

EXPLANATORY STATEMENT

Environment Protection and Biodiversity Conservation Act 1999

Amendment to the List of Specimens Taken to be Suitable for Live Import in accordance with section 303EC (1) (a)

(Issued under Authority of the Minister for the Environment and Heritage)

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

Under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), in general terms, a live specimen is allowed to be imported only if it is included on the list of specimens suitable for live import.

The list was established in accordance with s.303EB of the EPBC Act and has two parts. Part 1 comprises species exempt from the need for an import permit under the EPBC Act. Part 2 comprises species that can be imported with a permit under the EPBC Act.

The effect of this instrument is to add six species of ornamental fish to Part 1 of the list of specimens suitable for live import. The six fish species are: *Botia lohachata*, *Cyphotilapia frontosa*, *Dekeyseria pulcher*, *Glossolepis incisus*, *Sawbwa resplendens* and *Yasuhikotakia sidthimunki*.

Permits will not be required from the Minister to import live specimens of these six species.

Amendments to the list of specimens suitable for live import can be made either on the initiative of the Minister or by application. This list amendment was initiated by an application from the Pet Industry Association of Australia under s.303EE of the EPBC Act.

In determining whether to amend the list of specimens suitable for live import to include these six species of ornamental fish, the Minister considered the outcomes of an environmental risk assessment report on ten species of ornamental fish prepared in accordance with s.303EF of the EPBC Act. The assessment report recommended that three species, *C. frontosa*, *G. incisus* and *S. resplendens*, be allowed for import, but that the remaining species be rejected. Copies of the assessment report are available at the following website: <http://www.deh.gov.au/biodiversity/trade-use/publicnotices/archive/draft-report/ornamental-fish.html>

In accordance with s.303EF of the EPBC Act, the assessment report was published on the Department of Environment and Heritage website and comments sought. Twelve responses were received, both supporting and refuting the recommendations in the assessment report.

In accordance with s.303EC(3) other appropriate State, Territory and Australian Government Ministers, were consulted. In this case, the Department of the Environment and Heritage consulted with all State and Territory Ministers for the environment and the Australian Minister for Agriculture, Fisheries and Forestry. Responses both agreeing and disagreeing with the assessment report were received.

The Minister conducted his own risk assessment of the six fish species using a quantitative risk assessment model and concluded that these species were likely to pose limited risk to the Australian environment should they escape effective human control.

All of these six species have been openly traded in Australia for a number of years although only two of these species have previously been imported legally. In that time, there have been no records of any of these species establishing feral populations in Australia's waterways. Therefore, the Minister decided to include all six species on the list of specimens suitable for live import.

While the six species meet the EPBC Act requirements for addition to the live import list, The Minister is aware that some State and Territory governments may wish to regulate these species within their jurisdictions. Therefore the Minister has decided to delay the coming into effect of the listing until 30 September 2005 to allow State and Territory governments time to implement the regulatory mechanisms they deem necessary.