

## Small Business Regulatory Review Board

### MEETING MINUTES

November 16, 2023

### November 16, 2023 ZOOM RECORDING

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

**MEMBERS PRESENT:**

- Mary Albitz, Chair
- Robert Cundiff, Vice Chair
- Jonathan Shick, 2<sup>nd</sup> Vice Chair
- Dr. Nancy Atmospera-Walch
- James (Kimo) Lee
- Sanford Morioka
- Garth Yamanaka
- Mark Ritchie

**ABSENT MEMBERS:**

- William Lydgate
- Tessa Gomes

**STAFF:** DBEDT

Dori Palcovich  
Jet'aime Ariola

Office of the Attorney General

Elise Amemiya

II. **APPROVAL OF October 19, 2023 MINUTES**

Mr. Ritchie motioned to accept the October 17, 2023 meeting minutes, as presented. Second Vice Chair Shick seconded the motion and the Board members unanimously agreed.

III. **OLD BUSINESS**

- A. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to HAR Title 19 Chapter 25, Rules and Regulations Governing Shore Water Events, promulgated by Department of Parks and Recreation – City and County of Honolulu

Ms. Laura Thielen, Director of the City and County of Honolulu's Department of Parks and Recreation introduced her staff attending the meeting both in-person and remotely. She noted that there were conversations with some of the testifiers that attended this Board's meeting prior to the public hearing, as well as some of the stakeholder businesses, that led to some modifications in the rules.

At the prior board meeting, it was questioned whether the rules conveyed additional restrictions on the number of events at the south shore. Ms. Thielen stated that the restrictions being put into the rules would not be greater than the number of south shore

surfing events that are currently permitted. The restrictions will make sure the surfing events will be spread out over a period of time, so they are not back-to-back and dominating the surf break for a significant period. Instead, the events will be sequenced over time, which will give recreational surfers access to those breaks in an interim period.

At the public hearing, there was a concern about Kakaako as this is where there is a body surf break. Under the DLNR rules (the agency that provides water permits), the issue about safe body surfing is permitted only with restrictions on the water. While Parks and Recreation is not limiting the ocean surf to bodyboarding, it is working with DLNR to change the types of events to be held at Kakaako.

Overall, Ms. Thielen noted that the public hearing went well and any outstanding issues, i.e., social concerns and ordinances, that were brought up at this Board's last meeting, are being attempted to be worked out by Parks and Recreation. Mr. Ritchie complemented Ms. Thielen and her staff for reaching out to those testifiers that had voiced concerns when this Board reviewed the proposal prior to the public hearing.

In response to Mr. Yamanaka's concern about whether each island/district would be able to choose what the best way to promote and hold these types of events and if it was decided that only one set of rules was the best way to proceed, Ms. Thielen stated that these rules specifically affect shoreline events around the island. They are "general" rules as shoreline events run the gamut of canoe races, rough water swim, etc.

However, there were special rules developed some years ago for north shore surf meets, which had a tremendous amount of community input from small businesses, residences, promoters, and others. Thus, north shore surf events were subsequently carved out in the rules that allow a robust surf calendar and provide some assurance of breaks in between events. This will allow recreational surfers and others to utilize these surf breaks and to give the community a break from the traffic.

Ms. Thielen further stated that the proposed rules do not break the balance that was created at the north shore due to the extensive community input. However, a new shore water advisory group was created to review the necessity of creating any further surf breaks, and it was decided that aside from the south shore, the number of events in specific areas do not require specific rules; this is the reason for creating a different set of rules for the south shore.

Mr. Ritchie motioned to move the proposed amendments to the City and County of Honolulu Mayor for adoption. Mr. Morioka seconded the motion, and the Board members unanimously agreed.

#### **IV. NEW BUSINESS**

A. Discussion and Action on the Proposed Amendments to HAR Title 12 Subtitle 8, Part 10, Boiler and Pressure Vessel, promulgated by Department of Labor and Industrial Relations (DLIR), as follows:

1. Chapter 220 General, Administrative and Legal Provisions;
2. Chapter 222.1 Power Boilers;

3. Chapter 223.1 Heating Boilers – Steam Heating Boilers, Hot Water Heating Boilers, Hot Water Supply Boilers, and Potable Water Heaters; and
4. Chapter 224.1 Pressure Vessels

Mr. William Kunstman, Deputy Director at DLIR, explained the background and history of these rules and noted that the proposed changes are mostly minor revisions. This is largely because a major overhaul of the rules was conducted in 2019 with some modifications made in 1996, 2000, and 2012. The current revisions explicitly incorporate national consensus standards in the rules both in adoption by reference as well as by various references in the text.

Mr. Julius Dacanay, DLIR's Boiler & Elevator Branch Manager, further explained that there are approximately 10,000 pressure retaining items (boilers, pressure vessels, and pressure systems) in Hawaii. These items are owned and operated throughout most of the state's industrial sectors such as utility power plants, refineries, industrial processing facilities, and accommodations. Many pressure retaining items are owned and operated by small businesses, including "mom & pop shops" such as laundry facilities, restaurants, and auto service establishments, among others. It was noted that at least 4 of these mom & pop shops are considered small businesses.

The rules and adopted codes apply to any entity, including small businesses, which own or are responsible for pressure retaining items. The current fees range from \$30 to \$2,000 and the proposed fees are from \$35 to \$2,200. Overall, the average increase is 16.5%. When fees that are paid for by large entities are subtracted, the average increase is 10%.

Mr. Dacanay further noted that the collective bargaining and fringe rate costs have increased substantially (by 40.5%) since Act 103 created the special fund for the Branch and revolving funds which are required to pay the fringe costs of salaries. The fringe rate was 41.54% in fiscal year 2012-13 and for fiscal year 2023-24 the rate is 64.25%, a 55% increase. In addition, collective bargaining costs have increased by 40.5% and the CPI increased 33% in the same period.

On August 29, 2023, DLIR held a meeting with the stakeholders from the pressure equipment industry, notably attended by small business owners, mechanical engineering design and construction firms, and representatives from Hawaiian Electric Company and Par Hawaii Refinery. The meeting included 16 individuals and resulted in no new recommendations or changes to incorporate into the proposed rules.

Chair Albitz mentioned that the boiler and pressure vessel rules from 2019 had a large impact on Maui Wine becoming compliant with the regulations. Mr. Dacanay responded that a few weeks ago, he connected with Maui Wine, and he was pleased to report that he was able to properly guide the owner through the compliance process. It was confirmed that the proposed rules are structured to assist stakeholders with permitting.

In response to an inquiry by Vice Chair Cundiff, Mr. Dacanay explained that the rules were specially crafted to help small businesses create an owner/user inspection program that follows the respective rules and the laws. Also, the rules will allow qualified boiler inspectors to conduct safety inspections of their own pressure-related vessels. There is also a

certification and accreditation of engineering and other related shops to design and manufacture boilers and pressure vessels to be sold and used.

Mr. Ritchie motioned to move the proposed amendments to public hearing. Second Vice Chair Shick seconded the motion, and the Board 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. Discussion with Becker Communications' Representative about creating a YouTube Video for the Board's Outreach Purposes**

Ms. Laci Goshi, DBEDT staff member and media contact, introduced Ms. Jocelyn Collado and Ms. Aubrey Stewart from Becker Communications to discuss a short presentation with regards to this Board's recommendation to create a YouTube video for outreach purposes. They began by sharing the benefits of video content, as follows:

- 1) Most shared form of media on social platforms;
- 2) More engaging, memorable, and personalized;
- 3) Creates a deeper connection with audiences;
- 4) Shows the people and stories behind initiatives, and
- 5) Fosters a sense of community engagement

Outreach objectives would entail explaining who the Board is, what it does by raising awareness about the Board's initiatives, increase the number of engagements with the Board's followers and business community, and communicate initiatives with easily understandable messaging. Ms. Collado explained that, in addition to using YouTube, utilizing other platforms such as Facebook, LinkedIn, and Instagram might be better platforms and more beneficial for the Board's objectives.

Further, instead of doing a 5-minute YouTube video where people might lose interest after a few minutes, it was recommended reducing the video to smaller bites such as one to two minutes, at the most, to explain who the Board is, what it does, and what issues and problems this Board helps solve for small businesses.

Specific content might include the following:

- Who is the SBRRB?
- Testimonies / success stories
- Board roles + responsibilities
- How to get involved
- SBRRB in action
- How to get business support from the business community

Publicizing the Board's zoom meeting minutes rather than just keeping them on the website was suggested. Also suggested was revising the monthly e-newsletter that would be more

educational by including the link to the prior months' meetings, highlighting a success story, and pitching stories out to the media as to what this Board does.

Given that this Board has had problems in the past in recruiting new members, Mr. Yamanaka recommended that the members think about highlighting themselves to the public to attract more people to be on the Board. An upcoming meeting with Becker Communications and Ms. Goshi has been scheduled to go over more specific information such as providing testimonies and highlighting success stories.

In response to Ms. Palcovich's inquiry as to whether board members may be included in the meetings with Becker Communications, Deputy Attorney General Elise Amemiya explained that no more than two (2) can participate.

For a permitted interaction group (or PIG) whereby less than six (6) people, (the Board's quorum), would be needed, there would be more specific and stricter participating rules that would need to be followed. Mr. Yamanaka offered to participate in the meeting(s) with Becker Communications if he would be needed, and Chair Albitz offered to participate after the first of the upcoming new year.

2. Discussion and Action on the Board's Draft 2023 Annual Report Summary for Submission to the Hawaii State Legislature, under Section 201M-5(f), HRS

Vice Chair Cundiff motioned to approve the proposed draft 2023 Annual Report Summary for submission to the Hawaii State Legislature. Mr. Ritchie seconded the motion and the board members unanimously approved.

3. Presentations to Industry Associations

Office Assistant, Ms. Ariola, brought several of the Board's brochures to the Department of Commerce and Consumer Affairs' Business Action Center. Second Vice Chair Shick suggested that the SBA (Small Business Administration) Office be approached and provided the Board's brochures. He will plan to distribute brochures to the Hawaii Chamber of Commerce's upcoming business events. Chair Albitz requested that we mail her a box of brochures in Maui.

4. Staff's Small Business Outreach

Each week Ms. Ariola regularly mails out several brochures from the list of businesses in the weekly *Pacific Business News*; she also recently performed outreach to small businesses in conjunction with her performing notarizations for DBEDT in the Kapolei area.

Ms. Palcovich mentioned that Ms. Jennifer Salisbury is now being submitted to the Governor for the 2024 legislative session as a member to this Board.

**VI. NEXT MEETING** - Thursday, December 7, 2023 at 10:00 a.m., in conference room 405 at Leiopapa A Kamehameha Building – State Office Tower – 235 S. Beretania Street, Honolulu, HI 96813.

**VII. ADJOURNMENT** – Chair Albitz motioned to adjourn the meeting and Second Vice Chair Shick seconded the motion; the meeting adjourned at 11:21 a.m.