Examples of Staple Food Varieties

The final rule codifies a statutory provision to increase the required number of staple food varieties in each of the four staple food categories from three to seven and to increase the required number of staple food categories containing at least one perishable foods variety from two to three, where “perishable foods” are defined as items which are either frozen, fresh, unrefrigerated, or refrigerated staple food items that will spoil or suffer significant deterioration in quality within three weeks. The final rule also codifies a discretionary provision which clarifies and modifies the definition of acceptable “variety” in each of the four staple food categories.

Included below are lists of acceptable varieties in the four staple food categories. Also included is an examination of what constitutes a stocking unit for the purposes of the depth of stock provision. Finally, included is a list of food items which are and are not considered accessory food items. The lists of examples that follow are intended to be illustrative and provide guidance on the final rule. What follows is not to be construed as an exhaustive list of staple food varieties, stocking units, or accessory food items.

The Meat, Poultry, or Fish Staple Food Category

In the meat, poultry, or fish staple food category “variety” is generally defined by product kind or main ingredient. This means that chicken, pork, and beef each represent discrete varieties. For multiple ingredient food products the first ingredient determines variety such that a
frozen microwaveable meal with beef listed as the first ingredient would constitute a variety in the meat, poultry, or fish staple food category (i.e., beef).

This list of examples serves to provide guidance on acceptable varieties in the meat, poultry, or fish staple food category. The meat, poultry, or fish staple food category now includes varieties of meat analogues (e.g., soy-based meat analogue and gluten-based meat analogue). The meat, poultry, or fish staple food category also now includes three types of plant-based protein staple foods (i.e., nuts/seeds, beans, and peas). Each of these three aforementioned plant-based protein types may only be counted once each as a variety in the meat, poultry, or fish staple food category. Alternatively, beans and peas may instead be counted once each as a variety in vegetables or fruits staple food category. These two types (i.e., beans and peas) may only be counted once each regardless of the staple food category they are counted in. Nuts/seeds may only be counted once as a variety in the meat, poultry, or fish staple food category, but not in the vegetable or fruits staple food category.

What follows is an illustrative, but not exhaustive, list of 20 acceptable varieties in this staple food category. Included parenthetically with each variety are two different examples of food items which would usually fall within that variety. The examples of multiple ingredient food items in this list would be acceptable only if the listed main ingredient would be considered a variety in the meat, poultry, or fish staple category. Perishable foods are indicated by the presence of an asterisk (*).

Plant-based Protein Types:

1. Nuts/Seeds (e.g., sunflower seeds or peanut butter)
2. Beans (e.g., dried black beans or dried red kidney beans)
3. Peas (e.g., dried lentils or canned split pea soup with a first listed ingredient of split peas)

Meat, Poultry, and Fish:

4. Turkey (e.g., fresh deli sliced turkey* or fresh ground turkey*)
5. Goat (e.g., fresh goat chops* or frozen rack of goat ribs*)
6. Salmon (e.g., packaged smoked salmon or canned salmon)
7. Chicken (e.g., fresh chicken cutlets* or frozen chicken nuggets*)
8. Beef (e.g., fresh ground beef* or beef jerky)
9. Tuna (e.g., fresh albacore tuna steak* or canned albacore tuna fish)
10. Shrimp (e.g., frozen shrimp scampi meal* or fresh cocktail shrimp*)
11. Tilapia (e.g., fresh tilapia filet* or panko breaded frozen tilapia meal*)
12. Crab (e.g., fresh crab cakes* or canned crab meat)
13. Soy-based meat analogue (e.g., tofu* or soy-based vegan chicken alternative*)
14. Chicken eggs (e.g., fresh eggs* or liquid egg whites*)
15. Catfish (e.g., frozen catfish filet* or smoked packaged catfish)
16. Lamb/Mutton (e.g., fresh lamb chops* or fresh ground lamb*)
17. Cod (e.g., frozen cod* or fresh cod*)
18. Pork (e.g., pork loin* or fresh sliced ham*)
19. Duck (e.g., fresh duck* or canned duck)
20. Clams (e.g., frozen clams* or canned clam meat)

The Vegetables or Fruits Staple Food Category

In the vegetables or fruits staple food category “variety” is generally defined by product kind or main ingredient. This means that apples, bananas, and lettuce each represent discrete
varieties. For multiple ingredient food products the first ingredient determines variety such that a can of ravioli with tomato sauce listed as the first ingredient would constitute a variety in the vegetables or fruits staple food category (i.e., tomato).

What follows is an illustrative, but not exhaustive, list of 20 acceptable varieties in this staple food category. Included parenthetically with each variety are two different examples of food items which would usually fall within that variety. The multiple ingredient food item examples in this list would be acceptable only if the main ingredient is in the vegetables or fruits staple category. Perishable foods are indicated by the presence of an asterisk (*).

1. Potatoes (potatoes* or frozen tater tots*)
2. Oranges (100% orange juice* or fresh oranges*)
3. Tomatoes (canned tomato soup or sun dried tomatoes)
4. Apples (dried apples or pre-cut apple go-packs*)
5. Pumpkin (canned pumpkin or fresh whole pumpkin)
6. Bananas (fresh bananas* or frozen bananas*)
7. Onions (canned onions or fresh onions*)
8. Grapes (fresh grapes* or 100% grape juice)
9. Lettuce (fresh head of iceberg lettuce* or pre-cut and bagged romaine lettuce*)
10. Pineapples (canned pineapple rings or fresh whole pineapple*)
11. Cucumbers (fresh cucumbers* or jarred pickles)
12. Strawberries (fresh strawberries* or frozen strawberries*)
13. Peaches (canned peaches or fresh peaches*)
14. Carrots (fresh whole carrots* or pre-cut carrot stick go-packs*)
15. Grapefruit (fresh whole grapefruit* or grapefruit fruit cup*)
16. Cabbage (e.g., fresh head of cabbage* or jarred kimchi)
17. Artichoke (e.g., fresh artichoke* or canned artichoke hearts)
18. Broccoli (e.g., fresh broccoli* or frozen broccoli florets*)
19. Avocados (e.g., ready-made guacamole* or fresh avocado*)
20. Celery (e.g., pre-cut celery stick go-packs* or fresh whole celery*)

The Dairy Staple Food Category

In common language usage a “dairy product” is understood to mean an edible food product produced from the milk of a mammal, most commonly cow’s milk. Some traditional varieties of dairy include milk, butter, yogurt, and cheese. There are a small number of unique varieties of commonplace dairy products, most of which share the same main ingredient (i.e., milk). Based on the limited types of commonplace dairy products and the new breadth of stock requirements, it is impractical to define “variety” for the purposes of this staple food category based on the main ingredient and it is useful to include plant-based alternatives. Plant-based dairy products will be considered a variety in the dairy products staple food category based on their main ingredient and the traditional dairy product for which they are a substitute. So, for example, almond-based milk, soy-based milk, almond-based cheese, and soy-based cheese will each be considered a discrete variety in the dairy products staple food category under the final rule. Though these items are plant-based, they are recognized as dairy equivalents and therefore, do not count as varieties in the remaining staple food categories. Additionally, some of the traditional types of dairy products have been divided into varieties based on distinct and generally accepted differences. For example, the dairy type cheese has been divided into two discrete varieties: cow’s milk-based soft cheese and cow’s milk-based hard/firm cheese based on generally accepted industry norms. What follows is an illustrative, but not exhaustive, list of 20
acceptable varieties in this staple food category. Included parenthetically with each variety are two different examples of food items which would usually fall within that variety. The multiple ingredient food item examples in this list would be acceptable only if the main ingredient is in the dairy products staple category. Perishable foods are indicated by the presence of an asterisk (*).

1. Yogurt (e.g., fresh whole milk French vanilla yogurt* or fresh nonfat peach yogurt*)
2. Soy yogurt (e.g., strawberry soy yogurt* or lite vanilla soy yogurt*)
3. Almond yogurt (e.g., mixed berry almond yogurt* or low-fat plain almond yogurt*)
4. Perishable cow milk (e.g., fresh skim cow milk* or fresh whole cow milk*)
5. Perishable cow kefir (e.g., nonfat fresh blueberry kefir* or fresh banana kefir*)
6. Shelf-stable liquid cow milk (e.g., condensed cow milk or evaporated cow milk)
7. Shelf-stable powdered cow milk (e.g., powdered cow milk or casein/whey powder)
8. Cow milk-based infant formula (e.g., organic, milk-based formula or milk-based, iron-fortified formula)
9. Soy-based infant formula (e.g., iron-fortified, soy-based formula or hypoallergenic, soy-based formula)
10. Butter (e.g., frozen sweet cream butter* or fresh salted butter*)
11. Butter substitute (e.g., margarine or non-dairy spread)
12. Sour cream (e.g., fresh, lite sour cream* or fresh, organic sour cream*)
13. Almond-based milk (e.g., refrigerated almond milk* or shelf-stable almond milk)
14. Soy-based milk (e.g., shelf-stable soy milk or refrigerated soy milk*)
15. Rice-based milk (e.g., shelf-stable rice milk or refrigerated rice milk*)
16. Firm/hard cheese (e.g., fresh deli sliced cheddar cheese* or packaged grated parmesan cheese)

17. Soft cheese (e.g., fresh curd cheese* or pre-wrapped American cheese product slices*)

18. Goat cheese (e.g., fresh honey goat cheese* or fresh plain goat cheese*)

19. Soy-based cheese alternative (e.g. mozzarella-style soy cheese* or American-style soy cheese slices*)

20. Perishable goat milk (e.g., fresh whole goat milk* or fresh low-fat goat milk*)

The Bread or Cereals Staple Food Category

Most bread or cereals food items sold and consumed in America primarily derive from one of the following four grains: wheat, corn, rice, and/or oats. Based on the limited types of common grains and the new breadth of stock requirements, therefore, it is impractical to define “variety” for the purposes of this staple food category based exclusively on the product kind or exclusively on the main ingredient, as is the standard for two of the other staple food categories.

What follows is an illustrative, but not exhaustive, list of 20 acceptable varieties in this staple food category. Included parenthetically with each variety are two different examples of food items which would usually fall within that variety. The multi-ingredient food examples in this list would be acceptable only if the main ingredient is in the bread or cereal staple category. Perishable foods are indicated by the presence of an asterisk (*).

1. Wheat (e.g., whole wheat flour or wheat germ)

2. Corn/maize (e.g., cornmeal or cornbread)

3. Rice (e.g., brown rice or basmati rice)
4. Oats (e.g., oatmeal or honey oat bread*)
5. Barley (e.g., pearled barley or barley meal)
6. Rye (e.g., raw rye or rye bread*)
7. Millet (e.g., millet flour or raw millet)
8. Quinoa (e.g., raw quinoa or quinoa pasta)
9. Teff (e.g., raw teff or injera*)
10. Bread (e.g., a loaf of rye bread* or a loaf of multigrain bread*)
11. Pasta (e.g., gluten-free spaghetti or whole wheat rotini)
12. Baking mixes (e.g., pancake mix or cornbread mix)
13. Tortillas (e.g., corn tortillas* or flour tortillas*)
14. Bagels (e.g., poppy seed bagels* or plain bagels*)
15. Pitas (e.g., low-carb pita* or whole wheat pita*)
16. Cold breakfast cereal (e.g., rice-based cereal or oat-based cereal)
17. English muffins (e.g., whole wheat English muffins* or honey oat English muffins*)
18. Hot breakfast cereal (e.g., cream of wheat or farina)
19. Buns/rolls (e.g., frozen dinner rolls* or hot dog buns*)
20. Infant cereal (e.g., wheat-based infant cereal or oat-based infant cereal)

As an example, a firm could meet the requirements for the bread or cereals staple food category by stock three loaves of bread, three bags of rice, three boxes of spaghetti, three bags of pitas, three bags of tortillas, three bags of flour and three packages of cornmeal.