

State of Hawai'i
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawai'i

October 25, 2019

Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

Board Members:

SUBJECT: REQUEST THE BOARD TO DESIGNATE THE CHAIRPERSON OF THE BOARD OF LAND AND NATURAL RESOURCES AS THE AUTHORIZED REPRESENTATIVE FOR THE FOLLOWING SECTIONS OF CHAPTER 146 OF TITLE 13 OF THE HAWAII ADMINISTRATIVE RULES (HAR): 13-146-4, 13-146-9 to 13-146-14, 13-146-20, 13-146-28 to 13-146-33, 13-146-50 to 13-146-54, 13-146-65 to 13-146-68

AND

REQUEST APPROVAL TO ALLOW CHAIR TO FURTHER DELEGATE DESIGNATION TO THE STATE PARK ADMINISTRATOR, ASSISTANT ADMINISTRATOR, PARK SUPERINTENDENTS, AND PARK MANAGERS FOR THE PURPOSE OF FURTHER DELEGATION OF THE FOLLOWING SECTIONS OF CHAPTER 146 OF TITLE 13 OF THE HAWAII ADMINISTRATIVE RULES (HAR): 13-146-4, 13-146-9 to 13-146-14, 13-146-20, 13-146-28 to 13-146-33, 13-146-50 to 13-146-54, 13-146-65 to 13-146-68.

BACKGROUND:

The Hawai'i Department of Land and Natural Resources' (DLNR) Division of State Parks (DSP) is responsible for managing the use and protection of all lands, and historical and natural resources within the Hawai'i State Park System, Chapter 13-146, Hawaii Administrative Rules (HAR).

These HAR include regulatory elements related to DSP standard operating and permitting procedures. Over the years, with administrative and associated policy changes, there is a need to clarify which persons are authorized for even sundry regulatory acts under HAR Chapter 13-146, such as issuing camping permits. DSP wishes to address legal delegations of authority and the associated documentation in this submittal.

Under Chapter 13, section 13-146-2 (Definitions), "Authorized representative" means any person authorized by the board of land and natural resources to act for the board including the chairperson,

ITEM E-1

deputy directors, park administrators, park superintendents, park managers, and conservation enforcement officers.

Simple approvals of camping permits that have been performed internally for over 30 years and are now migrated to DSP's automated online reservation system. The implied delegation of authority of long ago was assumed to be to the Chairperson of the Board of Land and Natural Resources as an authorized representative.

A delegation of authority to the Chairperson is necessary as an administrative measure to clarify any ambiguities in the regulation and to give Chairperson clear authority to further designate his or her powers to the authorized representatives defined in HAR.

Delegation by the Chairperson to the State Parks Administrator, Assistant Administrator, park superintendents and park managers for section of HAR is necessary and beneficial for DLNR, as it maintains the daily administrative functions overseen by DSP. These administrative functions in actual practice do not require the Chairperson in most circumstances and the State Parks Administrator, Assistant Administrator, park superintendents and park managers are adequately equipped to issue permits to the general population.

The State Parks Administrator, Assistant Administrator, park superintendents and park managers have always been given authority for provision of Chapter 13-146, HAR and further delegation would be purely as a housekeeping matter.

This submittal clarifies the authorized persons for the operation of Chapter 13-146, HAR, sections for specific but routine permitting and regulatory actions. Not all sections of Chapter 13-146 are included, as some of actions still require the Board approval process.

The referenced sections of Chapter 13-146, HAR, attached as **Exhibit A**, include the phrase, “the board or its authorized representative ...”. Assuming the authority vested in DLNR's representative does not require rulemaking for establishing the decision-making process, DLNR requests that the Board recognize and designate the current Chairperson of the Board of Land and Natural Resources as DLNR's authorized representative for purposes of further delegating decision-making to the State Park Administrator, Assistant Administrator, park superintendents and park managers in the relevant sections of Chapter 13-146, HAR referenced.

Based upon DSP's past experience and current practices relating to the operation of the HAR sections in **Exhibit A**, DSP believes designation of the Chairperson of the Board of Land and Natural Resources as “authorized representative” is appropriate as recommended below.

ENVIRONMENTAL COMPLIANCE:

The designation of an authorized representative is not an action triggering a requirement for HRS Chapter 343 compliance or analysis.

RECOMMENDATIONS:

That the Board,

1. Grant and Designate the Chairperson of the Board of Land and Natural Resources to be the authorized representative for the following sections of Chapter 146 of Title 13 of the Hawaii Administrative Rules (HAR): 13-146-4, 13-146-9 to 13-146-14, 13-146-20, 13-146-28 to 13-146-33, 13-146-50 to 13-146-54, 13-146-65 to 13-146-68.
2. Approve the Chairperson to further delegate to the State Park Administrator, Assistant Administrator, park superintendents and park managers for the following HAR sections: 13-146-4; 13-146-9; 13-146-10; 13-146-11; 13-146-12; 13-146-13; 13-146-14; 13-146-20; 13-146-28; 13-146-29; 13-146-30; 13-146-31; 13-146-32; 13-146-33; 13-146-50; 13-146-51; 13-146-52; 13-146-53; 13-146-54; 13-146-65; 13-146-66; 13-146-67; 13-146-68.

Respectfully submitted,



Curt A. Cottrell, Administrator
Division of State Parks

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE, Chairperson
Board of Land and Natural Resources

ATTACHMENTS: EXHIBIT A: 13-146 SECTIONS