

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 173

[Docket No. FDA-2023-F-2319]

PHM Brands; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of petition.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing that we have filed a petition, submitted by PHM Brands, proposing that the food additive regulation for chlorine dioxide be amended to provide for an additional method for producing the additive.

DATES: Either electronic or written comments on the petitioner's environmental assessment must be submitted by July 21, 2023.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of July 21, 2023. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a

third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2023-F-2319 for "PHM Brands; Filing of Food Additive Petition." Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public

viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

FOR FURTHER INFORMATION CONTACT: Karen Hall, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240-402-9195.

SUPPLEMENTARY INFORMATION: Under section 409(b)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(b)(5)), we are giving notice that we have filed a food additive petition (FAP 2A4832), submitted by Burdock Group Consultants on behalf of PHM Brands, 730 17th Street, Denver, Colorado 80202. The petition proposes to amend the food additive regulations in § 173.300 (21 CFR 173.300; *Chlorine dioxide*) to provide for production of the additive via an electrolytic method from a brine solution containing chloride salts.

We are reviewing the potential environmental impact of this petition. To encourage public participation consistent with regulations issued under the National Environmental Policy Act (40 CFR 1501.4(b)), we are placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Staff (see **DATES** and **ADDRESSES**) for public review and comment.

We will also place on public display, at the Dockets Management Staff and at <https://www.regulations.gov>, any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on our review, we find that an environmental impact statement is not required, and this petition results in a regulation, we will publish the notice of availability of our finding of no significant impact and the evidence supporting that finding with the regulation in the **Federal Register** in accordance with 21 CFR 25.51(b).

Dated: June 14, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023-13120 Filed 6-20-23; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-105595-23]

RIN 1545-BQ75

Elective Payment of Advanced Manufacturing Investment Credit

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations concerning the elective payment election of the advanced manufacturing investment credit under the Creating Helpful Incentives to Produce Semiconductors (CHIPS) Act of 2022. The proposed regulations describe rules for the elective payment election, including special rules applicable to partnerships and S corporations, repayment of excessive payments, and basis reduction and recapture. In addition, the proposed regulations provide rules related to an IRS pre-filing registration process that taxpayers wanting to make the elective payment election would be required to follow. These proposed regulations affect taxpayers eligible to make the elective payment election of the advanced manufacturing investment tax credit in a taxable year. This document also provides notice of a public hearing on the proposed regulations.

DATES: Written or electronic comments must be received by August 14, 2023. The public hearing on these proposed regulations is scheduled to be held on

August 24, 2023, at 10 a.m. ET. Requests to speak and outlines of topics to be discussed at the public hearing must be received by August 14, 2023. If no outlines are received by August 14, 2023, the public hearing will be cancelled. Requests to attend the public hearing must be received by 5 p.m. ET on August 22, 2023. The public hearing will be made accessible to people with disabilities. Requests for special assistance during the hearing must be received by August 21, 2023.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically. Submit electronic submissions via the Federal eRulemaking Portal at <https://www.regulations.gov> (indicate IRS and REG-105595-23) by following the online instructions for submitting comments. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comments submitted electronically and comments submitted on paper to its public docket. Send hard copy submissions to: CC:PA:LPD:PR (REG-105595-23), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT:

Concerning this proposed regulation, Lani M. Sinfield at (202) 317-5871 (not a toll-free number); concerning submissions of comments and or the public hearing, Vivian Hayes at (202) 317-6901 (not a toll-free number) or by email to publichearings@irs.gov (preferred).

SUPPLEMENTARY INFORMATION:

Background

Section 48D was added to the Internal Revenue Code (Code) on August 9, 2022, by section 107(a) of the CHIPS Act of 2022 (CHIPS Act), which was enacted as Division A of the CHIPS and Science Act of 2022, Public Law 117-167, 136 Stat. 1366, 1393. Section 48D established the advanced manufacturing investment credit (section 48D credit) and section 48D(d) allows taxpayers (other than partnerships and S corporations) to elect to treat the amount of the section 48D credit determined under section 48D(a) as a payment against their Federal income tax liabilities. Section 48D(d) also provides special rules relating to elective payments to partnerships and S corporations and directs the Secretary of the Treasury or her delegate (Secretary) to provide rules for making elections under section 48D and to require

information or registration necessary for purposes of preventing duplication, fraud, improper payments, or excessive payments under section 48D. Section 48D applies to qualified property placed in service after December 31, 2022, and, for any property the construction of which began prior to January 1, 2023, only to the extent of the basis thereof attributable to the construction, reconstruction, or erection of such qualified property after August 9, 2022 (the date of enactment of the CHIPS Act). See section 107(f)(1) of the CHIPS Act.

On March 23, 2023, the Treasury Department and the IRS published in the **Federal Register** (88 FR 17451) a notice of proposed rulemaking (REG-120653-22), which contains proposed regulations to implement the general provisions relating to the section 48D credit (March 2023 proposed regulations). The March 2023 proposed regulations included proposed definitions of various statutory terms, including “eligible taxpayer,” “qualified property,” “advanced manufacturing facility,” and “semiconductor.” The March 2023 proposed regulations also proposed rules under section 48D regarding the beginning of construction requirement; proposed rules requiring pre-filing registration with the IRS in advance of filing an elective payment election; and proposed rules implementing the “applicable transaction” credit recapture rules under section 50(a)(3) of the Code. In addition, the March 2023 proposed regulations requested comments on potential issues with respect to the elective payment election provisions under section 48D(d) that may require guidance. This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) to implement the statutory provisions of section 48D(d) and revise the rules in proposed § 1.48D-6 of the March 2023 proposed regulations.

In the Rules and Regulations section of this issue of the **Federal Register**, the Treasury Department and the IRS are issuing temporary regulations under § 1.48D-6T that implement the pre-filing registration process described in proposed § 1.48D-6 of the proposed regulations. The temporary regulations require taxpayers that want to elect the elective payment of the section 48D credit to register with the IRS through an IRS electronic portal in advance of the taxpayer filing the return on which the election under section 48D is made.