

Congress of the United States
Washington, DC 20510

September 26, 2024

The Honorable Thomas J. Vilsack
Secretary
U.S. Department of Agriculture
1400 Independence Avenue SW
Washington, D.C., 20250

The Honorable Merrick Garland
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Ave NW
Washington, D.C., 20530

We write to urge the U.S. Department of Agriculture (USDA) and the U.S. Department of Justice (DOJ) to hold Boar’s Head Provisions Company, Inc. (Boar’s Head) accountable for the *Listeria* outbreak linked to liverwurst deli meat produced at their Jarratt, Virginia plant that has caused 10 deaths and 59 hospitalizations across 19 states, and to take immediate action to ensure that the failures responsible for this tragedy are not repeated.¹ The *New York Times* recently reported that USDA inspectors warned that conditions at the Boar's Head plant posed an “imminent threat to public health” as early as 2022², and additional records show the alarming conditions continued in the years that followed.³ It is unacceptable that Boar’s Head did not take sufficient action to rectify these conditions that resulted in repeated violations for similar issues. The time for action is long overdue, and we urge your agencies to work together to seek immediate justice for impacted consumers and to prevent this from happening again.

According to the Centers for Disease Control and Prevention (CDC), *Listeria monocytogenes* is a dangerous bacterium that can be especially harmful for pregnant women, individuals over the age of 65, and those who have a weakened immune system.⁴ A *Listeria* infection can be life threatening. That is why in 1989, the Food Safety and Inspection Service (FSIS) at USDA declared *Listeria monocytogenes* an adulterant and established a zero-tolerance policy for the bacteria’s presence in any product intended to be “ready to eat” without additional cooking. The USDA also established clear requirements for sanitation to ensure that the bacteria does not contaminate such products and provided for escalating enforcement for violations of such rules, including the ability and discretion to shut down production. That is why it is baffling

¹ “*Listeria* Outbreak Linked to Meats Sliced at Delis,” *Listeria Infection* (Listeriosis), September 25, 2024, <https://www.cdc.gov/listeria/outbreaks/delimeats-7-24.html>.

² “‘Imminent Threat’ Found at Boar’s Head Plant 2 Years Before Fatal *Listeria* Outbreak,” *The New York Times*, September 10, 2024, <https://www.nytimes.com/2024/09/10/health/boars-head-deli-meat-listeria.html>.

³ “Boar’s Head Plant Tied to 9 Deaths Had Mold, Leaky Pipes and Flies,” *The New York Times*, August 30, 2024, <https://www.nytimes.com/2024/08/30/health/listeria-outbreak-boars-head-deli-meat.html>.

⁴ *Id.*

that inspectors at the Jarratt plant documented 84 noncompliances from June 2023 through this August,⁵ many of which indicated significant safety risks, and the agency failed to recognize the blatant pattern of violations or escalate to enforcement when Boar's Head safety officials failed to take adequate corrective actions necessary to prevent further risks.

It is painfully clear that by choosing not to aggressively ensure that safety standards were being followed, the USDA failed to uphold its congressional mandate. The agency allowed Boar's Head to put profits over people by producing what its fiduciaries surely knew were products that were at a high risk of adulteration due to the horrific conditions at the Jarratt plant. Years of inadequate response have led to safety conditions within the plant that are impossible to remedy easily, and as a result, Boar's Head recently decided to indefinitely shut down the plant, potentially leaving hundreds of workers in a small town unemployed.⁶

Moving forward, it is critical that the agency take this matter seriously and take the necessary steps to address the concerns raised by this outbreak. That is why we urge USDA to work closely with the DOJ to determine whether to bring criminal charges against Boar's Head for their responsibility in this crisis. If criminal charges lead to a consent decree, we urge the agency to include civil penalties for future infractions, enhanced sampling of products and contact surfaces for *Listeria monocytogenes* and *Listeria* species, enhanced sanitation commitments from Boar's Head, third party audits, additional risk-based USDA testing, and any additional remedies the agency deems necessary to ensure strict oversight and accountability.

We also urge the agency to initiate reforms to prevent similar situations from recurring at other facilities. In particular, the agency should revisit its regulations requiring establishments to test for *Listeria* in the processing environment and consider ways to strengthen those requirements, including revisiting the agency's 2000 proposed rule requiring minimum sampling for *Listeria* on food contact surfaces.⁷ The agency should also explore measures such as increased agency testing for *Listeria*, mandatory final product testing by establishments, reporting requirements for establishments that detect *Listeria monocytogenes* in final products, enhanced communication to escalate issues identified by inspectional staff, and automatic triggers to escalate regulatory penalties against establishments that, like Boar's Head, demonstrate a pattern of non-compliance with basic sanitation protocols. In this particular case, the USDA should also consider conducting vigorous inspections of all Boar's Head facilities to ensure that the practices at the Jarratt plant have not been replicated at other locations.

We cannot let large corporations get away with endangering public health, it is imperative that we hold food companies to the highest standards so that Americans can feel safe shopping

⁵ *Id.*

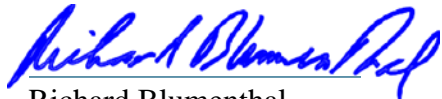
⁶ Boar's Head, "July 2024 Product Recall Information," Boar's Head, n.d., <https://boarshead.com/products-recall-2024>.

⁷ Performance Standards for the Production of Processed Meat and Poultry Products, 66 Fed. Reg. 12590 (proposed February 27, 2001).


for groceries and feeding their families. Boar's Head must be held accountable, those impacted by this crisis deserve more than an apology, they deserve justice.

Thank you for your attention to this matter. We look forward to working with you.

Sincerely,



Richard Blumenthal
United States Senate



Rosa DeLauro
Member of Congress