

MEMORANDUM

From: Elizabeth B. Fawell
Brian D. Eyink
Veronica Colas
Samantha Dietle

Date: April 3, 2020

Re: FDA Issues Temporary Policy Regarding Labeling of Shell Eggs Sold by Retail Establishments

Today, FDA issued a new guidance document that provides retailers with some flexibility from labeling requirements for shell eggs in order to facilitate the distribution of eggs during the COVID-19 pandemic.¹ This guidance provides a basis for retail food establishments to sell unlabeled cartons or flats of shell eggs during the public health emergency if the retailer meets certain requirements, detailed below.

FDA does not intend to object to the sale by retail food establishments of shell eggs in cartons or flats without labels if:

1. The retail food establishment displays clearly at the point of purchase (for example, on a counter card, sign, tag affixed to the product, or some other appropriate device) the following information:
 - Statement of identity,
 - The name and place of business of the manufacturer, packer, or distributor, and
 - Safe handling instructions for shell eggs that have not been processed to destroy all viable *Salmonella*;
2. For shell eggs from multiple suppliers offered for sale at the same time and in the same location, it is clear to consumers which point of sale labeling applies to which of the shell eggs that are offered for sale;
3. The shell eggs are sold by the complete carton or flat (for example, 30 eggs are sold in a flat designed to hold 30 eggs); and

¹ See FDA Guidance for Industry, Temporary Policy Regarding Packaging and Labeling of Shell Eggs Sold by Retail Food Establishments During the COVID-19 Public Health Emergency, available at <https://www.fda.gov/media/136671/download>.

4. There are no nutrition claims at the point of purchase for the shell eggs.

FDA's guidance states that as the availability of packaging and labeling materials improves, the agency encourages industry to resume full labeling as soon as practicable.

* * *

We will continue to monitor any FDA's response to COVID-19. Should you have any questions or if we can be of assistance with your COVID-19 response strategy, please contact us.