



**State of Tennessee
Department of State**

Administrative Procedures Division
312 Rosa L. Parks Avenue
William R. Snodgrass Tower
Nashville, Tennessee 37243-1102
Phone: (615) 741-7008/Fax: (615) 741-4472

November 14, 2025

Catherine W. Anglin, Esq.
Tennessee Dept. of Environment and
Conservation
3711 Middlebrook Pike
Knoxville, TN 37921
Sent via email only to: catherine.anglin@tn.gov

Aqua Green Utility, Inc.
c/o Dart Kendall, President
3350 Galts Road
Acworth, GA 30102

**RE: TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION V.
AQUA GREEN UTILITY, INC., APD Case No. 04.30-252016J**

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 WATER QUALITY, OIL, AND GAS

IN THE MATTER OF:

AQUA GREEN UTILITY, INC.,
Petitioner,

v.

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

APD Case No. 04.30-252016J

INITIAL ORDER

This matter was set to be heard before Administrative Judge Alexander S. Rieger, assigned by the Administrative Procedures Division of the Tennessee Secretary of State's Office to sit for the Tennessee Board of Water Quality, Oil, and Gas. The matter concerns a petition for appeal to State Operating Permit No. 19004 filed by the Petitioner, Aqua Green Utility, Inc.

Respondent, the Tennessee Department of Environment and Conservation (hereafter "Department"), moved for summary judgment, asserting that the petition fails to state a claim for relief based on an alleged inconsistency with the Water Quality Control Act of 1977 or the applicable rules and regulations promulgated by the Board. Respondent filed statements of undisputed material facts and a memorandum of support of its motion. Petitioner is not represented by legal counsel in this matter, yet its President, Mr. Dart Kendall, filed a response in opposition to Respondent's motion.

In response to Mr. Kendall's filing, the Department moved to strike the filing as constituting the unauthorized practice of law. Tennessee prohibits the practice of law by any person who lacks a law license. *See* TENN. CODE ANN. § 23-3-103 ("No person shall engage in the practice of law or do law business, or both, as defined in § 23-3-101, unless the person has been duly

licensed and while the person's license is in full force and effect..."). "Practice of law" is broadly defined as:

[T]he appearance as an advocate in a representative capacity or the drawing of papers, pleadings, or documents or the performance of any act in such capacity in connection with proceedings pending or prospective before any court, commissioner, referee or any body, board, committee or commission constituted by law or having authority to settle controversies.

See TENN. CODE ANN. § 23-3-101(3).

While individuals may elect to represent themselves, corporate entities may not. While the General Assembly has seen fit to allow corporate entities to participate in administrative hearings through representatives, see TENN. CODE ANN. § 4-5-305(a), the General Assembly cannot authorize a corporate representative to engage in conduct that constitutes the practice of law. That authority belongs solely to Tennessee's Supreme Court. See *Petition of Burson*, 909 S.W.2d 768, 775-76 (Tenn. 1995). Accordingly, a non-lawyer representative of a corporate entity may participate in administrative hearings as long as the representation would not violate Tennessee's prohibition on the unauthorized practice of law.

Here, filing a legal response in opposition to summary judgment constitutes the practice of law. See *Old Hickory Eng'g and Mach. Co., Inc. v. Henry*, 937 S.W.2d 782 (Tenn. 1996); *Fifteenth Judicial Dist. Unified Bar Ass'n v. Glasgow*, No. M1996-00020-COA-R3-CV, 1999 WL 112847 (Tenn. Ct. App. Dec. 10, 1999); *Estate of Green v. Carthage General Hosp., Inc.*, 246 S.W.3d 582 (Tenn. Ct. App. 2007). As Mr. Kendall is not licensed to practice law in Tennessee, his conduct constitutes the unauthorized practice of law prohibited by TENN. CODE ANN. § 23-3-103.

However, the UAPA does permit corporate participation in contested case proceedings by duly-authorized representatives. And offering facts through narrative testimony does not ordinarily constitute the unauthorized practice of law. According, the undersigned will consider the factual

assertions offered in Mr. Kendall's response in opposition on a limited basis to the extent that they do not cross the line into the practice of law.

Upon consideration of the Department's motion, the applicable law, and the record in this matter, it is determined that no material facts are in dispute. The Department is entitled to judgment as a matter of law for both charged violations. Accordingly, the Department's motion for summary judgment is **GRANTED**, and Petitioner's appeal is **DISMISSED**. The Department's motion to strike is pretermitted as moot.

FACTUAL BACKGROUND¹

Permit 19004-2019 Permit

On August 15, 2019, the Commissioner of the Department of Environment and Conservation issued State Operating Permit No. 19004 to Petitioner. That permit (hereafter "2019 Permit") authorized the operation of a trickling filter with drip dispersal system in Greene County, Tennessee to serve the Love's Travel Stop at Bulls Gap. The system is designed with a capacity of 0.0137 million gallons per day to be dispersed over approximately 1.2 acres of suitable soil.

As pertinent here, the 2019 Permit had several restrictions:

(1) It prohibited overflows, which were defined as the discharge of wastewater from any portion of the collection, transmission, or treatment system other than through permitted outfalls.

(2) It prohibited "discharge of wastewater to any surface waters or to any location where it is likely to enter surface waters." It prohibited "[i]nstances of surface saturation, ponding or pooling within the land application area as a result of system operation."

¹ While not relevant to the limited grounds on which summary judgment is granted, this section is included to provide context and is derived from the pleadings in this matter.

(3) It required the drip irrigation system to be “operated in an manner preventing the creation of a health hazard or nuisance.”

(4) It required all wastewater to be properly treated and to comply with the specified limitations for land application.

January 8, 2024 Inspection

On January 8, 2024, the Department inspected the permitted site as part of a statewide survey. The inspection noted overloaded soil conditions within the land application area, including evidence of ponding, ponded effluent, and saturated soil conditions. It was suspected that these conditions resulted from overland flow from the land application or drainage features, both leading to surface waters.

On April 24, 2024, the Department emailed Petitioner as a follow-up to the investigation. The email advised Petitioner of the applicable findings and informed Petitioner that the Department would schedule a future compliance inspection.

August 12, 2024 Inspection

On August 12, 2024, the Department conducted a compliance inspection at the permitted site. During the inspection, the Department observed evidence of hydraulically overloaded soil conditions within the land application area, including evidence of the presence of saturated soil conditions. The ponded conditions were over a large area, as expected with overloaded soil conditions.

2019 Permit Expiration and Re-issuance

The 2019 Permit expired on August 15, 2024, and Petitioner filed to renew it by October 9, 2024. The Department issued a notice and draft of the permit on October 22, 2024. The notice

provided that Petitioner had the right to notify the Department of any objections to the draft permit within 30 days of when the draft permit was issued.

Petitioner made comments reflecting two concerns about the draft permit: (1) Petitioner was concerned that “changes in inspection frequency included in the draft permit would add unnecessary expense to the cost of the system operation and would not result in better system performance;” and (2) “[a]dding *E. coli* to the permit monitoring table, even though *E. coli* monitoring isn’t required if drip fields are fences [sic], may be later misconstrued by field inspectors as meaning *E. coli* monitoring is required regardless of fencing.” See Dotson Aff., Attachment 7.

After the comment period, the Department re-issued SOP No. 19004 on January 8, 2025. That permit (hereafter “2025 Permit”) largely mirrored the 2019 permit. In the Department’s Motion for Summary Judgment, the Department submitted a chart summarizing the changes from the 2019 Permit to the 2025 Permit. The undersigned has independently evaluated both the 2019 Permit and the 2025 Permit and finds that the chart provided in the Department’s Motion for Summary Judgment is fair and accurate and in an easily-digestible format. Accordingly, it is reproduced herein as follows:

Requirement or Condition	2019 Permit	2025 Permit
PART I		
A. General Requirements		
Monitor <i>E. Coli</i>	N/A	Grab sample with Daily Maximum limit of 941 colonies/100 ml Once/Quarter; but no <i>E. coli</i> monitoring if fields are fenced.
Fencing	“All drip fields shall be fenced sufficiently to prevent or impede unauthorized entry as well as to protect the facility from vandalism.”	Added next sentence: “Otherwise, the permittee must disinfect the wastewater in order to meet the <i>E. coli</i> limit above.”
Site inspections	The site shall be inspected by the certified operator or his/her designee, at a minimum, once per fourteen days <i>(default) OR in accordance with an operating and maintenance inspection schedule in the permit administrative file record. The default inspection frequency will apply if an operating and maintenance inspection schedule is not submitted to be a part of the permit administrative file record. The operating and maintenance inspection schedule shall at a minimum evaluate the following via onsite visits or telemetry monitoring or a combination of the two: ...</i>	The site shall be inspected by the certified operator or his/her designee, at a minimum, once per fourteen days <i>and shall at a minimum evaluate the following: ...</i>
Site inspections	Submission of the schedule, or revisions to the schedule, may be submitted to the division electronically. The schedule shall be submitted on or before the effective date of the permit. The permittee is responsible for maintaining evidence that the schedule, or revisions, have been submitted to the division.	[Text deleted]
D. Reporting		

Requirement or Condition	2019 Permit	2025 Permit
1. Monitoring Results	Monitoring results shall be recorded consistent with the general requirements imposed in Part A above <i>OR in accordance with the operating and maintenance inspection schedule in the permit administrative file record and submitted quarterly.</i>	Monitoring results shall be recorded consistent with the general requirements imposed in Part A above and submitted quarterly.
PART II		
A. General Provisions		
4. Proper Operation and Maintenance	It is anticipated that visits to the treatment facility by the operator will occur at intervals frequent enough to assure proper operation and maintenance, but in no case less than one visit every fourteen days <i>OR in accordance with an operating and maintenance inspection schedule in the permit administrative file record.</i> ...	It is anticipated that visits to the treatment facility by the operator will occur at intervals frequent enough to assure proper operation and maintenance, but in no case less than one visit every fourteen days. ...

See 2019 Permit and 2025 Permit.

The other changes from the 2019 Permit to the 2025 Permit were that the 2025 Permit:

- Added a sentence to clarify that “[a]ll [fence] designs are subject to division approval.
- Added a sentence to specify that “[a]ll drip lines shall be buried and maintained 6 to 10 inches below the ground surface.”
- Removed a reporting requirement that only applied before the treatment system was operational.
- Updated the rule citation for the signatory requirement from “Rules 0400-40-05-.05(6)(a-c)” to “Rules 0400-40-06-.03(4)(a-c)”.
- Removed a requirement to install signs.
- Changed a phrase about ownership of treatment facilities from “including the land to be utilized for drip or spray irrigation” to “including the land to be utilized for wastewater dispersal.”

See *id.*

Petitioner's Appeal of the 2025 Permit

On January 31, 2025, Petitioner sent a letter to the Department stating “I disagree with the changes to my permit SOP 19004. I feel these changes are not needed nor helpful to the operation of these plants. I wish to appeal this matter. Thank you for your assistance in this matter.”

SUMMARY JUDGMENT STANDARD

A trial court may grant summary judgment when “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits . . . 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. The party seeking summary judgment has the burden of persuading the court that its motion satisfies the requirements of TENN. R. CIV. P. 56.04. *See Rye v. Women's Care Ctr. of Memphis*, 477 S.W.3d 235, 250-52 (Tenn. 2015). When considering the appropriateness of summary judgment, the undersigned must view the evidence in the light most favorable to the non-moving party; all reasonable inferences are drawn in favor of the non-moving party as well. *Huggins v. McKee*, 500 S.W.3d 360, 364 (Tenn. Ct. App. 2016).

Here, Petitioner has initiated the proceedings and seeks to change the “present state of affairs;” accordingly, Petitioner bears the burden of proof in this matter. *See* TENN. COMP. R. & REGS. 1360-04-01-.02(3) & (5). Under *Rye*, a party moving for summary judgment who does not bear the burden of proof (i.e., the Department) must either “affirmatively negat[e] an essential element of the nonmoving party’s claim” or “demonstrat[e] that the nonmoving party’s evidence *at the summary judgment state* is insufficient to establish the nonmoving party’s claim or defense.” *Rye*, 477 S.W.3d at 264.

When a party moves for summary judgment, the nonmoving party “may not rest upon the mere allegations or denials of [its] pleading. *Id.* at 265 (quotation to TENN. R. CIV. P. 56.06

omitted). Instead, the nonmoving party must respond by producing affidavits, depositions, responses to interrogatories, or other discovery that “set[s] forth specific facts showing that there is a genuine issue for trial.” TENN. R. CIV. P. 56.06. If the nonmoving party fails to appropriately respond, “summary judgment, if appropriate shall be entered against the [nonmoving] party.” *Id.*

UNDISPUTED MATERIAL FACTS

The Department submitted the following undisputed material facts. Petitioner did not respond to them individually, instead simply characterizing them as “disputed.” *See* Response, p. 3. That is insufficient pursuant to the express terms of TENN. R. CIV. P. 56.03. Accordingly, the Department’s proffered facts are accepted with minor non-substantive modifications.

1. On January 31, 2025, Petitioner sent a letter to the Department that stated, “I disagree with the changes to my permit SOP 19004. I feel these changes are not needed nor helpful to the operation of these plants. I wish to appeal this matter. Thank you for your assistance in this matter.”

2. The following summary conveys the comments made by Petitioner about the draft 2025 permit:

Received voice message from permittee indicating that changes in the inspection frequency included in the draft permit would add unnecessary expense to the cost of the system operation and would not result in better system performance. Permittee also felt that adding *E. coli* to the permit monitoring table, even though *E. coli* monitoring isn’t required if drip fields are fenced, may be later misconstrued by field inspectors as meaning *E. coli* monitoring is required regardless of fencing.

3. The 2025 Permit added a requirement to monitor for *E. coli* and disinfect the wastewater if the detected concentrations of *E. coli* exceeded a specified level, but noted this requirement only applied if the drip fields are not fenced.

4. The 2025 Permit kept the 14-day default inspection schedule but removed the option for Respondent to adjust the frequency of the inspection by submitting an operating and maintenance inspection schedule to the Division of Water Resources.

APPLICABLE STATUTES

Water Quality Control Act

Tennessee law requires a permit for “construction, installation, modification, or operation of any treatment works, or part thereof, or any extension or addition thereto.” TENN. CODE ANN. § 69-3-108(b)(2).

The Water Quality Control Act gives the Commissioner of the Department of Environment and Conservation the authority to grant permits for, as pertinent here, “land application of wastewater.” TENN. CODE ANN. § 69-3-108(g)(1). However, the Act prohibits granting permits that could cause a condition of pollution as defined by statute and thus requires permits to “impose such conditions, including effluent standards and conditions and terms of periodic review, as are necessary to accomplish the purposes of this part, and as are not inconsistent with the regulations promulgated by the Board.” *Id.* Specifically included are:

(A) The most stringent effluent limitations and schedules of compliance, either promulgated by the board, required to implement any applicable water quality standards . . . necessary to comply with other state or federal laws or regulations;

(B) A definite term, not to exceed five (5) years, for which the permit is valid. This term is subject to provisions for modification, revocation, or suspension of the permit;

(C) Monitoring, recording, reporting, and inspection requirements.

TENN. CODE ANN. § 69-3-108(g)(4).

The Water Quality Control Act imparts broad authority to the Commissioner in crafting specific requirements for these permits, subject to the above statutory language. The Act does not specify inspection frequencies, nor does it prohibit conditioning sampling based upon the physical attributes of each individual land application area.

State Operating Permit Rules and Regulations

The Board has promulgated rules and regulations to support its responsibility under the Water Quality Control Act. These rules (hereinafter “SOP Rules”) appear intended to parallel the Act’s stated purpose:

State Operating Permits [(hereafter SOPs)] authorize the operation of non-discharging sewerage systems in compliance with permit conditions. SOPs issued pursuant to this chapter impose such conditions, including effluent standards and conditions and terms of periodic review, as are necessary to prevent pollution of waters from operations of non-discharging wastewater systems, including . . . land application . . . SOPs do not authorize discharges to waters or alterations of the properties of waters.

TENN. COMP. R. & REGS. 0400-40-06-.01.

The SOP Rules require permits to “impose monitoring, recording, reporting, and inspection requirements as determined necessary by the Commissioner to assure adequate treatment of wastewater and proper operation of the sewerage system to meet the requirements of the Act and of this chapter.” TENN. COMP. R. & REGS. 0400-04-06-.05(2). The SOP Rules expressly provide terms and conditions applicable to all SOPs, including the prohibition of discharge to surface waters or groundwater (except as separately authorized by other permits) and requiring “[t]he sewerage system be operated in a manner preventing the creation of a health hazard or a nuisance.”

TENN. COMP. R. & REGS. 0400-06-.05(4). And finally, SOPs are subject to not only “the provisions of the Act, [and the SOP Rules]”, but also “any special terms or conditions the Commissioner determines are necessary to fulfill the purposes, or enforce the provisions, of the Act.” TENN. COMP. R. & REGS. 0400-40-06-.05(1).

SOP Rules—Permit Application and Appeal Requirements

Upon submission of a completed permit application, that application is evaluated and a tentative determination is made to issue or to deny the permit. “If a tentative determination is made to issue the permit, then a draft permit shall be prepared for public notice that includes the proposed conditions.” TENN. COMP. R. & REGS. 0400-04-06-.04(1). The public notice must “allow at least 30 days for public comment.” TENN. COMP. R. & REGS. 0400-04-06-.04(5).

Moreover, the SOP Rules set requirements for permit appeals. As applicable here, those rules require an appealing Petitioner to “specify what terms or conditions [it] is appealing in [its] petition” and “specify the basis for [its] appeal.” TENN. COMP. R. & REGS. 0400-40-06-.13(2). Under the rules, Petitioner must “state a claim for relief based on an alleged inconsistency with the Act or the rules promulgated thereunder.” TENN. COMP. R. & REGS. 0400-40-06-.13(2).

ANALYSIS and CONCLUSIONS OF LAW

For the foregoing reasons, the Department has met its burden for summary judgment, and this appeal is subject to dismissal. First, the SOP Rules expressly set specific requirements for permit appeals. Those rules require the Petitioner to “specify what terms or conditions [it] is appealing in [its] petition” and “specify the basis for [its] appeal.” TENN. COMP. R. & REGS. 0400-40-06-.13(2); *see also* TENN. CODE ANN. § 69-3-105(i). Here, the applicable petition for appeal is the January 31, 2025 letter sent to the Department by Petitioner. “I disagree with the changes to my permit SOP 19004. I feel these changes are not needed nor helpful to the operation of these

plants. I wish to appeal this matter. Thank you for your assistance in this matter.” The petition is insufficient as a matter of law. It does not identify any portion of the 2025 Permit it is aggrieved by, nor does it specify the terms and conditions it seeks to appeal. Accordingly, dismissal is appropriate on this ground alone because the petition—the January 31, 2025 letter—does not comply with the threshold requirements for a permit appeal as set forth by TENN. COMP. R. & REGS. 0400-40-06-.13(2).

Second and alternatively, even if the petition were sufficiently detailed enough to satisfy the threshold requirements, summary judgment would still be appropriate as Petitioner has failed to state a claim that the 2025 Permit is inconsistent with the Water Quality Control Act or the applicable rules. Pursuant to TENN. COMP. R. & REGS. 0400-40-06-.13(2), Petitioner must “state a claim for relief based on an alleged inconsistency with the Act or the rules promulgated thereunder.”

That is a difficult hurdle given the individualized requirements of the 2025 Permit. The Water Quality Control Act and the applicable rules do not specify inspection frequencies for SOP permits. *See* TENN. CODE ANN. § 69-3-101 *et seq.*; TENN. COMP. R. & REGS. 0400-40-06. Nor do they expressly specify sampling requirements. *Id.* The Commissioner’s authority in this context is broad. The applicable law and rules (in this case-specific context) do not cabin the duty to “impose such conditions, including effluent standards and conditions and terms of periodic review, as are necessary to accomplish the purposes of this part.” TENN. CODE ANN. § 69-3-108(g)(1).

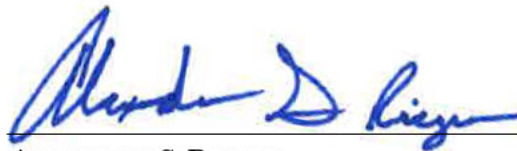
Many of the changes from the 2019 Permit to the 2025 Permit were not substantive. Most add clarity, rule citations, or remove inapplicable requirements. Petitioner’s two main concerns from the notice and comment period (*see* Undisputed Material Fact #2) were the 14-day inspection frequency and the *E. coli* sampling.

As already discussed, the Water Quality Control Act and applicable rules do not expressly prohibit either requirement. They are silent as to a 14-day inspection frequency and sampling for *E. coli* if a land application area is not fenced. To start, the land application area is fenced, and there is no indication that Petitioner seeks to remove the fencing in place. Accordingly, he is not presently aggrieved by the *E. coli* sampling requirement. Taken alone, he would likely lack standing on that issue. But regardless, Petitioner offered no facts or evidence to assert that the 14-day inspection frequency or *E. coli* sampling were inconsistent with the Act or applicable rules.² Accordingly, the Department's Motion for Summary Judgment is **GRANTED**, and this case is **DISMISSED**.

The policy reasons for this decision are to protect the safety and wellbeing of the waters, public, and the citizens of the State of Tennessee as well as to ensure individuals adhere to Tennessee's laws and regulations relative to permitting requirements.

It is so **ORDERED**.

This INITIAL ORDER entered and effective this the **14th day of November 2025**.



ALEXANDER S. RIEGER
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 **14th day of November 2025**.

² The investigations allegedly justifying the changes from the 2019 Permit to the 2025 Permit were submitted as attachments to the affidavit in support of summary judgment but are not reflected in the statement of undisputed material facts. As Petitioner did not offer facts or evidence (or even substantive allegations) that the 2025 Permit was inconsistent with the Water Quality Control Act or applicable rules, summary judgment is appropriate even without reference to the findings of each investigation. But if the investigations were considered based upon their inclusion in the affidavit in support of summary judgment, they would certainly justify the sampling and inspection frequency requirements.

NOTICE OF APPEAL PROCEDURES

REVIEW OF INITIAL ORDER

The Administrative Judge's decision in your case **BEFORE THE TENNESSEE BOARD OF WATER QUALITY, OIL, AND GAS (the Board)**, called an Initial Order, was entered on **November 14, 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 **December 1, 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 **December 15, 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 **November 21, 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