall be treated confidentially and only shared with Rainforest Alliance and/or authorities upon request.
- 3.3. The CB shall report the findings and attempts of such consultations as evidence of the applicable requirement when assessing compliance of the Standard and using CAF at the tab 2a.Risk Assessment, section b. risk assessment, in the comments of question 4.
- 3.4. If an application of a Severity Test¹³ is needed to determine whether a violation of applicable law is severe or not, the CB shall observe that any violation of applicable law on forced labor shall be considered as a 'yes' to questions 1 and 4 of the Severity Test which leads to non-certification or cancelation of the certificate.

⁵ 2020 Certification and Auditing Rules, clause 2.3.2.

⁶ 2020 Certification and Auditing Rules, annex AR 4.10,clause 55.b.

⁷ 2020 Certification and Auditing Rules, annex AR 4.2,clause 2.

⁸ 2020 Certification and Auditing Rules, clause 2.3.3.

⁹ 2020 Certification and Auditing Rules, Annex AR 4.2.5

¹⁰ 2020 Rules for CBs, clause 1.3.73.

¹¹ 2020 Certification and Auditing Rules, annex AR 4.10,clause 55.b.

¹² 2020 Certification and Auditing Rules, annex AR 4.2,clause 2.

¹³ 2020 Certification and Auditing Rules, Annex AR 4.4.1.