
OFFICE MEMORANDUM

TO: KAREN STACHOWSKI
FROM: LISA PARKER
SUBJECT: DEFINITION OF POLLUTION PREVENTION
DATE: 9/22/2008

QUESTION:

What is the federal definition of Pollution Prevention? Is there a TCA interpretation of this definition?

ANSWER:

Executive Order 12856 defines "pollution prevention" in section 2-203 to mean "source reduction," as defined in the Pollution Prevention Act of 1990 (PPA), and other practices that reduce or eliminate the creation of pollutants through:

- increased efficiency in the use of raw materials, energy, water, or other resources, or
- protection of natural resources by conservation.

EPA has issued a Statement of Definition of Pollution Prevention that is identical to the definition in section 2-203 of Executive Order 12856 (Memorandum from F. Henry Habicht II, Deputy Administrator, Environmental Protection Agency, Subject: EPA Definition of "Pollution Prevention", to All EPA Personnel (May 28, 1992) which was the subject of the request). The Statement of Definition explains that recycling, energy recovery, treatment, and disposal are not included within EPA's definition of pollution prevention. In distinguishing between prevention of pollution and recycling, EPA includes "in-process recycling" within the definition of "pollution prevention." "Out-of-process recycling" is part of recycling and is not part of the definition. The Statement of Definition also comments that recycling that is conducted in an environmentally sound manner shares many of the advantages of prevention--it can reduce the need for treatment or disposal, and conserve energy and resources.

The federal definition of *source reduction* from the Pollution Prevention Act of 1990 is as follows:

(A) The term "source reduction" means any practice which—

(i) reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment, or disposal; and

(ii) reduces the hazards to public health and the environment associated with the release of such substances, pollutants, or contaminants.

(B) The term "source reduction" does not include any practice which alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity which itself is not integral to and necessary for the production of a product or the providing of a service.

Additionally, the U.S. Department of Health and Human Services (HHS) has defined Pollution Prevention as follows:

"Pollution Prevention" includes, but is not limited to, reducing or eliminating hazardous or other polluting inputs, which can contribute to both point and non-point source pollution; modifying manufacturing, maintenance, or other industrial practices; modifying product designs; recycling (especially in-process, closed loop recycling); preventing the disposal and transfer of pollution from one media to another; and increasing energy efficiency and conservation. Pollution prevention can be implemented at any stage -- input, use or generation, and treatment -- and may involve any technique -- process modification, waste stream segregation, inventory control, good housekeeping or best management practices, employee training, recycling, and substitution. Any reasonable mechanism which successfully avoids, prevents, or reduces pollutant discharges or emissions other than by the traditional method of treating pollution at the discharge end of a pipe or stack should, for purposes of this chapter, be considered pollution prevention. (This definition of "pollution prevention" has been adopted by CEQ. See Council on Environmental Quality, "Memorandum to Heads of Federal Departments and Agencies Regarding Pollution Prevention and the National Environmental Policy Act," 58 FR 6478 (1993).)

Note: A definition of "pollution prevention" that has been developed by the U.S. Environmental Protection Agency is used in Chapters 30-60 through 30-90.

The term Pollution Prevention is defined in the Tennessee Rules and Regulations, Division of Air Pollution Control (1200-3-9-.01(36) – Construction Permits) as follows:

"Pollution prevention means any activity that through process changes, product reformulation or redesign, or substitution of less polluting raw materials, eliminates or reduces the release of air pollutants (including fugitive emissions)

and other pollutants to the environment prior to recycling, treatment or disposal; it does not mean recycling (other than certain "in-process recycling" practices), energy recovery, treatment, or disposal."

There is no formal definition or interpretation of pollution prevention in the Tennessee Code Annotated. Additionally, there was no case law found on Westlaw regarding interpretation of pollution prevention.