

(2) OLD OYSTER SHELLS THAT ARE DREDGED FROM THE CHESAPEAKE BAY OR ITS TRIBUTARIES.

(B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, ANY COMMERCIAL LICENSED OYSTER PACKER DEALER SHALL RESERVE FOR 8 MONTHS AFTER THE OPENING OF EACH ANNUAL HARVEST SEASON ALL OYSTER SHELLS OF OYSTERS HARVESTED FROM THE CHESAPEAKE BAY OR ITS TRIBUTARIES AND COMMERCIALY SHUCKED IN THE STATE FOR THE USE OF PURCHASE BY THE DEPARTMENT IN FOR REPLANTING ON PUBLIC OYSTER AREAS UNLESS THE PACKER DEALER PLANTS THESE OYSTER SHELLS:

(1) ON PRIVATE LEASED GROUND OR RIPARIAN BOTTOM FOR THE PROPAGATION OF OYSTERS; OR

(2) ON PUBLIC OYSTER AREAS DESIGNATED BY THE DEPARTMENT.

(C) (1) WITHIN 8 MONTHS AFTER THE OPENING OF EACH ANNUAL HARVEST SEASON IF THE DEPARTMENT HAS NOT COMPLIED WITH THE PROVISIONS OF THIS SECTION, A COMMERCIAL OYSTER PACKER DOES NOT HAVE TO COMPLY WITH THE PROVISIONS OF SUBSECTION (B) OF THIS SECTION.

(2) ANY CONTRACT CONCERNING PURCHASES OF FRESH OYSTER SHELL THAT A COMMERCIAL OYSTER PACKER HAS ENTERED INTO BEFORE JULY 17, 1988:

(i) IS VALID AND

(ii) IS EXEMPT FROM THE PROVISIONS OF THIS SECTION FOR THE LENGTH OF TIME FOR WHICH THE CONTRACT COVERS.

(D) THE STATE HAS AN IRREVOCABLE RIGHT TO PURCHASE NOT LESS THAN 50 PERCENT OF THE OYSTER SHELLS THAT ARE TAKEN FROM PUBLIC OYSTER BARS IN WATERS OF THE STATE DURING ANNUAL OYSTER HARVEST OPERATIONS.

(E) (i) NATURAL OYSTER SHELL MAY BE TAKEN OUT OF STATE SUBJECT TO THE CONDITION THAT THE STATE HAS THE FIRST RIGHT OF PURCHASE AT THE OUT OF STATE SITE.

(2) THE DEPARTMENT SHALL NOTIFY HOLDERS OF OYSTER SHELL IN WRITING NO LATER THAN 8 MONTHS AFTER THE OPENING OF EACH ANNUAL HARVEST SEASON FOR OYSTERS WHETHER THE STATE WILL EXERCISE ITS RIGHT TO PURCHASE NOT LESS THAN 50 PERCENT OF THE OYSTER SHELLS TAKEN FROM STATE WATERS.

(3) HOLDERS NOTIFIED OF THE STATE'S INTENT TO PURCHASE SHELLS SHALL: THE DEPARTMENT SHALL DETERMINE WHETHER SUFFICIENT FUNDS ARE AVAILABLE FOR THE OYSTER SHELL PURCHASE PROGRAM UNDER THIS SECTION.