

**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
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**Wednesday, October 08, 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. *****

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	General Business:		
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7.	Air Pollution Control Virtual Board Meetings	Grant Ruhl Emily Vann	57
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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.

This agenda is subject to change. For the latest board agenda, please contact: Donna F. Brown (615) 981-3436 or donna.f.brown@tn.gov (Email is preferred for prompt reply)

Webex Meeting Information

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Air Pollution Control Board
of the
State of Tennessee
Regular Meeting

On Wednesday June 11, 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-A. The following Board members were physically present.

Ms. Tara Pedraza
Mr. Kyle Etheridge
Mr. Mike Haverstick
Dr. Shawn Hawkins
Mr. Stephen Moore
Ms. Amy Spann
Mr. Jimmy West
Ms. Caitlin Roberts

The following Board member joined the meeting via Microsoft Teams:

Dr. Joshua Fu
Mayor Ken Moore

The following Board members were absent:

Dr. John Benitez
Dr. Chunrong Jia
Mr. Nicholas Ramos
Mayor Larry Waters

Since the Chairman, David Salyers, P.E., could not attend the meeting, Ms. Tara Pedraza, represented the Chairman by proxy. Ms. Michelle Owenby, Director, Division of Air Pollution Control, served as Technical Secretary. In the absence of Vice-Chairman, Larry Waters, Ms. Tara Pedraza, served as Vice Chairman for the June 11, 2025, meeting.

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

The Vice-Chairman, Ms. Tara Pedraza, called the meeting to order and asked for a roll call and the response was as follows:

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

Eight (8) Board members were present, two (2) participated via Microsoft Teams and four (4) were absent.

The next item on the agenda was the approval of the minutes from the April 09, 2025, Board meeting. The Vice-Chairman requested a motion to approve the minutes. Mr. West made motion to strike the language motion to dismiss, strike the motion to approve and replace with motion to not consider the initial order. Mr. West made a motion to approve the minutes and Ms. Spann seconded the motion. The Vice-Chairman, Ms. Tara Pedraza, asked if there were any additions or corrections to the minutes. Hearing none, the Vice-Chair, Ms. Tara Pedraza, asked for a roll call and the response was as follows:

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

The motion carried with Nine (9) affirmative votes; the minutes were approved as presented.

The Vice-Chairman, Ms. Tara Pedraza, called on Mr. Marc Corrigan, Air Pollution Control, to present the Board Order 25-010 Hamilton County Regulatory Amendments.

Mr. Corrigan briefly discussed Board Order 25-010. In July of 2023 EPA published a final FR notice removing “emergency” affirmative defense provisions from EPA’s Title V operating permit program regulations. These provisions established an affirmative defense that sources could have asserted in enforcement cases brought for noncompliance with technology-based emission limitations in operating permits, provided that the exceedances occurred due to qualifying emergency circumstances.

These provisions were removed because they were determined to be inconsistent with the EPA’s interpretation of the enforcement structure of the Clean Air Act according to prior court decisions from the US Court of Appeals for the D.C. Circuit. To be consistent with the recent revisions to the federal regulations in 40 CFR 70, the Chattanooga Hamilton County Air Pollution Control Bureau’s regulations need to be revised to remove sections that corresponds to the EPA final action removing 40 CFR 70.6(g).

In Attachment one of the Board Order beginning on page 32 of the Board Packet, in Sections 3 and 4 of the documents, all of 4-12(c) and 4-12(d) are being removed and is replaced with “Reserved”. Also, Section 7 includes removal of rule 3.2, that had allowed for excess visible emissions.

Additionally, several other updates are being incorporated into this set of ordinance revisions, including:

- Revision of the national ambient air quality standard for PM2.5.
- Incorporation by reference of the most current versions of federal regulations.
- Removal of an unnecessary provision for alternatively permitting equipment as a locally defined “minor pollution source”.
- Addition of a requirement for the Director to report confidentiality request determinations to the local Air Pollution Control Board.
- Update name of a national emission standard.
- Correction of two date errors; and
- Correction of an ordinance reference.

A public notice was published on July 3rd on the Bureau’s website, and a public hearing was held on August 22nd, 2024.

If approved by the Board, these revisions will be submitted to EPA for incorporation into the respective federal programs, including the Part 70, permitting program regulations.

The Vice-Chairman, Ms. Tara Pedraza, requested a motion to approve the Hamilton County Regulatory Amendments Board Order number 25-010. Ms. Spann made a motion to approve the Board Order and Mr. Hawkins seconded the motion. The Vice-Chair, Ms. Tara Pedraza, asked for a roll call and the response was as follows:

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

The motion carried with Ten (10) affirmative votes; Board Order 25-010 approved as presented.

The Vice-Chairman, Ms. Tara Pedraza, called on Mr. Travis Blake, Air Pollution Control, to discuss the Redesignation Request for the Sullivan County S02 Nonattainment Area Board Order 25-012.

Mr. Travis Blake presented a request to redesignate the Sullivan County sulfur dioxide nonattainment area to attainment based on permanent and enforceable emission reductions and upon compliance with other requirements established by the Clean Air Act. The Board approved submittal of the final redesignation request to EPA.

The Vice-Chairman, Ms. Tara Pedraza, requested a motion to approve the Redesignation Request for the Sullivan County S02 Nonattainment Area Board Order 25-012. Mr. Etheridge made a motion to approve the Board Order and Mr. Haverstick seconded the motion. The Vice-Chair, Ms. Tara Pedraza, asked for a roll call and the response was as follows:

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

The motion carried with Nine (9) affirmative votes; Board Order 25-012 approved as presented.

The Vice-Chairman, Ms. Tara Pedraza, called on Mr. James Johnston, Division of Air Pollution Control, to present FY 2025-2026 Title V Workload Analysis Board Order 25-013.

Mr. James Johnston presented the Fiscal Year 2026 (July 1, 2025, to June 30, 2026) Workload Estimates (FTEs) 1200-03-09-.02(9)(d)(iv): "The emission fee rates enumerated in subpart (iii) [dollar per tons rates] of this part must be supported by the Divisions annual workload analysis that is approved by the Board".

The Vice-Chairman, Ms. Tara Pedraza, requested a motion to approve the FY 2025-2026 Title V Workload Analysis Board Order 25-013. Mr. West made a motion to approve the Board Order and Mr. Hawkins seconded the motion. The Vice-Chair asked for a roll call and the response was as follows:

Ms. Pedraza	Yes	Dr. Benitez	Absent
Dr. Etheridge	Yes	Dr. Fu	Yes
Mr. Haverstick	Yes	Dr. Hawkins	Yes
Ms. Roberts	Yes	Dr. Jia	Absent
Mayor Moore	Absent	Mr. Moore	Yes

Ms. Spann	Yes	Mr. Ramos	Absent
Mayor Waters	Absent	Mr. Jimmy West	Yes

The motion carried with Nine (9) affirmative votes; Board Order 25-012 approved as presented.

The Vice-Chairman, Ms. Tara Pedraza, called on Mr. Mark Reynolds, Division of Air Pollution Control, to present the NSPS and NESHAP Incorporation by Reference Rulemaking.

Mr. Mark Reynolds, Division of Air Pollution Control, presented 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. The proposed rule revision will make minor amendments to the Asbestos NESHAP. In a related project, Mr. Reynolds stated that the Division is working with EPA to change the delegation mechanism for NESHAP and NSPS rules from “automatic” delegation to “adopt by reference” delegation. The Board voted and approved the rule revision.

The Vice-Chairman, Ms. Tara Pedraza, requested a motion to approve the NSPS and NESHAP Incorporation by Reference Rulemaking. Mr. Moore made a motion to approve the Board Order and Mr. Etheridge seconded the motion. The Vice-Chair, Ms. Tara Pedraza, asked for a roll call and the response was as follows:

Ms. Pedraza	Yes	Dr. Benitez	Absent
Dr. Etheridge	Yes	Dr. Fu	Yes
Mr. Haverstick	Yes	Dr. Hawkins	Yes

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

The motion carried with Nine (9) affirmative votes; NSPS and NESHAP Incorporation by Reference Rulemaking approved as presented.

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 10:43am.

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

Approved at Nashville, Tennessee on October 08, 2025

(Signed) Ms. Tara Pedraza, Vice-Chairman
Tennessee Air Pollution Control Board

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



Withdrawal of Incorporation by Reference for NSPS Rule

Incorporation by Reference

- Over the past several years, the Division has incorporated by reference the federal National Emission Standards for Hazardous Air Pollutants (NESHAP) and New Source Performance Standards (NSPS) rules into state rules
 - Rule Revision #1 (NESHAP)
 - Rule Revision #2 (NSPS)
 - Rule Revision #3, pending (NESHAP & NSPS)

Incorporation by Reference

- Benefits of using incorporation by reference (IBR)
 - Gives regulatory clarity
 - Keeps state rules up-to-date
 - Improves enforcement authority
- Every year EPA publishes new rules and modifications to existing rules, including the NESHAP & NSPS rules

Incorporation by Reference

- The Division intends to update the CFR date every year with a rule revision
- 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

NESHAP Rules (Rule Revision #1)

- Federal NESHAP Rules (40 CFR Parts 61 & 63)
- National Emission Standards for Hazardous Air Pollutants (NESHAP)
- Federal NESHAP rules are incorporated by reference in state rules at 0400-30-38
- Became state effective on December 28, 2022
- Adopted the July 1, 2020, version of 40 CFR Parts 61 and 63

NSPS Rules (Rule Revision #2)

- Federal NSPS Rules (40 CFR Part 60)
- New Source Performance Standards (NSPS)
- Federal NSPS rules are incorporated by reference in state rules at 0400-30-39
- Became state effective on December 15, 2024
- Adopted the July 1, 2022, version of 40 CFR Part 60

NSPS & NESHAP Rules (Rule Revision #3)

- This rulemaking will incorporate by reference the July 1, 2023, version of 40 CFR parts 60, 61, and 63 (both NESHAP & NSPS)
- Board approved on June 11, 2025
- Filed with the Secretary of State on August 6, 2025
- Scheduled to become state effective on November 4, 2025

NSPS & NESHAP Rules

	Rule Revision #1	Rule Revision #2	Rule Revision #3
Federal rule	NESHAP	NSPS	NESHAP & NSPS
State effective	December 28, 2022	December 15, 2024	November 4, 2025 (pending)
CFR version	July 1, 2020	July 1, 2022	July 1, 2023

NSPS & NESHAP Rule (Rule Revision #3)

- After the rule was filed with the Secretary of State (SOS) on August 6, 2025, the SOS found an error in the instructions for the NSPS portion of the rule
- The NESHAP portion of the rule does not have any errors and can move forward and become state effective on November 4, 2025

NSPS & NESHAP Rule (Rule Revision #3)

- The Division is recommending that the Board vote to withdraw the NSPS portion of the rule (0400-30-39) due to the error
- If the Board votes to withdraw the NSPS portion of the rule, the Division will submit a form to the SOS before November 4, 2025, to formally withdraw the NSPS portion
- If the Board does not withdraw the NSPS portion of the rule, the SOS may refuse to accept the entire rule (NSPS & NESHAP)



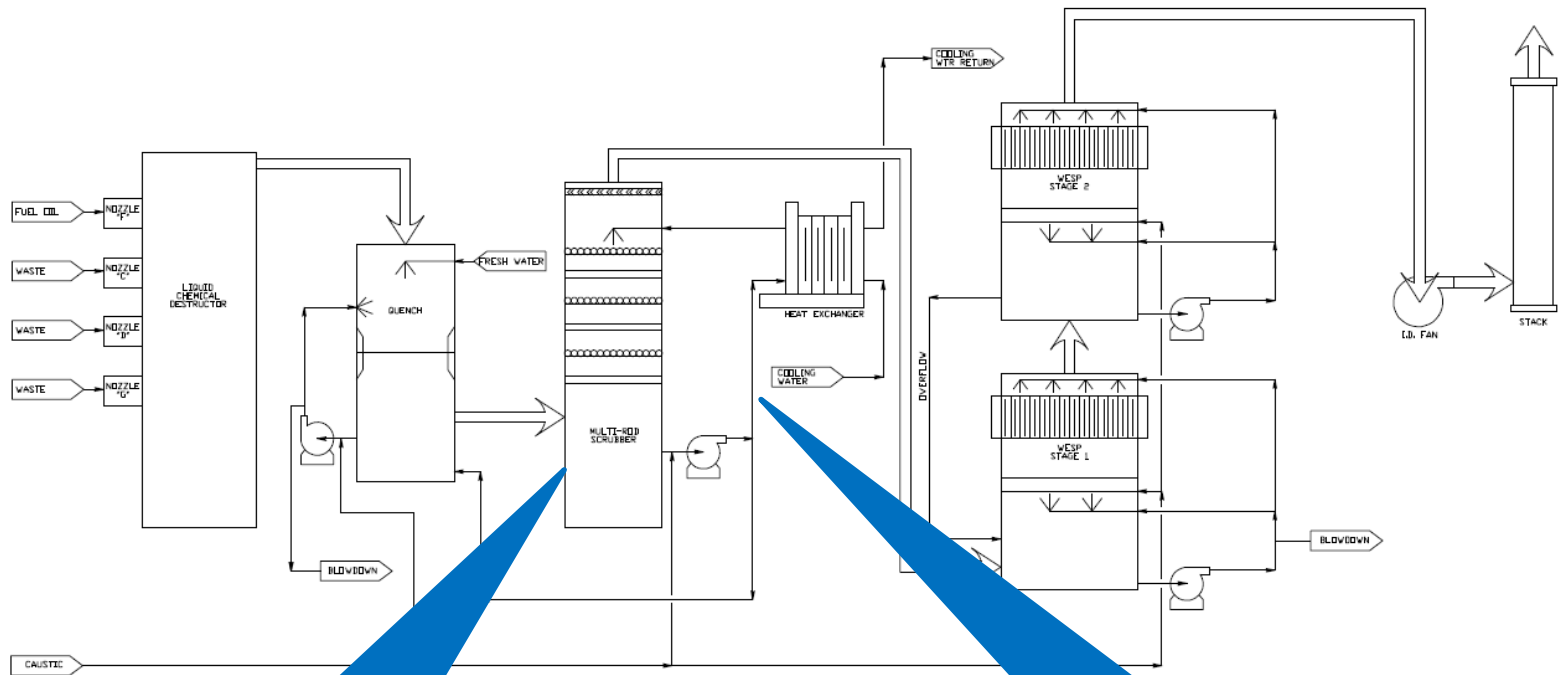
STATE OF TENNESSEE

Revision to SO₂ Redesignation Monitoring

Background

- On June 11, 2025, the Air Pollution Control Board approved the Redesignation Request and Maintenance Plan for the Sullivan County SO₂ nonattainment area for submittal to U. S. EPA.
- The redesignation request included revised emission limits and other requirements for Eastman's coal-fired boiler, flare, hazardous waste incinerators, and other emission sources.
- The redesignation request was made available for a 30-day public comment period, and a public hearing was held on March 20, 2025.
- Following the end of the public comment period, Eastman requested that the Division approve minor revisions to the parametric monitoring requirements for the facility's hazardous waste incinerators.

Hazardous Waste Incinerator Layout



SO₂ removal occurs in the rod scrubber

The scrubbing liquid recirculates within the system, and sodium hydroxide is added to control the scrubber pH.

Determination of SO₂ Removal Efficiency

- SO₂ removal increases at higher pH values (i. e., more sodium hydroxide is added to the system), but some removal occurs at low pH (acidic conditions), because SO₂ can react directly with the scrubbing liquid.
- The existing parameters were developed by modeling of the process with commercially available software (Aspen Plus®). The model simulates the physical and chemical processes that occur within the incinerator and control device. The previous modeling (submitted 2014) assumed no SO₂ removal below a pH of 4.20.

Rod Scrubber Underflow pH	Sulfur Dioxide Removal Efficiency
0.00	0%
4.13	0%
4.20	67.2%
4.42	82.8%
4.74	90.6%
5.64	98.1%
14.00	98.1%

Updated Process Modeling

- Eastman requested that the permit allow a broader pH range based on updated process modeling.
- The revised modeling assesses SO₂ removal at pH values of 3.44 and higher. The model shows that SO₂ removal is unchanged at pH values of 4.20 and higher.
- A revised permit, which includes the broader pH range, has been drafted as part of a SIP revision.

Scrubbing Media pH	SO ₂ Removal Efficiency
<3.44	0%
3.44	12.1%
3.61	18.0%
3.81	30.0%
4.01	47.9%
4.20	67.2%
4.42	82.8%
4.74	90.6%
≥5.64	98.1%

Public Participation and EPA Review

- EPA completed an informal review of the SIP revision in September 2025, and a public notice for this revision will be published in October.
- Formal public participation will include a 30-day public comment period, in which members of the public and EPA may submit formal comments.
- A final redesignation request will be submitted to the Board for approval once the comment period has closed and all comments have been addressed.



THANK YOU





Knoxville Maintenance Area PM_{2.5} Limited Maintenance Plan

APC Board Meeting– October 8, 2025

Introduction

- Area Designated as Nonattainment for 2006 24-Hour PM_{2.5} National Ambient Air Quality Standard (NAAQS) effective December 14, 2009
- Maintenance plans are written to ensure continued compliance with the NAAQS after an area is redesignated from nonattainment to attainment.
- Area Redesignated Attainment for 2006 24-Hour PM_{2.5} NAAQS effective September 27, 2017
 - The first 10-year maintenance plan and the redesignation request were submitted to the EPA as one document.
- Anderson, Blount, Knox, Loudon and Partial Roane Counties
- 2nd 10-Year Maintenance Plan due to EPA September 2025 (8 years after the effective date of the redesignation)

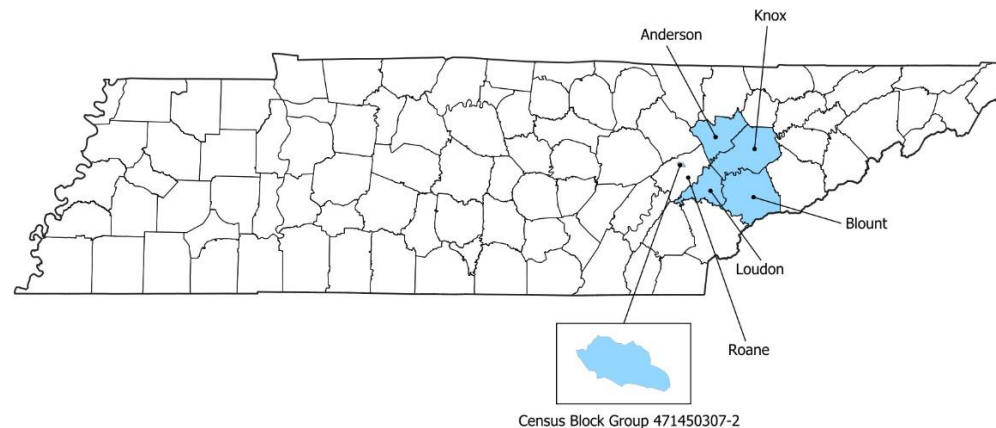
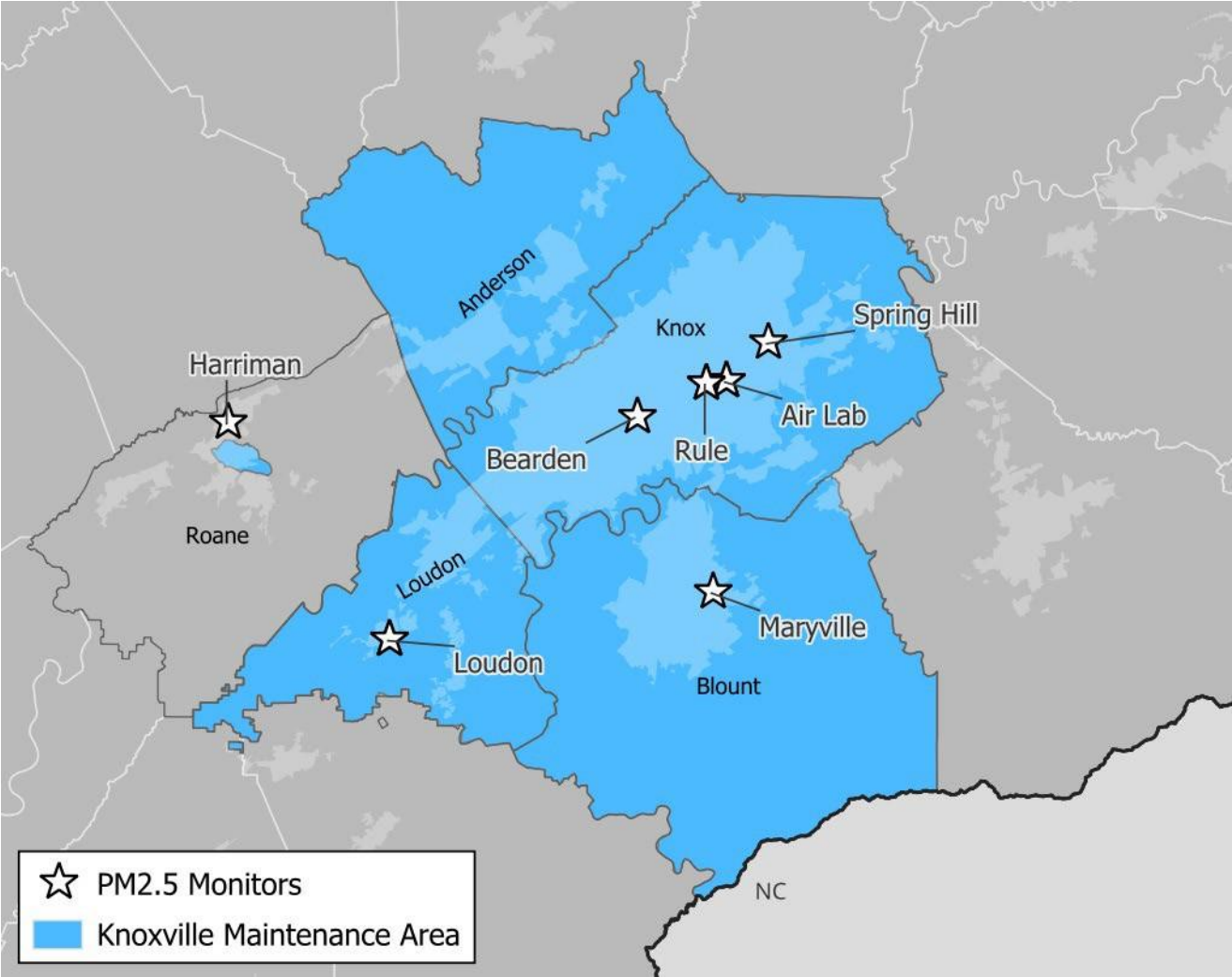


Figure 2-1 Regulatory Monitors located in the Knoxville Maintenance Area



Air Quality Trends

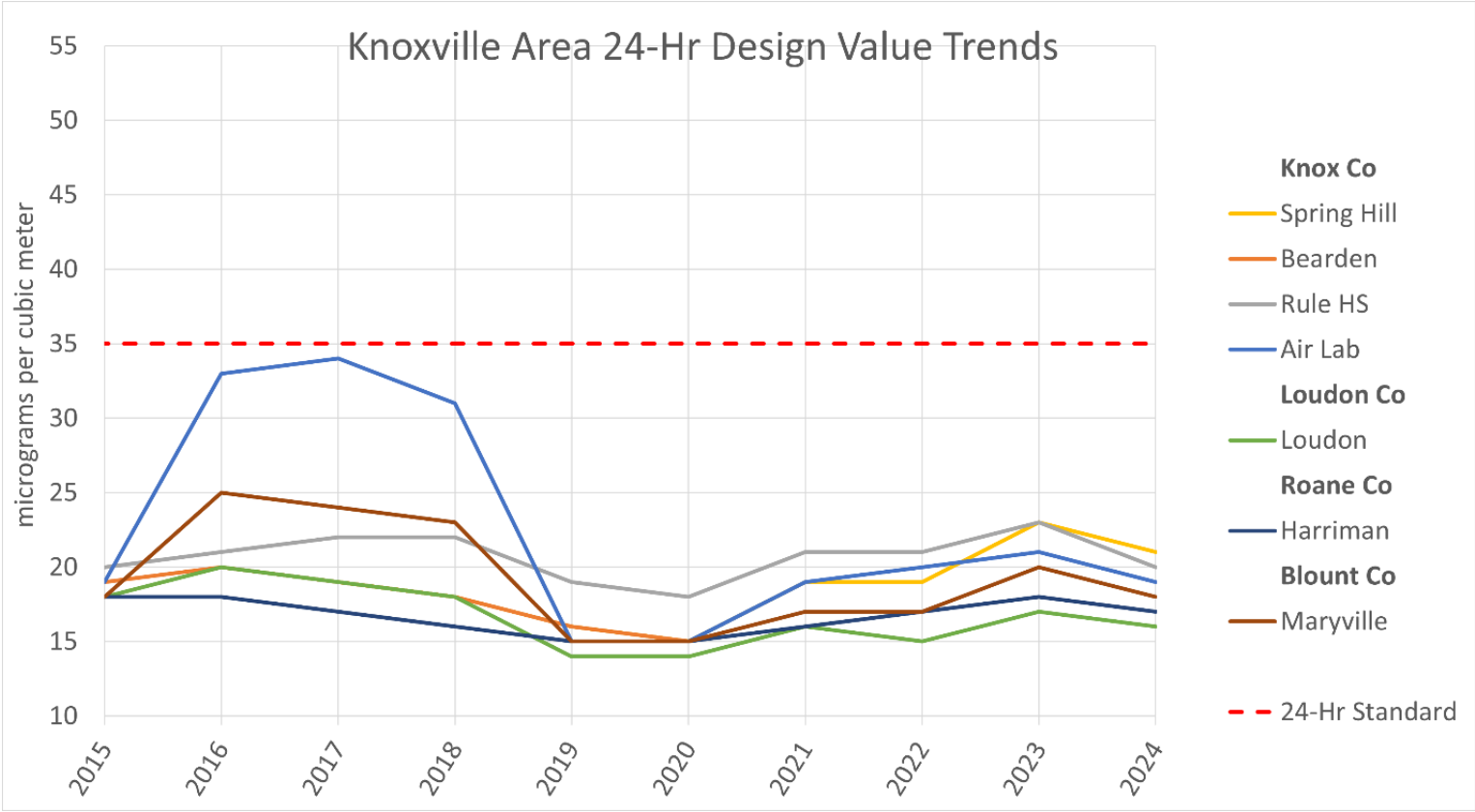


Figure 3. Knoxville Area 3-year Design Values for the 24-hr PM_{2.5} NAAQS 2015-2024

Limited Maintenance Plan

- Knoxville maintenance area not expected to experience significant emissions growth during the 2nd 10-year maintenance period and PM_{2.5} monitored concentrations remained stable and below NAAQS levels, so risk of violating NAAQS in the future is relatively low.
- Limited Maintenance Plan (LMP)=reasonable option
 - Limited maintenance plans are less resource intensive than standard maintenance plans, no future year emissions inventory is required, for example).
- LMP written in accordance with EPA 2022 Guidance Document
- In LMP, future year emissions inventory not required
- Required elements:
 - Attainment year emissions inventory
 - Provisions for continued operation of monitoring network
 - Verification of continued attainment
 - Contingency Plan
 - Meet applicable requirements for exceptional events/data modifications, and for transportation and general conformity programs as set forth in relevant implementing regulations for each program.

Limited Maintenance Plan

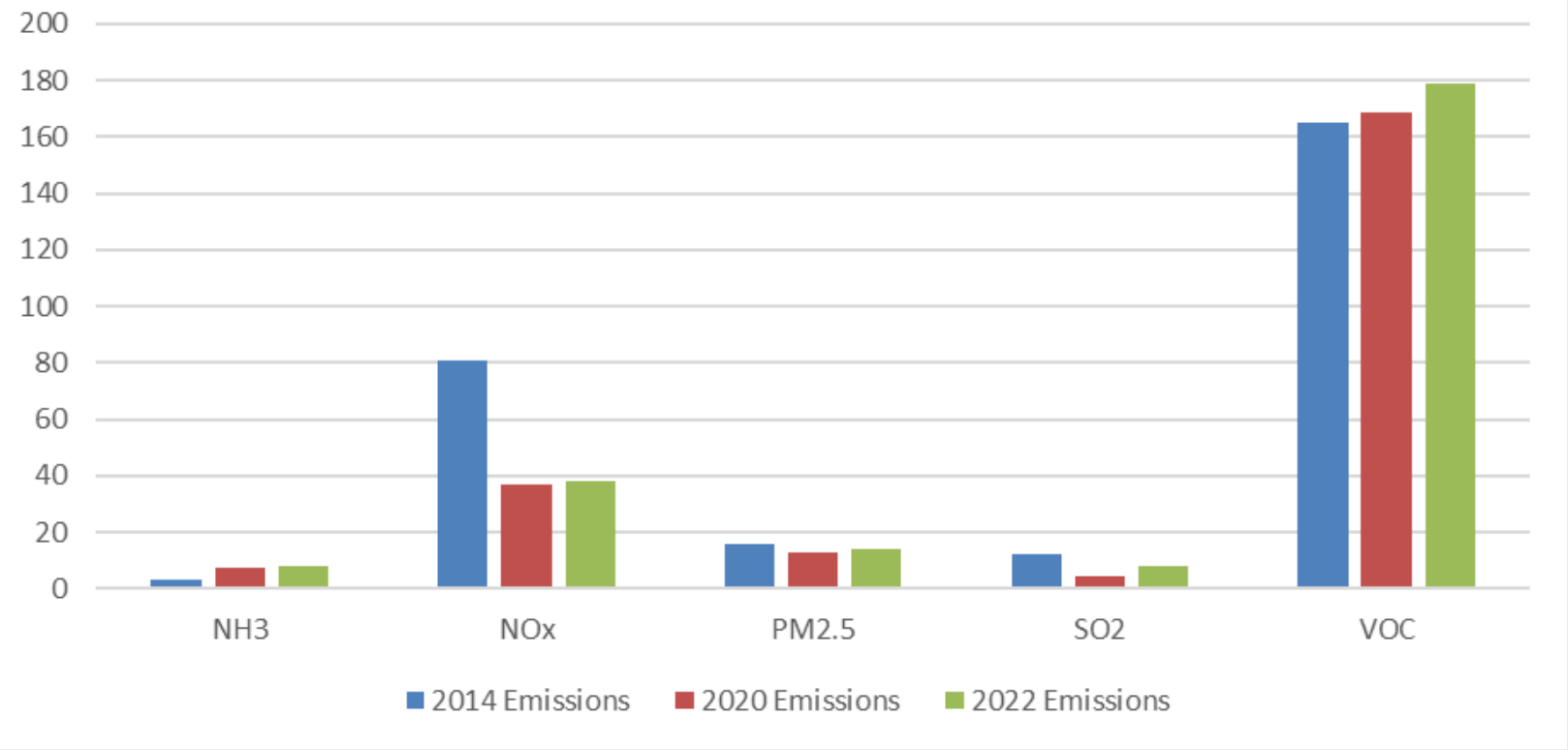
- To evaluate whether an area is eligible for an LMP, the EPA Guidance includes a calculation used to determine if the Average Design Value < Critical Design Value for each monitoring site in maintenance area.
- Calculation assesses likelihood of an area to violate the NAAQS in the future based on monitoring trends.
 - If the ADV is less than the CDV, then the likelihood of a NAAQS violation is low
 - If the ADV is lower than the CDV, then the probability of a future exceedance is less than 10%
- Our results demonstrate that the ADV < CDV and that Knoxville maintained the NAAQS for at least 8 years, making the area eligible for an LMP

Attainment Inventory Development

- Attainment Inventory
 - "The inventory should represent emissions during the same five-year period associated with the air quality data used to determine whether the area meets the applicability requirements of this policy (i.e., the most recent five years of air quality data)."
- Analysis Year
 - 2020 National Emission Inventory (NEI): supplemented with 2014 NEI and 2022 Emission Modeling Platform (EMP)
 - 2014 was base year used in 1st Maintenance Plan
 - 2020 affected by the Covid-19 pandemic
- Pollutants:
 - PM_{2.5},
 - Volatile Organic Compounds (VOCs),
 - Sulfur Dioxide (SO₂),
 - Nitrogen Oxide (NO_x),
 - Ammonia (NH₃)
- Geographic Area
 - Knoxville Maintenance Area
- Inventory Source Sectors: Point, Nonpoint, Non-road mobile, On-road mobile

Emissions Trends

Knoxville Maintenance Area Total Emissions Trends
(tons/day)



- NO_x, PM_{2.5}, and SO₂ levels decreased from 2014 to 2022.
- NO_x decreased by approximately 53%, PM_{2.5} decreased by approximately 10%, and SO₂ decreased by approximately 34%.
- Small increase of approximately 9% in VOC emissions from 2014 to 2022, which was due to increases in the point and non-point emission sectors.
- The first maintenance plan mentioned an expected increase in ammonia levels, and that was confirmed in the 2020 NEI and 2022 EMP data.
 - Methodology changes for calculating NH₃

Contingency Plan

- Section 175A of the Clean Air Act (CAA) requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the State will promptly correct a NAAQS violation that might occur in the maintenance area after redesignation.
- The primary trigger of the contingency plan will be a quality assured/quality-controlled violating design value (DV) of the 2006 24-hour PM_{2.5} NAAQS at any monitor.
- Tennessee and Knox County DAQM will monitor regional emissions through the Air Emissions Reporting Requirements (AERR) rule.
- Tennessee and the Knox County DAQM will implement the appropriate contingency measures needed to assure future attainment of the PM_{2.5} NAAQS within eighteen to twenty-four months of the monitored violation.

Motor Vehicle Emission Budgets

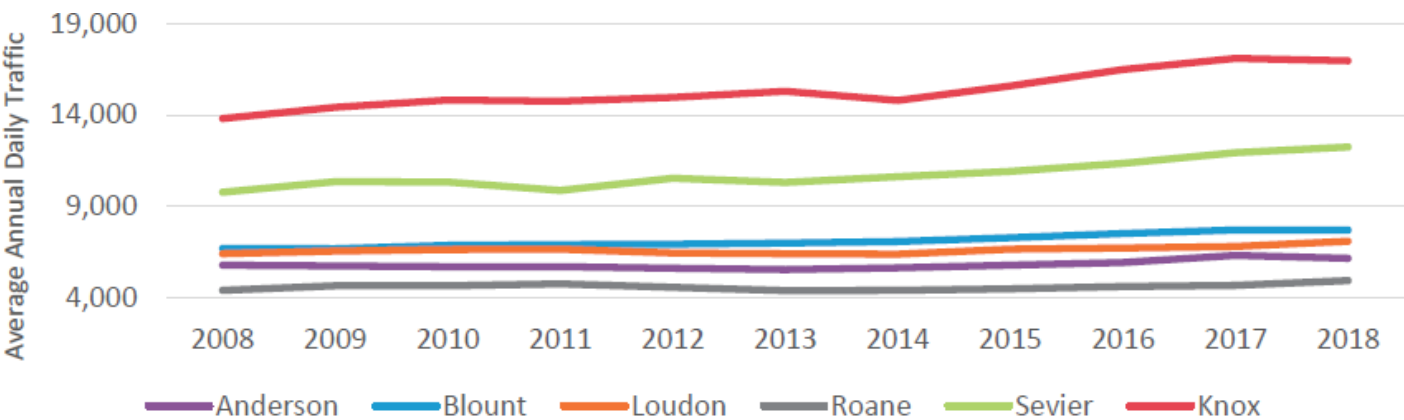
MVEB:

- These budgets are used by the transportation authorities to assure that transportation plans, programs, and projects are consistent with, and conform to, the maintenance of acceptable air quality in the Knoxville area
- Not required in LMPs

40 CFR 93.109(e):

"A limited maintenance plan would have to demonstrate that it would be unreasonable to expect that such an area would experience enough motor vehicle emissions growth for a NAAQS violation to occur."

Despite Vehicle Miles Traveled (VMT) growth...



Source: TDOT

... PM_{2.5} air quality has improved in the region.

VMT Projections from the Transportation Planning Organization’s (TPO) most recent Conformity Determination Report (CDR):

Table 5-1 Base Year and Projected Vehicle Miles Traveled

County	2022 HPMS	2026	2035	2040	2050
Anderson	2,614,333	2,661,950	2,797,783	2,902,427	2,971,962
Blount	3,567,522	3,708,824	4,122,471	4,419,940	4,853,147
Knox	17,636,854	18,235,619	19,538,831	20,099,307	21,837,569
Loudon	2,498,786	2,584,771	2,823,810	3,015,419	3,254,724
Roane (partial)	x	165,935	180,254	190,245	204,517
Total Projected VMT		27,357,099	29,463,149	30,627,338	33,121,919

PM_{2.5} emissions projections from most recent Knoxville TPO CDR:

Table 5-2 Knoxville TPO Projected Onroad Emissions of PM_{2.5}.

	PM _{2.5} Emissions (tons per day)			
	Analysis Year			
	2026	2035	2040	2050
Anderson	0.04	0.02	0.02	0.02
Blount	0.06	0.04	0.04	0.04
Knox	0.28	0.20	0.19	0.20
Loudon	0.04	0.03	0.03	0.03
Roane (partial)	0.00	0.00	0.00	0.00
Total	0.42	0.30	0.28	0.29
MVEB	1.22	0.67	0.67	0.67

NO_x emissions projections from most recent Knoxville TPO CDR:

Table 5-3 Knoxville TPO Projected Onroad Emissions of NO_x

	NO _x Emissions (tons per day)			
	Analysis Year			
	2026	2035	2040	2050
Anderson	1.22	0.44	0.35	0.30
Blount	1.44	0.55	0.43	0.39
Knox	8.15	3.34	2.71	2.53
Loudon	1.44	0.57	0.47	0.42
Roane (partial)	0.10	0.04	0.03	0.03
Total	12.35	4.92	3.99	3.67
MVEB	42.73	19.65	19.65	19.65

Projected emissions for both PM_{2.5} and NO_x are lower than the MVEB established for the first maintenance plan.

LMP Schedule

Event	Date
Pre-Draft of SIP sent to IAC	July 21, 2025
Pre-Draft of SIP sent to EPA	July 23, 2025
End of IAC Comment Period	August 21, 2025
Public Notice (30-day comment period)	October 2025
Public Hearing	November 2025
APC Board Approval	January 2026
Submit Final SIP to EPA	January 2026
EPA Approval/Disapproval of SIP	TBD

Questions

Hannah Nodell

Environmental Consultant

Tennessee Department of Environment and Conservation

Division of Air Pollution Control

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Appalachian Voices Appeal

Office of General Counsel



State of Tennessee
Department of State

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August 20, 2025

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**RE: APPALACHIAN VOICES V. TENNESSEE DEPARTMENT OF ENVIRONMENT
AND CONSERVATION, APD Case No. 04.09-245974J**

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:

APPALACHIAN VOICES,
Petitioner,

v.

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

v.

TENNESSEE VALLEY AUTHORITY,
Intervenor.

**APD Case No. 04.09-245974J
TDEC Case No. APD24-0247**

INITIAL ORDER GRANTING MOTION FOR SUMMARY JUDGMENT

Pursuant to TENN. CODE ANN. §§ 68-201-108(a)(1), 4-5-301(a)(2), and 4-5-314(b), this contested case is pending before Administrative Judge Claudia Padfield.¹ Currently pending are three summary judgment motions. A motion hearing was held via videoconference on June 24, 2025. Attorney Keri Powell represented Petitioner, Appalachian Voices. Attorney Thomas Lewis represented Respondent, the Tennessee Department of Environment and Conservation (TDEC). Attorney Jennifer Brundige represented Intervenor, the Tennessee Valley Authority (TVA).

All three parties filed a motion for summary judgment, memorandum of law, and statement of undisputed material facts on March 14, 2025. Responses were filed on April 14, 2025, and replies to the responses were filed on April 28, 2025. Appalachian Voices filed a proposed order on August 12, 2025; TDEC and TVA filed a joint proposed order on the same day.

Based upon a review of the record and the written and oral arguments of the parties, it is

¹ Judge Padfield has been assigned by the Administrative Procedures Division (APD) of the Office of the Tennessee Secretary of State to preside over this case, sitting alone on behalf of the Tennessee Air Pollution Control Board.

determined that there are no material facts in dispute and that TDEC is entitled to summary judgment as a matter of law. Accordingly, TDEC's MOTION FOR SUMMARY JUDGMENT is **GRANTED**. TVA's MOTION FOR SUMMARY JUDGMENT is denied as pretermitted by resolution of TDEC's MOTION. Appalachian Voice's MOTION FOR SUMMARY JUDGMENT is **DENIED**. Appalachian Voice's Petition for Permit Appeal is **DENIED**.

FINDINGS OF UNDISPUTED FACTS²

1. The Kingston Power plant ("Kingston Plant") is a coal-fired power plant that was constructed in the 1950s. It is owned and operated by TVA.

2. On January 15, 2018, the Board issued a Title V operating permit number 572149 to the Kingston Plant. As amended and modified, this operating permit states that the Kingston Plant currently operates nine coal-fired electrical generation units ("coal EGUs") that belong to Major Group 49 of the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement.

3. In addition to the coal EGUs, the Kingston Plant consists of a coal handling facility, a limestone handling process, a dry fly ash handling facility, a gypsum dewatering and handling facility, two diesel-fired emergency engines, a bottom ash dewatering plant, and a coal screening operation.

4. The Kingston Plant is located on the southwestern portion of a 1,255-acre property owned by TVA, known as the Kingston Reservation, in Roane County, Harriman, Tennessee.

5. On or about November 3, 2023, in an application dated November 1, 2023 (Kingston Plant Project),³ TVA applied to the Board to renew the Title V Permit. The renewal was

² Each party submitted its own undisputed material facts. The language used herein is a summary; any reservations or clarifications will be noted *infra*.

³ Appalachian Voices has referred to the Kingston Plant Project as a new plant or a methane plant.

an application to modify the Kingston Plant by retiring the coal EGUs and replacing with natural gas EGUs.

6. TVA submitted an amended application, dated December 20, 2023, for the Kingston Plant Project on or about December 27, 2023.

7. TDEC published TVA's permit application for public review and comment in the spring of 2024.

8. Appalachian Voices submitted written comments opposing TVA's permit application.

9. On or about October 29, 2024, TVA submitted a second amended application, dated October 28, 2024, for the Kingston Plant Project.

10. On November 15, 2024, the Board issued the requested permit to TVA.

11. After the issuance of the permit, TDEC posted the Construction Emissions Summary Report to TDEC's website containing information about the regulatory basis for issuing the permit and responses to Appalachian Voice's comments.

12. On December 16, 2024, Appalachian Voices filed its appeal of the permit.

13. The Kingston Plant Project consists of retiring and demolishing the existing coal EGUs after constructing and operating a combined cycle electric generating unit, one boiler, 16 simple-cycle dual fuel combustion turbines, five heaters, and one emergency generator at the Kingston Plant.

14. TVA will be the owner and operator of the natural gas EGUs.

15. The natural gas EGUs will also belong to Major Group 49 of the Standard Industrial Classification Manual.

16. The Kingston Plant Project will be entirely constructed within the boundary of the Kingston Reservation.

17. The Kingston Plant Project will be on the contiguous property where the current coal EGUs are located.

18. The construction of the natural gas EGUs and the subsequent decommissioning of the coal EGUs is a single project.

19. The natural gas EGUS, out of necessity, must be built and operational before the coal EGUs are decommissioned to ensure that TVA can continue to provide energy to its customers.

20. The Kingston Plant Project is a modification of the existing stationary source.

21. The Kingston Plant is a single stationary source.

22. The Title V Permit requires that the coal EGUs cease operation upon completion of the natural gas EGUs but no later than December 31, 2027.

APPLICABLE LAW

Each party filed a MOTION FOR SUMMARY JUDGMENT pursuant to TENNESSEE RULE OF CIVIL PROCEDURE 56. Summary judgment is appropriate where “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” TENN. R. CIV. P. 56.04; *Rye v. Women’s Care Ctr. of Memphis*, 477 S.W.3d 235, 250-52, 264-65 (Tenn. 2015), *cert. denied*, 578 U.S. 1003 (2016). The party seeking summary judgment has the burden of persuading the court that its motion satisfies the requirements of RULE 56. *Id.* When considering a summary judgment motion, the court must view the evidence in the

light most favorable to the nonmoving party and must draw all reasonable inferences in that party's favor. *Huggins v. McKee*, 500 S.W.3d 360, 364 (Tenn. Ct. App. 2016).

When the movant files a properly supported RULE 56 Motion, the burden shifts to the non-moving party to set forth specific facts establishing the existence of disputed, material facts which must be resolved by the trier of fact. *Byrd v. Hall*, 847 S.W.2d 208, 215 (Tenn. 1993). Conclusory allegations and generalizations in opposition to a properly supported RULE 56 motion are insufficient and will not create a material factual dispute sufficient to prevent the trial court from granting a summary judgment. *Psillas v. Home Depot, U.S.A., Inc.*, 66 S.W.3d 860, 864 (Tenn. Ct. App. 2001); *Davis v. Campbell*, 48 S.W.3d 741, 747 (Tenn. Ct. App. 2001). Such opposition must be made by identifying evidence in the record which indicates disputed material facts. *McCarley v. W. Quality Food Serv.*, 960 S.W.2d 585, 588 (Tenn. 1998).

For facts to be considered at the summary judgment stage, they must be included in the Record pursuant to RULE 56, and they must be admissible in evidence. *Green v. Green*, 293 S.W.3d 493, 513 (Tenn. 2009). When ascertaining whether a genuine dispute of material fact exists in a particular case, the courts must focus on whether (1) the evidence establishing the facts is admissible, (2) a factual dispute actually exists, and, if a factual dispute exists, (3) the factual dispute is material to the grounds of the summary judgment. *Huggins*, 500 S.W.3d at 364.

Summary judgment should be granted only if the uncontroverted facts presented and conclusions to be drawn from the facts make it so clear that a reasonable person can reach only one conclusion. *Yount v. FedEx Express*, No. W2015-00389-COA-R3-CV, 2016 WL 1056958, at *3 (Tenn. Ct. App. March 17, 2016). Summary judgment is a preferred vehicle for disposing of purely legal issues. See *Byrd v. Hall*, 847 S.W.2d 208 (Tenn. 1993); *Bellamy v. Federal Express Corp.*, 749 S.W.2d 31 (Tenn. 1988). Summary judgment is appropriate when the tribunal

determines there is no issue of material fact to consider at trial. The goal of summary judgment is to avoid the time and expense of unnecessary trials.

All three parties agree there are no genuine disputes as to any material facts. To the extent the parties have disputed certain factual allegations, none of the disputed facts are material to the substantive claim at issue.

ANALYSIS and CONCLUSIONS OF LAW

This contested case arises from TDEC's issuance of a permit to TVA on November 15, 2024. Appalachian Voices timely appealed. This contested case was initiated based upon Appalachian Voices' appeal.

The Board has jurisdiction to hear and render a decision in this contested case. TENN. CODE ANN. § 68-201-105(a)(2). The undersigned administrative judge was assigned to hear this matter, sitting alone, on behalf of the Board. TENN. CODE ANN. § 68-201-108(a)(1)-(2). The Board, not TDEC, is the "agency." TENN. CODE ANN. §§ 4-5-102(2) and 68-201-104(a).

In this contested case, Appalachian Voices has the burden of proof by a preponderance of the evidence that the permit was issued in error. TENN. COMP. R. & REGS. 1360-04-01-.02(3). The sole legal issue is whether the permit lawfully authorized the Kingston Plant Project as a minor modification of an existing stationary source rather than the construction of a new stationary source.

The federal Clean Air Act requires Tennessee to have a "New Source Review (NSR)" permitting program to regulate the construction of new stationary air contaminant sources and modification of existing sources. 42 U.S.C. §§ 7410(a)(2)(3) and 7411. The NSR program requires sources to obtain a preconstruction permit—commonly known as construction permits—if a new or modified source emits air contaminants above certain levels. 42 U.S.C. §§ 7475 and 7502; 40

C.F.R. §§ 51.165-51.166. NSR construction permits are divided into two categories: major NSR permits for “major sources” and minor NSR permits for “minor sources.” *See* 74 Fed. Reg. 51,418 & 51,421 (Oct. 6, 2009).

Major NSR applies either when a “new” source is built with the potential to emit certain air contaminants above a specified threshold or when an existing source undergoes a “major modification” resulting in significant emission increases. *See* 40 C.F.R. § 51.166(a)(7). Major NSR permitting programs in areas attaining the National Ambient Air Quality Standards are called Prevention of Significant Deterioration (“PSD” or “Major NSR-PSD”) programs. 42 U.S.C. § 7471. The United States Environmental Protection Agency (“EPA”) has issued a rule with requirements for states to follow in developing Major NSR-PSD programs (“Federal PSD Rule”). 40 C.F.R. § 51.166. Tennessee’s programs for both Major and Minor NSR-PSD are found in TENN. COMP. R. & REGS. 1200-03-09-.01 of the Board’s implementing rules, including the state rule for Major NSR-PSD at TENN. COMP. R. & REGS. 1200-03-09-.01(4) (“TN PSD Rule”). The TN PSD Rule contains the framework for determining when a new or modified stationary source should be subject to Major or Minor NSR.

The analysis must start with the definition of “stationary source.” The TNS PSD Rule defines “stationary source” “any building, structure, facility, or installation which emits or may emit a regulated NSR pollutant—except the activities of any vessel.” TENN. COMP. R. & REGS. 1200-03-09-.01(4)(b)(6). This language is echoed in TDEC’s Division of Air Pollution Control, General Provisions, definition of “stationary source” as “any building, structure, facility, or installation which emits or may emit any air contaminant. TENN. COMP. R. & REGS. 1200-03-02-.01(ddd).

To determine what constitutes the extent of a stationary source, the definition of “building, structure, facility, or installation” is controlling. These terms are collectively defined as “all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person” TENN. COMP. R. & REGS. 1200-03-09-.01(4)(b)(7).

It is undisputed that TVA owns and operates the current Kingston Plant and will continue to own and operate the plant after the completion of the Kingston Plant Project. While the natural gas EGUs will necessarily be on a different portion of the property, it is uncontested that the Kingston Plant Project will be on the same 1,255-acre property owned by TVA, known as the Kingston Reservation, in Roane County, Harriman, Tennessee. It is uncontested that the natural gas EGUs will replace the coal EGUS, which are part of the same industrial grouping.

Appalachian Voices’ argument that the coal EGUs and the natural gas EGUs are separate stationary sources is not consistent with a plain reading of the applicable definitions. Pursuant to the stationary source definition, new pollutant-emitting activities are only considered “new” stationary sources when no other existing stationary sources in the same industrial grouping are present on the same site controlled by the same person. “When statutory language is clear and unambiguous, we must apply its plain meaning in its normal and accepted use, without a forced interpretation that would extend the meaning of the language.” *Coffman v. Armstrong Int’l*, 615 S.W.3d 888, 894 (Tenn. 2021) (citing *Carter v. Bell*, 279 S.W.3d 560, 564 (Tenn. 2009)). Appalachian Voices’ argument is premised on the assumption that the Kingston Plant Project is a new major stationary source.

There are three factors in the definition of stationary source. The first factor is that “all pollutant-emitting activity” must “belong to the same industrial grouping.” It is uncontested that

both the coal EGUs and the natural gas EGUs belong to Major Group 49. The second factor is that the activity is “located on one or more *contiguous or adjacent properties*.” While Appalachian Voices makes much of the fact that the natural gas EGUs will be in a new facility from the existing coal EGUs, it is undisputed that the same parcel of property, the Kingston Reservation, is involved. Appalachian Voices’ argument that the Kingston Plant Project is a new stationary source because it extends beyond the equipment where the current coal EGUs are located disregards the applicable definitions. Appalachian Voices acknowledges the natural gas facility will be on a portion of the existing Kingston Reservation. Lastly, the third factor is that the pollutant-emitting activities must be “under the control of the same person.” It is undisputed that TVA currently owns and will continue to own and operate the Kingston Reservation.

The Board determined that the permit allowing the Kingston Plant Project did not grant approval for the construction of a new stationary source. The parties agree that the sole legal issue is whether Tennessee’s regulations implementing the Clean Air Act require TVA’s natural gas plant to be permitted as a new major stationary source subject to the requirements of the Clean Air Act’s Prevention of Significant Deterioration program. The facts and interpretation of the rules and statutes support the Board’s determination that the Kingston Plant Project is not a new major stationary source.

The Board determined the Kingston Plant Project constitutes a minor modification or a project. A major modification is defined as “any physical change in or change in the method of operation of a major stationary source that would result in a significant emissions increase ... of a regulated NSR pollutant ...; and a significant net emissions increase of that pollutant from the major stationary source.” TENN. COMP. R. & REGS. 1200-03-09-.01(4)(b)(2).

An existing major stationary source, such as the Kingston Plant, must undergo a PSD review as done here. Any modification to a stationary source being evaluated for Major NSR-PSD applicability is referred to in both the Federal PSD Rule and TN PSD Rule as a “project.” Project is defined as “a physical change in, or change in the method of operation of, an existing major stationary source.” TENN. COMP. R. & REGS. 1200-03-09-.01(4)(b)(49); 40 C.F.R. § 51.166(b)(51). To qualify as a “project” for NSR purposes, the activities at issue must be “substantially related.” 74 Fed. Reg. 2376 & 2378 (Jan. 15, 2009).

The permit requires the coal EGUs to cease operation no later than December 31, 2027. EPA has explained in NSR guidance that the “retirement” of a unit can be a “physical/operational change.” The coal EGUs will undergo a “physical change in, or change in the method of operation” because the permit conditions require the Kingston Plant to retire those coal units. As such, the retirement of the coal EGUs is a modification of the Kingston Plant.

Having determined that the retirement of the coal EGUs and the construction of the natural gas EGUs are a modification of an existing stationary source, the analysis turns to whether they are “substantially related” as part of the same “project.” Substantially related modifications are “likely to be jointly planned (i.e., part of the same capital improvement or engineering study) and occur close in time and at components that are functionally interconnected.” 74 Fed. Reg. 2376 & 2378 (Jan. 15, 2009). The coal EGUs cannot be decommissioned without adding new units to replace the generation capacity lost once those units are decommissioned. It is logical that the building of the replacement units would be jointly planned with the decommissioning of the existing units. As such, the activities are substantially related and constitute a single project. The addition of the natural gas EGUs and the retirement of the coal EGUs are technically and

functionally interconnected activities. As the Kingston Plant Project is a modification of an existing, single, major stationary source, it does not trigger the requirements of a Major-NRS PSD.

It is **CONCLUDED** that the permit regarding the Kingston Plant Project was properly approved as a modification of the existing, single, major stationary source. Accordingly, TDEC's MOTION FOR SUMMARY JUDGMENT is **GRANTED**. TVA's MOTION FOR SUMMARY JUDGMENT is denied as pretermitted by resolution of TDEC's MOTION. Appalachian Voice's MOTION FOR SUMMARY JUDGMENT is **DENIED**. Appalachian Voice's Petition for Permit Appeal is **DENIED**. The September 30-October 2, 2025 hearing is hereby **CANCELED** and shall be removed the docket.

It is so **ORDERED**.

This INITIAL ORDER entered and effective this the **20th day of August 2025**.



CLAUDIA PADFIELD
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 **20th day of August 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 **August 20, 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 **September 4, 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 **September 19, 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 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.

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

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 **August 27, 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**

Virtual Board Meetings

Air Pollution Control Board

October 08, 2025

Less is More Act – Pub. Ch. 524

- Public Chapter 524 (2025) allows meetings by "electronic means of communication" for state boards under specified conditions. Tenn. Code Ann. § 8-44-108(b).
- “Electronic means of communication” is real-time communication by video conference or audio conference and may include the use of an internet- based platform but does not include email. Tenn. Code Ann. § 8-44-108(a)(1)
- Boards **must meet with quorum physically present at least once per year**. Tenn. Code Ann. § 8-44-108(d) (July 1, 2025).

Notice and Agenda

- State that the meeting will include remote participation by board members.
- Specify a physical location where the public may attend the meeting.
- Contain information necessary for members of the public to access the meeting remotely to view or listen.

Tenn. Code Ann. § 8-44-108(c)(2)

Virtual meeting logistics

- Each part of the meeting required to be open to the public must be **audible to the public at the physical location specified in the notice of the meeting.**
- Ensure remote board members are **identifiable by name throughout the meeting.**

Tenn. Code Ann. § 8-44-108(c)(4) and (7).

Virtual meeting logistics

- Ensure each remote board member can **simultaneously hear and speak to other board members during the meeting.**
- Ensure each remote board member **identifies the persons present in the room** from which the member is participating.
- Take a **roll call vote for all votes** taken during the virtual meeting.

Tenn. Code Ann. § 8-44-108(c)(4) and (6).

Public participation

Public must be allowed to:

- **View and listen to the remote meeting in real time** if the meeting is conducted using video conference, or listen to the remote meeting in real time if the meeting is conducted using audio conference with no video.
- **Participate remotely**, if participation would normally be allowed at the meeting.
- **Provide public comment remotely**, including providing written comment through the use of an internet-based platform, if public comment would normally be allowed at the meeting.

Tenn. Code Ann. § 8-44-108(c)(1)

Sharing and retention of meeting recording

- **Post recording on website** “as soon as possible” but no later than two business days after the meeting.
- **Link to recording (or recording) on website must remain for one year.**
- Retain recording (or link) for three years.

Tenn. Code Ann. § 8-44-108(c)(3).

No more necessity requirement

- Removes necessity requirement for electronic participation.
- Virtual members count for voting and quorum.

UAPA controls contested case hearings

Tenn. Code Ann. § 8-44-108(h) – UAPA

(h) Notwithstanding this part to the contrary, § 4-5-312(c) controls electronic participation in contested case hearings pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3; provided, however, that this section applies to meetings held to take summary action pursuant to § 4-5-320(c) and to review summary action pursuant to § 4-5-320(d)(2).

Checklist for Virtual Board Meetings

Recently enacted Public Chapter 524 (2025) allows meetings by "electronic means of communication"¹ for state boards, such as the Board of Air Pollution Control, under specified conditions. Tenn. Code Ann. § 8-44-108(b). This checklist includes the statutory requirements for these virtual meetings as of July 1, 2025.

Notice and Agenda - Tenn. Code Ann. § 8-44-108(c)(2)

The meeting's notice and agenda are required to:

- State that the meeting will include remote participation by board members. *Id.* at (A).
- Specify a physical location where the public may attend the meeting. *Id.* at (B).
- Contain information necessary for members of the public to access the meeting remotely to view or listen. *Id.* at (C). Members of the public must not be required to register their names with the governing body as a condition for receiving such information (but members of the public must provide their names if they plan to provide public comment).
- Contain instructions on how to provide public comment (the new law does not require the board to alter its rules for public comment or public participation). *Id.* at (D).

Meeting Logistics

- Reserve a physical location where members of the public may attend the meeting. Tenn. Code Ann. § 8-44-108(c)(2)(B). Each part of the meeting required to be open to the public must be audible to the public at the physical location specified in the notice of the meeting. Tenn. Code Ann. § 8-44-108(c)(4).
- Provide, before the meeting, remote board members the same documents that will be discussed at the meeting with substantially the same content as those documents actually presented to members physically present. Tenn. Code Ann. § 8-44-108(c)(5).
- Record the meeting. Tenn. Code Ann. § 8-44-108(c)(3).
- Ensure remote board members are identifiable by name throughout the meeting. Tenn. Code Ann. § 8-44-108(c)(7).
- Ensure each remote board member can simultaneously hear and speak to other board members during the meeting. Tenn. Code Ann. § 8-44-108(c)(4).
- Ensure each remote board member identifies the persons present in the room from which the member is participating. Tenn. Code Ann. § 8-44-108(c)(4).
- Take a roll call vote for all votes taken during the virtual meeting. Tenn. Code Ann. § 8-44-108(c)(6).

¹ Tennessee Code Annotated section 8-44-108(a)(1) defines "electronic means of communication" as real-time communication by video conference or audio conference and may include the use of an internet based platform but does not include email. Boards must meet with quorum physically present at least once per year. Tenn. Code Ann. § 8-44-108(d) (July 1, 2025).

Public Participation - Tenn. Code Ann. § 8-44-108(c)(1)

The board must allow the public to:

- View and listen to the remote meeting in real time if the meeting is conducted using video conference, or listen to the remote meeting in real time if the meeting is conducted using audio conference with no video. *Id.* at (A).
- Participate remotely, if participation would normally be allowed at the meeting. *Id.* at (B).
- Provide public comment remotely, including providing written comment through the use of an internet-based platform, if public comment would normally be allowed at the meeting. *Id.* at (C).

Sharing and retention of meeting recording - Tenn. Code Ann. § 8-44-108(c)(3)

- Post recording on website “as soon as possible” but no later than two business days after the meeting.
- Link to recording (or recording) on website must remain for one year.
- Retain recording (or link) for three years.