

**§ 80.39**

that the person requesting certification may use such color additive for the purpose of coloring a food, drug, or cosmetic.

**§ 80.39 Records of distribution.**

(a) The person to whom a certificate is issued shall keep complete records showing the disposal of all the color additive from the batch covered by such certificate. Upon the request of any officer or employee of the Food and Drug Administration or of any other officer or employee acting on behalf of the Secretary of Health and Human Services, such person, at all reasonable hours until at least 2 years after disposal of all such color additive, shall make such records available to any such officer or employee, and shall accord to such officer or employee full opportunity to make inventory of stocks of such color additive on hand and otherwise to check the correctness of such records.

(b) The records required to be kept by paragraph (a) of this section shall show:

(1) Each quantity used by such person from such batch and the date and kind of such use.

(2) The date and quantity of each shipment or delivery from such batch, and the name and post-office address of the person to whom such shipment or delivery was made.

(c) The records required to be kept by paragraph (a) of this section shall be kept separately from all other records.

**PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS**

Sec.

81.1 Provisional lists of color additives.

81.10 Termination of provisional listings of color additives.

81.30 Cancellation of certificates.

81.32 Limitation of certificates.

AUTHORITY: 21 U.S.C. 371, 379e, 379e note.

**§ 81.1 Provisional lists of color additives.**

The Commissioner of Food and Drugs finds that the following lists of color additives are provisionally listed under

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section 203(b) of the Color Additive Amendments of 1960 (sec. 203(b), 74 Stat. 405 (21 U.S.C. 379e note)). Except for color additives for which petitions have been filed, progress reports are required by January 1, 1968, and at 6-month intervals thereafter. Specifications for color additives listed in paragraphs (a), (b), and (c) of this section appear in the respective designated sections. The listing of color additives in this section is not to be construed as a listing for surgical suture use unless color additive petitions have been submitted for such use or the Commissioner has been notified of studies underway to establish the safety of the color additive for such use. The color additives listed in paragraphs (a), (b), and (c) of this section may not be used in products which are intended to be used in the area of the eye. The color additives listed in paragraphs (a), (b), and (c) of this section are provisionally listed until the closing dates set forth therein.

(a) *Color additives previously and presently subject to certification and provisionally listed for food, drug, and cosmetic use.*

Color additive	Closing date		Restrictions
	Food use	Drug and cosmetic use	
Lakes (FD&C) (sec. 82.51 of this chapter).			

(b) *Color additives previously and presently subject to certification and provisionally listed for drug and cosmetic use.*

	Closing date	Restrictions
Lakes (D&C) (Sec. 82.2051 of this chapter).		

(c) *Color additives previously and presently subject to certification and provisionally listed for use in externally applied drugs and cosmetics.*

	Closing date	Restrictions
Lakes (Ext. D&C) (sec. 82.105(1) of this chapter)		

[42 FR 15665, Mar. 22, 1977]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 81.1, see the List of CFR

Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

**§81.10 Termination of provisional listings of color additives.**

(a) *Ext. D&C Yellow Nos. 9 and 10.* These colors cannot be produced with any assurance that they do not contain  $\beta$ -naphthylamine as an impurity. While it has been asserted that the two colors can be produced without the impurity named, no method of analysis has been suggested to establish the fact.  $\beta$ -Naphthylamine is a known carcinogen; therefore, there is no scientific evidence that will support a safe tolerance for these colors in products to be used in contact with the skin. The Commissioner of Food and Drugs, having concluded that such action is necessary to protect the public health, hereby terminated the provisional listing of Ext. D&C Yellow No. 9 and Ext. D&C Yellow No. 10.

(b) [Reserved]

(c) *FD&C Red No. 1.* Results of recent feeding tests of this color additive have demonstrated it to be toxic upon ingestion:

(1) Groups of 50 rats are being fed diets containing FD&C Red No. 1 at levels of 5 percent, 2 percent, 1 percent, 0.5 percent, and 0 percent. At this stage of the tests, which have now been in progress for from 15 months to 18 months, 116 animals from the 250 being fed FD&C Red No. 1 at various levels and 27 of the 100 controls have died. Of these, 11 being fed at the 5 percent level, 16 being fed at the 2 percent level, 11 being fed at the 1 percent level, and 2 being fed at the 0.5 percent level, have shown liver damage. None of the controls that have died have shown liver damage.

(2) Groups of 100 mice are being fed diets containing 2 percent, 1 percent, 0.5 percent, and 0.1 percent FD&C Red No. 1, with 400 mice as controls. All mice on dosage levels of 2 percent and 1 percent died before the seventieth week. Gross liver damage has been observed in all groups fed at the 0.5 percent diet and above.

(3) Groups of 4 dogs are being fed diets containing 2 percent, 1 percent, 0.25 percent, and 0 percent FD&C Red No. 1. Three of the dogs on the 2 percent dosage level died before 32 weeks;

the other is living. Three of the dogs on the 1 percent dosage level died or were sacrificed within 13 months. All deceased or sacrificed dogs have shown liver damage grossly and/or microscopically. Deceased dogs on the 1 percent and 2 percent dosage level showed poor physical condition.

The Commissioner of Food and Drugs having concluded that ingestion of this color additive over a long period of time would be unsafe, and in order to protect the public health, hereby terminates the provisional listing of FD&C Red No. 1 for use in foods, drugs, and cosmetics.

(d) *FD&C Red No. 4.* Feeding tests of this color additive have been conducted with three species:

(1) Rats of the Osborne-Mendel and Sprague-Dawley strains were fed FD&C Red No. 4 for 2 years at levels of 5 percent, 2 percent, 1 percent, and 0.5 percent of the diet. No effect was found.

(2) Mice of the C3Hf and C57BL strains were fed FD&C Red No. 4 for 2 years at levels of 2 percent and 1 percent of the diet. No effect was found.

(3) Dogs were fed FD&C Red No. 4 at levels of 2 percent and 1 percent of the diet. Adverse effects were found at both levels in the urinary bladder and in the adrenals. Three dogs of five fed on the 2-percent level died after 6 months, 9 months, and 5½ years on the test. Two of the dogs on the 2-percent level and all five of the dogs on the 1-percent level survived to the completion of the 7 year study.

The Commissioner of Food and Drugs has concluded that available data do not permit the establishment of a safe level of use of this color additive in food, ingested drugs and ingested cosmetics. In order to protect the public health, the Commissioner hereby terminates the provisional listing of FD&C Red No. 4 for use in food and ingested drugs. The Commissioner has previously terminated the provisional listing of FD&C Red No. 4 for use in ingested cosmetics. FD&C Red No. 4 is listed for use in externally applied drugs and cosmetics by §§74.1304 and 74.2304 of this chapter, respectively. Section 82.304 of this chapter is retained in part 82 of this chapter to permit the use of lakes of FD&C Red No.