

**PROPOSAL 159**

**5 AAC 27.195. Sitka Sound commercial sac roe herring fishery.**

Repeal this regulation related to management of the commercial sac roe herring fishery in Sitka Sound, as follows:

The Board should repeal 5 AAC 27.195. Other regulation, including 5 AAC 27.160(g) and 27.190 establish clear and sufficient guidance to the department for management of the commercial sac roe fishery and to assure reasonable subsistence opportunity. Reasonable subsistence opportunity was also enhanced with the biomass threshold increase of 5,000 tons (2 million pounds) and establishment of the “core area” closure of 2012 and then substantially increased again in 2018. In short, 5 AAC 27.195 is not necessary for the department to manage the two fisheries and, if interpreted as the Sitka Tribe of Alaska (STA) contends, will totally compromise commercial sac roe fishery in Sitka Sound.

**What is the issue you would like the board to address and why?** The board enacted 5 AAC 27.195 in 2002 in an effort to provide direction to the department regarding management of the commercial herring sac roe and subsistence herring egg fisheries in Sitka Sound. This regulation, which the Board has not revisited since 2002, is outdated, ambiguous and subject to misinterpretation. Problems include (but are not limited to): 1) How the regulation should be applied in light of subsequent action by the Board to raise the recommended biomass of 20,000 tons by 25% (5,000 tons) to 25,000 tons as a buffer for subsistence. Also, in 2012, the board designated a “core area” closed to commercial sac roe fishing as the area most important for subsistence harvest of roe on branches; and (2) whether the regulation prohibits the department from opening the sac roe fishery prior to the onset of the herring spawn as argued by STA in a lawsuit against the Board and the department. STA contends that in adopting 5 AAC 27.195, the Board intended that the department delay opening the commercial fishery until enough herring have spawned to allow a determination that the subsistence harvest will be sufficient in both quantity and quality to meet subsistence needs. (Determination of quality and quantity is problematic and impossible to accomplish in-season). Delaying the commercial fishery as STA alleges that this regulation requires, would clearly eliminate the commercial sac roe fishery and cannot be the Board’s intent when the regulation was adopted.

**PROPOSED BY:** Southeast Herring Conservation Alliance

(HQ-F20-106)

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