

(2) IT CONTAINS ANY NONNUTRITIVE SUBSTANCE OTHER THAN A SAFE SUBSTANCE:

(I) THAT IS IN OR ON THE CONFECTIONERY BECAUSE OF SOME PRACTICAL FUNCTIONAL PURPOSE IN THE MANUFACTURE, PACKAGING, OR STORING OF THE CONFECTIONERY; AND

(II) THE USE OF WHICH DOES NOT PROMOTE DECEPTION OF THE CONSUMER OR OTHERWISE RESULT IN ANY ADULTERATION OR MISBRANDING IN VIOLATION OF THIS SUBTITLE; OR

(3) IT CONTAINS ANY ALCOHOL:

(I) IN EXCESS OF 0.5 PERCENT BY VOLUME; OR

(II) DERIVED FROM ANYTHING BUT FLAVORING EXTRACTS.

(B) EXCEPTIONS; RULES AND REGULATIONS.

(1) IF, IN THE JUDGMENT OF THE SECRETARY, A NONNUTRITIVE OBJECT IS OF PRACTICAL, FUNCTIONAL VALUE TO A CONFECTIONERY FOOD PRODUCT AND ITS USE IS NOT INJURIOUS OR HAZARDOUS TO HEALTH, THE SECRETARY MAY ADOPT A RULE OR REGULATION THAT PERMITS AN EXCEPTION TO SUBSECTION (A)(1) OF THIS SECTION, REGARDING NONNUTRITIVE OBJECTS.

(2) TO AVOID OR RESOLVE UNCERTAINTY, THE SECRETARY MAY BY RULE OR REGULATION:

(I) INTERPRET SUBSECTION (A)(2) OF THIS SECTION AS THAT SUBSECTION APPLIES TO USE OF A PARTICULAR NONNUTRITIVE SUBSTANCE; AND

(II) ALLOWS OR PROHIBITS THE USE OF THE PARTICULAR NONNUTRITIVE SUBSTANCE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Article 43, § 188B(3), except item (iv) of that paragraph.

4-210. MISBRANDED FOOD.

(A) APPLICATION OF SECTION.

FOR PURPOSES OF THIS SUBTITLE, A FOOD IS CONSIDERED TO BE MISBRANDED UNDER ANY CONDITION SPECIFIED IN THIS SECTION.

(B) IN GENERAL.

A FOOD IS MISBRANDED IF: