

REPORT TO THE TWENTY-EIGHTH LEGISLATURE
2015 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:

Act 86, Session Laws of Hawaii 2014

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

October 2014

**REPORT TO THE TWENTY EIGHTH LEGISLATURE
REGULAR SESSION OF 2015**

**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 86, Session Laws Hawaii (SLH) 2014, and Act 190, SLH 1996, for activities conducted in 2014.

1. RELATING TO PUBLIC LAND LIABILITY – Act 86 SLH, 2014 (Formerly Act 82 SLH 2003)

Background Information

This portion of the report applies to Section 4 of Act 82, SLH 2003 (Act 82), which was made permanent by Act 86, SLH 2014. Act 82 established a process for installing and monitoring warning signs on improved public lands to provide the State and Counties with some protection from liability caused by dangerous natural conditions. Act 82 also 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) as needed that authorizes 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.

Chapter 13-8, Hawaii Administrative Rules (HAR) was promulgated in 2006 and a process was created for warning sign design and placement that warns 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 on Maui – falling trees. Sections 13-8-9 to 13-8-11, 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. Contingent on budget and personnel, locations across the State are periodically evaluated for potentially hazardous natural conditions and related exposure in both state and county parks and along Na Ala Hele trails.

Act 86, SLH 2014 (SLH14)

Senate Bill 1007 Senate Draft 2 House Draft 2 (House Standing Committee Report 1655-14) RELATING TO PUBLIC LAND LIABILITY was passed by the 27th Legislature and signed into law by the Governor as Act 86 SLH 2014 (Gov. Msg. No. 1187):

“SECTION 1. Act 82, which will sunset on June 30, 2014, established a process by which a legally adequate warning system could be developed for improved public lands. The legislature finds that Act 82 has increased public safety and protects the State and counties from

unlimited liability arising out of recreational activities on public lands and, therefore, should be made permanent.

The purpose of this Act is to make permanent liability protections for warning signs for outdoor recreation on public lands by amending Act 82, Session Laws of Hawaii 2003, as amended.

SECTION 2. Act 82, Session Laws of Hawaii 2003, as amended by section 5 of Act 152, Session Laws of Hawaii 2007, as amended by section 3 of Act 81, Session Laws of Hawaii 2009, is amended by amending section 8 to read as follows:

SECTION 8. This Act shall take effect on July 1, 2003 [, and shall be repealed on June 30, 2014].

SECTION 3. Statutory material to be repealed is bracketed and stricken.

SECTION 4. This Act shall take effect on June 29, 2014.”

Since the inception of Act 82, the Department has installed signs statewide at parks and at trails and now maintains 447 warning and site specific management signs that are designed and placed following the guidelines of Chapter 13-8, HAR. (Exhibits 1 and 2)

Actions in 2014

The Department’s Division of Forestry and Wildlife identified and placed signs at the following locations:

Island: Maui Hazard Sign Data Sheet

Trail Name: Waihee Ridge Trail

Natural Condition Exposure: Cliffs

Entrance Hazard Signs:	Warning	Acronym
Station: MA00084	Hazardous Cliffs	WHCE

Site Specific Hazard Signs:	Warning/Danger	Acronym
Station: MA00083	Hazardous Cliffs	WHCS
MA00082	Hazardous Cliffs	WHCS

Island: Maui Hazard Sign Data Sheet

Trail Name: Waihou Spring Trail

Natural Condition Exposure: Cliffs

Entrance Hazard Signs:	Danger	Acronym
Station: MA00085	Hazardous Cliffs	DHCE

Site Specific Hazard Signs:	Danger	Acronym
Station: MA00086	Hazardous Cliffs	DHCS
MA00087	Hazardous Cliffs	DHCS
MA00088	Hazardous Cliffs	DHCS
MA00089	Hazardous Cliffs	DHCS

The Department's Division of State Parks did not install any new signage since the last legislative reporting period.

Features Managed by the Statewide Counties

As no new signs were proposed by a county, no activity was necessary during 2014.

Conclusion:

Due to an increasing amount of interest by residents and visitors in nature related recreational pursuits and the proliferation of information being posted on the Internet via social medium, there continues to be a need to inform the public on exposure to natural hazards and as such – notification is a priority with the Department. This Act supplements resource user's responsibility to make an informed choice in regards to possible exposure to specific natural hazards.

It is important to note that the posting of signs in state and county parks and on Department trails will not fully inform the growing amount of local and global users who access non-managed or gain unauthorized access to wilderness areas via information promoted by social media. Consequently, it is anticipated that there will continue to be safety issues, the need for response from county rescue personnel, and an increased burden on taxpayers as this trend continues.

2. RECOMMENDATIONS OF THE TASK FORCE ON BEACH AND WATER SAFETY

This report has been prepared pursuant to Act 190, SLH 1996, as amended, which mandates 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 shore break 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 to advise the Chairperson of the Board of Land and Natural Resources 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 its inception, the Task Force on Beach and Water Safety has prepared guidelines for temporary and permanent sign placement and designed and approved installation of signs to warn of exposure to strong current, dangerous shore-break, high surf, waves break on ledge, sudden drop-off, slippery rocks, man-o-war, jellyfish, sharp coral, shark sighted, and rip currents.

No new signs were proposed and no activity was necessary during 2014.

DLNR - DOFAW ACT 86 WARNING SIGN INVENTORY							
Aug-11							
Sign Descriptions:							
					Hawaii	Maui	
Entrance -	Warning - Falling Rocks		WFRE	7			
	Warning - Hazardous Cliffs		WHCE	10		7	
	Warning - Flash Flood		WFFE	8		2	
	Warning - Falling Trees		WFTE			12	
	Danger - No Diving or Jumping		DNDE			2	
Site Specific -	Warning - Falling Rocks		WFRS	15		2	
	Warning - Hazardous Cliffs		WHCS	17		4	
	Warning - Flash Flood		WFFS	35		3	
	Warning - Falling Trees		WFTS			14	
	Danger - Falling Rocks		DFRS	1			
	Danger - Flash Flood		DFFS				
	Danger - No Diving or Jumping		DNDS			3	
	Danger - Hazardous Cliffs Ent		DHCE			1	
	Danger - Hazardous Cliffs Site		DHCS			4	
Site Specific Management -							
	Notice End of Trail		NETS	3			
	Notice End of Road		NERS				
	Notice Area Closed		NACS	10			
	Caution End of Maintained Trail		CEMS	2			
			Totals	108		54	

Oahu	Kauai	Totals
3		10
3	5	25
6	2	18
		12
	2	4
1		18
12	7	40
6	3	47
		14
1		2
		0
2	3	8
		1
		4
14	2	19
		0
2		12
6		8
56	24	242



**HAZARD SIGN
INVENTORY SHEET**

ENTRANCE WARNING SIGNS				SITE-SPECIFIC HAZARD SIGNS								SITE-SPECIFIC MANAGEMENT SIGNS				TOTAL
DANGER	WARNING	WARNING	WARNING	DANGER	DANGER	DANGER	DANGER	DANGER	WARNING	WARNING	WARNING	CAUTION	NOTICE	NOTICE	NOTICE	
DNDE	WFRE	WFFE	WHCE	DFRS	DFRSL	DFFS	DHCS	DNDS	WFRS	WFFS	WHCS	CEMS	NACS	NERS	NETS	

HAWAII

KEALAKEKUA BAY SHP		5															5
LAVA TREE SM												5	5				10
WAILUKU RIVER SP	3	1	2	3		5		3			3		5				25
	3	6	2	3	0	0	5	0	3	0	0	8	0	10	0	0	40

KAUAI

HA'ENA SP		1				5			2								8
KOKE'E SP	1		1	1				1		2	2					1	9
NAPALI COAST SWP		1	1	1	6	6			11	6	2						34
WAILUA RIVER SP	1	3	4		1		2	2	8	4	9		6				40
	2	5	6	2	7	11	0	2	3	21	12	13	0	6	0	1	91

MAUI

'IAO VALLEY SM	1	2	1		4			1		3			1				13
MAKENA SP		1			3				4				3				11
PUA'A KA'A SW	1		1					1		1			1				5
WAI'ANAPANAPA SP													6				6
	2	3	2	0	7	0	0	0	2	4	4	0	0	11	0	0	35

OAHU

DIAMOND HEAD SM		5															17
KA'ENA POINT SP (MOKULE'IA)					2								2				4
KAIWI SSS (MAKAPU'U)		1		1													2
KAIWI SSS (MAKAPU'U)		1		1													2
NU'UANU PALI SW		2			2												4
SACRED FALLS					1		1						8				10
	0	9	0	2	5	0	1	0	0	0	0	0	22	0	0	0	39
GRAND TOTAL:	7	23	10	7	19	11	6	2	8	25	16	21	0	49	0	1	205