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Summary of laws for commercial herring fishing with legal references 2014-2015

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Summary of Laws for Commercial Herring Fishing with Legal References

2014-2015

This document should be kept on board all vessels employed for commercial herring 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
Herring Gill Net License	\$10/100 yards or fraction	\$50/100 yards or fraction
Haul Seine License	\$10/100 feet or fraction	\$50/100 feet or fraction
Commercial Vessel Decal	No Charge	No Charge
Herring Gill Net Permit	No Charge	No Charge
Freshwater Commercial License	\$50.00	\$1000.00

Legal definitions important to herring 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:

Winyah Bay System- includes Black River, Little Pee Dee River, Lynches River, Sampit River, and the Waccamaw River from its northern ocean outlet at Little River to Winyah Bay, and Winyah Bay.

Season: No open season

Great Pee Dee River:

Season: February 15 through April 15

Times: 7:00 am Wednesday to 7:00 pm Saturday, local time

Methods: Any lawful method and equipment

Take Limit: No limits

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

Santee River below the cable and buoys marking the seaward boundary of the Wilson Dam Sanctuary designated by the department seaward to Wilson Dam Boat Landing:

Season: February 15-April 30

Times: Sunrise Monday – sunset Thursday, as locally published

Methods: Cast net and seine net. A seine may not exceed one hundred yards in total length. The mesh of the seine must not be less than one-half inch square. All fish except those used for live bait must be containerized in one bushel units before landing.

Take Limit: 10 US bushels per boat per day. No harvest may be transferred between boats. No additional boat may be used to increase a person's daily take.

Rediversion Canal:

Season: March 1- April 30

Times: 7pm-12pm EST, 8pm-12pm DST

Methods: Circular drop nets up to 6 feet in diameter, lift nets and Cast nets. Nets must be operated by hand; no trawling; no culling. All fish except those for live bait must be containerized in up to 100 pound units before landing. No

fishing within 100 feet of the fish lift exit channel at St. Stephen Powerhouse, except with hook and line from March 1-April 15.

Take Limit: 10 US bushels per boat per day. No harvest may be transferred between boats. No additional boat may be used to increase a person's daily take.

Santee River seaward of Wilson Boat Landing:

Season: No open season

Charleston Harbor- includes Wando River and Cooper River to US Hwy 17 bridges, Charleston Harbor, and Ashley River and all tributaries and distributaries.

Tailrace Canal from CSX Railroad Bridge to Jefferies Power Plan Sanctuary Line:

Season: March 1- April 30

Times: Locally published sunrise – 10 pm

Methods: Circular drop nets up to 6 feet in diameter, lift nets and Cast nets. Nets must be operated by hand; no trawling; no culling. All fish except those for live bait must be containerized in up to 100 pound units before landing.

Take Limit: 10 US bushels per boat per day. No harvest may be transferred between boats. No additional boat may be used to increase a person's daily take.

Cooper River from CSX Railroad bridge to US Hwy 17:

Season: No open season

Charleston Harbor system excluding Tailrace Canal and Cooper River seaward to the US HWY 17 bridges:

Season: February 15 – April 15

Methods: Any lawful method and equipment

Take Limit: No take limits

Lake Moultrie, Lake Marion, Diversion Canal, Intake Canal of Rediversion Canal- no closed season, no time restrictions; may use cast nets, lift nets, and hook and line. Limit of 250 pounds per boat per day of shad and herring combined.

Lake Jocassee—no closed season; no time restrictions; hook and line only. No take limit.

Lake Keowee—no closed season; no time restrictions; cast net and hook and line only. No take limit.

Lake Hartwell-- no closed season; no time restrictions; cast net and hook and line only. No take limit.

Lake Richard B. Russell-- no closed season; no time restrictions; cast net and hook and line only. No take limit.

Lake J. Strom Thurmond-- no closed season; no time restrictions; cast net and hook and line only. No take limit.

Savannah River and all tributaries and distributaries; Seaward of the Augusta Diversion Dam— no open season

Lake Secession, Stevens Creek Reservoir-- no closed season; no time restrictions; cast net and hook and line only. No take limit.

Lake Greenwood, Lake Murray, Saluda River between Buzzards Roost and SC Hwy 121-- no closed season; no time restrictions; cast net and hook and line only. No take limit.

Catawba River impoundments including Lake Wylie and Lake Wateree-- no closed season; no time restrictions; cast net and hook and line only. No take limit.

Lake Monticello-- no closed season; no time restrictions; cast net and hook and line only. No take limit.

Licenses and permits requirements; penalty for unlawful taking.

The department may restrict the number of nets for taking herring 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)]**

Special provisions as to shad and herring.

It is unlawful to take herring 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 herring 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 herring 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 herring in the salt waters of this State must have a mesh size of two and one-half inches stretched and a length no greater than nine hundred feet. Only one herring gill net may be used 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)(11)]**

A gill net used for taking or attempting to take herring in freshwaters must have a stretched mesh of two and one-half inches stretched and a length no greater than six hundred feet. **[Section 50-5-1510 (A)(12)]**

A gill net used for taking or attempting to take herring 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 herring 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)]**

Herring catch limits.

A person not licensed as a commercial saltwater fisherman taking or attempting to take herring by cast net or by hook and line, including rod and reel, may take or possess no more than an aggregate of one bushel of herring in any one day. In freshwaters, a person must hold a freshwater fishing license. **[Section 50-5-1520]**

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 herring 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 herring by net is not allowed, any net which could be used for taking herring must be removed from the waters. **[Section 50-5-1545 (B)]**

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 50-5-1557]**

Information for the Herring Fishery

Just a reminder, if you plan to catch herring with commercial gear (herring gill net or herring cast net) you **MUST**:

- Buy a saltwater fishing license and/or freshwater fishing license (depending on where you are fishing). If you are recreationally fishing (NOT selling your catch) then you need your recreational fishing license.
- Buy a herring net license
- Obtain a permit from the OFM Permitting Office
- Sell to a **licensed** dealer
- **Complete** and return **Mandatory 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 a herring net license
- Obtain a permit from the OFM Permitting Office
- Buy a wholesale **dealer** license or bait **dealer** license
- **Complete** and return **Mandatory Herring Harvest and Dealer 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.

Please fill out all blanks on Mandatory Herring 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 (Gill or Cast nets, length of nets, how many)**
- **How long your gear is in the water (How long you fish per trip)**
- **Number of Herring caught**

If your license/ permit is suspended or revoked, you are entitled to an administrative appeal pursuant to the South Carolina Administrative Procedures Act. The review must be scheduled by the Administrative Law Court in accordance with the division's procedural rules. The scope of the hearing is limited to the issues set out by the Administrative Procedures Act and the division's procedural rules. Appeals must be filed and served within 30 days of suspension/ revocation notice with the Clerk of Court of Administrative Law Court 1205 Pendleton Street Suite 224 Columbia, SC 29201, telephone (803)734-0660.