

TITLE 36
FISH AND GAME

CHAPTER 9
PROTECTION OF FISH

36-901. FISHING UNLAWFUL EXCEPT BY COMMISSION RULE OR PROCLAMATION. No person shall take by any method or means, at any place or time or in any amount, or to have in possession fish from any of the waters of the state of Idaho except as permitted by provisions of this title and commission rules or proclamations promulgated pursuant thereto.

[36-901, added 1976, ch. 95, sec. 2, p. 348; am. 1992, ch. 81, sec. 22, p. 239; am. 1998, ch. 170, sec. 5, p. 580.]

36-902. UNLAWFUL FISHING METHODS -- DESTRUCTION OF FISH PROHIBITED -- EXCEPTIONS. Except as may be otherwise permitted by law or commission rule or proclamation no person shall:

(a) Destructive Substances. Deposit, throw, place, allow or cause to pass into any of the waters of this state any deleterious drugs, toxicants, chemicals, poisonous substances, explosives, electrical current, or other material which may tend to destroy, kill, disable, or drive away fish.

(b) Mills. Operate any sawmill, reduction works or quartz mill upon any natural stream course or lake without having first constructed a proper dam for settling purposes as approved by the director.

(c) Net, Spear. Catch, attempt to catch or kill any species of fish whatever in any of the streams, rivers, lakes, reservoirs or waters of this state with any seine, net, spear, snag hook, weir, fence, basket, trap, gill net, dip net, trammel net or any other contrivance.

(d) Minnows. Take, transport, use or have in possession minnows, fish or the young of any fish or parts thereof for bait or to release in any manner live minnows, fish or the young of any fish into the waters of this state.

(e) Chumming. Deposit or distribute any substance not attached to a hook for the purpose of attracting fish. Salmon eggs or other spawn may be used for bait only when attached to a hook on a line and fished in the conventional manner.

(f) Penalty. Any person convicted of any violation of any of the provisions of this section shall: for subsections (a) and (b), be fined in a sum of not less than one hundred fifty dollars (\$150) for each offense, and/or by commitment to jail for a period of not more than six (6) months; for subsection (c), not less than fifty dollars (\$50.00), and/or by commitment to jail for a period of not more than six (6) months; for subsections (d) and (e), as provided in section [36-1402](#), Idaho Code.

[36-902, added 1976, ch. 95, sec. 2, p. 348; am. 1989, ch. 375, sec. 1, p. 944; am. 1991, ch. 49, sec. 2, p. 89; am. 1992, ch. 81, sec. 23, p. 239; am. 1998, ch. 170, sec. 6, p. 580; am. 2002, ch. 48, sec. 1, p. 110.]

36-903. CONTROL OR REMOVAL OF UNDESIRABLE FISH. (a) Commission May Authorize Removal or Destruction. In any waters of this state where it is deemed the population of any species of fish is of such density as to be detrimental to the overall fishery resource, the commission may authorize the reduction or removal of such fish. The fish so taken shall be disposed

of, with or without royalty, and in such manner as the commission may determine.

(b) Commission to Authorize Rehabilitation. The commission may authorize the director to rehabilitate any fishery in such waters of the state as found, through proper investigation, to be desirable.

[36-903, added 1976, ch. 95, sec. 2, p. 349.]

36-905. FISH RACKS OR TRAPS UNLAWFUL EXCEPT BY PERMIT. No person shall place racks or traps or any other obstruction across any of the streams or waters of the state of Idaho in order to take fish for any purpose without first obtaining a permit from the director. No unauthorized person shall tamper with, damage or destroy any such permitted rack, trap or other obstruction.

[36-905, added 1976, ch. 95, sec. 2, p. 350; am. 1992, ch. 81, sec. 25, p. 240.]

36-906. FISHWAYS IN DAMS -- SCREENS IN DIVERSIONS -- REMOVAL OF UNUSED DAMS -- PENALTY. (a) Fishways Required. No person shall construct or maintain a dam or other obstruction which restricts the free and uninterrupted passage of fish in any stream in this state without a proper fishway therein. Such fishway shall be installed and maintained at the owner's expense and shall be of a sufficient kind and capacity as to accommodate seasonal movements of fish up and down the stream. Said fishway shall be constructed according to plans and specifications approved by the director and such plans shall be incorporated into the overall design of said dam prior to the start of construction. The director, upon request, shall furnish design criteria for such fishway construction. The provisions of this subsection do not apply to the Hells Canyon hydroelectric project.

(b) Screening of Diverted Waters. No person shall operate any mill, factory, power plant or other manufacturing concern run by water power and having either a head or tail race, or for any person to maintain and operate any ditch, flume, canal or other water conduit receiving or taking water from any stream or lake in this state without first installing and maintaining a suitable screen or other device to prevent fish from entering therein; said screens shall be installed and maintained in a manner and to such specifications and at such locations as may be required by the director and at the expense of the owner or operator of such diversion.

(c) Notification of Need -- Screens or Fishways. When a need is found for screens or fishways in planned or existing diversions, dams or obstructions, the director shall order in writing the construction and installation of such screens or fishways. Said order shall specify the type, design and location of said screen or fishway and the time within which said screen or fishway must be installed. Said time shall not be less than thirty (30) days nor more than six (6) months from the date of service of said order.

(d) Removal of Existing Structures -- Removal of Abandoned Structures. When it is found that dams or other obstructions which have been placed in the rivers or streams of this state have been abandoned or are not serving any useful purpose and it appears the same are detrimental to the fishery resource, the director may cause the removal of same in such manner as he may see fit.

[36-906, added 1976, ch. 95, sec. 2, p. 350; am. 1978, ch. 92, sec. 3, p. 175; am. 1992, ch. 81, sec. 26, p. 240; am. 2017, ch. 137, sec. 1, p. 330.]

36-907. OPEN PASSAGE -- REPLACEMENT BY DEPARTMENT -- MAINTENANCE BY OWNER. When it is determined that any existing or proposed dam or obstruction requires a fishway and none has been installed therein, the director shall keep the same open until said fishway is put therein by the owner. Where a fishway has heretofore been constructed and approved by the director and has proved useless or inadequate for such purpose, the director shall have authority to construct a new fishway and to pay the expense of such construction out of the fish and game fund. However, when such fishway is then properly functioning, it shall be maintained and replaced as required at the expense of the person owning the dam or other obstruction.

[36-907, added 1976, ch. 95, sec. 2, p. 351.]

36-908. THE DEPARTMENT IS AUTHORIZED TO ESTABLISH OR MAINTAIN SCREENING DEVICES IN ARTIFICIAL WATERCOURSES. The department may install and maintain screening and bypass devices in any gravity-fed diversion taking or receiving one hundred twenty-five (125) cubic feet of water per second or less from any stream or lake in this state in which fish may exist or are placed or planted, to prevent said fish from leaving such waters. For such purposes, the department may install, maintain, repair, relocate or reinstall all such screens, gratings, or other devices and all bypasses thereto. No screen or other device shall be installed which will diminish the flow of water in such diversion. It shall be unlawful for any person to interfere with, tamper with, damage, destroy or remove any fish screening or bypass device installed pursuant to this chapter.

[36-908, added 1976, ch. 95, sec. 2, p. 351.]

36-909. PENALTY. Any person violating any of the provisions of this chapter relating to fish racks or traps, fishways, fish ladders or screens shall be guilty of a misdemeanor. Provided, that the continuance from day to day of the neglect or refusal to correct the violation shall constitute a separate offense for each day.

[36-909, added 1976, ch. 95, sec. 2, p. 352.]