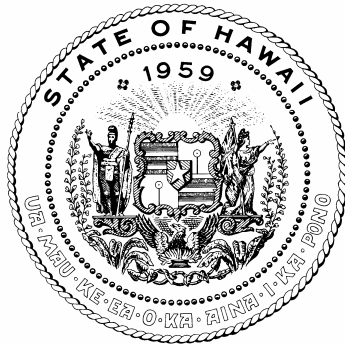


REPORT TO THE TWENTY- FOURTH LEGISLATURE

REGULAR SESSION OF 2007

RELATING TO PUBLIC LAND LIABILITY



Prepared by

**THE STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF FORESTRY AND WILDLIFE
Na Ala Hele Trail and Access Program**

In response to Section 4 of Act 82, Session Laws of Hawaii 2003

**Honolulu, Hawaii
November 2006**

**REPORT TO THE TWENTY- FOURTH LEGISLATURE
REGULAR SESSION OF 2007
RELATING TO PUBLIC LAND LIABILITY**

Purpose

This report is prepared in response to Section 4 of Act 82, Session Laws of Hawaii (SLH) 2003. Act 82, SLH 2003, established a risk assessment working group comprised of both state and county officials and a person knowledgeable in signs, and that a report be submitted with recommendations and consultation provided to the Board of Land and Natural Resources (Board), including a list of warning signs, devices, and systems on improved and unimproved public lands subsequently approved or disapproved by the Board, to the Legislature.

Background Information

- The members of the Risk Assessment Working Group (RAWG) (Appendix 1) reviewed ocean safety signs established through Act 190, SLH 1996, as well the most current warning sign standards from the American National Standards Institute (ANSI). Using the current ANSI guidelines, RAWG designed safety signs to address the following priority natural hazards: flash floods, falling rocks, hazardous cliffs, submerged hazards as well as ancillary uniform management signs (end of trail, end of road, area closed). (See Attachment 1)
- In 2004, five public informational meetings were conducted statewide to solicit input on the proposed design of the signs. Comments were received and a few specific aspects related to sign design were revised accordingly.
- In 2004, the Department of Land and Natural Resources (DLNR) completed the first draft of the proposed Hawaii Administrative Rules (HAR) for the Design and Placement of Warning Signs on Improved Public Lands mandated by Act 82, SLH 2003.
- In February of 2005, the proposed HAR were approved by the Board to proceed with public hearings.
- In May 2005, the Governor approved the proposed HAR for public hearings and DLNR's Chairperson's designee for the RAWG conducted a public hearing on August 23, 2005. Oral and written comments were received from the public and the proposed HAR were revised accordingly - there were no substantive changes recommended.
- On November 18, 2005, the Board approved the staff's revision based upon comments and the recommendation to approve the proposed HAR.

- On January 6, 2006, the draft HAR were approved as to form by the Department of the Attorney General.
- On January 23, 2006 the Governor approved the HAR and it was filed on January 25, 2006 (see attachment 2)

Following the design and placement standards as delineated in the approved HAR, DLNR's Division of State Parks and Na Ala Hele Trail and Access Program staff re-evaluated and clarified locations of public exposure to dangerous natural conditions and revised maps showing these locations. DLNR staff worked with data collected earlier through an agreement with a United States Forest Service team. 134 locations statewide were identified that warrant the placement of signs relating to the various natural conditions.

The maps and locations are being prepared for review and approval by the Board. Upon approval, a request for proposal will be initiated, signs will be produced and DLNR staff will proceed with installation and a sign monitoring program. Currently, the Counties have not identified parks where these types of dangerous conditions exist.

Risk Assessment Working Group Members

- 1) Dan Quinn, Administrator
Department of Land & Natural Resources - State Parks Division
- 2) Paul Conry, Administrator
Department of Land & Natural Resources - Division of Forestry and Wildlife
- 3) Curt Cottrell, Program Manager
Department of Land & Natural Resources - Division of Forestry and Wildlife
Na Ala Hele Trail and Access Program (DLNR Chairman Peter Young's designee)
- 4) Deputy Attorney General - Civil Rights Division,
Department of the Attorney General
- 5) Thomas Fake - National Parks Service - Pacific Islands Support Office
(Sign design consultant)
- 6) David Deleon - County of Maui
(Maui County Mayor Alan Arakawa's designee)
- 7) Troy Kindred, Civil Defense Administrator
(Hawaii County Mayor Harry Kim's designee)
- 8) Corporation Counsel - City & County of Honolulu
(City and County of Honolulu designee)
- 9) Gerald Estenzo, Risk Management - County of Kauai
(Kauai County Mayor Bryan Baptiste's designee)

Attachment 1

⚠ DANGER



Flash Flood!
Be alert, water may rise without warning.
Fast moving water in this stream has killed people.
TURN AROUND DON'T DROWN™

⚠ DANGER



Falling Rocks!
Do not go beyond this point!
Rocks may fall without warning causing serious injury or death.

⚠ DANGER



No Diving or Jumping!
You may strike submerged objects and be seriously injured or killed.

⚠ WARNING



Flash Flood!
Be alert, water may rise without warning.
Fast moving water may result in serious injury or death.

⚠ WARNING



Falling Rocks!
If you proceed, be alert! Rocks may fall without warning causing serious injury or death.
IF IN DOUBT, STAY AWAY

⚠ WARNING



Hazardous Cliff!
The ground may break off without warning and you could be seriously injured or killed.
Stay back from the edge.

⚠ CAUTION



End of Maintained Trail!
The trail beyond this sign is not maintained

NOTICE



End Of Road!
No motor vehicles beyond this sign.

NOTICE



End Of Trail!
Do not go beyond this sign - please turn back.

NOTICE



Area Closed!
Do not go beyond this sign.

Attachment 2

HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 1

CHAPTER 8

THE DESIGN AND PLACEMENT OF WARNING SIGNS ON IMPROVED
PUBLIC LANDS

Subchapter 1. General Provisions

- §13-8-1 Purpose
- §13-8-2 Definitions
- §13-8-3 Severability

Subchapter 2. Standards for Sign Design

- §13-8-4 American National Standards Institute
- §13-8-5 Hazard labels
- §13-8-6 Pictogram symbols
- §13-8-7 Sign text
- §13-8-8 Sign dimensions

Subchapter 3. Standards for Sign Placement

- §13-8-9 Public use and exposure
- §13-8-10 Placement
- §13-8-11 Multiple signs

SUBCHAPTER 1

GENERAL PROVISIONS

§13-8-1 Purpose. The purpose of these rules is to establish standards to guide the department of land and natural resources and the risk assessment working group in the general design and placement of signs warning of dangerous natural conditions on improved public lands.

[Eff. _____](Auth: SLH 2003, Act 82, §2)(Imp: SLH 2003, Act 82, §2)

§13-8-2 Definitions. As used in this chapter, unless otherwise provided or required by context:

"Alert symbol" means the triangular symbol with an exclamation mark that appears to the left of the signal word.

"ANSI" means the American National Standards Institute.

"Board" means the board of land and natural resources.

"Caution", when used as a signal word on a hazard label, means the potential for encountering a natural condition which if not monitored, could result in a minor or moderate injury. This signal word is intended to alert the user to be more vigilant.

"Danger", when used as a signal word on a hazard label, means the potential for encountering a natural condition, which, if not monitored or avoided, could result in severe injury or death. This signal word is for the most extreme conditions or actions where foreseeable harm is severe or a fatality has been documented at a specific location due to the natural condition.

"Hazard label" means a specific label on the upper portion of the sign that uses the signal words "danger, warning, or caution" in conjunction with the "alert symbol".

"Improved public lands" means lands designated as part of the state park system, parks, and parkways under chapter 184, Hawaii Revised Statutes, or as part of a county's park system, and lands which are part of the Hawaii statewide trail and access system under chapter 198D, Hawaii Revised Statutes, excluding buildings and structures constructed upon such lands.

"Pictogram symbol" means a graphic symbol that illustrates the dangerous natural condition and its potential risk of harm.

"Risk assessment working group" means

- (1) The chairperson of the board, or designee;
- (2) The mayor of each county, or designee;
- (3) The administrators of the department's division of forestry and wildlife and the division of state parks, or their designees;
- (4) The attorney general, or designee; and
- (5) A person appointed by the chairperson of the board knowledgeable in warning sign design.

"Signal word" means the word located on a hazard label that calls attention to the sign and designates a degree or level of hazard seriousness.

"Warning", when used as a signal word on a hazard label, indicates the potential for encountering a natural condition, which, if not monitored or avoided, may result in a moderate to serious injury, or death. [Eff.] (Auth: SLH 2003, Act 82, §2) (Imp: SLH 2003, Act 82, §2)

§13-8-3 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, this invalidity shall not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are severable. [Eff.] (Auth: SLH 2003, Act 82, §2) (Imp: SLH 2003, Act 82, §2)

SUBCHAPTER 2

STANDARDS FOR SIGN DESIGN

§13-8-4 American National Standard Institute. ANSI product safety sign and label standards for format, content, and font currently in effect shall be considered in the design of the warning signs. The board and the risk assessment working group, at their discretion and if consistent with the purposes of these rules and in the public interest, may deviate from these standards. [Eff.] (Auth: SLH 2003, Act 82, §2)(Imp: SLH 2003, Act 82, §2)

§13-8-5 Hazard labels. Appropriate hazard labels as defined in this chapter (e.g. caution, warning, or danger) shall be used on the top of the warning sign. A triangular alert symbol with an exclamation mark shall appear to the left of the hazard label. [Eff.] (Auth: SLH 2003, Act 82, §2) (Imp: SLH 2003, Act 82, §2)

§13-8-6 Pictogram symbols. Appropriate Pictogram symbols as defined in this chapter shall be used and placed under the hazard label. [Eff.] (Auth: SLH 2003, Act 82, §2)(Imp: SLH 2003, Act 82, §2)

§13-8-7 Sign text. (a) Sign text shall be used to reinforce the hazard label and pictogram as follows:
(1) Text shall be in a headline style that uses simple and direct words;

- (2) Active rather than passive verbs shall be used. Action oriented phrases shall be put at the beginning of the sentence and not in the middle or at the end;
- (3) Adverbs that are difficult to interpret shall be avoided. There shall be no more than one clause in a sentence;
- (4) Upper case and centered type shall be avoided whenever possible;
- (5) Arial/Helvetica, Arial/Helvetica Black, Folio Medium, Franklin Gothic, Futura, or a similar style of font shall be used for the sign text;
- (6) Colored background shall not be used for the text portion of warning signs; and
- (7) Agency identification and other agency markings shall not be placed on the front of the sign but may be placed on reverse side of sign.

(b) The board and the risk assessment working group, at their discretion and if consistent with the purposes of these rules and in the public interest may deviate from these standards. [Eff. _____] (Auth: SLH 2003, Act 82, §2) (Imp: SLH 2003, Act 82, §2)

§13-8-8 Sign dimensions. Sign dimensions at managed entrances to improved public land adjacent to parking areas and other locations accessible by vehicles shall be a minimum of eighteen inches by twenty four inches. Sign dimensions at remote, interior locations and boundaries accessible by pedestrians of improved public land shall be a minimum of twelve inches by eighteen inches. [Eff. _____] (Auth: SLH 2003, Act 82, §2)(Imp: SLH 2003, Act 82, §2)

SUBCHAPTER 3

STANDARDS FOR SIGN PLACEMENT

§13-8-9 Public use and exposure. (a) Traffic patterns and managed access points of people accessing the improved public lands shall be considered when placing signs.

(b) The type, frequency, and location of incidents or potential public exposure relating to specific dangerous natural conditions when known on the improved public lands shall be considered for sign placement.

[Eff. _____] (Auth: SLH 2003, Act 82, §2)(Imp: SLH 2003, Act 82, §2)

§13-8-10 Placement. Sign(s) shall be placed at or near access points; i.e., along vehicle and pedestrian traffic corridors in clearly visible locations placed as close as possible to the potentially dangerous natural conditions on improved public lands and at managed and designated entrances where the signs will be seen as users enter improved public lands. View sheds, aesthetics, and feasibility of installation shall be considered in the placement of the signs. Signs shall be installed with consideration for the average adult line of sight but outside of the general path of travel to avoid physical contact with the signs. Signs may be attached to posts or by any other method of installation depending on the nature of the location and terrain.[Eff.]
(Auth: SLH 2003, Act 82, §2) (Imp: SLH 2003, Act 82, §2)

§13-8-11 Multiple signs. If multiple signs are installed they shall be on separate posts or in another manner that is rendered necessary due to the nature of the location and terrain. Whenever possible, installation shall attempt to minimize holes in the sign.
[Eff.] (Auth: SLH 2003, Act 82, §2)(Imp: SLH 2003, Act 82, §2)

DEPARTMENT OF LAND AND NATURAL REOSURCES

Chapter 13-8, Hawaii Administrative Rules, on the Summary Page dated November 18, 2005, was adopted on November 18, 2005, following a public hearing held on August 23, 2005, after public notice was given in the Honolulu Star Bulletin and the Maui News on July 17, and the Hawaii Tribune Herald, West Hawaii Today and the Garden Isle Newspaper on July 18.

The adoption of Chapter 13-8 shall take effect ten days after filing with the Office of the Lieutenant Governor.

Peter T. Young, Chairperson
Board of Land and Natural
Resources

APPROVED:

Linda Lingle
Governor
State of Hawaii

Dated: _____

APPROVED AS TO FORM:

Deputy Attorney General

Filed