

There is also no appeals process prior to a seizure action in cases in which we move directly to a seizure action. However, firms can contest seizure actions, once they occur. In addition, firms can appeal federal district court resolutions of contested seizure actions. Most recently, firms have contested approximately 65 percent of our seizure actions involving foods. However, firms rarely appeal federal district court resolutions of contested seizure actions. Previously, we noted that we would not include the costs associated with seizure actions in baseline costs. This is because we might follow an administrative detention with a seizure action, so any costs associated with seizure actions might take place irrespective of whether those seizure actions were preceded by administrative detentions. Instead, we viewed administrative detentions as preliminary enforcement actions that had no counterpart in cases in which we moved directly to a seizure action. However, in this instance, we have included our costs associated with contested seizure actions as part of baseline costs. We have included these costs because firms that appeal an administrative detention, and lose that appeal, are probably less likely to contest a subsequent seizure action, than firms that are involved in a seizure action that was not preceded by an administrative detention. Therefore, the

appeals process for administrative detentions may, as a practical matter, replace the process of contesting seizure actions in many cases in which we administratively detain food and then seize it. On the other hand, we have not included the costs associated with appealing federal district court resolutions of contested seizure actions as part of baseline costs. These types of appeals are quite rare, and estimating the costs associated with these types of appeals would have little impact on our cost estimates.

Finally, there is no appeals process associated with referring a matter to State authorities. Of course, if State authorities subsequently take enforcement action, then various appeals processes may be available under State laws or regulations for those actions. However, those methods of appeal would be available irrespective of whether the State actions were preceded by administrative detentions. In addition, the variety of State actions and appeals processes suggests that the probability that a firm will appeal a State action is probably not highly related to whether it has already filed and lost an appeal of an administrative detention. Therefore, we assume that administrative detention will not affect the probability that firms will appeal subsequent State actions.

We estimate that our costs for activity related to appeals of administrative detentions would be approximately

\$50,000 to \$70,000 per administrative detention. We based that estimate on our costs for preparing for possible appeals, which would be generated by all administrative detention actions, and our costs for participating in appeals hearings, which would be generated only by those administrative detentions that result in hearings. In order to calculate an average cost per administrative detention action, we assumed that 65 percent of our administrative detentions would result in an appeals hearing. We based that assumption on the proportion of seizure actions that firms contest. Therefore, the incremental change in appeals costs associated with substituting an administrative detention action for a class I recall is approximately \$50,000 to \$70,000.

Our costs for activity related to firms contesting our seizures are approximately \$10,000 to \$20,000 per seizure action. We based that estimate on our costs for participating in a contested seizure case, and a 65 percent chance that firms would contest any given seizure action. Therefore, the incremental change in appeals costs associated with substituting an administrative detention action for a case of moving directly to a seizure action is approximately \$30,000 to \$60,000. We present the resulting cost estimates for the agency in table 6 of this document.

TABLE 6.—APPEALS

Action	Number of Actions	Label Cost per Action	Change in Total Loss of Value (Rounded to Nearest Million \$)
Administrative Detention that Replaces Case of Moving Directly to Seizure	0 to 16	\$30,000 to \$60,000	\$0 to \$1
Administrative Detention that Replaces Class I Recall	0 to 184	\$50,000 to \$70,000	\$0 to \$13
Administrative Detention that Replaces Referral to State	0 to 23	\$50,000 to \$70,000	\$0 to \$2
Total			\$0 to \$16

A firm's decision to appeal an administrative detention order is voluntary. A firm would only appeal an administrative detention order if the costs of doing so were less than the costs of not doing so. Therefore, a firm's participation in the appeals process would usually reduce the costs that we previously estimated for storage and value loss by more than the cost of participating in the appeals process. Because we have already estimated storage costs and product value loss as

a range that goes to zero, we have not attempted to analyze the cost and benefit implications of firms' decisions to appeal administrative detention actions.

The specific characteristics of the proposed appeals process for administrative detentions would affect the cost of the appeals process for us and for affected firms. Examples of specific characteristics include the time frame under which we would allow firms to file an appeal for perishable and

nonperishable food, the information we would require in an appeal, the timeframes in which we would respond to an appeal, and the availability of an appeals hearing, as opposed to some other type of appeals process. We request comments on the impacts of the specific requirements of the proposed appeals procedure.

Other Enforcement Costs

Differences in other enforcement costs associated with administrative detention actions, class I recalls, moving