

## **NOTICE OF PUBLIC HEARING**

Pursuant to Hawaii Revised Statutes (“HRS”) section 460J-3 and chapter 91, notice is hereby given that the Pest Control Board (“Board”) will hold a public hearing on Monday, March, 23, 2020 at 2:00 p.m., in the King Kalakaua Conference Room, First Floor, King Kalakaua Building, Department of Commerce and Consumer Affairs, 335 Merchant Street, Honolulu, Hawaii, to hear all persons interested in the proposed amendments to Hawaii Administrative Rules (“HAR”) chapter 16-94 pertaining to pest control operators.

The purposes of the proposed amendments are to: (1) establish definitions for: “BREG”, “Department” and “TIR” and will amend the definitions of “direct management of the pest control business” and “responsible managing employee”; (2) properly reflect the correct reference to a limited liability company in lieu of a limited liability corporation as currently written and to reference the newly defined “BREG” definition; (3) clarify that of the two certificates required to support an applicant’s experience qualifications, one shall be completed by the PCO/RME licensed in the branch for which application is made and who provided the supervision and to codify the Board and the Professional Vocational Licensing Division’s policy of requiring entity applicants to provide evidence that it is properly registered with the department’s Business Registration Division (“BREG”); (4) clearly set forth that the Board may, in its sole discretion, approve or accept technical training or business administration training as experience; (5) clarify and clearly set forth that the Board may, in its sole discretion, accept any reasonably equivalent knowledge, training or experience in lieu of a specific

experience requirement; (6) set forth that a pest control business shall be under the direct management of a principal RME who shall be an employee or who meets the exemptions of Chapter 386 and to define “direct management of the pest control business” and codifies that while a pest control business employs more than one RME, one shall be designated the principle RME; (7) clarify and codify the Board’s policy of allowing pest control entities to have in their employ more than one RME to aid in the direct management and control of the pest control business, and to set forth the responsibilities of the RME, and to clarify the role subordinate RMEs shall play; (8) clarify the subject matter of the RME for more than one pest control business, and clarify that in all cases the Board will be the final adjudicator in determining that it is in the public’s interest and that the individual is competent, able, and qualified to be a RME for more than one agency; and to provide notice to RMEs that it will be considered unlicensed activity if any RME enters into a contract on behalf of any entity other than the pest control entity that employs the RME; (9) clarify that licenses issued under the provisions of chapter 460J, HRS and this rule chapter are not transferable; (10) clarify that the license of the principal RME may be suspended, revoked, terminated, or refused to be renewed if the PCO’s license is revoked, terminated, suspended, or refused renewal pursuant to 460J-15 and the amended rule chapter; (11) clarify and provide guidance for RMEs and entities to effectuate compliance with the Board’s laws and rules and to provide a smooth transition in the wake of a RME’s death or employment separation; added a definition of “disability” which is defined as any situation in which the direct management of

the licensed pest control operator's business is no longer under the control of the RME or when a subordinate RME is unable to be responsible for all projects or services relating to the classifications of branches held; and provided licenses with clear notice that failure to notify the Board of the death, incapacity, or dissociation of the RME, appoint a new RME who is licensed, file a new application to qualify a new RME, or place its license on inactive status within 30 days shall result in the license being automatically forfeited without a hearing; (12) clarify and set forth that a pest control operator and its principal RME shall also be held responsible along with the pest control field representative for any violation of chapter 460J, HRS and relevant chapter or any other applicable safety rules, and also provide clear notice that the Board may take disciplinary action against all three licensees as well; (13) require applications to be filed no later than 60 days before the date of examination; (14) clarify that the Board should be notified in writing at least thirty calendar days prior to any cancellations, terminations, or withdrawal of any policy by the insurer; (15) set forth minimum standards for conducting a termite inspection and completing the Termite Inspection Report ("TIR") and clarify that a termite inspection shall be performed by a licensed RME/PCO holding the BR-1 (Fumigation) or BR-3 (Termite) who shall be responsible for the inspection, identified as the responsible party, and who shall sign the TIR; established procedures by which all inspections shall be conducted and to which each termite inspector shall be held; (16) clarify the terms and forms for "free inspection and "free inspection report" must also conform to the minimum requirements of chapter 460J, HRS;

(17) incorporate new definitions to provide clarity and consistency of terms used throughout the chapters (18) make other non-substantive changes for the purposes of style and clarity.

All interested persons shall be afforded the opportunity to submit data, views, or arguments, orally or in writing, at the time of hearing. All persons wishing to submit written testimony are requested to submit 18 copies of their written testimony by Monday, March 9, 2020, to the Professional and Vocational Licensing Division at the address printed below.

A copy of the proposed rules will be mailed to any person who requests a copy upon receipt of \$11.95 for the copy and postage. Please submit your request to the Professional and Vocational Licensing Division at the address noted below or contact the Board's office at (808) 586-2704.

Copies may be picked up at the following address between 7:45 a.m. and 4:30 p.m., Monday through Friday, excluding holidays: Department of Commerce and Consumer Affairs, Professional and Vocational Licensing Division, 335 Merchant Street, Room 343, Honolulu, Hawaii 96813. The cost of a copy, \$10.50, is due and payable at the time of pick up.

Further, the proposed rules may be reviewed in person free of charge at the Professional and Vocational Licensing Division at the address and hours of operation printed above. In addition, the full text of the proposed rules is available and can be downloaded free of charge from the web site of the Department of Commerce and Consumer Affairs:  
[http://www.hawaii.gov/dcca/main/har/proposed\\_har](http://www.hawaii.gov/dcca/main/har/proposed_har).

Individuals who require special needs accommodations are invited to call Lei Ana Green at (808) 586-2704 at least four (4) working days prior to the hearing.

Rodney Ono, Chair  
Pest Control Board  
State of Hawaii