

OBSERVATIONS FOR CONSIDERATION WHEN CLOSING BEACHES DUE TO HAZARDOUS CONDITIONS

1. Statutory /Case Law Authority for Closures
 - a. Title 40 gives exclusive jurisdiction to the municipalities to close waters and to shut down waters.
 - b. "Zone of Concern" Municipalities are not hindered by specific distance - if you can see or hear them, you have the authority to waive them in.
 - c. Closing waters is a town-by-town decision; can be short term duration or several days.
 - d. Local ordinances are all different; many are vague and out dated; many of the ordinances are too specific and too duty bound. Instead of "shall and must" use "may," "discretion," and "safety" language.

2. Key Elements Related to Drafting /Revising Local Ordinances
 - a. There should be a clear chain of command – involving intelligent informed decision making. Core team options include beachfront manager/director, lifeguard chief, police chief, emergency management coordinator, mayor, and/or designated council person.
 - b. Strong recommendation to include people who "know the water" in the decision making authority, such as Beach director /LG chief. Most of the sticky issues around closures occur during off-season months (April/May and September/October). During these times, many of the LG chiefs are not employees.
 - c. Strong recommendation that there be a legal tie-in year round (retention of statutory authority) for consult from LG chiefs to keep them in the loop year round. This would also assist in preserving good-faith effort and Title 59 immunity.
 - d. Better to close than not to close.
 - e. Police department determines its capacity to enforce a closure including size of area and duration. At the very least, posting of flags and signs is necessary.

3. Communication
 - a. Communication should be as wide as possible - use social media, websites, signage, flags, etc.
 - b. Establish a "pre-determined" message that can be posted to Facebook, Twitter, Borough website, etc., to get message out quickly. This also takes the burden off local PD.
 - c. Signage – better to say less and be clear.
 - d. Signs are only required to be in English. All other languages are optional.
 - e. Popular Signage - "Beach Closed, No Swimming Allowed"; "No Water Entry Allowed Due to Conditions"

4. Additional Considerations
 - a. Uniformed police should be briefed on observation techniques and enforce decisions of lifeguard staff.
 - b. Pre-positioning of equipment on beach for response teams to use – should be secured, concealed, but easily accessible.
 - c. Consider making lifeguards available and in proximity of closed beaches so that they may respond to someone who enters the water in defiance of the closed beach order. Better to have rescue personnel within close proximity than have none at all.