

Small Business Regulatory Review Board

MEETING MINUTES - **DRAFT**

February 19, 2026

- I. **CALL TO ORDER:** Chair Shick called the meeting to order at 10:00 a.m., with a quorum present.

MEMBERS PRESENT:

- Jonathan Shick, Chair
- Mary Albitz, Second Vice Chair
- Dr. Jennifer Salisbury
- David Sikkink
- James (Kimo) Lee
- Nicolle Ige
- Leelen Park
- Cynthia Hobson

ABSENT MEMBERS:

- Sanford Morioka, Vice Chair
- Tessa Gomes

STAFF: DBEDT

Dori Palcovich
Jet'aime Ariola

Office of the Attorney General

Alison Kato

II. **APPROVAL of JANUARY 15, 2026 MINUTES**

Mr. Park motioned to approve the January 15, 2026 meeting minutes as presented. Mr. Lee seconded the motion and the Board members unanimously agreed.

III. **OLD BUSINESS**

- A. Re-review and Action on the Small Business Impact Statement and Proposed Amendments to the following, promulgated by Department of Land and Natural Resources (DLNR)

Mr. David Sakuda, Fisheries Program Manager at DLNR's Division of Aquatic Resources (DAR), provided a comprehensive summary of the subject rule proposal, which had previously been presented to this Board during the November 2025 board meeting.

The summary presentation included background information, an outline of this Board's request for additional information, and stakeholder scoping. The Board's request entailed: 1) an environmental impact statement; 2) biological impact report; 3) cultural impact report; 4) studies on how much fish come out of the farm-raised industry versus wild collection; 5) economic costs for enforcement; and 6) five-year study from the Legislature. The presentation also included DLNR's findings on the review of data and fisheries management.

Mr. Sakuda clarified that this Board is not being asked to determine reopening the fisheries as this is the purview of the Land Board through the issuance of permits. This Board is tasked with determining whether the proposed rules will have a significant and economic impact on small businesses.

In addition to receiving several written testimonies, in-person and virtual testifiers attended the meeting; below is a summary of the testimonies:

Mr. Mike Nakachi from Moana Ohana appreciated DAR's presentation but believed it was very flawed because many of the small businesses were not properly scoped and the project was rushed and pushed through. He requested that this measure be deferred until it is well-vetted with the business community.

Another testifier, Ms. U'ilani Naipo, stated that DAR never provided a cost analysis for maintaining the proposed fishery.

Testifier Mr. Shane Akoni Nelsen, Executive Director of Hoala Kealakehua Nui, noted that the public trust doctrine, which represents the ability to have socially responsible economic development in the community is, very important. He believes there is no truth that the fisheries industry will bring economic development back to the community. He urged this Board to pause the process and proceed with better consultation to receive additional information.

Testifier Ms. Tanya Aynessazian is a representative for the Sustainable Chamber of Commerce and HULI PAC, a Big Island group that supports business leaders, elected officials, and social consciousness. It is her group's belief that the agencies controlling these operations must ensure that there is an even-playing field that the community can thrive in.

Testifier Mr. Kekua Alip, who represented himself as well as a nonprofit organization, believes that more community input is needed regarding both the administrative rules and the ban on the fishery.

Testifier Mr. Randy Cates stated that he is an advocate for all fishers in Hawaii and has background in aquaculture. He encouraged the Board to ask DAR why it is not required to have an EIS (environmental impact statement).

Testifier Ms. Rene Umberger has been the Executive Director For The Fishes for the past nineteen years. She stands on the submitted written testimony to this Board, which among other reasons, states that DAR's small business impact statement provided to the Board does not satisfy the complete requirements of Chapter 201M, HRS.

Testifier Mr. Jerry Isham has been an aquarium fisherman his whole life; he supports the proposed rule package.

Testifier Mr. Jake Phillips from The Biotech Group, provided both written and verbal testimony stating that the small business impact statement was not properly measured. He hopes that this Board recognizes the significant impact on aquaculture businesses in Hawaii both in the present and in the future.

Testifier Ms. Kylie Wager Cruz, Senior Attorney with Earthjustice, represents community groups on issues regarding the aquarium trade for over a decade. She indicated that the EIS does not equal permit issuance. She requested that this Board redact emails of the commercial operators on PDF 25 of DAR's submittal to this Board and any other private information of these operators.

Testifier, Mr. Arthur Parola, Attorney representing the pet industry that includes both fishers and aquaculture, stated that in the long-term, all aquarium industries in Hawaii will suffer if the aquarium fishery is not allowed to open.

Testifier Mr. Eric Koke, a commercial fisher and dealer on the Big Island, stated that commercial fishers were able to fish until 2022. He believes that the scientific facts brought forth are beyond this Board's purview.

Testifier Ms. Kim stated that the premise discussed today goes back to the late 1990's, which was addressed in Act 306, and noted that there has been extensive outreach to the community.

Testifier Ms. Lisa Cates, providing both written and verbal testimony, requested that this Board consider whether the impacts of the aquarium fishery have been adequately evaluated, disclosed, and mitigated. She added whether the proposed rules governing the commercial aquarium would reduce harm to small businesses while still achieving regulatory objectives and the State's environmental goals, including sustainability and public trust. Thus, she asked that this Board move the rules forward to public hearing.

Testifier, Nick, who was an aquarium fisherman, testified in support of the fishermen and the aquarium industry which has provided jobs to the local community over the years. However, now that the fishery is closed, it has had a negative impact on the locals as well as the industry.

Testifier, Mr. Dave Ramos, an aquarium fisherman for 32 years indicated that the industry is important to the local families. He was not aware of DAR representatives coming into town and speaking about the rules and closing the industry; he is hoping that some middle ground can be found.

Testifier, Mr. Randy Fernley stated that he was one of the casualties of the aquarium fisheries shutdown. He supports the aquatic fishery re-opening because he believes it can be even more sustainable than it was in the past.

Testifier Manuel, CEO of the Biotech Group indicated that his company has been investing in research in Hawaii for years; these research papers are available to anyone who wants to review them.

In response to an inquiry by Ms. Ige about enforcement costs/fees, Mr. Sakuda explained that DAR reached out to get enforcement numbers. However, it is difficult to arrive at an exact count allocated to what could technically be an aquarium fishery. Thus, opening a fishery would not prove to be a sizeable cost, but enforcement responsibilities, which would be added to the regulations already being enforced and related to fishing and boating violations.

Due to a noticeable imbalance of fees from one industry to another, and lacking enforcement fees, Chair Shick suggested to Mr. Sakuda that one of the revisions to the rules might be to increase some of the fees on the aquarium collectors to help offset or contribute to enforcement costs.

Mr. Sakuda replied that the \$100 commercial license fee is the same as the fishermen's license fee. Thus, the \$100 proposed aquarium permit fee is consistent with other commercial fishing permits such as the specialty permits; i.e., commercial u'u permit, commercial kala permit, etc. Additional fees and permits would need to be legislatively mandated.

Mr. Kealii Sagum, Regulatory/Compliance Program Specialist, from DAR stated that the existing rules are very "open" with "take lists" on the books right now. The proposed rules would provide significant restrictions on what is currently allowed. When discussing the impact on small businesses, he noted that there have been numerous hours of discussions and countless testimonies from small businesses on the aquarium fishery issue.

1. Hawaii Administrative Rules (HAR) Title 13 Chapter 60.4 West Hawaii Regional Fishery Management Area, Hawaii

Chair Shick motioned with reservations to send these rules onto public hearing. Second Vice Chair Albitz seconded the motion, and the members unanimously agreed.

2. HAR Title 13 Chapter 75 Rules Regulating the Possession and Use of Certain Fishing Gear

Mr. Sakuda explained that changes to this rule are mostly housekeeping in nature as the primary substantive changes are in HAR 13-77.1.

Second Vice Chair Albitz motioned to move the proposed rule changes to public hearing. Ms. Ige seconded the motion, and the members unanimously agreed.

3. HAR Title 13 Chapter 77.1, Aquarium Fishery Management

Chair Shick motioned with reservations to send these rules onto public hearing with an understanding that DLNR extends additional industry outreach beyond the fisheries industry. Second Vice Chair Albitz seconded the motion, and the members unanimously agreed.

IV. NEW BUSINESS

- A. Discussion and Action on the Small Business Impact Statement and to Proposed New Hawaii Administrative Rules (HAR) Title 11 Chapter 220 Office of Language Access Rules of Practice and Procedures, promulgated by Department of Health (DOH)

Discussion leader and Second Vice Chair Albitz stated that DOH has indicated that the subject new rules do not have an impact on small business and requested that this Board review and confirm.

Mr. Edward Wada, Program Specialist at DOH's Office of Language Access (OLA), explained that this proposed HAR relates to OLA's online roster, which is entirely voluntary and of no cost. Anyone can utilize this online vehicle if they meet the specified criteria such as being 18 years of age and possessing specific training or certifications.

The primary compliance obligations, including the establishment of language access plans and the filing of semi-annual encounter reports, apply specifically to state agencies and covered entities, not to individual interpreters or translators. Based on this information, Mr. Wada concluded that the proposed rules do not impose mandatory compliance costs or restrictive barriers on the small business community of interpreters and translators. He believes they do not have a significant economic impact on small businesses.

Ms. Ige moved that the proposed new HAR Chapter 11-220 Office of Language Access Rules of Practice and Procedures, has no apparent small business impact. Mr. Park seconded the motion, and the members unanimously agreed.

B. Discussion and Action on the Small Business Impact Statement and Proposed Amendments to HAR Title 11 Chapter 55, Water Pollution Control, and Chapter 55 Appendices B, E, F, G, and K, promulgated by DOH

Mr. Reef Migita, Clean Water Branch (CWB) Engineering Supervisor at DOH, introduced his team members to discuss the proposed rule amendments. CWB governs water pollution permits in Hawaii and is authorized to oversee certain types of point source discharges, as well as storm water discharges to surface waters such as streams, lakes and oceans.

Chapter 55 describes the policies and requirements for the National Pollutant Discharge Elimination System (NPDES) program. It also incorporates twelve NPDES general permits which are codified as Appendices B through M. The five general permits (Appendices B, E, F, G, and K) that will expire January 14, 2027, were discussed by Mr. Migita. All small businesses who are regulated under NPDES permit program will be affected by the proposed rule changes. Dr. Salisbury noted that the NPDES is very "unforgiving" and was happy to see the proposed amendments.

Small business stakeholder outreach was performed January 12, 2026, through February 11, 2026. Over 350 emails were sent to existing permittees, government agencies and those on the public notice distribution list. Attendees at the 2026 Pacific Water Conference on February 12th were also notified that CWB was beginning this rule amendment process. Seven sets of comments were received on the rules' proposal; five of the comments referred to Appendix B.

Appendix B authorizes the discharge of storm water associated with industrial activities. While many of the regulated entities are larger businesses, small businesses may be required to apply for coverage under this Appendix. However, the rules are mandated by the Federal

Clean Water Act, and a majority of current and proposed rules are consistent with the EPA's own industrial storm water permit.

In some cases, when a small business is the permittee, they will bear costs related to pollution prevention and compliance. Overall, however, DOH does not expect the proposed revisions to have an adverse impact on small business.

Mr. Lee moved to send the proposed rules to public hearing. Second Vice Chair Albitz seconded the motion, and the members unanimously agreed.

C. Discussion and Action on the Small Business Impact Statement to and proposed Amendments to HAR Title 11 Chapter 58.1 Solid Waste Management Control, promulgated by DOH

Ms. Lauren Cruz, Environmental Health Specialist from DOH's Solid and Hazardous Waste Branch, explained that the subject rules have not been updated in over 30 years. As a result, substantive changes are being proposed to be aligned with State Statutes and Federal regulations.

Many of the changes consist of adopting certain EPA rules that had not been adopted since 1984, adding new requirements and clarifying existing requirements for construction demolition landfills, clarifying closure requirements for other types of solid waste facilities, and clarifying and adding some post-closure environmental corrective actions for special wasteland fills.

Some changes that may impact small businesses include changes to the permit program as permit operation fees will be increased from \$25 to \$125. Because the fees have not been increased in 30 years, the increase is justifiable due to inflationary costs and because the fees will be better aligned with other state permit fees.

DOH is required to propose that salvaging activities be conducted on services such as concrete; this will affect one existing small business. As a result, the language in the rule was revised to allow one impacted business sufficient time to become compliant with the new ruling. This is so the cost to the business will be spread out over time instead of incurring one large expense. In addition, a few permit exemptions are being removed, and a few are being added.

In response to Second Vice Chair Albitz's question about the duration of increased permit fees, Ms. Cruz responded that DOH is expecting to increase fees every five years. It was appreciated that DOH representatives reached out to the stakeholders for feedback.

Mr. Lee moved to send the proposed rules to public hearing. Ms. Ige seconded, and the members unanimously agreed.

V. ADMINISTRATIVE MATTERS

A. Update on the Board's Upcoming Advocacy Activities and Programs in accordance with the Board's Powers under Section 201M-5, Hawaii Revised Statutes (HRS)

1. Simplifying Permitting for Enhanced Economic Development (SPEED) Task Force's most recent meeting pursuant to Act 133 to identify actions taken, challenges encountered, and legislative measures necessary to facilitate, expediate, and coordinate state and intergovernmental permit processes; and appropriates funds

Dr. Salisbury noted that there is a lot of legislation going on for bills pertaining to SPEED. DBEDT staff is keeping track of the SPEED-related bills and will place them on the Board's March agenda.

2. Discussion and Update of the Board's Maui Island meeting scheduled for March 19, 2026 – including Mayor's Proclamation and Presentation

The members were provided with an update on planning for the Board's March 19th board meeting on Maui, including coordination with the Mayor's Office, and travel and timing logistics.

Ms. Ariola requested everyone planning to attend the Maui meeting to provide her with their travel plans as soon as possible.

3. Becker Communications Inc., regarding the Board's Small Business Outreach

DBEDT staff is currently working with Becker Communications on drafting and approving a press release for the Board's March board meeting. Also, a March 11th meeting is scheduled with DBEDT staff and Becker Communications.

4. Presentation to Industry Associations

Nothing was reported.

5. Staff's Small Business Outreach

Ms. Ariola stated that she is planning to attend Ag Day at the State Capitol on February 26th and Tourism Day on March 13th.

VI. LEGISLATIVE MATTERS

A. Discussion and Action on the following:

1. House Bill 1612 – Relating to Economic Development – Establishes a business competitiveness goal for the State to achieve a ranking of being in the top thirty states in the United States for business climate by 2045, with interim goals. Requires the Department of Business, Economic Development, and Tourism to

submit annual reports on progress in meeting the business competitive goals. Appropriates funds.

Chair Shick motioned to support and provide testimony on House Bill 1612. Mr. Park seconded, and the members unanimously agreed.

2. Senate Bill 2263 – Relating to Business Competitiveness – Establishes a goal for the State to achieve a ranking among the top 10 states in the nation for business competitiveness by 2045. Establishes a ranking metric and interim goals. Requires the Department of Business, Economic Development, and Tourism to establish a working group to develop and recommend policies that improve Hawaii’s business competitiveness. Requires annual reports to Legislature. Appropriates moneys.

Chair Shick motioned to support and provide testimony on Senate Bill 2263. Mr. Lee seconded, and the members unanimously agreed.

3. Governor’s Message 612 – Submitted for Consideration and Confirmation to the Small Business Regulatory Review Board, Gubernatorial Nominee, Leelen Park, for a term to expire June 30, 2029

Chair Shick motioned to support and provide testimony on Governor’s Message 612 relating to Mr. Park’s nomination for the consideration and confirmation to the Small Business Regulatory Review Board. Mr. Lee abstained and the remaining members agreed.

4. Governor’s Message 613 – Submitted for Consideration and Confirmation to the Small Business Regulatory Review Board, Gubernatorial Nominee, Cynthia Hobson, for a term to expire June 30, 2029

Ms. Ige motioned to support and provide testimony on Governor’s Message 613 relating to Ms. Hobson’s nomination for the consideration and confirmation to the Small Business Regulatory Review Board. Mr. Park seconded, and the Board unanimously agreed.

VII. NEXT MEETING – Thursday, March 19, 2026 at 10:00 a.m., via Zoom and in-person at 200 S. High Street, Kalana O Maui Building, 9th Floor, Wailuku, HI 96793.

VIII. ADJOURNMENT – Mr. Park motioned to adjourn the meeting and Ms. Ige seconded the motion; the meeting adjourned at 12:35 p.m.