

## Small Business Regulatory Review Board

### MEETING MINUTES - HELD THROUGH VIDEO-CONFERENCING

October 15, 2020

- I. **CALL TO ORDER:** Chair Cundiff called the meeting to order at 10:02 a.m., with a quorum present, which was open to the public.

**MEMBERS PRESENT:**

- Robert Cundiff, Chair
- Mary Albitz, Vice Chair
- Garth Yamanaka, 2<sup>nd</sup> Vice Chair
- Harris Nakamoto
- Jonathan Shick
- James (Kimo) Lee
- Taryn Rodighiero
- Mark Ritchie

**ABSENT MEMBERS:**

- Dr. Nancy Atmospera-Walsh
- William Lydgate

**STAFF:** DBEDT

Dori Palcovich  
Jet'aime Alcos

Office of the Attorney General

Jennifer Polk-Waihee

II. **APPROVAL OF September 17, 2020 MINUTES**

Mr. Ritchie made a motion to accept the September 17, 2020 meeting minutes, as presented. Vice Chair Albitz seconded the motion, and the Board members unanimously agreed.

III. **NEW BUSINESS** - Before Public Hearing

- A. Discussion and Action on the Proposed Amendments to HAR Title 19 Chapter 133.2, Periodic Inspection of Vehicles, promulgated by Department of Transportation (DOT)

Mr. John Lovstedt, DOT's Highway Safety Manager, explained that because there are so many proposed amendments to the rules that he will only convey those changes that have small business impact.

One of the more noteworthy changes is that while no new fines will be imposed, the rules warn that should violations occur, fines will be incurred. Also, the existing 15-day requirement for setting up safety check appointments was removed for efficiency purposes.

In terms of stakeholder outreach, Mr. Lovstedt noted that it is not DOT's intent to take stations out of the vehicle inspection program but to ensure that stations are performing inspections correctly in order to remain in the program. As such, county officers who monitor the stations to ensure inspections are performed in compliance with the rule requirements, and are the

conduit for outreach by providing instruction and receiving feedback. Once feedback between the officers and county inspectors is received, DOT and the inspectors subsequently meet and use the recommendations and feedback to help amend and draft proposed rules.

Regarding the difference between station managers and station inspectors, station managers oversee the station inspectors working at a specific station. Further, the inspector is the person who inspects the cars for the safety checks, whereas in most cases, the manager generally does not do inspections. Discussion leader Mr. Lee thanked Mr. Lovstedt for the comprehensive listing of the rules' proposed changes.

Mr. Ritchie made a motion to move the proposed amendments to public hearing. Mr. Shick seconded the motion, and the Board members unanimously agreed.

**B. Discussion and Action on the Proposed Amendments to HAR Title 19, Chapter 133.5, Fine, Suspension or Revocation of an Official Inspection Station or Inspector's Certification, promulgated by DOT**

Mr. Lovstedt explained that penalties were readjusted in the rules regarding the classification levels. While the current rules provide for "major, minor, and serious" categories, the proposed rules require only two classifications, "major and minor." The rule proposal also breaks out station violations and inspector violations.

One significant rule change is the fine schedule. In reviewing the schedule, Chair Cundiff suggested DOT consider creating fines as a percentage of revenue. Mr. Lovstedt responded that the attorney general's office stated that fines could not be based on percentage of revenue. However, in response to Chair Cundiff's suggestion to create tiers for proposed fines with corresponding dollar amounts based on the station's revenue, Mr. Lovstedt believed this was a good suggestion and will check with the attorney general's office.

It was explained that the anticipated \$17,000 in fines collected per year is minimal as DOT attempts to do as much instruction as possible rather than impose fines and penalize station owners. An example of when a fine is imposed is where a station is using a broken or faulty device and unable to properly detect a defect in the vehicle. In such a case, the station will be suspended indefinitely from performing inspections until such time that a device is fixed.

Mr. Ritchie made a motion to move the proposed amendments to public hearing. Mr. Nakamoto seconded the motion, and the Board members unanimously agreed.

**IV. ADMINISTRATIVE MATTERS**

**A. Discussion and Action on Board's Upcoming Advocacy Activities and Programs in Accordance with the Board's Powers under Section 201M-5, HRS**

No updates to the Board's advocacy activities and programs were provided.

**V. NEXT MEETING - Thursday, November 19, 2020 at 10:00 a.m.**

**VI. ADJOURNMENT – Vice Chair Albitz made a motion to adjourn the meeting and Mr. Ritchie seconded the motion; the meeting adjourned at 10:36 a.m.**