

EXPLANATORY STATEMENT

Environment Protection and Biodiversity Conservation Act 1999

Amendment of the List of Exempt Native Specimens – Victorian Scallop (Ocean) Fishery, November 2017

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.

The effect of this instrument is to **include** the following specimens in the list of exempt native specimens:

- 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 (other than a species listed in the conservation dependent category), and specimens that belong to taxa listed under section 303CA of the EPBC Act (Australia's CITES list), taken in the Victorian Scallop (Ocean) Fishery, as defined in the management regime in force under the *Fisheries Act 1995* (Vic) and *Fisheries Regulations 2009* (Vic),

with a notation that inclusion of the specimens in the list is subject to the following restrictions or conditions:

- 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.

State legislation referred to in the instrument is incorporated as in force at the time this instrument commences. All state legislation incorporated by reference in the instrument can be freely accessed on the Victorian legislation website at <http://www.legislation.vic.gov.au/> (as of November 2017)

Section 10 of the *Acts Interpretation Act 1901* (and, for legislative instruments, as applied by section 13(1)(a) of the *Legislation Act 2003*) has the effect that references to Commonwealth legislation can be taken to be references to versions of that legislation as in force from time to time. All Commonwealth legislation can be freely accessed at the Federal Register of Legislation – <https://www.legislation.gov.au/>.

Listing of the specimens described above in the list of exempt native specimens will allow export of these specimens, without requiring export permits, while an approved wildlife trade operation declaration for the fishery is in force.

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.

Unique Identifying Number:
EPBC303DC/SFS/2016/26

Subsection 303DC(3) of the EPBC Act provides that before amending the list, the Minister for the Environment and Energy 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 Victorian Fisheries Authority has been consulted and supports amending the list of exempt native specimens to include product derived from the Victorian Scallop (Ocean) Fishery. In addition, the proposal to amend the list of exempt native specimens was advertised on the Department of the Environment and Energy's website and comment was invited from interested people for a period of 31 business days. All comments received were taken into account in the decision to include specimens derived from the fishery in the list of exempt native specimens.

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

The instrument commences the day after it is registered.

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 **include** the following specimens in the list of exempt native specimens:

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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.



**Veronica Blazely, Acting Assistant Secretary, Wildlife Trade and Biosecurity Branch
(Delegate of the Minister for the Environment and Energy)**