

REPORT TO THE TWENTY-SEVENTH LEGISLATURE
2014 REGULAR SESSION

RELATING TO PUBLIC LAND LIABILITY
AND
RECOMMENDATIONS OF THE
TASK FORCE ON BEACH AND WATER SAFETY



PREPARED BY THE:

DEPARTMENT OF LAND AND NATURAL RESOURCES

IN RESPONSE TO:

Section 4 of Act, 82, Session Laws of Hawai'i 2003,
As Amended by Act 152, Session Laws of Hawai'i 2007,
As Amended by Act 81, Session Laws of Hawai'i 2009

In Conjunction With The
Task Force on Beach and Water Safety

IN RESPONSE TO:

Act 190, Session Laws of Hawai'i, 1996,
As Amended by Act 101, Session Laws of Hawai'i, 1999,
As Amended by Act 170, Session Laws of Hawai'i, 2002,
As Amended by Act 152, Session Laws of Hawai'i, 2007,
As Amended by Act 81, Session Laws of Hawai'i, 2009

November 2013

**RELATING TO PUBLIC LAND LIABILITY
AND
RECOMMENDATIONS OF THE
TASK FORCE ON BEACH AND WATER SAFETY**

Purpose

This report addresses the reporting requirements of Act 82, Session Laws of Hawaii (SLH) 2003 and Act 190, SLH 1996, for activities conducted in 2013.

RELATING TO PUBLIC LAND LIABILITY

This portion of the report applies to Section 4 of Act 82, SLH 2003. Act 82, SLH 2003, established a Risk Assessment Working Group (RAWG) that is comprised of state and county officials, and a person knowledgeable in signs. Recommendations are periodically made to the Board of Land and Natural Resources (Board) authorizing the strategic placement of warning signs, devices, and systems on improved public lands. The signs are designed to warn the public of the potential exposure to inherent risks and hazards associated with natural conditions on public lands.

Application

In response to natural hazard evaluation, a process was created for warning sign design and placement, and was created to warn the public of potential danger related to exposure to five natural occurring conditions: flashfloods, falling rocks, submerged objects in streams, cliffs, and at a site specific geographic location – falling trees. Chapter 13-8-9 to 13-8-11, Hawaii Administrative Rules (HAR) directs the Department of Land and Natural Resources (Department) to design and place warning signs to warn the public of the potential danger and risks of the natural conditions on public lands. Locations across the State are evaluated for potentially hazardous natural conditions and related exposure in state and county parks and along Na Ala Hele (Hawaii Statewide Trail and Access Program) trails.

Past Actions that Established the Sign Program

Members of RAWG completed statewide public informational meetings to gather information on the proposed design of the signs based on guidelines by the American National Standards Institute. With public input in 2006, the adopted Chapter 13-8, HAR, Design and Placement of Warning Signs on Improved Public Lands. Between the period of 2006 and 2013, RAWG and the Board have approved warning and management signs for numerous locations throughout the state. The Department maintains and updates the placement and condition of warning signs and devices on state lands.

Newly Designed Signage for use Statewide

In June 2013, the Department determined the need for a new warning sign to be added to the Act 82 sign program based on the previously approved sign design for: DANGER Falling Rocks.

This new design was due to the risk at sites that are significantly different in morphology from that which would be covered by the existing DANGER Falling Rocks sign. This design was based on the need to post a sign in a location of direct exposure to rockfall with no practical method to alert the public prior to entering the area of exposure to this natural hazard. The new sign reads as follows and was approved by RAWG and the Board and utilizes the previous approved pictograph for this condition and exposure.

Recommendation

Due to an increasing amount of interest by the resident and visiting public in recreational pursuits in the Hawaii's natural resources and the proliferation of information being posted on the Internet and other social medium on how to access these resources, there continues to be a critical need to inform the public on exposure to natural hazards and as such – this notification is a priority with the Department and the Counties.

Therefore, it is recommended that the 2014 “sunset” date on Act 82, SLH 2003, (as amended by Act 81, SLH 2009, be repealed (as was approved by the Legislature for Act 190, SLH 1996, relating to beach warning signs, in 2008) and that Act 82, SLH 2003, be codified into the Hawaii Revised Statutes as permanent law.

RECOMMENDATIONS OF THE TASK FORCE ON BEACH AND WATER SAFETY

This report has been prepared pursuant to Act 190, SLH 1996, as amended by Act 101, SLH 1999, as amended by Act 170, SLH 2002, as amended by Act 152, SLH 2007, as amended by Act 81, SLH 2009 mandating annual reporting by the Task Force on Beach and Water Safety.

Application

Act 190, SLH 1996, established a process for the State and Counties to provide both meaningful and legally adequate warnings to the general public of extremely dangerous natural conditions in ocean areas adjacent to their respective public beach parks. The Act recognized a duty to warn specifically of dangerous shorebreak or strong current in the ocean fronting a beach park, if either condition exists, is extremely dangerous, is typical for that beach park, and poses a risk of serious injury or death. Act 190, SLH 1996, clarified that the State and Counties have no duty to warn of dangerous natural conditions at beaches, beach/coastal accesses or areas that are not public beach parks.

Past Actions

Act 190, SLH 1996, provided for a process, including record keeping, to replace vandalized, removed or illegible warning signs. In addition, Act 190, SLH 1996, called for the formation of a Task Force on Beach and Water Safety (Task Force) to advise the Chairperson of the Board prior to the Chairperson making a decision on the design and placement of warning signs erected pursuant to this Act. Act 101, SLH 1999, amended Act 190, SLH 1996, by extending its mandate through June 30, 2003. Act 170, SLH 2002, subsequently amended Act 101, SLH 1999, by extending its mandate through June 30, 2007. The 2007 Legislature passed out legislation that was signed into law as Act 152, SLH 2007, which among other things, removed the sunset date for Act 190, SLH 1996, making it permanent.

Since inception, the Task Force has accomplished the following:

Prepared guidelines for temporary and permanent sign placement and designed and approved installation of signs to warn of exposure to: strong current, dangerous shorebreak, high surf, waves break on ledge, sudden drop-off, slippery rocks, man-o-war, jellyfish, sharp coral, shark sighted and rip currents

The Task Force met on December 12, 2012. The County of Maui requested approval for new sign locations at Waiehu Beach Park as wave action has eroded the shoreline, the parking lot, and the previously approved signs. The Task Force approved new sign locations further from the shoreline.