

will no longer be able to do so once prior notice submission is required.

Currently, importers who qualify to use BRASS show paperwork at the border. These importers then only have to submit an entry summary after arrival (up to 10 business days later). In contrast, non-BRASS importers must submit an entry and a later entry summary. Since prior notice is required before arrival, importers of FDA-regulated products will no longer be able to submit information to CBP using BRASS; they must submit both the entry information (which includes prior notice requirements) and then a later entry summary to CBP.

Data from CBP show that about 630,000 entry lines were submitted through BRASS for FDA-regulated products, including foods, in fiscal year 2002. We use this information to estimate the increased submission costs for these importers once they are no longer able to use BRASS to expedite

entry of their products. Increased submission costs come in the form of having to make two submissions through CBP instead of the one summary entry after arrival in the United States. We calculated the cost of the one additional transmission of information, now required due to the prior notice information that is needed before arrival, in table 3 of this document. By using these same costs per import entry (\$75), we can account for the extra costs for BRASS users. Table 6 shows that the extra submission of information by importers no longer able to use BRASS will be about \$18 million per year.

Being able to use BRASS not only allows the condensing of the submission of required import information, but also allows the importer's carrier or transporter to spend less time crossing the border. BRASS users must stop at the border only long enough for a CBP official to "wand" the barcode

information pertaining to their shipments and assign a CBP entry number to the shipment. Once food importers are no longer able to use BRASS, however, they must not only submit more information on the shipment than was previously required at arrival, but they also will no longer be able to cross the border as quickly. Because former BRASS entries will no longer be able to get through the border checkpoints as easily as they used to, we include here the cost of an extra half-hour of truck time per BRASS entry.

Using one comment's estimate of the cost of truck time, \$250 per hour, we can calculate the yearly additional cost of wait time at the border for food importers who were former BRASS users. Table 6 of this document shows the cost of the additional truck time for BRASS users to be about \$30 million annually.

TABLE 6.—ADDITIONAL COSTS FOR BRASS USERS

Additional Submission Costs:	
Total cost per import entry	\$75
FY 2002 BRASS line total for FDA-regulated products	630,000
BRASS yearly entry total (2.6 lines per entry)	242,308
Additional annual costs of submissions for BRASS users	\$18,173,100
Additional border wait time:	
Cost per half hour	\$125
BRASS yearly entry total (2.6 lines per entry)	242,308
Additional annual border wait costs for former BRASS users	\$30,288,500
Total annual additional food importing costs for BRASS users	\$48,462,000

(2) *Loss of value for highly perishable products.* A 1-hour minimum prior notice requirement would be less likely to change current food importing practices than would a longer minimum time requirement for prior notice submission. Pre-proposal comments received from Canadian and Mexican perishable seafood processors and produce growers indicated they would prefer the minimum prior notice time to be set at 4 hours or less. The seafood processors and produce growers asked for the shorter minimum prior notice time because the source of these food products often is close to the U.S. border, and the products are perishable.

For example, Canadian fruit and vegetable producers said that such products as "leafy vegetables, green onions, cabbage, cauliflower, new potatoes, sweet cherries, and berries are harvested within hours of arrival at the U.S. border and cannot withstand delays, especially during the extreme heat of summer and early fall when the products are in season." As another example, a produce company from Mexico commented that growers

typically harvest produce in the morning, pack and cool the fruit in the afternoon, and then start the drive to the U.S. border during evening hours. Some, but not all, of the border ports are open in the evenings during the height of the Mexican produce season. If notice to FDA is required by 12 noon the calendar day before arrival at the border, as FDA proposed, it is unlikely that these produce products could be harvested in the morning in Mexico and then enter the United States by the same evening, because not all the information would be prepared in time to meet the submission deadline in the proposed rule, which was 12 noon the day before arrival in the United States.

Canadian seafood industry comments said that 90 percent of all fresh seafood sales are same day orders that are processed, sold, and shipped in the same day. They also commented that if buyers were required to submit seafood orders early (by 12 noon on the calendar day before arrival) because of prior notice requirements, they would tend to order short, rather than risk being left with a decomposing inventory.

Comments also said that many perishable seafood contracts with shippers call for a variety of species to be delivered depending on what could be harvested that day; thus, species and the specific amount of fish in an import entry will be uncertain for longer prior notice timeframes.

From these comments, it is clear that at least in some industries, when the order for the shipment is received, when the prior notice is submitted, when the shipment is loaded, and the loaded shipment's location relative to a U.S. border all play roles in determining how the requirement for prior notice will affect current business operating practices.

FDA expects that there will be some imported shipments by vehicle for which the order was received just before the shipping time, some shipments for which the composition of the product has changed since the time when the prior notice was submitted, and some shipments for which other changes to the information on the prior notice must be made. Importers whose shipments fall into this "changed" category must