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Summary of Laws for Commercial Shad Fishing with Legal References

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Summary of Laws for Commercial Shad Fishing with Legal References

2012-2013

This document should be kept on board all vessels employed for commercial shad fishing as a reference to regulation, not to supersede knowledge of the pertinent laws.

License Requirements: [Section 50-5-300, Section 50-5-310, Section 50-5-325, Section 50-5-1500]

	<u>Resident</u>	<u>Non-Resident</u>
Saltwater Commercial License	\$25.00	\$300.00
Shad Gill Net License	\$10/100 yards or fraction	\$50/100 yards or fraction
Commercial Vessel Decal	No Charge	No Charge
Shad Gill Net Permit	No Charge	No Charge
Freshwater Commercial License	\$50.00	\$1000.00

Legal definitions important to shad fishermen include:

- “Anadromous” identifies fish which undertake adult migration from brackish or salt waters into freshwaters to spawn, except striped bass or rock fish and hybrid bass, and includes landlocked stocks of those fish. **[Section 50-5-15 (1)]**
- “Cast net” means nonbaited circular webbing having a weighted peripheral line which is thrown by hand and retrieved by a central line connected to radiating tuck lines attached to the peripheral line. **[Section 50-5-15 (7)]**
- “Catadromous” identifies fish which undertake adult migration from freshwater into brackish or salt water to spawn. **[Section 50-5-15 (8)]**
- “Commercial equipment” means:
 - (a) any trawl, haul seine, gill net, channel net, bull rake, seed fork, grabs, escalator, or dredge; and
 - (b) any net, seine, trap, pot, tongs, rake, fork, trotline, or other device or appliance when used for taking or attempting to take fish for a commercial purpose. **[Section 50-5-15 (11)]**
- “Commercial purpose” means:
 - (a) being engaged in buying or selling fish;
 - (b) taking or attempting to take fish in order to derive income or other consideration;
 - (c) using commercial equipment; and
 - (d) otherwise being engaged in the fisheries industry with the intent to derive income. **[Section 50-5-15 (12)]**
- “Fish” means finfish, shellfish including mollusks, crustaceans, horseshoe crabs, whelks (conchs), turtles, and terrapin or products thereof. **[Section 50-5-15 (21)]**
- “Freshwater” all waters of the river and their tributaries, streams and estuaries lying above the dividing line.
- “Gill net” means a net which is designed to hang vertically and capture fish by entanglement usually of the head, gill covers, or preopercles, and does not include gill net for taking shad unless specified. **[Section 50-5-15 (25)]**
- “Herring” means any or all life stages of the river herrings being blueback herring (*Alosa aestivalis*) and alewife (*Alosa pseudoharengus*). **[Section 50-5-15 (27)]**

- “Recreational fishermen” means persons taking or attempting to take saltwater fish for recreation only, and not for commercial purposes. **[Section 50-5-15 (41)]**
- “Salt waters” means all waters of the rivers and their tributaries, streams, and estuaries lying seaward of the dividing line between salt water and freshwater and all impounded waters seaward of the dividing line between salt water and freshwater which are intermittently filled or drained by the action of the tide. **[Section 50-5-15 (42)]**
- “Saltwater gamefish” means any species of saltwater fish designated as a saltwater gamefish in this title. **[Section 50-5-15 (43)]**
- “Shad” means American or white shad (*Alosa sapidissima*) and hickory or skip-jack shad (*Alosa mediocris*). **[Section 50-5-15 (46)]**
- “Striker” means a person, other than a licensed saltwater commercial fisherman, who under immediate supervision assists a licensed commercial saltwater fisherman, but does not use separate commercial equipment on a vessel which is engaged in commercial fishing. **[Section 50-5-15 (54)]**
- “Take” means to harass intentionally, hunt, capture, gather, harvest, remove, catch, wound, or kill or attempt to harass, hunt, capture, gather, harvest, remove, catch, wound, or kill. **[Section 50-5-15 (55)]**
- “Territorial sea” means that portion of the Atlantic Ocean under the jurisdiction of the State of South Carolina as depicted on charts of the National Oceanic and Atmospheric Administration or its successor agency. **[Section 50-5-15 (56)]**
- “Skim-bow net” means a net constructed of webbing not greater than two and one-half inches, stretched mesh, hung within a frame formed by a length of wood or other material looped and attached upon itself end to end forming a loop having no distance across greater than fifteen feet. **[Section 50-5-15 (62)]**
- “Stretch” as used to describe the measure of mesh of nets means that the material is pulled snugly but not to the point of lengthening the single or multi-strand line of the netting. Measurement is made across the widest dimension of the mesh when so pulled. **[Section 50-5-15 (63)]**

A person taking shad, herring, or eels for commercial purposes:

In the salt waters of this State, must obtain a commercial saltwater fishing license and a commercial saltwater equipment license and related permits; **[Section 50-9-420 (1)]**

In the freshwaters of this State, must obtain a commercial freshwater license and a commercial saltwater equipment license and related permits. **[Section 50-9-420 (2)]**

A person taking shad, herring, or eels for recreation:

In the saltwaters of this State must have a recreational saltwater fishing license; if using a gill net or eel pot, must have an annual recreational saltwater license and a saltwater commercial equipment license and related permits; **[Section 50-9-545 (1)]**

In the freshwaters of this State must have a recreational freshwater fishing license; if using a gill net or eel pot, must have an annual recreational freshwater fishing license and a saltwater commercial equipment license and related permits. **[Section 50-9-545 (2)]**

Seasons:

General: Methods and Equipment: Any lawful method and equipment unless noted by the area
 Size and Take Limits: No limits unless noted by the area

Great Pee Dee River, Little Pee Dee River, Lynches River, Black River, Waccamaw River from Big Bull Creek to Winyah Bay, Winyah Bay, and all tributaries and distributaries there to as follows:

Pee Dee River and tributaries above U.S. Highway 701 and Black River:

Season: January 15 – April 15
Times: Monday Noon – Saturday Noon, local time
Methods: Any lawful method and equipment
Size and take: No limits

Remainder of Winyah Bay system, including all of Big Bull Creek and Waccamaw River with tributaries below the entrance of Big Bull Creek:

Season: January 15 – April 1
Times: Monday Noon – Saturday Noon, local time
Methods: No restrictions, except drift nets not more than nine hundred feet in length are allowed in Waccamaw River between Butler Island and U.S. Highway 17 during lawful times
Size and take: No limits

Santee River- includes below Wilson Dam including the Rediversion Canal below St. Stephen Dam, North Santee River, North Santee Bay, and South Santee River, and all tributaries and distributaries thereto as follows:

Rediversion Canal from St. Stephen Dam seaward to the seaward terminus of the northern dike of the Rediversion Canal:

Season: No open season

Rediversion Canal from the seaward terminus of the northern dike of the Rediversion Canal seaward to Santee River:

Season: January 15 – April 15
Times: 7am – 7pm local time, Tuesday and Thursday
Methods: Any lawful method and equipment
Size and take: No limits

Wilson Dam to US Hwy 52

Season: No open season

US Hwy 52 to SC Hwy 41:

Season: January 1 – April 15
Times: 7am –7pm local time, Tuesday and Thursday
Methods: Any lawful method and equipment
Size and take: No limits

SC Hwy 41 seaward:

Season: January 15 – March 15
Times: Monday Noon- Saturday Noon, local time

Wando River and Cooper River seaward to US Hwy 17 bridges, Charleston Harbor, Ashley River and all tributaries and distributaries thereto as follows:

Tailrace Canal from Wadboo Creek to Jeffries Power Plant:

Season: No open season

Cooper River from Wadboo Creek to US Hwy 17:

Season: No open season

Ashley River seaward to its confluence with Popper Dam Creek:

Season: No open season

Remainder of Charleston Harbor System (includes Wando River):

Season: No open season

Edisto River- includes Edisto River Estuary, Edisto River, North and South Branches (Forks) of the Edisto River, and all tributaries and distributaries there to as follows:.

Above US Hwy 15 bridge:

Season: February 1 – March 30
Times: Tuesday Noon – Saturday Noon, local time
Methods: Any lawful method and equipment
Size and take: No limits

Seaward of US Hwy 15 bridge and above US Hwy 17 bridge:

Season: February 1 - March 30
Times: Tuesday Noon – Saturday Noon, local time
Methods: Any lawful method and equipment
Size and take: No limits

Seaward (below) US Hwy 17 bridge:

Season: February 1 – March 30
Times: Wednesday Noon – Friday Midnight, local time
Methods: Any lawful method and equipment

Size and take: No limits

Ashepoo River-

Season: No open season

Combahee River-

All tributaries except main stems of Salkehatchie Rivers:

Season: No open season

Main River, including main stems of Salkehatchie Rivers:

Season: February 1 – March 15

Times: Anchored nets: Tuesday Noon – Friday Noon, local time

Drift nets: Monday Noon – Saturday Noon, local time

Coosawhatchie River

Season: No open season

Savannah River—South Carolina portions

Main River below U.S. Highway 301 and above U.S. Interstate Highway 95:

Season: January 1 – April 15

Times: Wednesday 7am – Saturday 7pm, local time

Methods: Any lawful method and equipment

Size and take: No limits

Tributaries above I95 bridge:

Season: No open season

Seaward of I95 Bridge:

Season: January 1 – March 31. Taking or attempting to take shad
With anchored nets is prohibited at all times in the
Savannah River's Little Black River, Black River and the
North channel of the Savannah River downstream from
The New Savannah Cut;

Times: Tuesday 7am – Friday 7 pm, local time

Methods: Any lawful method and equipment

Size and take: No limits

Atlantic Ocean Territorial Sea:

Season: no open season

Lake Moultrie, Lake Marion, Diversion Canal, & Intake Canal of Rediversion Canal:

Season:	No closed season
Times:	No restrictions
Methods:	Cast nets and lift nets for bait only
Take limits:	250 pounds of herring and shad combined per boat per day

Licenses and permits requirements; penalty for unlawful taking.

The department may restrict the number of nets for taking shad in any body of water where the numbers of nets or fishermen must be limited due to statutory limitations on placement of nets, to prevent congestion of nets or watercraft, or for conservation purposes. The department may grant permits to licensed commercial saltwater fishermen for this purpose. Permits may be limited in number and may be conditioned so as to designate areas, size and take limits, hours, type and amount of equipment, and catch reporting requirements. **[Section 50-5-1500 (B)]**

A person taking or attempting to take shad with commercial equipment must obtain a commercial saltwater fishing license and commercial equipment license and any related permits. **[Section 50-5-1500 (C)]**

It is unlawful to take or attempt to take shad with commercial equipment without obtaining the required fishing licenses or permits. **[Section 50-5-1500 (D)]**

Special provisions as to shad and herring.

It is unlawful to take shad by hook and line or by skim-bow net while operating or possessing any commercial fishing equipment for taking shad or herring. **[Section 50-5-1510 (A)(1)]**

It is unlawful for a recreational fisherman to take shad with any other fishing equipment except cast nets, skim-bow nets, and hook and line which includes rod and reel, provided that a properly licensed gill net may be used to take shad for recreational purposes. Except from sanctuaries designated by the department, a recreational fisherman may take shad:

- [a] by hook and line and cast net at any time of the year,
- [b] by skim-bow net from February 1 – April 30; and
- [c] by licensed gill net during those times provided in this article for commercial fishing.

[Section 50-5-1510 (A)(2)]

It is unlawful to possess saltwater or freshwater gamefish or fishing tackle capable of taking saltwater or freshwater gamefish while using shad gill nets. **[Section 50-5-1510 (A)(3)]**

Nongame fish taken in lawfully fished shad nets or skim-bow nets may be kept by the fisherman. Any Atlantic sturgeon and any gamefish must be returned immediately to the water. **[Section 50-5-1510 (A)(4)]**

It is unlawful to set a net in a fixed position in the navigation channel of the Atlantic Intracoastal Waterway. **[Section 50-5-1510 (A)(5)]**

A gill net used for taking or attempting to take shad in the inshore salt waters of this State must have a stretched mesh size of no smaller than five and one-half inches and a length not exceeding nine hundred feet. Gill nets for taking shad in the inshore salt waters of this State may be drift fished or set in accordance with this chapter. Only one shad gill net may be drift fished by occupants of a boat, and the drift net must be attended at all times when deployed. Additional boats in tow may not be used to increase the number of authorized nets. **[Section 50-5-1510 (A)(9)]**

Except as otherwise provided by law or by regulation promulgated under this article, any gill net used for taking or attempting to take shad in the freshwaters of this State must have a stretched mesh size of no smaller than five and one-half inches and be no longer than six hundred feet. Gill nets for taking shad in the freshwaters of this State may be freely drift fished or set in accordance with the provisions of this chapter. Only one shad gill net may be drift fished by occupants of a boat, and the drift net must be attended at all times when deployed. Additional boats in tow may not be used to increase the number of authorized nets. **[Section 50-5-1510 (A)(10)]**

A gill net used for taking or attempting to take shad in the salt waters of this State must have at least one end buoy attached which has the name and license number of the owner clearly marked on it. A buoy not less than twenty inches in diameter must be attached to each end of the net, and in any net more than three hundred feet in length a buoy not less than ten inches must be attached every three hundred feet on the float line. All buoys must be international orange in color and must float so as to be clearly visible at all times. **[Section 50-5-1510 (A)(13)]**

A gill net used for taking or attempting to take shad in the freshwaters of this State must be marked with buoys, international orange in color and not less than six inches in diameter, which float in a manner to be clearly visible at all times. One buoy must be attached to the float line of the net every three hundred feet, and a buoy must be attached to each end of each net. At least one end buoy attached to the net must have the name and license number of the owner clearly marked on it. **[Section 50-5-1510 (A)(14)]**

Skim-bow nets must be used or fished only from high land or from a pier, dock, or other structure permanently affixed to high land without the aid of any power assisted device. Only shad, herring, and other nongame fish may be retained. No such fish may be sold. **[Section 50-5-1510 (A)(15)]**

Shad hook and line catch limits.

A person taking shad by cast net, skim-bow net, or by hook and line may possess no more than a total of ten American and hickory shad per one day except in the Santee River where the limit is twenty per day. **[Section 50-5-1515 (B)]**

No shad taken by cast net, skim-bow net, or by hook and line may be sold, offered for sale, or purchased. In freshwaters, a person must hold a freshwater fishing license. **[Section 50-5-1515 (C)]**

Unlawful taking of Atlantic sturgeon; penalties.

Any sturgeon taken must be released immediately back into the waters where taken. **[Section 50-5-1525 (A)]**

Taking of shortnose sturgeon prohibited; penalty.

It is unlawful for anyone to take, possess, buy, sell, or ship shortnose sturgeon (*Acipenser brevirostrum*) or any part or product thereof. Any shortnose sturgeon taken incidentally to fishing activity must be returned unharmed immediately to the water from where taken. **[Section 50-5-1535]**

Net placement.

No shad net, including its cables, lines, or attached devices, either set or drift fished may be longer than one-half the normal width of the water body at the place where used, regardless of the stage of the tide, river stage, water level, or method of net deployment. **[Section 50-5-1540 (A)]**

[1] No net may be set within six hundred feet of any gill net previously set.

[2] No net may be drifted within six hundred feet of another drifting net.

[3] No net may be placed or set within seventy-five feet of the confluence of any tributary. **[Section 50-5-1540 (B)]**

A lawfully drifted gill net may pass within six hundred feet of a lawfully anchored gill net. **[Section 50-5-1540 (C)]**

Removal of nets during off times and periods; penalties.

During times and periods when taking of shad by net is not allowed, any net which could be used for taking herring must be removed from the waters. **[Section 50-5-1545 (A)]**

Any non-mesh, net-related fishing apparatus, including leads, cables, anchors, signs, and buoys must be removed from the waters and banks of the streams or water courses no later than three days after the close of the shad season. Any net or part thereof found in violation is contraband and must be seized and disposed of as provided by law. **[Section 50-5-1545 (D)]**

Anchors with attached line and buoys may remain in lawful waters during weekly closed periods of the open season. **[Section 50-5-1545 (E)]**

Seizure of net or seine containing decomposed fish.

Any net or seine set in the waters of this State which contains decomposed fish is contraband and must be seized and disposed of as provided in this chapter. **[Section 50-5-1550]**

A commercial fisherman who sells shad, herring, or eels must sell to either a licensed wholesale seafood dealer or a licensed bait dealer or must be licensed as a wholesale seafood dealer or bait dealer. **[Section 50-5-1556]**

Information for the Shad Fishery

Just a reminder, if you plan to catch shad with commercial gear you **MUST**:

- Buy a saltwater commercial license and/or freshwater commercial license (depending on where you are fishing)
- Buy license for type of gear type
- Obtain a permit from the OFM Permitting Office
- Sell to a **licensed** dealer
- **Complete** and return **Mandatory Shad and Herring Harvest Report Forms** to SCDNR.

If you plan to catch shad with commercial gear and **sell** your catch as a dealer (sell it yourself) you **MUST**:

- Buy a saltwater commercial license and/or freshwater commercial license (depending on where you are fishing)
- Buy license for gear type
- Obtain a permit from the OFM Permitting Office
- Buy a wholesale dealer license or bait dealer license
- **Complete** and return **Mandatory Shad and Herring Harvest Report Forms** to SCDNR.

Fishermen landing their catch and who **do not** have a commercial license are prohibited from selling or transferring any seafood product for personal gain to the public or to any business that **does not** have a primary wholesale dealers license or bait dealers license.

Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, **MUST** be fined \$155-1088 or imprisonment for 30 days. In addition, any catch, load, or shipment of seafood in the possession of those violators may be seized and sold, with the proceeds held pending the disposition of the case.

Please fill out all blanks on Mandatory Shad Harvest Forms and return them by the 10th of the following month. It is important for the management of the species to know:

- **What river you are fishing**
- **What type of gear you are using (Drift or Set nets, length of nets, how many)**
- **How long your gear is in the water (How long you fish per trip)**
- **Number and Sex of Shad caught and incidental catches (sturgeons, or hickory Shad)**

If you have any questions or concerns, feel free to contact SCDNR personnel.

Commercial Lic. (843) 953-9301 then press 6

Bill Post (843) 953-9821

OFM Permitting Office (843) 953-9311