

**TENTATIVE AGENDA
STATE OF TENNESSEE
REGULAR MEETING
AIR POLLUTION CONTROL BOARD
Davy Crockett Tower, First Floor
Conference Room 1-A
500 James Robertson Parkway
Nashville, TN 37243-0582
In Person and
Remote Access Via Microsoft Teams**

Join the meeting now

Meeting ID: 269 074 725 772

Passcode: qk3DD9iM

Wednesday, April 09, 2025

9:30 A.M.

******Public Comments:** If you wish to speak on topic(s) shown here, please print your name on the Sign-In Sheet provided at the guest table or type your name into the Webex chat box. Someone will recognize you during the meeting for comments or questions. *********

	Item	Presenter	Page
1.	Roll Call		
2.	Approval of the January 08, 2025, Board Meeting Minutes		02
3.	BO 25-011 Sinova Silicon 48-0046 PSD permit extension ** Comments from the Public or Online Participants	Doug Wright	11
	General Business: Initial Order Granting TDEC's Motion to Dismiss SOCM's Permit Appeal (APC24-0246)	Emily Vann	13
	PM NAAQS Designation Recommendations	Michelle Oakes	28
	Comments from the Public or Online Participants		

The meeting will be held in compliance with Tennessee Code Annotated Section 8-44-108, as amended by Chapter 490 of the 1999 Public Acts of the Tennessee General Assembly. The meeting will be conducted permitting participation by electronic or other means of communication. Consequently, some members of the Tennessee Air Pollution Control Board are allowed to and may participate by electronic or other means of communication and may not be physically present at the announced location of the meeting.

Air Pollution Control Board
of the
State of Tennessee
Regular Meeting

On Wednesday January 08, 2025, at 9:30 A.M., the Air Pollution Control Board of the State of Tennessee, (hereinafter, referred to as the "Board"), began its meeting on the 1st Floor of the Davy Crockett Tower, Conference Room 1-B. The following Board members were physically present.

Ms. Tara Pedraza
Dr. John Benitez
Dr. Kyle Etheridge
Mr. Mike Haverstick
Mr. Stephen Moore
Mr. Nicholas Ramos
Mayor Larry Waters
Mr. Jimmy West
Ms. Caitlin Roberts
Mayor Ken Moore

The following Board members joined the meeting via WebEx:

Dr. Chunrong Jia
Ms. Amy Spann

The following Board members were absent:

Dr. Joshua Fu
Dr. Shawn Hawkins

Since the Chairman, David Salyers, P.E., could not attend the meeting, Ms. Michelle Owenby, Director, Division of Air Pollution Control, represented the Chairman by proxy, and served as Technical Secretary.

Ms. Michelle Owenby, Technical Secretary, welcomed Board members and those attending via WebEx.

The first item on the agenda was to elect a Vice Chair for 2024. Mayor Larry Waters was nominated for Vice Chair by Mr. West and Mr. Etheridge seconded the nomination.

The Technical Secretary call for a roll call and the response was as follows:

Ms. Pedraza	Yes	Dr. Benitez	Yes
Dr. Etheridge	Yes	Dr. Fu	Absent
Mr. Haverstick	Yes	Dr. Hawkins	Absent
Dr. Jia	Yes	Mr. Moore	Yes
Ms. Spann	Yes	Mr. Ramos	Yes
Mayor Waters	Abstained	Mr. West	Yes
Mayor Moore	Yes	Ms. Roberts	Yes

The motion carried with Eleven (11) affirmative votes; Mayor Waters accepted the nomination.

The Vice-Chairman, Mayor Larry Waters, called the meeting to order and asked for a roll call and the response was as follows:

Ms. Pedraza	Present	Dr. Benitez	Present
Dr. Etheridge	Present	Dr. Fu	Absent
Mr. Haverstick	Present	Dr. Hawkins	Absent
Ms. Roberts	Present	Dr. Jia	Web-Ex
Mayor Moore	Present	Mr. Moore	Present
Ms. Spann	Web-Ex	Mr. Ramos	Present
Mayor Waters	Present	Mr. Jimmy West	Present

Ten (10) Board members were present, two (2) participated via WebEx and two (2) were absent.

The next item on the agenda was the approval of the minutes from the September 11, 2025, Board meeting. The Vice-Chairman requested a motion to approve the minutes. Mayor Moore made a motion to approve the minutes and Dr. Benitez seconded the motion. The Vice-Chairman asked if there were any additions or corrections to the minutes. Hearing none, the Vice-Chair asked for a roll call and the response was as follows:

Ms. Pedraza	Yes	Dr. Benitez	Yes
Dr. Etheridge	Yes	Dr. Fu	Absent
Mr. Haverstick	Yes	Dr. Hawkins	Absent
Ms. Roberts	Yes	Dr. Jia	Yes
Mayor Moore	Yes	Mr. Moore	Yes
Ms. Spann	Yes	Mr. Ramos	Yes
Mayor Waters	Yes	Mr. Jimmy West	Yes

The motion carried with Twelve (12) affirmative votes; the minutes were approved as presented.

The Vice-Chairman called on Mr. Grant Ruhl, Office of General Counsel, to discuss the annual Disclosure of Financial Interests or Other Potential Conflicts of Interest. Mr. Ruhl discussed the need for the annual disclosure and collected the signed documents.

The Vice-Chairman called on Mr. James Johnston, Air Pollution Control, to present the Title V Fee Base Fee and Board variance requests for Air Curtain Incinerators (ACI'S)

Mr. Johnston, Division of Air Pollution Control, presented petitions to the Board for a variance from the requirements of Tennessee Air Pollution Control Regulation (TAPCR) 1200-03-26-.02(9)(d)1(iii). Specifically, Petitioner requests a reduction of \$12,000 from the base fee portion (\$15,000) of its Title V annual emission fee, resulting in a reduced annual base fee of \$3,000. The higher Title V annual emission fee potentially makes operation of the ACI economically infeasible. Without this variance, Petitioner has stated that the use of the ACI will be commercially unviable compared to less environmentally sound methods such as open burning or disposal of material in a landfill. Mr. Johnston answered questions from the board, there were no questions from the public.

The Vice-Chairman called on Mr. James Johnston, Air Pollution Control, to present the Charles Blalock & Sons Inc. Title V Fee variance request, Board Order number 25-001.

The Vice-Chairman requested a motion to approve the Charles Blalock & Sons Inc. Title V Fee variance request, Board Order number 25-001. Mr. Etheridge made a motion to approve the Board Order and Mayor Moore seconded the motion. The Vice-Chair asked for a roll call and the response was as follows:

Ms. Pedraza	Yes	Dr. Benitez	Yes
Dr. Etheridge	Yes	Dr. Fu	Absent
Mr. Haverstick	Yes	Dr. Hawkins	Absent
Ms. Roberts	Yes	Dr. Jia	Absent
Mayor Moore	Yes	Mr. Moore	Yes
Ms. Spann	Yes	Mr. Ramos	Yes
Mayor Waters	Yes	Mr. Jimmy West	Yes

The motion carried with Eleven (11) affirmative votes; Board Order 25-001 approved as presented.

Mr. James Johnston, Air Pollution Control, presented the Rice Enterprises LLC. Title V Fee variance request, Board Order number 25-002.

The Vice-Chairman requested a motion to approve the Rice Enterprises LLC. Title V Fee variance request, Board Order number 25-002. Mayor Moore made a motion to approve the Board Order and Mr. Ramos seconded the motion. The Vice-Chair asked for a roll call and the response was as follows:

Ms. Pedraza	Yes	Dr. Benitez	Yes
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Dr. Etheridge	Yes	Dr. Fu	Absent
Mr. Haverstick	Yes	Dr. Hawkins	Absent
Ms. Roberts	Yes	Dr. Jia	Absent
Mayor Moore	Yes	Mr. Moore	Yes
Ms. Spann	Yes	Mr. Ramos	Yes
Mayor Waters	Yes	Mr. Jimmy West	Yes

The motion carried with Eleven (11) affirmative votes; Board Order 25-002 approved as presented.

Mr. James Johnston, Air Pollution Control, presented the Sevier Wood, Waste & Recycling LLC. Title V Fee variance request, Board Order number 25-003.

The Vice-Chairman requested a motion to approve the Sevier Wood, Waste & Recycling LLC. Title V Fee variance request, Board Order number 25-003. Mayor Moore made a motion to approve the Board Order and Ms. Roberts seconded the motion. The Vice-Chair asked for a roll call and the response was as follows:

Ms. Pedraza	Yes	Dr. Benitez	Yes
Dr. Etheridge	Yes	Dr. Fu	Absent
Mr. Haverstick	Yes	Dr. Hawkins	Absent
Ms. Roberts	Yes	Dr. Jia	Absent
Mayor Moore	Yes	Mr. Moore	Yes
Ms. Spann	Yes	Mr. Ramos	Yes
Mayor Waters	Yes	Mr. Jimmy West	Yes

The motion carried with Eleven (11) affirmative votes; Board Order 25-003 approved as presented.

Mr. James Johnston, Air Pollution Control, presented the Venture Contracting, Inc. Title V Fee variance request, Board Order number 25-004.

The Vice-Chairman requested a motion to approve the Venture Contracting, Inc. Title V Fee variance request, Board Order number 25-004. Mr. Etheridge made a motion to approve the Board Order and Mr. Roberts seconded the motion. The Vice-Chair asked for a roll call and the response was as follows:

Ms. Pedraza	Yes	Dr. Benitez	Yes
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Dr. Etheridge	Yes	Dr. Fu	Absent
Mr. Haverstick	Yes	Dr. Hawkins	Absent
Ms. Roberts	Yes	Dr. Jia	Absent
Mayor Moore	Yes	Mr. Moore	Yes
Ms. Spann	Yes	Mr. Ramos	Yes
Mayor Waters	Yes	Mr. Jimmy West	Yes

The motion carried with Eleven (11) affirmative votes; Board Order 25-004 approved as presented.

Mr. James Johnston, Air Pollution Control, presented the Universal Environmental Services LLC. Title V Fee variance request, Board Order number 25-005.

The Vice-Chairman requested a motion to approve the Universal Environmental Services LLC.. Title V Fee variance request, Board Order number 25-005. Mayor Moore made a motion to approve the Board Order and Mr. Etheridge seconded the motion. The Vice-Chair asked for a roll call and the response was as follows:

Ms. Pedraza	Yes	Dr. Benitez	Yes
Dr. Etheridge	Yes	Dr. Fu	Absent
Mr. Haverstick	Yes	Dr. Hawkins	Absent
Ms. Roberts	Yes	Dr. Jia	Yes
Mayor Moore	Yes	Mr. Moore	Yes
Ms. Spann	Yes	Mr. Ramos	Yes
Mayor Waters	Yes	Mr. Jimmy West	Yes

The motion carried with Twelve (12) affirmative votes; Board Order 25-005 approved as presented.

The Vice-Chairman called on Mr. Travis Blake, with Air Pollution Control, to present the 2025-0108 BAE Variance, Board Order number 25-006.

The Vice-Chairman requested a motion to approve the 2025-0108 BAE Variance, Board Order number 25-006. Mr. Etheridge made a motion to approve the Board Order and Mayor Moore seconded the motion. The Vice-Chair asked for a roll call and the response was as follows:

Ms. Pedraza	Yes	Dr. Benitez	Yes
Dr. Etheridge	Yes	Dr. Fu	Absent
Mr. Haverstick	Yes	Dr. Hawkins	Absent
Ms. Roberts	Yes	Dr. Jia	Yes
Mayor Moore	Yes	Mr. Moore	Yes
Ms. Spann	Yes	Mr. Ramos	Yes
Mayor Waters	Yes	Mr. Jimmy West	Yes

The motion carried with Twelve (12) affirmative votes; Board Order 25-006 approved as presented.

Mr. Travis Blake, Air Pollution Control, presented the 2025-0108 BAE Variance, Board Order number 25-007.

The Vice-Chairman requested a motion to approve the 2025-0108 BAE Variance, Board Order number 25-007. Mr. Etheridge made a motion to approve the Board Order and Mayor Moore seconded the motion. The Vice-Chair asked for a roll call and the response was as follows:

Ms. Pedraza	Yes	Dr. Benitez	Yes
Dr. Etheridge	Yes	Dr. Fu	Absent
Mr. Haverstick	Yes	Dr. Hawkins	Absent
Ms. Roberts	Yes	Dr. Jia	Yes
Mayor Moore	Yes	Mr. Moore	Yes
Ms. Spann	Yes	Mr. Ramos	Yes
Mayor Waters	Yes	Mr. Jimmy West	Yes

The motion carried with Twelve (12) affirmative votes; Board Order 25-007 approved as presented.

Mr. Travis Blake, Air Pollution Control, presented the 2025-0108 BAE Variance, Board Order number 25-008.

The Vice-Chairman requested a motion to approve the 2025-0108 BAE Variance, Board Order number 25-008. Mr. Etheridge made a motion to approve the Board Order and Mayor Moore seconded the motion. The Vice-Chair asked for a roll call and the response was as follows:

Ms. Pedraza	Yes	Dr. Benitez	Yes
Dr. Etheridge	Yes	Dr. Fu	Absent
Mr. Haverstick	Yes	Dr. Hawkins	Absent
Ms. Roberts	Yes	Dr. Jia	Yes
Mayor Moore	Yes	Mr. Moore	Yes
Ms. Spann	Yes	Mr. Ramos	Yes
Mayor Waters	Yes	Mr. Jimmy West	Yes

The motion carried with Twelve (12) affirmative votes; Board Order 25-008 approved as presented.

The Vice-Chairman called on Ms. Michelle Oakes, Air Pollution Control, to present the Bristol Area Second 10-Year Lead Maintenance Plan, Board Order number 25-009.

Ms. Michelle Oakes, Air Pollution Control, Board, presented a plan to ensure continued compliance of the 2008 National Ambient Air Quality Standard (NAAQS) for Lead in the Bristol, Tennessee maintenance area. This area includes a 1.25 km radius around a former battery manufacturing plant, Exide Technologies. The area was designated as “Non-Attainment” for the 2008 Lead NAAQS in 2010 (effective 12/31/2010) based on violating monitoring data (2007-2009 design value). The area was effectively redesignated back to Attainment/Maintenance in 2016 (effective 8/8/2016) after the former Exide Technologies ceased operations and surrendered their operating permit in October 2014. This plan includes information on the current air quality and emissions in the Maintenance Area. The plan also includes a section on contingency measures to mitigate future violations and a commitment to verifying attainment of the 2008 Lead NAAQS. From an emissions perspective, continued maintenance is demonstrated since there is no permitted source in the area. With recent NAAQS monitored violations due to temporary remediation activity, the Division of Air Pollution Control is closely coordinating with TDEC sister agencies (Division of Remediation and Division of Solid Waste) to prevent any potential NAAQS violations from remediation activity during the second 10-year maintenance period (2026-2036). This continued coordination as well as air quality and emissions tracking will help maintain clean air in the maintenance area.

The Vice-Chairman requested a motion to approve the Bristol Area Second 10-Year Lead Maintenance Plan, Board Order number 25-009. Dr. Benitez made a motion to approve the Board Order and Mayor Moore seconded the motion. The Vice-Chair asked for a roll call and the response was as follows:

Ms. Pedraza	Yes	Dr. Benitez	Yes
Dr. Etheridge	Yes	Dr. Fu	Absent

Mr. Haverstick	Yes	Dr. Hawkins	Absent
Ms. Roberts	Yes	Dr. Jia	Yes
Mayor Moore	Yes	Mr. Moore	Yes
Ms. Spann	Yes	Mr. Ramos	Yes
Mayor Waters	Yes	Mr. Jimmy West	Yes

The motion carried with Twelve (12) affirmative votes; Board Order 25-009 approved as presented.

The Vice-Chairman called on Mr. Travis Blake, Air Pollution Control, to present the Kingsport SO2 Redesignation/Maintenance Plan.

Mr. Blake, with Air Pollution Control, updated the Board members on the status of the sulfur dioxide nonattainment area in Sullivan County and notified the Board that public participation for a draft redesignation request would begin around the end of January.

The Vice-Chairman called on Mr. Mark Reynolds, Division of Air Pollution Control, to present NESHAP and NSPS Rule Revision.

Mr. Reynolds provided an overview of the National Emission Standards for Hazardous Air Pollutants (NESHAP) and New Source Performance Standard (NSPS) rule revision. Mr. Reynolds stated that the Federal NESHAP rules are incorporated by reference in state rules in Chapter 0400-30-38. The Board approved the previous NESHAP rule in June 2022, and the rule became state effective on December 28, 2022. The rule adopted the July 1, 2020, version of 40 CFR Parts 61 and 63. Mr. Reynolds stated that the Federal NSPS rules are incorporated by reference in state rules in Chapter 0400-30-39. The Board approved the previous NSPS rule in July 2024, and the rule became state effective on December 15, 2024. The rule adopted the July 1, 2022, version of 40 CFR Part 60. This current proposed rule will adopt the July 1, 2023, version of 40 CFR Parts 60, 61, and 63. By keeping the CFR date current, the Board will be able to keep the state regulations in line with the federal regulations and will be able to enforce the federal regulations directly. Mr. Reynolds also stated that the proposed rule revision will make minor amendments to the Asbestos NESHAP.

Mr. Mark Reynolds with Air Pollution Control presented the Regional Haze Progress Report.

Mr. Reynolds stated the definition of regional haze and the main sources of regional haze. The two federal Class I areas in Tennessee are the Great Smoky Mountains National Park and Joyce Kilmer-Slick Rock Wilderness Area. Mr. Reynolds went over the requirements for a Progress Report. Recent data has shown a dramatic decrease in both sulfur dioxide and nitrogen oxides, which has resulted in monitoring data showing improvement in visibility. Mr. Reynolds concluded by showing a timeline for the completion of the Progress Report and answering questions from the Board members.

Mr. Ruhl then collected the documents, finalizing the annual Disclosure of Financial Interests or Other Potential Conflicts of Interest. Mr. Ruhl stated, "the Majority of the Board, represents the public interest" as defined by Tenn. Comp. R. & Regs. 0400-30-17-.02(2).

There being no further business to discuss before the Board, nor members of the public wishing to address the Board, the meeting was adjourned at 11:20am.

(Signed) Michelle Owenby, Technical Secretary
Tennessee Air Pollution Control Board

Approved at Nashville, Tennessee on

(Signed) Mayor Larry Waters, Vice-Chairman
Tennessee Air Pollution Control Board

(Signed) David Salyers, Chairman
Tennessee Air Pollution Control Board

TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION
BUREAU OF ENVIRONMENT
DIVISION OF AIR POLLUTION CONTROL

IN THE MATTER OF)

Sinova Silicon LLC)
(48-0046))

Request for PSD Permit Extension)

Order Number: 25-011

BOARD ORDER

The following matter came before the Tennessee Air Pollution Control Board on April 9, 2025.

On March 13, 2025, Sinova Silicon LLC. (Sinova) requested that the Technical Secretary extend the expiration date of Prevention of Significant Deterioration (PSD) construction permit 979383. This permit was issued April 25, 2022, with a current expiration date of April 30, 2025. The initial application, on minor source application forms, was received on September 16, 2021, and included an estimated date of project completion of October 31, 2023. Later documents, in the correct Title V format and received on November 17, 2021, did not include these estimates, but were back-dated to September 16th. The application was deemed complete on November 18, 2021. Because of funding issues caused by uncertainty related to tariff and trade issues, Sinova has requested an amendment to extend the expiration date. The March 13 letter states that completion of construction is expected within eighteen months, and Sinova requests an extension of the permit's expiration date to October 31, 2026.

Tennessee Air Pollution Control Regulations (TAPCR) 1200-03-09-.01(4)(a)4 states:

Approval to construct shall become invalid if construction is not commenced within 18 months after issuance of an approved permit, if construction is discontinued for a period of 18 months or more, or if construction is not completed within 18 months of the completion date specified on the construction permit application. The Tennessee Air Pollution Control Board may grant an extension to complete construction of the source provided adequate justification is presented. An extension shall not exceed 18 months in time. The provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date.

Tennessee Air Pollution Control Regulations (TAPCR) 1200-03-09-.01(4)(b)9 states:

Construction” means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

The March 13 letter stated that construction of emission sources is ongoing (within 18 months of initial permit issuance) and has not been discontinued for a period of 18 months or more. The letter provided the following justifications for the extension request and explanations for the delays:

- The letter states that a great deal of progress has been made at the site. Construction has begun and 1000 deep foundation pilings have been installed. Site grading, landscaping, rail construction, TVA power line installation, and water tower installation are complete. Submerged arc furnace shells, electrical substation equipment, and overhead cranes have been delivered and are currently on-site. Industrial gas service is nearly complete.
- There have been tariff and trade problems. Raw materials are provided by Canada, and there are market competitors in China.
- Disruptions to the silicon market, and the resulting uncertainty, have caused delays in the funding for further construction.

Based on the facts specified above, the Technical Secretary recommends that the Board extend the expiration date of this permit until October 31, 2026.

In consideration of the Technical Secretary's recommendation, the Board grants the permit extension. Entered and approved by the following Board Members on April 9, 2025.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____



**State of Tennessee
Department of State**

Administrative Procedures Division
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Phone: (615) 741-7008/Fax: (615) 741-4472

March 31, 2025

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**RE: STATEWIDE ORGANIZING FOR COMMUNITY EMPOWERMENT AND PAUL
AND JOANNA WARE, ED AND JAN ROUTON, CHARLIE AND KATHERINE
ZAMMIT, SHARI LYDY, AND EM TURNER CHITTY V. TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION, APD Case No. 04.09-
250136J**

Enclosed is an *Initial Order*, including a *Notice of Appeal Procedures*, rendered in this case.

Administrative Procedures Division
Tennessee Department of State

Enclosure(s)

BEFORE THE TENNESSEE BOARD OF AIR POLLUTION CONTROL

IN THE MATTER OF:

**PAUL AND JOANNA WARE, ED AND
JAN ROUTON, CHARLIE AND
KATHERINE ZAMMIT, SHARI LYDY,
AND EM TURNER CHITTY,
STATEWIDE ORGANIZING FOR
COMMUNITY EMPOWERMENT,
*Petitioners,***

APD Case No. 04.09-250136J

v.

**TENNESSEE DEPARTMENT OF
ENVIRONMENT AND
CONSERVATION,
*Respondent,***

v.

**TINSLEY SAND & GRAVEL, LLC,
*Intervenor.***

INITIAL ORDER DISMISSING APPEAL

This matter arises from a permit appeal filed by Petitioners, Statewide Organizing for Community eMpowerment, Ed and Jan Routon, Charlie and Katherine Zammit, Shari Lydy, and Em Turner Chitty, pursuant to TENN. CODE ANN. § 68-201-108(a). Petitioners are contesting the issuance of Permit 082337 to Construct/Modify and Operate Air Contaminant Source(s). In addition, Petitioners seek a declaratory order revoking the permit and/or staying the permit during the contested case proceeding, to reopen the public comment period and to require TDEC to reply to public comments, and hold a formal public hearing.¹

¹ Air permits are issued by the Technical Secretary of the Board of Air Pollution Control (the Board) pursuant to the Tennessee Air Quality Act (the Act). *See* TENN. CODE ANN. § 68-201-101 to § 68-201-122.

Respondent, the Tennessee Department of Environment and Conservation (TDEC), filed a MOTION TO DISMISS (Motion) the permit appeal for failure to state a claim pursuant to TENN. R. CIV. P. 12.02(6). Intervenor Tinsley Sand & Gravel, LLC (Tinsley) joins the Motion and moves that the case be dismissed for lack of subject matter jurisdiction pursuant to TENN. R. CIV. P. 12.02(1).

Petitioners argue that TDEC should have opened an additional public comment period and convened a formal public hearing based on the change in the hours of operation from those listed in the original permit application to those listed on the revised application. However, the permit at issue is a minor source permit, and TDEC is not obligated to hold a formal public meeting for minor permits. Nor is TDEC required to reopen the public notice period for a non-material change to a permit application.²

It is determined that this tribunal lacks subject matter jurisdiction over the permit appeal, that Petitioners failed to state a claim and the Motion should be granted. Therefore, TDEC's MOTION TO DISMISS is **GRANTED**.

PROCEDURAL HISTORY

Petitioners filed the permit appeal with the Board on December 11, 2024. A contested case was opened with the Administrative Procedures Division (APD) by NOTICE OF HEARING filed by TDEC on January 8, 2025. Attorneys Chris Irwin and Douglas Finnan represent Petitioners. Attorney Grant Ruhl represents TDEC. On January 22, 2025, Tinsley, the permit holder, filed an unopposed MOTION TO INTERVENE, which was granted on January 30, 2025. Tinsley is represented by its Chief Legal Officer, Clifton Miller.

² The applicability, if any, of § 68-201-108(a)(2) to minor source permits will be addressed below.

On February 14, 2025, TDEC filed a MOTION TO DISMISS the permit appeal. On February 28, 2025, Petitioners filed a response to the Motion. Tinsley filed a response joining in the Motion. The parties presented oral arguments before Administrative Judge Leigh Thomas on March 4, 2025. At the close of oral argument, the motions were submitted for disposition. A transcript of the hearing was filed on March 18, 2025.³

FINDINGS OF FACT

1. Pursuant to the Tennessee Air Quality Act, air permits are issued by the Board of Air Pollution Control’s Technical Secretary.

2. On April 25, 2024, Tinsley submitted a non-Title V Permit Application Facility Identification (permit application) with TDEC to construct and operate a *minor stationary source* for a Nonmetallic Mineral Crushing and Sizing Operation for the Tinsley Marion County Sand Plant. The permit application indicated the Tinsley facility would operate up to eight hours per day, 60 days per year, for a maximum of 480 hours of operation per year, and provided the expected emissions calculation.

3. In contrast to Title V permits, non-Title V permit applications are used for minor stationary sources of air pollutants. Whether a source is minor or major is determined by the potential ability to emit specific criteria pollutants. TENN. COMP. R. & REGS. 1200-03-09-.01(4)(b)(1).

4. Minor stationary sources are any sources that do not fall within the definition of “major stationary source” as defined by TENN. COMP. R. & REGS. 1200-03-09-.01(b)(1). Minor sources are *physically incapable* of producing more than 100 tons per year (tpy) of a criteria pollutant.

³ Judge Thomas presides over this matter as an administrative judge sitting on behalf of the Board under TENN. CODE. ANN. § 4-5-301(a)(2), § 4-5-314(b) and § 68-201-108(a)(1).

5. When a source is incapable of emitting air contaminants by stack or equivalent, the source produces fugitive emissions.⁴ Permits regulating fugitive emissions focus on material input rates and the use of wet suppression designed to control for opacity. Opacity is the degree to which the emissions are visible.

6. The categories of sources that qualify something as a major stationary source do not include processing plants or mineral crushing operations like Tinsley.

7. Tinsley is incapable of emitting air contaminants by stack or stack equivalent.

8. The process and requirements to receive a permit for a minor stationary source are less rigorous than those required for major sources permits.

9. While major source permits require formal public hearings, a permit for a minor source requires only that TDEC provide notice via TDEC's website once a month that includes the general vicinity of the proposed source. Public comments may be submitted to the Technical Secretary in writing for consideration within 30 days of the notice.

10. The requirement for a minor source permit is set forth in the application criteria found in TENN. COMP. R. & REGS. 1200-03-09-.01(h)s:

The Department shall on a monthly basis notify the public via electronic notice on the Department's website of the applicants seeking to obtain a permit to construct or modify an air contaminant source. *The notice shall specify the general vicinity or location of the proposed source or modification, the type of source or modification, and opportunity for public comment.* Comments shall be in writing and submitted by U.S. mail or by email to the Technical Secretary within 30 days after the date of public notice...

(emphasis added)

11. On June 26, 2024, TDEC posted public notice of Tinsley's permit application on the TDEC website on the Air Notices and Hearings webpage. The public notice read as follows:

⁴ Fugitive emissions are emissions "which could not reasonably pass through a stack, chimney, vent, roof monitor, or other functionally equivalent opening." See TENN. COMP. R. & REGS. 1200-03-09-.01(b)(21)

Air Pollution Control Construction Permit Application for the following facility: The applicant is Tinsley Sand and Gravel, LLC with a mailing address of 303 Ake Street, Estill Springs, TN, 37330. The applicant seeks to obtain an air contaminant permit (Division identification number: 58-0166 and 82337) for the construction of a rock crushing and sizing operation at the following location: 18546 South Pittsburg Mountain Road, Sewanee, TN. See the link to the attached document for additional details of this construction permit application and for information for those wishing to express comments. View The Tinsley Sand and Gravel LLC Public Notice Link.

12. The hyperlink in the public notice led to the following public notice document, which provided additional information about the permit application and submitting public comments:

The Tennessee Division of Air Pollution Control (TDAPC) has received requests for construction and/or modification of air contaminant sources as noted below. The proposed construction and/or modification is subject to part 1200-03-09-.01(1)(h) of the Tennessee Air Pollution Control Regulations, which requires a public notification and 30-day public comment period. Interested parties may express their comments and concerns in writing to air.pollution.control@TN.gov or Ms. Michelle W. Owenby, Director, Division of Air Pollution Control, Davy Crockett Tower, 500 James Robertson Parkway, 7th Floor, Nashville, Tennessee 37243 within 30 days of the date of this notice. Questions concerning a source may be addressed to the assigned Division personnel at the same address or by calling 615-532-0554.

Construction permits issued by TDAPC do not grant any authority operate, construct, or maintain any installation in violation of any law, statute, code, ordinance, rule, or regulation of the State of Tennessee or any of its political subdivisions.

Individuals with disabilities who wish to participate should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be in person, by writing, telephone, or other means, and should be made no less than ten days prior to the end of the public comment period to allow time to provide such aid or services. Contact the Tennessee Department of Environment and Conservation ADA Coordinator, 6th Floor, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, TN 37243, (615) 532-0207. Hearing impaired callers may use the Tennessee Relay Service (1-800-848- 0298).

The applicant is Tinsley Sand and Gravel, LLC with a mailing address of 303 Ake Street, Estill Springs, TN, 37330. The applicant seeks to obtain an air contaminant permit (Division identification number: 58-0166 and 82337) for the construction at the following address: 18546 South Pittsburg Mountain Road, Sewanee. The permit request is for the construction of the following: a rock crushing and sizing operation

that consists of crusher(s), screen(s), conveyor(s), and other equipment associated with crushing and sizing rock material. There would be physical construction. Regulated air contaminants would be emitted by this source. Information regarding this source can be found in the Division of Air Pollution Control Dataviewer link which can be found at the bottom of the Division of Air Pollution Control webpage.

Shadow Marks is the assigned Division person.

13. TDEC conducted a 30-day comment period which ended on October 9, 2024.⁵

14. A significant amount of public comments were received during the comment period, including comments from individual Petitioners Ed and Jan Routon, Katherine and Charlie Zammit, Shari Lydy, and Em Turner Chitty. Many of the comments included a request for a public meeting where TDEC would answer questions and provide further information.

15. Based on the number of public comments, TDEC held a *voluntary informal* public meeting on October 8, 2024, to discuss the permit with the community. The meeting was not required under TDEC's rules and regulations. Nor do the rules and regulations require TDEC to keep a record of or reply to the public comments received during the comment period for a minor source permit application.⁶

16. During the voluntary informal public meeting, Petitioner Charlie Zammit asked about the operating hours and was advised that they were listed on the permit application. It was discovered that the permit application erroneously listed the hours it would take to construct the plant rather than the operating hours after the plant was constructed.

17. A revised application dated October 11, 2024, was submitted on October 15, 2024. The revised application provided the corrected operating hours of 8-12 hours per day, 5-7 days per

⁵ It is unclear from the record whether the public comment period began on June 26, 2024, when the notice was posted and continued beyond the 30 days or whether the public comment period began 30 days prior to October 9, 2024. The parties are in agreement that the public comment period ended on October 9, 2024.

⁶ The October 8, 2024 meeting was advertised, noticed, and conducted as an informal public meeting. *See* INTERVENING PARTY, TINSLEY SAND & GRAVEL, LLC, RESPONSE IN SUPPORT OF TDEC'S MOTION TO DISMISS PERMIT APPEAL at p. 4.

week (250 days per year), 52 weeks per year, for a total of 3,000 hours of operation per year as well as clarified the use and size of a piece of equipment.

18. The emission calculations for the revised application remained the same as the original permit application and did not change the fugitive emission or opacity limitations or increase the allowable material processing input rate. The maximum potential to emit and type of source remained unchanged and the revised permit application still qualified as a minor source permit.

19. During this time period, there was email correspondence between a TDEC representative and the engineering firm retained by Tinsley regarding whether a new permit application was needed along with a new public notice period. It was determined a new application was not needed because the change in hours and a correction to how some equipment was identified was not a material change.

20. The percentage of visible emissions expected to be produced by the operation of the facility, the material input, and the amount of opacity did not change from the original permit application to the revised permit application.

21. A change in permit conditions that regulate wet suppression and opacity would be a material change to a permit, while a change in operating hours is not a material change. A change in how the dewatering screen is identified is not a material change.

22. The revised application was submitted after the public comment period ended and after the informal voluntary public meeting.

23. It is not unusual for minor source permit applications to be revised up until issuance because of the technical nature of construction and operating a facility. Changes to permits that do not impact the permittee's potential to emit are non-material changes.

24. After the public comment period ended, additional comments were submitted to TDEC by Petitioner Paul Ware.

25. On November 12, 2024, the permit application was approved by the Technical Secretary of the Board as Permit 082337. The permit expires on August 1, 2034.

26. The changes in operating hours and how the equipment is identified in the revised application does not change Tinsley from a minor source to a major source.

APPLICABLE LAW

Tennessee Rule of Civil Procedure 12.02 authorizes a defending party to move to dismiss a petition or complaint for “(1) lack of jurisdiction over the subject matter [and] ... (6) failure to state a claim upon which relief can be granted.” TENN. R. CIV. P. 12.02. When there is a challenge to subject matter, “the burden is on the plaintiff to demonstrate that the court has jurisdiction to adjudicate the claim.” *Redwing v. Catholic Bishop for Diocese of Memphis*, 363 S.W.3d 436, 445 (Tenn. 2012). A motion to dismiss for lack of subject matter jurisdiction must be determined at the outset of a case because it “call[s] into question the court’s lawful authority to adjudicate a controversy brought before it...” *Id.* (internal citation omitted). Whenever “a statute creates a cause of action and designates who may bring an action, the issue of standing is interwoven with that of subject matter jurisdiction and becomes a jurisdictional prerequisite.” *Spears v. Weatherall*, 385 S.W.3d 547, 549 (Tenn. Ct. App. 2012) (citations omitted). In such cases when “the legislature specifically designate[s] who may file a petition . . . , a court does not have subject matter jurisdiction to hear such a petition unless the party filing the petition has standing.” *Osborn v. Marr*, 127 S.W.3d 737, 740 (Tenn. 2004); *see also City of Memphis v. Hargett*, 414 S.W.3d 88, 98 n.8 (Tenn. 2013) (citing *Osborn* and noting that the court must treat standing as a question of subject matter jurisdiction when “a statute creates a cause of action and designates who

may bring an action”). Subject matter jurisdiction is so fundamental that when “subject matter jurisdiction is lacking, the court must dismiss the case.” *Keith v. Maury Cty. Bd. of Zoning Appeals*, No. M2017-02542-COA-R3-CV, 2019 Tenn. App. LEXIS 406, at *5 (Tenn. Ct. App. Aug. 21, 2019) (citing *Dishmon v. Shelby State Cmty. Coll.*, 15 S.W.3d 477, 480 (Tenn. Ct. App. 1999)).

For a motion to dismiss based on failure to state a claim, the complaint must be construed in favor of the plaintiff with all allegations of fact accepted as true. However, “inferences drawn from the facts or legal conclusions set out in the complaint are not required to be taken as true.” *Ragsdale v. City of Memphis*, 70 S.W.3d 56, 62 (Tenn. Ct. App. 2001) (internal citations omitted). “The facts pleaded, and the inferences reasonably drawn from these facts, must raise the pleader’s right to relief beyond the speculative level.” *Webb v. Nashville Area Habitat for Human., Inc.*, 346 S.W.3d 422, 427 (Tenn. 2011) (quoting *Abshure v. Methodist Healthcare–Memphis Hosps.*, 325 S.W.3d 98, 104 (Tenn. 2010)).

ANALYSIS AND CONCLUSIONS OF LAW

The issue for determination is whether Petitioners’ permit appeal can survive TDEC’s dismissal motion. Petitioners’ appeal cites the authority to appeal under TENN. CODE. ANN. § 68-201-108, § 68-201-110, § 4-5-223, and TENN. COMP. R. & REGS. 1200-03-09.05. As set forth below, Petitioners either lack the requisite standing to pursue actions brought under these authorities or fail to state a claim for which relief can be granted. The action must be dismissed.

Appeals under TENN. COMP. R. & REGS. 1200-03-09.05 are limited to denials of permit applications or appeals on a new condition added to an existing permit. As Petitioners are neither the owner nor operator or otherwise a permit applicant or holder, they cannot initiate an appeal under this rule. Petitioners are not a proper party to an appeal under this rule, so they lack standing

to proceed. Likewise, TENN. CODE ANN. § 68-201-110 provides for an appeal from any *final order* or *final determination*. No such final order or final determination has issued from which an appeal can proceed under this statute. As no proper appeal can be maintained under this statute at this time, Petitioners also lack standing to proceed under TENN. CODE ANN. § 68-201-110.

For a declaratory order petition under § 4-5-223, *the Board* must determine to convene a contested case hearing to consider a declaratory order petition under TENN. CODE ANN. § 4-5-223. A party cannot unilaterally open a contested case to consider a declaratory order petition. Significantly, a declaratory order petition is not heard by an administrative judge sitting on behalf of the Board unless the Board first determines to hear the declaratory order petition and then delegates the contested case hearing on the declaratory order petition to an administrative judge.⁷ TENN. COMP. R. & REGS. 1360-04-01-.07.

Petitioners' appeal was also filed pursuant TENN. CODE ANN. § 68-201-108(a)(2) which provides:

A petition for permit appeal by an aggrieved party other than a permit applicant may only be filed pursuant to this section by an aggrieved person who participated in the public comment period or gave testimony at a formal public hearing. The appeal shall be based upon one (1) or more of the issues that were provided to the commissioner in writing during the public comment period or in testimony at a formal public hearing on the permit application. Additionally, for those permits for which the department gives public notice of a draft permit, any permit applicant or aggrieved person may base a permit appeal on any material change to conditions in the final permit from those in the draft, unless the material change has been subject to additional opportunity for public comment. A petition for permit appeal shall be filed with the technical secretary within thirty (30) days after the commissioner's final decision to issue or deny the permit is posted on the department website. Notwithstanding § 4-5-223 or any other law to the contrary, this section shall be the exclusive means for obtaining administrative review of the

⁷ Once such a petition is submitted to the Board, it is placed on the agenda of the Board for a determination regarding convening a contested case hearing, and the petitioner is notified of the date of that Board meeting. If the Board decides not to convene a contested case hearing for a declaratory order petition, the petitioner may apply for a declaratory judgment as provided in TENN. CODE ANN. § 4-5-225. TENN. CODE ANN. § 4-5-223(a)(2); *see also* BOE-G-01-Filing Appeals and Petitions for Declaratory Order with TDEC-081420.

commissioner's issuance or denial of a permit by such an aggrieved person, and its process shall be exhausted before judicial review may be sought.

(emphasis added). Permit appeals under this statute may only be filed by the permit applicant or an “. . . aggrieved person who participated in the public comment period or gave testimony at a formal public hearing....”

Petitioners assert that by virtue of participation in the public comment period and the voluntary informal public meeting, they have standing as aggrieved persons under § 68-201-108(a)(2). The informal public meeting is not a formal public hearing and was not required. Therefore, Petitioners’ participation in the informal public meeting does not qualify them as aggrieved persons. Petitioners *did* participate in the public comment period. However, the relevant rules and regulations for minor source permits only require the public comment period and notice, not that the Technical Secretary keep a record of the comments, respond to the comments, or otherwise take action based on those comments.

A plain language reading of § 68-201-108(a)(2) referring to material changes brings into question whether the provision applies to minor source permits as it references *draft permits* rather than permit applications. The requirements regarding publication for minor source permits require only that “*The notice shall specify the general vicinity or location of the proposed source or modification, the type of source or modification, and opportunity for public comment.*” There is no requirement that the permit application itself be published.

In the alternative, even if § 68-201-108(a)(2) does apply to minor source permits, the change in the operating hours does not constitute a material change to conditions. The purpose of a minor source permit is not to regulate the hours of operation but the amount and percentage of emissions. The percentage of visible emissions expected to be produced by the operation of the facility, the material input, and the amount of opacity did not change from the original permit


application to the revised permit application. Therefore even assuming § 68-201-108(a)(2) applies, there was no material change to the permit application and no new public notice period was required. TDEC complied with the rules and regulations concerning minor source permits and no relief can be granted. The fact that the operating hours were changed from the permit application to the revised application is an undisputed fact. The Petitioners' *inference* that the change in hours is a material change to the conditions that a minor source permit regulates does not make it so under the law. Petitioners have failed to state a claim.

DETERMINATION

The MOTION TO DISMISS is **GRANTED**.

It is so **ORDERED**.

This INITIAL ORDER entered and effective this the **31st day of March 2025**.



LEIGH THOMAS
ADMINISTRATIVE JUDGE
ADMINISTRATIVE PROCEDURES DIVISION
OFFICE OF THE SECRETARY OF STATE

Filed in the Administrative Procedures Division, Office of the Secretary of State, this the **31st day of March 2025**.

NOTICE OF APPEAL PROCEDURES

REVIEW OF INITIAL ORDER

The Administrative Judge's decision in your case **BEFORE THE TENNESSEE BOARD OF AIR POLLUTION CONTROL (the Board)**, called an Initial Order, was entered on **March 31, 2025**. The Initial Order is not a Final Order but shall become a Final Order unless:

1. **A Party Files a Petition for Reconsideration of the Initial Order:** You may ask the Administrative Judge to reconsider the decision by filing a Petition for Reconsideration with the Administrative Procedures Division (APD). A Petition for Reconsideration should include your name and the above APD case number and should state the specific reasons why you think the decision is incorrect. APD must **receive** your written Petition no later than 15 days after entry of the Initial Order, which is no later than **April 15, 2025**. A new 30 day period for the filing of an appeal to the Board (as set forth in paragraph (2), below) starts to run from the entry date of an order ruling of a Petition for Reconsideration, or from the twentieth day after filing of the Petition if no order is issued. Filing instructions are included at the end of the document.¹

The Administrative Judge has 20 days from receipt of your Petition to grant, deny, or take no action on your Petition for Reconsideration. If the Petition is granted, you will be notified about further proceedings, and the timeline for appealing (as discussed in paragraph (2), below) will be adjusted. If no action is taken within 20 days, the Petition is deemed denied. As discussed below, if the Petition is denied you may file an appeal, which must be **received** by APD no later than 30 days after the date of denial of the Petition. *See* TENN. CODE ANN. §§ 4-5-317 and 4-5-322.

2. **A Party Files an Appeal of the Initial Order and/or Other Earlier Orders:** You may appeal the decision, together with any earlier order issued by the Administrative Judge you specifically choose to appeal, to the Board, by filing an Appeal of the Initial Order with APD. An Appeal of the Initial Order should include your name and the above APD case number and state that you want to appeal the decision to the Board, specifying any earlier order(s) issued by the Administrative Judge that you also want to appeal, along with the specific reasons for your appeal. APD must **receive** your written Appeal no later than 30 days after the entry of the Initial Order, which is no later than **April 30, 2025**.² The filing of a Petition for Reconsideration is not required before appealing. *See* TENN. CODE ANN. § 4-5-317.
3. **The Board Decides to Review the Initial Order:** In addition, the Board may give written notice of its intent to review the Initial Order within the longer of 30 days or 7 days after the first board meeting to occur after entry of the Initial Order. No later than 7 days after the entry of an Initial Order, TDEC shall file, and serve, a Notice of Filing containing the date of the next Board meeting. No later than 7 days after the next Board

¹ See TENN. CODE ANN. §§ 68-201-108 (Air Pollution Control Board); 68-211-113, 68-212-113, 68-212-215, 68-215-115, 68-215-119 (Underground Storage Tanks and Solid Waste Disposal Control Board); TENN. CODE ANN. §§ 60-1-401, 69-3-110, 68-221-714 (Board of Water Quality, Oil & Gas).

² The deadline to file an appeal of the initial order (15 versus 30 days) in cases brought under the Tennessee Water Quality Control Act of 1977, TENN. CODE ANN. § 69-3-101, et seq., is an issue currently under review in a case before the Tennessee Supreme Court. *Jamesway Construction, Inc. v. David Salyers, P.E.*, No. M2023-01704-SC-R11-CV.

NOTICE OF APPEAL PROCEDURES

Meeting, TDEC shall file, and serve, a Notice of Filing setting forth what action, if any, the Board took with respect to the Initial Order.

If either of the actions set forth in paragraphs (2) or (3) above occurs prior to the Initial Order becoming a Final Order, there is no Final Order until the Board renders a Final Order affirming, modifying, remanding, or vacating the administrative judge's Initial Order.

If none of the actions in paragraphs (1), (2), or (3) above are taken, then the Initial Order will become a Final Order. **In that event, YOU WILL NOT RECEIVE FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER.**

STAY

In addition, you may file a Petition asking the Administrative Judge for a stay that will delay the effectiveness of the Initial Order. A Petition for a stay must be **received** by APD within 7 days of the date of entry of the Initial Order, which is no later than **April 7, 2025**. See TENN. CODE ANN. § 4-5-316. A reviewing court also may order a stay of the Final Order upon appropriate terms. See TENN. CODE ANN. §§ 4-5-322 and 4-5-317.

REVIEW OF A FINAL ORDER

When an Initial Order becomes a Final Order, a person who is aggrieved by a Final Order in a contested case may seek judicial review of the Final Order by filing a Petition for Review "in the Chancery Court nearest to the place of residence of the person contesting the agency action or alternatively, at the person's discretion, in the chancery court nearest to the place where the cause of action arose, or in the Chancery Court of Davidson County," within 60 days of the date the Initial Order becomes a Final Order. See TENN. CODE ANN. § 4-5-322. The filing of a Petition for Reconsideration is not required before appealing. See TENN. CODE ANN. § 4-5-317.

FILING

Documents should be filed with the Administrative Procedures Division by email *or* fax:

Email: APD.filings@tnsos.gov

Fax: 615-741-4472

In the event you do not have access to email or fax, you may mail or deliver documents to:

Secretary of State
Administrative Procedures Division
William R. Snodgrass Tower
312 Rosa L. Parks Avenue
Nashville, TN 37243-1102



Department of
**Environment &
Conservation**

**PM_{2.5} NAAQS Overview:
Designations Recommendations
Air Pollution Control Board Meeting**

PM_{2.5} NAAQS Background

- EPA strengthened the annual PM_{2.5} National Ambient Air Quality Standard (NAAQS) to 9.0 µg/m³ on Feb 7, 2024.
- Within two years of this NAAQS revision, states work with EPA to designate areas as attaining or violating the NAAQS.
- Ambient monitoring data, as a 3-year design value, is used to initially assess attainment with the NAAQS
- If areas are designated as non-attainment/violating the NAAQS, additional permitting, emission control measures, etc., will be required to bring the area back to attainment.

PM Designations Timeline

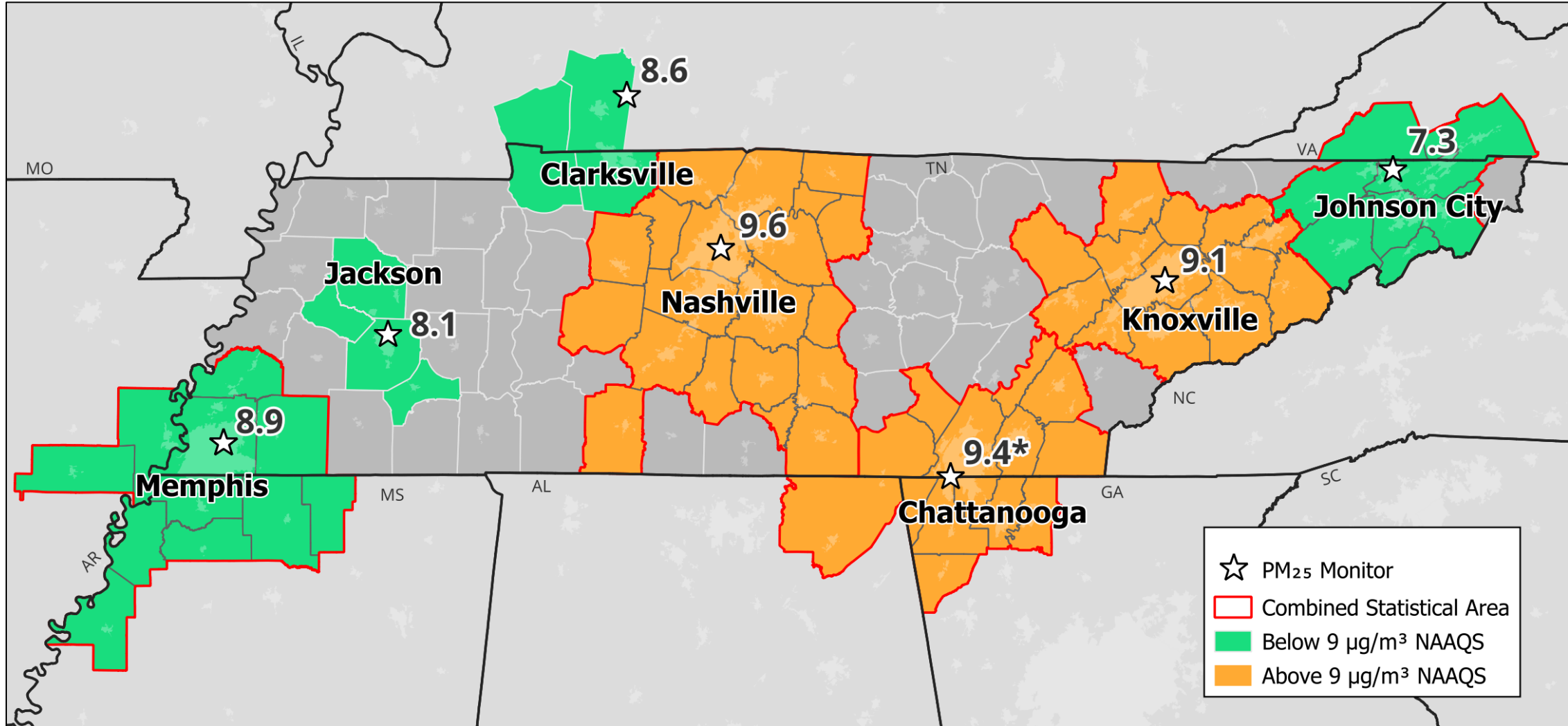
Milestone	Date
Revised PM NAAQS Finalized	February 7, 2024
State Designations Recommendations (based on 2021-2023 data)	No later than February 7, 2025
EPA Notification of Modifications to State Designation Recommendations (120-day letter)	No later than October 9, 2025
States and Tribes submit additional information, if any, to respond to the EPA's modification	Mid-December 2025
Final Area Designations by EPA (based on 2022-2024 data)	February 6, 2026

2021-2023 Monitored Design Values

Area	Max PM _{2.5} County	2021-2023 Design Value (µg/m ³)
Nashville	Davidson-TN	9.6
Chattanooga	Walker-GA	9.4*
Knoxville	Knox-TN	9.1
Memphis	Shelby-TN	8.9
Clarksville	Christian-KY	8.6
Jackson	Madison-TN	8.1
Kingsport	Bristol City-VA	7.3

*Value is 2022-2023 (2-year) design value.

2021-2023 Monitored Design Values (DV)



*Value is 2022-2023 (2-year) design value.

**2021-2023 data is most recently certified PM_{2.5} data

Factors Affecting Monitoring Design Values

- Exceptional Event Demonstrations (EEDs)
 - TN was significantly impacted by Canadian wildfires in 2023
 - Petitioning EPA to exclude Canadian wildfire data from DV calculations
 - Excluding wildfire data will result in DVs below the NAAQS level
- Data certification of 2024 data
 - Timeline: Certification by **May 2025**
- **NAAQS attainment status may change!**

Exceptional Event Demonstrations (EEDs)

Area	EEDs Submission Date	Number of Requested Canadian Wildfire Days for Exclusion
Nashville	2/7/2025	28
Knoxville	2/6/2025	7
Memphis	2/5/2025	22
Chattanooga	2/7/2025	4

- Approval of EEDs will result in attaining data.

Preliminary Designations Recommendations

- TDEC submitted designations for all counties in Tennessee in February 2025
 - Even counties operated by local air agencies
- Recommended attainment for all counties in Tennessee
 - Including, areas with attaining data, *and*
 - Areas with violating data, assuming EPA approves EEDs
- Indicated that designation recommendations may change upon EED approval status and 2024 data certification.
- Final designations will be made by EPA in Feb 2026.

Potential Designation Scenarios

- Best case: EPA approves all EEDs, all counties in TN attain!
 - Consistent with our recommendations.
- If any of the initial EEDs are not approved by EPA, TDEC will work with our partners to submit additional, eligible EEDs.
- If an area still has a violating monitor after EED consideration, attainment status of each county will be evaluated using a **five-factor analysis**.
 - Air quality
 - Emissions (e.g, facilities, traffic)
 - Meteorology
 - Geography
 - Jurisdictional Boundaries

EPA Designations Input

Milestone	Date
Revised PM NAAQS Finalized	February 7, 2024
State Designations Recommendations (based on 2021-2023 data)	No later than February 7, 2025
EPA Notification of Modifications to State Designation Recommendations (120-day letter)	No later than October 9, 2025
States and Tribes submit additional information, if any, to respond to the EPA's modification	Mid-December 2025
Final Area Designations by EPA (based on 2022-2024 data)	February 6, 2026

2024 PM_{2.5} Data Outlook

Area	Max PM _{2.5} County	2022-2024 Preliminary Design Value (µg/m ³)
Memphis	DeSoto-MS	9.1 ↑ (Now Violating)
Nashville	Davidson-TN	9.3
Knoxville	Knox-TN	8.6 ↓ (Now Attaining)
Chattanooga	Walker-GA	9.0 ↓ (Now Attaining)
Clarksville	Christian-KY	7.9
Jackson	Madison-TN	7.6
Kingsport	Bristol City-VA	7.0

*2024 PM_{2.5} NAAQS = 9.0 µg/m³

*Based on data downloaded on 4/3

Designations Summary

- TDEC recommended attainment for all counties in Tennessee, assuming EPA approves EEDs in at-risk areas.
- EPA will finalize area designations in February 2026.
- It's important to remember that critical data gaps exists on final designations.
 - EPA Approval of EEDs? Anticipated by Spring 2025
 - 2024 data certification, Anticipated by May 2025
- If an area still violates the NAAQS after data gaps are resolved, TDEC will evaluate attainment status using 5-factor analysis and may need to update recommendations.

After all this...What if we have a Nonattainment Area?

- Nonattainment areas must submit Attainment State Implementation Plans (SIPs)
 - Due 18 months after final designation (~August, 2027)
 - Plan to get area back in attainment through a variety of measures
- Elements of Attainment SIPs (CAA Requirements)
 - Control Strategies
 - Permitting Requirements
 - Emissions Inventories
 - Attainment Modeling
 - Reasonable Further Progress (RFP) with Quantitative Milestones
 - Transportation Conformity
 - Contingency Measures for failure to attain by attainment date or meet RFP requirements
- **Attainment Deadline = 2032**

Potential Next Steps for the PM NAAQS

- Potential 1-year extension on PM_{2.5} NAAQS Designations?
- Revisiting PM_{2.5} NAAQS
 - Will kick off a lengthy review process, lasting several years.
 - Until the review is complete, the current NAAQS is effective.

Questions

Michelle Oakes, Ph.D.

Division of Air Pollution Control

Regulatory Development and Planning Program

Environmental Manager

Michelle.Oakes@tn.gov

Work: 615-812-1119