

REPORT TO THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2015

REVENUES GENERATED FROM GENERAL ADMINISTRATIVE PENALTIES IMPOSED
UNDER CHAPTER 183, HAWAII REVISED STATUTES



Prepared by

THE STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF FORESTRY AND WILDLIFE

In response to Section 183-5, Hawaii Revised Statutes

October 2014

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PURPOSE

This report complies with Section 183-5, Hawaii Revised Statutes (HRS), and covers specific topics relating to the protection of the State Forest Reserve System (FRS). Act 174, Session Laws of Hawaii (SLH) 2006, in part amended Chapter 183, HRS, by adding a new section titled, “General Administrative Penalties.” The new section authorizes the Board of Land and Natural Resources (Board) or its authorized representative to impose administrative penalties in the form of fines, fees, and other costs for violations of Chapter 183, HRS, and associated rules. The new section also specifies that the Department of Land and Natural Resources (Department) shall submit an annual report to the Legislature outlining revenues generated by these administrative penalties. This annual report covers the period from July 1, 2013 to June 30, 2014.

BACKGROUND

The administrative penalties for violations of Chapter 183, HRS, became effective in June 2006, by way of Act 174, SLH 2006. This Act authorizes the Board or its authorized representative to impose administrative penalties in the form of fines, fees, and other costs for violations of Chapter 183, HRS, and associated rules. The Department sought this particular change to HRS due to a notable increase in the occurrence and severity of violations, particularly the theft or unpermitted harvest of highly valuable koa timber resources from the State FRS. However, during the past seven years, there has been a reduction in illegal harvesting or trespass incidences on FRS lands. In part, the Department appreciates the attention that this report and related laws have drawn to this important issue.

Prior to Act 174, SLH 2006, the Department believed that existing language within Chapter 183, HRS, created a situation whereby certain penalties for violations, particularly large-scale theft of timber or other resources on FRS lands, did not effectively deter illegal harvesting because the potential value of the resources taken far exceeded any penalties that could be imposed by the State upon a violator.

With the enactment of Act 174, SLH 2006, the Department believes a framework for effective enforcement of penalties and timely prosecution of those in violation of Chapter 183, HRS, and associated rules was established. Act 174, SLH 2006, has helped to protect the State FRS by, among other things: 1) Allowing the Board to set and collect administrative penalties, including bringing legal action to recover fines, fees, and other costs resulting from violations of Chapter 183, HRS, and associated rules; 2) Increasing the criminal fine amount for timber trespass, including the removal of any timber within the State FRS; and 3) Establishing specific administrative penalty levels for repeat offenders or violations of varying severity.

REVENUES GENERATED

For the reporting period of July 1, 2013 to June 30, 2014, revenues were generated from a timber trespass activity that occurred on unencumbered state lands in South Kona on the Island of Hawaii. The total penalty of this timber trespass is \$100,000 to be paid to the Department in installments over several years. During this reporting period, \$44,000 was generated from this timber trespass activity. No other known violations of Chapter 183, HRS, and associated rules have occurred during this reporting period that were or are currently being pursued via administrative or court action by the Department.

ACTIONS

In order to more easily obtain the information required to prepare this report, the Department's Division of Forestry and Wildlife (DOFAW) plans on collaborating with other Department divisions to establish protocols that will facilitate reporting of all types of revenues generated by penalties under Chapter 183, HRS.

Additionally, DOFAW plans to provide training opportunities for the Department's Division of Conservation and Resources Enforcement (DOCARE) Officers that will provide them with additional tools to be more vigilant regarding timber theft. Training materials, including timber identification cards, maps indicating areas of high theft concern, and implementation of new permit inspection protocols, are all being developed to help DOCARE Officers deter and/or prevent illegal harvest of forest products on FRS lands in the future.

CONCLUSION

The Department believes that this law is very important for the protection of public resources within the State FRS. It also believes that the general administrative penalties have provided a strong deterrent for unauthorized and illegal use of public resources, as well as an effective mechanism for pursuing enforcement actions for violations.

For additional information on revenues generated from the State FRS or any other questions from this report please contact Lisa.J.Hadway@hawaii.gov or Sheri.S.Mann@hawaii.gov.