

SUBMISSION

THE INTENTION TO REGISTER CERTAIN PROPOSED METHODS OF PRODUCTION AS A MANAGEMENT CONTROL SYSTEM UNDER THE REGULATIONS RELATING TO THE MANAGEMENT CONTROL SYSTEM IN RESPECT OF THE SALE AND EXPORT OF CERTAIN AGRICULTURAL PRODUCTS OF THE AGRICULTURAL PRODUCT STANDARDS ACT 119 OF 1990



20 AUGUST 2026



ANIMAL LAW REFORM

SOUTH AFRICA

TO: The Department of Agriculture (“DoA” or the “Department”) (Formerly the Department of Agriculture, Land Reform and Rural Development (“DALRRD”))

ATT: Dr Mbulaheni Mutengwe

Per e-mail: MbulaheniM@nda.gov.za

20 August 2026

Dear Honourable Representatives,

RE: ALRSA’S SUBMISSION IN RESPECT OF THE INTENTION TO REGISTER METHODS OF PRODUCTION AS A MANAGEMENT CONTROL SYSTEM (NOTICE NO. 7597 OF 19 JUNE 2026)

Please find herewith the initial and non-exhaustive submission by Animal Law Reform South Africa (“ALRSA”)¹ in response to the Department’s national stakeholder consultation regarding the Intention to Register Methods of Production as a Management Control System (“MCS Proposal”), under the Regulations Relating to the Management Control System in Respect of the Sale and Export of Certain Agricultural Products of the Agricultural Product Standards Act 119 of 1990 (“APSA”), published for public comment in Government Gazette No.54853, under Notice No. 7597 of 19 June 2026.²

ALRSA wishes to express its appreciation for the Department’s initiative to standardise and regulate production method claims through a formal Management Control System (“MCS”). We recognise that the transition to a registered framework which is legally enforceable is a vital progression toward regulatory consistency, transparency, the prevention of deceptive trade practices, and the protection of consumer rights.³ ALRSA supports the move away from voluntary, industry-led and “soft” standards in favour of a codified system that provides legal certainty for stakeholders including industry and the public.⁴

This submission consists of a total 246 pages, including this 21-page cover letter and a 225-page table review consolidating our submission on each of Annexure B (Barn Eggs), Annexure C (Canola Eggs), Annexure D (Fed a Vegetarian Diet), Annexure E (Free Range Poultry and Eggs), Annexure F (Free Range Cattle, Pigs, and Sheep), Annexure G (Grainfed Eggs), Annexure K (Organic Production), Annexure L (Pasture Raised) and Annexure N (Sow Friendly Pork), (the “Reviewed Annexures”).

¹ ALRSA Website: <https://www.animallawreform.org/>.

² Department of Agriculture, Notice No. 7597 of 19 June 2026: Intention to Register Methods of Production as a Management Control System: https://www.gov.za/sites/default/files/gcis_document/202606/54853gon7597.pdf.

³ ALRSA, *Supplementary Submission to the National Investigative Hearing into South African Food Systems and Violations of the Right to Food by the South African Human Rights Commission* (10 April 2026) at 7. Available at: <https://www.animallawreform.org/wp-content/uploads/2026/04/ALRSA-SAHRC-Supplementary-Submission-10-April-2026.pdf>.

⁴ ALRSA, *Laying Down the Facts* (August 2023 (v1) updated September 2024 (v2) and February 2025 (v3)) at 17 and 107. Available at: <https://www.animallawreform.org/wp-content/uploads/2025/02/Laying-Down-The-Facts-Report-V3.pdf>.

Basis of ALRSA's Intervention and Submission

Our intervention is made in the spirit of ensuring that this progression is also effective in fulfilling constitutional values which the Constitutional Court has recognised “dictate a more caring attitude towards fellow humans, animals and the environment in general”⁵, the recognition by the constitutional and other courts that “animals as sentient beings with intrinsic value”⁶ as well as the constitutional mandate of Section 24 of the Constitution of the Republic of South Africa (the “**Constitution**”), which the Constitutional Court has interpreted to extend to animal welfare.⁷ Additionally, our intervention is grounded in the understanding that the protection of human, environmental and animal interests are intertwined, and that several constitutional rights include the protection of animal interests.⁸ Furthermore, our submissions recognise that consumers deserve accurate, honest and clear information regarding animal treatment in the products they purchase, in order to make informed decisions, and that industry stakeholders should have obligations to provide the same.

We support the statements made by the Supreme Court of Appeal that: **“The public has a right to be informed of the humane or inhumane treatment of animals at [...] farm. Members of the public have the freedom to decide which commercial enterprise they support and which they do not. That freedom of choice can only be exercised if activities happening at [...] farm are laid bare for the public.”**⁹

The MCS Proposal presents an important opportunity for the Department to *lay* such farm activities bare for the public. As the national entity responsible for agriculture as well as for ensuring animal welfare, the Department has constitutional responsibilities to a variety of stakeholders. The current constitution of the MCS Proposal presents fundamental flaws incompatible with these obligations as

⁵ *Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development and Another National* (CCT1/16) [2016] ZACC 46; 2017 (1) SACR 284 (CC); 2017 (4) BCLR 517 (CC) (8 December 2016) 46 at para 57 in referencing *S v Lemthongthai* [2014] ZASCA 131; 2015 (1) SACR 353 (SCA) (“*Lemthongthai*”) at para 20.

⁶ *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development* ZACC 46 at para 57; see also ALRSA, *Submission to the National Investigative Hearing into South African Food Systems and Violations of the Right to Food by the South African Human Rights Commission* (27 February 2026) at 34. Available at: <https://www.animallawreform.org/wp-content/uploads/2026/03/ALRSA-SAHRC-Submission-February-2026.pdf>.

⁷ *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development* ZACC 46 at para 57; see also ALRSA, *Submission to the National Investigative Hearing into South African Food Systems and Violations of the Right to Food by the South African Human Rights Commission* (27 February 2026) at 34. Available at: <https://www.animallawreform.org/wp-content/uploads/2026/03/ALRSA-SAHRC-Submission-February-2026.pdf>.

⁸ *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development* ZACC 46; *National Council of the Society for Prevention of Cruelty to Animals v Minister of Environmental Affairs* [2019] ZAGPPHC 337; *Smuts N.O. v Member of the Executive Council: Eastern Cape Department of Economic Development Environmental Affairs and Tourism* (1199/2021) [2022] ZAECKMKHC 42 (26 July 2022) and *Smuts v Botha* (887/2020) [2022] ZASCA 3; 2022 (2) SA 425 (SCA); Amy P Wilson and A Gerrans, *A Manifesto for Transforming Animal Protection in South Africa: A Constitutional Imperative* (Draft 1, Animal Law Project, 20 June 2024); Wilson, Amy P, (Non) Human(imal) Rights: Dismantling the Separateness in Law and Policy (December 1, 2019). *Society Register* Vol. 3 No. 3 (2019), Available at SSRN: <https://ssrn.com/abstract=3636994>.

⁹ *Bool Smuts and Another v Herman Botha* (887/20) [2022] ZASCA 3 (10 January 2022) at para 25.

they relate to animals and members of the public. These must be rectified prior to the publication of any final versions, or are subject to potential legal or other challenges.

High Level Concerns

This submission provides detailed comments on **Annexure B (Barn Eggs)**, **Annexure C (Canola Eggs)**, **Annexure D (Fed a Vegetarian Diet)**, **Annexure E (Free Range Poultry and Eggs)**, **Annexure F (Free Range Cattle, Pigs, and Sheep)**, **Annexure G (Grainfed Eggs)**, **Annexure K (Organic Production)**, **Annexure L (Pasture Raised)** and **Annexure N (Sow Friendly Pork)**.

In our analysis, we have observed several notable and problematic trends across the proposed standards, which are further expanded in the sections below and individual submissions themselves, including but not limited to:

1. Consistent adherence to and preference for **intensive industrial and inadequate minimum standards of animal welfare** rather than sufficient consideration of the animals' sentience, as well as the biological and physical conditions required to support animal well-being and flourishing.
2. The use of **vague, confusing and misleading terminology and discretionary language**, including a **lack of qualifications** or hard metrics needed to measure full and proper compliance with the respective (draft) standards.
3. **General inconsistencies and conflicts** between the Annexures and broader regulatory incoherence regarding labelling claims, for example, in relation to eggs specifically, the Regulations Regarding the Grading, Packing and Marking of Eggs Intended for Sale in the Republic of South Africa made under the Agricultural Product Standards Act 119 of 1990 ("APSA") and published in Government Gazette No. 43108 of Notice R.345 on 20 March 2020 ("**Regulation 345**") - a concern noted in the [Open Letter](#) submitted to the Department of Agriculture by ALRSA on 20 August 2026, with support from 30 other civil society organisations working across Africa.

A cross-cutting concern across these standards is the high risk of "humane-washing," where labelling and marketing claims, authorised by the proposed standards, may create a false or exaggerated impression of higher animal welfare standards that actual production conditions do not support.¹⁰ ALRSA maintains that any registered MCS must align with relevant jurisprudence and legislation, including but not limited to animal protection legislation (such as the Animals Protection Act 61 of 1972 ("**APA**")), consumer protection legislation (such as the Consumer Protection Act 68 of 2008 ("**CPA**")), provisions of the APSA, and the Marketing of Agricultural Products Act 47 of 1996 ("**MAPSA**")), and environmental legislation (such as the National Environmental Management:

¹⁰ ALRSA, *Scrambling for the Truth: Corporate Hypocrisy and Non-Transparency Relating to Environmental and Consumer Rights in the Egg Industry in South Africa* (September 2024, updated in February 2025) at 139. Available at: <https://www.animallawreform.org/wp-content/uploads/2025/02/Scrambling-for-the-Truth-V2.pdf>.



Biodiversity Act 10 of 2004 (“**NEMBA**”) as amended by the National Environmental Management Laws Amendment Act 2022 (“**NEMLAA**”),¹¹ which formally recognises animal well-being as part of the environmental right.)¹²

Without mandatory clear, honest and accurate disclosure of production methods, and measurable, scientifically grounded metrics, these systems are inadequate to provide the transparency required for a just, equitable, and accountable food system in South Africa,¹³ and are subject to potential challenge on various legal and other grounds.

Important Disclaimers

ALRSA has not commented on every Annexure released by the Department due to capacity constraints as a small civil society organisation operating in the public interest. However our failure to make submissions on these does not constitute an acceptance of these Annexures. Many of our comments raised in this letter, and in the individual tables for the respective Annexures for which comments have been provided, apply equally to the other Annexures.

Furthermore, we wish to note explicitly that while we have commented and made submissions on the MCS Proposal and Annexures, we see animal use and exploitation such as that provided for in the proposed methods as unacceptable and incompatible with one of our key pillars of “animal flourishing”. Nevertheless, we provide commentary in an attempt to mitigate the suffering of the millions of animals who will be implicated by the proposed methods as well as the harmful impacts of the underlying systems on animals, people and the environment.

In cases where we have provided technical submissions on any of the Annexures, we do so based on recommendations of certain bodies including but not limited to other NGOs working on animal welfare issues (for example, the FARMS Initiative’s Responsible Minimum Standards),¹⁴ and which are informed by animal welfare science. Inclusion of such technical proposals do not constitute acceptance as a regulatory ceiling, but rather a regulatory floor, and interim, incremental steps on a path towards greater animal flourishing.

I. ORGANISATIONAL BACKGROUND AND DECLARATION OF INTEREST

This Submission is made by ALRSA, a registered non-profit company and NPO (**Number 238-234 NPO**) acting in the public interest. ALRSA operates through three key Pillars: **Animal Flourishing, Social Justice, and the Law**.

ALRSA undertakes its work through three main mechanisms, namely: Legislative & Policy Reform; Litigation & Legal Services; and Education & Research. Through these mechanisms, ALRSA aims to

¹¹ National Environmental Management Laws Amendment Act 2 of 2022 (“**NEMLAA**”), Section 1.

¹² NEMBA amended by NEMLAA formally defines animal “well-being” in Section 1 as: “the holistic circumstances and conditions of an animal, which are conducive to their *physical, physiological and mental health and quality of life*, including the ability to cope with its environment”.

¹³ *Supra* note 4 (*Laying Down the Facts*) at 17.

¹⁴ FARMS Initiative: <https://www.farmsinitiative.org/rms>.

contribute to the development of a robust animal law ecosystem in South Africa which recognises the intrinsic value of animals as sentient beings.

We have a substantial interest in the issues to be considered by the Department of Agriculture in this national consultation, specifically the registration of certain production methods as a **Management Control System**. We have, for years, consistently expressed interest in issues involving animals, humans, and the environment to the Department of Agriculture (“**DoA**”), the Department of Forestry, Fisheries and the Environment (“**DFFE**”), other government departments, NGOs, the South African public, and other stakeholders, both privately and within the public domain. We have provided various formal submissions, sent letters, emails, and other correspondence, attended presentations and meetings, and otherwise engaged on these matters (where such engagement has been possible).

We are interested stakeholders and representatives of vulnerable populations within South Africa, including human as well as non-human animals. We have, within our core focus, concepts of social justice and appreciate the need for intersectionality in our approach.

II. PREVIOUS SUBMISSIONS MADE BY ALRSA (NON-EXHAUSTIVE)

Over the past 9 years, ALRSA has consistently provided detailed commentary and raised concerns on related documentation put forward by or relevant to the Department (and other relevant entities) relevant to this submission, including but not limited to submissions on the:

1. Draft SANS 1369ED2 Organic agriculture production and processing (17 June 2026);
2. National Investigative Hearing Into South African Food Systems and Violations of the Right to Food by the South African Human Rights Commission (Supplementary Submission) (submitted on 10 April 2026);¹⁵
3. Draft SANS 22373 ED1 Security and resilience - Authenticity, integrity and trust for products and documents - Framework for establishing trustworthy supply and chains (1 April 2026);
4. Department of Transport: Proposed Amendments to the Second Schedule of the Merchant Shipping Act 57 of 1951 (29 March 2026);¹⁶
5. National Investigative Hearing Into South African Food Systems and Violations of the Right to Food by the South African Human Rights Commission (Initial Submission) (submitted on 27 February 2026);¹⁷
6. Draft SATS 17033:20xx Ed 1 - Ethical claims and supporting information - Principles and Requirements Submission (18 February 2026);

¹⁵ *Supra* note 3 (*Supplementary Submission to the SAHRC*).

¹⁶ ALRSA <https://animallawreform.org/wp-content/uploads/2026/04/ALRSA-Submission-Proposed-Amendments-to-Second-Schedule-of-Merchant-Shipping-Act.pdf>.

¹⁷ ALRSA <https://animallawreform.org/wp-content/uploads/2026/03/ALRSA-SAHRC-Submission-February-2026.pdf>.



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7. African Organisation for Standardisation: CD-ARS 1241- Laying battery cages for chicken Submission (29 January 2026);
8. Joint Letter to the African Organisation for Standardisation (and African Country Standards Authorities) Regarding Draft ‘Laying Battery Cages For Chicken - Specification’ Standards (submitted on 21 January 2026);¹⁸
9. Submission in Respect of the Request or the Continuation of Statutory Measures Relating to Levies, Registrations and Records and Returns on Table Eggs in Terms of The Marketing of Agricultural Products Act (submitted on 5 December 2025);¹⁹
10. Animals Protection Act 71 of 1962, Draft Regulations for the Exportation of Live Animals By Sea (submitted on 25 August 2025);²⁰
11. Draft Rabbit Meat Regulations to be Published Under the Meat Safety Act No. 40 of 2000) (submitted on 27 May 2025);²¹
12. Draft Regulations Relating to Meat Analogues Intended for Sale in the Republic of South Africa made by the Minister for Agriculture in terms of section 15 of the Agricultural Product Standards Act 119 of 1990 (submitted on 11 February 2025);²²
13. Joint Letter of objection [ALRSA and ProVeg] in respect of the request for comments circulated by the Department on 25 October 2024 for the Draft Meat Analogue Regulations Relating to Meat Analogues Intended for Sale in the Republic of South Africa in terms of section 15 of the APSA (11 December 2024);²³
14. Request for Perception from Meat Industry and Plant-based Meat Products Industry on the Proposed Common and Traditional Names in the Sale of Plant-Based Meat Products (submitted 16 October 2024);²⁴
15. Submission relating to Plant-Based Foods and Meat Analogues: Amendment Regulations for Processed Meat And Certain Raw Processed Meat Products (submitted 11 October

¹⁸ ALRSA <https://animallawreform.org/wp-content/uploads/2026/01/Updated-Letter-Regarding-ARSO-Draft-Battery-Cage-Standards-27.01.2026.pdf>.

¹⁹ ALRSA <https://animallawreform.org/wp-content/uploads/2025/12/ALRSA-Submission-Statutory-Measures-Relating-to-Egg-Levies.pdf>.

²⁰ ALRSA <https://animallawreform.org/wp-content/uploads/2025/09/ALRSA-Submission-Draft-Live-Export-Regulations-25-August-2025.pdf>.

²¹ ALRSA <https://animallawreform.org/wp-content/uploads/2025/06/ALRSA-Submission-Draft-Rabbit-Meat-Regulations.pdf>.

²² ALRSA <https://animallawreform.org/wp-content/uploads/2025/03/ALRSA-Submission-Draft-Regulation-for-Meat-Analogues.pdf>.

²³ ALRSA <https://www.animallawreform.org/wp-content/uploads/2025/03/ProVeg-ALRSA-Letter-to-DALRRD-1.pdf>.

²⁴ ALRSA <https://www.animallawreform.org/wp-content/uploads/2025/03/ALRSA-Processed-Meat-Regulations-Submission-May-2024.pdf>.

2024);

16. Regulation Regarding the Classification, Packing and Marking of Processed Meat and Certain Raw Processed Meat Products Intended for Sale (17 May 2024);²⁵
17. Draft Regulations Regarding the Labelling and Advertising of Foodstuffs Under the Foodstuffs, Cosmetics and Disinfectants Act (21 September 2023);²⁶
18. Meat Safety Act 40 of 2000 Exemption (submitted 23 November 2022);²⁷
19. Letter Response to the Department of Agriculture, Land Reform and Rural Development's Communique to the Stakeholders of meat analogue products (30 June 2022);²⁸
20. Draft Guidelines for the transportation of Live Animals by Sea (submitted 30 April 2021);²⁹
21. Draft SANS 1758: Code for Chicken Welfare (April 2021);
22. Proposed Amendments to the Meat Safety Act 40 of 2000 (submitted 30 June 2020);³⁰
23. Draft Regulations Relating to Farm Feeds in terms of Fertilizer, Farm Feeds, Agricultural Remedies and Stock Remedies Act (submitted 19 April 2019); and³¹
24. Draft Regulations regarding the Grading, Packing and Marking of Eggs intended for Sale in the Republic of South Africa (submitted 1 July 2019).³²

among others (collectively, "**ALRSA Submissions**").

III. RELEVANT RESEARCH AND POLICY CONTRIBUTIONS TO THE CURRENT SUBMISSION

In addition to the previous submissions listed above, this submission is further informed by several of ALRSA's major research reports and strategic engagements which directly address animal welfare and

²⁵ ALRSA <https://www.animallawreform.org/wp-content/uploads/2025/03/ALRSA-Processed-Meat-Regulations-Submission-May-2024.pdf>.

²⁶ ALRSA <https://www.animallawreform.org/wp-content/uploads/2023/11/ALRSA-Submission-Draft-Regulations-Food-Labeling-and-Advertising.pdf>.

²⁷ ALRSA <https://www.animallawreform.org/wp-content/uploads/2023/01/ALRSA-Meat-Safety-Act-Submission.pdf>.

²⁸ ALRSA <https://www.animallawreform.org/wp-content/uploads/2022/07/Joint-Response-to-Communique.pdf>.

²⁹ ALRSA: <https://www.animallawreform.org/wp-content/uploads/2021/05/Live-Export-Submission-ALRSA-CALS-1.pdf>.

³⁰ ALRSA <https://www.animallawreform.org/wp-content/uploads/2020/07/ALRSA-and-EMS-Meat-Safety-Act-Comments.pdf>.

³¹ ALRSA <https://www.animallawreform.org/wp-content/uploads/2019/08/12.-ALRSA-Comments-Feed-and-Pet-Food.pdf>.

³² ALRSA <https://www.animallawreform.org/wp-content/uploads/2019/08/13.-ALRSA-Comments-on-Egg-Labeling-Standards.pdf>.

transparency in the South African food system, including:

1. *“Scrambling for the Truth” (2024, updated 2025)*: This report explores “corporate hypocrisy” and non-transparency regarding environmental and consumer rights, specifically investigating the efficacy of voluntary labelling.³³ It identifies a significant “transparency gap” where consumers are misled by carefully crafted corporate narratives that conceal the true impacts of production on animals and the environment.³⁴
2. *“Laying Down the Facts” (2023, updated 2025)*: This comprehensive report provides an in-depth analysis of the South African egg and poultry industry, identifying systemic gaps in animal welfare standards and corporate transparency.³⁵ It highlights how the proliferation of voluntary standards, largely produced by industry bodies, fails to provide enforceable legal protections for sentient animals.³⁶
3. *Submission to the SAHRC National Investigative Hearing into South African Food Systems (2026)*: ALRSA provided detailed evidence on the malfunctioning of the national food system and the critical and undeniable link between the right to food and animal protection.³⁷ This submission advocates for an “animal flourishing” lens to be integrated into food governance to redress entrenched structural inequality.³⁸
4. *“A Manifesto for Transforming Animal Protection in South Africa: A Constitutional Imperative” (2024)*: A foundational policy document developed under the Animal Law Project which outlines the three foundational values of sentience, intrinsic value, and constitutional alignment.³⁹ It proposes 20 recommendations to move South African law from a “welfare floor” to an “animal flourishing” ceiling.⁴⁰
5. *Submissions on the Draft Regulations for the Labelling and Advertising of Foodstuffs (2023)*: ALRSA engaged with the Department of Health to advocate for mandatory disclosures and front-of-pack labels (“**FOPLs**”) that empower consumers to make informed choices.⁴¹ We argued that transparent labelling is a rational and critical step toward protecting the interests of the vulnerable and ensuring market accountability.⁴²

³³ *Supra* note 10 (*Scrambling for the Truth*) at 13.

³⁴ *Ibid* at 14.

³⁵ *Supra* note 4 (*Laying Down the Facts*) at 15.

³⁶ *Ibid* at 10.

³⁷ *Supra* note 17 (*Initial SAHRC Submission*) at 13.

³⁸ *Ibid* at 37.

³⁹ Animal Law Project, *A Manifesto for Transforming Animal Protection in South Africa: A Constitutional Imperative* (2024). Available at: https://animallawproject.org.za/wp-content/uploads/2024/09/Animal-Law-Project_Manifesto_2024.pdf

⁴⁰ *Ibid* at 51.

⁴¹ *Supra* note 3 (*Supplementary Submission to the SAHRC*) at 5.

⁴² *Ibid* at 7.



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6. *The “Eggposure” Campaign (2025)*: A strategic initiative launched in collaboration with other African organisations calling for the release of the undisclosed poultry and egg industry-funded study (“**NAMC Study**”) and greater accountability from industry bodies like the Consumer Goods Council of South Africa (“**CGCSA**”) and the South African Poultry Association (“**SAPA**”).⁴³ This campaign highlights how industry opacity suppresses public debate and stifles meaningful welfare reform.⁴⁴

IV. BASIS FOR ALRSA’S INTERVENTION

Many of the substantive legal and procedural arguments raised in the aforementioned ALRSA Submissions and research and policy interventions find direct application to the current proposal to register methods of production as an MCS. Consequently, the core tenets of our previous advocacy regarding the recognition of animal sentience, intrinsic value, incorporating animal well-being, flourishing, and applying the “Integrative Approach” of Section 24 of the Constitution are fundamentally relevant to the evolution of this framework.⁴⁵

ALRSA submits that for the system envisioned by the Department through this consultation to truly achieve the objectives and purpose of the MCS Regulations, including “ensuring transparent and fair trade practices, as well as consumer protection”,⁴⁶ it must address the existing gaps and lacunae where the proposed standards currently fail to account for the physical and mental welfare and well-being of sentient animals.

Notably, despite judicial developments such as the “Lion Bone Case,” which explicitly rejected the “formalism” that allowed government departments to ignore animal welfare simply because they did not hold the primary welfare mandate,⁴⁷ the Department continues to issue proposals that risk reproducing historical flaws by failing to integrate animal well-being as a concept into the core of agricultural standards, and failing to ensure consistency and clarity across applicable regulations and standards. The move toward a registered MCS represents a critical opportunity to rectify these oversights by formally integrating NEMBA’s well-being mandate into auditable standards for farmed animal protection.

V. BACKGROUND

The formal South African animal agriculture industry is increasingly being characterised by a massive and intensifying scale of production, with more than 1.1 billion land animals produced and killed for

⁴³ *Ibid* at 21.

⁴⁴ *Ibid* at 14.

⁴⁵ *Supra* note 39 (*Animal Law Project*).

⁴⁶ The National Department of Agriculture ‘Management Control Systems (MCS)’. Available at: <https://www.nda.gov.za/index.php/publication/623-management-control-systems-mc>.

⁴⁷ *National Council of Societies for the Prevention of Cruelty to Animals v Minister of Environmental Affairs and Others* (86515/2017) ZAGPPHC 337 (the “Lion Bone Case”) at para 74. Available at: <https://nspca.co.za/wp-content/uploads/2021/10/Lion-Bone-Judgment.pdf>



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food every year.⁴⁸ This sector is dominated by industrial animal farms (or rather, animal factories), otherwise known as factory farms, which utilises intensive methods to maximise profit and production speed.⁴⁹ The industry reality is that agribusiness mass exploits animals as mere “units in an industrial process” or “biological assets”, with productivity metrics frequently overriding basic biological needs.⁵⁰

The scale of slaughter is immense; to meet the highest rate of meat consumption in Africa, the industry kills approximately three million chickens every day.⁵¹ Common and legally sanctioned intensive practices include close confinement in battery cages and sow stalls, as well as routine mutilations like dehorning and castration performed without anaesthesia.⁵² While the industry operates under an established regulatory framework, ALRSA maintains that when it comes to animal protection, the current state of affairs resembles a “wild west” of soft laws and voluntary guidelines rather than coherent regime of binding legal obligations and effective enforcement.⁵³

Furthermore, the current legislative framework offers a “mere illusion of protection” due to several systemic failures.⁵⁴ For instance, the failure to promulgate binding regulations for the treatment of farmed animals; instead, the result is a proliferation of voluntary, unenforceable guidelines created by the South African Bureau of Standards (“**SABS**”) and industry bodies like the South African Poultry Association (“**SAPA**”),⁵⁵ the South African Pork Producers Association (“**SAPPO**”) and the Livestock Welfare Co-ordinating Committee (“**LWCC**”), among others. As industries profiting from animals often determine their own “welfare” frameworks, standards rarely (if ever) rise above what is economically efficient for the producer.⁵⁶ Furthermore, the primary law, the Animals Protection Act 71 of 1962 (“**APA**”), is over 60 years old and prohibits things like “unnecessary suffering” without defining what suffering is deemed “necessary”.⁵⁷ This vagueness leaves the interpretation of the law open, likely defaulting to industry norms, and leaving millions of sentient beings vulnerable to exploitation behind “closed doors”.⁵⁸

It is against this backdrop of fragmented oversight and a predominantly voluntary system that the Department has issued the MCS Proposal.⁵⁹ Under the existing voluntary framework, producers are often left to navigate a vacuum devoid of mandatory, codified welfare metrics. This lack of legal certainty has led to critical shortcomings, making it difficult for consumers to make informed choices

⁴⁸ *Supra* note 17 (*Initial SAHRC Submission*) at 17.

⁴⁹ *Supra* note 10 (*Scrambling for the Truth*) at 9.

⁵⁰ *Supra* note 4 (*Laying Down the Facts*) at 71; see also: *Supra* note 10 (*Scrambling for the Truth*) at 59.

⁵¹ *Supra* note 10 (*Scrambling for the Truth*) at 9.

⁵² *Supra* note 3 (*Supplementary Submission to the SAHRC*) at 40.

⁵³ *Supra* note 4 (*Laying Down the Facts*) at 56.

⁵⁴ *Ibid* at 122.

⁵⁵ *Ibid* at 9; see also *Supra* note 10 (*Scrambling for the Truth*) at 152.

⁵⁶ *Supra* note 4 (*Laying Down the Facts*) at 106.

⁵⁷ *Ibid* at 91; see also *Animals Protection Act 71 of 1962*.

⁵⁸ *Supra* note 3 (*Supplementary Submission to the SAHRC*) at 38.

⁵⁹ Department of Agriculture, Notice No. 7597 of 19 June 2026: *Intention to Register Methods of Production as a Management Control System*: https://www.gov.za/sites/default/files/gcis_document/202606/54853gon7597.pdf.

and for the state to prevent deceptive trade practices.⁶⁰ In this largely unregulated space, labels such as “Free Range”, “Pasture Raised”, “Barn” and “Sow Friendly” can be utilised without substantively addressing the physical or mental state of individual animals,⁶¹ and lead to consumer confusion and uncertainty.

The proposed registration of methods of production seeks to introduce a formal framework under the APSA.⁶² The most significant change lies in the transition from voluntary industry guidelines to a state-registered system of control.⁶³ Under this model, the Department will determine the specific criteria a producer must meet to legally utilise a certain production label (including diet-related claims).⁶⁴ This decision carries considerable weight, as the competent authority will assess the standards of each production method to determine whether it meets the requirements for registration.⁶⁵ This process affords authorities a critical opportunity to move away from the “wild west” of the past and establish robust, measurable metrics for animal care and protection.⁶⁶

The Department has proposed several distinct Annexures to categorise production methods based on their specific agricultural risk and intended claim:

- ❖ **Annexure B** is designed for “Barn Eggs”, which aims to provide a floor-based alternative to intensive cage systems.
- ❖ **Annexure C**, “Canola Eggs”, aims to provide dietary and other guidance on hens who are fed a canola-based diet.
- ❖ **Annexure D**, “Fed a Vegetarian Diet”, is aimed at regulating the conditions needed for animals who are fed 100% plant-based foods.
- ❖ **Annexure E** pertains to “Free Range” poultry (chickens) and eggs, which require daily access to an outdoor range.
- ❖ **Annexure F** applies to “Free Range” animals, namely cows, pigs, and sheep.
- ❖ **Annexure G** is reserved for “Grainfed Eggs,” which currently focuses primarily on dietary intake of layer hens.
- ❖ **Annexure K** pertains to “Organic Production”, which aims to regulate both plant and animal production systems, including for fruit, vegetables, oilseeds, grain, mushrooms, meat (of sheep, goats, cattle, pigs, and poultry (chickens)), eggs (chickens), and honey.
- ❖ **Annexure L** aims to regulate “Pasture Raised” animals who are raised on land with rooted

⁶⁰ *Supra* note 3 (*Supplementary Submission to the SAHRC*) at 12.

⁶¹ *Supra* note 10 (*Scrambling for the Truth*) at 139.

⁶² *Agricultural Product Standards Act* 119 of 1990 (“APSA”), Section 6.

⁶³ *Supra* note 4 (*Laying Down the Facts*) at 17, 107 and 122.

⁶⁴ APSA at Section 3.

⁶⁵ *Supra* note 4 (*Laying Down the Facts*) at 17.

⁶⁶ *Ibid.*



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vegetation and have access to fresh pasture 24 hours a day to allow the animals to practice natural behaviours.

- ❖ **Annexure N** focuses on “Sow Friendly Pork,” seeking to regulate the conditions to which sows in the pig industry are subjected to.

VI. GLARING OMISSIONS

Before addressing the specific technical merits of the proposed Annexures, ALRSA must highlight a glaring and unacceptable omission: the total exclusion of regulatory standards for “Caged Eggs” (i.e. eggs from hens in cages) from the MCS Proposal. As outlined in the attached [Open Letter](#), approximately 95% of egg-laying hens in South Africa are confined in **intensive battery cages**,⁶⁷ yet the Department has elected to draft standards only for “premium” labels such as “Barn”, “Free Range” and “Organic”, among others.

By failing to provide a registered management system for the most prevalent and one of the cruellest forms of (egg) production, the Department is leaving the majority of South Africa’s laying hens (in the tens of millions) outside of regulatory “protection”, with no minimum requirements or disclosure requirements, effectively concealing the realities of the industrial food system from the public.⁶⁸

ALRSA maintains that any legitimate “**Control System**” must mandate the prominent disclosure of “**Caged**”, “**Battery Cage**”, and “**Enriched Cage**” or other relevant term, on the front of all applicable packaging and/or at the point of sale of any egg, to satisfy the consumer transparency requirements of **Section 6 of APSA** and **Section 24 of the CPA, among other consumer protection and transparency related laws**. Should the Department elect not to publish caged eggs as a Proposed Method of Production under the MCS Regulations, the Department should, at a minimum, **provide an official, public explanation with the rationale for the decision and allocate an extended comment period for public participation**. Please refer to the attached [Open Letter](#) for additional concerns raised in respect of this omission as well as specific requests.

VII. SUMMARY OF SHORTCOMINGS AND PATTERNS OBSERVED

While ALRSA supports the modernisation of these standards (insofar as they bring greater transparency, consistency and accountability), our detailed review of the proposed standards reveals several troubling patterns that undermine the Department’s responsibilities, including a duty of care toward sentient animals. ALRSA has observed consistent adherence by the Department to **intensive industrial and inadequate minimum standards** rather than sufficient consideration to the animals’ biological and physical requirements as sentient beings. For example, the group housing space for sows and the indoor stocking densities for poultry appear designed for industrial efficiency rather than facilitating animal welfare through the Five Freedoms and Five Domains model, and arguably in conflict

⁶⁷ South African Poultry Association (“SAPA”), Annual Report 2024 (published June 2025), available at: <https://www.sapoultry.co.za/wp-content/uploads/2025/06/SAPA-Annual-Report.pdf>. According to the report, “In 2024, 98.6% of the eggs were produced in cages”.

⁶⁸ *Ibid.*



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with “**animal well-being**” now codified under NEMBA as amended by NEMLAA.⁶⁹

Furthermore, the **MCS Proposal** is characterised by a reliance on **vague, confusing and misleading terminology** and **discretionary mandates** that are legally unenforceable and offer no objective metrics for auditors.⁷⁰ Phrasing such as ventilation being “*appropriate to the animals*” or barn floors that “*may*” be covered with litter creates significant legal loopholes that producers can exploit to the detriment of both consumers and animals.⁷¹ Perhaps most significantly, the current draft facilitates “**humane-washing**” by allowing “premium” labels for problematic animals treatment, allowing for intensive confinement and other concerning practices. A primary example is the “**Grainfed**” standard, which inadvertently allows birds to be confined in intensive battery cages as long as their diet is controlled, potentially creating a false “halo effect”⁷² of higher or superior standards of care in the eye of the consumer.⁷³ Unless the MCS Regulations move beyond industry-acceptable interpretations and adopt measurable, scientifically grounded metrics in a consistent manner, they will effectively fail to provide the transparency required for a just, equitable, and accountable food system in South Africa,⁷⁴ and are subject to challenge on various legal grounds.

Furthermore, the Annexures contain direct conflicts with other existing regulations, including for example, in the case of eggs, and Regulation 345. Please refer to the attached [Open Letter](#) for further information.

Based on the above considerations and those raised in the submissions on the individual Annexures (included below), we propose that the Department undertake a detailed review of the proposed documents and address concerns raised in our submissions and [Open Letter](#). In light of the fact that hundreds of millions of animals stand to be affected by the proposals, and that these systems stand to impact the environment, food safety and public health, consumer rights, constitutional rights, and the South African economy, that a broad public participation process be initiated before any final versions are published.

We look forward to receiving a response to our Submission and are available to address any queries, comments, or concerns the Department may have in respect of this document to ensure a robust and truly holistic regulatory ecosystem governing agricultural products in South Africa.

Kindly confirm receipt of this Submission and address further correspondence to the email addresses: amywilson@animallawreform.org; michaelatafani@animallawreform.org and paulaknipe@animallawreform.org.

⁶⁹ NEMLAA at Section 1.

⁷⁰ *Supra* note 10 (*Scrambling for the Truth*) at 139.

⁷¹ ALRSA Comments on Draft MCS for Free Range Poultry and Eggs (20 July 2026) at Point 4.1(h)(ii).

⁷² *Supra* note 10 (*Scrambling for the Truth*) at 139.

⁷³ *Ibid* at 103.

⁷⁴ *Supra* note 4 (*Laying Down the Facts*) at 17.



Yours sincerely,

A handwritten signature in black ink, appearing to read "APW".

Amy P. Wilson

BCom; LLB; LLM; LLD Candidate

Executive Director, Co-Founder

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APPENDIX I:

ADDITIONAL SUPPORTING COMMENTS FOR THE DEPARTMENT'S CONSIDERATION

I. ANIMAL WELFARE AND WELLBEING

Historically, a significant divide has existed in the South African regulatory landscape where legislation regulating animal matters were split between the **DoA** (previously the Department of Agriculture, Land Reform and Rural Development (“**DALRRD**”) (through various legislation including but not limited to the APA, and animal agricultural legislation) and the Department of Forestry, Fisheries and the Environment (“**DFFE**”)⁷⁵ (and regulation such as NEMBA, TOPS and various norms and standards). This division resulted in regulatory overlap, gaps and conflict, as the DoA has primarily focused on industry profitability and minimum animal “welfare” standards, while the **DFFE** has overseen wildlife conservation and the newly codified concept of “well-being”.⁷⁶ ALRSA submits that this fragmentation has created critical gaps in the protection of farmed animals and has frequently stalled essential legislative progress toward the protection of all animals as sentient beings.⁷⁷

Previously, the DFFE argued that it did not have legislative authority to regulate issues of animal welfare, which sat under DoA. We have previously questioned and challenged this historical “passing of the (animal protection) buck” between departments, including by citing the landmark 2019 “**Lion Bone Case**” (*National Council of Societies for the Prevention of Cruelty to Animals v Minister of Environmental Affairs and Others*).⁷⁸ In this matter, the High Court explicitly rejected the “formalism” that previously allowed a department to ignore animal welfare simply because it did not hold the primary welfare mandate.⁷⁹ The Court held that even where a primary welfare mandate resides with the DoA, the DFFE is legally obliged to consider welfare if it is a relevant factor in its decision-making, and we submit that the inverse is equally true for this Department.⁸⁰

In a similar vein, ALRSA argues that the DoA cannot continue to define “welfare” so narrowly as to exclude the “well-being” criteria now recognised in South African constitutional law and the environmental right, as the two concepts are functionally inseparable in a holistic system.⁸¹

The statutory definition of well-being and the international definition of welfare have become virtually identical in South African law, making any attempt to separate them artificial:

- NEMBA as amended by the NEMLAA defines well-being as the “*holistic circumstances and conditions of an animal, which are conducive to its physical, physiological and mental health and*

⁷⁵ *Ibid* at 122.

⁷⁶ *Ibid* at 130, 132.

⁷⁷ *Supra* note 17 (*Initial SAHRC Submission*) at 72.

⁷⁸ *Supra* note 47 (the “Lion Bone Case”).

⁷⁹ *Ibid* at para 74.

⁸⁰ *Ibid* at para 67.

⁸¹ NEMLAA at Section 1.

quality of life, including the ability to cope with its environment".⁸²

- The World Organisation for Animal Health (“**WOAH**”), of which South Africa is a member, defines animal welfare as the “*physical and mental state of an animal in relation to the conditions in which it lives and dies*”.⁸³

Because these definitions are inextricably linked and both encompass the physical and mental state of an animal, ALRSA maintains that animal “welfare” as traditionally understood under agricultural mandates must now further be interpreted and considered through the lens of “well-being” as established under environmental mandates.⁸⁴ This cohesive approach is the only way to ensure full constitutional alignment and to fulfil the State’s duty of care toward sentient beings within the food system.⁸⁵

II. REIMAGINING THE FOOD SYSTEM: UBUNTU AND ANIMAL FLOURISHING

To ground these legal developments, ALRSA turns to a relational interpretation of *Ubuntu*, a core value underpinning our Constitution.⁸⁶ While the traditional maxim *umuntu ngumuntu ngabantu* (“a person is a person through other persons”) is often human-centred,⁸⁷ ALRSA argues that the “we” in “**I am because we are**” must transcend the species barrier to encompass a broader **Community of Life**.⁸⁸ This framework posits that **human flourishing is inseparable from animal flourishing**.⁸⁹

Exploitation and the suffering of millions of animals within agricultural systems is not merely a biological or economic concern; it is a practice that degrades humanity and moral integrity.⁹⁰ As recognised in early South African jurisprudence, the prohibition of animal cruelty serves to “*prevent degeneration of the finer human values*”.⁹¹ Therefore, a truly “caring society” cannot maintain respectful human relationships while treating agricultural animals as mere “things” or commodities.⁹² By integrating this expanded view of *Ubuntu* into the MCS, the Department can move toward a food system that reflects the interconnectedness of all life and ensures that no sentient being is left behind.⁹³

⁸² *Ibid.*

⁸³ World Organisation for Animal Health (*WOAH*), *Terrestrial Animal Health Code* (32nd Edition, 2024), Vol. 1, Glossary at xiii. Available at: <https://www.woah.org/en/what-we-do/standards/codes-and-manuals/terrestrial-code-online-access/>.

⁸⁴ *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development* ZACC 46 (the “2016 NSPCA Case”) at para 58 regarding the “Integrative Approach”.

⁸⁵ *Supra* note 17 (*Initial SAHRC Submission*) at 21 regarding the interconnectedness of all life.

⁸⁶ *Ibid* at 30.

⁸⁷ *Ibid* at 21.

⁸⁸ *Ibid* at 30; see also *Supra* note 3 (*Supplementary Submission to the SAHRC*) at 59.

⁸⁹ *Ibid* at 56.

⁹⁰ *Supra* note 17 (*Initial SAHRC Submission*) at 21.

⁹¹ *S v Edmunds* 1968 (2) PH H398 (N), as cited in *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development* ZACC 46 at para 57.

⁹² *Supra* note 17 (*Initial SAHRC Submission*) at 21.

⁹³ *Supra* note 3 (*Supplementary Submission to the SAHRC*) at 61.



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The “**Lion Bone Case**” utilised the Integrative Approach to link the suffering of individual animals to broader constitutional values, establishing that animal welfare and conservation are intertwined.⁹⁴ This judicial precedent allows for a vital transition and progression - from traditional welfarism- to a robust standard of Animal Flourishing:

- Welfare (The Floor): Traditionally, the agricultural sector has focused on animal “welfare” as the mere absence of “unnecessary suffering” or the preservation of “productive livestock”.⁹⁵ As aforementioned, international standards, such as those defined by **WOAH**, focus on the “*physical and mental state of an animal in relation to the conditions in which it lives and dies*”.⁹⁶
- Flourishing (The Ceiling): Rooted in the Capabilities Approach, flourishing requires that animals be given substantive opportunities to perform functions characteristic of their species, such as a pig rooting or a chicken scratching.⁹⁷ Animal Flourishing means to thrive, develop successfully, and experience positive physical and mental states, representing a standard of care significantly higher than the mere absence of cruelty.⁹⁸

Because the High Court ruled it “inconceivable” that a department (of environment in that case) could ignore welfare in environmental decisions,⁹⁹ ALRSA submits that the DoA is now similarly compelled to look beyond narrow “productivity metrics”.¹⁰⁰ The Department must consider whether proposed agricultural systems - specifically, those involving intensive confinement like battery cages, sow stalls, veal crates or gestation crates - allow for a life worthy of an animal’s inherent dignity and sentience.¹⁰¹ A registered MCS that fails to facilitate these positive states is fundamentally inconsistent with the constitutional recognition of animals as sentient beings with intrinsic value.¹⁰²

III. CRITICAL ANALYSIS: SUMMARY OF SHORTCOMINGS AND PATTERNS OBSERVED

While ALRSA acknowledges that the MCS Proposal represents a formal effort to regulate certain methods of production claims, our detailed review of the proposed standards: specifically Annexures B, C, D, E, F, G, K, L and N: reveals a troubling trend. Unlike the Environmental Impact Assessment (“**EIA**”) system, which frequently operates in a total strategic vacuum regarding animals, the MCS strives to address production methods but fails to reach the necessary conclusion: the formal and

⁹⁴ *Supra* note 47 (the “*Lion Bone Case*”) at para 74.

⁹⁵ *Supra* note 4 (*Laying Down the Facts*) at 71.

⁹⁶ *Supra* note 83 (WOAH) at glossary.

⁹⁷ *Supra* note 39 (*Animal Law Project*) at 40; see also ALRSA Comments on Draft MCS for Barn Eggs (20 July 2026) at Point 4.2(f).

⁹⁸ *Supra* note 4 (*Laying Down the Facts*) at 71.

⁹⁹ *Supra* note 47 (“*Lion Bone Case*”) at para 74.

¹⁰⁰ *Supra* note 17 (*Initial SAHRC Submission*) at 34.

¹⁰¹ *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development ZACC* 46 at para 57.

¹⁰² *NSPCA v Minister of Justice ZACC* 46 at para 58.

substantive integration of animal well-being as a mandatory, measurable indicator for these labels.¹⁰³ Instead, the current drafts are characterised mainly by housing and dietary requirements that often undermine their stated purpose and fail to meet the statutory mandate for well-being established under the NEMBA as amended by NEMLAA.¹⁰⁴

A recurring theme across the Annexures is the adoption of intensive industrial minimum standards as the regulatory baseline,¹⁰⁵ rather than standards that facilitate **animal well-being** or **Animal Flourishing**. For instance, the “Sow Friendly Pork” standard (Annexure N) proposes a minimum group housing space of only 2.25 square metres, a metric that barely permits standing and lying and fails to provide the “social flight distance” required to prevent aggression between sows.¹⁰⁶ Similarly, the draft for “Free-Range” eggs (Annexure E) creates a severe regulatory contradiction by permitting a higher indoor stocking density (10 birds per square metre) than the supposedly lower tier “Barn Egg” standard (6 birds per square metre).¹⁰⁷ This effectively allows a “premium” or “higher welfare” label to represent indoor conditions that are 40% more cramped than a standard floor-based system, a practice that is potentially misleading to consumers and ignores the biological requirement for comfort behaviours like wing-stretching and preening.¹⁰⁸

Additionally, the efficacy of the MCS as a “control system” is compromised by the pervasive use of vague and subjective (and legally unenforceable) terminology.¹⁰⁹ Requirements for ventilation and air quality are frequently described as “appropriate to the animals,” a soft standard that offers no objective metric for auditors.¹¹⁰ In contrast, leading international benchmarks and even the industry’s own SAPA Code of Practice 2022 set specific, measurable limits, such as a maximum ammonia threshold of 20 to 25 ppm to prevent respiratory distress and corneal burns.¹¹¹ Furthermore, the use of discretionary language, such as stating that barn floors “may” be covered with litter, creates significant legal loopholes.¹¹² If a mandate for litter is not absolute, a producer could potentially (legally) market eggs as “Barn Eggs” from facilities with 100% wire mesh floors and no litter, which is essentially a large-scale cage system that violates the hens’ biological need for scratching and dust bathing.¹¹³

Together, these shortcomings run the risk of constituting “humane-washing,” where claims (often in

¹⁰³ *Supra* note 17 (*Initial SAHRC Submission*) at 34.

¹⁰⁴ NEMLAA at Section 1.

¹⁰⁵ ALRSA Comments on Draft MCS for Sow Friendly Pork (20 July 2026) at Point 5.6.

¹⁰⁶ *Ibid.*

¹⁰⁷ ALRSA Comments on Draft MCS for Free Range Poultry and Eggs (20 July 2026) at Point 4.3(a)(i).

¹⁰⁸ Consumer Protection Act 68 of 2008 (“CPA”), Section 24.

¹⁰⁹ ALRSA Comments on Draft MCS for Barn Eggs (20 July 2026) at Point 4.1(h)(ii).

¹¹⁰ *Ibid.*

¹¹¹ ALRSA Comments on Draft MCS for Free Range Poultry and Eggs (20 July 2026) at Point 4.1(h)(ii); see also: South African Poultry Association (“SAPA”) Code of Practice (2022). Available at: <https://www.sapoultry.co.za/wp-content/uploads/2022/06/2022-SAPA-COP.pdf>.

¹¹² ALRSA Comments on Draft MCS for Barn Eggs (20 July 2026) at Point 4.2(c).

¹¹³ *Ibid*; see also *Supra* note 83 (*WOAH*) at Article 7.Z.11.



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the form of imagery, labelling, or explicit statements) regarding the treatment of animals are false or misleading.¹¹⁴ The current draft for “Pasture Raised” (Annexure L) makes reference to, thereby authorising the use of, cages for the confinement of animals - contrary to what consumers would likely expect from such a label. Moreover, “Grainfed Eggs” (Annexure G) inadvertently allows birds to be confined in intensive battery cages as long as their diet is controlled.¹¹⁵ By emphasising a single input (feed) while concealing the production system (intensive confinement), the MCS risks violating Section 6 of APSA and Section 24 of the Consumer Protection Act (“CPA”), both of which prohibit visual expressions or trade descriptions that create a misleading impression regarding production methods.¹¹⁶ A similar risk exists in the “Sow Friendly” standard, which permits up to 56 days of continuous stall confinement, a practice fundamentally inconsistent with the higher-welfare claim and international high welfare benchmarks.¹¹⁷

Finally, the proposed standards largely ignore the mental state and cognitive needs of sentient animals.¹¹⁸ Leading scientific frameworks, such as the Five Domains Model (a progressive development from the Five Freedoms), emphasise that well-being requires more than the mere absence of suffering: it requires the promotion of positive states.¹¹⁹ The MCS Proposals remain largely silent on destructible enrichment (such as pecking blocks or hay bales for poultry), risking the creation of industrially barren environments that lead to chronic frustration, aggression, and cannibalism.¹²⁰ Similarly, the “Free-Range” poultry (and egg) standards fail to mandate distributed natural cover or adequate shade, ignoring the innate biological fear of open spaces that leads to “range avoidance,” where birds are psychologically prevented from utilising the outdoor space they are technically provided.¹²¹ Without specific mandates for environmental complexity that are species-specific, these systems fail to facilitate animal flourishing or meet the requirement for animal well-being as recognised under South African law.¹²²

Given these systemic concerns, this submission provides technical and/or legal commentary and scientific justifications for the following Annexures: **Annexure B (Barn Eggs); Annexure C (Canola Eggs); Annexure D (Fed a Vegetarian Diet); Annexure E (Free Range Poultry and Eggs); Annexure F (Free Range Livestock); Annexure G (Grainfed Eggs); Annexure K (Organic Production), Annexure L (Pasture Raised), and Annexure N (Sow Friendly Pork).**

ALRSA submits that unless these drafts are amended to include measurable, hard-law metrics grounded in the **capabilities approach** and **animal flourishing**, they will remain industrially focused guidelines

¹¹⁴ Animal Legal Defense Fund ‘How False Advertising Lawsuits Help Animals’ Available at <https://aldf.org/article/how-false-advertising-lawsuits-help-animals/>.

¹¹⁵ ALRSA Comments on Draft MCS for Grainfed Eggs (20 July 2026) at Point 4.

¹¹⁶ APSA at Section 6; CPA at Section 24(2)(a).

¹¹⁷ ALRSA Comments on Draft MCS for Sow Friendly Pork (20 July 2026) at Point 5.2.

¹¹⁸ *Supra* note 17 (*Initial SAHRC Submission*) at 37.

¹¹⁹ *Ibid*; see also *Supra* note 4 (*Laying Down the Facts*) regarding the Five Domains Model.

¹²⁰ ALRSA Comments on Draft MCS for Barn Eggs (20 July 2026) at Point 4.2(f).

¹²¹ ALRSA Comments on Draft MCS for Free Range Poultry and Eggs (20 July 2026) at Point 4.2(e).

¹²² NEMLAA at Section 1; see also: *Supra* note 39 (*Animal Law Project*) at 51 regarding Animal Flourishing.

that fail to meet the constitutional and statutory mandate for animal well-being in South Africa.

IV. RECOMMENDATIONS

While we commend the Department for its intention to register detailed standards for sixteen methods of (animal) production, in their current form, they fail to meet the substantive constitutional and other legal obligations they are designed to regulate.¹²³ To rectify this, the Department must move beyond industrial minimum standards toward a framework that recognises the well-being of animals as sentient beings, by removing regulatory opportunities for “humane-washing” by enforcing measurable, hard-law metrics.¹²⁴

Central to this transition is the necessity of moving from a “welfare floor”: defined by the mere absence of suffering: to an “**animal flourishing ceiling**” which requires the presence of positive physical and mental states.¹²⁵ The **Lion Bone Case** establishes that the Department cannot ignore animal welfare in its decision-making.¹²⁶ Consequently, agricultural standards: such as those for “Sow Friendly” or “Barn Eggs” must look beyond narrow productivity metrics to ensure that animals are given substantive opportunities to perform functions characteristic of their species, such as a pig rooting or a chicken scratching.¹²⁷

It is submitted that higher welfare and premium dietary labels must be legally tied to housing systems AND the production method (e.g., “Caged” or “Stall-Free”) must be prominently disclosed as front-of-pack labelling.¹²⁸ Without mandatory disclosure, the MCS facilitates deceptive trade practices that potentially violate the CPA and the APSA and other consumer protection authorities.¹²⁹

The submission maintains that “soft” standards and vague terminology, such as ventilation being “appropriate to the animals”, are legally unenforceable and undermine regulatory credibility.¹³⁰ The Department should instead adopt measurable hard-law limits based on leading international benchmarks.¹³¹ This includes setting a maximum ammonia limit of 20 ppm at bird or animal level to prevent respiratory distress and corneal burns,¹³² capping flock sizes at 2,000 birds to allow for stable social hierarchies and individual inspection,¹³³ and implementing a total ban on “routine” mutilations

¹²³ *Supra* note 4 (*Laying Down the Facts*) at 17.

¹²⁴ *Supra* note 10 (*Scrambling for the Truth*) at 139.

¹²⁵ *Supra* note 4 (*Laying Down the Facts*) at 120-121; see also: *Supra* note 17 (*Initial SAHRC Submission*) at 37.

¹²⁶ *Supra* note 47 (the “Lion Bone Case”) at para 74.

¹²⁷ ALRSA Comments on Draft MCS for Barn Eggs (20 July 2026) at Point 4.2(f); see also ALRSA Comments on Draft MCS for Sow Friendly Pork (20 July 2026) at Point 5.4(f).

¹²⁸ ALRSA Comments on Draft MCS for Free Range Poultry and Eggs (20 July 2026) at Point 12.1.

¹²⁹ CPA at Section 24; APSA at Section 6.

¹³⁰ ALRSA Comments on Draft MCS for Barn Eggs (20 July 2026) at Point 4.1(h)(ii).

¹³¹ *Supra* note 4 (*Laying Down the Facts*) at 17.

¹³² ALRSA Comments on Draft MCS for Barn Eggs (20 July 2026) at Point 4.1(h)(ii); see also ALRSA Comments on Draft MCS for Sow Friendly Pork (20 July 2026) at Point 4.2.

¹³³ ALRSA Comments on Draft MCS for Barn Eggs (20 July 2026) at Point 4.2(a).



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such as beak trimming, tail docking, and teeth clipping, ensuring behaviour is managed through environment rather than surgical alteration.

Finally, the Department of Agriculture can no longer operate in a strategic vacuum that essentially excludes environmental law,¹³⁴ and relevant principles. The statutory definition of “well-being” in the NEMBA as amended by NEMLAA is functionally identical to the international definition of “welfare” provided by WOAAH.¹³⁵ Therefore, agricultural standards must be interpreted through a “well-being” lens, reflecting the constitutional value and African philosophy of *Ubuntu* and the recognition that human flourishing is inseparable from animal flourishing.¹³⁶

Thank you for considering our Submission.

Please do not hesitate to reach out should you have any questions.

¹³⁴ *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development* ZACC 46 at para 58 regarding the “Integrative Approach”.

¹³⁵ NEMLAA at Section 1; see also *Supra* note 83 (*WOAH*) at Glossary.

¹³⁶ *Supra* note 17 (*Initial SAHRC Submission*) at 21.



TEMPLATE FOR COMMENTS

DRAFT MANAGEMENT CONTROL SYSTEMS

DUE DATE FOR RECEIVING COMMENTS: 20 AUGUST 2026

ORGANISATION/ COMPANY: ANIMAL LAW REFORM SOUTH AFRICA (ALRSA)

NAME OF DRAFT MANAGEMENT CONTROL SYSTEM: BARN EGGS (ANNEXURE B)

1.	2.	3.
ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
General Comment	Please refer to the Animal Law Reform South Africa cover letter and Open Letter for general objections, comments, concerns and proposals which apply to this Annexure, which are hereby incorporated by reference.	
General Comment	Consider replacing the term “livestock” with “animals” or “farmed animals” throughout. At the very least, consider including a qualification at the beginning of the standard that explains the preferred use of the term “livestock” with an explanation.	In various sections of the draft standards, the term “livestock” is used. While we recognise that “livestock” is an established legal and agricultural term, its predominant use may inadvertently reinforce an instrumental understanding of animals by defining them primarily in terms of their productive function.

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1.	2.	3.
ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
		Barn egg systems are presented as higher-welfare production systems (despite various welfare concerns existing in these systems). However, the language of the standard should reflect the proposed higher ethical and welfare principles that underpin these claims. Greater emphasis on the term “animals” would better align the standard with South Africa’s developing constitutional jurisprudence, which increasingly recognises animals as sentient beings possessing intrinsic value, rather than merely objects of economic use. ¹³⁷
General Comment	Insert a new early-placed clause stating that: “For the purposes of this standard, “barn” means a non-cage housing system in which laying hens are kept indoors on a littered floor with perches, nests and enrichment. All cage systems, including battery, enriched, furnished, colony or other cages, are prohibited and disqualify the use of a “Barn System” claim.”	Without an express prohibition, the term “barn” is ambiguous and could be interpreted to include cage-based systems, which would be misleading to consumers and inconsistent with international usage of “barn” as a non-cage system. This is necessary to give effect to the welfare-differentiated nature of the claim and to avoid misleading representations under the Consumer Protection Act 68 of 2008

¹³⁷ *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development and Another* (CCT1/16) [2016] ZACC 46; 2017 (1) SACR 284 (CC); 2017 (4) BCLR 517 (CC) (8 December 2016). Available at: <https://www.saflii.org/za/cases/ZACC/2016/46.html>.

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1.	2.	3.
ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
		(“CPA”) and the Agricultural Product Standards Act 119 of 1990 (“APSA”). The annexure does not explicitly state that all cage systems (including enriched/furnished/colony or other cages) are prohibited in barn systems. Without this, a producer could arguably comply while still using cages, which could contradict the premise that “barn” is a distinct, “higher-welfare” method. Moreover, the draft should state expressly whether multi-tier or aviary systems fall within the barn category. Silence creates two problems: • Classification uncertainty as producers and certifiers may disagree about whether raised platforms, stepped systems and full aviaries qualify as “barn” housing. • Regulatory gaps - if the system is permitted, the standard currently does not appear to include tier-specific rules

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1.	2.	3.
ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
		addressing access, falls, perch layout, vertical movement, collision risks, manure accumulation or keel-bone damage. Multi-tier systems can increase usable space and provide opportunities for perching, exploration and avoidance. They also create welfare risks that are not present, or are less pronounced, in a single-level barn. ¹³⁸ The standard should therefore not simply permit tiered area to be added to the available floor area without ensuring that hens can safely and consistently use it.
Section 4.1(h)(ii)	Insert a measurable Air Quality Threshold: “Ammonia levels must not exceed 20 ppm at bird level.”	The current draft MCS for “Barn Eggs” uses vague terminology, stating that housing must allow for ventilation and air circulation “appropriate to the animals”. Such subjective “soft” standards are legally unenforceable and undermine regulatory credibility and public trust. ¹³⁹ In contrast, leading international benchmarks set specific, measurable limits to ensure animal well-being.

¹³⁸ Farmer’s Weekly (UK), “Advice on managing welfare issues in multi-tier layer systems” (2022). Available at: <https://www.fwi.co.uk/livestock/poultry/layers/advice-on-managing-welfare-issues-in-multi-tier-layer-systems>.

¹³⁹ *Supra* note 17 (*Initial SAHRC Submission*) at 72 (stating that the “lack of comprehensive, enforceable standards... undermines regulatory credibility”).

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		The FARMS Initiative’s Responsible Minimum Standards (“RMS”) for Laying Hens (2020) sets ammonia at “no more than 20 ppm at bird height”.¹⁴⁰ The New Zealand <i>Code of Welfare (Layer Hens)</i> Minimum Standard No. 8 requires immediate remedial action if ammonia levels greater than 20 ppm are detected at hen level.¹⁴¹ Similarly, the Swedish Board of Agriculture’s Regulations (SJVFS 2019:23) establish a strict threshold where poultry may generally only be temporarily exposed to ammonia levels exceeding 10 ppm.¹⁴² Additionally, the SAPA Code of Practice (2022)¹⁴³ acknowledges the importance of monitoring air quality and sets specific, measurable ammonia levels. It states that the presence of ammonia is a “reliable indicator of build-up of noxious gases”. A level of 10-15

¹⁴⁰ FARMS Initiative, Responsible Minimum Standards (“RMS”) for Laying Hens (2020) at Mitigation Standard 2.4. Available at: <https://www.farmsinitiative.org/rmsforlayinghens>.

¹⁴¹ *Animal Welfare (Layer Hens) Code of Welfare 2012* (New Zealand) at Minimum Standard No. 8(b) (Ventilation). Available at: <https://www.mpi.govt.nz/dmsdocument/46036-Code-of-Welfare-Layer-hens>.

¹⁴² Swedish Board of Agriculture, *Regulations and General Advice on Poultry Farming in Agriculture, etc.* (SJVFS 2019:23) at Chapter 1, Section 26 (mandating that poultry may only be temporarily exposed to air pollution exceeding specific limits, including 10 ppm for ammonia and 3,000 ppm for carbon dioxide). Available at: <https://jordbruksverket.se/>.

¹⁴³ *Supra* note 111 (*SAPA Code of Practice (2022)*).

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		ppm of ammonia can be detected by smell. Once this level (10–15 ppm) is reached, "corrective action should be taken". Additionally, the Code specifies that carbon dioxide levels should be kept below 3,000 ppm.¹⁴⁴ The necessity for these measurable metrics is supported by a robust body of scientific literature. The World Organisation for Animal Health (“WOAH”) confirms that while ammonia should not routinely exceed 25 ppm,¹⁴⁵ higher concentrations result in conjunctivitis, corneal burns, and eventual blindness in poultry.¹⁴⁶ Furthermore, high levels of ammonia are a primary cause of severe respiratory distress, as the gas acts as an irritant that compromises the birds’ immune systems and increases vulnerability to infectious diseases.¹⁴⁷ Prolonged exposure also leads to painful ammonia burns

¹⁴⁴ *Ibid* at 12 (Point 4.5: noting that a level of 10 to 15 ppm can be detected by smell and “once this level is reached, corrective action should be taken”).

¹⁴⁵ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.10, Article 7.10.4, Point 2(c) (stating: “Ammonia concentration should not routinely exceed 25 ppm at broiler level”).

¹⁴⁶ *Ibid* at Chapter 7.10, Point 10 (noting high levels cause “corneal burns and eventual blindness”).

¹⁴⁷ The Better Chicken Commitment, *The Welfare of Broilers in the EU* (2024) at 7 (noting that high ammonia concentrations give rise to “respiratory diseases” and “compromise their immune system”).

Available at: <https://betterchickencommitment.com/>.

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		on the feet, hocks, and breasts. ¹⁴⁸ Adopting a measurable hard-law limit of 20 ppm (in line with New Zealand and FAO benchmarks) ¹⁴⁹ is essential to provide legal certainty and to protect both animal health and the occupational safety of farm workers who are similarly at risk of respiratory disease from poor air quality. ¹⁵⁰
Section 4.2(a)	Maintain the stocking density of 6 hens per m^2 but insert a Maximum Flock Size limit of no more than 2,000 birds per housing unit.	While 6 birds/ m^2 is a good technical standard, density alone does not ensure welfare and does not mitigate the social stress of massive groups. ¹⁵¹ The Swiss Animal Welfare Ordinance (SR 455.1) ¹⁵² and the Bio Suisse Standards (Part II, Chap 5.5.4.1) ¹⁵³ strictly cap housing units at 2,000 laying hens. This is scientifically necessary to allow for stable social hierarchies and to prevent “smothering” and

¹⁴⁸ Royal Society for the Prevention of Cruelty to Animals (“RSPCA”), *Welfare of Meat Chickens* Report (October 2022) at 4 (noting that high stocking density and poor air quality lead to “painful ammonia burns to the feet, legs (hock burn) and breast”). Available at: <https://www.rspca.org.uk/adviceandwelfare/farm/meatchickens>.

¹⁴⁹ *Welfare Requirements for Keeping and Use of Chicken for Meat Production* (FAOLEX) at Point 29.1 (mandating that ammonia does not exceed 20 ppm at the level of the chickens' heads). Available at: <https://www.fao.org/faolex/>.

¹⁵⁰ *Supra* note 10 (*Scrambling for the Truth*) at 145 (Footnote 196: citing Hoppin, JA et al (2014) regarding respiratory disease in United States farmers and occupational exposure to poultry dust).

¹⁵¹ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.Z (noting that social behaviour and spatial distribution are critical animal-based measurables for welfare). *Supra* note 148 (*RSPCA, Welfare of Meat Chickens Report*) at 2 (noting chickens naturally form small flocks of up to 15 individuals).

¹⁵² *Supra* note 152 (*Switzerland | World Animal Protection*).

¹⁵³ Bio Suisse, *Standards for the production, processing and trade of “bud” products* (2023), Part II, Chapter 5.5.4.1 at 121 (explicitly stating: “The maximum number of laying hens per housing unit is 2,000”).

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		mass hysteria,¹⁵⁴ which occur in the 50,000+ bird flocks currently permitted under the proposed open-ended density rule. Furthermore, keeping birds in such vast, undivided numbers makes individual animal inspection practically impossible. This violates the core requirement of both the SAPA Code of Practice¹⁵⁵ and international standards¹⁵⁶ which mandate that every bird must be inspected at least twice daily to identify and treat those that are sick or injured. Without a hard limit on total flock size per housing unit, the system prioritises industrial efficiency over the biological ability of the stockperson to provide "appropriate care" as required by law.¹⁵⁷

¹⁵⁴ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.10, Article 7.10.3, Point 6(a) (warning that fearfulness can lead to broilers “piling on top of, and even suffocating, one another”).

¹⁵⁵ *Supra* note 111 (*SAPA Code of Practice (2022)*) at 14 (Section 5: Stock Supervision, requiring a thorough inspection at least twice per day for every flock).

¹⁵⁶ Swedish Board of Agriculture Regulations at Chapter 1, Section 10 (stating: “Poultry shall be kept in such a way that supervision of them can take place without difficulty”).

¹⁵⁷ *Supra* note 4 (*Laying Down the Facts*) at 71 (emphasising that sentient beings must be provided with positive experiences and the ability to express natural behaviours).

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Section 4.2(c)	Delete the words “may be” and replace with “shall be” (or “must be”).	In legal drafting, the word “may” indicates a voluntary process, ¹⁵⁸ while “shall” or “must” indicates a mandatory requirement. ¹⁵⁹ By stating that a floor “may” be covered with litter, the government is making the foundation of the “Barn” system optional. If this is not corrected to “must,” a producer could legally sell eggs as “Barn Eggs” from a facility with 100% wire mesh floors and no litter, which is essentially a large-scale cage. ¹⁶⁰ This could violate the Consumer Protection Act (“CPA”) ¹⁶¹ by misleading consumers who shop specifically for and/or pay a premium for “Barn Eggs” specifically to support systems that may theoretically allow for natural behaviours like scratching and dust-bathing. ¹⁶² The existing voluntary SAPA Code of Practice in Appendix 7 explicitly states: “Litter must be provided on at least 33% of the floor area.” ¹⁶³ By using “may be,” the

¹⁵⁸ *Supra* note 17 (*Initial SAHRC Submission*) at 72 (criticising the lack of enforceable standards).

¹⁵⁹ *Supra* note 4 (*Laying Down the Facts*) at 102 (noting that vague or discretionary language in regulations is problematic for legal enforcement).

¹⁶⁰ *Supra* note 10 (*Scrambling for the Truth*) at 139 (defining “Humane-washing” as creating a false impression of compassion).

¹⁶¹ Consumer Protection Act 68 of 2008 (“CPA”) at Section 41 (Prohibiting false, misleading or deceptive representations).

¹⁶² *Supra* note 10 (*Scrambling for the Truth*) at 140 (noting that terms like “Barn” or “Free Range” create a “halo effect” that can obscure industrial realities).

¹⁶³ *Supra* note 111 (*SAPA Code of Practice (2022)*) at 39 (Appendix 7: Point 12.7, mandating litter on at least 33% of the floor area).



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		proposed regulation creates a loophole where a producer could provide no litter at all, which is a violation of the birds' biological need for scratching and dust-bathing as recognised by WOAHP (Article 7.Z.11), ¹⁶⁴ FARMS Initiative's Responsible Minimum Standards ("RMS") for Laying Hens, ¹⁶⁵ and New Zealand's Minimum Standard No. 4(i)(vii). ¹⁶⁶ Ensuring a "hard" mandate for litter is essential to protect the integrity of the label and ensure the "well-being" of the hens as required under the National Environmental Management Biodiversity Act 10 of 2004 ("NEMBA") as amended by the National Environmental Management Laws Amendment Act 2 of 2022 ("NEMLAA").
Section 4.2(c)	Further amend the phrase "8-hour sleep schedule" to "8 hours of continuous darkness (less than 1 lux)."	"Sleep" is not a measurable environmental state; ¹⁶⁷ "darkness" is. Leading international high-welfare benchmarks, such as the Global

¹⁶⁴ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.Z (Article 7.Z.11: Dust bathing areas, noting that access to substrate is essential for maintaining feather condition and hygiene).

¹⁶⁵ *Supra* note 140 (*FARMS Initiative, Responsible Minimum Standards ("RMS") for Laying Hens*) at Mitigation Standard 2.3, stating "When hens are enclosed in a house, whether barn raised or free range, when housed indoors at night or during inclement weather, a minimum of one third of the available floor space must be covered with litter for comfort and to enable dustbathing and foraging activities".

¹⁶⁶ New Zealand Code of Welfare at Minimum Standard No. 4(i)(vii) (stating: "All hens must have access to good quality friable litter at all times to allow them to scratch and forage").

¹⁶⁷ *Supra* note 17 (*Initial SAHRC Submission*) at 72 (criticising the lack of comprehensive, enforceable standards).

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		Animal Partnership (GAP), explicitly define darkness as a light intensity of less than 1 lux.¹⁶⁸ This rigorous standard is scientifically necessary because even low levels of "light spill" or dim lighting can disrupt the birds' melatonin rhythms,¹⁶⁹ which are essential for regulating their circadian systems and synchronising biological functions like feeding and digestion.¹⁷⁰ Research confirms that providing a minimum of 8 hours of uninterrupted darkness is critical for allowing birds to achieve proper rest, which reduces physiological stress and significantly lowers levels of fearfulness within the flock.¹⁷¹ Furthermore, adequate dark periods have been linked to improved immune

¹⁶⁸ Global Animal Partnership ("GAP Standard"), *5-Step Animal Welfare Rating Standards for Chickens Raised for Meat* (2018) at 21, Standard 4.5.4 (mandating at least "8 hours of continuous darkness (<1 lux)"). Available at: <https://globalanimalpartnership.org/wp-content/uploads/2018/12/GAP-5-Step-Animal-Welfare-Rating-Standards-for-Chickens-Raised-for-Meat-v3.1.pdf>.

¹⁶⁹ *Supra* note 147 (*The Welfare of Broilers in the EU*) at 7 (noting light is an important factor for birds to establish "rhythmicity and synchronise many essential functions").

¹⁷⁰ Schwean-Lardner, K. et al., "Effect of day length on flock behavioural patterns and melatonin rhythms in broilers," (2014) *British Poultry Science* 55: 21–30, as cited in *Supra* note 147 (*The Welfare of Broilers in the EU*) at 20. See also: GAP Standard at 71 (noting that darkness periods are essential to ensure the birds' "melatonin rhythms are not disrupted"). See also: Sandra Edwards et al. (eds), *Knowledge synthesis: Animal health and welfare in organic pig production* (CORE Organic, August 2009). Available at: <https://orgprints.org/16843/>.

¹⁷¹ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.10, Article 7.10.4, Point 2(b) (stating: "There should also be an adequate period of continuous darkness... to allow the broilers to rest, to reduce stress and to promote normal behaviour").

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		function and decreased mortality rates. ¹⁷² Adopting the technical phrasing “8 hours of continuous darkness (less than 1 lux)” would align South Africa’s regulations with the GAP Standard, the New Zealand <i>Code of Welfare (Layer Hens)</i> , ¹⁷³ and the industry’s own SAPA Code of Practice, ¹⁷⁴ all of which mandate an 8-hour period of continuous darkness.
Section 4.2(d)	Amend the existing litter coverage requirement (currently 33% of floor area, undefined) to specify a minimum litter depth of at least 5cm.	The current draft’s litter provision requires only that litter cover “at least 33% of the floor area”, with no minimum depth specified. This is a measurable gap in an otherwise quantifiable clause: a nominal scattering of litter across the required floor percentage could technically satisfy the letter of the provision without providing litter of sufficient depth to support genuine scratching, dust-bathing, and foraging behaviour.

¹⁷² *Supra* note 147 (*The Welfare of Broilers in the EU*) at 8 (noting that uninterrupted dark periods decrease mortality and improve immunity).

¹⁷³ New Zealand Code of Welfare at Minimum Standard No. 11(c).

¹⁷⁴ *Supra* note 111 (*SAPA Code of Practice (2022)*) at 39 (Appendix 7: Point 12.7, requiring “a minimum period of 8 hours continuous darkness per 24-hour cycle).

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		This inconsistency is particularly notable given that the Department’s own draft standard for “Pasture Raised” (Annexure L, clause 3.1(c)) already specifies a minimum litter depth of 5cm for the equivalent requirement. “Barn Eggs” should not fall below a benchmark the Department has already adopted elsewhere in its own draft standards, particularly since “Barn Eggs” is intended to represent a welfare-differentiated claim above caged production, and an undefined depth requirement is not capable of consistent verification by the designated assignee/inspector. We propose the same 5cm minimum depth be adopted here for consistency and enforceability.
Section 4.2(e)	Define litter quality as “friable and dry at all times.”	While the current draft requires the removal of “wet or caked litter”, it lacks the technical specificity required to ensure the substrate remains biologically functional. Scientifically, laying hens are highly motivated to perform body-maintenance and exploratory behaviours, spending approximately 50% of their active day

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		scratching, foraging, ¹⁷⁵ and dust-bathing. ¹⁷⁶ For these behaviours to be successful, the litter must be loose and crumbly; ¹⁷⁷ if it becomes “capped” (hardened by manure and moisture), ¹⁷⁸ it no longer functions as a behavioural substrate. The Swedish Board of Agriculture Regulations (SJVFS 2019:23) codify this by mandating that “litter beds are loose” and that poultry must have permanent access to litter that satisfies their ethological needs. ¹⁷⁹
Section 4.2(f)	Specify that all nesting boxes must be strewn with friable (loose) litter (e.g., straw, wood shavings or chaff).	While the draft MCS make explicit reference to the provision of “litter”, the term currently lacks the technical specificity ¹⁸⁰ required to prevent the use of inadequate alternatives.

¹⁷⁵ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.10, Article 7.10.3, Point 6(e) (identifying foraging as a core motivated behaviour).

¹⁷⁶ RSPCA Assured, *Standards RSPCA Assured Indoor & Free-Range: Uk Legal Minimum, Lion Code And Soil Association Comparison Table* (2024) (stating that “hens will spend up to 50% of their time scratching and foraging in litter”). Available at: <https://share.google/ATLF4nUObZ3DreLXK>

¹⁷⁷ GAP Standard at Appendix VI: Litter Quality Assessment (noting that Score 0 litter is “dry and crumbly” and does not form a ball when compressed).

¹⁷⁸ *Supra* note 111 (*SAPA Code of Practice (2022)*) at 15 (Section 5: Stock Supervision, stating: “Litter should not be allowed to become caked and hard”).

¹⁷⁹ Swedish Board of Agriculture Regulations at Chapter 2, Section 13, Point 4 (mandating that “the litter beds are loose”). See also: *Ibid* at Chapter 2, Section 22 (stating: “Pullets shall have permanent access to litter that can satisfy their ethological need for pecking, scratching and sandbathing”).

¹⁸⁰ *Supra* note 4 (*Laying Down the Facts*) at 102 (noting that vague or discretionary terminology in regulations is problematic for legal enforcement).

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		To fulfil a hen's innate drive to manipulate, "mould," and forage within a nesting site prior to laying, ¹⁸¹ the regulation should explicitly mandate the use of friable (loose) litter, such as straw, wood shavings, or chaff. High-welfare international benchmarks emphasise this distinction; ¹⁸² for instance, Bio Suisse Standard 5.5.4.5 states that nests should "preferably be strewn with straw or chaff" to ensure they are accepted as laying sites. ¹⁸³ Similarly, the RSPCA Assured Standards note that dry, friable litter is a critical factor in satisfying motivated nesting behaviours and reducing physiological frustration. ¹⁸⁴
Section 4.2(f)	Define "Enrichment Areas" with a specific mandate: "At least two items of destructible enrichment (e.g., pecking blocks, hay bales, or knotted ropes) per 1,000 birds."	Currently, the term "enrichment areas" remains a vague "blind spot" within the draft standards, offering no measurable metrics to guide producers or enable legal enforcement. ¹⁸⁵ In South Africa's high-UV

¹⁸¹ *Ibid* at 290 (emphasising that hens require nesting areas that allow for the expression of "core natural behaviours"). See also: *Supra* note 170 (*Sandra Edwards et al, Knowledge synthesis: Animal health and welfare in organic pig production (CORE Organic, August 2009)*) at 240-241 (discussing the role of straw as a behavioural substrate that "alleviates stress responses").

¹⁸² *Animal Husbandry Guidelines* (CD-ARS 1851:2025) at Point 4.6.2 (stating that litter must be "dry and friable to stimulate foraging and dust-bathing behaviours").

¹⁸³ *Supra* note 153 (*Standards for the production, processing and trade of "bud" products*), Part II, Chapter 5.5.4.5 at 121 (explicitly stating: "Nests should preferably be strewn with straw or chaff").

¹⁸⁴ RSPCA Assured Comparison Table (stating that "dry, friable litter is a very important factor in the prevention of injurious pecking").

¹⁸⁵ *Supra* note 17 (*Initial SAHRC Submission*) at 72 (criticising the lack of comprehensive, enforceable standards).

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		and high-intensity agricultural landscape, failing to prescribe specific environmental complexities leads to industrially barren barns, which are a primary cause of injurious feather pecking¹⁸⁶ and cannibalism.¹⁸⁷ To satisfy the birds' innate cognitive needs and facilitate positive mental states, the regulation should mandate: "At least two items of destructible enrichment¹⁸⁸ (e.g., pecking blocks, hay bales, or knotted ropes) per 1,000 birds". Adopting this measurable standard would align South Africa with leading high-welfare benchmarks; the British Lion Barn Egg Standard (2019)¹⁸⁹ and the RSPCA Assured Standards¹⁹⁰ both explicitly mandate two items of enrichment per 1,000 birds.

¹⁸⁶ *Supra* note 148 (*RSPCA, Welfare of Meat Chickens Report*) at 2 (noting that barren environments discourage activity and lead to skin and health problems).

¹⁸⁷ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.10, Article 7.10.3, Point 6(f) (stating that feather pecking can lead to cannibalism and severe injury).

¹⁸⁸ GAP Standard at Appendix VIII: Environmental Enrichments (defining enrichments as materials that "add complexity... and encourage the expression of natural behavior").

¹⁸⁹ Barn egg production (Webpage) (specifying the British Lion Code requirement of "two enrichments per 1,000 birds"). Available at: <https://www.laywel.eu/>.

¹⁹⁰ RSPCA Assured Comparison Table (mandating: "For every 1,000 birds, 2 items of enrichment must be provided... which must include some destructible items").

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		The inclusion of “destructible” materials is critical, as chickens are highly motivated to perform exploratory pecking and foraging; ¹⁹¹ providing materials they can manipulate (such as straw bales, pecking blocks, and brassicas) ¹⁹² significantly reduces physiological stress and the frustration that leads to aggression. ¹⁹³
Section 4.2 (f)	Amend to require that nesting boxes be provided at a ratio of at least 1 nest box per 5 hens, or a minimum of 1m ² of communal nesting substrate per 120 hens where group nesting is used. Amend to require perches of at least 18cm per hen (rather than 15cm), positioned at varying heights.	The FARMS Initiative’s RMS for Laying Hens sets specific, auditable metrics for both nesting and perching, ¹⁹⁴ which this submission adopts to ensure the “Barn Eggs” label reflects an enforceable welfare floor.
Section 4.2(h)	Amend to provide that hens must be provided with an uninterrupted minimum period of eight hours’ darkness in every 24-hour period, regardless of whether a supplementary lighting system is installed.	The proposed amendment makes the eight-hour darkness period a clear, mandatory and freestanding requirement. It must apply in

¹⁹¹ *Supra* note 148 (*RSPCA, Welfare of Meat Chickens Report*) (noting that enrichment provisions satisfy motivated behaviours and reduce stress-induced pecking).

¹⁹² GAP Standard at 71 (noting materials like straw bales allow chickens to improve “leg health by jumping on and off” and “satisfy their pecking and foraging needs”).

¹⁹³ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.Z (Nesting areas, identifying injurious feather pecking and cannibalism as key outcome-based measurables for poor environmental provision). See also: “Standards RSPCA Assured” (noting that limiting flock size and providing complexity facilitates “good stockmanship and flock checks”)

¹⁹⁴ *Supra* note 140 (*FARMS Initiative, Responsible Minimum Standards (“RMS”) for Laying Hens*) at Mitigation Standard 2.1-2.2, requiring “1 m² of nesting substrate per 120 hens for group nesting” and “a perch area of at least 18 cm of perch space per hen”.

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	Amend to mandate that “an uninterrupted minimum of eight hours’ darkness per day be a mandatory, freestanding requirement, independent of whether a supplementary lighting system is installed.	every production system, including systems in which no supplementary lighting is installed. The current wording is discretionary because it refers to a lighting system that “may” be installed to assist production. As a result, it does not clearly establish that hens must receive a minimum period of darkness where no supplementary lighting system is used. A mandatory duration is necessary to provide an objective and enforceable welfare standard and to protect animal well-being under the NEMBA as amended. The amendment is consistent with the FARMS Responsible Minimum Standards (“RMS”) for Laying Hens, which requires that hens must have an uninterrupted period of darkness of at least 8 hours per day.¹⁹⁵

¹⁹⁵ FARM Initiative’s Responsible Minimum Standards (“**RMS**”) for Laying Hens (2020) at Minimum Standard 2.6. Available at: <https://www.farmsinitiative.org/rmsforlayinghens>.

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		The requirement should therefore be expressed independently of the presence, absence or use of supplementary lighting.
Section 4.2(h)	Amend further to provide that during the lighting period, illumination at hen level must be at least 20 lux. Lighting must be increased and decreased gradually over a period of not less than 15 minutes and not more than 30 minutes at dawn and dusk, respectively.	A minimum light intensity is necessary to enable hens to see and investigate their surroundings, locate feed and water, and interact with other birds. Chickens have highly developed colour vision and require sufficient light to investigate their surroundings and conspecifics.¹⁹⁶ Research shows that higher light levels are associated with increased activity and reduced fear and stress,¹⁹⁷ whereas low light intensities are linked to abnormal eye development¹⁹⁸ and the inability of birds to find food and water efficiently. The proposed minimum of 20 lux is supported by international benchmarks. The New Zealand <i>Code of Welfare (Layer Hens)</i> Minimum Standard No. 7 requires at least 20 lux at hen level to

¹⁹⁶ *Supra* note 147 (*The Welfare of Broilers in the EU*) at 8 (noting that chickens have well-developed colour vision and perform more active behaviour, such as foraging, under brighter light).

¹⁹⁷ RSPCA Assured Comparison Table (stating that increased light levels are associated with "reduced fear and stress and improved ranging behaviour").

¹⁹⁸ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.10, Article 7.10.3, Point 10 (noting that abnormal eye development can be associated with low light intensity).

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		ensure birds can see each other,¹⁹⁹ while the African Standard (Draft CD-ARS 1851:2025) recommends a range of 20 to 40 lux.²⁰⁰ Gradual dawn and dusk transitions are also necessary to reduce panic, collisions, piling and smothering associated with abrupt changes in light intensity. The South African industry's own SAPA Code of Practice (2022) acknowledges that sudden changes in light intensity can lead to a “flight reaction” in some birds.²⁰¹ The New Zealand Code provides for a gradual transition of at least 15 minutes,²⁰² while the Draft African Standard recommends dimming over approximately 15 to 30 minutes to settle the flock and reduce the risk of injury.²⁰³

¹⁹⁹ New Zealand Code of Welfare at Minimum Standard No. 7(d) and (e).

²⁰⁰ African Organisation for Standardisation (“ARSO”), *Animal husbandry guidelines for egg-laying flocks — Cage-free* (Draft CD-ARS 1851:2025) at Point 4.10.5 (recommending light intensity of 20 lux to 40 lux at floor level). Available at: <https://www.arso-aran.org/>.

²⁰¹ *Supra* note 111 (*SAPA Code of Practice (2022)*) at 12 (Point 4.6: “Sudden changes in intensity should be avoided as this could lead to flight reaction in some birds”).

²⁰² New Zealand Code of Welfare at Minimum Standard No. 7(f) (requiring light intensity be raised and lowered gradually over a 15-minute period to roost without injury).

²⁰³ *Supra* note 4 (*Laying Down the Facts*) at 46 (confirming local standards must meet international production benchmarks).

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Section 4.2(h)	Insert a maximum limit: “The total lighting period (artificial and natural) shall not exceed 16 hours in any 24-hour cycle.”	Beyond the suggested “8 hours of continuous darkness” period, it is necessary to impose a maximum limit on the total photoperiod, mandating that: “The total lighting period (artificial and natural) shall not exceed 16 hours in any 24-hour cycle”. Currently, industrial systems often provide up to 20 hours of light to artificially induce birds into “ramping up” production,²⁰⁴ a practice that causes biological exhaustion and metabolic stress.²⁰⁵ This level of intensification is explicitly rejected by leading international benchmarks: the Bio Suisse Standards²⁰⁶ and the RSPCA Assured Standards²⁰⁷ both strictly prohibit extending the lighting period beyond 16 hours. Additionally, the African Standard (Draft CD-ARS 1851:2025)²⁰⁸ specifically recommends a light

²⁰⁴ *Supra* note 111 (*SAPA Code of Practice (2022)*) at 12 (Point 4.6: stating that the total light period “shall not exceed 20 hours in the 24 hour day”).

²⁰⁵ *Supra* note 4 (*Laying Down the Facts*) at 117 (stating that industrial facilities use artificial light to “mimic a full 16 hours of daylight for as much of the hen’s life as possible” and often more).

²⁰⁶ *Supra* note 153 (*Standards for the production, processing and trade of “bud” products*), Part II, Chapter 5.5.4.3 at 117 (explicitly stating: “The lighting period may not exceed 16 hours per day”).

²⁰⁷ RSPCA Assured Comparison Table (stating: “You may use artificial light to prolong the day length up to 16 hours”).

²⁰⁸ *Supra* note 200 (*ARSO Animal husbandry guidelines for egg-laying flocks*) at Point 4.10.4 (mandating a light-dark schedule of 14 h - 16 h light).

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		schedule of 14 to 16 hours to promote sustainable production without compromising the hen's health.
Section 4.2(h)	Add a mandatory disclosure: "Registration requires that no bird be subjected to a 24-hour light cycle."	Constant light results in the total disruption of behavioural rhythms ²⁰⁹ and has been shown to increase mortality ²¹⁰ and foot/leg problems. ²¹¹ Prohibiting 24-hour light regimes aligns with the European Union (EU) Council Directive 2007/43/EC and ensures that "Barn Eggs" are not produced under conditions of extreme sleep deprivation. ²¹²
Section 4.2(i)	Mandate elevated seating points at different heights (multi-level aviary systems) with a minimum clear height of 45 cm between levels.	The current draft acknowledges multi-level sheds but omits specific requirements for vertical clearance or varying perch heights. Hens possess a strong biological drive to seek vertical height for safety and sleep, an instinct that aids in the formation of stable roosting groups and provides a critical mechanism for subordinate birds to escape

²⁰⁹ Norwegian Scientific Committee for Food and Environment ("VKM"), *The use of light, restrictive feeding, fibrous feed and stocking density and the consequences for animal welfare for poultry species kept in Norway* (2022) at 18 (noting that continuous light results in "sleep deprivation" because constant movement disturbs birds trying to rest, and emphasizing that chickens require both active and quiet sleep for proper body function). Available at: <https://vkm.no/>.

²¹⁰ *Supra* note 147 (*The Welfare of Broilers in the EU*) at 8 (noting that uninterrupted dark periods resulted in "decreased mortality, leg and foot problems").

²¹¹ *Ibid* ("Constant lighting results in the disruption of behavioural rhythms for broiler flocks").

²¹² Council Directive 2007/43/EC of 28 June 2007 laying down minimum rules for the protection of chickens kept for meat production (Annex I, Point 18). Available at: <https://eur-lex.europa.eu/>.

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		peer aggression.²¹³ Currently, the draft standard is silent on vertical complexity, which risks the development of industrially barren environments that lead to frustration and injurious pecking. Leading international regulations codify these requirements: the Swiss <i>Animal Welfare Ordinance</i> (2020)²¹⁴ and Bio Suisse Standard 5.5.4.5²¹⁵ mandate that laying hens be provided with perching opportunities at varying heights adapted to their natural behaviours. Furthermore, the New Zealand <i>Code of Welfare (Layer Hens)</i> Minimum Standard No. 4(i)(vi)²¹⁶ explicitly requires that in multi-tier systems, the distance between levels must be at least 45 cm. This technical standard is essential to ensure that birds can maintain a natural upright posture²¹⁷ and perform comfort behaviours, such as

²¹³ RSPCA Assured Comparison Table (stating: “Hens have a strong instinct to roost and will seek high perches” and noting that raised perches reduce fearfulness and aggression). See also *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.Z (Perches, noting perches should be designed and elevated to encourage perching for all hens and prevent competition).

²¹⁴ *Supra* note 152 (*Switzerland | World Animal Protection*).

²¹⁵ *Supra* note 153 (*Standards for the production, processing and trade of “bud” products*), Part II, Chapter 5.5.4.5 at 121 (stating: “Laying hens must have sufficient raised perches”).

²¹⁶ New Zealand Code of Welfare at Minimum Standard No. 4(i)(vi) (mandating: “In multi-tier systems the distance between the levels must be at least 45cm”).

²¹⁷ New Zealand Code of Welfare at Minimum Standard No. 4(g) (requiring housing to be designed to allow hens to “maintain a natural posture throughout”).

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		wing-stretching and preening, ²¹⁸ without the risk of physical injury or restriction. Codifying these measurable metrics is necessary.
Section 5	Insert: “Induced molting through feed or water withdrawal, extended starvation, or any other method of induced molting is prohibited.”	Induced molting is an industrial practice in which feed (and sometimes water) is withheld from hens for a period of one to two weeks to reset their egg-laying cycle. ²¹⁹ It causes acute hunger, stress, and increased mortality, ²²⁰ and is inconsistent with any claim to a welfare-differentiated production system. The draft standards currently make provision under Section 6.1 for “a special coop for bullied, molting and broody birds” (emphasis added), therefore creating ambiguity as to whether induced molting is permitted or merely accommodated within the housing requirements. This ambiguity risks allowing a practice that causes intentional harm under systems that are ostensibly higher-welfare.

²¹⁸ GAP Standard at 22, Standard 4.6.1 (stating: “Chickens must have enough space to express natural behaviour, including standing... and preening”).

²¹⁹ Glatz, P.C. and Tilbrook, A.J., 2020. Welfare issues associated with moulting of laying hens. *Animal Production Science*, 61(10), pp.1006-1012. Available at: <https://connectsci.au/an/article-abstract/61/10/1006/89377/Welfare-issues-associated-with-moulting-of-laying>.

²²⁰ *Ibid.*

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		FARMS Initiative’s Responsible Minimum Standards (“RMS”) for Laying Hens explicitly prohibits forced or induced molting as a mitigation for the welfare risk of “Inappropriate Diets”. ²²¹
Section 6.1	Delete the word “molting” from the provision.	Section 6.1 refers to “molting” birds as if molting is an expected, normal management tool, while the draft standard does not clearly prohibit induced/forced molting by feed/water withdrawal or other methods. This undermines the welfare credibility of the system. Induced molting should be prohibited, as noted above.
Section 8.3	The draft standard currently states: “Euthanasia - provision to be made for humane killing of casualties.” However, “humane”, “casualties” and others are undefined, which is highly problematic.	The current clause is a single unsubstantiated line with no criteria for when euthanasia is required, no specification of acceptable methods, and no confirmation-of-death requirement. This leaves “humane killing” entirely to producer discretion, which is inadequate for a standard intended to be registered as a Management Control System and to be regarded as higher welfare claims.
Section 6.2 and Section 1.4	Clarify the relationship between sections 6.2 and 1.4 to distinguish permitted therapeutic antibiotic treatment from prohibited routine or growth-promoting use.	Section 6.2 contemplates the treatment and segregation of ill or medically compromised birds, while section 1.4 could be read as prohibiting antibiotic treatment altogether.

²²¹ *Supra* note 140 (FARMS Initiative, *Responsible Minimum Standards (“RMS”) for Laying Hens*) at Mitigation Standard 3.1, stating: “Forced moulting is not permitted”.

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		The draft standard should expressly confirm that antibiotics may be used when clinically necessary and appropriately authorised, but not routinely, systematically, prophylactically or for growth promotion. This will remove ambiguity while ensuring that sick birds receive necessary treatment. In cases where antibiotics are used, this must be disclosed on egg labelling packaging.
Section 8.5	Delete “Infra-red beak trimming is allowed” and replace with: a statement that beak trimming of hens is prohibited in all circumstances. Align section 8 (specifically 8.5) with the proposed “Pasture Raised” standard by expressly prohibiting all invasive or mutilating practices, including de-beaking, de-clawing, de-spurring, de-toeing or toe trimming, etc.	High-welfare production claims must align with the preservation of an animal’s physical integrity.²²² Beak trimming is not a welfare requirement but a reactive management “crutch”²²³ used to mitigate the symptoms of a poor environment (such as injurious feather pecking and cannibalism) caused by industrial stocking densities and a lack of cognitive stimulation.²²⁴ Scientific research confirms that a chicken’s beak is a complex sensory organ essential for preening and exploring the environment; mutilating it through hot-blade or infra-

²²² *Supra* note 4 (*Laying Down the Facts*) at 17 (defining “Cruel Practices” to include beak trimming and noting they are being phased out globally).

²²³ *Ibid* at 40 (stating: “Rather than addressing the root cause... stakeholders in the industry may perform beak trimming... to ‘remedy’ these issues”).

²²⁴ *Supra* note 17 (*Initial SAHRC Submission*) at 71 (noting that confinement agriculture causes inhumane physical suffering and psychological deprivation). See also: *Supra* note 10 (*Scrambling for the Truth*) at 271 (stating that physical alteration is used to “adapt” animals to inappropriate husbandry systems).

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	The standard should also prohibit male chick “culling”, “culling” generally, and other comparable procedures involving chickens.	red trimming is inherently cruel and causes significant, often chronic, pain.²²⁵ By prohibiting the practice of beak trimming, South Africa would align with global leaders in animal welfare.²²⁶ Beak trimming has been outlawed in Norway (since 1974), Sweden (since 1988), and Switzerland,²²⁷ where producers are instead required to manage social aggression through lower stocking densities and the provision of adequate environmental enrichment. The Netherlands similarly implemented a full ban in 2019.²²⁸ In contrast, the current SAPA Code of Practice continues to view beak trimming as a “humane alternative” to cannibalism in intensive systems,²²⁹ a position that

²²⁵ *Supra* note 4 (*Laying Down the Facts*) at 81 (explaining that beaks are “sensitive organs used in exploration” and that trimming “causes unreasonable pain”). See also: Ben-Mabrouk J, et al. (2022) *Effect of beak trimming at hatch... on exploratory pecking behaviour*, Poultry Science 101(9).

²²⁶ *Ibid* at 124 (confirming beak trimming is outlawed in Norway, Finland, Sweden, Denmark, and Austria).

²²⁷ “Why does Switzerland have such strict animal protection laws?” (Webpage) (confirming Switzerland prohibits beak and tail docking). Available at: <https://wildbeimwild.com/>.

²²⁸ “Netherlands | World Animal Protection” (Webpage) (noting the Dutch ban on beak trimming for laying hens became effective in 2019). Available at: <https://api.worldanimalprotection.org/country/netherlands>.

²²⁹ *Supra* note 111 (*SAPA Code of Practice (2022)*) at 20 (Point 8.1, acknowledging the practice is recognized as a “humane alternative” to cannibalism).

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		prioritises industrial convenience over the biological needs of the birds.²³⁰ The procedures listed for prohibition permanently alter or remove functional body parts and may cause pain, injury, chronic discomfort or impaired natural behaviour. A higher-welfare production standard should address the underlying causes of aggression, injury and abnormal behaviour through appropriate housing, stocking density, enrichment, breeding, handling and veterinary management, rather than relying on routine mutilation. Expressly listing the prohibited practices prevents ambiguity and ensures consistent alignment with the “Pasture Raised” standard.
Section 11.1	Amend to replace the discretionary wording “may be presented” with the following mandatory requirement:	The current wording makes production-method labelling voluntary. Section 11.1 should instead require production-method labelling for all eggs, including barn eggs.

²³⁰ *Supra* note 4 (*Laying Down the Facts*) at 259 (Recommendation 9: South Africa should enact a legislative ban on beak trimming). See also: GAP Standard at 15, Standard 2.5.1 (prohibiting all physical alterations including beak trimming). See also: A Greener World (“AGW”), *Laying Hen Standards* (5.4: prohibiting all mutilations including de-beaking).

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ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
	All eggs and egg packs offered for sale must be labelled with the applicable production method. The production method must be stated clearly and prominently using the prescribed terms “cage”, “barn” or “free range”, as applicable. No egg may be sold without a production-method designation. The production-method designation must appear on the outer packaging and, where eggs are sold loose or without outer packaging, must be displayed clearly and prominently at the point of sale.	The requirement should apply equally to barn eggs. Barn eggs should not be treated as requiring a label only where the producer chooses to make a welfare-positive claim. “Barn” is itself a recognised production method in terms of the current Regulations Regarding the Grading, Packing and Marking of Eggs Intended for Sale in the Republic of South Africa published under the APSA in Government Gazette No. 43108 of Notice R.345 (“Regulation 345”), and consumers cannot meaningfully distinguish caged eggs from barn eggs (for example) if production-method disclosure remains optional. According to Regulation 345, the disclosure of production methods on outer packaging of eggs is entirely voluntary.²³¹ This voluntary framework creates a significant transparency gap, allowing eggs, predominantly from intensive cage systems, to enter the market

²³¹ *Supra* note 10 (*Scrambling for the Truth*) at 148. See also: *Regulations Regarding the Grading, Packing and Marking of Eggs Intended for Sale in the Republic of South Africa (R.345)* published in Government Gazette No. 43108 on 20 March 2020 at Regulation 8(1)(b). Available at: https://www.gov.za/sites/default/files/gcis_document/202003/43108rg11055gon345.pdf

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		unlabelled, thereby misleading consumers as to the animal welfare conditions and treatment of the hens.²³² In contrast, the European Union (“EU”) has mandated the labelling of all production methods (cage, barn, free-range, or organic) since 2004 under Council Regulation 1907/90 and Commission Regulation 2295/2003; these have been replaced by Regulation (EU) No 1308/2013²³³ and Commission Delegated Regulation (EU) 2023/2465.²³⁴ Standardised, accurate, and transparent mandatory production system labelling is the only effective mechanism to rectify existing information asymmetries and satisfy consumers’ right to disclosure, as protected under the CPA.²³⁵

²³² *Supra* note 17 (*Initial SAHRC Submission*) at 8 (noting that voluntary disclosure enables cages systems to remain unlabelled, misleading consumers).

²³³ Regulation (EU) No 1308/2013, available at: <https://eur-lex.europa.eu/eli/reg/2013/1308/oj/eng>.

²³⁴ Commission Delegated Regulation (EU) 2023/2465, available at: https://eur-lex.europa.eu/eli/reg_del/2023/2465/oj/eng.

²³⁵ Consumer Protection Act 68 of 2008 at Section 24 (Right to disclosure and information). See also: *Supra* note 4 (*Laying Down the Facts*) at 186.

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Section 11	To prevent the practice of “humane-washing”, the draft standards should insert a strict prohibition stating: “Advertising shall not use pastoral imagery (such as green fields or the sun, or the like) for birds confined to barns.”	Hens housed in barn systems are confined indoors for their entire (production) lives and often lack access to sunlight or open sky. Utilising pastoral depictions for such birds constitutes a deceptive trade description under Section 24(2)(a) of the CPA,²³⁶ as it is likely to mislead the consumer regarding the nature and living conditions of the hens. Such imagery also violates Section 6 of the APSA,²³⁷ which prohibits any illustration, depiction, or visual expression that creates a “misleading impression” regarding the production method of a product.
[New Proposed Section]	Insert a new section (e.g. Section 12 or 13) which provides that the producer must maintain records of welfare outcomes, including at least: mortality, euthanasia, injuries, feather cover, cannibalism and severe feather pecking, and any corrective actions taken. These records must be reviewed at least monthly and made available to inspectors	Without welfare-outcome monitoring and independent auditing, the “Barn Eggs” claim is largely unenforceable and vulnerable to humane-washing.

²³⁶ Section 24(2)(a) of the Consumer Protection Act 68 of 2008 which prohibits trade descriptions likely to mislead a consumer.

²³⁷ Agricultural Product Standards Act 119 of 1990 (“APSA”) at Section 6 (Prohibition of false or misleading descriptions). See also: *Supra* note 4 (*Laying Down the Facts*) at 148.

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	and auditors. Compliance with this standard must be verified by independent third-party audits at least annually, including unannounced inspections. Audit reports and corrective-action plans must be retained and made available to the Department on request.	International higher-welfare schemes and the FARMS RMS emphasise compliance, transparency and monitoring as components of a credible welfare system. ²³⁸

²³⁸ FARMS Initiative, “The RMS” – explains that the RMS are species-specific standards intended to be implemented and monitored, with compliance and transparency as key elements. Available at: <https://www.farmsinitiative.org/rms>.



TEMPLATE FOR COMMENTS

DRAFT MANAGEMENT CONTROL SYSTEMS

DUE DATE FOR RECEIVING COMMENTS: 20 AUGUST 2026

ORGANISATION/ COMPANY: ANIMAL LAW REFORM SOUTH AFRICA

NAME OF DRAFT MANAGEMENT CONTROL SYSTEM: CANOLA EGGS (ANNEXURE C)

1.	2.	3.
ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
General Comment	Please refer to the Animal Law Reform South Africa cover letter and Open Letter for general objections, comments, concerns and proposals which apply to this Annexure, which are hereby incorporated by reference.	
Section 1.3 and Section 11.1	Sections 1.3 and 11.1 of the draft standard are inconsistent with the Regulations Regarding the Grading, Packing and Marking of Eggs Intended for Sale in the Republic of South Africa published under the Agricultural Product Standards Act 119 of 1990 (“ APSA ”) in Government Gazette No. 43108 of Notice R.345 (“ Regulation 345 ”) and require clarification or withdrawal.	Section 1.3 defines “Canola Eggs” by reference to hens fed canola-derived ingredients, while section 11.1 expressly authorises the claims “Canola Eggs,” “Canola Fed” or any “similar claim” (which is undefined) on egg products. However, regulation 13(1)(a)(ii) of Regulation 345 prohibits a message on an egg container or outer

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		container that indicates that hens were fed a special diet and expressly identifies “canola fed” among the restricted expressions. The draft standard therefore appears to authorise a packaging claim that the existing Regulation 345 prohibits. Section 11.2 does not cure this conflict as a general statement requiring compliance with other APSA regulations cannot simultaneously authorise wording that those regulations prohibit or restrict. The annexure should not be adopted in its current form unless Regulation 345 is first amended to permit and regulate the proposed “Canola Eggs” designation.
Section 1.3	Consider inserting/adding the following (suggestions in bold): “Canola Eggs” are defined as eggs that come from hens that are housed in systems that comply with recognised minimum animal welfare requirements, including standards designed to ensure freedom from unnecessary pain, suffering and distress and to enable the expression of natural behaviours, and which	Section 1.3 defines canola eggs entirely by reference to feed composition: “...with the objective of influencing the fatty acid composition of the egg.” There is no statement confirming that the system should also promote the interests, welfare and well-being of hens. This omission means producers could theoretically comply while keeping hens in

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	have been fed a diet containing controlled levels of canola-derived ingredients, specifically canola oil and canola oilcake, with the objective of influencing the fatty acid composition of the egg.”	systems with very poor welfare, provided dietary requirements are met. Modern animal welfare science increasingly moves beyond merely reducing suffering towards promoting positive welfare, well-being or flourishing. Concepts from the Five Freedoms and the Five Domains Model emphasise that animals should have opportunities to experience positive physical, behavioural and emotional states, not simply the absence of negative ones.²³⁹ Consumers increasingly associate specialty food claims with ethical production.²⁴⁰ The draft standards should therefore ensure that claims about nutritional quality are not divorced from the interests and well-being of the hens themselves.

²³⁹ *Supra* note 4 (*Laying Down the Facts*) at 28 (emphasising that sentient beings must be provided with positive experiences and the ability to express natural behaviours). Available at: <https://www.animallawreform.org/wp-content/uploads/2025/02/Laying-Down-The-Facts-Report-V3.pdf>.

²⁴⁰ For example, Thibault, M., Pailler, S. and Freund, D., 2022. Why are they buying it?: United States consumers’ intentions when purchasing meat, eggs, and dairy with welfare-related labels. *Food ethics*, 7(2), p.12. Available at: <https://link.springer.com/article/10.1007/s41055-022-00105-3>.

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ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
Section 4	Consider the following insertions/ additions: “Canola egg” claims should not be permitted to be attributed to eggs produced by should not be kept in battery cages, enriched cages, colony cages or other confinement systems that prevent animals from expressing species-specific behaviours. The housing system shall provide appropriate sanitation, minimise the occurrence and spread of disease and parasites, and enable hens to express their natural behaviours. Housing systems shall be designed and managed to enable hens to express their species-specific behaviours. At a minimum, hens shall have access to appropriate facilities and sufficient space to permit perching, nesting, foraging, scratching, wing-flapping, dustbathing and comfortable resting. Environmental enrichment shall be provided to encourage exploratory and foraging behaviour and reduce the risk of injurious pecking.	While sections 4.1- 4.3 contain important requirements relating to sanitation, disease prevention, ventilation, environmental conditions and biosecurity, they do not establish any substantive welfare requirements governing the housing of laying hens and the interests of hens.²⁴¹ In particular, the provisions contain no requirements relating to particular housing systems (including cage-free housing), minimum space requirements, stocking densities, environmental enrichment or opportunities for hens to express species-specific natural behaviours such as dustbathing; wing flapping; scratching; foraging; nesting; perching and social interaction. There is also no clear/overt ban on the use of cages. This means that a producer could theoretically satisfy every Canola Egg claim requirement under this standard while operating a cage egg production system, and potentially label their eggs as a “Canola

²⁴¹ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.1 'Introduction to the Recommendations for Animal Welfare'.



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ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
	The indoor stocking density shall not exceed 6 adult hens per square metre of available floor space. The maximum flock size within a single housing unit shall not exceed 2,000 laying hens.	Egg”, which may potentially be confusing to consumers.²⁴² Further comments relating to the labelling of canola eggs on egg packaging is set out below (Section 11 comments). While these draft standards do not provide for stocking densities, the proposed “Barn Egg” standards (Annexure B) provide for 6 birds per square metre. While this is a suitable technical standard for a barn system, density alone is not sufficient to ensure the welfare of hens.²⁴³ The Swiss Animal Welfare Ordinance (SR 455.1)²⁴⁴ and the Bio Suisse Standards (Part II, Chap 5.5.4.1)²⁴⁵ strictly cap indoor housing units at 2,000 laying hens. This is scientifically necessary to allow for stable social hierarchies and to prevent “smothering” and mass hysteria.²⁴⁶

²⁴² *Supra* note 4 (*Laying Down the Facts*) at 14 (emphasising that sentient beings must be provided with positive experiences and the ability to express natural behaviours).

²⁴³ WOA (2024) *Terrestrial Animal Health Code* at Chapter 7.Z (noting that social behaviour and spatial distribution are critical animal-based measurables for welfare). See also *Supra* note 148 (*RSPCA, Welfare of Meat Chickens Report*) at page 2 (noting chickens naturally form small flocks of up to 15 individuals).

²⁴⁴ *Supra* note 152 (*Switzerland | World Animal Protection*).

²⁴⁵ *Supra* note 153 (*Standards for the production, processing and trade of “bud” products*), Part II, Chapter 5.5.4.1 at 121 (explicitly stating: “The maximum number of laying hens per housing unit is 2,000”).

²⁴⁶ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.10, Article 7.10.3, Point 6(a) (warning that fearfulness can lead to broilers “piling on top of, and even suffocating, one another”).

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ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
Section 4	This section should include the following: Nest boxes shall be provided at a ratio of at least one nest box per 5 hens, or a minimum of 1m ² of communal nesting substrate per 120 hens where group nesting is used. Perches shall provide at least 18cm of perch space per hen.	FARMS Initiative’s Responsible Minimum Standards (“RMS”) for Laying Hens ²⁴⁷ provides directly applicable, internationally recognised metrics for both nest boxes and perches, consistent with the standard of measurable, enforceable drafting this submission argues for throughout. Annexure B (“Barn Eggs”) at Section 4.2 (f) states that “ <i>nesting boxes should be 1 nest per 5 hens</i> ”, which is preferable to the FARMS Initiative, and which is why that figure has been proposed.
Section 4	Insert the following: A minimum of one third of the available indoor floor space must be covered with suitable litter at all times to enable dustbathing and foraging.	As already noted in the earlier comments on Section 4 (above), the current draft contains no substantive housing welfare requirements at all. This clause adds a specific, auditable litter standard to sit alongside the cage-free and stocking density provisions already proposed, consistent with the South African Poultry Association

²⁴⁷ *Supra* note 140 (FARMS Initiative, *Responsible Minimum Standards (“RMS”) for Laying Hens*) at Mitigation Standard 2.1-2.2, requiring “at least one nest box for every six hens, or 1 m2 of nesting substrate per 120 hens for group nesting” and “a perch area of at least 18 cm of perch space per hen”.

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		(“SAPA”) Code of Practice and FARMS Initiative’s RMS for Laying Hens, both of which set the same one-third threshold. ²⁴⁸
Section 7	Clause 7 should be amended as follows (our proposals are in bold text): 71. Animals shall be governed in a manner that promotes their physical and psychological well-being, prevents unnecessary pain, suffering, distress and injury, and enables them to express species-specific natural behaviours. 7.2 Sick, injured or distressed animals shall receive prompt and appropriate veterinary or other suitable treatment. Where recovery is unlikely, continued suffering cannot reasonably be alleviated, and all alternative options to assist in saving the animal’s life have been explored, humane euthanasia (according	Section 7 purports to regulate “Animal Health”, yet it says almost nothing about the health and interests of actual hens. It seems to be focused only on negative duties and the bare minimum in terms of preventing suffering. It deals with the treatment of disease, euthanasia and mortality, but it does not require producers to prevent suffering in the first place, which should be a primary focus, as well as the need to proactively promote the well-being of hens.²⁴⁹ As underscored in our submission on the proposed “Fed a Vegetarian Diet” standard (Annexure D), clarity must be provided concerning the scope and the principles of animal welfare and well-being, in accordance with the National Environmental Management Biodiversity Act 10 of 2004 (“NEMBA”) as amended by the

²⁴⁸ *Supra* note 111 (*SAPA Code of Practice (2022)*). FARMS Initiative, RMS for Laying Hens (2020). Available at: <https://www.farmsinitiative.org/rmsforlayinghens>.

²⁴⁹ As pointed out by the World Organisation for Animal Health (WOAH), “there is a critical relationship between animal health and animal welfare.” See: *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.1 ‘Introduction to the Recommendations for Animal Welfare’.

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1.	2.	3.
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	to the latest animal welfare science for layer hens) shall be undertaken without unnecessary delay. 7.3. “Humane” euthanasia (the act of ending an animal’s life, carried out with compassion and which minimises pain, suffering, stress, and panic, and takes into account the well-being and welfare of the animal) shall be carried out only by appropriately trained personnel using recognised humane methods that are species-specific and designed to minimise pain, fear, suffering and distress for the animal. 7.4 Mortality, disease incidence, feather condition, lameness, injuries and other recognised animal welfare indicators shall be routinely monitored and recorded. Where adverse welfare and well-being outcomes are identified, the producer shall	National Environmental Management Laws Amendment Act 2 of 2022 (“NEMLAA”) as well as the Constitutional Court’s recognition of the intrinsic value of animals.”²⁵⁰ In addition, the term “humane” should be defined as (in this specific context) the act of ending an animal’s life, carried out with compassion and which minimises pain, suffering, stress, and panic, and takes into account the well-being and welfare of the animal. The definition should be consistent with the White Paper on the Conservation and Ecologically Sustainable Use of South Africa’s Biodiversity (2023).²⁵¹ The Department should consider inserting an additional clause stating that “Any form of mutilation is prohibited” which mirrors section 4.6 (a) of the proposed “Organic Production” Standard

²⁵⁰ *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development* 2017 (1) SACR 284 (CC), where the Constitutional Court recognised that animals are sentient beings capable of suffering and emphasised that animal welfare has constitutional significance.

²⁵¹ White Paper on the Conservation and Ecologically Sustainable Use of South Africa’s Biodiversity. Available at: https://www.gov.za/sites/default/files/gcis_document/202306/48785gon3537.pdf.

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1.	2.	3.
ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
	investigate the underlying causes and implement corrective measures without delay. Any unusual increase in mortality, morbidity, injury, lameness, feather loss, cannibalism or abnormal behaviour must be investigated promptly by independent third parties. The producer must maintain cumulative mortality records by flock and production cycle and implement corrective action where welfare indicators exceed scientifically justified thresholds. 7.5 Beak trimming, tipping or shortening or any other mutilation is prohibited whether it be regarded as “routine” or otherwise. The producer must maintain a documented	(Annexure K). This should be subject only to medically necessary veterinary treatment of an individual animal where the procedure is required to prevent or alleviate suffering caused by disease, injury or a clinically diagnosed condition, and where no less invasive alternative is available using appropriate pain mitigation measures, including anaesthesia and/or analgesia in accordance with current veterinary best practice. This approach is consistent with the recommendations of the World Organisation for Animal Health (“WOAH”), which encourages the replacement, reduction and refinement of painful procedures and emphasises that they should only be undertaken where necessary and in a manner that minimises pain, distress and suffering.²⁵²

²⁵² World Organisation for Animal Health (WOAH), which encourages the replacement, reduction and refinement of painful procedures and emphasises that they should only be undertaken where necessary and in a manner that minimises pain, distress and suffering. See *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.9 ‘*Animal Welfare and Beef Cattle Production Systems*’, section 5 (‘Painful husbandry procedures’). Husbandry practices that have the potential to cause [pain](#) are routinely practiced on cattle for reasons of production efficiency, animal health and welfare and human safety. These procedures should be performed in such a way as to minimise any [pain](#) and stress to the animal. These procedures should be performed at as early an age as possible or using anaesthesia or analgesia under the recommendation or supervision of a [veterinarian](#). Future options for enhancing [animal welfare](#) in relation to these procedures include: ceasing the procedure and addressing the current need for the operation through management strategies; breeding cattle that do not require the procedure; or replacing the current procedure with a non-surgical alternative that has been shown to enhance [animal welfare](#). Example of such interventions include: castration, dehorning, ovariectomy (spaying), tail docking, identification.”

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1.	2.	3.
ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
	prevention and response plan for feather pecking and cannibalism based on genetics, stocking density, lighting, nutrition, litter, environmental enrichment and flock management.	
Section 11	The current wording permits voluntary use of the “Canola Eggs” / “Canola Fed” claim (conditional upon compliance with the standard) and requires compliance with other applicable regulations, but it does not resolve a direct conflict with the Regulations Regarding the Grading, Packing and Marking of Eggs Intended for Sale in the Republic of South Africa made under the Agricultural Product Standards Act 119 of 1990 (“APSA”) and published in Government Gazette No. 43108 of Notice R.345 on 20 March 2020 (“Regulation 345”). Additionally, the draft standard does not mandate clear, standardised egg production-method disclosure distinct from dietary claims such as “Canola Fed”. Insert the following provision:	Under Regulation 345, Regulation 13(1)(a)(ii) prohibits any “name, mark or any other method of expression” on a “container or outer container containing eggs” that: “indicates the more humane treatment or rearing of poultry or which creates an impression that the eggs are safer or that poultry was fed a special diet such as, but not limited to, ‘antibiotic free’, ‘fed a diet free of hormones’, ‘cage free’, ‘furnished cage’, ‘safe’, ‘pure’, ‘grass fed’, ‘pasture fed’, ‘forage fed’, ‘canola fed’, ‘grain fed’, ‘mixed grain’, ‘organic’, etc.” (emphasis added) This means that, under current law, any claim that eggs are “Canola Fed”, “Canola Eggs” or otherwise produced using a special diet or more humane method is prohibited on egg labels. The draft standard is therefore in direct conflict with Regulation 345.

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1.	2.	3.
ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
	All eggs and egg packs offered for sale must be labelled with the applicable production method prescribed under the Regulations Regarding the Grading, Packing and Marking of Eggs Intended for Sale in the Republic of South Africa made under the Agricultural Product Standards Act 119 of 1990 and published in Government Gazette No. 43108 of Notice R.345 on 20 March 2020, namely “cage”, “barn” or “free range”. The production method must be stated clearly and prominently using the prescribed terms as applicable. No egg may be sold without a production-method designation. The production-method designation must appear on the outer packaging and, where eggs are sold loose or without outer packaging, must be displayed clearly and prominently at the point of sale.	Although clause 11.2 provides that products must be labelled “in accordance with the regulations and standards for the mentioned products published in terms of the Agricultural Product Standards Act, 1990”, this does not resolve the conflict - it merely creates legal uncertainty for producers (and consumers), who may comply with the draft standard yet still breach Regulation 345 by using the prescribed claims. The Department should attempt to resolve this conflict by amending Regulation 345 to except claims that are registered and compliant under the MCS Regulations, or by otherwise clarifying how the two regimes are intended to interact. Separately, Regulation 345 makes disclosure of production methods (limited to “caged”, “barn”, and “free-range”) entirely voluntary for eggs generally. This creates a transparency gap that allows eggs from intensive cage systems to enter the market with no production-

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1.	2.	3.
ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
		method information at all, potentially misleading consumers as to the welfare conditions under which the hens were kept. By contrast, the European Union (“EU”) has mandated the labelling of all production methods (cage, barn, free-range, or organic) since 2004 under Council Regulation 1907/90 and Commission Regulation 2295/2003; these have been replaced by Regulation (EU) No 1308/2013²⁵³ and Commission Delegated Regulation (EU) 2023/2465.²⁵⁴ Standardised, accurate, and transparent mandatory production system labelling is the only effective mechanism to rectify existing information asymmetries and satisfy consumers’ right to disclosure, as protected under the Consumer Protection Act 68 of 2008 (“CPA”).²⁵⁵

²⁵³ Regulation (EU) No 1308/2013, available at: <https://eur-lex.europa.eu/eli/reg/2013/1308/oj/eng>.

²⁵⁴ Commission Delegated Regulation (EU) 2023/2465, available at: https://eur-lex.europa.eu/eli/reg_del/2023/2465/oj/eng.

²⁵⁵ Consumer Protection Act 68 of 2008 (“CPA”) at Section 24.



TEMPLATE FOR COMMENTS

DRAFT MANAGEMENT CONTROL SYSTEMS

DUE DATE FOR RECEIVING COMMENTS: 20 AUGUST 2026

ORGANISATION/ COMPANY: ANIMAL LAW REFORM SOUTH AFRICA (ALRSA)

NAME OF DRAFT MANAGEMENT CONTROL SYSTEM: FED A VEGETARIAN DIET (ANNEXURE D)

1.	2.	3.
ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
General Comment	Please refer to the Animal Law Reform South Africa cover letter for general objections, comments, concerns and proposals which apply to this Annexure, which is hereby incorporated by reference.	
General Comment	Consider replacing the term “livestock” with “animals” or “farmed animals” throughout. At the very least, consider including a qualification at the beginning of the standard that explains the preferred use of the term “livestock” with an explanation.	The draft standard makes use of the term “livestock” in various places. While we recognise that “livestock” is an established legal and agricultural term for domesticated animals raised in agricultural settings for production purposes, its predominant use may inadvertently reinforce an instrumental understanding of animals by defining them primarily in terms of their productive function.

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1.	2.	3.
ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
		Replacing “livestock” with “animals” would better reflect South Africa’s developing constitutional jurisprudence, which increasingly recognises animals as sentient beings possessing intrinsic value, rather than mere objects for economic gain. ²⁵⁶
Section 1	Amend to include a definition for an animal handler to say: “Any competent person in charge of handling animals, who has been trained and cares for animals in a humane manner.”	As it stands, the draft standards do not provide a definition for animal handler, although section 3.2 refers to employees / contractors being “trained in the correct handling of livestock.”
Section 1.3	“Fed a Vegetarian Diet” is defined as: “meat and eggs that come from chickens that are fed 100% plant-based foods, including maize, wheat, wheat bran, soybean meal or canola meal, vegetable oils, vitamins and minerals and amino acids, while excluding meat, poultry, and fish” Amend to:	The definition did not exclude animal by-products, despite mentioning it later under section 5.4.

²⁵⁶ *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development and Another* (CCT1/16) [2016] ZACC 46; 2017 (1) SACR 284 (CC); 2017 (4) BCLR 517 (CC) (8 December 2016). Available at: <https://www.saflii.org/za/cases/ZACC/2016/46.html>.

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1.	2.	3.
ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
	“Fed a Vegetarian Diet” means meat and eggs that come from chickens that are fed 100% plant-based foods, including maize, wheat, wheat bran, soybean meal or canola meal, vegetable oils, vitamins and minerals and amino acids, while excluding meat, poultry, and fish, and any animal by-products.	
Section 2	Amend to provide that measurements for all buildings / facilities / quarantine areas where chickens are kept should be included on the map. Any technology (such as climate control systems and sensors to monitor health) used in buildings / facilities / quarantine areas where chickens are kept should also be explicitly defined.	Measurements should be included for stocking density considerations. Any technology used in buildings where chickens are kept should be included to monitor their well-being.
Section 5	Insert: “Induced molting through feed or water withdrawal, extended starvation, or any other method of induced molting is prohibited.”	Induced molting is an industrial practice in which feed (and sometimes water) is withheld from hens for a period of one to two

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ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
		weeks to reset their egg-laying cycle.²⁵⁷ It causes acute hunger, stress, and increased mortality,²⁵⁸ and is inconsistent with any claim to a dietary-differentiated system which may potentially be perceived by consumers as being subject to higher-welfare practices. The FARMS Initiative’s Responsible Minimum Standards (“RMS”) for Laying Hens explicitly prohibits forced or induced molting as a mitigation for the welfare risk of “Inappropriate Diets”.²⁵⁹
Section 5.2	Amend to read as follows (proposed changes are in bold text): <i>“Access to feed must be freely available as applicable to the type of animal, unless specifically prescribed to the contrary for reasons related to the welfare and well-being of the animal by an</i>	The section would benefit from substantiation for clarity sake.

²⁵⁷ *Supra* note 219 (Glatz, P.C. and Tilbrook, A.J., *Welfare issues associated with moulting of laying hens*).

²⁵⁸ *Ibid.*

²⁵⁹ *Supra* note 140 (FARMS Initiative, *Responsible Minimum Standards (“RMS”) for Laying Hens*) at Mitigation Standard 3.1, stating: “Forced moulting is not permitted”. Available at: <https://www.farmsinitiative.org/rmsforlayinghens>.

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1.	2.	3.
ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
	<i>attending Veterinary surgeon.”</i>	
Section 6.2	This section provides that “Water must be clean and fresh, and sources regularly cleaned to eliminate algae, feed waste and other contaminants.” The word “regularly” should be replaced with “daily.”	Using the word “regularly” in this context may result in animals being left to drink dirty or contaminated water for an uncertain period of time. Using specific language such as “daily”, especially in reference to basic resources that animals should always have access to, is important for their welfare and well-being. The specificity will aid in ensuring chickens receive fresh, clean water each day.
Section 5.8	The section provides that “Chemical results are requested annually from the feed suppliers to ensure compliance with the following: (a) Pesticides. (b) Melamine. (c) Aflatoxin. (d) Heavy Metals.” The body/ entity/ person to whom feed suppliers should report should be clarified in the draft standard.	As drafted, it is unclear to whom the feed suppliers should report annually.

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1.	2.	3.
ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
Section 7.3	The draft standard currently states: “Euthanasia - provision to be made for humane killing of casualties.” However, “humane”, “casualties” and others are undefined, which is highly problematic.	The current clause is a single unsubstantiated line with no criteria for when euthanasia is required, no specification of acceptable methods, and no confirmation-of-death requirement. This leaves “humane killing” entirely to producer discretion, which is inadequate for a standard intended to be registered as a Management Control System and to potentially be associated with higher-welfare claims.
Section 7.4	The term “<i>corrected</i>” in this context needs further explanation. It is submitted that a warning system should be implemented, and after three warnings, a fine should be imposed on the relevant producer. As to the investigation, a registered, independent animal welfare inspector must conduct the investigation and draft a report. Within 30 calendar days, the owner must submit the report and ensure written and / or digital copies are kept for record keeping purposes.	As it stands, there is no clarification on what measures will be taken to “ <i>correct</i> ” mortality exceeding 0.1% daily. Requiring an animal welfare inspector to conduct the investigation and produce a report may aid in ensuring that an effort towards protecting the animals against the issues that caused the deaths is being reviewed and attended to.
Section 7.5	Delete the current wording: “Infra-red beak trimming is allowed where necessary” and replace with: “Beak trimming, tipping or	Infra-red beak trimming is a cruel practice resulting in pain from damage done to tissue and nerve injury and compromised ability to

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1.	2.	3.
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	shortening or any other mutilation is prohibited whether it be regarded as “routine” or otherwise. The producer must maintain a documented prevention and response plan for feather pecking and cannibalism based on genetics, stocking density, lighting, nutrition, litter, environmental enrichment and flock management.”	sense materials.²⁶⁰ In Switzerland, the Animal Welfare Ordinance (AniWO / SR 455.1) and specifically Article 15, prohibits the mutilation of animals to adapt them to a production system.²⁶¹ Furthermore, the Bio Suisse Standards (Part V, Chap 4.4.1) explicitly state: “No de-beaking in poultry”.²⁶² These laws require farmers to manage social aggression through lower stocking densities and environmental enrichment rather than physical alteration.²⁶³ Failure to define the term “where necessary” potentially provides an opportunity for this practice to become the norm.

²⁶⁰ Conservative Animal Welfare Foundation “The Case for Ending Beak Trimming”. Available at: https://www.conservativeanimalwelfarefoundation.org/wp-content/uploads/2022/05/CAWF-Beak-Trimming-Briefing_Final-May-2022.pdf.

²⁶¹ Animal Welfare Act of 16 December 2005 (Switzerland) [Federal Act on Animal Protection] at Article 4(2) (prohibiting the infliction of pain, suffering or harm on an animal, or inducing anxiety in an animal without justification). Available at: <https://www.fedlex.admin.ch/eli/cc/2008/414/en>.

²⁶² *Supra* note 153 (*Standards for the production, processing and trade of “bud” products*), Part V, Chapter 4.4.1 at 283 (explicitly stating: “No de-beaking in poultry”). Available at: <https://www.bio-suisse.ch/en.html>.

²⁶³ European Food Safety Authority (“EFSA”), Welfare of broilers and laying hens on farm (21 February 2023) (recommending the avoidance of mutilations and the reduction of stocking density to give birds enough space to perform natural behaviours). Accessible at: <https://www.efsa.europa.eu/en/infographics/welfare-broilers-and-laying-hens-farm>. See also: *Supra* note 153 (*Standards for the production, processing and trade of “bud” products*), Part II, Chapter 5.5.3 (requiring housing that allows for exploration, foraging, and dustbathing as an alternative to physical alteration).

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1.	2.	3.
ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
Section 8.12	“Relevant authorities” has not been defined. This should be amended to: “The suspected presence of any notifiable disease shall be reported to an animal health technician or state veterinarian in accordance with the Animal Diseases Act.²⁶⁴”	Providing clarification on the identity of the “relevant authorities” ensures greater clarity on the reporting process.
Section 10	The current wording permits voluntary use of the “Fed a Vegetarian Diet” or “any similar claim” (provided the requirements of the standard are met) and requires compliance with other applicable regulations, but it does not resolve a potential conflict with the Regulations Regarding the Grading, Packing and Marking of Eggs Intended for Sale in the Republic of South Africa made under the Agricultural Product Standards Act 119 of 1990 (“ APSA ”) and published in Government Gazette No. 43108 of Notice R.345 on 20 March 2020 (“ Regulation 345 ”). Additionally, the draft standard does not mandate clear, standardised egg production-method	Under Regulation 345, Regulation 13(1)(a)(ii) prohibits any “name, mark or any other method of expression” on a “container or outer container containing eggs” that: “indicates the more humane treatment or rearing of poultry or which creates an impression that the eggs are safer or that poultry was fed a special diet such as, but not limited to, ‘antibiotic free’, ‘fed a diet free of hormones’, ‘cage free’, ‘furnished cage’, ‘safe’, ‘pure’, ‘grass fed’, ‘pasture fed’, ‘forage fed’, ‘canola fed’, ‘Grainfed’, ‘mixed grain’, ‘organic’, etc.” (emphasis added)

²⁶⁴ Section 12 of the Animal Diseases Act 35 of 1984.

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1.	2.	3.
ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
	disclosure distinct from dietary claims such as “Fed a Vegetarian Diet”. Insert the following provision: All eggs and egg packs offered for sale must be labelled with the applicable production method prescribed under the Regulations Regarding the Grading, Packing and Marking of Eggs Intended for Sale in the Republic of South Africa made under the Agricultural Product Standards Act 119 of 1990 and published in Government Gazette No. 43108 of Notice R.345 on 20 March 2020, namely “cage”, “barn” or “free range”. The production method must be stated clearly and prominently using the prescribed terms as applicable. No egg may be sold without a production-method designation. The production-method designation must appear on the outer packaging and, where eggs are sold loose or without outer packaging, must be displayed clearly and prominently at the point of sale.	This means that, under current law, any claim that eggs produced using a “special diet” (which could potentially extend to “Fed a Vegetarian Diet”) or implying a more humane method is prohibited on egg labels. Section 10.3 of the draft standard states that the above claims may appear “on the label provided that the product in question complies with all the standards required, and where the standards differ, compliance to the stricter requirement shall be adhered to”. The draft standard is therefore in potential conflict with Regulation 345 as Regulation 345 is the stricter of the two. Although section 10.2 provides that products must be labelled “in accordance with the regulations and standards for the mentioned products published in terms of the Agricultural Product Standards Act, 1990”, this does not resolve the conflict - it potentially creates legal uncertainty for producers, who may comply with the draft standard yet still breach Regulation 345 by using the prescribed claims.

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1.	2.	3.
ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
		The Department should attempt to resolve this potential conflict by amending Regulation 345 to except claims that are registered and compliant under the MCS Regulations, or by otherwise clarifying how the two regimes are intended to interact. Separately, Regulation 345 makes disclosure of production methods (limited to “caged”, “barn”, and “free-range”) entirely voluntary for eggs generally. This creates a transparency gap that allows eggs from intensive cage systems to enter the market with no production-method information at all, potentially misleading consumers as to the welfare conditions under which the hens were kept. By contrast, the European Union (“EU”) has mandated the labelling of all production methods (cage, barn, free-range, or organic) since 2004 under Council Regulation 1907/90 and Commission Regulation 2295/2003; these have been replaced by Regulation (EU) No 1308/2013²⁶⁵ and Commission Delegated Regulation

²⁶⁵ Regulation (EU) No 1308/2013, available at: <https://eur-lex.europa.eu/eli/reg/2013/1308/oj/eng>.

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		(EU) 2023/2465. ²⁶⁶ Standardised, accurate, and transparent mandatory production system labelling is the only effective mechanism to rectify existing information asymmetries and satisfy consumers’ right to disclosure, as protected under the Consumer Protection Act 68 of 2008 (“CPA”).

²⁶⁶ Commission Delegated Regulation (EU) 2023/2465, available at: https://eur-lex.europa.eu/eli/reg_del/2023/2465/oj/eng.



TEMPLATE FOR COMMENTS

DRAFT MANAGEMENT CONTROL SYSTEMS

DUE DATE FOR RECEIVING COMMENTS: 20 AUGUST 2026

ORGANISATION/ COMPANY: ANIMAL LAW REFORM SOUTH AFRICA

NAME OF DRAFT MANAGEMENT CONTROL SYSTEM: “FREE RANGE” CATTLE (BEEF), PIGS (PORK) AND SHEEP (MUTTON) (ANNEXURE F)

1.	2.	3.
ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
General Comment	Please refer to the Animal Law Reform South Africa cover letter for general objections, comments, concerns and proposals which apply to this Annexure, which is hereby incorporated by reference.	
General Comment	Consider replacing the term “livestock”, “cattle” with “animals” or “farmed animals” throughout. At the very least, consider including a qualification at the beginning of the standard that explains the preferred use of the respective terms with an explanation.	The draft standard makes use of the term “livestock” and “cattle” in various places to describe certain animals. While we recognise that “livestock” and “cattle” is an established legal and agricultural term for domesticated animals raised in agricultural settings for production purposes, the predominant use of these terms may inadvertently reinforce an instrumental understanding of animals to

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1.	2.	3.
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		which they relate by defining them primarily in terms of their productive function. Replacing “livestock” with “animals” and “cattle” with “cows” would better reflect South Africa’s developing constitutional jurisprudence, which increasingly recognises animals as sentient beings possessing intrinsic value, as individuals, rather than mere objects for economic gain.²⁶⁷
Section 4.2	Mandate specific Shade Allowances: “Every animal shall have access to at least 3.0 m ² (Cows) or 1.0 m ² (Sheep/Pigs) of distributed shade on the range.	The current phrasing (“Protection against excessive sunlight”) is a subjective “soft” standard that is difficult to enforce. Measurable metrics are required to ensure compliance.²⁶⁸ In South Africa’s high-UV climate, heat stress is a critical welfare risk that can lead to fertility issues, sunburn, sudden death and other harms.²⁶⁹

²⁶⁷ *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development and Another* (CCT1/16) [2016] ZACC 46; 2017 (1) SACR 284 (CC); 2017 (4) BCLR 517 (CC) (8 December 2016). Available at: <https://www.saflii.org/za/cases/ZACC/2016/46.html>.

²⁶⁸ *Supra* note 17 (*Initial SAHRC Submission*) at 72 (criticising the lack of comprehensive, enforceable standards. See also: *Supra* note 4 (*Laying Down the Facts*) at 102 (noting that vague terms like “adequate” are problematic for legal enforcement).

²⁶⁹ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.13, Article 7.13.16 (stating that heat stress “can cause significant discomfort, as well as reductions in weight gain and fertility, or sudden death”).

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1.	2.	3.
ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
		While “shelter” (indoor housing) is typically provided on farms, it is often insufficient for thermal regulation. ²⁷⁰ Indoor shelters can trap noxious gases, humidity, and heat, potentially exacerbating thermal stress. ²⁷¹ In contrast, “Distributed Shade” (trees or netting) allows for vital wind-cooling. ²⁷² Distributing shade across the range also prevents soil degradation in a single spot ²⁷³ and allows “subordinate” animals to maintain their “social flight distance” from their “dominant” peers. ²⁷⁴
Section 4.2	Mandate specific cooling mechanisms for pigs: “Pigs must have access to a wallow or cooling misters whenever ambient temperatures exceed 25°C.”	Unlike ruminant animals, like cows and sheep to which this draft standard also applies, pigs possess no functional sweat glands (except

²⁷⁰ Supra note 170 (*Sandra Edwards et al, Knowledge synthesis: Animal health and welfare in organic pig production (CORE Organic, August 2009)*).

²⁷¹ Supra note 83 (*WOAH Terrestrial Animal Health Code*) at Article 7.13.15 (warning that noxious gases, including ammonia, can be “problematic in indoor systems”) and Article 7.13.12 (noting housing must provide for “thermal, social and behavioural needs”).

²⁷² Supra note 168 (*5-Step® Animal Welfare Rating Standards for Chickens Raised for Meat*) at 27, Point 5.4.1 (mandating that shade and cover “should be dispersed throughout the outdoor area to encourage roaming and foraging”).

²⁷³ For soil health, see: *Animal welfare: adding value to the livestock and meat trade* at 3 (stating correctly managed extensive grazing avoids “the degradation of natural pastures”). Available at: <https://www.oie.int/doc/ged/D11370.PDF>.

²⁷⁴ *Ibid* at 71 (clarifying that chickens utilise distributed structures to “escape from more dominant or aggressive chickens”).

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1.	2.	3.
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		on the snout)²⁷⁵ and have sparse hair cover, making them uniquely susceptible to both heat stroke and severe sunburn.²⁷⁶ Scientifically, shade alone is insufficient for a pig to maintain homeostasis in warm weather. They rely on wallowing in mud or water for evaporative cooling.²⁷⁷ Research confirms that pigs provided with functional, designated areas to wallow in show no skin damage even in extreme heat, as the mud provides a long-lasting cooling effect and natural sun protection.²⁷⁸ Thus, a “wallow” is a non-negotiable biological

²⁷⁵ RSPCA, *Welfare of Pigs* (October 2022) at 3 (noting that pigs have no sweat glands except on the snout and rely on fat for insulation). Available at: <https://www.rspca.org.uk/documents/1494939/0/Welfare+of+pigs.pdf/>.

²⁷⁶ *Supra* note 3 (*Supplementary Submission to the SAHRC*) at 47 (Footnote 195) (stating pigs are uniquely susceptible as they “cannot cool themselves by sweating”).

²⁷⁷ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.13, Article 7.13.16 (identifying solar radiation as a risk factor for heat stress). See also: *Supra* note 170 (*Sandra Edwards et al, Knowledge synthesis: Animal health and welfare in organic pig production (CORE Organic, August 2009)*) at 204 (noting that shade alone can be insufficient and that straw bedding, while good for cold, can exacerbate heat stress).

²⁷⁸ Kristina Lindgren et al., “Animal health, welfare and production problems in organic fattening pigs” in Sandra Edwards et al. (eds), *Knowledge synthesis: Animal health and welfare in organic pig production* (CORE Organic, August 2009) at page 83 (citing Weissmann et al. 2005) (finding that pigs with functional wallows showed no skin damage even in extremely sunny and warm summers). Available at: <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://orgprints.org/18419/1/18419.pdf>

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1.	2.	3.
ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
		requirement for a pig, not just a “luxury”. ²⁷⁹ This amendment aligns with the Bio Suisse Standard 5.4.1.6, which mandates a wallow or shower for pigs when temperatures reach 25°C and requires specific shaded areas outside. ²⁸⁰
Section 5.1(a)	Amend to: “Animals shall be raised on natural veld or pasture. For ruminants (cows and sheep), at least 60% of their total daily dry matter intake (DMI) must be derived from grazing.”	The word “primarily” is currently a major loophole within the draft standards. In agricultural regulations, vague terminology makes room for “strategic non-compliance”.²⁸¹ Without a percentage, a producer could potentially rear animals in intensive feedlots for months and still claim the “free range” label.²⁸² Quantifying the grazing requirement at 60% dry matter intake

²⁷⁹ *Supra* note 275 (*RSPCA Welfare of Pigs*) at 3. See also *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Article 7.13.16 (listing “wallow availability” as a critical influence on the risk of heat stress).

²⁸⁰ *Supra* note 153 (*Standards for the production, processing and trade of “bud” products*), Part II, Chapter 5.4.1.6 at 115. See also *Supra* note 17 (*Initial SAHRC Submission*) at 72 (emphasising the need for enforceable standards that meet biological requirements. See also *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) Article 7.1.5, Point 6 (stating that extreme conditions should not prevent animals from using their “natural methods of thermo-regulation”).

²⁸¹ *Supra* note 17 (*Initial SAHRC Submission*) at 72 (criticising the lack of comprehensive, enforceable standards as undermining regulatory credibility. See also: *Supra* note 4 (*Laying Down the Facts*) at 102 (noting that vague terms like “adequate” or “primarily” are problematic for legal enforcement).

²⁸² *Supra* note 10 (*Scrambling for the Truth*) at 139-140 (noting that high-value labels can create a “halo effect” that obscures industrial realities). See also: *Agricultural Product Standards Act 119 of 1990* (“APSA”) at Section 6 (prohibiting the use of words that convey a “misleading impression” as to the manner or place of production).

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ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
		(“DMI”) would be in alignment with higher-welfare standards including the Soil Association (UK) Standard 3.10, which explicitly mandates that for ruminants, “at least 60% of the diet must come from grazing, forage or fodder, calculated on a dry matter basis”.²⁸³ Furthermore, Bio Suisse (Switzerland) sets an even higher bar, requiring grass and pasture fodder to comprise 75% to 85% of the total annual ration.²⁸⁴ By quantifying the term “primarily” as 60% DMI, the Department will move this regulation from a subjective “soft” standard to a scientifically informed “hard” standard²⁸⁵ to distinguish “Free Range” from “Feedlot-finished” animal “products” intended to be regulated under this draft standard.
Section 5.5(a)	Delete the clause “except when farrowing (giving birth)” and replace with: “Sows in ‘Free Range’ systems shall not be confined in farrowing crates or cages at any time. Gestation stalls or crates for dry sows and	The current draft permits the use of restrictive cages (farrowing crates) for up to 4–5 weeks (the nursing period). This is fundamentally incompatible with a “Free Range” claim and

²⁸³ Soil Association, *Conversion guide - livestock and poultry, land and crops* (2024) at 4 (Standard 3.10). Available at: <https://www.soilassociation.org/certification/farming-growing/standards/>.

²⁸⁴ *Supra* note 153 (*Standards for the production, processing and trade of “bud” products*), Part II, Chapter 4.2.4.1 at 94 (mandating 75% in lowland areas and 85% in mountainous areas).

²⁸⁵ *Supra* note 4 (*Laying Down the Facts*) at 187 (explaining that while non-compliance with voluntary codes lacks penalties, incorporating standards into law renders them “hard law” with enforceable consequences).

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1.	2.	3.
ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
	gilts shall not be used, save that sows may be confined for a maximum of 4 days following insemination, and must be housed in groups thereafter with at least 3m ² of floor space per individual.”	perceptions of higher welfare.²⁸⁶ Consumers purchasing “Free Range” products likely do so under the impression that the animal has enjoyed freedom of movement throughout their entire life cycle. Leading high-welfare schemes, including the UK’s RSPCA Assured (Meat Pigs)²⁸⁷ and the Soil Association (UK),²⁸⁸ strictly prohibit the use of farrowing crates in free-range systems, mandating that the sow must be able to turn around at all times. Bio Suisse Standard 5.4.1.1 explicitly states that “pregnant or lactating sows may not be restrained”.²⁸⁹

²⁸⁶ *Ibid* (emphasising that regulations should reflect production realities to “avoid potentially deceiving consumers into believing that they are making purchasing choices that are different to what they are in reality”).

²⁸⁷ *Supra* note 275 (*RSPCA Welfare of Pigs*) at 17 (stating: “In the RSPCA welfare standards, the use of farrowing crates is not permitted... the sow must be able to turn around freely for the duration of farrowing”). Available at: <https://www.rspca.org.uk/documents/1494939/0/Welfare+of+pigs.pdf/>.

²⁸⁸ Soil Association, Factsheet: Keeping Pigs (2018) at 1 (explicitly stating: “Farrowing stalls/crates are not permitted” and mandating that sows be settled into farrowing arcs). Available at: <https://www.soilassociation.org/media/16301/factsheet-keeping-pigs.pdf>.

²⁸⁹ *Supra* note 153 (*Standards for the production, processing and trade of “bud” products*), Part II, Chapter 5.4.1.1 at 111 (mandating that “pregnant or lactating sows may not be restrained”). Available at: <https://www.bio-suisse.ch/en.html>.

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ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
		Outdoor arks (2.5m x 2m) and loose-farrowing pens allow sows to turn around and perform maternal behaviours while using rails and fenders to protect piglets,²⁹⁰ achieving survival rates comparable to intensive crate systems without the associated suffering.²⁹¹ However, even such systems are still forms of confinement and can be used in ways that restrict normal behaviour.²⁹² ALRSA's position is that no intensive confinement is acceptable for a credible claim alleging the higher welfare of pigs, such as a "Free Range" claim. This position is aligned with the FARMS Initiative's Responsible Minimum Standards ("RMS") for Pigs, which prohibit sow gestation stalls and farrowing crates, require group housing for dry sows and gilts (allowing stalls or crates for no more than four days after insemination with at least 3 m² per individual), and permit only

²⁹⁰ *Ibid* at 2 (specifying farrowing arks of around 2.5m x 2m). *Supra* note 275 (*RSPCA Welfare of Pigs*) at 2 (noting that an adult sow can weigh more than 300kg). Available at: <https://www.rspca.org.uk/adviceandwelfare/farm/pigs>. (discussing the use of "fenders" to protect piglets in outdoor systems).

²⁹¹ *Supra* note 275 (*RSPCA Welfare of Pigs*) at 21 (noting that freedom of movement systems achieve comparable levels of piglet mortality from crushing).

²⁹² Wechsler, B. and Weber, R., 2007. Loose farrowing systems: challenges and solutions. *Animal Welfare*, 16(3), pp.295-307.

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		very limited temporary confinement (up to three days post-farrowing) to reduce piglet crushing. ²⁹³
Section 5.5(a)	Amend the density to include more protective stocking density and a soil-protection cap: “Stocking density shall not exceed 30 pigs per hectare at any one time, and must be reduced in cases of unfavourable site conditions, high slope gradients, or where monitoring indicates soil degradation, nutrient leaching, or adverse effects on pig behaviour or welfare and well-being.”	A density of 50 pigs per 0.25 ha (equivalent to 200 pigs/ha) is relatively intensive for pasture-based systems. ²⁹⁴ A density of 30 adult pigs per hectare is an accepted higher-welfare standard for free range and pasture systems. ²⁹⁵ Bio Suisse Standard 4.1 requires that stocking density be appropriate to site and climatic conditions and mandates reductions in “mountain areas or under unfavourable site conditions” to prevent soil erosion and nutrient leaching. ²⁹⁶ Thus, stocking density should

²⁹³ FARMS Initiative, Responsible Minimum Standards (“RMS”) for Pigs (2020) at Mitigation Standard 1. Available at: <https://www.farmsinitiative.org/rmsforpigs>.

²⁹⁴ *Supra* note 170 (Sandra Edwards et al, *Knowledge synthesis: Animal health and welfare in organic pig production (CORE Organic, August 2009)*) at 375 (noting that even a significantly lower density of 15 sows per hectare resulted in large net inputs of nutrients and increased risk of nitrogen leaching).

²⁹⁵ For example, Red Tractor Certified Standards for Pig Welfare “Housing, Shelter And Handling Facilities Version 5.2”. Available at: <https://redtractor.org.uk/assurance/standards/housing-shelter-and-handling-facilities-23/>.

²⁹⁶ *Supra* note 153 (*Standards for the production, processing and trade of “bud” products*), Part II, Chapter 4.1 at 86. See also: Chapter 4.2.1.4 at 179 (mandating the prevention of erosion caused by grazing).

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		be managed so that it does not adversely affect normal behaviour or the available natural feed supply. ²⁹⁷
Section 5.5(b) & (c)	Retain the LSU limit as an environmental floor, but insert a mandatory animal comfort space allowance: “In addition to LSU limits, every animal shall have access to at least 1.5x its own body length of unobstructed space in loafing areas to ensure social “flight distance”.”	The LSU (Livestock Unit) is an environmental carrying capacity metric designed to prevent overgrazing; it is not a welfare metric designed for individual animal comfort (specific m^2 per animal based on weight) found in the UK and European high-welfare codes. ²⁹⁸ High-welfare schemes like RSPCA Assured (Beef Cattle) provide specific m^2 targets per animal weight class (e.g., 11 m^2 total for cattle >800kg) to ensure subordinate animals can escape aggressive peers. ²⁹⁹ WOA <i>Terrestrial Code</i> Article 7.9.5(4) mandates that space allowance must allow all cattle to rest simultaneously and each animal to lie down, stand up, and move freely. ³⁰⁰ LSU alone does not guarantee these outcome-based welfare indicators.

²⁹⁷ *Supra* note 83 (WOAH *Terrestrial Animal Health Code*) at Chapter 7.13, Article 7.13.13 (stating: “Stocking density should not adversely affect normal behaviour of pigs”). See also: Article 7.13.9 (mandating that in outdoor systems, stocking density “should be matched to the available natural feed supply”).

²⁹⁸ *Supra* note 273 (*Animal welfare: adding value to the livestock and meat trade*) at 3 (noting that stocking density management is often used as a strategy to avoid “the degradation of natural pastures”).

²⁹⁹ Royal Society for the Prevention of Cruelty to Animals (“RSPCA”), *Welfare Standards for Beef Cattle* (2007) at page 10 (Standard E 4.2: prescribing specific total area requirements ranging from 3.3m² for calves <100kg to 11.0m² for cattle >800kg). Available at: <https://www.rspca.org.uk/workingwithus/farmedanimals/standards/beefcattle>.

³⁰⁰ *Supra* note 83 (WOAH *Terrestrial Animal Health Code*) at Chapter 7.9, Article 7.9.5, Point 2(f).

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1. ITEM NUMBER IN DRAFT	2. PROPOSED CHANGE/ COMMENT	3. MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
Section 6.2	Amend handling prohibitions from: “The excessive use of prodders is not permitted.” to: “The use of prodders is not prohibited.”	The draft standards currently do not define what “excessive” use means. Further, the use of any device to shock animals should not be permissible under the higher-welfare “Free Range” claim.
Section 6.6 (i)	Amend transportation requirements: “No heavily pregnant animals shall be transported.” to say “No pregnant animals shall be transported.”	There is no justifiable reason why any animal should be transported while pregnant, and in particular not under the “Free Range” claim which is associated with higher animal welfare standards.
Section 6.6 (p)	Amend maximum transport duration: “No transporting for longer than 18 hours, provided that - ...” to say “No transporting for longer than 8 hours, provided that - ...”	The current proposed limit of 18 continuous hours is severely regressive compared to international high-welfare standards. The 8-hour limit is the globally recognised threshold that distinguishes a standard journey from a high-risk “long journey.” ³⁰¹ Under EU Council Directive EC 1/2005, any transport exceeding 8 hours is subject to significantly more stringent regulatory requirements because welfare risks increase exponentially beyond this window. ³⁰² Switzerland restricts animal travel time to a maximum of 6 hours, ³⁰³

³⁰¹ Council Directive (EC) No 1/2005 on the protection of animals during transport and related operations (“Council Directive EC 1/2005”) at Article 7. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32005R0001>.

³⁰² *Ibid* at Article 18. See also: *Supra* note 10 (*Scrambling for the Truth*) at 151.

³⁰³ *Animal Welfare Act (2005)* (Switzerland) (Tierschutzgesetz) at Article 15. See also: *Supra* note 152 (*Switzerland | World Animal Protection*), *Animal Protection Index* (2020) at Article 5.08.

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1.	2.	3.
ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
		while the FARMS Initiative,³⁰⁴ Norway³⁰⁵ and many RSPCA Assured standards cap transport at 8 hours.³⁰⁶ Prolonged journeys are a recognised major welfare problem, leading to severe fatigue, dehydration, and immune suppression.³⁰⁷ Pigs are “notoriously bad travellers”³⁰⁸ who are uniquely susceptible to motion sickness³⁰⁹ and have significant difficulty regulating their body temperature during transit.³¹⁰ Scientific research indicates that

³⁰⁴ FARMS Initiative, Responsible Minimum Standards (“RMS”) (2020) for Pigs, “Dairy Cattle” and “Beef Cattle” state that “Land transport time must be limited to 8 hours”. Available at: <https://www.farmsinitiative.org/rmspdfs>.

³⁰⁵ *Regulation on the commercial transport of animals* (Norway) (Forskrift om næringsmessig transport av dyr) (2002) at Section 5.

³⁰⁶ Royal Society for the Prevention of Cruelty to Animals (“RSPCA”), *RSPCA welfare standards for laying hens* (August 2017) at 54. Available at: <https://www.rspca.org.uk/adviceandwelfare/farm/layinghens>. See also: Royal Society for the Prevention of Cruelty to Animals (“RSPCA”), *RSPCA welfare standards beef cattle* (August 2017) at Point T 5.3 (specifying a maximum of 8 hours from loading the first animal to unloading the last). Available at: https://science.rspca.org.uk/documents/d/science/beef_cattle_welfare_standards_2026_web.

³⁰⁷ *Supra* note 170 (*Sandra Edwards et al, Knowledge synthesis: Animal health and welfare in organic pig production* (CORE Organic, August 2009)) at 235 (noting transport stress causes immunosuppression and increased susceptibility to infection). See also: *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.3, Article 7.3.4, Point 2(d).

³⁰⁸ *Supra* note 275 (*RSPCA Welfare of Pigs*) at 4.

³⁰⁹ *Ibid.* See also: *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Article 7.3.12 (noting that “Pigs are susceptible to motion sickness when in transit”).

³¹⁰ *Supra* note 275 (*RSPCA Welfare of Pigs*) at 4 (stating pigs “have problems regulating their body temperature”). See also: *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Article 7.3.12 (stating pigs are “highly susceptible to heat stress”).

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ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
		mortality levels increase significantly with distance travelled. ³¹¹ An 18-hour window (nearly a full day) is incompatible with a higher-welfare “Free Range” claim and fails to meet the “well-being” requirements of the National Environmental Management Biodiversity Act 10 of 2004 (“ NEMBA ”) as amended by the National Environmental Management Laws Amendment Act 2 of 2022 (“ NEMLAA ”), which mandates conditions conducive to physical and physiological health.
Section 6 (<i>Proposed Addition</i>)	Insert a mandatory prohibition on routine mutilations, including but not limited to the “routine” (or otherwise) tail docking and teeth clipping of pigs, the mulesing of sheep, castration, face branding and hot iron branding, etc.	Currently, there is no mention of tail docking, teeth clipping, or mulesing and other mutilations. Without an explicit prohibition, these practices remain legally permissible under the “Free Range” claim. “Routine” mutilations such as tail docking/teeth clipping (pigs) and mulesing (sheep), are typically carried out as reactive management “crutches” used in intensive systems to address pathologies like tail-biting caused by overcrowding and boredom. ³¹² In genuine “Free Range” systems, access to pasture and low stocking

³¹¹ RSPCA Layer Hen Standards at 54 (specifying that “Research shows that mortality levels increase with distance travelled”).

³¹² *Supra* note 4 (*Laying Down the Facts*) at 271 (stating that physical alteration is predominantly carried out to “adapt” animals to inappropriate husbandry systems).

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		densities mitigate these risks, making mutilations unnecessary (not that there is ever a necessity for them). Prohibiting these practices would bring the draft standards into greater alignment with global standards, as mulesing is legally outlawed in New Zealand³¹³ and Norway,³¹⁴ and is already prohibited locally by Woolworths within its own lamb supply chains.³¹⁵ Similarly, Bio Suisse³¹⁶ and Sweden³¹⁷ prohibit routine pig mutilations such as tail-docking and teeth-clipping. Allowing “routine” surgical interventions - especially without disclosing these to consumers - is biologically and ethically

³¹³ Animal Welfare (Care and Procedures) Regulations 2018 (New Zealand) at Section 59. Available at: <https://www.legislation.govt.nz/>.

³¹⁴ IWTO Specifications for Wool Sheep Welfare (2023) at 5 (noting Norway’s prohibition on removing body parts, including mulesing).

³¹⁵ Woolworths Animal Welfare Policy and Position Statement (2022) as cited in *Supra* note 4 (*Laying Down the Facts*) at 184. Available at: <https://www.woolworths.co.za/>.

³¹⁶ *Supra* note 153 (*Standards for the production, processing and trade of “bud” products*), Part II, Chapter 4.5.5 at 104 (stating that procedures such as “tail-docking and tooth-cutting... are prohibited”).

³¹⁷ *Supra* note 170 (*Sandra Edwards et al, Knowledge synthesis: Animal health and welfare in organic pig production (CORE Organic, August 2009)*) t 179 (confirming tail docking is banned in Sweden in both organic and conventional systems).

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		incompatible with the principles of higher-welfare farming to which this draft standard naturally applies.



TEMPLATE FOR COMMENTS

DRAFT MANAGEMENT CONTROL SYSTEMS

DUE DATE FOR RECEIVING COMMENTS: 20 AUGUST 2026

ORGANISATION/ COMPANY: ANIMAL LAW REFORM SOUTH AFRICA

NAME OF DRAFT MANAGEMENT CONTROL SYSTEM: FREE RANGE POULTRY MEAT & EGGS (ANNEXURE E)

1.	2.	3.
ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
General Comment	Please refer to the Animal Law Reform South Africa cover letter and Open Letter for general objections, comments, concerns and proposals which apply to this Annexure, which are hereby incorporated by reference.	
Section 1.3	Insert a mandatory origin requirement: “Birds or eggs marketed under the “Free Range” designation must not have been housed in cages (battery, enriched, colony or other cage) at any stage of their life cycle.”	A “Free Range” claim must act as a lifetime indicator of mobility, requiring that birds shall never have been confined to cage production systems at any stage of their life cycle. ³¹⁸ This amendment is necessary to prohibit the industrial shortcut known as “rehabilitation,” where producers cut corners by rearing pullets

³¹⁸ *Supra* note 111 (*SAPA Code of Practice (2022)*) at 7.

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		(young domestic chickens) in intensive cages during their formative developmental phase and only move them to floor-based systems late in life to capture price premiums of 8% to 64%.³¹⁹ Such practices are biologically regressive, as birds raised in wire and/or battery cages (for instance) the size of an A4 sheet of paper³²⁰ suffer from irreversible disuse osteoporosis,³²¹ bone fragility, and foot disorders³²² that cannot be “cured” by a late-life move to a different housing system. Furthermore, the African Standard (CD-ARS 1851:2025(E): Animal husbandry guidelines for egg-laying flocks - Cage-free) specifies that cage-free layers must be reared in cage-free environments from day one to ensure they are behaviourally “trained” and adapted to utilise a range, as birds

³¹⁹ Topic SA “Topic SA investigates the “free range” label claim in Pick n Pay eggs”. Available at: <https://topicsa.org.za/blog/free-range-pick-n-pay-eggs/>.

³²⁰ *Ibid* at 78.

³²¹ *Ibid* at 78.

³²² *Ibid* at 41.

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		moved from cages frequently suffer from range avoidance due to a lack of developmental experience. ³²³
Section 4.1(h)(ii)	Amend and insert: "Housing shall be equipped with ventilation and, if necessary, heating and cooling systems designed, constructed, and operated such that ammonia (NH ₃) concentrations do not exceed 20 ppm and carbon dioxide (CO ₂) concentrations do not exceed 3,000 ppm, measured at the level of the animals' heads."	"Appropriate" ventilation is too vague to support reliable auditing/ verification. Objective limits are necessary to identify non-compliance and protect the physical and physiological well-being of birds. Scientific evidence confirms that ammonia concentrations above 25 ppm cause acute respiratory distress, painful irritation of the mucous membranes, and permanent corneal burns and blindness in poultry.³²⁴ A limit of 20 ppm for ammonia is preferable.³²⁵ The New Zealand <i>Code of Welfare (Layer Hens)</i> Minimum Standard No. 8 requires immediate remedial action if ammonia levels greater than

³²³ *Supra* note 200 (ARSO *Animal husbandry guidelines for egg-laying flocks*) at Point 4.11.10. Available at: chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.rsb.gov.rw/fileadmin/user_upload/CD-ARS_1851_2025.pdf

³²⁴ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.10, Article 7.10.4, Point 10.

³²⁵ *Supra* note 140 (*FARMS Initiative, Responsible Minimum Standards ("RMS") for Laying Hens*) at Mitigation Standard 2.4, which states: "The ammonia concentration at bird height must be no more than 20 ppm".

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		20 ppm are detected at hen level.³²⁶ Similarly, the Swedish Board of Agriculture's Regulations (SJVFS 2019:23) establish a strict threshold where poultry may generally only be temporarily exposed to ammonia levels exceeding 10 ppm.³²⁷ Additionally, high ammonia build-up is a documented health hazard for farm workers and surrounding communities, linked to chronic respiratory diseases such as asthma and bronchitis.³²⁸ Mandating these limits upholds the constitutional right to an environment that is not harmful to health or well-being.³²⁹

³²⁶ *Animal Welfare (Layer Hens) Code of Welfare 2012* (New Zealand) at Minimum Standard No. 8(b) (Ventilation). Available at: <https://www.mpi.govt.nz/dmsdocument/46036-Code-of-Welfare-Layer-hens>.

³²⁷ Swedish Board of Agriculture, *Regulations and General Advice on Poultry Farming in Agriculture, etc.* (SJVFS 2019:23) at Chapter 1, Section 26 (mandating that poultry may only be temporarily exposed to air pollution exceeding specific limits, including 10 ppm for ammonia and 3,000 ppm for carbon dioxide). Available at: <https://jordbruksverket.se/>.

³²⁸ *Supra* note 10 (*Scrambling for the Truth*) at 51.

³²⁹ Constitution of the Republic of South Africa, 1996 at Section 24.

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1.	2.	3.
ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
Section 4.2(a)	Amend to quantify range area and limit flock size: “Hens and broilers shall have daily access to an outdoor range providing at least 4 m ² of usable area per bird (max. 2,500 birds/hectare). Total flock size shall not exceed 2,000 birds per housing unit.”	The existing regulatory framework for “Free Range” allows for 5 birds per m² outdoors.³³⁰ This same industrial-scale density is mirrored in the South African Poultry Association (“SAPA”) Code of Practice.³³¹ Although the draft Annexure E adopts a range-to-housing ratio (“at least 1.5 times the coop house area”), it does not address the underlying legal density that remains permissible. Consequently, a measurable maximum outdoor stocking density is required to establish a meaningful welfare and environmental standard. The existing allowance equates to approximately 50,000 birds per hectare, which is an intensity that is biologically incompatible with maintaining the minimum 50% living vegetation cover required by the draft regulation.³³² Such densities inevitably result in severe soil

³³⁰ Regulations Regarding the Grading, Packing and Marking of Eggs Intended for Sale in the Republic of South Africa published in Government Gazette No. 43108 of Notice R.345 on 20 March 2020 (“Regulation 345”) at Regulation 2(a)(ii). Available at: https://www.gov.za/sites/default/files/gcis_document/202003/43108rg11055gon345.pdf.

³³¹ *Supra* note 111 (*SAPA Code of Practice (2022)*).

³³² *Supra* note 4 (*Laying Down the Facts*) at 221.

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ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
		degradation (“poaching”), standing water, loss of vegetation, and increased parasite burdens.³³³ The proposed amendment would align South Africa with internationally recognised best practice. Both New Zealand³³⁴ and the European Union (“EU”)³³⁵ limit outdoor stocking densities to a maximum of 2,500 laying hens per hectare (approximately 4 m² per bird), a standard designed to protect environmental sustainability, maintain vegetation cover, and promote bird health. Stocking density alone does not address the psychological impact of massive groups. In enormous flocks (often 50,000+ birds), chickens suffer from “smothering” (piling on top of each other) and high-intensity aggression because they cannot establish stable social hierarchies.³³⁶ Following Bio Suisse Standards (Part II, Chap

³³³ British Free Range Egg Producers Association (“BFREPA”), *Stocking Density* (2024). Available at: <https://www.bfrepa.co.uk/stocking-density/>.

³³⁴ Ministry for Primary Industries, *Animal Welfare (Layer Hens) Code of Welfare 2012* (New Zealand) at Minimum Standard No. 6, Point (c) (stating that “Stocking of the outdoor ranging area must not exceed 2,500 hens per hectare”). Available at: <https://www.mpi.govt.nz/dmsdocument/46036-Code-of-Welfare-Layer-hens>.

³³⁵ Commission Regulation (EC) No 589/2008 as cited in *Supra* note 4 (*Laying Down the Facts*) at 141. See also: BFREPA Stocking Density Standard.

³³⁶ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.10, Article 7.10.3, Point 6(a).

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1.	2.	3.
ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
		5.5.4.1), which strictly limit housing units to 2,000 laying hens, this cap ensures that all birds can be inspected with ease by staff to identify illness or injury. ³³⁷ Limiting flock size is essential to move from “industrial free range” to a system that provides the “well-being” and individual care mandated by the National Environmental Management Biodiversity Act 10 of 2004 (“ NEMBA ”) as amended by the National Environmental Management Laws Amendment Act 2 of 2022 (“ NEMLAA ”).
Section 4.2(d)	Increase the mandatory daytime outdoor access from 6 hours to at least 8 hours daily, or “all natural daylight hours”.	The draft standards proposes only 6 hours of outdoor access. The voluntary SAPA Code of Practice for Commercial Layers already explicitly mandates that free-range birds “must have access to the external range for a minimum of 8 hours per day, during natural daylight hours.” ³³⁸ Developing a government standard that is weaker than the industry’s own voluntary code is regressive and could constitute a form of “humane-washing” by failing to provide the superior standard of care implied by a registered “Free Range” label.

³³⁷ *Supra* note 153 (*Standards for the production, processing and trade of “bud” products*) at Part II, Chapter 5.5.4.1, page 116.

³³⁸ *Supra* note 111 (*SAPA Code of Practice (2022)*) at 14 (Section 5).

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ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
		The New Zealand Animal Welfare (Layer Hens) Code of Welfare (2012) requires that access to the range be available during <i>all</i> daylight hours.³³⁹ On average, this ensures birds have 10 to 14 hours of daily access depending on the season, allowing them to follow their natural crepuscular foraging cycles - periods of high activity at dawn and dusk.³⁴⁰ Research confirms that hens' bodies are biologically attuned to light cycles of 14 to 16 hours for optimal well-being and egg-laying capability.³⁴¹ Restricting outdoor access to just 6 hours (less than half of their natural activity period) forces birds to spend the majority of their waking hours indoors, which is fundamentally inconsistent with the perception of "Free Range".

³³⁹ New Zealand Code of Welfare at Minimum Standard No. 11, Point (d).

³⁴⁰ *Supra* note 4 (*Laying Down the Facts*) at 148. See also: Better Chicken Commitment, *The Welfare of Broilers in the EU: Technical Report* (2022) at 8 (noting increased activity around dawn and dusk). Available at: <https://betterchickencommitment.com/eu-broiler-chicken-welfare.pdf>

³⁴¹ *Supra* note 10 (*Scrambling for the Truth*) at 80 (citing research on 14–16-hour biological light cycles).

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Section 4.2(e)	Amend vegetation requirements: “The outdoor area must be covered with at least 50% living vegetation at all times. To facilitate ranging, this must include natural cover (trees or shrubs) placed within 20m of the house exits and distributed across the range.”	Domestic chickens are forest-evolved descendants of the Red Jungle Fowl.³⁴² They possess an innate, biological fear of open spaces, which they perceive as high-risk areas for overhead predators.³⁴³ A vast, empty grass field, even if technically a “run”, is often functionally empty because birds refuse to leave the security of the barn, a phenomenon known as range avoidance.³⁴⁴ Section 4.1(a) of this draft standard mandates that systems must meet the “animal’s behavioural needs regarding appropriate freedom of movement”. However, by failing to mandate cover near exits, the draft creates a system that psychologically prevents birds from exercising that movement. Simply providing a run without cover goes against their natural behaviour of seeking shelter while foraging.³⁴⁵

³⁴² BFREPA Stocking Density Standard. See also: *Supra* note 209 (Norwegian Scientific Committee for Food and Environment (“VKM”), *The use of light, restrictive feeding, fibrous feed and stocking density and the consequences for animal welfare for poultry species kept in Norway*) at 20 (noting Southeast Asian Forest understory as the ancestral habitat).

³⁴³ RSPCA Assured, Welfare standards for laying hens (2017) as cited in *Supra* note 4 (*Laying Down the Facts*) at 148.

³⁴⁴ BFREPA Stocking Density Standard (noting that birds are “reluctant to go outside” without security). See also: *Supra* note 4 (*Laying Down the Facts*) at 148.

³⁴⁵ BFREPA Stocking Density Standard.

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		This amendment aligns with Bio Suisse Standards (5.5.3.7 and 5.5.4.7), which mandate that pastures must contain structural elements like bushes and trees. ³⁴⁶ Critically, Bio Suisse requires that birds must be able to reach such cover within 15–20m of any point in the pasture to ensure the entire area is used. ³⁴⁷
Section 4.2(f)	Increase the shade requirement from 4m ² to at least 8m ² per 1,000 birds, and mandate distributed structures.	Providing only 4 m ² of shade per 1,000 birds is a gross under-provision ³⁴⁸ that leads to range avoidance, where birds refuse to utilise the pasture due to fear and heat. ³⁴⁹ Chickens are forest-evolved prey animals; they require overhead cover to feel safe from predators and to escape South Africa’s intense solar radiation. ³⁵⁰

³⁴⁶ *Supra* note 153 (*Standards for the production, processing and trade of "bud" products*), Part II, Chapter 5.5.3.7 at 115 and Chapter 5.5.4.7 at 122.

³⁴⁷ *Ibid* at Chapter 5.5.3.7 (mandating cover within 15m for pullets) and Chapter 5.5.4.7 (mandating cover within 20m for laying hens).

³⁴⁸ *Supra* note 111 (*SAPA Code of Practice (2022)*) at 13 (Section 3.2.6).

³⁴⁹ BFREPA Stocking Density Standard.

³⁵⁰ *Ibid*. See also: *Supra* note 4 (*Laying Down the Facts*) at 148.

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		Higher-welfare international standards, such as RSPCA Assured, mandate $8m^2$ per 1,000 birds³⁵¹ and require that structures be distributed to encourage roaming.³⁵² Without distribution, birds crowd around a single shaded area, leading to soil degradation and increased aggression.³⁵³ Chickens lack sweat glands and rely on behavioural thermoregulation.³⁵⁴ Inadequate shade leads to documented heat stress (panting, wing spreading) and increased mortality.
Section 4.3(a)(i)	Reduce the maximum indoor stocking density: “Stocking density shall not exceed 6 hens/ m^2 (Laying Hens)”	The draft standard creates a severe regulatory contradiction. Annexure B (Barn Eggs) proposes a density of 6 hens/ m^2 , yet this draft for Free Range Eggs (a supposedly superior welfare label) permits a more cramped density of 10 hens/ m^2 . This means a bird under a premium “Free Range” label would have 40% less space indoors than a “Barn” hen. This is logically inconsistent and violates

³⁵¹ RSPCA Assured, Welfare standards for laying hens (2017). See also: BFREPA Stocking Density Standard.

³⁵² RSPCA Assured, Welfare standards for laying hens (2017).

³⁵³ *Supra* note 10 (*Scrambling for the Truth*) at 121 (noting that inadequate provision leads to poor spatial distribution).

³⁵⁴ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.10, Article 7.10.3, Point 6(c) (listing thermoregulatory behaviour as a measurable).

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		the Consumer Protection Act 68 of 2008 (“CPA”)³⁵⁵ by creating a misleading impression that “Free Range” implies (or guarantees superior conditions.³⁵⁶ At 10 birds/m², each hen receives only 0.1 m² of space. This extreme density prevents the expression of “strongly motivated” natural behaviours, such as wing-flapping, preening, and stretching, which are critical for well-being.³⁵⁷ High densities are scientifically linked to disuse osteoporosis, chronic stress, and increased injurious pecking.³⁵⁸

³⁵⁵ Consumer Protection Act 68 of 2008 (“CPA”) at Section 24.

³⁵⁶ Agricultural Product Standards Act 119 of 1990 (“APSA”) at Section 6 (prohibiting the use of descriptions that create a misleading impression regarding the manner of production).

³⁵⁷ *Ibid* at 168. See also: RSPCA Assured, Welfare standards for laying hens (2017) as cited in *Supra* note 4 (*Laying Down the Facts*) at 202.

³⁵⁸ *Supra* note 4 (*Laying Down the Facts*) at 78, 177, 180.

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		Alignment with EU Regulation 2023/2465³⁵⁹ and New Zealand’s Code of Welfare (which caps barn densities at 7–9 hens/m^2)³⁶⁰ is essential to ensure South African standards are not regressive. The proposed figure is set at 6 hens/m^2, rather than the upper end of the NZ range, to ensure consistency with the 6 hens/m^2 standard ALRSA proposes for the Barn Eggs, Organic Production, and Canola Eggs annexures. A “Free Range” label should not permit less indoor space per bird than a “Barn” or “Organic” label. Anything above 6 hens/m^2 would create the misleading “halo effect” this submission argues against elsewhere in this annexure (see comments on Sections 4.2(h) and 11.1 below).

³⁵⁹ Commission Delegated Regulation (EU) 2023/2465 of 17 August 2023 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards marketing standards for eggs, and repealing Commission Regulation (EC) No 589/2008 at Annex II (setting out the minimum requirements for systems of production for the various categories of farming of laying hens). Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32023R2465>.

³⁶⁰ New Zealand Code of Welfare at Minimum Standard No. 6, Point (b). See also: Egg Producers Federation of New Zealand, Egg Farming Types (2024). Available at: <https://www.eggproducers.org.nz/farming/egg-farming-types/> (noting that the New Zealand Code of Welfare caps indoor stocking density at 7 hens/ m^2 for barns).

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Section 4.3(a)(ii)	Reduce the maximum indoor stocking density: “Stocking density shall not exceed 27.5 kg/m ² (Broilers).”	Unlike laying hens, which have a relatively stable adult weight, broilers are slaughtered at various ages and weights.³⁶¹ Using a “bird count” is a dangerous welfare metric because 15-day-old chicks require very little space, but 15 mature 2.5 kg birds in the same square meter would be dangerously overcrowded, leading to thermal stress and sudden death.³⁶² A weight-based ratio (kg/m^2) is the global scientific standard because it measures biomass.³⁶³ By capping density at 27.5 kg/m^2 (the RSPCA Assured and Better Chicken Commitment standard),³⁶⁴ the Department ensures that as the birds grow, the total biomass never exceeds the physical capacity of the house for movement and thermoregulation.

³⁶¹ Better Chicken Commitment Technical Report at 3 (noting typical slaughter at 34–39 days).

³⁶² *Supra* note 148 (*RSPCA, Welfare of Meat Chickens Report*) at 4 (noting that high stocking densities increase the risk of thermal stress). See also: *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.10, Article 7.10.3, Point 6(a).

³⁶³ *Supra* note 148 (*RSPCA, Welfare of Meat Chickens Report*) at 2. See also: Better Chicken Commitment Technical Report at 7.

³⁶⁴ *Supra* note 148 (*RSPCA, Welfare of Meat Chickens Report*) at 3, 7 (specifying the 27.5 kg/m^2 free-range limit). See also: *Supra* note 4 (*Laying Down the Facts*) at 221 (discussing higher welfare standards in the Better Chicken Commitment).

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ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
		High broiler densities (often 38–42 kg/m^2 in intensive systems) ³⁶⁵ lead to wet litter, which causes painful ammonia burns (pododermatitis) on the feet and breasts. ³⁶⁶ Reducing the indoor limit to 27.5 kg/m^2 for Free Range systems is a proven method to reduce "Dead on Arrival" (DOA) rates and ensure birds have the leg health required to actually utilise the outdoor range. ³⁶⁷
Section 4.3 (d) and (e)	Insert: "Nest boxes shall be provided at a ratio of at least one nest box per 5 hens, or a minimum of 1m ² of communal nesting substrate per 120 hens where group nesting is used. Perches shall provide at least 18cm of perch space per hen."	This annexure already proposes detailed multi-tier perching clearance requirements (Section 4.2(i)) but does not quantify total perch length or nest box ratio. The proposed nest-box ratio is consistent with the more protective requirement already appearing in Annexure B ("Barn Eggs"), section

³⁶⁵ Better Chicken Commitment Technical Report at 4 (citing standard intensive densities of 39–42 kg/m^2).

³⁶⁶ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Article 7.10.3, Point 3. See also: European Commission, *Overview report: Use of slaughterhouse data to monitor welfare of broilers on farm* (2015). DG(SANTE) 2015-7735 at 4 (linking wet litter to lesions on the breast, hock, and feet). Available at: https://health.ec.europa.eu/system/files/2016-11/broiler_slaughterhouse_data_overview_report_en_0.pdf.

³⁶⁷ Better Chicken Commitment Technical Report at 15 (documenting a 79% reduction in DOAs for a supplier transitioning to these high-welfare standards). See also: *Supra* note 148 (*RSPCA, Welfare of Meat Chickens Report*) at 4.

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		4.2(f), which states that there should be one nest per five hens. Applying the same requirement here would promote consistency across the proposed APSA production systems and avoid a situation in which a “Free Range” standard provides weaker nesting requirements than the Barn Eggs standard. The proposed perch allocation is supported by the FARMS Initiative’s Responsible Minimum Standards (“RMS”) for Laying Hens, which provide an objective benchmark for minimum perch space.³⁶⁸ Quantifying perch space is particularly important in multi-tier and aviary systems, where the existence of perching structures alone does not establish that sufficient usable perch space is available to the whole flock. Objective minimums are necessary to support nesting, roosting, resting and other strongly motivated behaviours, while reducing competition, crowding and exclusion of subordinate birds. The

³⁶⁸ *Supra* note 140 (*FARMS Initiative, Responsible Minimum Standards (“RMS”) for Laying Hens*) at Mitigation Standard 2.1-2.2, requiring “at least one nest box for every six hens, or 1 m2 of nesting substrate per 120 hens for group nesting” and “a perch area of at least 18 cm of perch space per hen”.

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		amendment would also improve certification, inspection and enforcement by replacing discretionary language with requirements that can be measured and verified.
Section 4.3(f)	Amend to: "Lighting shall provide 8 hours of continuous darkness (< 1 lux) and incorporate 30-minute dawn/dusk transitions."	To ensure this standard is auditable, "darkness" must be quantified using Lux - the international unit of light intensity (1 lux is approximately the light of a single candle).³⁶⁹ High-welfare standards like Global Animal Partnership ("GAP") define darkness as < 1 lux to ensure that the birds' melatonin rhythms and internal biological clocks are not disrupted by "light leakage", which can cause chronic sleep deprivation and immune suppression.³⁷⁰ Standard South African industrial "on/off" switches cause sudden light shifts that trigger a "flight" or panic reaction in poultry.³⁷¹ In large flocks, this sudden plunge into darkness causes birds to pile on

³⁶⁹ *Supra* note 4 (*Laying Down the Facts*) at 190.

³⁷⁰ *Supra* note 168 (*5-Step® Animal Welfare Rating Standards for Chickens Raised for Meat*). See also: *Supra* note 170 (Schwean-Lardner K, et al., "Effect of day length on flock behavioural patterns and melatonin rhythms in broilers") at 8.

³⁷¹ *Supra* note 111 (*SAPA Code of Practice (2022)*) at 15 (Section: Light Control).

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		top of one another (“smothering”), leading to physical injuries and suffocation.³⁷² Following the New Zealand Code of Welfare (Minimum Standard 7), which mandates gradual 15-minute transitions,³⁷³ we propose a 30-minute transition to better mimic natural light cycles. This allows birds sufficient time to find their roosts and settle calmly, significantly reducing stress-related pathologies.³⁷⁴
Section 5	Insert: “Induced molting through feed or water withdrawal, extended starvation, or any other method of induced molting is prohibited.”	Induced molting is an industrial practice in which feed (and sometimes water) is withheld from hens for a period of one to two weeks to reset their egg-laying cycle. ³⁷⁵ It causes acute hunger, stress, and increased mortality, ³⁷⁶ and is inconsistent with any claim to a welfare-differentiated production system. The draft standards

³⁷² *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.10, Article 7.10.3, Point 6(a). See also: ARSO CD-ARS 1851:2025(E): *Animal husbandry guidelines for egg-laying flocks — Cage-free* at Point 4.10.11.

³⁷³ New Zealand Code of Welfare at Minimum Standard No. 7, Point (f).

³⁷⁴ *Supra* note 200 (ARSO *Animal husbandry guidelines for egg-laying flocks*) at Point 4.10.10 (noting that 15–30 minute transitions stimulate birds to move to night perches and prevent stress).

³⁷⁵ *Supra* note 219 (Glatz, P.C. and Tilbrook, A.J., *Welfare issues associated with moulting of laying hens*).

³⁷⁶ *Ibid.*

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		currently make provision under Section 6.1 for “a special coop for bullied, molting and broody birds” (emphasis added). The reference to “molting” could be interpreted as permitting or contemplating induced moulting, even though the standard does not define the term or distinguish natural moulting from deliberate production-related deprivation. Section 6.1 should therefore be amended to refer only to hens undergoing natural moulting, or to remove “molting” altogether. FARMS Initiative’s RMS for Laying Hens explicitly prohibits forced or induced molting as a mitigation for the welfare risk of “Inappropriate Diets”.³⁷⁷
Section 6.1	Delete the word “molting” from the provision.	Section 6.1 refers to “molting” birds as if molting is an expected, normal management tool, while the draft standard does not clearly prohibit induced/forced molting by feed/water withdrawal or other methods. This undermines the welfare credibility of the system. Induced molting should be prohibited, as noted above.

³⁷⁷ *Supra* note 140 (FARMS Initiative, *Responsible Minimum Standards (“RMS”) for Laying Hens*) at Mitigation Standard 3.1, stating: “Forced moulting is not permitted”.

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ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
Section 6.4	Amend maximum transport duration: “The continuous transportation of chickens, including layer hens, shall not exceed 4 hours.”	Chickens, including layer hens, are uniquely susceptible to thermal stress and dehydration during transit. ³⁷⁸ Because birds are transported in stacked crates that make individual inspection or intervention impossible during the journey, shorter durations are a biological necessity to prevent undetected suffering. ³⁷⁹ The SAPA Code of Practice permits journeys of up to 24 hours - a duration scientifically recognised as an “arduous journey”. ³⁸⁰ Adopting the lower 4-hour limit is essential to satisfy the NEMBA mandate for animal “well-being”. ³⁸¹ Scientific and commercial evidence demonstrates that shorter journey times are the most effective way to reduce DOA rates. ³⁸² Poultry suppliers in Norway that shifted to shorter, higher-welfare journey times documented a 79% reduction

³⁷⁸ *Supra* note 10 (*Scrambling for the Truth*) at 151.

³⁷⁹ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.3, Article 7.3.5, Point 8(b) (stating that where animals in crates cannot be inspected adequately, a shorter journey duration must be allowed).

³⁸⁰ *Supra* note 111 (*SAPA Code of Practice (2022)*) at 21 and Appendix 14 at 53.

³⁸¹ NEMLAA at Section 1. See also: *Supra* note 4 (*Laying Down the Facts*) at 70.

³⁸² *Ibid.*

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		in DOA rates,³⁸³ proving that the current South African allowance of 24 hours is a primary driver of systemic mortality.³⁸⁴ The FARMS Initiative RMS for Laying Hens provides that “In cases where they are transported for slaughter, end-of-lay hens should be caught gently without inverting the birds, and the journey should be no more than four hours”.³⁸⁵ This is the figure we propose.
Section 8.3	The draft standard currently states: “Euthanasia - provision to be made for humane killing of casualties.” However, “humane”, “casualties” and others are undefined, which is highly problematic.	The current clause is a single unsubstantiated line with no criteria for when euthanasia is required, no specification of acceptable methods, and no confirmation-of-death requirement. This leaves “humane killing” entirely to producer discretion, which is inadequate for a standard intended to register a Management Control System and to be regarded as higher welfare claims.

³⁸³ Better Chicken Commitment Technical Report at 15 (citing the results of Norsk Kylling in Norway). Available at: <https://www.animallawreform.org/wp-content/uploads/2025/02/Laying-Down-The-Facts-Report-V3.pdf>.

³⁸⁴ *Supra* note 111 (*SAPA Code of Practice (2022)*) at 21 (Section 9).

³⁸⁵ *Supra* note 140 (*FARMS Initiative, Responsible Minimum Standards (“RMS”) for Laying Hens*) at Mitigation Standard 5.2.

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ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
Section 12.1	The “Free Range” claim may be used only while hens have continuous daytime access to a suitable outdoor range, except during temporary confinement that is strictly necessary for veterinary, disease-control or biosecurity reasons. If outdoor access is unavailable for more than 14 consecutive days, the eggs must not be marketed or labelled as “Free Range” until outdoor access has been restored and the requirements of this standard have again been met.	Allowing 24 weeks (nearly half a year) of continuous confinement while maintaining a “Free Range” label is misleading to consumers. The relevant issue is not only whether confinement is permitted under an agricultural or disease-control regime, but whether the product continues to correspond with the reasonable consumer’s understanding of “Free Range”. Temporary confinement should therefore be permitted only where strictly necessary, for the shortest period reasonably required, and subject to regular review, recordkeeping and automatic consequences for the claim. At a minimum, the standard should provide that eggs produced after the prescribed maximum period may not be labelled or marketed as “Free Range” until outdoor access has been restored. This is necessary to prevent a prolonged exception from becoming an alternative production system and to protect consumers against a misleading representation regarding the nature, characteristics or method of production of the eggs. It is also consistent with the

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		principle that a welfare or production claim must be based on objective, measurable and verifiable criteria rather than broad wording that permits the claim to continue after its defining condition has ceased.
Section 12.1	Mandate a Production Method Disclosure: “The production method (e.g., “Free Range”) must appear in the same font size and colour directly adjacent to the brand name.”	This proposal promotes the purpose of section 6 of the APSA, which prohibits any visual expression or method of marking that creates a “misleading impression: regarding the manner of production.”³⁸⁶ By requiring disclosure of a production method on egg packaging/labelling, the Department will align South Africa with global benchmarks such as the European Union has mandated the labelling of all production methods (cage, barn, free-range, or organic) since 2004 under Council Regulation 1907/90 and Commission Regulation 2295/2003; these have been replaced by Regulation (EU) No 1308/2013³⁸⁷ and Commission Delegated Regulation

³⁸⁶ *Ibid.* See also: *Supra* note 10 (*Scrambling for the Truth*) at 148.

³⁸⁷ Regulation (EU) No 1308/2013, available at: <https://eur-lex.europa.eu/eli/reg/2013/1308/oj/eng>.

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		(EU) 2023/2465, ³⁸⁸ which successfully shifted market demand toward higher-welfare systems over two decades by providing standardised, immediate information. ³⁸⁹ This also follows the Swiss model, which mandates clear labelling for products produced using procedures that compromise animal welfare. ³⁹⁰

³⁸⁸ Commission Delegated Regulation (EU) 2023/2465, available at: https://eur-lex.europa.eu/eli/reg_del/2023/2465/oj/eng.

³⁸⁹ *Ibid* at 9. See also: Eurogroup for Animals, Animal Welfare Food Labelling (2020). Available at: https://www.eurogroupforanimals.org/files/eurogroupforanimals/2021-05/E4A-AW-Food_Labeling-2020-web-version.pdf.

³⁹⁰ *Supra* note 3 (*Supplementary Submission to the SAHRC*) at 7. See also: Robinson N, “What Switzerland’s new food welfare labels mean for food producers” (2025) Food Navigator. Available at: <https://www.foodnavigator.com/Article/2025/07/04/switzerlands-new-animal-welfare-labels-explained/>.



TEMPLATE FOR COMMENTS

DRAFT MANAGEMENT CONTROL SYSTEMS

DUE DATE FOR RECEIVING COMMENTS: 20 AUGUST 2026

ORGANISATION/ COMPANY: ANIMAL LAW REFORM SOUTH AFRICA (ALRSA)

NAME OF DRAFT MANAGEMENT CONTROL SYSTEM: GRAINFED EGGS (ANNEXURE G)

1.	2.	3.
ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
General Comment	Please refer to the Animal Law Reform South Africa cover letter for general objections, comments, concerns and proposals which apply to this Annexure, which is hereby incorporated by reference.	
General Comment	Consider replacing the term “livestock” with “animals” or “farmed animals” throughout. At the very least, consider including a qualification at the beginning of the standard that explains the preferred use of the term “livestock” with an explanation.	The draft standard makes use of the term “livestock” in various places. While we recognise that “livestock” is an established legal and agricultural term for domesticated animals raised in agricultural settings for production purposes, its predominant use may inadvertently reinforce an instrumental understanding of animals by defining them primarily in terms of their productive function.

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ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
		Replacing “livestock” with “animals” would better reflect South Africa’s developing constitutional jurisprudence, which increasingly recognises animals as sentient beings possessing intrinsic value, rather than mere objects for economic gain. ³⁹¹
Section 4	Insert a mandatory housing requirement: “Grainfed Eggs shall only be produced in non-cage systems (Barn or Free Range) as registered under Annexures B or E.”	Approximately 95% of hens are confined in battery cages in South Africa, and 98.6% (in 2024) were produced from hens kept in cages.³⁹² The draft standard does not preclude from using the “Grainfed” claim and confining hens to cages.³⁹³ Consumers may potentially equate “Grainfed” with a “natural” or “pure” lifestyle for hens, therefore making such a claim when hens are confined in intensive systems, and living in a space smaller than

³⁹¹ See for instance, *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development and Another* (CCT1/16) [2016] ZACC 46; 2017 (1) SACR 284 (CC); 2017 (4) BCLR 517 (CC) (8 December 2016). Available at: <https://www.saflii.org/za/cases/ZACC/2016/46.html>.

³⁹² *Supra* note 67 (SAPA Annual Report 2024).

³⁹³ *Supra* note 4 (*Laying Down the Facts*) at 43 (noting that “Grainfed” chickens are not precluded from being kept in cages).

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		an A4 page, ³⁹⁴ in reality, may be misleading to consumers. Restricting this claim to non-cage systems may therefore reduce potential risks for producers under Section 24 of the Consumer Protection Act (“CPA”). ³⁹⁵ Section 6 of the Agricultural Product Standards Act (“APSA”) also prohibits labels that create a misleading impression about a product’s production method. Emphasising feed while omitting intensive confinement undermines this principle and is likewise potentially misleading to consumers.
Section 4	This section should include the following: Nest boxes shall be provided at a ratio of at least one nest box per 5 hens, or a minimum of 1m ² of communal nesting substrate per 120	The FARMS Initiative’s Responsible Minimum Standards (“RMS”) for Laying Hens ³⁹⁶ provides applicable, internationally recognised metrics for both nest boxes and perches, consistent with

³⁹⁴ *Supra* note 4 (*Laying Down the Facts*) at 39 (stating that “layer hens are forced to live their lives in battery cages that are the size of an A4 sheet of paper”). See also: *Supra* note 148 (*RSPCA, Welfare of Meat Chickens Report*) at 2 (noting intensive stocking densities allocate space “less than an A4 sheet of paper”). Available at: <https://www.rspca.org.uk/documents/1494939/7712578/FAD-Meat-Chickens-Information-Sheet-2022.pdf/78c5de7e-a4e0-90cf-f75a-22e27baa81af?t=1673621417579>

³⁹⁵ Consumer Protection Act 68 of 2008 (“CPA”) at Section 24 (Right to disclosure and information). See also: *Supra* note 10 (*Scrambling for the Truth*) at 110 (emphasising that deceptive practices collectives described as “Corporate Hypocrisy” spread misinformation that violates consumer rights).

³⁹⁶ *Supra* note 140 (*FARMS Initiative, Responsible Minimum Standards (“RMS”) for Laying Hens*) at Mitigation Standard 2.1-2.2, requiring “at least one nest box for every six hens, or 1 m2 of nesting substrate per 120 hens for group nesting” and “a perch area of at least 18 cm of perch space per hen”.

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	hens where group nesting is used. Perches shall provide at least 18cm of perch space per hen.	the standard of measurable, enforceable drafting this submission argues for throughout. Annexure B (“Barn Eggs”) at Section 4.2 (f) states that “ <i>nesting boxes should be 1 nest per 5 hens</i> ”, which is preferable to the FARMS Initiative’s RMS, and which is why that figure has been proposed.
Section 5.5 and Section 11.1	Delete “Fed a 100% vegetarian diet” and replace with “Plant-based feed.” ³⁹⁷	Chickens are biologically omnivores, naturally foraging for insects, grubs, and worms. ³⁹⁸ Labelling a diet as “vegetarian” implies a welfare benefit, but denying an omnivore its natural protein sources can be a welfare restriction. ³⁹⁹ “Plant-based feed” is a technically accurate description of the ration without potentially creating a false

³⁹⁷ We note that there is an entire Annexure on “Fed a Vegetarian Diet” and “Plant-based feed” is not defined, however in this instance the use of this term is problematic for the reasons expanded on (including that chickens are biological omnivores and in nature forage for other small animals).

³⁹⁸ *Supra* note 168 (5-Step® *Animal Welfare Rating Standards for Chickens Raised for Meat*) at 55 (stating that “Grubs and insects are part of the natural diet of chickens and have the additional benefit of providing essential amino acids”).

³⁹⁹ Agricultural Product Standards Act 119 of 1990: Regulations: Grading, packing and marking of eggs (“Egg Regulations”) at Regulation 13(1)(a)(ii) (noting that claims regarding special diets are restricted because they indicate more humane treatment). *Please note that ALRSA does not support intensive farming activities of any animal, however natural omnivores and carnivores who are farmed present additional and knock-on animal welfare implications, not only for the farmed animals, but animals used as feed. We do not promote feeding chickens other animals in this situation.*

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		“halo effect” of superior welfare that contradicts the bird’s natural biology. ⁴⁰⁰
Section 5.6	Delete the current wording and replace with: “Feed ingredients shall consist of at least 65% whole or ground grains. The use of synthetic additives and industrial by-products shall not exceed 15% of the total ration weight.”	Consumers potentially select products labelled “Grainfed” under the impression that they are purchasing a more “natural” product.⁴⁰¹ Studies show consumers are willing to pay between 8% and 64% more for eggs carrying such speciality claims.⁴⁰² When a consumer pays such a premium, it is possible that they expect a diet dominated by actual cereal grains, not industrial waste or synthetic bulkers to which they may not have any knowledge of.⁴⁰³ The proposed term “grain-based components” is vague and does not necessarily support this expectation. It potentially allows a producer to use a diet primarily composed of low-value industrial by-products

⁴⁰⁰ *Supra* note 10 (*Scrambling for the Truth*) at 110 and 139 (defining “Humane-washing” as the practice of spreading misinformation to create a false impression of compassion, also known as a “halo effect”).

⁴⁰¹ *Ibid* at 139 (noting marketing appeals to consumer perceptions of “natural” conditions). See also: Rahmani D et al (2019) “Are consumers’ egg preferences influenced by animal-welfare conditions and environmental impacts?” as cited in *Supra* note 10 (*Scrambling for the Truth*) at 7.

⁴⁰² *Supra* note 4 (*Laying Down the Facts*) at 193 (referencing investigations showing shoppers pay a significant premium for specialty labels).

⁴⁰³ *Supra* note 10 (*Scrambling for the Truth*) at 139 (discussing how terminology can mask a reality where animal needs are not prioritised).

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		(e.g., grain screenings, hulls, or millrun) supplemented with pure synthetic amino acids and vitamins to meet basic nutritional needs while still making use of the “Grainfed” claim. This potentially constitutes a form of dietary “humane-washing” and/or potentially “health washing” in which the marketing claim creates a “halo effect” that the actual ingredients do not support. The South African Poultry Association (“SAPA”) Code of Practice 2022 makes provision for and defines “Cereal Fed Eggs” as those where cereals account for at least 60% in weight of the feed formula.⁴⁰⁴ It is therefore regressive for a new government regulation to set a lower or more vague standard than the industry’s existing voluntary code.⁴⁰⁵ Internationally, the Dutch Beter Leven 1-Star

⁴⁰⁴ *Supra* note 111 (*SAPA Code of Practice (2022)*) at 47 (Section 12.12: Appendix 12, specifically restricting “cereal by-product” to no more than 15% of the feed formula).

⁴⁰⁵ *Supra* note 4 (*Laying Down the Facts*) at 111 (noting that new standards are regressive if they fall below existing industry voluntary benchmarks).

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		standard mandates a minimum of 70% grain and grain by-products,⁴⁰⁶ and Bio Suisse requires 65% for poultry.⁴⁰⁷ Adopting a measurable minimum threshold of 65% whole or ground cereal grains may aid in ensuring that the “Grainfed” claim is reasonably substantiated, in greater alignment with consumer expectations, provides greater certainty for premium producers, and aids in protecting consumers from potentially misleading claims based on synthetic additives and industrial by-products.
Section 7.3	The draft standard currently states: “Euthanasia - provision to be made for humane killing of casualties.” However, “humane”, “casualties” and others are undefined, which is problematic.	The current clause is a single unsubstantiated line with no criteria for when euthanasia is required, no specification of acceptable methods, and no confirmation-of-death requirement. This leaves “humane killing” entirely to producer discretion, which is inadequate for a standard intended to be registered as a Management Control System and to be regarded as higher welfare claims.

⁴⁰⁶ Dutch Society for the Protection of Animals (Dierenbescherming), *Beter Leven keurmerk: Standards for Broilers — 1 Star* (Version 5.2, 2 January 2023) at Point KBLV06B. Available at: <https://beterleven.dierenbescherming.nl/>.

⁴⁰⁷ *Supra* note 153 (*Standards for the production, processing and trade of “bud” products*), Part II, Chapter 5.5.6.10 at 125.

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Section 7.5	Delete the current wording: “Infra-red beak trimming is allowed where necessary” and replace with: “Beak trimming, tipping or shortening or any other mutilation is prohibited whether it be regarded as “routine” or otherwise. The producer must maintain a documented prevention and response plan for feather pecking and cannibalism based on genetics, stocking density, lighting, nutrition, litter, environmental enrichment and flock management.”	High-value dietary labels such as “Grainfed” should align with high physical integrity (and treatment) of the animals.⁴⁰⁸ Consumers who seek out and select “Grainfed” may potentially be under the impression that the system is “natural” and produced without invasive industrial interventions to the hens laying the eggs.⁴⁰⁹ Systematic mutilation, such as beak trimming, is fundamentally inconsistent with the “halo effect” of a high-value claim and an inherently cruel practice.⁴¹⁰ In Switzerland, the Animal Welfare Ordinance (AniWO / SR 455.1) and specifically Article 15, prohibits the mutilation of animals to adapt them to a production system.⁴¹¹ Furthermore, the Bio Suisse Standards (Part V, Chap 4.4.1) explicitly state: “No de-beaking in

⁴⁰⁸ *Supra* note 3 (*Supplementary Submission to the SAHRC*) at 13 (stating that claims like “ethically produced” must be backed by substantiated evidence and verifiable standards to ensure integrity).

⁴⁰⁹ *Supra* note 4 (*Laying Down the Facts*) at 193 (referencing a TOPIC SA investigation which found that consumers buy specialty-labelled eggs because they believe the hens are “happier” and “healthier,” and are willing to pay between 8% to 64% more for such products).

⁴¹⁰ *Ibid* at 271 (stating that physical alteration of farmed animals is predominantly carried out to “adapt” animals to inappropriate husbandry systems).

⁴¹¹ Animal Welfare Act of 16 December 2005 (Switzerland) [Federal Act on Animal Protection] at Article 4(2) (prohibiting the infliction of pain, suffering or harm on an animal, or inducing anxiety in an animal without justification). Available at: <https://www.fedlex.admin.ch/eli/cc/2008/414/en>.

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		poultry”.⁴¹² These require farmers to manage social aggression through lower stocking densities and environmental enrichment rather than physical alteration.⁴¹³ Prohibiting this practice (and other cruel practices that layer hens may be subjected to) aids in ensuring the label represents a genuinely higher standard of care and physical integrity for hens.
Section 11	The current wording permits voluntary use of the “Grainfed” / “Fed a vegetable diet” or “any similar claim” (provided the requirements of the standard are met) and requires compliance with other applicable regulations, but it does not resolve a direct conflict with the Regulations Regarding the Grading, Packing and Marking of Eggs Intended for Sale in the Republic of South Africa made under the Agricultural Product Standards Act 119 of 1990 (“ APSA ”) and published in Government Gazette No. 43108 of Notice R.345 on 20	Under Regulation 345, Regulation 13(1)(a)(ii) prohibits any “name, mark or any other method of expression” on a “container or outer container containing eggs” that: “indicates the more humane treatment or rearing of poultry or which creates an impression that the eggs are safer or that poultry was fed a special diet such as, but not limited to, ‘antibiotic free’, ‘fed a diet free of hormones’, ‘cage free’, ‘furnished cage’, ‘safe’, ‘pure’, ‘grass fed’, ‘pasture fed’, ‘forage

⁴¹² *Supra* note 153 (*Standards for the production, processing and trade of “bud” products*), Part V, Chapter 4.4.1 at 283 (explicitly stating: “No de-beaking in poultry”).

⁴¹³ European Food Safety Authority (“EFSA”), *Welfare of broilers and laying hens on farm* (21 February 2023) (recommending the avoidance of mutilations and the reduction of stocking density to give birds enough space to perform natural behaviours). Available at: <https://www.efsa.europa.eu/en/infographics/welfare-broilers-and-laying-hens-farm>. See also: *Supra* note 153 (*Standards for the production, processing and trade of “bud” products*), Part II, Chapter 5.5.3 (requiring housing that allows for exploration, foraging, and dustbathing as an alternative to physical alteration).

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	March 2020 (“Regulation 345”). Additionally, the draft standard does not mandate clear, standardised egg production-method disclosure distinct from dietary claims such as “Grainfed”. Insert the following provision: All eggs and egg packs offered for sale must be labelled with the applicable production method prescribed under the Regulations Regarding the Grading, Packing and Marking of Eggs Intended for Sale in the Republic of South Africa made under the Agricultural Product Standards Act 119 of 1990 and published in Government Gazette No. 43108 of Notice R.345 on 20 March 2020, namely “cage”, “barn” or “free range”. The production method must be stated clearly and prominently using the prescribed terms as applicable. No egg may be sold without a production-method designation. The production-method designation must appear on the outer packaging and, where eggs are sold loose or without outer packaging, must be displayed clearly and prominently at the point of sale.	fed’, ‘canola fed’, ‘Grainfed’, ‘mixed grain’, ‘organic’, etc.” (emphasis added) This means that, under current law, any claim that eggs are “Grainfed”, “Fed a vegetable diet” or any similar claim produced using a “special diet” or implying a more humane method is prohibited on egg labels. Section 11.3 of the draft standard states that the above claims may appear “on the label provided that the product in question complies with all the standards required, and where the standards differ, compliance to the stricter requirement shall be adhered to”. The draft standard is therefore in direct conflict with Regulation 345 as Regulation 345 is the stricter of the two. Although section 11.2 provides that products must be labelled “in accordance with the regulations and standards for the mentioned products published in terms of the Agricultural Product Standards Act, 1990”, this does not resolve the conflict - it merely creates legal

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		uncertainty for producers, who may comply with the draft standard yet still breach Regulation 345 by using the prescribed claims. The Department should attempt to resolve this conflict by amending Regulation 345 to except claims that are registered and compliant under the MCS Regulations, or by otherwise clarifying how the two regimes are intended to interact. Separately, Regulation 345 makes disclosure of production methods (limited to “caged”, “barn”, and “free-range”) entirely voluntary for eggs generally. This creates a transparency gap that allows eggs from intensive cage systems to enter the market with no production-method information at all, potentially misleading consumers as to the welfare conditions under which the hens were kept. By contrast, the European Union (“EU”) has mandated the labelling of all production methods (cage, barn, free-range, or organic) since 2004 under Council Regulation 1907/90 and Commission Regulation 2295/2003; these have been replaced by Regulation

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		(EU) No 1308/2013 ⁴¹⁴ and Commission Delegated Regulation (EU) 2023/2465. ⁴¹⁵ Standardised, accurate, and transparent mandatory production system labelling is the only effective mechanism to rectify existing information asymmetries and satisfy consumers' right to disclosure, as protected under the Consumer Protection Act 68 of 2008 ("CPA"). ⁴¹⁶
Section 11.1	Insert a prohibition: "Packaging and advertising for Grainfed eggs shall not utilise pastoral imagery (green fields, farmhouses) for birds kept in cages."	Section 6 of the APSA ⁴¹⁷ and Regulation 13(1)(b) of Regulation 345 ⁴¹⁸ prohibit illustrations that create a misleading impression about a product's production method. Likewise, Section 24(2)(a) of the CPA ⁴¹⁹ prohibits misleading trade descriptions.

⁴¹⁴ Regulation (EU) No 1308/2013, available at: <https://eur-lex.europa.eu/eli/reg/2013/1308/oj/eng>.

⁴¹⁵ Commission Delegated Regulation (EU) 2023/2465, available at: https://eur-lex.europa.eu/eli/reg_del/2023/2465/oj/eng.

⁴¹⁶ Consumer Protection Act 68 of 2008 ("CPA") at Section 24.

⁴¹⁷ Agricultural Product Standards Act 119 of 1990 ("APSA") at Section 6 (prohibiting the use of any "illustrated or visual material" that creates a "misleading impression" as to the "manner or place of production").

⁴¹⁸ *Regulations Regarding the Grading, Packing and Marking of Eggs Intended for Sale in the Republic of South Africa* (Government Notice R.345, 2020) at Regulation 13(1)(b) (stating: "No illustration, depiction, logo or other method of visual expression... [that] creates or may create a misleading impression regarding the... production method... shall be indicated on a container").

⁴¹⁹ Consumer Protection Act 68 of 2008 at Section 24(2)(a) (stating that a person must not "knowingly apply to any goods a trade description that is likely to mislead the consumer as to any matter implied or expressed in that trade description"). See also: Section 29 regarding the general prohibition of marketing goods in a misleading manner.

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		Using idyllic imagery for birds potentially confined in windowless sheds or cages leaves room for creating a “myth of the happy hen” that is not the case in reality. ⁴²⁰ This principle has already been recognised by the ARB Appeals Committee in <i>Kemp & Others v Fair Cape Dairies</i> . ⁴²¹

⁴²⁰ *Supra* note 10 (*Scrambling for the Truth*) at 110 and 139 (discussing “Corporate Hypocrisy” and “Humane-washing,” specifically where depictions of animals in open pastures are used to mask a reality of caged confinement). See also: *Supra* note 4 (*Laying Down the Facts*) at 187 (noting that transparent labelling is essential to avoid deceiving consumers into believing purchasing choices are different from reality).

⁴²¹ *Kemp & Others v Fair Cape Dairies* (ARB Appeals Committee) (where the Committee ruled that the use of terms like “#HappyCows” and “humane” was misleading and required the company to cease using such claims in their marketing). See also: *Supra* note 3 (*Supplementary Submission to the SAHRC*) at 7 (referencing the ARB Advertising Code’s role in governing misleading depictions of animal living conditions).



TEMPLATE FOR COMMENTS

DRAFT MANAGEMENT CONTROL SYSTEMS

DUE DATE FOR RECEIVING COMMENTS: 20 AUGUST 2026

ORGANISATION/ COMPANY: ANIMAL LAW REFORM SOUTH AFRICA

NAME OF DRAFT MANAGEMENT CONTROL SYSTEM: ORGANIC PRODUCTION (ANNEXURE K)

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ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
General Comment	Please refer to the Animal Law Reform South Africa cover letter for general objections, comments, concerns and proposals which apply to this Annexure, which are hereby incorporated by reference.	
General Comment	Consider replacing the term “livestock” and “cattle” with “animals” or “farmed animals” throughout. At the very least, consider including a qualification at the beginning of the standard that explains the preferred use of the term “livestock” with an explanation.	Throughout the draft standards, the terms “animals” and “livestock” are used. While we recognise that “livestock” is an established legal and agricultural term for domesticated animals raised in agricultural settings for production purposes, its predominant use may inadvertently reinforce an instrumental understanding of animals by defining them primarily in terms of their productive function.

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		Organic agriculture, however, is founded on principles that recognise the health and well-being of animals as integral to sustainable farming systems, rather than merely incidental to agricultural production. ⁴²² Greater emphasis on the term “animals” would better reflect these principles and align with South Africa’s developing constitutional jurisprudence, which increasingly recognises animals as sentient beings possessing intrinsic value, rather than merely objects of economic use. ⁴²³
Section 1.3	Amend and insert (additions in bold): “Organic Production” means a production system that sustains the health of soils, ecosystems, people and animals . It relies on ecological processes, biodiversity and cycles adapted to local conditions, rather	The current definition of organic production centres on soils, ecosystems and people. It fails to explicitly recognise animals as central to biodiversity and as beings with interests of their own. Animals play a key role in biodiversity, and they (and their interests and well-being) should be centred in this definition ⁴²⁴ as outlined in

⁴²² International Federation of Organic Agriculture Movements (“IFOAM”), *The Principles of Organic Agriculture*. Available at: <https://www.ifoam.bio/why-organic/shaping-agriculture/four-principles-organic>.

⁴²³ See for instance, *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development and Another* (CCT1/16) [2016] ZACC 46; 2017 (1) SACR 284 (CC); 2017 (4) BCLR 517 (CC) (8 December 2016). Available at: <https://www.saflii.org/za/cases/ZACC/2016/46.html>.

⁴²⁴ *Supra* note 422 (*The Principles of Organic Agriculture*). Adopted by the IFOAM General Assembly, Adelaide, Australia, September 2005. Available at: https://www.orgapet.orgap.org/annexes/annex_C1-3.pdf page 1. IFOAM is the world’s leading international umbrella organisation for the organic agriculture movement. Founded in 1972, it brings

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	than the use of inputs with adverse effects. Organic agriculture combines tradition, innovation and science to benefit the shared environment, promote fair relationships, respect the intrinsic value and interests of Nature (including the natural environment and animals) and enhance the quality of life of all involved.	the National Environmental Management Biodiversity Act 10 of 2004 (“NEMBA”) as amended by the National Environmental Management Laws Amendment Act 2 of 2022 (“NEMLAA”). Organic production should not only minimise environmental impacts, but also ensure that breeding, housing and husbandry practices respect animals’ behavioural, physiological and psychological needs throughout their lives. This approach (of recognising that animals are sentient beings that possess intrinsic value and should not be regarded merely as commodities or production inputs) is consistent with contemporary scientific understanding, international organic production

together hundreds of member organisations from more than 100 countries, including organic producers, certification bodies, researchers, NGOs and industry associations. Its Principles of Organic Agriculture are widely recognised as the ethical foundation of the international organic movement and have informed the development of organic standards, certification systems and policies in numerous jurisdictions. See also: IFOAM Organics Europe. *Animal Welfare*. Available at: <https://www.organicseurope.bio/what-we-do/animal-welfare/>

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		principles, and South Africa's evolving constitutional jurisprudence. ⁴²⁵
Section 1.3 (a) <i>[Proposed Addition]</i>	Mandate that animals used in organic production should not be kept in battery/ enriched/ colony/ any other cage or in other confinement systems such as farrowing crates, gestation stalls, boxes, etc. that prevent animals from expressing species-specific behaviours. This could alternatively be inserted under section 4.3, which is discussed in further detail below.	The prohibition on manure in section 3.3 originating from caged and other intensive confinement systems implicitly recognises that such systems are fundamentally incompatible with the principles of organic agriculture (Principle of Health; Principle of Ecology; Principle of Fairness; and Principle of Care) as well as animal and planetary health and well-being. These principles should be stated expressly within the animal production standards. The draft standard should expressly prohibit the keeping of any animal in battery cages, enriched cages, colony cages, sow/ gestation stalls, farrowing crates, individual (or other) boxes, or in other confinement systems that prevent animals from expressing species-

⁴²⁵ *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development and Another* (CCT1/16) [2016] ZACC 46; 2017 (1) SACR 284 (CC); 2017 (4) BCLR 517 (CC) (8 December 2016). Available at: <https://www.saflii.org/za/cases/ZACC/2016/46.html>.

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		specific behaviours or meeting their behavioural, physiological and psychological needs. ⁴²⁶
Section 2.4(a) and (d)	Amend the following section to include (additions in bold below): 2.4. (a) Farmers/producers shall design and implement measures to maintain and improve landscape and enhance biodiversity by maintaining on-farm wildlife refuge habitats or establishing them in a manner that minimises disturbance, injury, distress and displacement of wildlife throughout all farming activities. Such habitats may include but are not limited to: vi) Wildlife corridors that provide linkages and connectivity to native habitat and which facilitate the safe movement of wildlife across the agricultural landscape.	Spelling error on the word “farmer” to be corrected. The proposed amendments recognise that biodiversity conservation extends beyond simply protecting land or vegetation or minimising pollution. There is, however, the need for a greater focus on minimising disturbance, injury or distress for wildlife and maintaining ecological connectivity, thereby supporting healthy ecosystems and promoting coexistence between agricultural production and free-living animals.⁴²⁷

⁴²⁶ IFOAM “Animal welfare: A top priority for organic farmers” Available at: <https://www.organicseurope.bio/what-we-do/animal-welfare/>

⁴²⁷ Convention on Biological Diversity. (2022). *Kunming-Montreal Global Biodiversity Framework*, adopted at COP15, Montreal. Available at: <https://www.cbd.int/gbf>. Relevant targets include Target 1: Calls for integrated spatial planning to ensure that areas of high biodiversity importance are connected and maintained. Target 2: Restore degraded ecosystems. Target 3: Conserve at least 30% of land and sea. Target 10: Calls for agriculture to be managed sustainably in ways that contribute to biodiversity conservation and restoration rather than merely reducing pollution.

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	<i>[Proposed new insertion:]</i> (vii) Agricultural activities shall, where reasonably practicable, be planned and managed to minimise unnecessary disturbance, injury, distress, displacement or mortality of wildlife and to maintain ecological connectivity across the landscape. (d) The producer must show a commitment to the maintenance of biodiversity and the protection of wildlife and ecological processes while having a biodiversity plan if the biodiversity reserve on the farm does not reach 10% of the total area.	
Section 2.6 (a), (f) and (g) <i>[proposed new addition]</i>	Consider the recommended additions in bold below: (a) The introduction of genetically engineered organisms or their derivatives is prohibited. This shall include animals, seed, propagation material, feed, and farm inputs such as fertilisers, soil conditioners, or crop protection materials, but shall exclude vaccines. Genetic engineering shall not be used to develop or perpetuate animal traits where the primary objective is to increase productivity in	While the draft standard appropriately prohibits genetically engineered organisms, it does not address breeding objectives. Contemporary scientific evidence demonstrates that conventional selective breeding may also result in adverse welfare outcomes where

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	a manner that compromises the health, welfare, well-being, behavioural needs or resilience of animals. Breeding and technological innovation should promote the long-term health, and well-being of animals alongside legitimate production objectives. (f) No technology or production system shall be used in a manner that compromises the welfare, health, behavioural needs or intrinsic value of animals, or that is inconsistent with the principles of organic agriculture.	production traits are prioritised at the expense of animal health, well-being and behavioural needs.⁴²⁸ Consideration should therefore be given to requiring that breeding programmes used within organic production prioritise animal health, welfare, well-being, and resilience alongside production objectives.⁴²⁹

⁴²⁸ (EFSA Panel on Animal Health and Animal Welfare) (2023) *Scientific Opinion on the welfare of broilers on farm*. *EFSA Journal* 2023;21(2):7788, 236 pp 4: “Selective breeding has traditionally focused on economic traits such as high growth rate, leading to significant welfare problems such as musculoskeletal disorders reducing walking ability of broiler chickens that, in turn, impair access to feed and water and performance of natural behaviours.” Available at: <https://efsa.onlinelibrary.wiley.com/doi/epdf/10.2903/j.efsa.2023.7788>.

⁴²⁹ *Supra* note 422 (*The Principles of Organic Agriculture*). Adopted by the IFOAM General Assembly, Adelaide, Australia, September 2005. Relevant principles: Principle of Care “Organic agriculture should be managed in a precautionary and responsible manner...” Principle of Health: Organic agriculture should sustain the health of soil, plant, animal, human and planet as one and indivisible. Principle of Fairness: Animals should be provided with conditions and opportunities of life that accord with their physiology, natural behaviour and well-being. See also: *supra* note 426 (*Animal welfare: A top priority for organic farmers*).

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	<i>[Proposed new sub-section]</i> (g) The use of technologies designed primarily to increase production or efficiency shall not result in practices that undermine the physical or psychological well-being of animals or reduce them to mere units of production.	
Section 4.1(b)	Add as a new sub-clause: Nest boxes shall be provided at a ratio of at least one nest box per 5 hens, or a minimum of 1m ² of communal nesting substrate per 120 hens where group nesting is used. Perches shall provide at least 18cm of perch space per hen.	The general behavioural-needs standard proposed under Section 4.1 is necessary but not sufficient on its own to be enforceable for chickens and hens specifically. FARMS Initiative’s Responsible Minimum Standards (“RMS”) for Laying Hens provides directly applicable, internationally recognised metrics for nest boxes and perches consistent with the standard of measurable, enforceable drafting this submission argues for throughout.⁴³⁰ The draft standard for “Barn Eggs” (Annexure B) at Section 4.2 (f) states that “<i>nesting boxes should be 1 nest per 5 hens</i>”, which is a better

⁴³⁰ *Supra* note 140 (*FARMS Initiative, Responsible Minimum Standards (“RMS”) for Laying Hens*) at Mitigation Standard 2.1-2.2, requiring “at least one nest box for every six hens, or 1 m2 of nesting substrate per 120 hens for group nesting” and “a perch area of at least 18 cm of perch space per hen”.

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		welfare metric than what the FARMS Initiative provides which is why that figure has been proposed.
Section 4.1(c)	Amend the following section to include (additions in bold below): All animals shall have unrestricted and daily access to pasture with vegetation. Whenever it is not possible to allow free movement of animals all year round due to exceptional circumstances such as disease control measures, severe weather conditions or other objectively justifiable welfare-related reasons, animals may be kept indoors or corralled only for the shortest period reasonably necessary, but no longer than 24 hours at any given time unless authorised by an independent, registered veterinarian. Any restriction on outdoor access shall be documented, regularly reviewed, and shall not become a routine management practice. During such periods, producers shall ensure that animals	The current framing of the section makes it seem that farmers/ producers can exercise discretion when it's not possible to allow freedom of movement for animals. This requires further clarification to ensure that the freedom of movement of animals kept in "organic" systems should, in principle, only be limited in justifiable and exceptional circumstances and for limited periods of time. This prevents the exceptions from becoming the norm. It also ensures that restrictions are genuinely based on animal welfare and well-being rather than convenience⁴³¹ or as a reactive management "crutch" to compensate for insufficient freedom of movement or suitable stocking densities that would otherwise prevent animals from injurious activities as justification for harmful and cruel husbandry procedures.

⁴³¹ EU Parliament and the Council (2018) *Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007* (2018) OJ L150/1, Annex II available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018R0848> Page 7. "Tail docking does not improve the health and welfare of dairy cattle and therefore it is not recommended. As an alternative, trimming of tail hair should be considered where maintenance of hygiene is a problem." *Supra* note 83 (WOAH Terrestrial Animal Health Code) at Chapter 7.1 "Introduction to the Recommendations for Animal Welfare" arts 7.1.2–7.1.4.

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	continue to have sufficient space, environmental enrichment and opportunities to express species-specific behaviours. Animals shall still have sufficient free movement to express normal behaviour, stand naturally, lie down easily, move around and groom themselves. Should animals not have access to pasture with vegetation for a period exceeding 7 days, the “organic” claim should be removed from packaging, or information regarding the reasons for their lack of access to pasture must be made available on packaging.	
Section 4.1(f)	The nitrogen-based stocking-density limits are maximum environmental limits and do not replace the requirement to reduce stocking density where necessary to protect animal welfare, pasture quality, soil, water, air quality or access to feed and water.	The current section 4 of the draft standard regulates stocking density, but only in the sense of: nitrogen loading per hectare (paragraph (f)); and minimum space allowances per animal (paragraph (g)). It does not, however, regulate maximum flock or herd size. While prescribing a stocking density is an important welfare safeguard, it should not be regarded as the sole determinant of animal welfare. Welfare outcomes are also influenced by the total number of animals housed within a single flock/ herd or housing unit, as large group sizes can undermine effective management,

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		increase social stress,⁴³² and impede the provision of individual care. This is discussed in further detail below regarding section 4.3. The nitrogen ceiling should therefore not be treated as the sole animal-welfare standard.
Section 4.3(a)(i)	Consider the following insertion: The use of battery cages, enriched cages, colony cages or any other cage or confinement system that confines chickens (including layer hens) in a manner that prevents them from freely expressing species-specific behaviours is prohibited. When/ if periodically housed indoors (at night time, for instance) they will be kept in non-caged systems that allow them the space and options to express natural behaviours, including walking, wing flapping, perching, nesting, foraging, dust bathing and social interaction.	This amendment is intended to provide regulatory certainty and ensure that the standards are fully aligned with the ethical principles of organic production.⁴³³ Although the draft standards require pasture access, litter and perches, they do not expressly prohibit cages. An explicit prohibition removes ambiguity and prevents cage systems from being deemed compliant where minimum environmental requirements are otherwise met.

⁴³² *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.Z (noting that social behaviour and spatial distribution are critical animal-based measurables for welfare). See also: *Supra* note 148 (*RSPCA, Welfare of Meat Chickens Report*) at 2 (noting chickens naturally form small flocks of up to 15 individuals).

⁴³³ *Supra* note 426 (*Animal welfare: A top priority for organic farmers*).

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Section 4.3(a)(ii)	Insert the following: Poultry houses/buildings shall be provided with a sufficient number of appropriately sized and well-distributed exit/entry pop-holes to ensure that all birds have practical and unobstructed access to the outdoor range throughout the day. The number, dimensions and distribution of pop-holes shall be proportionate to the size of the housing unit and the number of birds housed, so as to minimise crowding, competition and injury, and to promote regular use of the outdoor range.	The proposed amendment seeks to ensure that exit and entry holes are more responsive to flock size rather than to the buildings being utilised.
Section 4.3(a)(vi)	Increase the shade requirement and express it in terms of usable shade available at peak heat, distributed throughout the range.	The current rate is only 0.004 m ² per bird, which is unlikely to provide adequate distributed shade in South African climatic conditions.
Section 4.3(a)(vii)	With regard to the stocking densities, the draft standard could maintain the stocking density of 6 hens per m ² but a Maximum Flock Size limit of no more than 2,000 birds per housing unit should be inserted.	With regard to stocking densities, it should be noted that 6 hens/m ² is a permissible upper limit but should not be treated as sufficient in every context.



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	The standard must also require that stocking density be reduced where necessary to prevent injury, aggression, feather pecking, poor litter quality, disease or other adverse welfare and well-being outcomes.	As noted in our comments on the proposed “Barn Eggs” standard (Annexure B): “While 6 birds/m² is a good technical standard, density alone does not ensure welfare and does not mitigate the social stress of massive groups.⁴³⁴ The Swiss Animal Welfare Ordinance (SR 455.1)⁴³⁵ and the Bio Suisse Standards (Part II, Chap 5.5.4.1)⁴³⁶ strictly cap housing units at 2,000 laying hens. This is scientifically necessary to allow for stable social hierarchies and to prevent “smothering” and mass hysteria,⁴³⁷ which occur in the 50,000+ bird flocks currently permitted under the proposed open-ended density rule”. Furthermore, keeping birds in such vast, undivided numbers makes individual animal inspection practically impossible. This violates the core requirement of both the South African Poultry Association

⁴³⁴ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.Z (noting that social behaviour and spatial distribution are critical animal-based measurables for welfare). See also: *Supra* note 148 (*RSPCA, Welfare of Meat Chickens Report*) at 2 (noting chickens naturally form small flocks of up to 15 individuals).

⁴³⁵ *Supra* note 152 (*Switzerland | World Animal Protection*).

⁴³⁶ *Supra* note 153 (*Standards for the production, processing and trade of “bud” products*), Part II, Chapter 5.5.4.1 at 121 (explicitly stating: “The maximum number of laying hens per housing unit is 2,000”).

⁴³⁷ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.10, Article 7.10.3, Point 6(a) (warning that fearfulness can lead to broilers “piling on top of, and even suffocating, one another”).

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		(“SAPA”) Code of Practice⁴³⁸ and international standards⁴³⁹ which mandate that every bird must be inspected at least twice daily to identify and treat those that are sick or injured. Without a hard limit on total flock size per housing unit, the system prioritises industrial efficiency over the biological ability of the stockperson to provide “appropriate care” as required by law.⁴⁴⁰ As noted further, keeping birds in vast numbers makes inspection challenging and conflicts with the core requirement of both the SAPA Code of Practice⁴⁴¹ and international standards⁴⁴² which mandate that every bird must be inspected at least twice daily to identify and treat those that are sick or injured.
Section 4.3 (b)	Delete the current wording at (i) and insert the following:	The current section appropriately discourages prolonged individual housing but could better reflect contemporary animal welfare

⁴³⁸ *Supra* note 111 (*SAPA Code of Practice (2022)*) at 14 (Section 5: Stock Supervision, requiring a thorough inspection at least twice per day for every flock).

⁴³⁹ Swedish Board of Agriculture Regulations at Chapter 1, Section 10 (stating: “Poultry shall be kept in such a way that supervision of them can take place without difficulty”).

⁴⁴⁰ *Supra* note 4 (*Laying Down the Facts*) at 71 (emphasising that sentient beings must be provided with positive experiences and the ability to express natural behaviours).

⁴⁴¹ *Supra* note 111 (*SAPA Code of Practice (2022)*) at 14 (Section 5: Stock Supervision, requiring a thorough inspection at least twice per day for every flock).

⁴⁴² Swedish Board of Agriculture Regulations at Chapter 1, Section 10 (stating: “Poultry shall be kept in such a way that supervision of them can take place without difficulty”).

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	(i) Calves shall be housed in socially appropriate groups as soon as their health and welfare permit. Individual housing shall be permitted only where objectively justified for veterinary treatment, disease control or the protection of the calf's welfare, and only for the shortest period reasonably necessary. Insert an additional sub-section as follows: (ii) Calves shall remain with their mothers for a minimum of 12 weeks from birth, except where early separation (after at least 7 days) is objectively justified on veterinary grounds for the health, welfare or well-being of the mother or her calf. Where early separation occurs,	principles by recognising group housing as the default. Calves are highly social animals, and housing systems should enable social interaction, freedom of movement and the expression of normal behaviours.⁴⁴³ Individual housing should therefore be permitted only where objectively justified for veterinary treatment, disease control or the protection of the individual animal's welfare, and only for the shortest period reasonably necessary. Evidence shows that abrupt separation before the age of natural weaning triggers behavioural stress responses and increased disease risk in calves, including increased calling, restless pacing, reduced feed intake and stress-induced immune suppression.⁴⁴⁴ European Food Safety Authority-based recommendations indicate that

⁴⁴³ Article 1(a) "No calf shall be confined in an individual pen after the age of eight weeks, unless a veterinarian certifies that its health or behaviour requires it to be isolated in order to receive treatment. The width of any individual pen for a calf shall be at least equal to the height of the calf at the withers, measured in the standing position, and the length shall be at least equal to the body length of the calf, measured from the tip of the nose to the caudal edge of the tuber ischii (pin bone), multiplied by 1,1." See: Council Directive (2008) /119/EC of 18 December 2008 *laying down minimum standards for the protection of calves (codified version)* [2009] OJ L 10/7, Annex I, para 8. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008L0119>.

⁴⁴⁴ Albertsen, D., Plate, P. and Held, S.D., 2025. Assessing Natural Weaning in Suckler Beef Cattle: A Single-Farm Retrospective Data Analysis of Calf-Raising Success and Colostrum Antibody Uptake in the Absence or Presence of a Yearling Calf. *Animals*, 16(1), p.34. Available at: <https://pmc.ncbi.nlm.nih.gov/articles/PMC12784739/>.

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	calves shall be provided with a suitable milk diet and managed in accordance with subclauses (i)-(ii).	weaning should not begin before 8–9 weeks of age and should be based on solid feed intake, underscoring that very early separation is not consistent with optimal calf welfare. ⁴⁴⁵ A minimum three-month mother–calf contact period is consistent with higher-welfare benchmarks (e.g. New Zealand’s SPCA Certified standards recommend calves remain with their mothers until natural weaning and prohibit weaning off milk before eight weeks). ⁴⁴⁶
Section 4.3(c)	The exceptions permitting temporary confinement should be more clearly and specifically defined and limited to objectively justifiable welfare, disease or veterinary circumstances. Consideration should also be given to requiring suitable bedding, nesting materials and environmental enrichment to enable pigs to express normal species-specific behaviours throughout all stages of their lives.	The requirement to keep sows in groups is welcomed. However, the section provides little guidance on the interests and well-being of animals and how this should inform when exceptions are permitted. It does not define what constitutes the “last stages of pregnancy”, the circumstances in which temporary confinement is justified, or the conditions that should apply during confinement.

⁴⁴⁵ Mainau, E., Goby, L. and Manteca, X., 2025. Main husbandry practices and health conditions that affect welfare in calves: A narrative review. *Animals: an Open Access Journal from MDPI*, 15(21), p.3064. Available at: <https://pmc.ncbi.nlm.nih.gov/articles/PMC12607653/>.

⁴⁴⁶ New Zealand SPCA Certified “Dairy Cattle Standards v2.0” (Dec 2024). Available at: <https://www.spcacertified.nz/standards/farmed-animals/dairy-cattle>.

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	Amend the section to provide that sows and gilts must be housed in stable groups. Gestation stalls and farrowing crates may not be used. Temporary individual housing may be used only where necessary for veterinary treatment or an immediate and demonstrable welfare risk assessed by an independent, registered veterinarian, and only for the shortest period necessary.	As raised in our submission on “Sow Friendly” standards (Annexure N) submission, the Department must define “temporary” and “prolonged” confinement in a way that excludes standard industrial crating and aligns with the animal’s biological needs for movement. ⁴⁴⁷
Section 4.6	Retain (a). Replace (b) and (c) with the following: (b) Without limiting the generality of paragraph (a), the following procedures are prohibited in all circumstances, whether described as “routine” or otherwise: (i) Castration (ii) Tail docking [of any animal] (iii) Dehorning and disbudding	The current draft permits castration, tail docking of lambs, dehorning and pig ringing as exceptions to the general prohibition on mutilation, provided that animal suffering is “minimised” and anaesthetics are used “where appropriate”. This approach is inconsistent with the principles of organic production. Permitting these procedures as “routine” husbandry practices effectively allows producers to modify animals to fit management systems, rather than requiring systems to be designed around the animals’ biological and behavioural needs. This reflects the principle

⁴⁴⁷ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.13, Article 7.13.13, Point 3 (noting that stalls and crates prevent normal posture and movement, leading to reduced bone strength and increased lameness).

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	(iv) Ringing [of any animal] (v) De-beaking (beak clipping, tipping and trimming) (vi) De-feathering (vii) De-clawing (viii) De-spurring (ix) De-toeing and toe trimming (x) Disbudding (xi) Hole punching (xii) Pinioning (xiii) Notching (xiv) Comb trimming (xv) Teething and teeth grinding (xvi) Face branding and hot iron branding (c) Sub-section (b) is subject only to medically necessary veterinary treatment of an individual animal, performed under anaesthesia	that painful procedures should not be standard practice, and encourages producers to address the underlying causes (such as poor housing, overcrowding or aggressive breeding) rather than routinely altering animals through cruel practices to fit into intensive systems.⁴⁴⁸ It further undermines the organic mandate to promote high levels of animal welfare and to rely on ecological and behavioural adaptations rather than invasive interventions. International welfare guidance and peer-reviewed evidence indicate that procedures such as castration, tail docking and dehorning cause acute and, in some cases, chronic pain and stress, even when analgesia or anaesthesia is used.⁴⁴⁹ Higher-welfare private standards already prohibit or severely restrict such interventions and instead require management, breeding and housing solutions that prevent the conditions these procedures are intended to address.

⁴⁴⁸ *Supra* note 422 (*The Principles of Organic Agriculture*).

⁴⁴⁹ *Supra* note 445 (Mainau, E., Goby, L. and Manteca, X., *Main husbandry practices and health conditions that affect welfare in calves: A narrative review*) at 3064.

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	and/or analgesia by or under the supervision of an independent, registered veterinarian, where the procedure is required to prevent or alleviate suffering caused by disease, injury or a clinically diagnosed condition, and where no less invasive alternative is available.	ALRSA therefore proposes that these procedures be prohibited in all circumstances, subject only to medically necessary veterinary treatment of an individual animal where the procedure is required to prevent or alleviate suffering caused by disease, injury or a clinically diagnosed condition, and where no less invasive alternative is available using appropriate pain mitigation measures, including anaesthesia and/or analgesia in accordance with current veterinary best practice. This approach is consistent with the recommendations of the World Organisation for Animal Health (WOAH), which encourages the replacement, reduction and refinement of painful procedures and emphasises that they should only be undertaken where necessary and in a manner that minimises pain, distress and suffering. ⁴⁵⁰

⁴⁵⁰ WOAH, which encourages the replacement, reduction and refinement of painful procedures and emphasises that they should only be undertaken where necessary and in a manner that minimises pain, distress and suffering. See *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.9 'Animal Welfare and Beef Cattle Production Systems', section 5 ('Painful husbandry procedures'). "Painful husbandry procedures: Husbandry practices that have the potential to cause [pain](#) are routinely practiced on cattle for reasons of production efficiency, animal health and welfare and human safety. These procedures should be performed in such a way as to minimise any [pain](#) and stress to the animal. These procedures should be performed at as early an age as possible or using anaesthesia or analgesia under the recommendation or supervision of a [veterinarian](#). Future options for enhancing [animal welfare](#) in relation to these procedures include: ceasing the procedure and addressing the current need

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Section 4.7	Insert a provision stating that induced molting through feed or water withdrawal, extended starvation, or any other method of induced molting is prohibited.	Induced molting is an industrial practice in which feed (and sometimes water) is withheld from hens for a period of one to two weeks to reset their egg-laying cycle.⁴⁵¹ It causes acute hunger, stress, and increased mortality,⁴⁵² and is inconsistent with any claim to a welfare-differentiated production system. The draft standards are currently silent on this practice. Organic production standards internationally treat starvation-based molting as incompatible with the International Federation of Organic Agriculture Movements (“IFOAM”) “Principle of Care” and “Principle of Health”.⁴⁵³ Moreover, FARMS Initiative’s RMS for Laying Hens explicitly prohibits forced or induced molting as a mitigation for the welfare risk of “Inappropriate Diets”.⁴⁵⁴

for the operation through management strategies; breeding cattle that do not require the procedure; or replacing the current procedure with a non-surgical alternative that has been shown to enhance [animal welfare](#). Example of such interventions include: castration, dehorning, ovariectomy (spaying), tail docking, identification.”

⁴⁵¹ *Supra* note 219 (Glatz, P.C. and Tilbrook, A.J., *Welfare issues associated with moulting of laying hens*).

⁴⁵² *Ibid.*

⁴⁵³ *Supra* note 422 (*The Principles of Organic Agriculture*).

⁴⁵⁴ *Supra* note 140 (*FARMS Initiative, Responsible Minimum Standards (“RMS”) for Laying Hens*) at Mitigation Standard 3.1, stating: “Forced moulting is not permitted”.

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Sections 4.8(c)	Insert the following (indicated in bold text): The use of synthetic commercial veterinary drugs or antibiotics shall cause the animal to lose its organic status, provided that farmers shall not withhold such medication where doing so will result in unnecessary suffering of the livestock animal. No producer, certifier or inspector may require, encourage or permit an animal to remain untreated where treatment is reasonably necessary to prevent pain, suffering, disease progression or death. Where antibiotics have been used, products relying on this provision may not simultaneously be labelled or marketed as “antibiotic free”, “raised without antibiotics”, or any similar claim.	The current wording could be interpreted to discourage treatment. The FARMS Principles require that sick or injured animals receive prompt and effective treatment
Section 4.9(h)	The time limit in this provision must be amended to be species-specific, with an eight-hour absolute maximum for most animals, but a stricter four-hour maximum for chickens (with a	The FARMS Initiative RMS for Pigs and for “Beef Cattle” sets an 8-hour land-transport limit as a welfare-based benchmark.⁴⁵⁵

⁴⁵⁵ FARMS Initiative, RMS for Pigs (2020). Available at: <https://www.farmsinitiative.org/rmsforpigs>. FARMS Initiative, RMS for Beef Cattle (2020). Available at: <https://www.farmsinitiative.org/rmsforbeefcattle>.

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	prohibition on the slaughter of end-of-lay hens). The standard should also: • clarify that journey time is calculated from the first animal loaded at the point of departure to the last animal unloaded at the destination; • prohibit transport where extreme heat, cold or weather conditions would compromise animal welfare; and • prohibit transport of pregnant, injured, sick, weak or otherwise unfit animals, except where transport is necessary for veterinary treatment.	The FARMS Initiative RMS for Laying Hens provides that “In cases where they are transported for slaughter, end-of-lay hens should be caught gently without inverting the birds, and the journey should be no more than four hours”.⁴⁵⁶ This is the figure we propose for all chickens as chickens, including layer hens, are uniquely susceptible to thermal stress and dehydration during transit.⁴⁵⁷
Section 4.9	Consider amending and adding requirements regarding the handlers (proposed additions and amendments in bold text): Animals shall be handled by trained and competent persons using low-stress handling methods appropriate to the species, avoiding pain, fear, distress or injury. Electric prods are	Stating that electric pods can be used to ensure the physical safety of animals and humans is broad and vague. Moreover, electrical prods can cause pain and injury. The proposed amendment is intended to strengthen the clause by introducing a preventative safeguard for the health and well-being of the animals. The current wording focuses on reducing stress and suffering during transport but does not

⁴⁵⁶ *Supra* note 140 (*FARMS Initiative, Responsible Minimum Standards (“RMS”) for Laying Hens*) at Mitigation Standard 5.2.

⁴⁵⁷ *Supra* note 10 (*Scrambling for the Truth*) at 151.

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	prohibited. Instruments without sharp edges or the ability to harm may be used as a last resort to ensure the physical safety of livestock animals and humans. Farmers/ producers must also put contingency measures in place in case of vehicle breakdowns.	address whether an animal is fit to travel or whether the journey could reasonably be avoided. ⁴⁵⁸
Section 10.1 and 10.3(a)	Section 10.1(a), replace the word “may” with “shall”: Products produced in accordance with this standard for “organically produced” shall be labelled as “Organic”/“Organically Produced”. Section 10.1 (new sub-clause, or potentially at 10.1(i)): Insert the following, addressing eggs specifically: “All eggs and egg packs offered for sale must be labelled with the applicable production method prescribed under the Regulations Regarding the Grading, Packing and Marking of Eggs Intended for Sale in the Republic of South Africa made under the Agricultural Product Standards Act 119 of 1990 (“APSA”) and published in Government Gazette No. 43108 of Notice R.345 on 20 March 2020	1. Section 10.1(a) conflicts with Regulation 345 as it applies to eggs Regulation 13(1)(a)(ii) of Regulation 345 prohibits any egg label message that “indicates the more humane treatment or rearing of poultry or which creates an impression that the eggs are safer or that poultry was fed a special diet”, expressly naming “organic” among the prohibited terms. Section 10.1(a) of the draft Organic Production standard, as currently worded (“may...be labelled”), does not resolve this conflict, and even once amended to “shall”, would still direct organic

⁴⁵⁸ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.3 ‘Transport of Animals by Land’.

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	(“Regulation 345”), namely “cage”, “barn” or “free range”. The production method must be stated clearly and prominently using the prescribed terms as applicable. No egg may be sold without a production-method designation. The production-method designation must appear on the outer packaging and, where eggs are sold loose or without outer packaging, must be displayed clearly and prominently at the point of sale.” Section 10.3(a): Amend to expressly flag, rather than silently permit, the conflict identified below where “Organically Produced” is combined with other claims on an egg label.	egg producers to use a term Regulation 345 simultaneously prohibits. Section 10.1(i) of the draft standard, which provides that “all labelling shall comply with the relevant legal requirements (regulations and standards)”, does not cure this as it leaves organic egg producers with two irreconcilable instructions rather than resolving the conflict between them. 2. Regulation 345’s own disclosure regime is voluntary, and limited to three production methods: Separately, Regulation 345 makes disclosure of production method (limited to “caged”, “barn”, and “free-range”) entirely voluntary for eggs generally. This creates a transparency gap that allows eggs from intensive cage systems to enter the market with no production-method information at all, potentially misleading consumers as to the welfare conditions under which the hens were kept.

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		By contrast, the European Union (“EU”) has mandated the labelling of all production methods (cage, barn, free-range, or organic) since 2004 under Council Regulation 1907/90 and Commission Regulation 2295/2003; these have been replaced by Regulation (EU) No 1308/2013⁴⁵⁹ and Commission Delegated Regulation (EU) 2023/2465.⁴⁶⁰ Standardised, accurate, and transparent mandatory production system labelling is the only effective mechanism to rectify existing information asymmetries and satisfy consumers’ right to disclosure, as protected under the Consumer Protection Act 68 of 2008 (“CPA”).⁴⁶¹ 3. Section 10.3(a) compounds this into a direct compliance trap for producers stacking claims

⁴⁵⁹ Regulation (EU) No 1308/2013, available at: <https://eur-lex.europa.eu/eli/reg/2013/1308/oj/eng>.

⁴⁶⁰ Commission Delegated Regulation (EU) 2023/2465, available at: https://eur-lex.europa.eu/eli/reg_del/2023/2465/oj/eng.

⁴⁶¹ Consumer Protection Act 68 of 2008 (“CPA”) at Section 24.

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		Section 10.3(a) permits, and in practice encourages, “Organically Produced” to be combined on-label with other registered Management Control System (“MCS”) claims (such as Free Range or Pasture Raised), requiring compliance with the stricter standard where the underlying requirements differ. For egg producers, this creates a compliance trap as a label that complies with the Organic, Free Range, and/or Pasture Raised standards under the MCS claims system, applying the stricter requirement as section 10.3(a) itself demands, will in many cases still breach Regulation 345’s prohibition on production-method and welfare claims on egg labels. Section 10.1(i)’s general instruction that “all labelling shall comply with the relevant legal requirements” does not resolve this as it simply shifts the resulting legal risk onto producers, who may be penalised under Regulation 345 for a label that is potentially otherwise compliant with the Department’s own (other) registered standards.



TEMPLATE FOR COMMENTS

DRAFT MANAGEMENT CONTROL SYSTEMS

DUE DATE FOR RECEIVING COMMENTS: 20 AUGUST 2026

ORGANISATION/ COMPANY: ANIMAL LAW REFORM SOUTH AFRICA

NAME OF DRAFT MANAGEMENT CONTROL SYSTEM: PASTURE RAISED (ANNEXURE L)

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ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
General Comments	Please refer to the Animal Law Reform South Africa cover letter and Open Letter for general objections, comments, concerns and proposals which apply to this Annexure, which are hereby incorporated by reference.	
Section 1	Replace the definition of “Pasture Raised” with the following: “Pasture-Raised” means a production system in which animals have continuous daily access to suitable, rooted, living vegetation for grazing and foraging with access to fresh pasture for 24 hours daily and 7 days per week,, subject only to temporary confinement that is	The current definition promises unconditional 24/7 pasture access with no stated exceptions despite the Annexure’s own operational clauses requiring temporary confinement in practice - creating an internal contradiction that leaves the standard either unenforceable or in conflict with itself.

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	necessary for veterinary treatment, extreme weather, predator protection, biosecurity, transport or other demonstrable welfare reasons. The pasture must be sufficient in area and quality to permit natural behaviours and must be managed so as to prevent overgrazing, excessive fouling, erosion and deterioration of welfare and well-being.	Defining “prolonged”-style exceptions by an enumerated, necessity-based list, rather than leaving confinement undefined, gives producers and inspectors an objective, auditable basis for compliance and mirrors the approach taken by the Regenerative Organic Alliance’s Animal Welfare Framework, which permits temporary confinement only “when necessary” and only within approved baseline standards. This also protects the claim’s consumer-facing credibility: “Pasture Raised” carries one of the highest consumer expectations of continuous outdoor access among welfare-related claims, and an undefined confinement allowance risks converging with the weaker standards it is meant to be distinguished from. Finally, embedding a pasture quality and management standard directly in the definition (rather than only in the operational clause 4.2) ensures the claim’s defining provision, not a downstream

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		management clause, carries its substantive welfare content - consistent with the reasonable-consumer-expectation standard applied by the Advertising Regulatory Board's Appeal Committee in <i>Kemp and Others v Fair Cape Dairies (Pty) Ltd</i> (the "Happy Cows" case). ⁴⁶²
Section 1.4	Amend: "that allows to practice natural behaviours" to: "that allows them to practice natural behaviours."	Grammatical error.
Section 2.1	The draft standards currently state: "A farm map (a) Must be available and regularly updated to reflect the current pasture raised operation, (b) Must indicate quarantine and treatment areas, all stores containing chemicals, veterinary treatments, feed and supplements, etc."	The proposed provision aligns with the "Fed a Vegetarian Diet" system annexure (Annexure D).

⁴⁶² Kemp and Others v Fair Cape Dairies (Pty) Ltd, Decision of the Advertising Appeals Committee (2020). Available at: https://drive.google.com/file/d/1G0Y0HJEB0WHsM27bft0_uDxISDAG6nuY/view?usp=sharing.

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	Amend to: “A map of the farm is required and shall be relevant and regularly updated. The map shall include at least: (a) Location and description of buildings, including premises for the storage, processing, packaging and processing of all outputs, raw materials and inputs. (b) Where applicable, location of fields/pasturages, manure storage facilities and feed storage. (c) The sources of water and water courses. (d) The quarantine area/s.”	
Section 2.2	For clarity purposes, it should be explicit that the use of cages would qualify the system as a “dual system” and should therefore be prohibited from the scope of this draft standard.	Allowing caged and pasture-raised production on the same farm could create confusion about which production system applies to the animals and products concerned, weaken traceability and enable misleading “Pasture Raised” claims. An explicit exclusion is therefore necessary to ensure consistent application, prevent cross-system commingling and protect consumers from a materially

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		misleading impression about the method of production.
Section 3	Provision must be made in the draft standards for regular thorough cleaning of housing.	Regular cleaning reduces the spread of bacteria, parasites, and viruses.
Section 3.1(b)	Amend the definition of the schooner (moveable chicken house) which currently says “must provide shade, adequate protection from rain, and adequate ventilation,” to also include specifications on the appropriate size and stocking density of the schooner. The stocking density inside the schooner must not exceed 4.2 birds/m ² of usable floor space , excluding nest boxes, feeders, drinkers, walls and unusable areas, for laying hens, or 25 kg/m ² live weight for broiler chickens.	The current draft standard does not specify any stocking density for the schooner at all, despite this being a fundamental welfare parameter for a claim intended to represent higher-welfare, pasture-based production. The FARMS Initiative’s Responsible Minimum Standards (“RMS”) for Laying Hens (2020) sets a maximum stocking density of 9 hens per m² of usable space.⁴⁶³ This figure is not specific to pasture-raised systems; it is a general baseline standard applicable across housing types, including fixed indoor barn systems. The draft standard requires in section 3.2(c), stocking densities for layer hens of no more than 4.2 birds per square meter. This number can be

⁴⁶³ FARM Initiative’s Responsible Minimum Standards (“**RMS**”) for Laying Hens (2020) at Minimum Standard 1.2. Available at: <https://www.farmsinitiative.org/rmsforlayinghens>.

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		applied in this section as well. A “Pasture Raised” claim, by definition, represents a higher welfare tier than the general baseline the FARMS RMS is designed to establish across the industry as a whole, and stocking density inside the schooner should be set accordingly stricter, not merely matched to that general floor. This submission proposes a maximum materially below the FARMS RMS baseline, to reflect that hens under this claim spend the majority of their time outdoors on pasture, but nonetheless require sufficient space inside the schooner during the hours they are confined (at night and in adverse weather) to avoid the crowding, aggression, and disease-transmission risks a merely-baseline density would still permit. The FARMS Initiative’s RMS for Chickens Raised for Meat (2020), similarly sets a maximum stocking density of 30 kg/m² for broiler chickens, and expressly prohibits cages or multi-tiered systems for

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		broilers or broiler breeders. ⁴⁶⁴ As above, this is a general baseline figure, not a pasture-specific one. This submission proposes a maximum of 25 kg/m ² live weight for broilers housed in the schooner, again materially below the FARMS RMS baseline, for the same reason: a claim representing genuinely higher welfare than general industry practice should not simply adopt the general welfare floor as its own ceiling.
Section 3.1 (c) and (d)	Suggested amendments: (c) Replace “15cm” with “18 cm per hen”. (d) Replace with: “Nest boxes shall be provided at a ratio of at least one nest box per 4 hens, or a minimum of 1m² of communal nesting substrate per 100 hens where group nesting is used..” Insert new sub-clause (e): “Broiler chickens shall be provided with at	The FARMS Initiative’s RMS for Laying Hens⁴⁶⁵ provides directly applicable, internationally recognised metrics for both requirements, consistent with the standard of measurable, enforceable drafting this submission argues for throughout: it requires a perch area of at least 18cm per hen (exceeding the current draft’s 15cm), and at least one nest box per 6 hens or 1m² of nesting substrate per 120 hens for group nesting.

⁴⁶⁴ FARM Initiative’s Responsible Minimum Standards (“RMS”) for Chickens Raised for Meat (2020) at Minimum Standard 1.1-1.3. Available at: <https://www.farmsinitiative.org/rmsforlayinghens>.

⁴⁶⁵ *Supra* note 140 (FARMS Initiative, *Responsible Minimum Standards (“RMS”) for Laying Hens*) at Mitigation Standard 2.1-2.2, requiring “at least one nest box for every six hens, or 1 m2 of nesting substrate per 120 hens for group nesting” and “a perch area of at least 18 cm of perch space per hen”.

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	least 2 metres of usable perch space and two pecking substrates per 1,000 birds.”	On nest boxes, this submission proposes a ratio of 1 nest box per 5 hens rather than the FARMS RMS figure of 1 per 6, since Annexure B (“Barn Eggs”) of the Department’s own draft standards at Section 4.2(f) already establishes this stricter ratio (“nesting boxes should be 1 nest per 5 hens”). As with stocking density above, “Pasture Raised” should not be set at a lower welfare standard than “Barn Eggs” for the same requirement - it should be above that standard. Section 3.1 as currently drafted addresses perching and nesting only for hens, and is silent on equivalent enrichment for broiler chickens, despite chickens falling squarely within the scope of this Annexure (clause 1.2(a)). The FARMS Initiative’s RMS for Chickens Raised for Meat requires at least 2 metres of usable perch space and two pecking substrates per 1,000 birds.⁴⁶⁶ We propose this figure be

⁴⁶⁶ FARM Initiative’s Responsible Minimum Standards (“RMS”) for Chickens Raised for Meat (2020) at Minimum Standard 2.1. Available at: <https://www.farmsinitiative.org/rmsforlayinghens>.

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		inserted as a new sub-clause to close this gap and ensure both hens and chickens covered by this Annexure are subject to an equivalent, measurable enrichment standard.
Section 3.2(a)	Delete the reference to “cage” and ensure the provision provides that broiler chicks must be housed at a density that permits all birds to stand, turn, rest, feed and drink without crowding or injurious contact.	The use of the word “cage” in a standard intended to register a “Pasture Raised” Management Control System is abhorrently inconsistent with the standard’s own subject matter. It is likely (or hopefully) a drafting error given that section 5.1(a) requires young animals to be kept in a “controlled, enclosed brooder/farrowing pen/enclosure” for their first weeks, not a cage. The inclusion of the word is also inconsistent with section 2.2 of the draft standard which provides that “Dual or split systems (i.e., “Pasture Raised” and animals not raised on pasture) shall not be allowed on the same farm for “Pasture Raised” System animals and products concerned”. Retaining the word “cage” in a higher-welfare claim standard

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		undermines the credibility of the claim on the face of the gazetted document itself, and invites confusion as to whether caged rearing is, in fact, contemplated or permitted under this standard. Beyond this, section 3.2(a) sets a bird-count density (42 birds/m²) with no accompanying weight-based cap. The FARMS Initiative’s RMS for Chickens Raised for Meat sets its stocking density limit in weight terms (30 kg/m²), which better reflects the actual space occupied by birds as they grow, since a fixed bird-count figure does not account for growth within the 1–3 week period.⁴⁶⁷ We recommend the Department insert an equivalent weight-based ceiling (which is appropriate to higher-welfare pasture-raised systems) alongside the bird-count figure for this age band, to ensure the standard does not permit overcrowding as chicks approach the upper end of the age range.

⁴⁶⁷ FARM Initiative’s Responsible Minimum Standards (“**RMS**”) for Chickens Raised for Meat (2020) at Minimum Standard 1.1. Available at: <https://www.farmsinitiative.org/rmsforlayinghens>.

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Section 3.2(b)	Missing prohibition on cages/multi-tier systems, and no thinning limit.	The FARMS Initiative’s RMS for Chickens Raised for Meat expressly prohibits cages or multi-tiered systems for broilers or broiler breeders.⁴⁶⁸ Section 3.2(b) is silent on this point. Read together with the “cage” terminology used in section 3.2(a), this silence is a material gap as nothing in the current draft standard explicitly rules out multi-tiered or caged broiler rearing under a “Pasture Raised” claim. The Department should insert an express prohibition on cages and multi-tier systems for broiler chickens. The FARMS RMS also provides that thinning (the practice of partially depopulating a flock mid-cycle to reduce density as birds grow) is expressly discouraged, and where practised, must be limited to one thin per flock.⁴⁶⁹ Section 3.2(b) does not address thinning at all, despite this being directly relevant to managing stocking density as chickens approach 9 weeks of age. We recommend this be inserted

⁴⁶⁸ FARM Initiative’s Responsible Minimum Standards (“RMS”) for Chickens Raised for Meat (2020) at Minimum Standard 1.3. Available at: <https://www.farmsinitiative.org/rmsforlayinghens>.

⁴⁶⁹ FARM Initiative’s RMS for Chickens Raised for Meat (2020) at Minimum Standard 1.2. Available at: <https://www.farmsinitiative.org/rmsforlayinghens>.

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		as a new sub-clause. Moreover, stocking density should be expressed in live weight, not bird numbers, to account for breed and growth differences. The FARMS RMS Principles require sufficient space, litter and enrichment to prevent overcrowding and abnormal behaviours.⁴⁷⁰
Section 3.2(d)	Proposed amendment: “Pigs no more than 15 per ha at paddock level, calculated on a rotational basis with a minimum return period of [X] weeks to the same paddock. Herd size limits are 50 pigs per enclosure, provided the enclosure area is adjusted to give effect to this stocking density.”	The current stocking density of 50 pigs per 0.25 ha is equivalent to 200 pigs per hectare, a figure that is not supported by any welfare or environmental benchmark for genuine pasture-based pig systems that was able to be found through desktop research. Comparable welfare and agricultural guidance - including the Soil Association’s organic standard (2 sows/ha on rotational ground), ⁴⁷¹ and peer-reviewed research on rotationally managed pasture pig systems (recommending 10–15 sows-gilts/ha to avoid significant

⁴⁷⁰ FARM Initiative’s RMS Principles (2020). Available at: <https://www.farmsinitiative.org/rmspdfs>.

⁴⁷¹ Soil Association (2009), as cited in: Farm Health Online, “Pig Outdoor Access” - Animal Health and Welfare Knowledge Hub. Available at: <https://www.farmhealthonline.com/health-welfare/pigs/pig-outdoor-access/>.

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		deterioration of ground cover and elevated soil nutrient loading)⁴⁷² - sets density at a small fraction of the figure currently proposed. Even non-rotational, continuously stocked research trials citing 47 pigs/ha found materially worse environmental and welfare outcomes than rotational systems at that lower density, underscoring how far outside the credible range 200 pigs/ha sits. Excessive stocking density in outdoor pig systems is directly linked to loss of vegetative ground cover, soil compaction, and reduced capacity for pigs to express rooting, foraging, and other natural behaviours⁴⁷³ - the very outcomes section 4.2 of this Annexure already requires production systems to protect (“at least 50% living vegetation cover”). As drafted, section 3.2(d) is inconsistent with the Annexure’s own vegetation cover requirement, and undermines the

⁴⁷² Pietrosemoli, S., Green Jr, J.T. and Villamide, M.J., 2020. Sows-Gilts stocking rates and their environmental impact in rotationally managed Bermudagrass paddocks. *Animals*, 10(6), p.1046. Available at: <https://pmc.ncbi.nlm.nih.gov/articles/PMC7341216/>.

⁴⁷³ *Ibid.*

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		credibility of “Pasture Raised” as a claim representing genuinely extensive, low-impact pig production. We also note that clause 3.2(d) refers to “flock size” in relation to pigs. This is inconsistent terminology. The correct collective term for pigs is “herd”. We recommend this be corrected.
Section 3.3(d)	Proposed addition: “Gestation stalls or crates for dry sows and gilts shall not be used, save that a sow or gilt may be confined for a maximum of 4 days following insemination, and must be housed in groups thereafter with at least 3m² of floor space per individual.”	The current draft standard is silent on gestation stall use for pigs under the “Pasture Raised” claims label. A label built on freedom of movement should not permit unrestricted use of gestation stalls. The FARMS Initiative’s RMS for Pigs caps such confinement at 4 days post-insemination and mandates a minimum of 3m² per sow once group-housed.⁴⁷⁴ High-welfare schemes such as Bio Suisse (Switzerland) go further still, limiting individual confinement to only 30 minutes daily during feeding.⁴⁷⁵

⁴⁷⁴ *Supra* note 293 (FARMS Initiative, *Responsible Minimum Standards (“RMS”) for Pigs*) at Mitigation Standard 1.2.

⁴⁷⁵ *Supra* note 153 (*Standards for the production, processing and trade of “bud” products*), Part II, Chapter 5.4.1.2 at 114. (requiring a shower or wallow to be available at outside temperatures of 25°C or higher).

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Section 3.3(d)	Proposed addition: “Farrowing crates or other close confinement of sows shall not be used (prohibited), save that a sow may be temporarily confined for a maximum of the first three days following farrowing, where necessary to reduce the risk of piglet crushing.”	The current draft permits the use of restrictive cages (farrowing crates) for up to 4–5 weeks (the nursing period). This is fundamentally incompatible with a “Pasture-Raised” claim and perceptions of higher welfare.⁴⁷⁶ Farrowing crates (metal cages) restrict sows’ movement, and causes mental distress and physical suffering.⁴⁷⁷ Consumers purchasing “Pasture-Raised” products work under the distinct impression that the animal has enjoyed freedom of movement throughout their entire life cycle. Leading high-welfare schemes, including RSPCA Assured (Meat Pigs)⁴⁷⁸ and the Soil Association (UK),⁴⁷⁹ strictly prohibit the use of farrowing crates in free-range systems, mandating that the sow must

⁴⁷⁶ *Ibid* (emphasising that regulations should reflect production realities to “avoid potentially deceiving consumers into believing that they are making purchasing choices that are different to what they are in reality”).

⁴⁷⁷ Humane World for Animals, “Farrowing Crates”. Accessible at: <https://www.humaneworld.org/en/farrowing-crates#:~:text=Farrowing%20crates%20are%20metal%20cages%20which%20severely%20restrict,to%20spend%20much%20of%20their%20lives%20behind%20bars.>

⁴⁷⁸ *Supra* note 275 (*RSPCA Welfare of Pigs*) at 17 (stating: “In the RSPCA welfare standards, the use of farrowing crates is not permitted... the sow must be able to turn around freely for the duration of farrowing”). Available at: <https://www.rspca.org.uk/documents/1494939/0/Welfare+of+pigs.pdf/>.

⁴⁷⁹ *Supra* note 288 (*Soil Association, Factsheet: Keeping Pigs*) at 1 (explicitly stating: “Farrowing stalls/crates are not permitted” and mandating that sows be settled into farrowing arcs).

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		be able to turn around at all times. Bio Suisse Standard 5.4.1.1 explicitly states that “pregnant or lactating sows may not be restrained”.⁴⁸⁰ The FARMS Initiative’s RMS for Pigs also prohibits farrowing crates outright, and permits only temporary confinement for a maximum of the first three days following farrowing, and only where necessary to reduce the risk of piglet crushing.⁴⁸¹ As presently worded, section 3.2(d) would permit indefinite farrowing crate use under a “Pasture Raised” claim, which is inconsistent with this submission’s position elsewhere (in respect of Annexure N) that farrowing crate use should be strictly limited. Sows are also driven to create nests, while piglets find comfort and enrichment in straw;⁴⁸² providing nest building materials therefore reduces stress and frustration during this period. Sudden, constant,

⁴⁸⁰ *Supra* note 153 (*Standards for the production, processing and trade of “bud” products*), Part II, Chapter 5.4.1.1 at 111 (mandating that “pregnant or lactating sows may not be restrained”).

⁴⁸¹ *Supra* note 293 (*FARMS Initiative, Responsible Minimum Standards (“RMS”) for Pigs*) at Mitigation Standard 1.

⁴⁸² See EU Reference Centre for Animal Welfare Pigs, Accessible at: <https://eurcaw-pigs.eu/dossier/farrowing-housing-and-management-dossier>.

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		or high noise levels can likewise cause stress in sows and piglets and should be minimised during confinement.
Section 3.2(e) and (f)	Replace with a requirement that stocking rates be calculated using species, age, sex, live weight, carrying capacity, rainfall, pasture quality, seasonal availability, slope, soil conditions, water availability, shelter and shade, and the need to prevent overgrazing, competition and environmental degradation.	A single ratio cannot function as a complete animal-welfare standard across South African ecological regions. The FARMS Principles require stocking densities low enough to prevent excessive temperatures, humidity, competition, stress, aggression and abnormal behaviour.
Section 3.2(g)	“Specific purpose” has not been defined in the draft standards. Amend to include definition for clarity.	Failing to include a list of instances in which high stock densities and ultra-high stock densities are permitted leaves this process open to abuse.
Section 3.2(g)	High and Ultra High Stock Density grazing should be prohibited under this Annexure entirely. In the alternative, should the Department elect to retain such grazing as a permissible practice, we submit that section 3.2(g) requires substantial amendment.	Section 1.4 of this Annexure defines “Pasture Raised” animals as those with “access to fresh pasture for 24 hours daily and 7 days per week,” moved “regularly to fresh pasture that allows [them] to practice natural behaviours”. High and Ultra High Stock Density grazing are intensive stocking techniques that concentrate animals at

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		densities well above those associated with extensive, low-impact pasture systems, precisely the systems this Annexure is otherwise designed to require. A standard that permits such grazing, however tightly conditioned, risks allowing a production method that is functionally closer to intensive rotational grazing than to the extensive system consumers would reasonably understand “Pasture Raised” to represent, particularly where (as here) no maximum density or duration is defined. <i>Alternative:</i> Recordkeeping alone does not make a potentially harmful density acceptable. Section 3.2(g) requires only that detailed records be kept of the reasons for, and frequency of, High and Ultra High Stock Density grazing, without defining what constitutes an adequate record, without setting any maximum permissible density or duration for this practice, and without requiring independent (e.g. veterinary or third-party) sign-off before it is used. As drafted, this

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		clause is not objectively auditable by the designated assignee/inspector. We recommend the Department specify a maximum permissible stocking density and duration for such grazing, and require documented sign-off by a qualified independent party (e.g. an agricultural extension officer or veterinarian) before the practice is used, consistent with this submission's broader position that welfare-relevant thresholds should be objectively defined rather than left to producer discretion.
Section 3.3(a)	Delete “and vermin”. Replace with “and other animals that may pose a risk to the animals’ safety”.	“Vermin” frames certain animals as pests rather than sentient beings, inconsistent with the Constitutional Court’s recognition of animal sentience and intrinsic value. ⁴⁸³
Section 4.1(a): Poultry	Replace “should” with “must” and add requirements that the pasture	Binding language is necessary to ensure welfare and environmental

⁴⁸³ *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development and Another* (CCT1/16) [2016] ZACC 46; 2017 (1) SACR 284 (CC); 2017 (4) BCLR 517 (CC) (8 December 2016). Available at: <https://www.saflii.org/za/cases/ZACC/2016/46.html>.

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rotation	remain suitable for foraging, that and health risks be monitored, and that the rotation period be lengthened where vegetation has not recovered.	outcomes.
Section 4.1(a)(iii)	Amend to prohibit the use of open cages or any other cages.	“Open cages” are not defined in the draft standards.
Section 4.1(b)	Replace “ideally” with “must” and require movement before rooting, dunging or trampling causes unacceptable pasture degradation, soil erosion, nutrient accumulation, parasite buildup or loss of vegetation.	Non-binding language undermines welfare and environmental protection.
Section 4.1(c)	Require a written grazing and pasture-management plan that records: paddock size; stocking rate; entry and exit dates; rainfall; pasture height and condition; percentage vegetation cover; soil exposure and erosion; water points; shade and shelter; and corrective action where pasture condition deteriorates.	The draft merely says that cattle and sheep are moved according to pasture quality and regrowth ability and needs to be substantiated further.
Section 4.2	The section should provide that pasture must be predominantly	The 50% threshold could allow an operation to market products as

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	covered by living vegetation and must be sufficient to support the relevant species' grazing or foraging behaviour. Bare soil may not exceed 20% of the pasture area, except temporarily where recovery is documented and the animals are removed before welfare or environmental harm occurs.	pasture-raised while half of the area is bare, compacted or degraded. The Organic Production annexure itself (Annexure K) recognises that pasture, stocking density and grazing must not degrade land or pollute water.
Section 5.1(b)	This provision should provide that chicks may be temporarily confined only for the period necessary to protect them from weather, predation and disease and until they are sufficiently feathered and physiologically capable of using the pasture. They must receive access to suitable natural light, litter, space and enrichment during confinement.	The current wording creates a minimum entitlement to confinement rather than a maximum period of necessary confinement.
Section 5.1(c)	Replace “ideally” with “must” and add: “Piglets must remain with their mother and may not be weaned before 28 days”.	According to the European legislation (EU) (Directive 2008/120/EC, which lays down minimum standards for the protection of pigs) states that “no piglet shall be weaned from the sow at less than 28 days of age...however, piglets may be weaned up to seven days earlier if they are moved into specialised housing...”

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		Weaning pigs at a later age, when their digestive systems are more mature, has been suggested as an approach to reduce the effects of weaning on growth rate and gut health. The FARMS RMS for Pigs also requires that piglets not be weaned before 28 days.⁴⁸⁴
Section 5.4(a)	This section should be amended to provide that antibiotics and other veterinary medicines may not be used routinely, systematically or prophylactically for production purposes. Sick or injured animals must receive prompt, effective treatment under veterinary direction. An animal must not be denied treatment to preserve a production claim. Where more than 10% of a flock or herd receives antibiotic treatment within a single production cycle, the entire flock or herd shall lose eligibility to be sold, packed, or labelled as “Pasture Raised”, and the producer shall record and report such instances to the	A complete prohibition on antibiotic use may incentivise delayed or withheld treatment. The Organic Production annexure (Annexure K) recognises that medication must not be withheld where doing so would cause unnecessary suffering, and this submission agrees that animal welfare and well-being must always take priority over the preservation of a production claim. However, addressing this only at the level of the individual animal, as currently proposed, creates a gap. As drafted, there is no cap on

⁴⁸⁴ *Supra* note 293 (*FARMS Initiative, Responsible Minimum Standards (“RMS”) for Pigs*) at Mitigation Standard 6.1.

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	designated assignee/inspector. Individual treated animals falling below this threshold may be excluded from the claim, but the animal's welfare and well-being takes priority over preservation of the claim in every instance. Where the proportion of a flock or herd treated with antibiotics falls below the 10% threshold such that "Pasture Raised" eligibility is retained, this fact must nonetheless be disclosed on the product label, in a form to be prescribed by the Executive Officer (for example, "Raised with limited antibiotic treatment; see [reference] for detail"). Products relying on this provision may not simultaneously be labelled or marketed as "antibiotic free", "raised without antibiotics", or any similar claim.	the proportion of a flock or herd that may be treated with antibiotics before the claim's credibility as a whole is called into question, since only the individually treated animal is excluded from sale under the claim. In principle, a large proportion of a flock could be treated on an ongoing basis, with each treated animal simply diverted to a different market, while the remainder continue to be sold as "Pasture Raised" with no broader consequence or disclosure. This submission has proposed an equivalent flock/herd-level threshold in respect of Annexure N (Sow Friendly Pork), under which treatment of more than 10% of a flock or herd within a single production cycle results in loss of eligibility for the entire group, not merely the treated animal. We propose the same threshold be adopted here, for consistency across the Department's Management Control Systems and to ensure "Pasture Raised", as a higher-welfare claim, is not subject to a

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		weaker transparency than other proposed standards. We further propose that any use of antibiotics falling below the 10% threshold, and therefore not resulting in loss of "Pasture Raised" eligibility, must still be disclosed on the label. These proposals preserve the welfare-first principle already reflected in the current drafting (no animal is denied treatment to preserve a claim) while closing the gap that would otherwise allow the claim to remain unaffected regardless of how widespread antibiotic use becomes within a flock or herd.
Section 5.5 (a)	Retain the prohibitions at (a), but these should not differentiate by species if that practice could be applicable to more than one species. The clause should further add that the practices should not be allowed even if described as "routine" or otherwise. For example: • no routine beak trimming;	The prohibitions should apply across species wherever a practice is capable of being performed on more than one species. Restricting the clause by species may create avoidable loopholes and allow the same invasive procedure to be used on another species without adequate justification or oversight.

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	- no routine feather trimming unless necessary for a documented welfare reason (confirmed by a registered, independent veterinarian); - no routine tail docking, teeth clipping, teeth grinding or castration; Insert the following: - where a procedure is exceptionally necessary to prevent greater suffering, it must be authorised by a registered, independent veterinarian, performed by a trained person, using anaesthesia and analgesia where appropriate; and - all procedures must be recorded and reviewed independently	The wording should also prohibit the practices whether described as “routine,” “systematic,” “standard,” “preventative” or by any equivalent term. Otherwise, a producer may avoid the prohibition simply by characterising a repeated production practice differently. The Department should consider inserting an additional clause stating that “Any form of mutilation is prohibited” which mirrors section 4.6 (a) of the proposed “Organic Production” Standard (Annexure K). This should be subject only to medically necessary veterinary treatment of an individual animal where the procedure is required to prevent or alleviate suffering caused by disease, injury or a clinically diagnosed condition, and where no less invasive alternative is available using appropriate pain mitigation measures, including anaesthesia and/or analgesia in accordance with current veterinary best practice. This approach is consistent with the recommendations of the World Organisation for Animal Health (“WOAH”), which encourages the replacement, reduction and

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		refinement of painful procedures and emphasises that they should only be undertaken where necessary and in a manner that minimises pain, distress and suffering. ⁴⁸⁵
Section 5.5(b)	The permission for feather trimming should not be unrestricted. It should be deleted or limited to cases where it is demonstrably necessary to protect welfare.	Section 5.5(b)(i) permits feather trimming without qualification, creating a loophole around the standard's own prohibition on pinioning at clause 5.5(a)(vi), since repeated wing-feather trimming can achieve the same flight restriction as pinioning.
Section 7.1	Delete the word “cage” and amend to provide that the producer must be able to trace labelled products back to specific enclosure and batch numbers.	As with section 3.2(a) above, the reference to “cage” numbers here is the same drafting inconsistency repeated in a second location within

⁴⁸⁵ World Organisation for Animal Health (WOAH), which encourages the replacement, reduction and refinement of painful procedures and emphasises that they should only be undertaken where necessary and in a manner that minimises pain, distress and suffering. See *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.9 ‘*Animal Welfare and Beef Cattle Production Systems*’, section 5 (‘Painful husbandry procedures’). “Painful husbandry procedures: Husbandry practices that have the potential to cause [pain](#) are routinely practiced on cattle for reasons of production efficiency, animal health and welfare and human safety. These procedures should be performed in such a way as to minimise any [pain](#) and stress to the animal. These procedures should be performed at as early an age as possible or using anaesthesia or analgesia under the recommendation or supervision of a [veterinarian](#). Future options for enhancing [animal welfare](#) in relation to these procedures include: ceasing the procedure and addressing the current need for the operation through management strategies; breeding cattle that do not require the procedure; or replacing the current procedure with a non-surgical alternative that has been shown to enhance [animal welfare](#). Example of such interventions include: castration, dehorning, ovariectomy (spaying), tail docking, identification.”

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		the Annexure, and is equally inappropriate to a “Pasture Raised” standard. This should be corrected to “enclosure” (or such other term as is consistent with the terminology used in section 5.1(a) and elsewhere in this Annexure) for the same reasons set out above.
Section 8	Amend to include mandatory production method disclosure: Replace “may be presented” with a mandate stating: “shall be presented”. Further, the type of production system must be disclosed as a front of pack label (“FOPL”) in the same font size, font type, and colour directly adjacent to a dietary claim.	This is likely to mislead consumers under Section 24(2)(a) of the Consumer Protection Act 68 of 2008 (“CPA”). A premium dietary claim without production method disclosure creates a false welfare “halo effect”, encouraging consumers to pay more for products they may wrongly assume come from higher-welfare systems. Section 6 of the Agricultural Product Standards Act 119 of 1990 (“APSA”) also prohibits labels that create a misleading impression about a product’s production method. Emphasising feed while omitting intensive confinement undermines this principle.

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		Mandatory production method labelling is an internationally recognised solution.



TEMPLATE FOR COMMENTS

DRAFT MANAGEMENT CONTROL SYSTEMS

DUE DATE FOR RECEIVING COMMENTS: 20 AUGUST 2026

ORGANISATION/ COMPANY: ANIMAL LAW REFORM SOUTH AFRICA

NAME OF DRAFT MANAGEMENT CONTROL SYSTEM: SOW FRIENDLY PORK (ANNEXURE N)

1.	2.	3.
ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
General Comment	Please refer to the Animal Law Reform South Africa cover letter for general objections, comments, concerns and proposals which apply to this Annexure, which is hereby incorporated by reference.	
General Comment and 1.3., 1.4., 1.5, and throughout	Refrain from using / delete the term “Sow Friendly” from the draft standard. Replace with accurate, clear and non-misleading terms that denote realities.	The term “sow friendly” (as well as similar language such as “kinder to sows”) is inherently misleading to consumers and must be amended. The expression is vague, undefined in animal-welfare science and open to wide interpretation. It creates a risk of “humane-washing”, whereby producers, retailers, and/or other stakeholders can market pigs’ meat as “[sow] friendly” while still using systems

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		that significantly restrict natural behaviours and movements including nest-building and maternal behaviour. This risk is not theoretical as there are companies in South Africa that currently use such claims (including related terms such as “kinder to sows”) yet still subject pigs to cruel (and accordingly, <i>unfriendly</i>) practices such as CO₂ gassing, a method widely criticised on welfare grounds.⁴⁸⁶ The coexistence of such claims with practices that many consumers would regard as inhumane and unkind demonstrates how broad, undefined welfare language can be used to create a misleading impression of overall welfare, further underscoring the need for precise, verifiable descriptors tied to specific, enforceable standards. Such broad, undefined claims also raise serious concerns under consumer protection regulation and standards, including but not

⁴⁸⁶ Julia Evans, “Behind SA’s pork products — the uproar over CO₂ stunning at Molare Abattoir”, Daily Maverick (2025). Available at: <https://www.dailymaverick.co.za/article/2025-10-02-behind-sas-pork-products-the-uproar-over-co-stunning-at-molare-abattoir/>.

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		limited to the Consumer Protection Act 68 of 2008 (“CPA”). The CPA grants consumers the right to fair and honest dealing, to information in plain and understandable language, and not to be misled by false, misleading or deceptive representations concerning the nature, characteristics or quality of goods. A claim such as “sow friendly”, and similar language used such as “kinder to sows”, includes emotive language which is not defined by reference to objective, measurable welfare criteria and which can coexist with significant cruel practices including confinement and controversial slaughter methods, is likely to constitute a misleading representation in terms of the CPA. It deprives consumers of the ability to make informed choices based on accurate, comparable and verifiable information about sow welfare. “Friendly” should not be a term that is utilised on any animal sourced food where animals are subjected to any type of suffering, regardless of the extent or limitation of such suffering.

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		The Department should either withdraw this claim entirely (the full draft standard) or replace it with a precise, verifiable descriptor (e.g. group-housed, no crates, no farrowing crates) that is tied to specific, enforceable welfare standards. This objection is not merely a matter of preference. It reflects the approach already adopted by the Advertising Regulatory Board’s Appeal Committee in <i>Kemp and Others v Fair Cape Dairies (Pty) Ltd</i> (the “Happy Cows” case).⁴⁸⁷ In <i>Kemp</i>, the Appeals Committee held that: • “humane treatment” means more than freedom from violence, pain and disease; it requires treatment characterised by tenderness, compassion and sympathy;⁴⁸⁸ and • the reasonable consumer accepts some compromise on an animal’s freedom as inherent in farmed products, but this does

⁴⁸⁷ *Kemp and Others v Fair Cape Dairies (Pty) Ltd*, Decision of the Advertising Appeals Committee (2020). Available at: https://drive.google.com/file/d/1G0Y0HJEB0WHsM27bft0_uDxISDAG6nuY/view?usp=sharing.

⁴⁸⁸ *Ibid* at paragraph 18.

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		not extend to specific practices of which the consumer has no knowledge, however standard those practices may be within the industry.⁴⁸⁹ On that basis, the Appeals Committee ordered the withdrawal of “#HappyCows” and “humane” from the advertiser’s marketing.⁴⁹⁰ Applied to the proposed “Sow Friendly Pork” claim, the same reasoning leads to the conclusion that the term is misleading. A reasonable consumer encountering such a claim would not understand it to permit up to 56 days of individual stall confinement post-weaning/insemination; followed by a further period in an individual farrowing crate; amounting to more time in individual confinement than in group housing across a single reproductive cycle (see section 5.2 of this draft standard).

⁴⁸⁹ *Ibid* at paragraph 14.

⁴⁹⁰ *Ibid* at paragraph 22.

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		<i>Kemp</i> establishes that the fact such confinement may be standard or accepted within the industry does not cure the mismatch between the claim and the reasonable consumer’s understanding of what “friendly” denotes. The question is not whether individual confinement of this duration is common industry practice, but whether the term “sow friendly” would lead the reasonable consumer to expect it - and it would not. A term connoting warmth, care and freedom from restriction cannot lawfully be applied to a system that permits the majority of a reproductive cycle to be spent in individual confinement, absent a specific, demonstrated consumer understanding to that effect - which the drafting of this standard does not establish and cannot assume.
Section 1.3	Delete specifications for stalls/crates. Replace with: “Sows and gilts must be housed in groups throughout gestation and must farrow in systems that permit unrestricted movement, nest-building, turning	A gestation stall is a metal cage roughly 0.6m x 2m - hardly larger than a sow's body. ⁴⁹¹ Despite the draft claim that she can “turn around comfortably” (Section 5.3), a 300kg sow ⁴⁹² in such a space is

⁴⁹¹ *Supra* note 10 (*Scrambling for the Truth*) at 78 (noting standard industrial stall dimensions).

⁴⁹² *Supra* note 275 (*RSPCA Welfare of Pigs*) at 2 (noting that an adult sow can weigh more than 300kg).

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	around, walking, lying down without restriction and [allow for] appropriate maternal behaviour.” Confinement systems, including farrowing crates, restrictive pens and tethering, are prohibited. Temporary individual housing may be used only where necessary for veterinary treatment or an immediate and demonstrable welfare risk, for the shortest period necessary, and under veterinary direction. Piglets must be provided with a protected creep area that does not restrict the sow’s movement.”	effectively immobilised.⁴⁹³ This extreme confinement leads to reduced bone strength, muscle mass, and chronic lameness.⁴⁹⁴ Sows have a biological drive to forage and build nests 1-2 days before farrowing.⁴⁹⁵ Confinement in a crate, regardless of whether it “touches her sides” (Section 5.4), renders this impossible, causing measurable spikes in stress hormones (cortisol)⁴⁹⁶ and “stereotypies” (abnormal, repetitive, and unvarying behaviours like bar-biting), which indicate a state of chronic frustration and poor welfare.⁴⁹⁷

⁴⁹³ *Ibid* at 4 (noting that sow stalls restrict movement such that the sow cannot turn around).

⁴⁹⁴ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.13, Article 7.13.13, Point 3 (noting known consequences of stalls include reduced bone strength and increased lameness). See also: *Supra* note 4 (*Laying Down the Facts*) at 78.

⁴⁹⁵ *Supra* note 275 (*RSPCA Welfare of Pigs*) at 2 (noting that an adult sow can weigh more than 300kg).

⁴⁹⁶ *Supra* note 170 (*Sandra Edwards et al, Knowledge synthesis: Animal health and welfare in organic pig production (CORE Organic, August 2009)*) at 32 (noting that prevention of nest building by physical space restriction results in a measurable stress hormone response).

⁴⁹⁷ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Article 7.13.11, Point 1 (defining bar-biting as an oral stereotype caused by frustration).

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		The UK's RSPCA Assured Standards⁴⁹⁸ and Soil Association (UK)⁴⁹⁹ strictly prohibit farrowing crates in high-welfare systems, mandating that the sow must be able to turn around at all times to perform maternal behaviours. Outdoor arks (2.5m x 2m) and loose-farrowing pens allow sows to turn around and perform maternal behaviours while using rails and fenders to protect piglets,⁵⁰⁰ achieving survival rates comparable to intensive crate systems without the associated suffering.⁵⁰¹ However, even such systems are still forms of confinement and can be used in ways that restrict normal behaviour.⁵⁰² ALRSA's position is that no intensive confinement is acceptable for a credible claim alleging the higher welfare of pigs.

⁴⁹⁸ *Supra* note 275 (*RSPCA Welfare of Pigs*) at 21 (stating that the use of farrowing crates is not permitted and the sow must be able to turn around freely).

⁴⁹⁹ *Supra* note 288 (*Soil Association, Factsheet: Keeping Pigs*) at 2 (stating that farrowing stalls/crates are not permitted).

⁵⁰⁰ *Ibid* at 2 (specifying farrowing arks of around 2.5m x 2m). *Supra* note 275 (*RSPCA Welfare of Pigs*) at 2 (noting that an adult sow can weigh more than 300kg).

⁵⁰¹ *Supra* note 275 (*RSPCA Welfare of Pigs*) at 21 (noting that freedom of movement systems achieve comparable levels of piglet mortality from crushing).

⁵⁰² Wechsler, B. and Weber, R., 2007. Loose farrowing systems: challenges and solutions. *Animal Welfare*, 16(3), pp. 295-307.

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		This position is aligned with the FARMS Initiative’s Responsible Minimum Standards (“RMS”) for Pigs, which prohibit sow gestation stalls and farrowing crates, require group housing for dry sows and gilts (allowing stalls or crates for no more than four days after insemination with at least 3 m² per individual), and permit only very limited temporary confinement (up to three days post-farrowing) to reduce piglet crushing.⁵⁰³ The draft standard’s permission of up to 56 days in individual stalls, followed by routine use of farrowing crates, is fundamentally incompatible with these minimum standards and with any “sow-friendly” claim (or other similar claim, such as “kinder to sows”).
Sections 1.3 and 1.4	Delete clauses 1.3 and 1.4 in their entirety based on the “General Comment” above.	The current definition risks making confinement itself the baseline for the claims reflected in this draft standard rather than treating it as an exceptional practice. Even if the definition were strengthened, the umbrella term “sow friendly” remains too broad and misleading to function as a reliable welfare claim and is subject to challenge.

⁵⁰³ *Supra* note 293 (*FARMS Initiative, Responsible Minimum Standards (“RMS”) for Pigs*) at Mitigation Standard 1.

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		The FARMS Initiative’s RMS for Pigs requires group housing and prohibits gestation stalls and farrowing crates. ⁵⁰⁴
Section 1.3	Insert: “If strictly necessary, sows may be temporarily confined for a maximum of the first three days following farrowing to reduce the risk of piglet crushing.”	While this submission’s primary position is that no confinement is acceptable for a credible higher-welfare claim, we recognise that the draft standard is silent on whether any temporary restraint is permitted around farrowing and, if so, for how long. Leaving this undefined risks so-called “loose-farrowing” systems being interpreted to permit indefinite or routine restraint. The FARMS Initiative’s RMS for Pigs permit temporary confinement solely for piglet-crushing prevention, capped at the first three days after farrowing, and only where needed.⁵⁰⁵ This submission adopts that three-day limit as a clear, auditable <i>maximum</i>, to be used <i>only</i> where genuinely necessary and under veterinary direction, not as a routine entitlement.

⁵⁰⁴ *Supra* note 293 (FARMS Initiative, *Responsible Minimum Standards (“RMS”) for Pigs*) at Mitigation Standard 1.1-1.7 and Table 1.

⁵⁰⁵ *Ibid* at Mitigation Standard 1.4.



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General (definitions section)	A definition of “animal welfare” must be included as it relates to pigs, including sows. Such a definition must reflect consideration of pigs’ mental and physical well-being, their ability to express natural behaviours, and their right to be treated without harm, pain, or distress inflicted. Moreover, such a definition should explicitly make reference to the Five Freedoms ⁵⁰⁶ and Five Domains ⁵⁰⁷ (internationally recognised frameworks).	Clarity must be provided concerning the scope and the principles of animal welfare and well-being, in accordance with the National Environmental Management Biodiversity Act 10 of 2004 (“ NEMBA ”) as amended by the National Environmental Management Laws Amendment Act 2 of 2022 (“ NEMLAA ”) as well as the Constitutional Court’s recognition of the intrinsic value of animals. ⁵⁰⁸
General (definitions section)	The draft standards should specifically include the incorporation of animal welfare training into the handling of pigs. The training programme should be developed and carried out by a qualified expert in animal law and a registered animal welfare inspector. Each new staff member / contractor must be required to complete the training before beginning work. Such training should be continuous, taking place	Animal welfare training ensures staff adhere to animal welfare standards when handling the chickens and give due consideration to their well-being. The frequency of the training ensures consistent application of animal well-being.

⁵⁰⁶ Animal Humane Society, “Five Freedoms of Animal Welfare”. Available at: <https://www.animalhumanesociety.org/health/five-freedoms-animals>.

⁵⁰⁷ FOUR PAWS, “Five Domains for Animal Welfare”. Accessible at: <https://www.four-paws.org.za/our-stories/publications-guides/five-domains-animal-welfare#:~:text=The%20Five%20Domains%20cover%20five,inrequent%20as%20possible%20for%20animals>.

⁵⁰⁸ *National Society for the Prevention of Cruelty to Animals v Minister of Justice and Constitutional Development* 2017 (1) SACR 284 (CC), where the Constitutional Court recognised that animals are sentient beings capable of suffering and emphasised that animal welfare has constitutional significance.

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	every three to six months. A detailed report of the training should be submitted by the owner within 30 calendar days from the date on which the training is held to an independent oversight body. In the event of non-compliance, fines should be imposed.	
Section 4.2	Replace the vague “noxious gases” wording with a mandatory 25 ppm ammonia limit.	Section 4.2 of the draft standards requires protection against “noxious gases” in accordance with the animals’ needs. However, the standard currently fails to define which gases or what levels are acceptable, creating a regulatory ambiguity that makes the provision difficult to enforce or audit.⁵⁰⁹ The World Organisation for Animal Health (“WOAH”) recommends that ammonia concentrations in enclosed housing should not exceed 25 ppm for pigs.⁵¹⁰ Similarly, the USA Organic Standards (via the National Organic Standards Board) explicitly

⁵⁰⁹ *Supra* note 4 (*Laying Down the Facts*) at 194 (noting that vague terminology in regulations prevents effective auditing and enforcement).

⁵¹⁰ *Ibid* at Chapter 7.13, Article 7.13.15.

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		mandate that ammonia levels must be documented and maintained at or below 25 ppm.⁵¹¹ RSPCA Assured (UK) also sets the measurable threshold at 25 ppm,⁵¹² noting that air quality is likely a problem for animals if it is noticeably unpleasant to a human observer.⁵¹³ Notably, the South African Poultry Association (“SAPA”) Code of Practice (which is applicable to chickens) suggests a more sensitive threshold, noting that 10 to 15 ppm of ammonia can be detected by smell and that corrective action should be taken once this level is reached.⁵¹⁴

⁵¹¹ National Organic Standards Board (“NOSB”), *Animal Welfare Discussion Document: Stocking Density* (9 September 2010) at 4 and 6. Available at: <https://www.ams.usda.gov/sites/default/files/media/LS%20Animal%20Welfare%20Stocking%20Density%20Sept%202010.pdf>.

⁵¹² *Supra* note 299 (*RSPCA Welfare Standards for Beef Cattle*).

⁵¹³ *Ibid.* See also: *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Article 7.13.15 (stating that if air is unpleasant for humans, it is most likely a problem for the animals).

⁵¹⁴ *Supra* note 111 (*SAPA Code of Practice (2022)*) at 12.

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		Quantifying these limits is a biological necessity to prevent acute respiratory distress, painful irritation of the mucous membranes, and permanent corneal burns. ⁵¹⁵
Section 4.5	Mandate thermal regulation mechanisms: “Pigs must have access to a wallow or cooling misters when temperatures exceed 25°C.”	Pigs lack functional sweat glands and are highly susceptible to heat stress. ⁵¹⁶ Soil Association standards mandate access to a wallow to relieve pigs from heat and sunburn. ⁵¹⁷ In the South African climate, failure to provide measurable cooling mechanisms for animals is a significant welfare void that leads to respiratory distress and reduced prolificacy, ⁵¹⁸ and should not be associated with any higher welfare claim(s).

⁵¹⁵ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Article 7.10.3, Point 10. See also: *Supra* note 4 (*Laying Down the Facts*) at 70 (documenting how ammonia accumulation leads to chemical burns and toxic air quality).

⁵¹⁶ *Supra* note 275 (*RSPCA Welfare of Pigs*) at 4 (noting that pigs lack sweat glands, except on the tip of the snout, and are sensitive to extremes of climate). *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.13, Article 7.13.16, Point 1 (stating that pigs are highly susceptible to heat stress and the risk increases with body weight).

⁵¹⁷ Soil Association Pig Guide at 2 (explicitly mandating unlimited access to a wallow to relieve heat and sunburn). See also: *Supra* note 153 (*Standards for the production, processing and trade of “bud” products*), Part II, Chapter 5.4.1.6, page 115 (requiring a shower or wallow to be available at outside temperatures of 25°C or higher). Available at: <https://www.bio-suisse.ch/en/standards-bud-products.html>.

⁵¹⁸ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Article 7.13.4, Point 1 (identifying altered respiratory rate and panting as indicators of welfare problems). See also: Werremann RP and Bazer FW, “Influence of environmental temperature on prolificacy of pigs” (1985) *Journal of Reproduction and Fertility* 33, 199–208, as cited in the WOAHS Terrestrial Code at 493 (confirming the link between high temperatures and reduced prolificacy/fertility). Available at: <https://pubmed.ncbi.nlm.nih.gov/3910825/>

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ITEM NUMBER IN DRAFT	PROPOSED CHANGE/ COMMENT	MOTIVATION/JUSTIFICATION FOR CHANGE/COMMENT
Section 5.2	The maximum duration of restrictive stall confinement must be reduced from 56 days to zero days (prohibited). Individual confinement may be permitted only for essential management purposes (e.g. feeding, veterinary treatment) for no more than 30 minutes per day, or, alternatively, for a maximum of four days post-insemination for identification and monitoring. Following this period, sows and gilts must be housed in stable groups with a minimum of 3 m ² of floor space per individual.	Permitting 56 days in a gestation stall is a drastic departure from international benchmarks. The European Union (EU) (Council Directive 2008/120/EC) prohibits the use of stalls after the first 28 days of pregnancy.⁵¹⁹ A sow's pregnancy is approximately 115 days. The 56 days of stall confinement permitted under section 5.2 therefore represents nearly half (49%) of the entire gestation period - a proportion the term "Sow Friendly" or other higher welfare claim cannot credibly describe. Marketing pigs' meat produced under this standard as such risks contravening section 24 of the CPA and section 6 of the Agricultural Product Standards Act 119 of 1990 ("APSA"),⁵²⁰ as it creates a materially misleading impression of the production method. Even South Africa's own industry body sets a materially stricter standard. The South African Pork Producers' Organisation

⁵¹⁹ Council Directive (EC) No 2008/120/EC laying down minimum standards for the protection of pigs ("Council Directive 2008/120/EC") at Article 3.4. See also: World Animal Protection, Animal Protection Index: Netherlands (2020). Available at: <https://api.worldanimalprotection.org/country/netherlands>.

⁵²⁰ Section 6 of the Agricultural Product Standards Act 119 of 1990 ("APSA") prohibits using a name, word, expression, reference, particular or indication connected with the sale of a product where it conveys, creates, or is likely to convey or create a false or misleading impression about, among other things, the product's manner or place of production.

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		(“SAPPO”) Code for the Welfare of Pigs (2025)⁵²¹ recommends group housing from the first week of gestation, requires group housing in new buildings, permits limited individual housing - up to 5% of the sow population for specified welfare reasons - and gives farms until 1 January 2032 to comply fully. The 56-day figure in the current draft standard therefore falls short not only of international regulatory practice, but of the transitional benchmark South Africa’s own industry body has already committed to as its default, general practice. Measured against higher-welfare benchmarks, the gap widens further. The FARMS Initiative’s RMS for Pigs sets 4 days post-insemination as the outer limit for any permissible stall use,⁵²² materially stronger than the 28-day EU baseline and consistent with

⁵²¹ This document is not publicly available according to our desktop search. However, the draft document bears a SAPPO logo and indicates that the code was approved on 30 July 2025.

⁵²² *Supra* note 293 (*FARMS Initiative, Responsible Minimum Standards (“RMS”) for Pigs*) at Mitigation Standard 1.1–1.4: prohibiting sow gestation stalls or crates entirely; requiring dry sows and gilts to be housed in groups, permitting stalls only for a maximum of four days post-insemination; prohibiting farrowing crates; and permitting temporary sow confinement for a maximum of three days following farrowing solely to reduce piglet crushing risk; and Table 1: setting minimum space allowances for growing pigs by weight.

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		the Netherlands, which has legislated that sows may remain in stalls for a maximum of only 4 days post-insemination.⁵²³ Given the 56-day figure in the current draft is nearly five times the FARMS Initiative ceiling, this submission proposes 4 days as the primary position, though it should be noted that high-welfare schemes like Bio Suisse (Switzerland) limit individual confinement to only 30 minutes daily during feeding.⁵²⁴
Section 5.4(f)	Mandate the provision of manipulable bedding material: “Sows shall have permanent access to straw, hay, or wood shavings.” The draft standard should further provide that sows and pigs must have continuous access to sufficient quantities of manipulable material that is edible, chewable, destructible and capable of being investigated, such as straw, hay, wood or equivalent material. Material must be	The current draft is vague on behavioural needs. ⁵²⁵ The FARMS Initiative’s RMS for Pigs requires that enrichment materials be provided to enable proper investigation and manipulation activity at all stages of pig production, and specifies that such materials must be ingestible, chewable, destructible, and odorous, regularly renewed to sustain interest, and accessible to all pigs. ⁵²⁶ It further recommends bedding substrates such as straw for additional physical and thermal

⁵²³ *Ibid* (noting that the Netherlands legislated a 4-day maximum post-insemination).

⁵²⁴ *Supra* note 153 (*Standards for the production, processing and trade of “bud” products*), at Part II, Chapter 5.4.1.2 at 114.

⁵²⁵ *Supra* note 4 (*Laying Down the Facts*) at 194 (noting that vague terminology in regulations prevents effective auditing and enforcement).

⁵²⁶ *Supra* note 293 (*FARMS Initiative, Responsible Minimum Standards (“RMS”) for Pigs*) at Mitigation Standard 2.1-2.3.

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	replenished before it is exhausted, contaminated or no longer usable. At least 50% of the floor area must be solid and bedded.	comfort, and separately requires that breeding gilts and sows on a restricted diet be provided with sufficient bulky, high-fibre forage (e.g. straw) in addition to their energy ration, to prevent hunger and digestive problems. ⁵²⁷ On space allowance, the FARMS RMS additionally recommends that at least two-thirds, and preferably three-quarters, of the minimum space allowed for growing pigs be bedded for better welfare. ⁵²⁸ Soil Association and RSPCA standards require clean, dry straw bedding to facilitate natural rooting and nesting behaviours. ⁵²⁹ Barren concrete environments lead to stereotypies (e.g., bar-biting)

⁵²⁷ *Ibid.* The RMS frames this primarily as an enrichment/manipulable-material requirement rather than a bedding mandate in the strict sense, with straw “strongly encouraged” for thermal/physical comfort- specifically.

⁵²⁸ *Ibid* at Table 1.

⁵²⁹ *Supra* note 517 (*Soil Association Pig Guide*) at 2 (mandating that pigs “should always have clean dry bedding” and specifying straw for nesting). *Supra* note 275 (*RSPCA Welfare of Pigs*) at 13 (noting that bedding material provides comfort and an opportunity for pigs to root and forage).

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		and lameness. ⁵³⁰ Bedding is an essential “outcome-based” requirement for any welfare-centric claim. ⁵³¹
Section 5.5 and Section 1	There is a contradiction in the current draft standard. Section 5.5 prohibits “prolonged confining”, yet section 5.2, as currently drafted, authorises individual confinement periods totalling up to 91 days across a single reproductive cycle.	Under any reasonable scientific or legal definition, a period of this duration is “prolonged”, rendering section 5.5 illusory as presently applied. This submission’s primary position, set out above in respect of section 5.2, is that individual stall or crate confinement should be prohibited save for narrowly defined exceptions . Should the Department adopt that position, the contradiction identified here falls away, since section 5.2 would no longer authorise anything that could reasonably be called “prolonged”. However, should the Department decline to adopt that primary position, this submission requests that a definition of “prolonged” be inserted at section 1 that is no more permissive than the exceptions proposed for section 5.2 above - that is, any period of

⁵³⁰ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.13, Article 7.13.11, Point 1 (linking oral stereotypies like bar-biting to frustration and lack of foraging substrates). See also: Article 7.13.13, Point 3 (noting that restrictive, barren housing leads to reduced bone strength and increased lameness).

⁵³¹ *Ibid* at Article 7.1.4 (emphasising that animal welfare standards should prioritise “favourable outcomes for the animals”). *Supra* note 4 (*Laying Down the Facts*) at 272 (discussing the necessity of providing resources like litter and bedding to ensure birds and animals can express core natural behaviours).

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		individual confinement exceeding 30 minutes per day, or exceeding 4 days post-insemination, should be defined as “prolonged” for the purposes of section 5.5. ⁵³² A definition set at 4 hours would be inconsistent with, and substantially weaker than, the standard proposed elsewhere in this submission, and risks being read as an implicit concession that confinement of that duration is acceptable.
Section 5.6	Increase the minimum group housing space from 2.25 m^2 to at least 3.0 m^2 per sow.	A space of 2.25 m^2 is an intensive industrial minimum⁵³³ that only allows for lying and standing.⁵³⁴ The FARMS Initiative’s RMS for Pigs sets 3 m^2 per individual as the minimum floor space even for sows in individual stalls during the narrowly permitted 4-day post-insemination window.⁵³⁵ It would be welfare-regressive, for this draft standard to permit less space per sow in group housing than higher-welfare standards, such

⁵³² *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.13, Article 7.13.13, Point 3 (noting that stalls and crates prevent normal posture and movement, leading to reduced bone strength and increased lameness).

⁵³³ *Minimum Standards for the Protection of Pigs Regulations, 2015* (Malta/EU) at Regulation 3(1)(b) (specifying 2.25 m^2 as the baseline for sows in groups).

⁵³⁴ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.13, Article 7.13.13, Point 3 (noting that industrial stall and crate dimensions often only allow for these limited postures).

⁵³⁵ *Supra* note 293 (*FARMS Initiative, Responsible Minimum Standards (“RMS”) for Pigs*) at Mitigation Standard 1.2.

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		as the FARMS Initiative, allow for temporary individual confinement, particularly since group-housed sows require additional space to maintain the social “flight distance” ⁵³⁶ needed to avoid aggression, in a way that individually stalled sows do not. Bio Suisse Standard 5.4 reflects this need directly, requiring up to 3.5 m ² of total area, including an exercise yard, for group-housed sows. ⁵³⁷ Increased space is a measurable requirement for reducing vulva-biting and chronic fear. ⁵³⁸
Section 5.6	This section contains a stocking density table, but it is expressed as weight-banded space allowances. We propose the following amendment: “The group stock density shall be as follows, and shall in no case be lower than the following minimum space allowances: Live weight - Minimum Total Area (m ²)	The current draft standard’s space allowances for growing pigs are materially below other benchmarking standards. For instance, the FARMS Initiative’s RMS for Pigs, which sets the proposed figures as the <i>minimum</i> total area required to prevent tail biting and allow pigs to stand, stretch, turn around, sit, engage in social behaviour,

⁵³⁶ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Article 7.1.5, Point 5 (stating social grouping must be managed to allow positive social behaviour and minimize chronic fear). See also: Article 7.13.13, Point 1 (noting that group housing should provide sufficient space to avoid or escape potential aggressors).

⁵³⁷ *Supra* note 153 (*Standards for the production, processing and trade of “bud” products*), Part II, Chapter 5.4.1.3, Table 4 (prescribing a total stable area, including exercise yard, of 3.5 m² per animal for groups of ≤ 6 pregnant sows).

⁵³⁸ *Ibid* at Article 7.13.11, Point 4 (identifying reduced group size and competition as a mitigation for vulva-biting). See also: *Supra* note 275 (*RSPCA Welfare of Pigs*) at 13 (linking high stocking densities to increased risks of vulva and ear biting).

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	Up to 15 kg - 0.42 16–25 kg - 0.56 26–50 kg - 0.65 50–100 kg - 0.93 Over 100 kg - 1.20”.⁵³⁹ [Group housing sows: see proposed amendment to this clause above regarding the 3.0 m² minimum]	and lie down comfortably at the same time, with defined areas for resting, feeding, activity, and elimination.⁵⁴⁰ This submission proposes the FARMS RMS figures be adopted as the minimum floor throughout the weight range, consistent with the group-housing sow space amendment proposed above in respect of section 5.6.
Section 5.7	There is currently no weaning provision anywhere in Annexure N. Recommend inserting it as a new sub-clause 5.7, immediately after the existing housing requirements and before “6. Animal Health”, since weaning age is closely tied to housing/management practice rather than health treatment.	The draft standard is currently silent on minimum weaning age. Early weaning is a recognised welfare concern, associated with increased stress, gastrointestinal disturbance, and behavioural problems in piglets, including greater risk of the tail-biting and aggression⁵⁴¹ that the mutilation-avoidance measures proposed elsewhere in this submission are intended to prevent.

⁵³⁹ *Supra* note 293 (*FARMS Initiative, Responsible Minimum Standards (“RMS”) for Pigs*) at Table 1.

⁵⁴⁰ *Ibid* at Mitigation Standard 1.6-1.7; and Table 1.

⁵⁴¹ Van Kerschaver, C., Turpin, D., Michiels, J. and Pluske, J., 2023. Reducing weaning stress in piglets by pre-weaning socialization and gradual separation from the sow: a review. *Animals*, 13(10), p.1644. Available at: <https://pmc.ncbi.nlm.nih.gov/articles/PMC10215717/>.

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	Proposed new clause 5.7 (Weaning): “Piglets must not be weaned before the age of 28 days.”	The FARMS Initiative’s RMS for Pigs sets 28 days as the <i>minimum</i> weaning age, ⁵⁴² and this submission proposes the same figure be adopted here.
Section 6.3	Currently states: “Euthanasia - provision to be made for humane killing of casualties.” However, “humane”, “casualties” and others are undefined, which is highly problematic.	The current clause is a single unsubstantiated line with no criteria for when euthanasia is required, no specification of acceptable methods, and no confirmation-of-death requirement. This leaves “humane killing” entirely to producer discretion, which is inadequate for a standard intended to register a Management Control System and to be regarded as high-welfare claims. This is a well-established gap in comparable frameworks. The FARMS Initiative’s RMS for Pigs expressly prohibits high-concentration CO₂ gassing before slaughter and requires that any stunning method cause instantaneous unconsciousness lasting until death, or that gradual induction of unconsciousness be non-aversive⁵⁴³ - a standard that should be extended to euthanasia in the

⁵⁴² *Supra* note 293 (FARMS Initiative, *Responsible Minimum Standards* (“RMS”) for Pigs) at Mitigation Standard 6.1.

⁵⁴³ *Ibid* at Mitigation Standard 8.2 - 8.3. Available at: <https://www.farmsinitiative.org/rmsforpigs>.

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		draft standard as the more protective approach, since euthanasia (unlike slaughter) is typically performed on already-compromised, injured, or distressed animals for whom a poorly executed method causes additional, avoidable suffering. The American Association of Swine Veterinarians’ On-Farm Euthanasia of Swine guidelines,⁵⁴⁴ widely relied upon internationally, require a written, farm-specific euthanasia standard operating procedure, method selection appropriate to the size and age of the pig (as does the FARM Initiative’s RMS), and confirmation of death following the procedure. The Canadian Code of Practice for the Care and Handling of Pigs⁵⁴⁵ similarly requires that any method render the animal immediately “insensible” with no return to sensibility before death, and that personnel performing euthanasia be trained. A Greener World (“AGW”)’s “Pig Standards

⁵⁴⁴ The American Association of Swine Veterinarians’ On-Farm Euthanasia of Swine guidelines (2016). Available at: <https://www.aalac.org/pub/?id=60067666-C249-DC21-7231-AA13B48D0890>.

⁵⁴⁵ The Canadian Code of Practice for the Care and Handling of Pigs (2024). Available at: <https://www.nfacc.ca/codes-of-practice/pigs#viewcode>.

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		for the Animal Welfare Approved by AGW seal”⁵⁴⁶ requires that animals experiencing pain or suffering from which they are unlikely to recover be promptly euthanised on-farm in a manner that renders the animal immediately insensible to pain, and expressly prohibits methods causing unnecessary pain or suffering. Without an objective decision framework, “casualties” is left undefined, and animals may be left to suffer while an ad hoc determination is made. Without method and confirmation-of-death requirements, there is no assurance that “humane killing” (which is also vague and undefined) is not, in practice, a slow or incomplete process. This clause closes both gaps, consistent with international standard practice already reflected elsewhere in this and other Annexures (e.g. the euthanasia standard already present in the Free Range Egg and Poultry Meat (Annexure E) and Barn Eggs (Annexure B) annexures at their respective section 8).

⁵⁴⁶ A Greener World, “Pig Standards for the Animal Welfare Approved by AGW seal”. Available at: <https://agreenerworld.org/certifications/animal-welfare-approved/standards/pig-standards/>.

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Section 6.6 (d) & (e)	Quantify environmental protections: “Shade must be provided for all pigs in transit. Ventilation must be managed to ensure that ammonia levels do not exceed 25 ppm and temperature is maintained within the animal’s thermoneutral zone.”	The current phrasing (shade must be provided) is a positive step but lacks the measurable outcomes needed for objective auditing.⁵⁴⁷ WOAHP (Article 7.13.16) emphasises that since pigs cannot sweat,⁵⁴⁸ they are highly susceptible to heat stress, which can lead to sudden death during transport stops.⁵⁴⁹ In enclosed or multi-deck vehicles, the buildup of noxious gases like ammonia is a critical risk.⁵⁵⁰ Following USA Organic and WOAHP benchmarks, a scientific limit of 25 ppm should be mandated to prevent respiratory distress and mucous membrane irritation during the journey.⁵⁵¹

⁵⁴⁷ *Supra* note 4 (*Laying Down the Facts*) at 194 (noting that vague terminology in regulations prevents effective auditing and enforcement).

⁵⁴⁸ *Supra* note 275 (*RSPCA Welfare of Pigs*) at 4 (noting that pigs lack functional sweat glands, except on the tip of the snout). See also: *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.3, Article 7.3.12 (noting pigs are uniquely susceptible to heat stress during transit).

⁵⁴⁹ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.13, Article 7.13.16, Point 1 (stating that heat stress can cause significant discomfort and sudden death, with risk increasing by body weight). See also: Article 7.3.11, Point 2(b) (mandating that in hot weather, journey stops must be minimised and vehicles parked in shade).

⁵⁵⁰ *Ibid* at Article 7.3.8, Point 2(c) (mandating that ventilation during the journey must provide for the removal of noxious fumes such as ammonia and prevent its accumulation).

⁵⁵¹ *Ibid* at Article 7.13.15 (prescribing that ammonia concentration in enclosed housing should not exceed 25 ppm). See also: NOSB *Animal Welfare Discussion Document: Stocking Density* (9 September 2010) (mandating that ammonia levels must be documented and maintained at or below 25 ppm). Also see: *Supra* note 3 (*Supplementary Submission to the SAHRC*) at 45 (linking noxious gas exposure to painful irritation of mucous membranes and extreme respiratory distress).

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		WOAH and USDA Organic benchmarks are proposed here as the appropriate measurable standard. ⁵⁵²
Section 6.6 (i)-(g)	The section moves directly from space allowance (g) to grouping/partitioning (h) to a single pregnancy-related exclusion (i), without ever establishing a general “fit for transport” threshold or excluding non-ambulatory animals. The draft standard should require that pigs must be deemed fit for the journey and a threshold should be included. Non-ambulatory pigs must never be transported, except where being transported to a veterinarian for treatment.	This is a significant omission: non-ambulatory (“downer”) pigs are recognised across international guidance as categorically unfit for transport, since they cannot bear weight, cannot move away from aggression or sudden vehicle movement, and are at materially elevated risk of further injury, suffering, or death in transit.⁵⁵³ The FARMS Initiative’s RMS for Pigs expressly requires that pigs be fit for the journey and prohibits the transport of non-ambulatory pigs other than for veterinary treatment.⁵⁵⁴
Section 6.6 (i)	This provision is too narrow and undefined. It should be amended to provide that no animals in the last 10% of their gestation period, animals that have farrowed within the preceding 48 hours, or animals	“Heavily pregnant” is not defined, leaving it open to inconsistent interpretation, and the exclusion is limited to pregnancy alone, when comparable international guidance typically extends the same

⁵⁵² Note that this proposal exceeds the transport welfare requirements set by the FARMS Initiative’s RMS for Pigs, which addresses transport fitness and handling however the FARMS RMS do not specify numeric thermal or air-quality thresholds.

⁵⁵³ See for example, Michigan State University. “Moving Nonambulatory Animals SOP”. Available at: <https://www.canr.msu.edu/resources/moving-nonambulatory-animals-sop>.

⁵⁵⁴ FARMS Initiative, Responsible Minimum Standards for Pigs (2020) at Mitigation Standard 7.3-7.5. Available at: <https://www.farmsinitiative.org/rmsforpigs>.

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	showing prolapse, profuse or continuous bleeding, or respiratory distress, shall be transported.	exclusion to other acute, high-risk conditions (e.g. recent farrowing, uterine or rectal prolapse, profuse bleeding).⁵⁵⁵ This aligns the exclusion with the criteria most widely used internationally to define transport-unfit pregnant or recently-farrowed animals, replacing the undefined "heavily pregnant" with an objective, auditable threshold capable of consistent application by the designated assignee/inspector.
Section 6.6 (g)	This provision sets static weight-banded figures with no acknowledgment that required space increases with journey duration, temperature, or animal condition. It should be amended to provide for those concerns.	Static per-weight-class space allowances do not account for the recognised welfare risk that longer journeys, higher temperatures, and older or less mobile breeding animals each independently increase space requirements. Without this adjustment, the minimum figures in clause (g) may be inadequate for exactly the animals - sows "retired" from the system

⁵⁵⁵ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.3 (Transport of Animals by Land). Grandin, T., 2016. Transport fitness of cull sows and boars: a comparison of different guidelines on fitness for transport. *Animals*, 6(12), p.77. Available at: <https://www.mdpi.com/2076-2615/6/12/77>.

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		itself - most likely to be transported under this standard at the end of their reproductive life.
Section 6.6 (l) & (m)	Reinforce handling prohibitions: “The use of electrical prodding is strictly prohibited. Animals shall be loaded using “pig boards” and flat-surface ramps with an incline not exceeding 20%.”	While the draft standard prohibits electrical prodding, it should explicitly mandate the use of welfare-centric tools like “pig boards” as recommended by the IFC Good Practice Note.⁵⁵⁶ The FARMS Initiative’s RMS for Pigs provides that electric goads or prods should not be used when catching, loading, unloading, or moving pigs, and that pigs should be moved with a flat “pig board” rather than a stick.⁵⁵⁷ This submission proposes that both requirements be elevated from recommendations to binding minimum standards, consistent with the mandatory tone already used elsewhere in this draft standard for comparable welfare protections.

⁵⁵⁶ International Finance Corporation (“IFC”), *Good Practice Note: Improving Animal Welfare in Livestock Operations* (December 2014) at 17 (mandating that “Pigs should be moved with a flat ‘pig board’ rather than with a stick” and prohibiting electric goads). Available at: <https://www.ifc.org/agribusiness> or <https://www.ifc.org/sustainability>.

⁵⁵⁷ FARMS Initiative, *Responsible Minimum Standards for Pigs* (2020) at Mitigation Standard 7.6-7.7. Available at: <https://www.farmsinitiative.org/rmsforpigs>.

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		Pigs negotiate ramps with extreme difficulty due to poor eyesight. ⁵⁵⁸ RSPCA Assured and WOAHA standards specify that ramps should not exceed a 20% (approx. 11 degree) incline to prevent baulking, slipping, and physical injury during the loading process. ⁵⁵⁹
Section 6.6 (p)	Amend the maximum transport duration to provide that the continuous transportation of animals shall not exceed 8 hours. Where animals are transported by sea, it should be mandated that the vessel be accompanied by at least one registered, independent veterinarian, and the animals must reach their destination within 24 hours	The current proposed limit of 18 continuous hours is severely regressive compared to international higher-welfare standards. Switzerland restricts animal travel time to a maximum of 6 hours, ⁵⁶⁰ while the FARMS Initiative's RMS for Pigs, ⁵⁶¹ Norway ⁵⁶² and many RSPCA Assured standards cap transport at 8 hours. ⁵⁶³ Prolonged

⁵⁵⁸ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.3, Article 7.3.12 (noting that "Pigs have poor eyesight" and "negotiate ramps with difficulty").

⁵⁵⁹ *Ibid* at Article 7.5.13, Point 3 (noting that gradients should not be "steep as to prevent animals from moving" and must have "solid side barriers"). See also: *Supra* note 306 (*RSPCA Beef Cattle Standards*) at Point T 4.7 (specifying that "Loading facilities must provide a ramp of no more than a 20% incline").

⁵⁶⁰ Animal Welfare Act (2005) (Switzerland) (*Tierschutzgesetz*) at Article 15. See also: *Supra* note 152 (*Switzerland | World Animal Protection*), *Animal Protection Index* (2020) at Article 5.08.

⁵⁶¹ *Supra* note 293 (*FARMS Initiative, Responsible Minimum Standards ("RMS") for Pigs*) at Mitigation Standard 7.1: "Land transport time must be limited to 8 hours".

⁵⁶² *Regulation on the commercial transport of animals* (Norway) (*Forskrift om næringsmessig transport av dyr*) (2002) at Section 5.

⁵⁶³ Royal Society for the Prevention of Cruelty to Animals ("RSPCA"), *RSPCA welfare standards for laying hens* (August 2017) at 54. Available at: <https://www.rspca.org.uk/adviceandwelfare/farm/layinghens>. See also: *Supra* note 306 (*RSPCA Beef Cattle Standards*) at Point T 5.3 (specifying a maximum of 8 hours from loading the first animal to unloading the last).

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		journeys are a recognised major welfare problem, leading to severe fatigue, dehydration, and immune suppression.⁵⁶⁴ Pigs are “notoriously bad travellers”⁵⁶⁵ who are uniquely susceptible to motion sickness⁵⁶⁶ and have significant difficulty regulating their body temperature during transit.⁵⁶⁷ Scientific research indicates that mortality levels increase significantly with distance travelled.⁵⁶⁸ An 18-hour window (nearly a full day) is biologically incompatible with a high-welfare, nevertheless a “Sow Friendly”, claim and fails to meet the “well-being” requirements of the National Environmental Management Biodiversity Act 10 of 2004 (“NEMBA”) as amended by the National Environmental Management Laws Amendment

⁵⁶⁴ *Supra* note 170 (*Sandra Edwards et al, Knowledge synthesis: Animal health and welfare in organic pig production (CORE Organic, August 2009)*) at 235 (noting transport stress causes immuno-suppression and increased susceptibility to infection). See also: *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.3, Article 7.3.4, Point 2(d).

⁵⁶⁵ *Supra* note 275 (*RSPCA Welfare of Pigs*) at 4.

⁵⁶⁶ *Ibid.* See also: *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Article 7.3.12 (noting that “Pigs are susceptible to motion sickness when in transit”).

⁵⁶⁷ *Supra* note 275 (*RSPCA Welfare of Pigs*) at 4 (stating pigs “have problems regulating their body temperature”). See also: *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Article 7.3.12 (stating pigs are “highly susceptible to heat stress”).

⁵⁶⁸ RSPCA Layer Hen Standards at 54 (specifying that “Research shows that mortality levels increase with distance travelled”).

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		Act 2 of 2022 (“NEMLAA”), which mandates conditions conducive to physical and physiological health.⁵⁶⁹ The FARMS Initiative’s RMS for Pigs requires that pigs transported by sea be accompanied by a veterinarian and reach their destination within 24 hours, in recognition of the heightened welfare risks of maritime transport, including motion sickness, extended confinement, and limited capacity for emergency intervention.⁵⁷⁰ This submission proposes the same standard be adopted here to close this gap.
Section 8	Insert a provision that routine tail docking and teeth clipping/grinding or any other “routine” or other mutilations are prohibited, save as a last resort where a documented management plan (authorised by a registered, independent veterinarian) demonstrates	The draft standard is currently silent on “routine” or other permitted mutilation, therefore leaving the door open for these to be allowed. This is a significant internal inconsistency within the Department’s own draft standards that are part of the same process. For instance, under the “Pasture Raised” standard (Annexure L),

⁵⁶⁹ The National Environmental Management Laws Amendment Act 2 of 2022 (“**NEMLAA**”) defines well-being as the “holistic circumstances and conditions of an animal, which are conducive to its physical, physiological and mental health”.

⁵⁷⁰ Marti, S., Welfare of pigs during transport. EFSA Journal. Available at: https://d1wqtxts1xzle7.cloudfront.net/122851107/Nielsen_Welfare_2022-libre.pdf? Phillips, C., 2024. Transport of cattle, sheep and other livestock by sea and air. In *Livestock handling and transport* (pp. 488-504). GB: CABI. Available at: <https://www.cabidigitallibrary.org/doi/abs/10.1079/9781800625136.0022>.

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	that all other measures to prevent injury have been implemented without success. Surgical castration must also be prohibited.	which is applicable to pigs (among others), section 5.5 (a) expressly prohibits the following practices: “(ix) Castration is prohibited. (x) Teething and teeth grinding of pigs are prohibited. (xi) Tail docking of pigs is prohibited.” The draft “Sow Friendly Pork” standard, by contrast, is entirely silent on all three practices, despite both standards being registered as Management Control Systems denoting higher-welfare production under the same regulatory framework. There is no principled basis for this discrepancy. “Sow Friendly Pork” is, by name and by marketing function (at least in the mind of a consumer), a welfare-forward claim in the same way as “Pasture Raised”, and consumers encountering either claim would reasonably expect a comparable baseline of protection from painful, unnecessary procedures. A regulatory framework that permits one registered higher-welfare claim to authorise practices its sibling standard expressly prohibits undermines the coherence and credibility of the MCS Regulations, and risks the kind of consumer

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		confusion the MCS Regulations are intended to prevent. At minimum, the mutilation prohibitions already adopted by the Department in the Annexure L should be extended, without qualification, to the present Annexure N. This position is further reinforced by, rather than displaced by, the international benchmarks below. On castration, the FARMS Initiative’s RMS for Pigs prohibits surgical castration outright and requires immunocastration or the rearing of intact males in its place.⁵⁷¹ We submit that the draft standard should be aligned to that standard rather than merely qualifying castration by the presence or absence of anaesthesia. On tail docking and teeth clipping, this submission’s primary position exceeds even the FARMS RMS standard, which permits these procedures only as a last resort accompanied by a documented

⁵⁷¹ *Supra* note 293 (*FARMS Initiative, Responsible Minimum Standards (“RMS”) for Pigs*) at Mitigation Standard 4.4-4.5.

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		management plan to prevent and address the underlying behaviour (e.g. tail biting, piglet injury to the sow) without resorting to mutilation. ⁵⁷² Bio Suisse (Chapters 4.5.5 and 4.4.1) strictly prohibits tail docking and tooth cutting outright. ⁵⁷³ The Netherlands (Animal Holders Decree), transposing EU Directive 2008/120/EC, prohibits the routine use of these procedures and mandates environmental changes as the first line of defence. ⁵⁷⁴ Norway and Sweden have maintained total bans on tail docking for decades. ⁵⁷⁵

⁵⁷² *Supra* note 293 (*FARMS Initiative, Responsible Minimum Standards (“RMS”) for Pigs*) at Mitigation Standard 4.1-4.3.

⁵⁷³ *Supra* note 153 (*Standards for the production, processing and trade of “bud” products*), Part II, Chapter 4.5.5 at 112 (prohibiting tail-docking and tooth-cutting). See also: Part V, Chapter 4.4.1 at 283 (explicitly stating: “No tooth-cutting or tail-docking in pigs”). Available at: <https://www.bio-suisse.ch/en.html>.

⁵⁷⁴ World Animal Protection, *Animal Protection Index: Netherlands* (2020) at Article 2.68 (noting the transposition of Council Directive 2008/120/EC into the Animal Holders Decree). Available at: <https://api.worldanimalprotection.org/country/netherlands>. See also: Minimum Standards for the Protection of Pigs Regulations, 2015 [L.N. 388 of 2015] (transposing Council Directive 2008/120/EC) at Chapter I, Point 8 (stating that procedures must not be carried out routinely and that “inadequate environmental conditions or management systems must be changed” first). Available at: <https://legislation.mt/eli/ln/2015/388/eng/pdf>.

⁵⁷⁵ *Supra* note 4 (*Laying Down the Facts*) at 217 (noting that Norway outlawed such mutilations in 1974 and Sweden in 1988). See also: *Supra* note 170 (*Sandra Edwards et al, Knowledge synthesis: Animal health and welfare in organic pig production (CORE Organic, August 2009)*) at 32 (stating “tail docking is banned in Sweden in both organic and conventional systems”) and IWTO, *Specifications for Wool Sheep Welfare* (2023) at 11 (noting that in Norway “It is forbidden to remove body parts from animals, like amputation of tale [sic]”).



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		“Routine” mutilation measures is a response to poor environments (boredom and lack of space).⁵⁷⁶ a high-welfare claim/ system must manage behaviour through environmental improvement rather than painful, “routine” (or other) mutilation.⁵⁷⁷ Should the Department decline to adopt a total prohibition on tail docking, teeth clipping, or any other “routine” or other mutilations, we request, in the alternative, that the FARMS Initiative’s “last resort” standard - permitting the procedure only where a documented management plan demonstrates all other preventive measures have failed - be adopted as a <i>minimum</i> floor, together with the total prohibition on surgical castration set out above.
Section 8	Insert a prohibition on CO ₂ gassing.	Scientific research confirms that CO ₂ gassing is inherently aversive. ⁵⁷⁸ Loss of consciousness is not instantaneous; loss of

⁵⁷⁶ Woolworths, *Animal Welfare Policy and Position Statement* (December 2016) - identifying routine mutilations as being “associated with boredom in animals due to barren landscapes and over-crowding”. Available at: https://www.woolworths.co.za/images/elasticera/New_Site/Corporate/Woolworths_Animal_Welfare_Policy_and_Position_Statement.pdf.

⁵⁷⁷ *Supra* note 83 (*WOAH Terrestrial Animal Health Code*) at Chapter 7.13, Article 7.13.11, Point 2 (stating that tail biting is a multifactorial problem reduced by providing enrichment and avoiding high stocking densities). See also: *Supra* note 3 (*Supplementary Submission to the SAHRC*) at 7 (noting that mutilations are performed to “remedy” behaviours caused by the mental frustration of confinement).

⁵⁷⁸ *Supra* note 3 (*Supplementary Submission to the SAHRC*) at 47 (citing a 2023 literature review commissioned by the New South Wales Department of Primary Industries).

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		posture, a marker for unconsciousness, occurs on average only after 60 seconds.⁵⁷⁹ During this period, pigs experience mucous membrane irritation, air hunger (dyspnoea), and extreme respiratory distress.⁵⁸⁰ A University of Pretoria study (2024) found that CO₂ gassing in South African abattoirs causes “systemic animal suffering”, including gasping and escape attempts.⁵⁸¹ Additionally, research has confirmed strong avoidance behaviours and immediate stress responses to gas gassing.⁵⁸²

⁵⁷⁹ *Ibid* at 46 (noting that loss of consciousness typically occurs within about 60 seconds and that pigs exhibit distress behaviours from the moment of exposure).

⁵⁸⁰ *Ibid* at 45 (documenting how high concentrations of CO₂ are acidic and cause a “burning sensation in the nose, throat, and lungs” while displacing oxygen to cause “air hunger”). See also: *Supra* note 4 (*Laying Down the Facts*) at 272 (quoting the SPCA’s opposition to aversive gases that cause a “feeling of suffocation”).

⁵⁸¹ Lupton, N., *Effects of different stunning methods on the welfare and carcass quality of finisher pigs in South Africa’s pork abattoirs* (MSc Thesis, University of Pretoria, 2024). Available at: <https://repository.up.ac.za/server/api/core/bitstreams/0a80279b-5961-4f44-8b99-ee69d6775849/content>.

⁵⁸² Persson, M., Lindahl, C., and Wallenbeck, A., “Immediate behavioural response in pigs at gas stunning with foam” in *International Society for Applied Ethology: The 33rd Nordic Region Winter Meeting* (6-7 February 2024, Norway). Available at: <https://www.diva-portal.org/smash/record.jsf?pid=diva2%3A1880818&dswid=-9702>.

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		This position is further supported by FARMS Initiative’s RMS for Pigs, which states as an explicit mitigation standard that “high concentration CO₂ gas must not be used for stunning,” and instead requires that pigs be stunned using a non-aversive method producing instantaneous unconsciousness lasting until death.⁵⁸³ This requirement is also relevant to product marketing. Section 6 of the APSA prohibits descriptions likely to create a false or misleading impression concerning, among other matters, the manner of production of an agricultural product. Section 24 of the CPA regulates product labelling and trade descriptions, including indications concerning the mode of producing goods. Accordingly, marketing pigs’ meat with labels such as “Friendly”, “kinder” or using equivalent (seemingly) welfare-positive language, while permitting a slaughter method associated with documented

⁵⁸³ *Supra* note 293 (FARMS Initiative, *Responsible Minimum Standards (“RMS”) for Pigs*) at Mitigation Standard 8.2: “Pigs must be stunned before slaughter using a non-aversive method that causes instantaneous unconsciousness lasting until death, or if unconsciousness is induced gradually, the process must be non-aversive” and 8.3: “High concentration CO₂ gas must not be used for stunning”. Available at: <https://www.farmsinitiative.org/rmspdfs>.

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		aversion, respiratory distress, including gasping and thrashing,⁵⁸⁴ creates a materially misleading overall impression if the slaughter method is not disclosed or excluded from the claim. The standard should therefore either prohibit CO₂ stunning or require any welfare claim to <u>clearly and prominently disclose</u> that CO₂ gassing was used during the slaughter process, so that consumers are not misled about the full production method.
Section 8.1	Amend mandatory wording: “Method of production disclosure (e.g., “Caged” or “Stall-Free”) must be the primary claim.”	Using “Sow Friendly” as a standalone marketing term allows producers to obscure the reality of the treatment of pigs under this draft standard. Following the EU model, the primary label should reflect the rearing system,⁵⁸⁵ with other welfare claims being a secondary, <i>substantiated</i>

⁵⁸⁴ Hognestad, B.W., Digraanes, N., Opsund, V.G., Espenes, A. and Haga, H.A., 2023. CO2 stunning in pigs: Physiological deviations at onset of excitatory behaviour. *Animals*, 13(14), p.2387. Available at: <https://www.mdpi.com/2076-2615/13/14/2387>.

⁵⁸⁵ *Supra* note 3 (*Supplementary Submission to the SAHRC*) at 8 (citing the European Union’s mandatory disclosure system which prioritizes the rearing system - caged, barn, free-range, or organic). See also: *Supra* note 4 (*Laying Down the Facts*) at 187 (noting that disclosing the production system aids consumer awareness of welfare considerations).

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		(and transparent) certification, ⁵⁸⁶ ensuring compliance with the consumer's right to accurate disclosure under the CPA. ⁵⁸⁷
Section 8.2 and Section 9	“Stricter requirement” is not defined at the level of granularity required and should be addressed and corrected. Moreover, there is no verification or enforcement mechanism for stacked claims This must be addressed and corrected.	It is unclear whether “stricter” is to be assessed clause-by-clause (e.g. comparing space allowances individually across each stacked standard) or as a holistic comparison between standards overall. This matters because a producer could, in principle, be stricter on one metric (e.g. space) while falling short on another (e.g. weaning age or transport duration) across the same combined label, and the clause as drafted gives no guidance on how such a mixed case should be resolved or audited. Section 9 provides only that the designated assignee/inspector shall ensure that farms registered for the “Sow Friendly Pork” Management Control System are permitted to label products accordingly. It contains no provision for verifying compliance where

⁵⁸⁶ *Supra* note 3 (*Supplementary Submission to the SAHRC*) at 13 (stating that claims like “ethically produced” must be backed by substantiated evidence, verifiable standards, and independent monitoring to ensure integrity and public trust).

⁵⁸⁷ Consumer Protection Act 68 of 2008 (“CPA”) at Section 24 (Right to disclosure and information). See also: Agricultural Product Standards Act 119 of 1990 (“APSA”) at Section 6 (prohibiting markings that create a “misleading impression” regarding the manner or place of production).

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		a product label references multiple stacked systems or claims under section 8.2 (for example), despite this being expressly contemplated by the clause. As presently drafted, there is no mechanism to confirm that a farm claiming to meet the “stricter requirement” across two or more combined standards has, in fact, done so. This comment should be read together with our submissions on “Free Range” Claims for cows, pigs and sheep (Annexure F) in respect of section 8.1(a), which raises the corresponding concern from the opposite direction: that nothing currently prevents a “Free Range” pigs’ meat label from implying “Sow Friendly” or “Organic” equivalence, or vice versa, given the differing requirements across the three standards applicable to pigs. Section 8.2’s stacking mechanism and the gap identified in Annexure F are two sides of the same underlying problem, namely that the

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		current draft standards permit combined welfare claims on a single label without a clear, auditable mechanism for confirming that the combined claim is actually substantiated in full.