

handling rates per shipment of \$0.01 to \$0.02 per pound. We request comments on these rates. These rates imply storage costs of \$0 to \$600 per day per administrative detention, and handling rates of \$0 to \$20,000 per administrative detention, based on a shipment size of 0 to 1 million pounds (67 truckloads per shipment x 15,000 pounds per truckload).

We estimate overall storage costs based on the handling fee per pound, the storage costs per pound per day, the amount of food we might administratively detain, and the change in the maximum number of days that we might require firms to store the food. We assume that there would be no increase in storage costs if we substituted an administrative detention action for a

class I recall, because firms probably already store food as part of such a recall. There is no storage associated with taking no preliminary enforcement action prior to a seizure action or a referral of a matter to a State authority. Therefore, any storage associated with an administrative detention would be an additional cost in comparison to moving directly to seizure or referring a matter to a State authority.

Administrative detention involves a maximum storage time of up to 30 days. The actual amount of time that firms would store detained food depends on whether and when they appeal the administrative detention order. Firms would appeal if they expected the costs of doing so would be less than the costs of storing the food until we completed

our investigation, or until the detention period expired. We have insufficient information to estimate the percentage of administrative detentions that firms would appeal. Therefore, we use a maximum of 30 days additional storage time for all administrative detentions. We do not know how long firms store food that they voluntarily recall before reconditioning or destroying the food. We tentatively assume that the storage time associated with class I recalls would be similar to the storage time associated with administrative detention.

We provide estimates of annual storage costs, rounded to the nearest million dollars, in table 3.

TABLE 3.—ANNUAL STORAGE COSTS

Action	Number of Actions	Change in Days Storage per Action	Cost per Day (based on average shipment)	Handling Cost per Action	Change in Total Storage Cost (in millions)
Administrative Detention that Replaces Case of Moving Directly to Seizure	0 to 16	0 to 30	\$0 to \$600	\$0 to \$20,000	\$0 to \$1
Administrative Detention that Replaces Class I Recall	0 to 184	0	\$0 to \$600	\$0 to \$20,000	\$0
Administrative Detention that Replaces Referral to State	0 to 23	0 to 30	\$0 to \$600	\$0 to \$20,000	\$0 to 1
Total					\$0 to \$2

*Loss of product value over detention period, if we later find the product is not violative*

Food may lose some or all of its value during an administrative detention because the food may deteriorate, and because firms would have less time to sell food that has a finite shelf life. Reducing the time available to sell food reduces the value of that food because consumers only desire a given quantity of a particular food in a particular time period. In order to sell additional units of that food during that time period, retailers would need to lower the price of the food to reflect the value consumers place on the additional units. This cost is only relevant if we determine that the food does not present a threat of serious adverse health consequence or death to humans or animals and, therefore, terminate the detention and release the food back into commerce. The loss of product value would not be relevant for detained food found to be violative because such food would have lost its value due to its

violative nature, rather than the administrative detention.

We have not estimated costs connected to the marking or labeling food that we administratively detain. As we discussed earlier in this preamble, if we required marking or labeling of food in conjunction with an administrative detention order, and we subsequently cancelled the administrative detention order, then we would remove, or authorize the removal of, the marks or labels. Therefore, we assume there will not be any loss of value from the marking or labeling requirements contained in this proposed rule.

Administrative detention actions might also cause food that we do not administratively detain to lose value if delivery of that food to its final destination were delayed as a result of being packed together with food that we did detain. We have not included the potential loss of value from this source because, based on our experience with other enforcement actions, we expect that we will not cause significant delays

in the delivery of food that is packed with food that we administratively detain.

Loss of value over the detention period depends on the following factors: (1) Shelf life of the food under usual storage conditions, (2) rate of value loss over time, and (3) starting value of the food.

The loss of value depends on the shelf life of the food because the longer the shelf life, the less the food will deteriorate during a given time period, and the smaller the proportional reduction in the time remaining to sell the food. For purposes of this analysis, we have designated four shelf life categories:

- *Perishable food.* We define perishable food for purposes of this analysis as food having a shelf life of 7 days or less. This is based on the definition of perishable food discussed earlier in this preamble (i.e. perishable food is food that is not heat-treated; not frozen; and not otherwise preserved in a manner so as to prevent the quality of the food from being adversely affected if