

## William Atwood Lobster Co.

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Spruce Head, Maine 04859

January 19, 2005

Dockets Management Branch (HFA-305)  
Attn: Docket No. 2004D-0510  
Food and Drug Administration  
5630 Fishers Lane - Room 1061  
Rockville, MD 20852  
CC: Senators Collins, Snowe, Congressman Allen

**RE: Comments on draft guidance entitled "PROPOSED REFERRAL PROGRAM FROM THE FOOD AND DRUG ADMINISTRATION TO THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION SEAFOOD INSPECTION PROGRAM FOR THE CERTIFICATION OF LIVE AND PERISHABLE FISH AND FISHERY PRODUCTS FOR EXPORT TO THE EUROPEAN UNION AND THE EUROPEAN FREE TRADE ASSOCIATION".  
Docket number 2004D - 0510"**

Dear Sir or Madam:

William Atwood Lobster company is a U.S. owned business engaged in the export of live lobsters to countries in the European Union. We are located in Spruce Head, Maine and also own a buying station and processing facility in Tenants Harbor, Maine, and are the largest lobster dealer in the state of Maine. We have been in business for over 43 years and have been engaging in trade to Europe, primarily Italy, for much of that time. We have invested significant time and money to build market share in this critical market. We employ more than 50 people at our two facilities and are partnered with other distributors around the country to sell millions of pounds of lobsters per year. Our investments in the industry, and in Maine, are significant.

We are strongly opposed to the proposal to test the viability and effectiveness of a change in management of our health certification process for 24 months. Any efforts that put our certificates at risk, make it more difficult to get them, increase the length of time to receive or cost significant amounts of money will effectively kill our business in Europe. As it is, we are taking enough risk with shipping a perishable product overseas on extremely tight packing schedules, and often very little margin. We cannot afford additional risk, and without European business would ultimately limit our profitability and investment financially and in employees here in the U.S.

Another point of consideration is the distinct competitive advantage this type of change would afford to Canada. We are already in heated competition with them on pricing and shipping capabilities into Europe, if

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our timelines / ability to fulfill orders are lengthened or cost of doing business is increased we will lose the ability to compete. Some background (provided by the Maine Lobster Promotion Council):

- First, the Canadian industry catches more than the US industry.

(112.6 million lbs. vs. 70.7 million lbs. in 2003)

(\$279.8 million vs. \$405.0 million US \$ in 2003)

Second, the Canadian industry exports more than the US industry.

(\$626 million vs. \$306 million US \$ in 2003)

(Volume not avail. at this time.)

Third, the Canadian industry has had a greater percent increase in 4 of the 6 top export markets, compared to the US industry, between 1999-2003 : (Exports to the U.S., Japan, Italy and Spain)

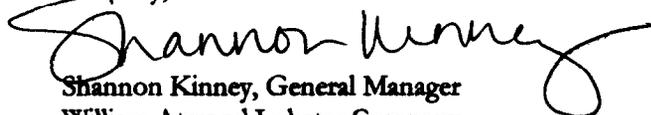
The U.S. had higher % increases in only Belgium and France

Canada has the majority of the market share for: Japan and Belgium.

Our facilities are registered with the FDA and we are included on the FDA's Export Certificate List. We operate our facilities under the FDA's Hazard Analysis Critical Control Point (HACCP) program and we are inspected on a regular basis by FDA inspectors. Because we ship significant volume into the EU we are very familiar with the EU seafood safety requirements, and we have worked hard to ensure that we meet all requirements. We take this part of our business very seriously and need your support in not disrupting a process that is currently working for us. Any disruption or change in our ability to obtain these Certificates efficiently and cost effectively will most certainly cripple our ability to serve our customers and generate revenue.

These costs in our view do not justify the benefits to the FDA. We would strongly support any effort to find a solution that is less disruptive to our business. We feel that the risk is too great to the U.S. live lobster export business to make this change and need another solution. We also support the comments submitted by Mr. David Garbo of Garbo Lobster Company, and Mr. Michael Tourkistas of East Coast Lobster Company. Let's find another solution that works.

Sincerely,



Shannon Kinney, General Manager  
William Atwood Lobster Company

Cc: Division of Dockets Management, FDA  
U.S. Senator Susan Collins  
U.S. Senator Olympia Snowe  
U.S. Representative Tom Allen  
U.S. Representative Michael Michaud