



## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2023-N-0853]

### Yogurt Products Deviating from Standard of Identity; Temporary Permit for Market Testing

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or we) is announcing that we have issued a temporary permit to Chobani, LLC (the applicant) to market test lower fat yogurt products deviating from the general definition and standard of identity for yogurt with modified milkfat and fat-containing flavoring ingredients, and yogurt deviating from the yogurt standard of identity by using ultrafiltered nonfat milk as a basic dairy ingredient. The temporary permit will allow the applicant to evaluate commercial viability of the products and to collect data on consumer acceptance of the products.

**DATES:** This temporary permit is effective for 15 months, beginning on the date the applicant introduces or causes introduction of the test products into interstate commerce, but not later than [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**FOR FURTHER INFORMATION CONTACT:** Marjan Morravej, Center for Food Safety and Applied Nutrition (HFS-820), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240-402-2371.

**SUPPLEMENTARY INFORMATION:** We are giving notice that we have issued a temporary permit to Chobani, LLC. We are issuing the temporary permit in accordance with 21 CFR 130.17, which addresses temporary permits for interstate shipments of experimental packs of

food varying from the requirements of definitions and standards of identity issued under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

The temporary permit covers interstate market testing of the yogurt products. The test products deviate from the basic dairy ingredient provision of the yogurt standard of identity (21 CFR 131.200(b)). This temporary permit would allow the applicant to manufacture yogurts using ultrafiltered nonfat milk as a basic dairy ingredient through the addition of water and non-nutritive sweeteners. Consumers can distinguish this deviation in manufacturing from yogurts meeting the standard of identity for yogurt using the list of ingredients, wherein the “ultrafiltered nonfat milk” ingredient would be declared as such according to its common or usual name followed by a means to indicate to the consumer that the ingredient is not found in regular yogurt consistent with 21 CFR 130.10(g)(2).

The purpose of the temporary permit is to allow the applicant to market test the products throughout the United States. The temporary permit will allow the applicant to evaluate commercial viability of the products and to collect data on consumer acceptance of the products.

This temporary permit provides the temporary marketing of a maximum of 150,000,000 pounds (68,038,855.5 kilograms) of the test products. Chobani, LLC will manufacture the test products at its facilities located at 3450 Kimberly Rd. East, Twin Falls, ID 83301 and 669 County Rd. 25, New Berlin, NY 13411. Chobani, LLC will produce, market test, and distribute the test products throughout the United States.

Each ingredient used in the food must be declared on the labels as required by the applicable sections of 21 CFR part 101. This temporary permit is effective for 15 months, beginning on the date the applicant introduces or causes the introduction of the test products into interstate commerce, but not later than [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**Dated:** March 23, 2023.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

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