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**ENVIRONMENTAL PROTECTION**

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**EP301\***

Environmental Protection Act 1986

**Environmental Protection (Kwinana)  
(Atmospheric Wastes) Policy Approval  
Order 1999**

Made by the Minister under section 31(d).

**1. Citation**

This order may be cited as the *Environmental Protection (Kwinana) (Atmospheric Wastes) Policy Approval Order 1999*.

**2. Commencement**

This order comes into operation on the day on which it is published in the *Gazette*.

**3. Approval of environmental protection policy**

The environmental protection policy set out in Schedule 1 is approved.

**4. Revocation**

The *Environmental Protection (Kwinana) (Atmospheric Wastes) Policy Approval Order 1992* is revoked.

**Schedule 1 — Environmental Protection (Kwinana)  
(Atmospheric Wastes) Policy 1999**

[cl. 3]

*Environmental Protection Act 1986***Environmental Protection (Kwinana) (Atmospheric Wastes)  
Policy 1999**

Approved by the Minister under section 31(d).

**1. Citation**

This policy may be cited as the *Environmental Protection (Kwinana) (Atmospheric Wastes) Policy 1999*.

## 2. Purposes of policy

The purposes of this policy are —

- (a) to provide for ambient air quality standards and ambient air quality limits for the concentration of atmospheric wastes in the relevant portion of the environment; and
- (b) to establish a programme which may be used to control the discharge of atmospheric wastes from industrial sources so that those ambient air quality standards and ambient air quality limits can respectively be achieved and complied with.

## 3. Interpretation

- (1) In this policy, unless the contrary intention appears —

**“atmospheric waste”** means —

- (a) a gaseous substance of a kind prescribed by the regulations;
- (b) a particulate substance of a kind prescribed by the regulations; or
- (c) a combination of substances referred to in paragraphs (a) and (b);

**“DEP map”** means Department of Environmental Protection Map 990902 —

- (a) a representation of which is set out in Schedule 2; and
- (b) a copy of which is available for inspection at the head office of the Department in Perth;

**“determination”** means a determination under clause 7(3);

**“industrial source”** means a point or area within industrial premises in the Policy Area from which an atmospheric waste is discharged into the air environment;

**“limit”** means the concentration of an atmospheric waste which is not to be exceeded;

**“plan”** means Department of Land Administration Miscellaneous Plan 1705 —

- (a) a representation of which is set out in Schedule 1; and
- (b) a copy of which is available for inspection at the head office of the Department in Perth;

**“Policy Area”** means the area described in clause 4(a);

**“redetermination”** means a redetermination under clause 12(1) or 13(2);

**“relevant determination”**, in relation to an atmospheric waste, means the determination or redetermination, as the case requires, that provides for the maximum permissible quantities of that waste to be discharged from significant industrial sources;

**“relevant portion of the environment”** means the portion of the environment referred to in clause 4(b);

**“significant industrial source”** means an industrial source from which the discharge of an atmospheric waste is, in the opinion of

the Chief Executive Officer, such as to affect or to be likely to affect the relevant portion of the environment;

**“standard”** means the concentration of an atmospheric waste which it is desirable not to exceed;

**“the regulations”** means the *Environmental Protection (Kwinana) (Atmospheric Wastes) Regulations 1992*.

- (2) A reference in this policy to —
- (a) Area A, is a reference to those portions of the Policy Area that are coloured pink on the plan;
  - (b) Area B, is a reference to those portions of the Policy Area that are —
    - (i) located within the red border depicted on the plan but not located within Area A; or
    - (ii) located outside the red border depicted on the plan and zoned for industrial purposes from time to time under —
      - (I) the Metropolitan Region Scheme within the meaning of the *Metropolitan Region Town Planning Scheme Act 1959*; or
      - (II) a town planning scheme under the *Town Planning and Development Act 1928*;
  - (c) Area C, is a reference to those portions of the Policy Area not located within Area A or Area B.

#### 4. **Application**

This policy applies to —

- (a) the area comprising the local government districts of Cockburn, Kwinana and Rockingham, as delineated and shown bordered in red on the DEP map; and
- (b) that portion of the environment comprising a layer of air 5 metres thick —
  - (i) immediately above, and immediately surrounding, the external surfaces of any residential premises situated within Area B or Area C; or
  - (ii) otherwise immediately above the surface of the Policy Area.

#### 5. **Beneficial use to be protected**

Any lawful human activity within the relevant portion of the environment which is conducive to the health, welfare, convenience, comfort or amenity of persons within the relevant portion of the environment is declared to be a beneficial use to be protected under this policy.

#### 6. **Ambient air quality standards and ambient air quality limits for atmospheric wastes**

- (1) Subject to subclause (2), the ambient air quality standards and ambient air quality limits for the concentration of an atmospheric waste in the relevant portion of the environment that are intended to

provide an acceptable level of protection for the beneficial use identified and declared under clause 5 are the standards and limits specified from time to time in respect of that atmospheric waste in the regulations.

- (2) Within the boundaries of industrial premises in respect of which a licence is in force, the concentration of an atmospheric waste shall, for the purposes of this policy, be taken to exclude the contribution to that concentration made by the discharge, if any, of that atmospheric waste from industrial sources located within those boundaries.

**7. Determination of maximum permissible quantities of atmospheric wastes to be discharged**

- (1) Subject to clause 6(2), the Chief Executive Officer may, in respect of each atmospheric waste, develop a procedure for determining the maximum permissible quantities of that waste to be discharged from industrial sources so that the ambient air quality standards and ambient air quality limits specified in respect of that waste under clause 6 can, in the opinion of the Chief Executive Officer, be achieved and complied with.
- (2) Without limiting the generality of subclause (1), in developing a procedure under that subclause the Chief Executive Officer may make allowance for any additional quantities of an atmospheric waste that may in the future be discharged from industrial sources.
- (3) The Chief Executive Officer may, subject to subclause (4), determine the maximum permissible quantities of an atmospheric waste to be discharged from significant industrial sources in accordance with the procedure developed in respect of that waste under subclause (1).
- (4) Before making a determination, the Chief Executive Officer shall —
  - (a) consult with persons representing such industries or industrial premises as the Chief Executive Officer considers may be affected by the determination; and
  - (b) take into account any views expressed by persons so consulted.
- (5) A determination may provide for —
  - (a) maximum permissible quantities expressed as a discharge rate (in units of mass per unit of time) or as a discharge concentration (in units of mass per unit of volume at specified reference conditions);
  - (b) maximum permissible quantities that —
    - (i) are constant;
    - (ii) vary in a specified manner under specified conditions;
    - (iii) are expressed on a statistical basis;and
  - (c) more than one set of maximum permissible quantities, but in such a case shall also specify —
    - (i) the set of maximum permissible quantities that is for the time being in force; and

- (ii) the circumstances in which, and the method by which, a different set of maximum permissible quantities may be brought into force,

for the purposes of this policy.

- (6) The Chief Executive Officer shall cause notice in writing of a determination to be served on each occupier of industrial premises in the Policy Area affected by the determination.

**8. Achievement of standards and compliance with limits**

Without limiting the powers of the Chief Executive Officer under the Act in relation to the prevention, control or abatement of pollution, achievement of the ambient air quality standards and compliance with the ambient air quality limits specified in respect of an atmospheric waste under clause 6 may be brought about by requiring occupiers of industrial premises in the Policy Area to comply with the relevant determination.

**9. Requirement for compliance with relevant determination in pollution abatement notice or licence**

- (1) For the purposes of clause 8, in addition to any other requirements or conditions imposed by the Chief Executive Officer under the Act, the Chief Executive Officer may require —
  - (a) under a pollution abatement notice; or
  - (b) as a condition of a licence prescribed under section 62(1)(h) of the Act,

an occupier of industrial premises in the Policy Area to control the discharge of a specified atmospheric waste from specified industrial sources within those premises so as to ensure that the quantities of the waste so discharged comply with the relevant determination.

- (2) In subclause (1) —  
“**specified**” means specified in the pollution abatement notice or licence concerned.

**10. Time may be allowed for compliance with relevant determination**

- (1) If the Chief Executive Officer is satisfied that it is not practicable for an occupier of industrial premises in the Policy Area to control the discharge of an atmospheric waste from industrial sources within those premises so as to comply immediately with the relevant determination, the Chief Executive Officer may —
  - (a) after consultation with the occupier, determine the period within which, and the manner in which, compliance with the relevant determination is to be achieved; and
  - (b) in addition to any other requirements or conditions imposed by the Chief Executive Officer under the Act, require the occupier under a pollution abatement notice or as a condition of a licence prescribed under section 62(1)(h) of the Act —
    - (i) to control the discharge of the atmospheric waste from those industrial sources so as to achieve compliance with the relevant determination within a

- specified period and in accordance with a specified compliance programme;
- (ii) to take such other measures (including the undertaking of monitoring and the installation of equipment) as are specified for the purpose of achieving, or monitoring the extent of, compliance with the relevant determination; and
  - (iii) to furnish to the Chief Executive Officer, at such intervals of time as are specified, a report on the progress being made towards compliance with the relevant determination.
- (2) If the Minister is satisfied that it is not practicable for an occupier of industrial premises in the Policy Area to control the discharge of an atmospheric waste from industrial sources within those premises so as to comply immediately with the relevant determination, the Minister may direct the Chief Executive Officer to exercise, in respect of that occupier, the powers conferred by subclause (1)(a) and (b) to the satisfaction of the Minister.
- (3) In subclause (1) —  
“**specified**” means specified in the pollution abatement notice or licence concerned.

#### **11. Occupiers to undertake monitoring**

- (1) Where significant industrial sources are located within particular industrial premises in the Policy Area, the Chief Executive Officer may, as a condition of a licence under section 62(1)(e) of the Act, require the occupier of those premises to carry out a specified monitoring programme to monitor —
- (a) the quantity (expressed as a discharge rate (in units of mass per unit of time) or as a discharge concentration (in units of mass per unit of volume at specified reference conditions)) of an atmospheric waste discharged from such of those sources, together with such other characteristics of that discharge, as are specified, and the volume and effects of that discharge; and
  - (b) the concentration of an atmospheric waste at specified locations in the relevant portion of the environment.
- (2) In subclause (1) —  
“**specified**” means specified in the licence concerned.

#### **12. Redetermination of maximum permissible quantities**

- (1) The Chief Executive Officer may, with the approval of the Minister, and shall, if the Minister so directs, redetermine the maximum permissible quantities of an atmospheric waste to be discharged from significant industrial sources in accordance with —
- (a) the procedure developed in respect of the atmospheric waste under clause 7(1); or
  - (b) where that procedure has been modified under subclause (3), the procedure as so modified.

- (2) Before approving or directing a redetermination under subclause (1), the Minister shall —
  - (a) consult with persons representing such industries or industrial premises as the Minister considers may be affected by the redetermination; and
  - (b) take into account any views expressed by persons so consulted.
- (3) Before making a redetermination under subclause (1), the Chief Executive Officer may modify the procedure developed in respect of the atmospheric waste under clause 7(1) and for that purpose has the same powers and is subject to the same requirements as applied in relation to the development of the procedure.
- (4) Clause 7(4), (5) and (6) apply to and in relation to a redetermination under subclause (1) as if that redetermination were a determination.

**13. Review where standards or limits are exceeded**

- (1) The Chief Executive Officer may, if the ambient air quality standards, and shall, if the ambient air quality limits, specified in respect of an atmospheric waste under clause 6 are exceeded at any location in the relevant portion of the environment, review the relevant determination.
- (2) As a result of a review conducted under subclause (1), the Chief Executive Officer may redetermine the maximum permissible quantities of the atmospheric waste to be discharged from significant industrial sources in accordance with —
  - (a) the procedure developed in respect of the atmospheric waste under clause 7(1); or
  - (b) where that procedure has been modified under subclause (3), the procedure as so modified.
- (3) Before making a redetermination under subclause (1), the Chief Executive Officer may modify the procedure developed in respect of the atmospheric waste under clause 7(1) and for that purpose has the same powers and is subject to the same requirements as applied in relation to the development of the procedure.
- (4) Clause 7(4), (5) and (6) apply to and in relation to a redetermination under subclause (2) as if that redetermination were a determination.

**14. Information to be made available**

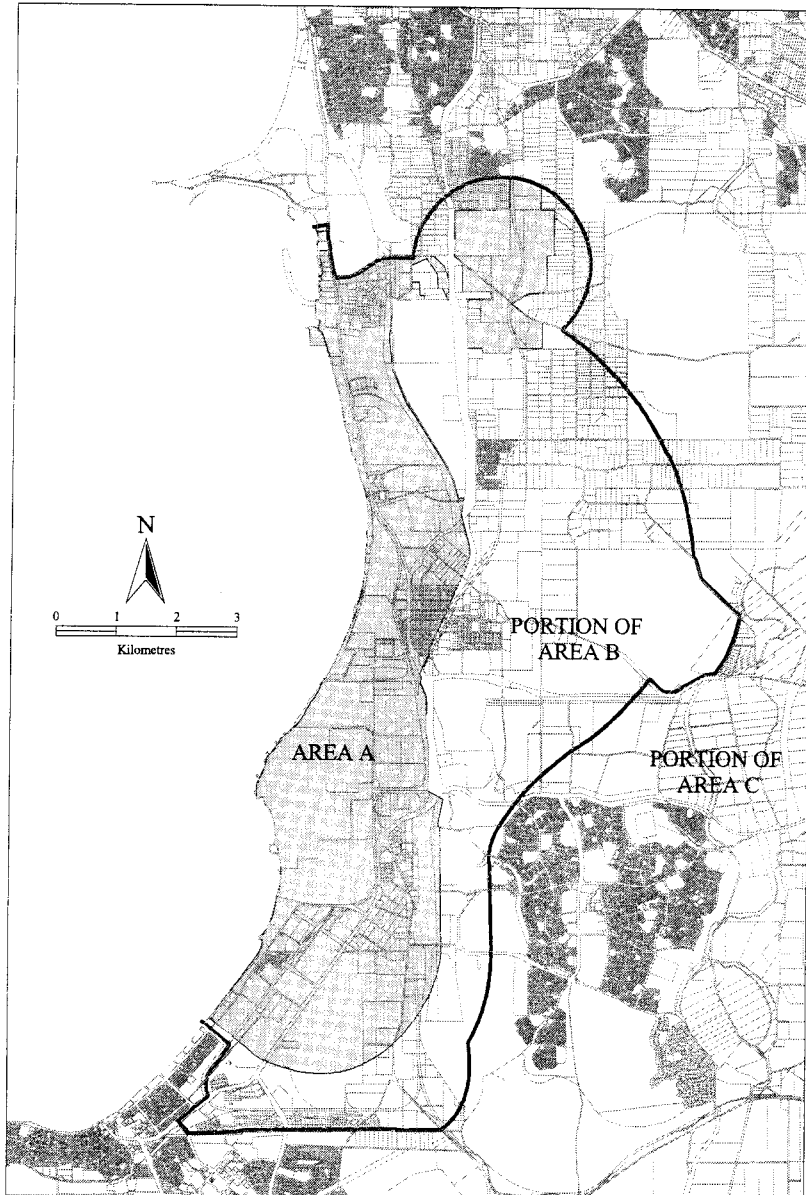
The Chief Executive Officer shall make available for public inspection at the head office of the Department in Perth the following information —

- (a) details of procedures developed under clause 7(1) (including any modifications under clause 12(3) or 13(3));
- (b) details of determinations and redeterminations;
- (c) details of determinations under clause 10(1)(a);
- (d) copies of reports furnished under clause 10(1)(b)(iii);
- (e) results of monitoring required under clause 11(1)(b);

- (f) details of the ambient concentration of an atmospheric waste within the relevant portion of the environment in every case giving rise to a review under clause 13(1).

### Schedule 1 — Representation of the plan

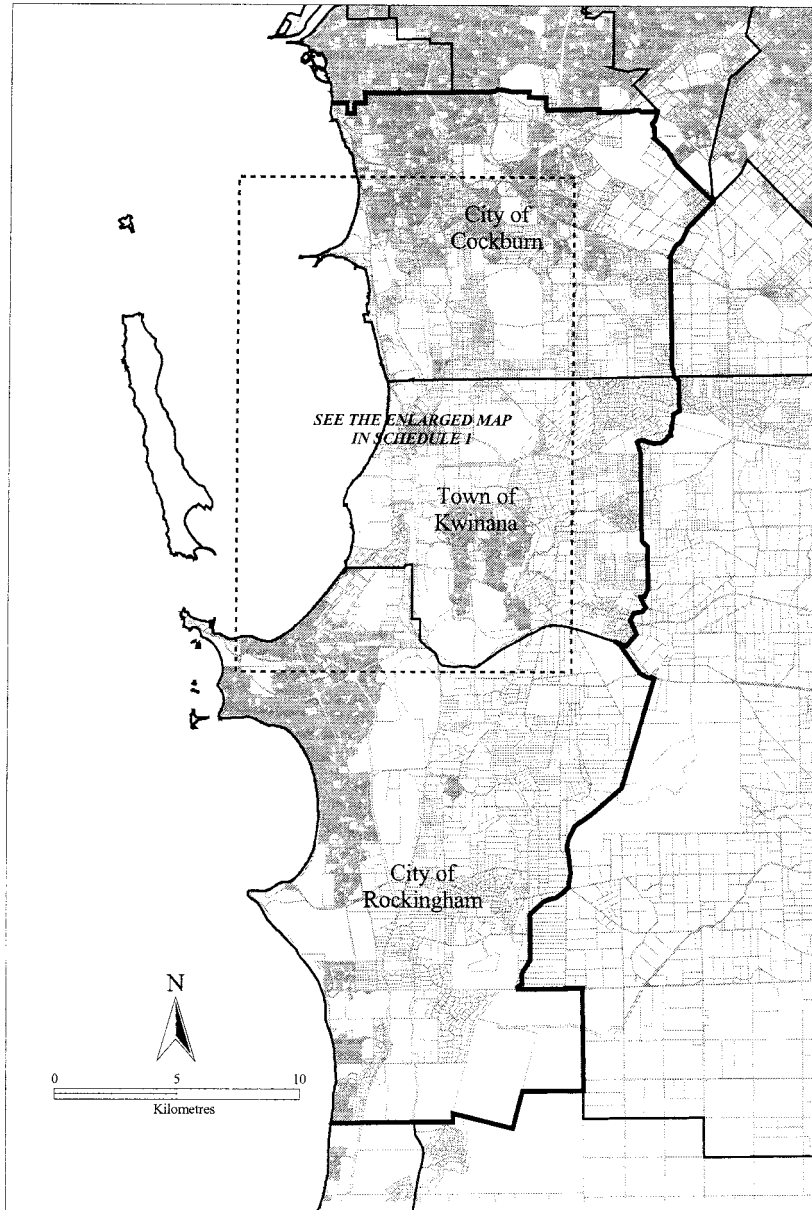
[cl. 3(1)]





**Schedule 2 — Representation of the DEP map**

[cl. 3(1)]



CHERYL EDWARDES, Minister for the Environment.