COMMISSIONER OF AGRICULTURE
EMERGENCY ORDER
2020-006

WHEREAS, on March 9, 2020, through Executive Order 20-52, the Governor of the State of Florida in response to the COVID-19 outbreak declared a severe public health emergency; and

WHEREAS, as of March 17, 2020, the COVID-19 outbreak poses a risk to the entire state of Florida; and

WHEREAS, the United States Centers for Disease Control and Preventionand the Florida Department of Health recommends social distancing measures to control the spread of the COVID-19 outbreak; and

WHEREAS, the Governor of the State of Florida, pursuant to Executive Order 20-52, Section 4, Subparagraph B, authorized State agencies to suspend the effect of any regulatory statute, rule, or order that would in any way prevent, hinder, or delay necessary action in coping with the emergency; and

WHEREAS, pursuant to Section 570.50, Florida Statutes, the Department of Agriculture and Consumer Services (Department) shall conduct those general inspection activities relating to food and food products being processed, held, or offered for sale in this state and enforcing those provisions of Chapters 500, 501, 502, 531, 583, 585, 586, 597, and 601, Florida Statutes, relating to foods as authorized by the Department; and

WHEREAS, pursuant to Section 583.02(1), Florida Statutes, it is unlawful for any dealer to offer for sale or sell in this state any case, partial case, or carton containing eggs which is not labeled with the date of pack; grade; size; and name and address of the packer, distributor, or dealer. However, the Department may permit a dealer to sell or consign eggs to another dealer in this state without labeling provided such eggs are accompanied by a proper bill of lading, and provided further that the consignee, upon receipt of the eggs and prior to selling or offering them for sale, affixes to each case the labeling required by this chapter; and

WHEREAS, pursuant to Section 500.12(1)(f), Florida Statutes, the Department may by rule establish conditions for the manufacturing, processing, packing, holding, or preparing of food; the selling of food at wholesale or retail; or the transporting of food to protect the public health and promote public welfare by protecting the purchasing public from injury by merchandising deceit; and

WHEREAS, pursuant to Section 500.02(2), Florida Statutes, the Florida legislature intended Chapter 500, Florida Statutes, to be administered so far as practicable in conformity with the provisions of, and regulations issued under the authority of, the Federal Food, Drug, and Cosmetic Act; the Agriculture Marketing Act of 1946; and likewise uniform with the Federal Trade Commission Act, to the extent that it expressly prohibits the false advertisement of food; and

WHEREAS, the Food and Drug Administration (FDA) has announced a Temporary Policy Regarding Packaging and Labeling of Shell Eggs Sold by Retail Food Establishments During the COVID-19 Public Health Emergency that will remain in effect only for the duration of the public health emergency related to COVID-19 declared by the Department of Health and Human Services (HHS), including any renewals made by the HHS Secretary in accordance with section 319(a)(2) of the Public Health Services (PHS) Act; and

WHEREAS, the impact of the COVID-19 outbreak has caused financial hardships for many individuals and business in the state of Florida who are licensed and regulated by the Department.

NOW THEREFORE, with the powers and authorities conferred by Article IV, Section 4, Florida Constitution, Section 570.07(21), Florida Statutes, and Executive Order 20-52, I hereby declare the following:

1. Sections 500.11, 583.02, and 583.03, Florida Statutes, and any Department rules or portions of rules promulgated thereunder related to packaging and labeling requirements of shell eggs sold by retail food establishments that are inconsistent with the FDA's Temporary Policy Regarding Packaging and Labeling of Shell Eggs Sold by Retail Food Establishments During the COVID-19 are hereby suspended for thirty (30) days.

2. Unless specifically suspended in this Order or any other Emergency Order issued pursuant to the authority conferred by Article IV, Section 4, Florida Constitution, Section 570.07(21), Florida Statutes, and Executive Order 20-52, all other portions of Chapters 500 and 583, Florida Statutes, and the rules promulgated thereunder remain in effect.

THIS ORDER shall expire thirty (30) days from this date unless extended or rescinded by the Commissioner of Agriculture.

EXECUTED APRIL 7, 2020.

Nicole Fried

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COMMISSIONER OF AGRICULTURE