

EXPLANATORY STATEMENT

Environment Protection and Biodiversity Conservation Act, 1999

Amendment of the list of exempt native specimens in accordance with Section 303DC

Section 303DB of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) provides for the establishment of a list of exempt native specimens. Specimens included in the list are exempt from the trade control provisions that apply to regulated native specimens.

This instrument **deletes** from the list of exempt native specimens a number of specimens produced in aquaculture facilities, as set out in Appendix 1 to the instrument.

This instrument then **includes** in the list of exempt native specimens, specimens that are derived from fish or aquatic invertebrates or aquatic plants, other than specimens that belong to species listed under Part 13 of the EPBC Act and specimens that belong to taxa listed under section 303CA of the EPBC Act (Australia's Convention on International Trade in Endangered Species of Wild Fauna and Flora list) produced in aquaculture facilities operating in accordance with the relevant legislation in New South Wales, Northern Territory, Queensland, South Australia, Tasmania, Victoria, and Western Australia with the following notations:

- The specimen, or the fish or invertebrate from which it was derived, was produced lawfully in an aquaculture facility
- The specimens are included in the list until 25 November 2016.

The effect of this instrument is to delete a number of obsolete aquaculture entries from the list of exempt native specimens, and to extend the export approval for lawfully produced aquaculture specimens from 26 November 2015 until 25 November 2016. This instrument also simplifies the list of exempt native specimens by moving from species based aquaculture inclusions, to jurisdiction based aquaculture inclusions.

In determining to include the specimens in the list of exempt native specimens regard was had to the Australian Government's 'Guidelines for the Ecologically Sustainable Management of Fisheries – 2nd Edition'. Those guidelines establish the criteria for assessment of the ecological sustainability of the relevant fishery's management arrangements.

Subsection 303DC(3) of the EPBC Act provides that before amending the list, the Minister for the Environment must consult such other Commonwealth minister or ministers and such other minister or ministers of each state and self-governing territory, as the minister considers appropriate. The minister may also consult with such other persons and organisations as the minister considers appropriate. The Delegate of the Minister for the Environment consulted with the relevant State and Territory fisheries agencies that have management responsibilities for the specimens concerned.

This instrument is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The instrument commenced on the day after it was registered on the Federal Register of Legislative Instruments.

Unique Identifying Number:
EPBC303DC/SFS/2015/42

**STATEMENT OF COMPATIBILITY FOR A BILL OR LEGISLATIVE
INSTRUMENT THAT DOES NOT RAISE ANY HUMAN RIGHTS ISSUES**

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Amendment of List of Exempt Native Specimens

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The effect of this instrument is to delete a number of obsolete aquaculture entries from the list of exempt native specimens, and to extend the export approval for lawfully produced aquaculture specimens from 26 November 2015 until 25 November 2016. This instrument also greatly simplifies the list of exempt native specimens by moving from species based aquaculture inclusions, to jurisdiction based aquaculture inclusions.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Paul Murphy, Assistant Secretary, Wildlife Trade and Biosecurity Branch (Delegate of the Minister for the Environment)