

PARKS AND WILDLIFE CODE

TITLE 5. WILDLIFE AND PLANT CONSERVATION

SUBTITLE H. ARTIFICIAL REEFS

CHAPTER 89. ARTIFICIAL REEFS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 89.001. DEFINITIONS. In this chapter:

(1) "Artificial reef" means a structure or system of structures constructed, placed, or permitted in water covered under this chapter for the purpose of enhancing fishery resources and commercial and recreational fishing opportunities.

(2) "National Fishing Enhancement Act" means Title II of Public Law No. 98-623, enacting 16 U.S.C. Section 1220d and 33 U.S.C. Sections 2101 through 2106 and amending 16 U.S.C. Sections 1220 through 1220c.

(3) "Reef materials" includes only materials allowed under the national artificial reef plan adopted under the National Fishing Enhancement Act for construction of artificial reefs.

(4) "Water covered under this chapter" means the navigable water of Texas and water of the federal fisheries conservation zone adjacent to Texas water.

Added by Acts 1989, 71st Leg., ch. 47, Sec. 1, eff. May 1, 1989.

Sec. 89.002. GENERAL DUTIES. (a) The department shall promote, develop, maintain, monitor, and enhance the artificial reef potential in water covered under this chapter.

(b) In carrying out the duties under Subsection (a) of this section, the department shall:

(1) plan and review permit applications for artificial reefs;

(2) coordinate with relevant state and federal agencies;

(3) hold public hearings on proposed artificial reefs;

(4) oversee maintenance and placement requirements of artificial reefs; and

(5) develop rules and guidelines, in conjunction with

the advisory committee, in the collection of fees, grants, and donations to the artificial reef account.

Added by Acts 1989, 71st Leg., ch. 47, Sec. 1, eff. May 1, 1989.

Amended by Acts 1993, 73rd Leg., ch. 679, Sec. 58, eff. Sept. 1, 1993.

Sec. 89.0025. RULES. The commission may adopt rules and guidelines as necessary to implement this chapter.

Added by Acts 2005, 79th Leg., Ch. 190 (H.B. 883), Sec. 1, eff. May 27, 2005.

Sec. 89.003. DEPARTMENT AUTHORIZED TO SERVE AS PERMITTEE.

(a) The department may apply for a federal permit and serve as permittee for an artificial reef located in water covered under this chapter if the establishment of the reef complies with this chapter and the National Fishing Enhancement Act.

(b) In applying for a permit under this section, the department shall:

(1) consult with and consider the views of appropriate federal and state agencies, local governments, and other interested persons;

(2) ensure that the provisions in the permit for siting, constructing, monitoring, maintaining, and managing an artificial reef are consistent with the criteria and standards established under this chapter and the National Fishing Enhancement Act;

(3) ensure that title to an artificial reef component or construction material is unambiguous; and

(4) consider the national artificial reef plan adopted under the National Fishing Enhancement Act and notify the Secretary of the United States Department of Commerce of any need to deviate from that plan.

Added by Acts 1989, 71st Leg., ch. 47, Sec. 1, eff. May 1, 1989.

Sec. 89.004. PERSON OTHER THAN DEPARTMENT AS PERMITTEE.

The department shall review and comment on an application for an artificial reef permit by a person other than the department to

ensure that the conditions of the permit are consistent with the state artificial reef plan and the National Fishing Enhancement Act.

Added by Acts 1989, 71st Leg., ch. 47, Sec. 1, eff. May 1, 1989.

Text of section as added by Acts 2001, 77th Leg., ch. 968, Sec. 46
Sec. 89.005. USE OF BRIDGES, TUNNELS, AND CAUSEWAYS.

(a) The department, in cooperation with the Texas Department of Transportation and local governments, may use obsolete bridges, tunnels, and causeways to create artificial reefs under this chapter.

(b) The department may receive from the Texas Department of Transportation the transfer of obsolete bridges, tunnels, and causeways to create artificial reefs.

(c) The department may provide assistance, including money, to a local government to fulfill the purposes of this section.

(d) Any money appropriated to the department for the artificial reef program under this chapter may be used for the purposes of this section.

Added by Acts 2001, 77th Leg., ch. 968, Sec. 46, eff. Sept. 1, 2001.

Text of section as added by Acts 2001, 77th Leg., ch. 1137, Sec. 1
Sec. 89.005. USE OF BRIDGES, TUNNELS, AND CAUSEWAYS.

(a) The Texas Department of Transportation shall coordinate with the department and local governments to use obsolete bridges, tunnels, and causeways to create artificial reefs under this chapter.

(b) The Texas Department of Transportation may transfer obsolete bridges, tunnels, and causeways to the department to create artificial reefs.

(c) The department may provide assistance, including money, to a local government to fulfill the purposes of this section.

(d) Any money appropriated to the department for the artificial reef program under this chapter may be used for the purposes of this section.

Added by Acts 2001, 77th Leg., ch. 1137, Sec. 1, eff. June 15, 2001.

Sec. 89.006. REEF CONSTRUCTION BY OTHERS. The department may authorize a person to place a donation of reef materials in a permitted zone in accordance with this chapter and commission rules and guidelines.

Added by Acts 2005, 79th Leg., Ch. 190 (H.B. 883), Sec. 1, eff. May 27, 2005.

SUBCHAPTER B. STATE ARTIFICIAL REEF PLAN

Sec. 89.021. STATE ARTIFICIAL REEF PLAN. (a) The department shall develop a state artificial reef plan that meets the purpose of this chapter and is consistent with the standards under Section 89.023 of this code.

(b) The department shall administer and enforce the plan in accordance with this chapter and the National Fishing Enhancement Act.

(c) The department shall develop any additional technical information needed to carry out the plan.

(d) Repealed by Acts 1999, 76th Leg., ch. 925, Sec. 2(5), eff. Sept. 1, 1999.

Added by Acts 1989, 71st Leg., ch. 47, Sec. 1, eff. May 1, 1989.
Amended by Acts 1999, 76th Leg., ch. 925, Sec. 2, eff. Sept. 1, 1999.

Sec. 89.022. REQUIRED PROVISIONS. The state artificial reef plan must include:

(1) operational guidelines for the plan, including specific participant roles, and projected funding requirements for the plan;

(2) geographic, hydrographic, geological, biological, ecological, social, economic, and other criteria for permitting and siting artificial reefs;

(3) design, materials, and other criteria for establishing, constructing, and maintaining artificial reefs;

(4) mechanisms and methodologies for monitoring artificial reefs in compliance with the requirements of permits issued under the National Fishing Enhancement Act;

(5) mechanisms and methodologies for managing the use of artificial reefs;

(6) a map that depicts priority areas for artificial reef development consistent with this chapter and the National Fishing Enhancement Act; and

(7) provisions for managing the artificial reef account in a manner that will assure successful implementation of the plan.

Added by Acts 1989, 71st Leg., ch. 47, Sec. 1, eff. May 1, 1989.

Amended by Acts 1993, 73rd Leg., ch. 679, Sec. 59, eff. Sept. 1, 1993.

Sec. 89.023. STANDARDS. An artificial reef located in water covered under this chapter must be sited, constructed, maintained, monitored, and managed in a manner that:

(1) enhances and conserves fishery resources to the maximum extent practicable;

(2) facilitates access and use by Texas recreational and commercial fishermen;

(3) minimizes conflicts among competing uses of water and water resources;

(4) minimizes environmental risks and risks to personal and public health and property;

(5) is consistent with generally accepted principles of international law and national fishing law and does not create any unreasonable obstruction to navigation;

(6) uses the best scientific information available; and

(7) conforms to the state artificial reef plan.

Added by Acts 1989, 71st Leg., ch. 47, Sec. 1, eff. May 1, 1989.

Sec. 89.024. COMPLETION DATE. The department must complete the state artificial reef plan on or before September 1, 1990.

Added by Acts 1989, 71st Leg., ch. 47, Sec. 1, eff. May 1, 1989.

Sec. 89.025. REEFS CONSISTENT WITH PLAN. (a) All artificial reefs developed in state water must be consistent with

the state artificial reef plan.

(b) Comments and recommendations by a state agency regarding artificial reefs in federal water must be consistent with the state artificial reef plan.

Added by Acts 1989, 71st Leg., ch. 47, Sec. 1, eff. May 1, 1989.

SUBCHAPTER C. ARTIFICIAL REEF ACCOUNT

Sec. 89.041. ARTIFICIAL REEF ACCOUNT. (a) The artificial reef account is a separate account in the general revenue fund.

(b) The account is composed of all funds received under Section 89.043 of this code, including interest and earnings.

(c) Except as provided by Section 89.042(b), general revenue funds may not be expended in the development or implementation of this plan.

Added by Acts 1989, 71st Leg., ch. 47, Sec. 1, eff. May 1, 1989.

Amended by Acts 1993, 73rd Leg., ch. 679, Sec. 60, eff. Sept. 1, 1993.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1097 (H.B. 2065), Sec. 2, eff. June 14, 2019.

Sec. 89.042. DEDICATION; APPROPRIATIONS. (a) The funds received under Section 89.043 of this code are dedicated to the department for the purpose of carrying out this chapter, including siting, designing, constructing, monitoring, and otherwise managing an artificial reef or artificial reef system.

(b) The legislature may appropriate money from the general revenue fund to the department for:

(1) salaries of department employees implementing this chapter; and

(2) costs associated with those employees, including the cost of employee benefits.

Added by Acts 1989, 71st Leg., ch. 47, Sec. 1, eff. May 1, 1989.

Amended by Acts 1993, 73rd Leg., ch. 679, Sec. 60, eff. Sept. 1, 1993.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1097 (H.B. 2065), Sec. 3, eff. June 14, 2019.

Sec. 89.043. GRANTS, DONATIONS, AND OTHER ASSISTANCE. The department may accept grants, donations of money or materials, and other forms of assistance from private and public sources.

Added by Acts 1989, 71st Leg., ch. 47, Sec. 1, eff. May 1, 1989.

Amended by Acts 1993, 73rd Leg., ch. 679, Sec. 60, eff. Sept. 1, 1993.

SUBCHAPTER D. MISCELLANEOUS PROVISIONS

Sec. 89.061. LIABILITY. (a) The state, an agency of the state, or an insurer of the state or agency of the state is not liable for damages caused by an activity required under the terms and conditions of a permit for an artificial reef.

(b) A person who has transferred title of artificial reef construction materials to the state is not liable for damages arising from the use of the materials in an artificial reef if the materials meet applicable requirements of the National Fishing Enhancement Act and applicable regulations of the United States Department of the Interior.

Added by Acts 1989, 71st Leg., ch. 47, Sec. 1, eff. May 1, 1989.