

TABLE 3.—NUMBER OF SKUs AND PRODUCTS AFFECTED BY PRODUCT CATEGORY—Continued

| Product Categories | Number of SKUs | Number of Products |
|---------------------------------------|----------------|--------------------|
| Selected Candy | 20,600 | 12,200 |
| Selected Condiments, Dips and Spreads | 15,200 | 2,300 |
| Dairy Foods | 33,800 | 22,100 |
| Desserts | 10,700 | 7,200 |
| Dietary Supplements | 29,500 | 9,800 |
| Selected Dressings and Sauces | 14,200 | 11,300 |
| Eggs | 5,800 | 1,800 |
| Entrees | 10,300 | 7,900 |
| Fats and Oils | 3,100 | 1,900 |
| Fruits and Vegetables | 25,100 | 2,500 |
| Seafood | 6,800 | 4,200 |
| Side Dishes and Starches | 18,000 | 13,200 |
| Snack Foods | 17,800 | 10,000 |
| Soups | 3,700 | 2,800 |
| Weight Control Foods | 1,300 | 700 |
| Total | 307,600 | 154,400 |

2. Testing Costs

In the proposed analysis, FDA assumed that all product formulations that include partially hydrogenated oil as an ingredient would be tested to determine the quantity of *trans* fat (except for margarine products, which were all expected to reformulate). Some comments stated that FDA's estimate of the number of products that would need to be tested was too low because products in other categories than those acknowledged by FDA could potentially contain a reportable amount of *trans* fat. Indeed, other comments stated that all products would have to be tested for *trans* content. FDA disagrees with the comment that all products need to be tested because manufacturers will know that some products do not contain *trans* fat, but does agree that more products

need to be tested than previously estimated. In the proposed analysis, FDA estimated costs for testing only for the estimated portion of products containing partially hydrogenated oil in several categories of foods anticipated to be most affected by the rule (an estimated 42,000 products). In this final analysis, based on information in the FDA Labeling Cost Model (Ref. 129), FDA estimates that about 154,000 food products in categories that could possibly include *trans* fat will be tested for *trans* fat content as a result of this rulemaking.

In the proposed rule, FDA used a per product cost of testing for *trans* fat of \$200. Some comments stated that this estimate is too low. They stated that tests had to be calibrated for each type of food to demonstrate accuracy of the test in the food matrix. FDA notes that

manufacturers of many different types of foods have already had their products tested, so that much of the calibration has already been done. The new Labeling Cost Model includes data on the cost of testing for *trans* fat. Included in the analytical testing estimate is the cost of testing two samples of the product, one hour of labor to prepare and package the product (at \$14.73 per hour) and delivery charges for one two-pound package delivered overnight (at \$26.30). The labor cost estimate was based on the average total compensation (wages and benefits) for handlers, equipment cleaners, helpers, and laborers in manufacturing industries. Overhead beyond benefits on the time to prepare a sample for testing is negligible. The model reports a range of testing costs for *trans* fat given in table 4.

TABLE 4.—RANGE OF PER PRODUCT AND TOTAL TESTING COSTS

| | Low | Medium | High |
|--------------------|--------------|--------------|--------------|
| Cost per Product | \$261 | \$291 | \$371 |
| Total Testing Cost | \$40,298,000 | \$44,930,000 | \$57,282,000 |

One comment suggested that butter and other products with high butter fat contents, such as some ice cream, would

contain a reportable amount of naturally occurring *trans* fat, and that therefore, FDA had underestimated the costs of

testing these products. In this final analysis, FDA has included testing and relabeling costs for all dairy products