

Amherst — Investigative Briefing Memorandum

PUBLIC RECORDS ANALYSIS · REAL TRUTH MA · RETRIEVED SEPTEMBER 11, 2026

Amherst

March 2026 (Revised)

EXECUTIVE SUMMARY

The Town of Amherst FOIA return comprises 24 documents including Board of Health meeting agendas and minutes, draft and final tobacco regulations, a detailed public hearing script, a state model regulation template, online testimonies, a NECSEMA opposition letter, and tobacco regulations from three neighboring municipalities (Belchertown, Hopkinton, and Pelham). The return covers the period from August 2025 through December 2025, documenting the complete regulatory adoption cycle for Amherst’s Nicotine-Free Generation (NFG) provision. The Amherst Board of Health began preparation for the NFG hearing at its August 7, 2025 meeting—nearly three months before the October 30 public hearing. The FOIA return includes the “FY 2025 Sample Regulation Restricting the Sale of Nicotine Products”—a state-level model regulation with a yes/no policy checklist that includes NFG as an option. Amherst’s draft regulations closely follow this template. The inclusion of tobacco regulations from Belchertown, Hopkinton, and Pelham in the FOIA return demonstrates that Amherst officials were referencing other municipalities’ NFG adoptions during the drafting process. Critically, the FOIA return contains no email correspondence between external NFG advocates and Amherst officials, despite the FOIA request specifically seeking such communications. This absence is itself investigatively significant—it either suggests that coordination occurred through channels not captured by the public records request, that the town’s document production was incomplete, or that the Amherst process involved less direct external advocate contact than other municipalities. The return does, however, confirm template usage, cross-municipality coordination through Ken Ellstein’s testimony (a known NFG advocate from Belchertown), and a professionally managed hearing process. The most significant finding is the inclusion of the state model regulation template with the NFG checklist—direct evidence that the NFG provision was a pre-packaged policy option distributed to municipalities statewide rather than an organically developed local initiative.

KEY DOCUMENT EXCERPTS

State Model Regulation Template with NFG Checklist

*"3. No sales to the following persons (select one): Any person under the age of 21 (___) *Nicotine Free Generation (___)"*

*"*Nicotine Free Generation allows retailers to sell nicotine products to anyone who was 21 years of age or older on an effective date. For everyone else, now and in the future, retailers will never be allowed to sell nicotine products to them."*

SIGNIFICANCE: This is the literal template—a state-level model regulation with a yes/no checklist that presents NFG as a pre-packaged policy option alongside standard tobacco control measures. The template includes a full regulatory framework with 18 policy decision points, with NFG listed as item #3. Its inclusion in the Amherst FOIA return confirms that Amherst officials used this template when drafting their regulation. This undermines any claim that Amherst’s NFG provision was an independently conceived local initiative; it was selected from a menu of options distributed statewide.

Pre-Written Hearing Script with Procedural Coaching

Date: October 30, 2025

"Kiko will be the timekeeper and ensure that all comments are limited to three minutes. She will give each speaker a one-minute warning. Board members only need to listen to the public testimony. No BOH member will comment or ask any questions."

SIGNIFICANCE: The hearing script instructs Board members to remain completely silent during public testimony—no comments, no questions. This transforms the hearing from a fact-finding exercise into a performative event where the Board passively receives testimony it has already decided how to handle. The script also includes a section titled “HELPFUL INFORMATION FOR BOARDS OF HEALTH REGARDING PUBLIC HEARINGS”—general coaching guidance that suggests the document was based on a template or external guidance provided to multiple municipalities, rather than developed independently by Amherst officials.

Predetermined Hearing Structure and Timeline

"As the purpose of the public hearing is to collect information and opinions, the Board will not ask for a vote from the audience nor will the Board itself vote on the proposed regulations at this public hearing. The Board will announce the meeting date at which they will discuss and vote on the proposed regulations."

"With the exception of Title V regulations, it is not legally required for the Board of Health to hold a public hearing on proposed regulations before them, even though all proposed regulations are addressed at meetings to which the public is always invited."

SIGNIFICANCE: The script reveals that the Board was not legally required to hold a public hearing at all. The decision to hold one—while simultaneously scripting it to prevent any Board engagement with testimony—suggests the hearing was designed to create the appearance of public participation rather than to genuinely inform

the Board’s decision. The Board had already committed to voting at a subsequent meeting, establishing a two-step process that separated public input from the actual decision.

Cross-Municipality Regulation References

"4. Cross-Municipality Regulation References Documents: Belchertown Tobacco Regulations 2025.pdf; Hopkinton, MA Tobacco Regs.pdf; Pelham, MA Tobacco Regs.pdf"

SIGNIFICANCE: The inclusion of three other municipalities’ tobacco regulations in the Amherst FOIA return demonstrates that Amherst officials were actively referencing other towns’ NFG adoptions during the drafting process. All three municipalities’ regulations use substantially similar template language—further confirming that a standardized model regulation was being distributed and adopted across Massachusetts municipalities. Belchertown is particularly significant because its Board of Health member, Ken Ellstein (a known NFG advocate), subsequently crossed municipal lines to testify at the Amherst hearing.

Amherst NFG Provision — Template-Derived Language

"No person shall sell or provide a tobacco product to a person born on or after January 1, 2005."

SIGNIFICANCE: The NFG provision appeared in the very first draft (October 27) presented for public hearing and survived unchanged through all subsequent revisions to the final signed regulation (December 18, 2025). The January 1, 2005 cutoff date is a standard NFG policy element seen across adopting municipalities. The fact that this provision was present from the outset and never substantively debated by the Board—despite significant opposition testimony at the hearing and in written comments—suggests the outcome was predetermined.

PUBLIC HEARING OBSERVATIONS

The following observations are drawn from observation of public Board of Health and City Council meetings in Massachusetts municipalities considering NFG adoption.

"Prior to the vote, the BOH approved an amendment to the draft that places a cap on nicotine pouches at 6mg." — Board of Health Meeting, Amherst, April 3, 2025

KEY FINDINGS

State Model Regulation Confirms Template Distribution The FOIA return includes the “FY 2025 Sample Regulation Restricting the Sale of Nicotine Products” dated July 30, 2025—a comprehensive state-level model regulation with an 18-item policy checklist. Item #3 on the checklist presents NFG as one of two options for age-based sales restrictions. This template includes yellow-highlighted sections for state law language and green-highlighted sections for local policy decisions, indicating it was designed as a customizable framework for Board of Health adoption. Amherst’s final regulation follows this template structure closely, and the regulations from Belchertown, Hopkinton, and Pelham—also included in the FOIA return—use substantially identical language, confirming statewide template distribution.

Three-Month Pre-Hearing Preparation Period The Amherst Board of Health placed “Preparation for Fall Tobacco Public Hearing” on its agenda at the August 7, 2025 meeting—nearly three months before the October 30 public hearing. This item appeared again on the October 9 agenda. The extended preparation timeline, combined with the highly detailed pre-written hearing script and the inclusion of multiple municipalities’ regulations as reference materials, indicates that the regulatory process was carefully orchestrated well in advance of any public input. The draft regulation with the NFG provision was dated October 27—just three days before the hearing—leaving minimal time for public review.

Cross-Municipality Advocacy: Ken Ellstein Ken Ellstein, a member of the Belchertown Board of Health and a known NFG advocate identified across multiple municipalities, testified at the Amherst public hearing on October 30, 2025. Ellstein’s appearance at the Amherst hearing—outside his own municipality—follows the pattern documented in other FOIA returns of NFG advocates crossing municipal lines to provide testimony. The Belchertown tobacco regulations were also included in the Amherst FOIA return, indicating a connection between the two municipalities’ NFG adoption processes.

Professionally Managed Hearing with Coaching Guidance The public hearing script reveals a professionally managed process that goes beyond standard Board of Health practice. The script includes detailed procedural instructions, explicit direction that Board members should not comment or ask questions during testimony, and a section titled “HELPFUL INFORMATION FOR BOARDS OF HEALTH REGARDING PUBLIC HEARINGS” that reads as generic coaching guidance applicable to any municipality. This suggests the hearing was managed according to external guidance—potentially from MAHB, MTCP, or other organizations coordinating NFG adoption—rather than reflecting the Board’s independent approach to public engagement.

Absence of Email Correspondence Is Investigatively Significant The FOIA request specifically sought correspondence related to NFG policy development, including communications with external advocates, MTCP coordinators, and other municipalities. The return contains no email correspondence whatsoever—only meeting documents, regulations, and testimony. This absence raises questions about document production completeness. Based on patterns established in other municipalities’ FOIA returns (where extensive email coordination between external advocates like Maureen Buzby, MTCP coordinators, and local officials has been documented), the complete absence of email correspondence from a municipality that adopted NFG is anomalous and warrants follow-up.

Organized Online Testimony Pattern The FOIA return includes a compilation document titled “NFG Online Testimonies 10-2025” containing multiple written testimonies submitted in support of the NFG provision. The existence of a compiled testimony document suggests an organized effort to gather and present supportive written comments. This pattern is consistent with template testimony distribution observed in other municipalities, where pre-written support letters and testimony templates are circulated among NFG advocates and submitted to appear as independent grassroots support.

NETWORK DATA POINTS AND FUNDING CONNECTIONS

State Model Regulation: The “FY 2025 Sample Regulation” document title references a fiscal year, indicating it was produced as part of a funded state program’s annual deliverables. The template’s professional quality and comprehensive structure suggest significant resources were invested in its development and distribution. MTCP

Connection (Inferred): While no direct MTCP references appear in the Amherst FOIA return, the model regulation template and multi-municipality coordination pattern are consistent with MTCP-facilitated activity documented in other towns' FOIA returns. Amherst falls within a region where MTCP coordinators have been active in promoting NFG adoption. Belchertown/Hopkinton/Pelham Coordination: The inclusion of three municipalities' regulations suggests an information-sharing network. Belchertown and Pelham are geographically proximate to Amherst in Hampshire County; Hopkinton is in Middlesex County, suggesting the network extends beyond geographic neighbors to a broader statewide coordination effort.

FINANCIAL CONTEXT (IRS FORM 990 ANALYSIS)

The following financial information, derived from IRS Form 990 filings of organizations identified in this municipality's FOIA return, provides context on the institutional funding infrastructure supporting NFG advocacy:

The Massachusetts Tobacco Cessation and Prevention Program (MTCP), funded by the Department of Public Health, operates through regional collaboratives that serve as the primary pipeline for connecting municipalities with NFG advocacy resources and template regulations.

EVIDENCE SUMMARY

Evidence Category	Status	Summary
PRE-HEARING COORDINATION	CONFIRMED	BOH agendas show hearing preparation began August 7, 2025—nearly three months before the October 30 hearing. Detailed hearing script with coaching notes was prepared in advance.
TEMPLATE USAGE	CONFIRMED	FY 2025 Sample Regulation with NFG checklist included in FOIA return. Amherst's regulation closely follows the template. Regulations from three other municipalities using same template also included.
NETWORK ACTIVITY	SUGGESTED	No direct email evidence, but cross-municipality regulation sharing and Ken Ellstein's cross-municipal testimony indicate network connections. Absence of email correspondence despite specific FOIA request is notable.
CROSS-MUNICIPALITY COORDINATION	CONFIRMED	Ken Ellstein (Belchertown BOH member) testified at Amherst hearing. Regulations from three other municipalities included in working files. State model template confirms statewide coordination.
YOUTH RECRUITMENT	NOT FOUND	No direct evidence of youth recruitment for testimony in the returned documents. Online testimonies may include youth submissions but no recruitment evidence is documented.
PREDETERMINED OUTCOME	SUGGESTED	The NFG provision appeared unchanged from the first draft through final adoption. The hearing script instructed Board members not to engage with testimony. The Board was not legally required to hold a hearing but staged one while preventing Board-public dialogue. The three-month preparation period with outcome consistent across all drafts suggests the decision preceded public input.

What These Documents Demonstrate

A state-level model regulation presents NFG as a pre-packaged policy option with a checklist format designed for easy local adoption by Boards of Health. Multiple municipalities adopt substantially identical regulatory language from the same template, creating the appearance of independent local action when the policy originated from a

centralized source. Known NFG advocates cross municipal boundaries to provide testimony, expanding the apparent base of support beyond the affected community. Public hearings are conducted according to scripted procedures that minimize genuine Board engagement with public testimony, transforming what should be a deliberative process into a procedural formality. The absence of email correspondence in a municipality that adopted NFG—when other adopting municipalities’ FOIA returns revealed extensive email coordination—raises questions about document production completeness.

CONCLUSION

The Amherst FOIA return provides documentary evidence of template usage, cross-municipality coordination, and a professionally managed hearing process in the adoption of the town’s Nicotine-Free Generation regulation. While the return lacks the direct email evidence of external advocate coordination found in other municipalities’ FOIA returns, the documents reveal a process that relied on a state-level model regulation template, referenced multiple other municipalities’ NFG adoptions, and featured testimony from a known cross-municipal NFG advocate. The most significant finding is the FY 2025 Sample Regulation—a literal state-level template with a policy checklist that includes NFG as a pre-packaged option. This document is direct evidence that the NFG policy was not an independently conceived local initiative but rather a centrally developed policy option distributed to municipalities statewide. Combined with the hearing script’s coaching guidance and the cross-municipality regulation references, the Amherst return adds to the pattern documented across Massachusetts of a coordinated, state-facilitated campaign to adopt NFG provisions through local Boards of Health. The complete absence of email correspondence in this return—particularly given the extensive email coordination documented in other municipalities’ returns—warrants follow-up FOIA requests targeting Kiko Malin’s electronic communications and triangulating the Amherst process from the perspective of known network coordinators like Maureen Buzby and the relevant MTCP regional coordinator. The Amherst return is best understood as an incomplete picture that, when supplemented by follow-up requests, may reveal coordination patterns consistent with the broader pattern documented across municipalities.

Published by NECSEMA — New England Convenience Store and Energy Marketers Association. All documents analyzed in this memorandum were obtained from the named custodian under the Massachusetts Public Records Law, G.L. c. 66, § 10, and are published in full at realtruthma.com.