

WASHINGTON STATE BOARD OF HEALTH

Draft Minutes of the State Board of Health

October 8, 2025

Hybrid Meeting

ASL and Spanish interpretation available

Washington State Department of Health

111 Israel Road S.E.

Tumwater, WA 98501

Building: Town Center Two (TC2, Rooms 166 & 167)

Virtual meeting: ZOOM Webinar

State Board of Health Members present:

Patty Hayes, RN, MSN, Chair

Kelly Oshiro, JD, Vice Chair

Stephen Kutz, BSN, MPH

Tao Sheng Kwan-Gett, MD, MPH, Secretary's Designee

Michael Ellsworth, JD, Secretary's Designee

Paj Nandi, MPH

Peter Browning, MA

Socia Love, MD

State Board of Health Members absent:

Mindy Flores, MHCM

Dennis Worsham, Secretary of Health

State Board of Health staff present:

Michelle Davis, Executive Director

Melanie Hisaw, Executive Assistant

Michelle Larson, Communications

Manager

Anna Burns, Communications Consultant

Marcus Dehart, Communications

Consultant

Molly Dinardo, Health Policy Advisor

Ash Noble, Health Policy Advisor

Shay Bauman, Health Policy Advisor

Lilia Lopez, Assistant Attorney General

Ashley Bell, Equity and Engagement

Manager

Hannah Haag, Community Engagement

Coordinator

Crystal Ogle, Administrative Assistant

Lindsay Herendeen, Health Policy Analyst

Cait Lang-Perez, Health Policy Analyst

Guests and other participants:

Dave Windom, Mason County Public Health

Dani Toepelt, Department of Health

Kseniya Efremova, Department of Health

Mike Means, Department of Health

Lauren Jenks, Department of Health

Patty Hayes, Chair, called the public meeting to order at 9:07 a.m. and read from a prepared statement (on file). Michelle Davis, Executive Director, welcomed the Board and provided a Land Acknowledgement.

1. APPROVAL OF AGENDA

Motion: Approve October 8, 2025, agenda

Motion/Second: Vice Chair Oshiro/Member Browning. Approved unanimously

2. ADOPTION OF AUGUST 20, 2025, MEETING MINUTES

Motion: Approve the August 20, 2025, minutes

Motion/Second: Member Nandi/Member Kutz. Approved unanimously

3. BOARD MEETING PROTOCOL DISCUSSION

Patty Hayes, Chair, started a discussion on meeting protocols and how to best serve the Board and the public. Chair Hayes said this topic came up from the facilitation at the last meeting, and noted the Board does well with transparency, discussion, and detailed minutes. Chair Hayes requested feedback on ways to improve briefings and discussions.

Using the Wilson Disease vote from August as an example, Chair Hayes invited Members to speak up if they were not ready to vote. Chair Hayes also asked staff to be available for check-ins on action items and shared the importance of detailing concerns in Board discussions for minutes. Chair Hayes welcomed Board Member feedback both during and after the meeting.

Steve Kutz, Board Member, said Board Members should speak up if they need more information, even if it means moving an issue to the next meeting, to ensure the process stays collaborative.

Peter Browning, Board Member, understands the medical issue but is considering it from a financial background and how funds are spent.

Chair Hayes thanked Member Browning and sensed the Board didn't have enough conversation about this.

Kelly Oshiro, Vice Chair, stated their reason to abstain was due to the broader perspective and said it warrants further consideration. Vice Chair Oshiro identified the factors that gave them pause: tumultuous budget, that the petition came from the test's manufacturer, and ethical considerations.

Chair Hayes thanked Vice Chair Oshiro for putting those factors on the record.

Paj Nandi, Board Member, agreed with Member Browning and Vice Chair Oshiro, noting the discussion was not thorough and ran out of time.

Tao Sheng Kwan-Gett, Secretary's Designee, thanked Chair Hayes for the reminder that "possible action" means exactly that. Member Kwan-Gett agreed with Member Nandi about seeming like a decision has been made, but Board Members need to keep in mind that we control the momentum, and these decisions have implications for years, even decades. It's worth taking the time to get all the information, even if it means slowing down the momentum.

Member Kutz had the same concerns regarding the monetary incentives and said the technical advisory committee (TAC) should consider these more critically.

Member Browning wondered if the financial and economic issue was part of the discussion at all, or if it was the disease and the impact on communities.

Vice Chair Oshiro said, as a Co-Chair for the TAC, the TAC's role is to review the scientific aspects of the disease, while policy, economics, and governance are the Board's responsibility. Vice Chair Oshiro noted that because Wilson Disease is not on the Recommended Uniform Screening Panel (RUSP), the Board lacks the benefit of that typical institutional knowledge.

Chair Hayes said the Board will continue facing these issues, sometimes with a lack of support that we've had in the past. One challenge is the growing number of conditions in the pipeline. Chair Hayes suggested the Board take a higher level view, and noted the Board's past action to deny TAC recommendations. There are challenges with the fiscal conversation that may not be included in the Department of Health (Department) analysis. There are two opportunities to consider conditions: scientific review the rule process with more details, including in-depth fiscal. It would be fair to have a conversation on the prioritization of NBS.

Vice Chair Oshiro commented that in addition to economics, there is a question of insurer payment. When petitions for rulemaking are approved, the Board could benefit from having the Health Care Authority involved and invited to the table to give their perspectives on the cost-benefits of adding conditions to the panel. In many ways, this could make our jobs easier.

Member Browning noted the confusion of cost-benefit analysis versus economic analysis.

4. PUBLIC COMMENT

Patty Hayes, Chair, opened the meeting for public comment and read from a prepared statement (on file).

Gerald Braude discussed the book "The Real Anthony Fauci" by Robert F. Kennedy (RFK) Jr., highlighting RFK Jr.'s research on alleged corruption at the Centers for Disease Control (CDC), the Food and Drug Administration (FDA), and the National Institutes of Health, and their efforts to address it. G. Braude challenged the Department of Health and the WA State Health Officer to identify one person from the Advisory Committee on Immunization Practices (ACIP) who has as much expertise as Dr. Robert Malone.

Bill Osmunson asked why there is such polarization in the science of fluoride. B. Osmunson said the American Dental Association is looking for conclusive evidence of harm, while the FDA focuses on safety and efficacy. B. Osmunson said the Board claims that public water is safe, and that the Board of Pharmacy says fluoride is a drug. B. Osmunson said fluoride is an unapproved, illegal drug.

Laurie Layne opposed vaccines and any measures that discourage parental permission. L. Layne discussed the questionable science and the risks of cancer and myocarditis. L. Layne talked about RFK removing the COVID-19 vaccine requirement from the CDC immunization schedule for healthy children and healthy pregnant moms, noting that with those concerns, it is unsafe for the public and better to say no.

Alison Mondj supports the safety and efficacy of fluoride and discussed good oral health for all with no one left behind. A. Mondj said the American Dental Association and Medical Association have thoroughly reviewed the benefits of fluoride to prevent tooth decay and remain steadfast. A. Mondj thanked the Board for long-standing support in this time of misinformation and disinformation.

Lisa Templeton expressed full support for B. Osmunson's safe drinking water petition and said it opens a transparent process. L. Templeton discussed that fluoride is a drug, that informed consent for drinking water is universal, and the consistency of the FDA review.

5. BOARD ANNOUNCEMENTS AND BOARD BUSINESS

Michelle Davis, Executive Director, provided the CR-101 which announced the Board's Local Board of Health (LBOH) composition rule. Legislation passed earlier this year requires the Board to update the rule to align with the law that assures Tribal governments and urban Indian organizations appoint their own representatives to local boards of health, reinforcing Tribal sovereignty. The LBOH rule will establish a timeframe for local boards to change their composition to balance elected and non-elected membership. Board staff Ashley Bell is leading this work, and Board Member Kutz is sponsor.

Executive Director Davis noted that staff have met with Legislators, created FAQs and a fact sheet, engaged with AIHC and local partners, and will present at upcoming Tribal and county meetings on this rule.

Executive Director Davis highlighted materials in the packet including the Wilson Disease petition response letter, and a fact sheet regarding the updated Washington School hearing screening standards. Board staff Molly Dinardo worked with the Office of Superintendent of Public Instruction (OSPI) to distribute this information across schools and to school nurses who will be conducting the hearing screening.

Executive Director Davis updated the Board on health impact reviews (HIR), including completed and ongoing reviews on crisis response teams and textile producer responsibility. The HIR team presented at the Network for Public Health Law conference in September and is preparing for the upcoming legislative session.

Executive Director Davis shared that the Governor's Interagency Council on Health Disparities (Council) met in Granger, WA on September 30. Their meeting included a youth panel and discussion on the Council's legislative request to modernize its statute and develop a vision for health and well-being in Washington. The Council approved convening an advisory committee to help create the project plan and recommendations on how to integrate aligned efforts, data, information, resources, and engagement

strategies across the state. Board Member Steve Kutz serves on the Council and will share reflections later.

Executive Director Davis acknowledged and congratulated Board staff Ashley Bell for five years of state service.

6. DEPARTMENT OF HEALTH UPDATE

Tao Sheng Kwan-Gett, Secretary's Designee, updated the Board on several Department of Health (Department) activities and challenges. Secretary Worsham is doing a 100-Day Listening and Learning Tour where they are engaging with communities and local and Tribal health leaders on public health priorities. On October 1, the Department and the Department of Ecology approved vitrification of radioactive waste at the Hanford Nuclear Reservation. The Department is also planning an ethics review of community water fluoridation with input from other health departments and bioethics experts.

Member Kwan-Gett highlighted federal vaccine policy instability and shared that these changes disproportionately affect our most vulnerable children—those who receive vaccines through the federal Vaccines for Children program. The Department has joined the West Coast Health Alliance and issued a COVID-19 vaccine standing order to maintain access for those who wish to be vaccinated. Member Kwan-Gett shared that the standing order is not a mandate or requirement. The order makes it easier for people who want the vaccine to get it—especially if they don't have a regular doctor. Nothing in the standing order changes the rights of parents to decide what immunizations their children get.

Member Kwan-Gett shared the impacts of the federal shutdown, which has resulted in thousands of furloughed Health and Human Services and Centers for Disease Control staff, reducing capacity for disease tracking and public health response. It has also affected programs such as the Women, Infants, and Children (WIC), Department staff, contractors, Tribes, and local health jurisdictions. The Department is monitoring the situation and will provide ongoing updates.

Steve Kutz, Board Member, emphasized the importance of food and formula for infants. Without adequate WIC support, families are at risk of falling behind in meeting their basic needs.

Member Kwan-Gett agreed. Nutrition is such a powerful driver of health, and the early childhood period is important for brain development. During this period, good nutrition is essential for normal development.

Member Kutz discussed the Department's Hanford downwinders database that tracks communities affected by nuclear emissions from plutonium production, including Yakima, Quincy, the Tri-Cities, and surrounding areas. Member Kutz noted these emissions may increase cancer risks and raised questions about what preventive actions the Department is taking and whether the database is still maintained. Member Kutz emphasized the need to update healthcare providers on these risks and the timing of past emissions.

Member Kwan-Gett said they are not familiar with the database but will learn more about it. It is one of the reasons why the Department is excited about this vitrification process.

The Board took a break at 10:30 a.m. and reconvened at 10:45 a.m.

7. PETITION FOR RULEMAKING [WAC 246-290-220](#), DRINKING WATER MATERIALS AND ADDITIVES

Paj Nandi, Board Member, introduced the petition for rulemaking. Bill Osmunson and the Washington Action for Safe Water are requesting that the Board consider amending WAC 246-290-220, the Drinking Water Materials and Additives rule.

Shay Bauman, Board staff, presented information and a recommendation regarding a rulemaking petition that requests adding subsections to WAC 246-290-220 to define fluoride as a drug when intentionally added to public drinking water for the purpose of diagnosing, mitigating, preventing, or treating disease, including preventing dental cavities. The petition cites federal law (Title 21 of the U.S. Code, Sections 321 and 355) and proposes that the Board, Department of Health, and local health jurisdictions refrain from promoting, sponsoring, or recommending fluoride in public water until it is approved by the Food and Drug Administration's (FDA) Center for Drug Evaluation and Research. It also places responsibility on manufacturers to secure FDA approval and conduct safety and efficacy testing, stating that Washington taxpayers should not bear these costs.

Shay explained that WAC 246-290 covers drinking water materials and additives, requiring Group A public water systems to comply with NSF/ANSI standards 60 and 61 to ensure the safety of chemicals, including fluoride, added to drinking water. Shay noted that the FDA does not have authority over public water supplies; that authority rests with the Environmental Protection Agency (EPA). Washington case law also establishes that fluoride in public drinking water are not drugs. Based on these legal and regulatory factors, Board staff recommended declining the petition for rulemaking (see presentation on file).

Shay shared that this section of WAC relates to drinking water materials and additives, and requires Group A public water systems to test and certify for conformance with NSF, ANSI standards 60 and 61 for treatment chemicals added to public water supplies and physical components of public water systems that come in substantial contact with potable water. These standards are guidelines that ensure the safety of products used in the water system. Standard 60 establishes requirements to help ensure that any fluoride additives used for water fluoridation are safe and do not introduce harmful contaminants into the water supply. Manufacturers must demonstrate compliance with this standard by having products tested and certified. The petition refers to federal regulations. The FDA does not have authority to regulate public water supplies. FDA's webpage states that public water authority belongs to the U.S. Environmental Protection Agency, or EPA. The FDA's Center for Drug Evaluation and Research does not approve any materials or additives for the purpose of drinking water because they do not have legal authority to do so. The Board cannot give authority within its rules to a federal agency that isn't granted that authority. In addition, Washington case law provides that fluorides in public drinking water are not drugs.

Steve Kutz, Board Member, asked what the EPA's language around fluoridation is.

Shay answered that the United States Public Health Service recommends an optimal fluoridation level of 0.7. The Safe Drinking Water Act under the EPA does not mandate fluoridation of drinking water, and our rules align with that regulation.

Peter Browning, Board Member, asked how much variability there is around the optimum level for those that choose to add fluoride.

Shay offered to follow up with Office of Drinking Water. Once a water system reaches a certain threshold they must treat the water supply to lower fluoride levels.

Member Kutz asked how many water systems are over-fluoridated naturally and what is being done about it.

Shay said staff is gathering information on naturally occurring fluoride for a future presentation.

Patty Hayes, Chair, stated it seems like the petitioner has language that references the need to get approval from federal agencies, but those federal agencies do not state they have that authority. Chair Hayes wanted clarification that they are understanding this correctly.

Shay confirmed that the petition requests that fluoride not be added to public water supplies until it is approved by the FDA as a drug through the Center for Drug Evaluation and Research. The FDA does not regulate public water systems but evaluates fluoride for other uses like consumer products.

Chair Hayes commented on the fifth bullet in the petition request that they don't believe the Board can say where the financial responsibility lies. They asked if Shay was aware of any precedent, as they are unsure if it's the Board's jurisdiction to make a statement like that.

Shay responded that they were not aware and asked if Lilia had additional background. Lilia Lopez, Assistant Attorney General, agreed with Chair Hayes's comment.

Chair Hayes stated that the Board will revisit the defined area after the first of the year based on the science review panel's input. Chair Hayes noted concerns that the language puts things into the rule that cannot be added, and the links to federal regulations and responsibilities are not consistent with what those agencies do. For that reason, the Board cannot move forward on those grounds as well. The Board has a process where they will discuss the follow-up to the science and have questions answered that were brought forward by Member Browning and Member Kutz. The Board will also review what kind of statements will be made after the first of the year.

Chair Hayes shared that the Board and Department agreed to take a complex look at this issue moving forward. Chair Hayes said they do not know where that's going to lead the Board now, and they do not want to interfere with that process.

Socia Love, Board Member, agreed with Member Kutz and Chair Hayes. Member Love was curious about the process with the Department and bioethics. Member Love wanted to continue to have these conversations going forward to help inform the Board's decisions.

Motion: The Board declines the petition for rulemaking to amend WAC 246-290-220 for the reasons articulated by Board Members. The Board directs staff to notify the petitioner of the Board's decision.

Motion/Second: Member Kutz/Vice Chair Oshiro. Approved unanimously

8. PER- AND POLYFLUOROALKYL SUBSTANCES (PFAS) EMERGENCY RULE, CHAPTER 246-290-315 WAC

Paj Nandi, Board Member, introduced the fifth emergency rulemaking related to per- and polyfluoroalkyl (PFAS) and drinking water.

Shay Bauman, Board staff, presented information explaining that the emergency rule is needed to maintain existing public health protections for PFAS until new federal standards take effect in 2029. Without the rule, the current state action level and notification requirements could lapse. The Board has adopted four prior emergency rules for this purpose. Shay recommended adopting a fifth emergency rule to ensure protections remain in place (see presentation on file) until the permanent rule is adopted.

Patty Hayes, Chair, clarified whether this was the last emergency rule if the Board adopts the amendments of the permanent rule, which Shay confirmed.

Motion: The Board directs staff to file a CR-103E to initiate rulemaking for WAC 246-290-315, to continue to clearly maintain the state action levels (SALs) and associated requirements until the federal standards are effective.

Motion/Second: Member Nandi/Member Browning. Approved unanimously.

Steve Kutz, Board Member, commented on the continued use of PFAS in non-stick cookware, noting that the manufacturers claim to have developed new coating processes that make these products safe. Member Kutz observed that cookware without PFAS is difficult to find and suggested the Board take a closer look at current manufacturing practices. Member Kutz also acknowledged that PFAS sources extend beyond cookware, though it remains a common household item of concern.

Chair Hayes stated the Board has an ongoing interest in PFAS and learning what is happening with other state agencies. Chair Hayes noted interest in hearing from the Department of Ecology and their Safer Products Washington team.

9. SCHOOL RULES PROJECT UPDATE

Patty Hayes, Chair, provided an update on the school rules project and highlighted new materials on the Board's School Environmental Health and Safety webpage, including a frequently asked questions document and a fact sheet. The version in the Board packet contained an error that has since been corrected. These resources were developed in response to requests from technical advisory committee (TAC) members and partners. Chair Hayes also noted that the Department of Health (Department) and the Office of

the Superintendent of Public Instruction (OSPI) released an updated K-12 Environmental Health and Safety Guide, which schools and local health agencies use to address questions and coordinate problem-solving since the current rules are outdated.

An inquiry from a local health jurisdiction dealing with extreme heat and smoke showed why updating the rules is critical. Chair Hayes said monthly communication with the TAC has begun and encouraged organizations to share feedback. Chair Hayes also discussed opportunities to engage with partners and noted that the upcoming legislative session will be challenging, but the Board will continue to work with OSPI on budget-related matters.

Steve Kutz, Board Member, mentioned that schools have the potential to be at the forefront of Chair Hayes' comments if they are properly prepared. Member Kutz highlighted a recent trip to Spokane and the poor air quality experienced. If schools have an updated ventilation system, it can be a better place for the kids than staying home.

Chair Hayes agreed and noted that the challenge is that every school building is different. Local health jurisdictions being ready and equipped through information from the state is going to be key.

Peter Browning, Board Member, mentioned partnerships with superintendents and their appreciation for the process. Member Browning said that the Board needs to be clear with the message that this is a long-term process, but it will be a good foundation for a healthy environment in schools.

Chair Hayes thanked Member Browning and highlighted a slide that explains the phased approach that could be helpful for Members to have in their back pocket. Chair Hayes asked Board Members to share any additional opportunities within their spheres to continue conversations about this in the future.

10. LOCAL HEALTH AND COMMUNITY FOCUS—moved to after #11

Patty Hayes, Chair, introduced David Windom, Director of Mason County Public Health, and highlighted their experience working with small and rural jurisdictions.

David Windom, Director of Mason County Public Health, discussed public health work and challenges in Mason County. Mason County faced many challenges during and after COVID-19. Many services, including the Women, Infants, and Children (WIC) program and family planning, were lost. Restoring WIC took two years and required partnerships with the YMCA and a local hospital. The county is still working to restart family planning and faces ongoing issues with staffing, recruiting, and funding.

Director Windom described innovative efforts to improve public health. The county uses a corrections facility garden to supply excess produce through WIC, operates a mobile outreach clinic, and piloted technology programs such as AI mental health screening and remote blood draws. Lessons from the pilot include the need for modern communication strategies, since traditional outreach methods were ineffective. Director Windom emphasized the importance of prevention, collaboration, and using technology

and flexible funding to provide care in local communities and strengthen rural health systems.

Paj Nandi, Board Member, asked who is paying for the telehealth counseling service. Director Windom responded that they have a 0.1% treatment sales tax that they've been using in addition to opioid settlement funds.

Tao Sheng Kwan-Gett, Secretary's Designee, mentioned Secretary Worsham's interest in strengthening that tie with public health and healthcare, and that healthcare access is one of the top priorities of the State Health Improvement Plan (SHIP). Member Kwan-Gett shared admiration for technological innovation and commented that chronic disease is a huge concern and noted that the Community Collaborative in Yakima shared similar concerns as Director Windom. It is something the Department is thinking about.

Peter Browning, Board Member, said reimbursement challenges make it hard for hospitals to maintain preventive and chronic care programs and stressed that preventive care is essential. Director Windom agreed and urged public health to partner closely with healthcare delivery to sustain these services.

Steve Kutz Board Member, said telehealth is not enough, especially since Medicare stopped reimbursing for it. In-person mental health providers are needed in small counties. Member Kutz mentioned that Tribes run specialized diabetes programs and emphasized that prevention is essential even if costly.

Chair Hayes shared appreciation for Director Windom's leadership and partnership efforts and the willingness to fail forward. Chair Hayes highlighted the importance of fostering curiosity and seeking new models in public health.

The Board recessed for lunch at 12:40 p.m. and reconvened at 1:15 p.m.

11. HEALTH IMPACT REVIEW (HIR) RECORDS RETENTION POLICY

Lindsay Herendeen, Board staff, reviewed the Board's records retention process and its impact on Health Impact Review (HIR) records. HIR reports fall under the State Government General Records Retention Schedule (DAN GS 19004) and are eligible for destruction after six years.

Lindsay noted the need to keep HIR reports and source materials longer. The Department of Health's Records and Information Officer recommended a specific HIR Records Retention Policy. Lindsay presented the draft policy, 2025-001, which proposes retaining HIRs and source materials for six years, then keeping them as reference copies for convenience.

Steve Kutz, Board Member, commented that past work and using digital archives helps inform public health decisions.

Michelle Davis, Executive Director, explained that Board records older than six years are stored in state archives, while current records remain in the office. HIR documents

are only posted on the Board's website and retaining them helps with long-term research for legislative proposals.

Tao Sheng Kwan-Gett, Secretary's Designee, supported retaining HIR records for more than six years for policy and historic reference. Member Kwan-Gett asked how records will remain accessible if software like EndNote becomes obsolete. Lindsay said citations are embedded in the HIRs and any software transition would be addressed as needed.

Paj Nandi, Board Member, discussed the advent of AI, especially as it relates to reference material. Going back and reading gobs of info might not be the way we make decisions, and there must be another way to make work more efficient. Member Nandi said we may be late adopters of AI, as we tend to be risk-averse.

Member Kutz said that AI doesn't read back in the archives like humans do.

Kelly Oshiro, Vice Chair, said the policy is brief but could be clearer by defining underlying source material. Vice Chair Oshiro asked whether electronic journal articles accessed by the HIR team are included and suggested the policy explicitly note this, especially if it deviates from the State Archives schedule.

Patty Hayes, Chair, asked if Members are comfortable revisiting the issue later and noted that it may be premature to act now.

No motion was made; staff will follow up with Vice Chair Oshiro and return with the item for future discussion.

12. RULES BRIEFING SANITARY CONTROL OF SHELLFISH [CHAPTER 246-282 WAC](#)

Patty Hayes, Chair, introduced the panelists for the sanitary control of shellfish rules briefing in advance of the public hearing anticipated in November 2025.

Shay Bauman, Board staff, said the presentation is intended to inform the Board before the public rules hearing. Kseniya Efremova and Dani Toepelt, Department of Health (Department) staff, introduced themselves and explained state law requires the rule to protect public health related to shellfish for human consumption. Kseniya and Dani reviewed the WAC chapters involved and the National Shellfish Sanitation Program, which provides the Model Ordinance for statewide consistency. High temperatures and vibriosis outbreaks in 2021 exposed regulatory gaps. The Department used emergency rule in 2023 and 2025.

Kseniya and Dani described the rulemaking timeline and engagement with a Rules Advisory Committee (RAC) composed of industry representatives and Tribes. RAC meetings and workshops addressed seed size, growing areas, *Vibrio Parahaemolyticus* (Vp) control plans, labeling, wet storage, and transfer of ownership. Tribal partners were consulted separately on treaty rights, traceability, and recordkeeping. A public comment period in March and April 2025 produced nine comments, mostly on labeling and seed size. In June 2025, the Department sent cost-benefit surveys to 300 industry and tribal partners and received 15 responses, mostly from small businesses. Kseniya and Dani also explained that *Vibrio Parahaemolyticus* and *Vibrio vulnificus* are always present in water and rising temperatures increase their presence in shellfish.

Chair Hayes asked how many were surveyed for the cost-benefit analysis. Department staff stated that they sent surveys out to 300 growers.

Peter Browning, Board Member, asked whether everyone had a chance to respond to the cost-benefit survey. Department staff responded yes.

Chair Hayes recommended that this information be mentioned at the November hearing.

Kelly Oshiro, Vice Chair, asked how many people are employed by each of the 15 respondents. Department staff responded that 12 of those 15 respondents had 50 or fewer employees.

Vice Chair Oshiro asked whether seasonal workers are included in their employee counts. Department staff responded that the statute doesn't specify the type of employees that define a small business, but the survey asked that employers self-identify their employee numbers, which may have included seasonal workers.

Steve Kutz, Board Member, asked about the importance of the size of the employer.

Michelle Davis, Executive Director, answered that the Regulatory Fairness Act defines small businesses as businesses with 50 or fewer employees, and agencies are required to determine the impact of rules on small businesses. The law doesn't specify whether employees must be permanent. If there are impacts, agencies must explain how the rule takes into consideration those impacts and possibly mitigate them.

Member Kutz asked whether it was important to have more small businesses, because they would experience greater impacts on their businesses. Executive Director Davis responded yes.

Member Kutz then said that having a preponderance of small businesses responding is OK.

Kseniya stated that one respondent didn't know how many employees they had, but based on department personnel knowledge, they were grouped as a small business.

Kseniya said most proposed changes are editorial, with significant updates in Vp control plan, seed size, and transplant. Dani discussed the Vp control plan, the model ordinance requires Washington to have a control plan due to consistently confirmed Vp cases. The plan sets harvest-to-cooling requirements, strictest in July and August, but higher temperatures now occur outside those months. The proposed rule extends the control period and adjusts the dates. Some operations already implement stricter Vp controls. Other growers said they would lose money. The Vp control plan is a public health issue to prevent illness, and a permanent change is necessary.

Member Kutz asked whether growers can move shellfish to cooler water to reduce toxins and whether this affects Vp levels. Dani responded that oysters could purge if conditions are suitable. Operators need a permit to move shellfish to deeper water, and some rule changes have been made to support purging.

Michael Ellsworth, Secretary's Designee, asked if factors besides temperature influence Vp growth. Dani responded that the science on Vibrio is limited, and we know that it is temperature-dependent.

Member Kutz asked how shellfish are managed in consistently warm regions like Louisiana. Dani responded that some places limit the times of day during which harvest can happen.

Member Kutz stated that the practice must mean shellfish filter very quickly. Dani responded that they do if they are happy.

Member Kutz asked if there are safer times to harvest during hot periods. Dani explained a practice involving harvesting, leaving shellfish in bags, and moving to deeper, cooler water and tides.

Chair Hayes asked whether cooling shellfish quickly is more important than changing the hours of harvest. Dani responded yes.

Peter Browning, Board Member, mentioned Vibrio deaths in New Orleans and asked whether those deaths were related to the types of Vibrio present in Washington State. Dani responded that the death in New Orleans was related to Vv exposure, and Washington has not had a Vv-related death yet.

Member Kutz asked how non-commercial harvests are controlled during this period. Dani responded that the Department educates people about cooking and chilling shellfish, updating the agency's Facebook page, and closing areas for recreational harvesting. But the Department lacks the capacity to be out as much as they would like.

Dani described the proposed rule's reduction of the maximum seed size for Pacific oysters from prohibited or unclassified areas from 2 inches to 1.5 inches. The proposed rule requires 120 days of growth outside initial waters. Market-size shellfish cannot come from these areas. The change allows oysters to purge and aligns with the model ordinance. Some growers said they will not be affected, while others expect added costs. The rule protects consumers and follows the model ordinance requirements.

Chair Hayes asked whether a misunderstanding existed among people who thought the proposed change applied universally instead of just in prohibited areas. Dani responded yes.

Chair Hayes asked if recent work addressed concerns or if objections are expected at the hearing. Dani said objections could still arise.

Chair Hayes recommended that during the presentation at the hearing, include misunderstandings and how they were addressed.

Dani continued the presentation and said growers initially pushed back on reducing seed size. The Department only has data on seed length. The proposed rule allows operations to apply for a waiver if a study shows public health standards are still met. Further details will be developed after rule adoption.

Member Kutz asked if the oyster shape matters since some are rounder than others. Dani responded that there are many species of oysters.

Dani stated that feedback from growers from the cost-benefit survey was mixed. Half of the respondents said they would not apply for the waiver. The other half said they weren't sure. The result is indeterminate currently. The study required for the waiver will determine whether shellfish from those growers are safe for human consumption.

Member Kutz asked whether growers always grow the same species or grow an ever-changing mix. Dani stated that growers can grow more than one kind of shellfish at the same time. The shellfish just need to be separated during the seed grow-out period, and keep detailed records.

Member Kutz asked whether growers raising oysters of different shapes would ask for a waiver. Dani responded that growers could ask for a waiver.

Member Kutz asked whether growers would need to do the study once per growing area. Dani responded that the Department would need to work on those details and that they are most concerned about the prohibited area moving into the approved area and whether the shellfish are purging. It will be operation specific. Growers use different practices for different purposes.

Chair Hayes asked about the value of regulatory flexibility, since only half of the respondents said they might apply for waivers. Chair Hayes asked if rulemaking staff had addressed the issue by saying this is only in certain circumstances. This appears complicated for the Department to put together.

Dani said the agency hopes to educate and provide one-on-one interactions. The Department inspects each growing operation at least once a year. Some might not need a waiver and may already comply. Shay added that the draft included input directly from the industry.

Member Kutz asked why a person who took oysters from a prohibited area to a clean area wouldn't just measure 120 days from the date of harvest, and why it is necessary to worry about seed size. Dani replied that the concern is that some seed shellfish might be diverted to the market when they are not ready.

Member Kutz stated that the Department is trying to address bad actors.

Member Browning responded that this was a great idea and could be great for smaller growers.

Dani explained the transplant change, which applies to market-size shellstock not for immediate human consumption that will be fattened or grown. The proposed rule clarifies the Department's authority and requires shellfish to be identified during transit by tagging or other approved methods. Some growers will incur costs for tagging and labeling, while others will not. There was confusion among growers, but the Department's authority to regulate transplanting is not new. Transplanted shellstock

does not need to meet timed cooling periods because it will be placed in a growing area.

Dani summarized other proposed changes. Kseniya outlined the next steps. Next steps are that written comments are due October 27, the public hearing and intended adoption are November 19, and if adopted, the CR-103 will be filed in late December or early January and become effective 30 days after filing.

Member Kutz stated that commercial growers are only one part of the system and asked how many cases can't be traced to a specific oyster bed. Member Kutz asked whether restaurants are required to provide tag numbers for diners.

Dani stated that tags in the kitchen must include a start and an end date.

Member Kutz asked if oysters are usually traceable. Dani said they can, but a confirmed culture from a patient is needed to identify a problem.

Vice Chair Oshiro asked if encouraging people to seek medical attention is part of the Department's outreach. Dani said the Department recommends a doctor visit for a vibrio panel when contacted. Cases are hard to investigate because symptoms often subside quickly and people are reluctant to provide stool samples.

Member Ellsworth asked if the proposed rule changes address recent export issues. Dani said the export issues are mostly federal and outside the Department's authority. Trade hasn't stopped because of the rules.

Executive Director Davis noted that the Department had to address fees and that the shellfish program needed significant increases. Executive Director Davis asked whether the fee work is complete and if the industry is likely to raise concerns with the Board about the impact of fees.

Dani stated that the fee work is not yet complete. Fee rulemaking is handled by the Department, while WAC rule falls under the Board. Dani added that there may be some confusion and that fee rulemaking is expected to conclude on October 21.

Member Kutz suggested that the Board remind growers that the fee decisions are not controlled by the Board.

13. RULES BRIEFING – NEWBORN SCREENING TO ADD ORNITHINE TRANSCARBAMYLASE DEFICIENCY (OTCD), GUANIDINOACETATE METHYLTRANSFERASE DEFICIENCY (GAMT) AND ARGINASE 1 DEFICIENCY (ARG-1D) TO [CHAPTER 246-650 WAC](#)

Kelly Oshiro, Vice Chair, introduced a briefing on updates to the Board's newborn screening rules in preparation for the public hearing scheduled in November. Vice Chair Oshiro noted that since 2021, the Board has approved adding three conditions: Ornithine Transcarbamylase (OTCD) Deficiency, Guanidinoacetate Methyltransferase (GAMT) Deficiency, and Arginase 1 (ARG1-D) Deficiency. Implementation was delayed until the Legislature approved an increase to the newborn screening fee in 2025. The

new fee takes effect January 1, 2026, to fund testing, staffing, and follow-up care.

Molly Dinardo, Board staff, presented the proposed rule changes and highlighted the clinical significance, prevalence, and treatment approaches for each condition. Molly emphasized that early detection via tandem mass spectrometry (MS/MS) using dried blood spot specimens, already in use by the Washington State Newborn Screening Program, can prevent severe health outcomes. Current treatment strategies include dietary modifications, medications, supplements, and specialized therapies, with early intervention improving prognosis. Molly also reviewed the rulemaking timeline and explained the rationale for the modest \$4.02-per-newborn fee increase to support program costs. The briefing concluded with an overview of next steps, including public comment periods, hearings, and the projected implementation of the expanded screening panel beginning January 1, 2026 (see presentation on file).

Steve Kutz, Board Member, noted that nearly half of births in Washington are covered by Medicaid. Member Kutz asked how the Board considers the cost of adding new conditions, including follow-up care, and whether these costs are fully covered or subsidized. Member Kutz also asked whether the fee for new conditions accounts for the rising costs of existing screenings.

Megan McCrillis, Department of Health (Department) staff, explained that the January 1, 2026, fee increase applies only to the three new conditions and does not affect costs for existing screenings.

Patty Hayes, Chair, added that the Department's newborn screening program plans to address program-wide cost increases through a decision package request outside the current rulemaking for the 2026 legislative session.

Board Members acknowledged that while the new fee supports these three new conditions, it does not account for the escalating costs of existing screenings.

Chair Hayes emphasized monitoring legislative responses to the Department's decision package and agreed to update the Board on future adjustments to maintain program sustainability.

Member Kutz asked whether the fee for each new condition is set by statute or rule, or if the Department can adjust overall program costs with each addition.

Molly clarified that fee-setting and screening costs are outside the Board's rules and are not mandated by statute. While some Department rules establish fees within the rule, the newborn screening rule does not.

Socia Love, Board Member, asked whether the newborn screening fee covers both the newborn test and the two-week test. Molly confirmed that it does.

Peter Browning, Board Member, inquired about follow-up care for abnormal results. Megan explained that the Department ensures communities are prepared when a new disorder is added, including notifying providers and offering educational webinars.

Member Love noted that, in their experience as a clinician, follow-up teams often contact families before primary care providers receive results, which supports care coordination.

14. PER- AND POLYFLUOROALKYL SUBSTANCES (PFAS) RULES BRIEFING – PERMANENT PFAS RULEMAKING [CHAPTER 246-290 WAC](#)

Paj Nandi, Board Member, introduced the per- and polyfluoroalkyl substances (PFAS) rule briefing, and encouraged Board Members to ask questions to ensure they are well prepared for the November Board meeting.

Shay Bauman, Board staff, requested Board Members share information requests so staff can include those materials in the November briefing.

Mike Means, Department of Health (Department) staff, reviewed the proposed PFAS permanent rule changes. Mike provided background on PFAS, including an overview of what they are, the history of their regulation in Washington, federal regulation through the Environmental Protection Agency, recent regulatory changes, and the scope of current state and federal rules (see presentation on file).

Mike said the proposed rules keep current monitoring and notification protections until federal MCLs take effect, align state action levels (SALs) with federal values and expand testing and notification to more water systems. Key changes lower SALs (PFOA 10→4 ng/L, PFHxS 65→10 ng/L) and update exceedance calculations using running annual averages. A cost survey of Group A water systems found testing averages \$345, with some up to \$1,650 for enhanced sampling. Treatment costs are not included, as federal standards will require them starting in 2029. Mike reviewed next steps including the written comment period from and public hearing on November 19. If the Board adopts the rule, it will take effect 31 days after CR-103 filing—expected late December 2025 or early January 2026.

Steve Kutz, Board Member, asked if the “annual average” measurement accounts for more than a single point in time and how it handles contamination levels. Mike explained that the Department uses a running annual average for most chronic contaminants to reflect long-term exposure, not short-term spikes.

Member Kutz asked if Washington’s PFAS standards allow higher levels of contamination than the federal rule and noted that one substance appeared to be untested under federal standards. Mike clarified that perfluorobutanesulfonic acid (PFBS) is not listed as an individual contaminant under the federal rule but is included in the hazard index for cumulative calculation.

Member Kutz also asked whether adopting the proposed rule ahead of the federal standards would align Washington’s requirements with federal regulations or create independent state standards. Mike explained that the Board has already adopted the federal maximum contaminant level (MCL), which will take effect concurrently with the federal rule. The proposed rule provides interim protections by requiring public notification when contamination exceeds state action levels, even though treatment requirements will not apply until the federal rule takes effect.

Member Nandi noted that this approach provides enhanced protection for Washington residents until the federal standards become effective.

Member Kutz observed that the state is “figuring this out ahead of the game.” Mike agreed that the proposed rule ensures early alignment and proactive communication with the public.

15. 2026 LEGISLATIVE STATEMENT

Michelle Davis, Executive Director, introduced the agenda item and referred Board Members to the 2025 Legislative Statement included in their meeting packets. Executive Director Davis explained that the statement is updated annually to guide staff during the legislative session on which bills and policy issues to monitor or engage on.

Executive Director Davis requested that Board Members review the current statement and submit any edits or feedback by December 1, 2025. Staff will bring an updated version to the January 2026 Board meeting for discussion.

Executive Director Davis noted that updates may be needed to reflect recent legislation, recommendations from state reports, and alignment with other state priorities such as the School Rules Project. Executive Director Davis also suggested the Board may wish to include language emphasizing evidence-based decision-making and support for legislative recommendations from partner agencies, as the current statement already does for issues such as the Health Data, and Health Disparities Council redesign and statewide vision efforts.

Steve Kutz, Board Member, asked whether the Board is being asked to affirm or revise the current statement.

Executive Director Davis clarified that the statement worked well for 2025, but the goal is to identify any needed updates for 2026 informed by both Board and staff review.

Patty Hayes, Chair, highlighted potential updates, including legislative changes to the vape tax fund affecting public health and revisiting the language around school environmental health and safety. Chair Hayes encouraged Members to assess whether all listed priorities remain relevant or if the statement should be refined to focus on the most pressing issues.

Executive Director Davis agreed and emphasized that a more focused statement helps direct staff time and resources toward the Board’s highest-priority legislative topics.

Paj Nandi, Board Member, asked whether topics such as community water fluoridation (CWF) or commercial tobacco products should continue to be included, and what criteria determine which issues the Board highlights.

Executive Director Davis noted the Board’s longstanding engagement in tobacco policy, particularly flavored products, as reflected in past resolutions and Health Promotion Committee work.

Chair Hayes added that while the statement is not primarily a public-facing document, it guides staff's legislative monitoring, testimony, and other engagement activities on behalf of the Board.

Kelly Oshiro, Vice Chair, proposed restructuring the legislative statement by grouping issues into categories. Such as: whether the Board is interested in commenting on legislative proposals, required to monitor topics under its statutory authority, or tracking items tied to State Health Report priorities and other policy recommendations.

Executive Director Davis agreed that this approach would provide clearer direction. Executive Director Davis also referenced the Department of Health's 2025 water recreation agency request legislation, noting that although the proposal did not pass, the Board retains rulemaking authority and should continue monitoring related developments.

Member Kutz suggested that future subcommittee committee meetings include dedicated time to discussing each topic in more detail.

Executive Director Davis and Chair Hayes recommended that Board Members plan to participate in December committee meetings for deeper discussion and prioritization.

16. BOARD MEMBER COMMENTS AND UPDATES

Steve Kutz, Board Member, provided an update on their participation in the Governor's Interagency Council on Health Disparities (HDC). Member Kutz shared reflections from the most recent HDC meeting, hosted at a local Hispanic radio station, which focused on the struggles of the area's predominantly Hispanic and migrant communities.

Member Kutz highlighted stories of fear and hardship among farm worker families, including reports of children being detained by immigration officials and families afraid to leave their homes. Member Kutz emphasized that migrant workers are essential to Washington's agricultural economy and that the trauma and instability they face have profound impacts on community health and well-being.

Member Kutz then drew a parallel to the historical experiences of Indigenous communities in Washington State and the U.S., noting that family separation and cultural disruption, once caused by federal boarding school policies, are now being mirrored in the experiences of migrant families through immigration enforcement and ICE detainments. Member Kutz underscored the importance of recognizing and addressing these inequities and expressed appreciation for HDC's ongoing work and for the Board's support of the Council's mission to advance health equity across Washington State.

ADJOURNMENT

Patty Hayes, Chair, adjourned the meeting at 3:25 p.m.

WASHINGTON STATE BOARD OF HEALTH

Patty Hayes, Chair