

Small Business Regulatory Review Board

MINUTES OF REGULAR MEETING

July 18, 2018

Conference Room 436 - No. 1 Capitol District Building, Honolulu, Hawaii

- I. **CALL TO ORDER:** Chair Borge called the meeting to order at 10:01 a.m., with a quorum present.

MEMBERS PRESENT:

- Anthony Borge, Chair
- Robert Cundiff, Vice Chair
- Garth Yamanaka, Second Vice Chair
- Harris Nakamoto
- Mary Albitz
- William Lydgate
- Mark Ritchie

ABSENT MEMBERS:

- Nancy Atmospera-Walch
- Reg Baker

STAFF: DBEDT

Dori Palcovich
Ashleigh Garcia

Office of the Attorney General

Jennifer Waihee-Polk

II. APPROVAL OF JUNE 20, 2018 MINUTES

Vice Chair Cundiff made a motion to accept the June 20, 2018 minutes, as presented. Ms. Albitz seconded the motion, and the Board members unanimously agreed.

III. NEW BUSINESS

- A. Discussion and Action on Proposed Amendments to HAR Title 4 Chapter 86, Petroleum Products Accounting and Inspection, promulgated by Department of Agriculture (DoAg)

Ms. Jeri Kahana, Administrator at DoAg’s Quality Assurance Division, explained these rules represent a repeal of the prior HARs and adoption of a new chapter. With the merging of DoAg’s Measurements Standard Division, the repeal of the chapter allows for updates. The new chapter consists of mostly housekeeping updates; it does not affect small businesses aside from some of the definition changes.

Chapter 86 was originally adopted to include the sale of gasohol, a gasoline blend containing 10 percent alcohol. In 2015, however, the requirement for the blending of ethanol was repealed by the legislature; thus, the clarification in the rules was requested by Hawaiian Energy Services LLC for the flexibility to blend motor fuels between 0 and 10 percent.

Vice Chair Cundiff made a motion to move the proposed rules to public hearing. Mr. Nakamoto seconded the motion, and the Board members unanimously agreed.

IV. OLD BUSINESS

- A. Discussion and Action on the Small Business Statement After Public Hearing of the Proposed Repeal of Hawaii Administrative Rule (HAR) Title 11 Chapter 281, and Adoption of Chapter 280.1 Underground Storage Tanks, promulgated by Department of Health (DOH)

Ms. Noa Klein, Hazardous Waste Program Manager from DOH's Solid & Hazardous Waste Branch, stated the rules had already been signed by the Governor and became effective on July 15. DOH received many comments on the proposed rules, however, none of the comments involved small businesses impact. Small business owners did approach DOH during "informal" public meetings for clarifications, information, and questions.

The portion of the rules that affect small businesses pertains to the requirement that all regular gas station tanks must have second containment within ten years of the effective date of the rules.

Mr. Nakamoto made a motion to support the adoption of the rules. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

- B. Discussion and Action on the Small Business Statement After Public Hearing and the Proposed Amendments to HAR Title 19 Chapter 20.1, Commercial Services at Public Airports, promulgated by Department of Transportation (DOT)

Ms. DreanaLee Kalihi, Revenue Enhancement Manager at DOT's Harbor Division, stated that there has been a series of four public hearings. Minor changes were made to the originally proposed language for clarification purposes; i.e., responsibilities of the permittees (Uber, Lyft, or other TNCs) and the provider of services (drivers). In total, 181 testimonies, both oral and written, were received with 99.9 percent in support of the rules; most of the positive testimonies came from Uber and Lyft drivers.

The rules specify the two options of vehicle identification to serve as counting functions. The insurance requirements only apply on airport grounds and to Honolulu county. It was noted that there is a major concern of airport TNC businesses throughout other counties to address permit licensing, with safety as a main priority. The rules assist in accounting purposes, for the consistency and accuracy in the revenue made at the airport and number of rides, and the amount paid to the airport for business and permits.

As the current pilot program will run until August 31st, DOT will assess whether to continue with the program upon the adoption of the rules; however, the intent is to let the pilot program run and have some time for Uber and Lyft to prepare and adjust to the new rules.

Chair Borge applauded DOT for staying on track to address and remedy questions while engaging stakeholders during the process. Mr. Ritchie also commended DOT for sticking with the process and answering concerns.

Vice Chair Cundiff made a motion to move the rules onto the Governor for adoption. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

V. ADMINISTRATIVE MATTERS

A. Assignment of Board Members’ “Discussion Leader Assignments” for State Agencies’ Administrative Rule Review

Discussion leader assignments were reviewed and adjusted in accordance to the recent changes in board members and preferences.

B. Update on the Board’s Upcoming Advocacy Activities and Programs in accordance with the Board’s Powers under Section 201M-5, HRS

Mr. Ritchie stated that the annual Small Business Fair, to be held Saturday, August 4th at Honolulu Community College, will begin at 7:30 a.m. Offered classes, totaling 25, start at 8:15 a.m., until 1:00 p.m. There will be about 35 exhibitors, of which DBEDT is one; this Board’s brochures will be available for distribution.

VI. NEXT MEETING – The next meeting is scheduled for Wednesday, August 15, 2018, in Conference Room 436, 250 South Hotel Street, Honolulu, Hawaii at 10:00 a.m.

VII. ADJOURNMENT – Mr. Nakamoto made a motion to adjourn the meeting and Ms. Albitz seconded the motion; the meeting adjourned at 11:05 a.m.