

component, or of any diluent or substratum contained therein.

(p) The term *batch* means a homogeneous lot of color additive or color additive mixture produced by an identified production operation, which is set apart and held as a unit for the purpose of obtaining certification of such quantity.

(q) The term *batch number* means the number assigned to a batch by the person who requests certification thereof.

(r) The term *lot number* means an identifying number or symbol assigned to a batch by the Food and Drug Administration.

(s) The term *area of the eye* means the area enclosed within the circumference of the supra-orbital ridge and the infra-orbital ridge, including the eyebrow, the skin below the eyebrow, the eyelids and the eyelashes, and conjunctival sac of the eye, the eyeball, and the soft areolar tissue that lies within the perimeter of the infra-orbital ridge.

(t) The term *package* means the immediate container in which a color additive or color additive mixture has been packed for shipment or delivery. If the package is then packed in a shipping carton or other protective container, such container shall not be considered to be the immediate container. In the case of color additive mixtures for household use containing less than 15 percent pure color, when two or more containers of 3 ounces each or less, each containing a different color, are distributed as a unit, the immediate container for such unit shall be considered to be the package as defined in this section.

(u) The *hair dye* exemption in section 601(a) of the act applies to coal tar hair dyes intended for use in altering the color of the hair and which are, or which bear or contain, color additives derived from coal tar with the sensitization potential of causing skin irritation in certain individuals and possible blindness when used for dyeing the eyelashes or eyebrows. The exemption is permitted with the condition that the label of any such article bear conspicuously the statutory caution and adequate directions for preliminary patch-testing. The exemption does not apply to coloring ingredients

in hair dyes not derived from coal tar, and it does not extend to poisonous or deleterious diluents that may be introduced as wetting agents, hair conditions, emulsifiers, or other components in a color shampoo, rinse, tint, or similar dual-purpose cosmetic that alter the color of the hair.

(v) The terms *externally applied drugs* and *externally applied cosmetics* mean drugs or cosmetics applied only to external parts of the body and not to the lips or any body surface covered by mucous membrane.

[42 FR 15636, Mar. 22, 1977, as amended at 61 FR 14478, Apr. 2, 1996]

#### § 70.5 General restrictions on use of color additives.

(a) *Color additives for use in the area of the eye.* No listing or certification of a color additive shall be considered to authorize the use of any such color additive in any article intended for use in the area of the eye unless such listing or certification of such color additive specifically provides for such use. Any color additive used in or on any article intended for use in the area of the eye, the listing or certification of which color additive does not provide for such use, shall be considered to be a color additive not listed under parts 73, 74, and 81 of this chapter, even though such color additive is certified and/or listed for other uses.

(b) *Color additives for use in injections.* No listing or certification of a color additive shall be considered to authorize the use of any such color additive in any article intended for use in injections unless such listing or certification of such color additive specifically provides for such use. Any color additive used in or on any article intended for use in injections, the listing or certification of which color additive does not provide for such use, shall be considered to be a color additive not listed under parts 73, 74, and 81 of this chapter, even though such color additive is certified and/or listed for other uses.

(c) *Color additives for use in surgical sutures.* No listing or certification of a color additive shall be considered to authorize the use of any such color additive in any article intended for use as a surgical suture unless such listing or

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certification of such color additive specifically provides for such use. Any color additive used in or on any article intended for use as a surgical suture, the listing or certification of which color additive does not provide for such use, shall be considered to be a color additive not listed under parts 73, 74, and 81 of this chapter, even though such color additive is certified and/or listed for other uses.

### § 70.10 Color additives in standardized foods and new drugs.

(a) *Standardized foods.* (1) Where a petition is received for issuance or amendment of a regulation establishing a definition and standard of identity for a food under section 401 of the act, which proposes the inclusion of a color additive in the standardized food, the provisions of the regulations in part 71 of this chapter shall apply with respect to the information that must be submitted with respect to the safety of the color additive (if such information has not previously been submitted and safety of the color additive for the intended use has not been already established), and the petition must show also that the use of the color additive in the standardized food would be in conformance with section 401 of the act or with the terms of a temporary permit issued under § 130.17 of this chapter.

(2) If a petition for a definition and standard of identity contains a proposal for a color additive regulation, and the petitioner fails to designate it as such, the Commissioner, upon determining that the petition includes a proposal for a color additive regulation, shall so notify the petitioner and shall thereafter proceed in accordance with the regulations in part 71 of this chapter.

(3) A regulation will not be issued allowing the use of a color additive in a food for which a definition and standard of identity is established, unless its issuance is in conformance with section 401 of the act or with the terms of a temporary permit issued under § 130.17 of this chapter. When the contemplated use of such additive complies with the terms of a temporary permit, the color additive regulation will be conditioned on such compliance

and will expire with the expiration of the temporary permit.

(b) *New drugs.* (1) Where an application for a new drug is received and this application proposes, for coloring purposes only, the inclusion of a color additive, the provisions of the regulations in part 71 of this chapter shall apply with respect to the information that must be submitted about the safety of the color additive, if such information has not previously been submitted and safety of the color additive for the intended use has not already been established.

(2) If an application for a new drug inferentially contains a proposal for a color additive regulation, and the applicant fails to designate it as such, the Commissioner, upon determining that the application includes a proposal for a color additive regulation, shall so notify the applicant and shall thereafter proceed in accordance with the regulations in part 71 of this chapter.

(3) Where a petition for a color additive must be filed in accordance with paragraph (b)(2) of this section, the date of filing of the color additive petition shall be considered as the date of filing of the new-drug application.

[42 FR 15636, Mar. 22, 1977, as amended at 64 FR 400, Jan. 5, 1999]

### § 70.11 Related substances.

(a) Different color additives may cause similar or related pharmacological or biological effects, and, in the absence of evidence to the contrary, those that do so will be considered to have additive toxic effects.

(b) Food additives may also cause pharmacological or biological effects similar or related to such effects caused by color additives, and, in the absence of evidence to the contrary, those that do so will be considered as having additive toxic effects.

(c) Pesticide chemicals may also cause pharmacological or biological effects similar or related to such effects caused by color additives, and, in the absence of evidence to the contrary, those that do so will be considered to have additive toxic effects.

(d) In establishing tolerances for color additives, the Commissioner will take into consideration, among other things, the amount of any common