

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* (the EPBC Act) provides for the establishment of a list of exempt native specimens. Specimens included on the list are exempt from the trade control provisions that apply to regulated native specimens.

The effect of this instrument is to **include** the following specimens to the list of exempt native specimens and to make those inclusions subject to the notations specified below:

- Specimens that are or are derived from fish or invertebrates, other than specimens that belong to species listed under Part 13 of the EPBC Act, taken in the New South Wales Ocean Trawl Fishery, as defined in the Fishery Management Strategy for the Ocean Trawl Fishery made under the New South Wales *Fisheries Management Act 1994*.

The inclusion of the specimens in the list is subject to the following notations:

- The specimen, or the fish or invertebrate from which it is derived, was taken lawfully; and
- The specimens are covered by the declaration of an approved Wildlife Trade Operation under section 303FN of the EPBC Act in relation to the fishery.

Listing of the specimens described above on the list of exempt native specimens will allow continued export of these specimens until 28 February 2012.

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 fisheries management arrangements.

Subsection 303DC(3) of the EPBC Act provides that before amending the list, the Minister must consult such other Minister or Ministers, including a Minister or Ministers of each State and self-governing Territory and such other persons and organizations as the Minister considers appropriate. In this instance, the Delegate of the Minister for Environment, Heritage and the Arts consulted with the New South Wales Minister for Primary Industries and the Department of Primary Industries as the Minister and Department have management responsibilities for the fishery concerned. In addition, the proposal to amend the list of exempt native specimens was advertised on DEWHA's website and comment was invited from interested people for a period of 21 days. All comments received were taken into account in the decision to include the fishery on the list of exempt native specimens.

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

The instrument commences on 27 February 2009.

Unique Identifying Number:
EPBC303DC/SFS/2009/05