

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 74

[Docket No. 1987C-0023]

### Listing of Color Additives Subject to Certification; D&C Black No. 2;

### Confirmation of Effective Date

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

**ACTION:** Final rule; confirmation of effective date.

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**SUMMARY:** The Food and Drug Administration (FDA) is confirming the effective date of August 30, 2004, for the final rule that appeared in the **Federal Register** of July 28, 2004 (69 FR 44927). The final rule amended the color additive regulations to provide for the safe use of D&C Black No. 2 (a high purity furnace black, subject to FDA batch certification) as a color additive in the following cosmetics: Eyeliner, brush-on-brow, eye shadow, mascara, lipstick, blushers and rouge, makeup and foundation, and nail enamel.

**DATES:** Effective date confirmed: August 30, 2004.

**FOR FURTHER INFORMATION CONTACT:** Celeste Johnston, Center for Food Safety and Applied Nutrition (HFS-265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740-3835, 202-418-3423.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of July 28, 2004 (69 FR 44927), FDA amended the color additive regulations to add § 74.2052 *D&C Black No. 2* (21 CFR 74.2052) to provide for the safe use of D&C Black No. 2 as a color additive in the following cosmetics: Eyeliner, brush-on-brow, eye

shadow, mascara, lipstick, blushers and rouge, makeup and foundation, and nail enamel.

FDA gave interested persons until August 27, 2004, to file objections or requests for a hearing. The agency received no objections or requests for a hearing on the final rule. Therefore, FDA finds that the effective date of the final rule that published in the **Federal Register** of July 28, 2004, should be confirmed.

**List of Subjects in 21 CFR Part 74**

Color additives, Cosmetics, Drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e) and under authority delegated to the Commissioner of Food and Drugs (1410.10 of the FDA Staff

Manual Guide), notice is given that no objections or requests for a hearing were filed in response to the July 28, 2004, final rule. Accordingly, the amendments issued thereby became effective August 30, 2004.

Dated: September 30, 2004.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

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