



United States Department of Agriculture

Food Safety and
Inspection Service

July 2, 2026

1400 Independence
Avenue, SW.
Washington, D.C.
20250

Delivered via Electronic Mail

Surina Chock
Marler Clark
Bainbridge Island, WA
schock@marlerclark.com

**Re: Final Response for Freedom of Information Act (FOIA) Request
No. 2026-FSIS-00209-F**

Dear Surina Chock:

This is the final response to your FOIA request to the Department of Agriculture (USDA), Food Safety and Inspection Service (FSIS), dated June 3, 2026. We received your request in our office on June 3, 2026 which sought the following:

- *The FSIS inspection and enforcement records for Est. M12612 (Jarratt, VA) and the eight other Boar's Head facilities that were previously withheld under the law-enforcement exemption, to the extent the basis for withholding no longer applies.*
- *Records sufficient to show the current status of any law-enforcement hold or referral on those records (e.g., whether the Exemption 7 basis has been lifted).*
- *All records concerning the Associated Press FOIA appeal referenced above, including the appeal determination letter and any final release or partial release made to the AP.*
- *Any final FSIS enforcement actions (Notices of Suspension, withdrawals of inspection, reinstatement letters, and public health alerts) concerning Est. M12612 from July 1, 2024 to the present.*
- *Any referral or transmittal records between FSIS and the U.S. Department of Justice concerning Boar's Head, to the extent releasable.*

On June 4, 2026, you spoke with Deputy Director Tai Thompson for clarification on your request. You provided a date range of January 2024 through July 2025 for all inspection records of the various Boar's Head establishments, which are publicly available via the FSIS website, along with enforcement reports. Furthermore, you agreed to omit the second bullet of your request which pertained to "records sufficient to show current status of any law-enforcement hold or referral on those records" given our office will process the third bullet which sought records and determinations related to all appeals filed by The Associated Press.

Your request has been processed under the FOIA, 5 U.S.C. § 552.

The FSIS FOIA staff works with subject matter experts across the agency to locate responsive documents. For this request, we conducted a records search in the Office of Planning, Analysis and Risk Management and the Office of Public Affairs and Consumer Education. FSIS' search began on June 3, 2026. Responsive records totaling 78 pages were identified for this release.

Please note, Noncompliance Records (NR) included in the attached set of responsive records, reflect conditions at specific points in time and may be under appeal when released, via the FOIA. Accordingly, the NR data provided through the response to your FOIA request may change if appeal decisions modify these records.

The FSIS considered the foreseeable harm standard when reviewing the records and applying the applicable exemptions. Accordingly, after careful review of the responsive records, the FSIS has determined that certain information contained therein should be withheld pursuant to U.S.C. § 552 (b)(4), (b)(5), and (b)(6) (FOIA Exemptions 4, 5, and 6). Below is an explanation of the information that has been withheld.

In addition to the above, the FSIS has made multiple records for Boar's Head establishments available to the public at the below webpage:

<https://www.fsis.usda.gov/about-fsis/freedom-information-act-foia/frequently-requested-records>

FOIA Exemption 4

Exemption 4 of the FOIA protects trade secrets and commercial or financial information obtained from a person that is privileged or confidential. This exemption is intended to protect the interests of both the government and submitters of information. The exemption covers two distinct categories of information in federal agency records: (1) trade secrets; and (2) information that is (a) commercial or financial, (b) obtained from a person, and (c) privileged or confidential.

The information being withheld contains establishment testing information, proprietary technology, and processing procedures. This information was provided to USDA by a business. We have determined that these records contain commercial or financial information that is customarily treated as private by the business submitters. Therefore, the information is considered confidential and withheld from disclosure pursuant to FOIA Exemption 4.

FOIA Exemption 5

FOIA Exemption 5 protects from disclosure those "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." This exemption applies to information which is normally privileged in the civil discovery context. The specific privilege(s) being invoked are explained in more detail below.

Application of Deliberative Process Privilege

One of the frequently invoked FOIA Exemption 5 privileges is the deliberative process privilege. To fall within FOIA's deliberative process privilege, the records must be both pre-decisional and

deliberative; the records must precede the adoption of an agency policy and include the opinions, recommendations, or deliberations on a legal or policy matter.

In this instance, the FSIS is withholding, under the deliberative process privilege, pre-decisional intra-agency discussions and briefings on agency actions and programs on issues relating to internal inquiries and proposed talking points. These items are pre-decisional in that they are antecedent to any final agency decision. These items are also deliberative in that they reflect the evolving, back-and-forth process between agency employees that is so integral to the Executive Branch decision-making process; more specifically, the development of potential recommendations made by agency staff and advisors for use in making decisions.

If these pre-decisional, deliberative communications were released to the public, FSIS and other Executive Branch employees would be much more cautious in their discussions with each other, and in candidly discussing and providing all pertinent information and viewpoints in a timely manner to agency decision-makers. This lack of candor would also seriously impair the FSIS's ability to engage in forthright, internal discussions necessary for efficient and proper agency decision-making.

FOIA Exemption 6

Exemption 6 generally is referred to as the "personal privacy" exemption. It provides that the disclosure requirements of FOIA do not apply to "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Application of the exemption involves balancing the public's interest in disclosure against individuals' privacy interests.

The information withheld under Exemption 6 consists of identifying information of FSIS in-plant personnel and third party individuals. This information qualifies as "similar files" because it is information in which individuals have a privacy interest. Moreover, releasing the information could subject the individuals to unwarranted or unsolicited communications or even harassment. Because there is a viable privacy interest that would be threatened by disclosure, Exemption 6 authorizes this office to withhold the information. Accordingly, we have determined that the public interest in the information's release does not outweigh the overriding privacy interests in keeping it confidential.

Appeal Rights

You may appeal this determination by email to FSIS.FOIA@usda.gov. Your appeal must be in writing, and it must be received electronically no later than 90 days from the date of this letter. FSIS will not consider appeals received after the 90 calendar-day limit. Appeals received after 5:00 PM EST will be considered received the next business day. Your appeal should include the FOIA tracking number, a copy of your original request, FSIS's response to your original request, as well as reasons supporting your appeal.

For quickest possible handling, please email your appeal to FSIS.FOIA@usda.gov, and in the subject line of your email and the appeal letter, mark "Freedom of Information Act Appeal" and reference FOIA No. 2026-FSIS-00209-F.

If you do not have access to email, or are otherwise unable to email your appeal, you may mail your appeal to:

Dr. Justin Ransom
Administrator
U.S. Department of Agriculture
Food Safety and Inspection Service
1400 Independence Avenue SW
Room 1175, South Building
Washington, DC 20250-3700

You may seek dispute resolution services from the FSIS's FOIA Public Liaison, Dexter Johnson. Mr. Johnson may be reached telephonically at (202) 853-6166 or via email at Dexter.Johnson@usda.gov.

You also have the option to seek assistance from the Office of Government Information Services (OGIS). Please visit <https://www.archives.gov/ogis/mediation-program/request-assistance> for information about how to request OGIS assistance in relation to a FOIA request.

Provisions of the FOIA allow us to recover part of the cost of processing requests. In this instance, no fees will be charged.

If you have any questions regarding the processing of this request, please contact the FOIA office at FSIS.FOIA@usda.gov.

Thank you for your interest in FSIS programs and policies.

Sincerely,

Okechi Chigewe
Director, Freedom of Information Act Staff
Office of Public Affairs and Training

Attachments: 78 pages