



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL

DIVISION OF AIR QUALITY

STATE STREET COMMONS

100 W. WATER STREET, SUITE 6A

DOVER, DELAWARE 19904

**DIRECTOR'S
OFFICE**

PHONE
(302) 739-9402

TECHNICAL RESPONSE MEMORANDUM

TO: Lisa Vest
Hearing Officer

THROUGH: Angela D. Marconi, P.E. 
Director

FROM: Valerie Gray [vag](#)
Program Administrator

DATE: September 9, 2026

SUBJECT: Technical Response Memorandum – Docket # 2026-R-A-0003 CO₂ Budget Trading Program

You presided over a virtual public hearing on Tuesday, July 28, 2026 beginning at 6:00 p.m. The subject of the public hearing was a proposed revision to 7 DE Admin. Code 1147 – CO₂ Budget Trading Program. The Department received comments from the following:

Verbal Comments presented during the public hearing on July 28, 2026:

- Dustyn Thompson Sierra Club
- John Irwin Private Citizen
- Tracy Slack Private Citizen
- Dr. Amy Kyle Private Citizen
- RuthAnn Purchase James Lenape Indian Tribe of Delaware Federal Census District
- Michael Smith Private Citizen

Written Comments received by the August 14, 2026 comment deadline:

- Richard C. Private Citizen
- John I. Private Citizen

- Clem D. Delaware Chapter of the Sierra Club
- Jay B. Private Citizen
- Steve Baccino Chesapeake Utilities Corporation
- Dale Davis CMI Solar and Electric Inc.
- John Nichols Private Citizen
- Joint Comments from –
 - Dustyn Thompson, Delaware Chapter of the Sierra Club
 - League of Women Voters
 - Citizen’s Climate Lobby, Delaware
 - Clean Energy USA
 - CMI Solar and Electric Inc.
 - Mid-Atlantic Alliance for Climate and Health
 - Working Families Power
- David Bacher NRG Energy Company
- Caleb Taylor The Fulcrum Foundation

This memorandum provides a summary of the verbal (Table 1) and written comments (Table 2) received and the Division of Air Quality (DAQ) response. Each comment received is included as an attachment. The comments and the public hearing transcript containing comments are available on the Administrative Law website for Docket # 2026-R-A-0003.

Table 1 - Verbal Comments ¹ received during the public hearing:		
Commentor	Summary of the Comment submitted	Department Response
Dustyn Thompson, Delaware Chapter of the Sierra Club	▪ Supportive of continued participation in the RGGI program and the proposed amendments ○ RGGI is an economic engine benefiting Delaware through the reinvestment of RGGI auction proceeds in energy efficiency and renewable energy projects that have supported over 60,000 households, businesses and farmers. ○ <i>“For every dollar spent through RGGI returns more than \$3 in energy savings for rate payers”.</i> ○ Countered that PJM’s Independent Market Monitor found that all emissions-related costs combined not just RGGI added only \$1.26 to Local Marginal Cost (LMP) of energy this quarter, just a 3.6 percent increase compared to this time last year. Rising fuel costs on the other side contributed 12 percent or \$14.92 per megawatt-hour, nearly ten times as much.	The Department appreciates the comments and support for the RGGI program.
John Irwin, private citizen	▪ Supportive of continued participation in the RGGI program and the proposed amendments as a valuable policy to address climate change. ▪ Provided testimony that RGGI has helped him reduced his energy costs by energy efficiency projects for his home that were funded by RGGI proceeds.	The Department appreciates the comments and support for the RGGI program.

¹ [Public Hearing Transcript](#)

Table 1 - Verbal Comments¹ received during the public hearing:

Commentor	Summary of the Comment submitted	Department Response
Tracy Slack, private citizen	▪ Supportive of continued participation in the RGGI program and the proposed amendments.	The Department appreciates the comments and support for the RGGI program.
Dr. Amy Kyle, private citizen	▪ Supportive of continued participation in the RGGI program and the proposed amendments and the reinvestment of the RGGI proceeds in energy efficiency for all Delawareans	The Department appreciates the comments and support for the RGGI program.
Ruth Ann Purchase James, Lenape Indian Tribe of Delaware Federal Census District	▪ Supportive of continued participation in the RGGI program and the proposed amendments.	The Department appreciates the comments and support for the RGGI program.
Michael Smith, private citizen	▪ Supportive of continued participation in the RGGI program and the proposed amendments.	The Department appreciates the comments and support for the RGGI program.

Table 2 - Written comments received by the 8/14/2026 comment deadline:

Commentor	Summary of the Comment submitted	Department Response
Sierra Club, League of Women Voters, Citizen’s Climate Lobby, Clean Energy USA, CMI Solar & Electric, Mid-Atlantic Alliance for Climate and Health and Working Families Power – submitted on behalf of et al	• RGGI benefits Delaware by ○ Adds 12000 jobs to local economy in Energy Efficiency (EE)/clean energy sectors ▪ SEU – funds generated from RGGI auctions have financed more than \$26.4 million in residential energy efficiency and solar loans and another \$54 million in commercial loans since 2015. These projects create jobs, support local businesses, and reduce energy costs for homeowners and commercial entities. ○ Reduces energy demand and funds programs to lower energy costs ▪ In fiscal year 2025, approximately \$14 million in RGGI funds were used for commercial energy efficiency and renewable energy projects in Delaware. ▪ Every dollar spent through RGGI programming returns more than \$3 in energy savings for rate payers. ○ Ensures a healthier cleaner Delaware for future generations ▪ “Research has consistently shown a direct correlation between cleaner air and better	The Department agrees with the comments and thanks the commentors for their continued support.

Table 2 - Written comments received by the 8/14/2026 comment deadline:

Commentor	Summary of the Comment submitted	Department Response
	health. By continuing to support RGGI, we are investing in a healthier future for Delawareans” ▪ “RGGI has saved states \$5.7 billion in healthcare and productivity-related costs by reducing co-pollutants” • Leaving RGGI would not decrease electricity rates Sierra Club points out that ○ Would face eliminating programs like LIHEAP (federally funded), WAP and many programs offered through the SEU or filling the resulting over\$56 million budget shortfall to sustain these assistance programs for Delawareans ○ No evidence that RGGI is having a harmful impact on retail energy prices ▪ To the contrary, PJM’s independent market monitor’s analysis found that all [environmental] emission programs, of which RGGI is a small part, contributed about \$1.26 to \$35.37 increase, accounting for 3.6% of the total increase to the LMP ▪ While rising fuel costs attributed \$14.92, or 42.2% of the increase to the LMP.	

Table 2 - Written comments received by the 8/14/2026 comment deadline:

Commentor	Summary of the Comment submitted	Department Response
	▪ Sierra Club et al pointed out that the PJM Market Monitor further analyzed the drivers of LMP costs in PJM footprint and found that the impact of carbon prices, such as RGGI, would no net effect on LMP. ▪ Sierra Club reiterated the increasing costs of energy and corresponding impact on residential energy bills in the PJM footprint are being driven by fuel costs and demand increases, and not by state participation in the RGGI program. ▪ Their comments presented the benefits of the reinvestment of the RGGI auction proceeds and how those investments are benefitting Delaware citizens through the deployment of clean energy generation, particularly distributed solar resources. ▪ Sierra Club showed how the investment in solar energy helps to decrease the LMP costs by reducing the need to import more expensive fossil-fuel fired generation.	
CMI Solar and Electric Inc. – submitted by Dale Davis, President	• Mr. Davis, President pointed out how the RGGI program turns an environmental obligation into an economic opportunity by the reinvestment of the auction proceeds	The Department agrees with the comments and thanks the commentors for their continued support.

Table 2 - Written comments received by the 8/14/2026 comment deadline:

Commentor	Summary of the Comment submitted	Department Response
	into residential, farm, small commercial solar and energy efficiency projects. These projects help Delaware household, including low- and moderate- income families, lower their electric bills through weatherization, efficient appliances and clean energy solutions. • The comments included recent investments through the SEU's Energize Delaware Non-Profit Solar Grant enabled the installation of a large solar array on the Food Bank in Milford, reducing electricity consumption by 60%.	
John Nichols, private citizen.	• Mr. Nichole attempts to explain the PJM day-ahead energy market's bid stack and the payment of the clearing price to all auction participants. He then points out that combined-cycle units are more efficient than simple-cycle units and concludes that RGGI's cost [of an allowance for one ton of CO₂ emissions] is not a flat, uniform add-on cost across the gas fleet. • He concludes that the proposed increase in the minimum reserve price and the cost containment reserve trigger prices coupled with the elimination of the offset compliance alternative pushed the price of RGGI allowances higher. • <i>"Each of those changes pushes the price of RGGI allowances higher. Higher allowance prices mean higher operating costs. Higher operating costs mean higher bids</i>	The Department offers the Technical Support Document (Exhibit 5 – Sections 6 - 8) for further information regarding the impact of the RGGI program on rate payers which demonstrates that the RGGI program has a net positive impact on energy consumers.

Table 2 - Written comments received by the 8/14/2026 comment deadline:

Commentor	Summary of the Comment submitted	Department Response
	<i>into PJM. Higher bids mean higher price for all the electricity Delaware customers buy."</i>	
	- Mr. Nichols infers the recent increased costs associated with PJM's capacity auction were the result of increased operating costs associated with RGGI compliance. He concludes that as a result of the RGGI increased operating costs natural gas units will retire or shut down and result in higher capacity auction prices. "RGGI's effect on the operating economics of local generation is part of what makes this zone [DPL-South] vulnerable to that kind of price spike."	The Department offers the Technical Support Document (Exhibit 5 – Sections 6-8) for further information regarding the impact of the RGGI program on rate payers.
	He estimates the cost for Delaware to implement the RGGI program is \$200,000 per year. And that for every dollar Delaware spends running RGGI, it collects on the order of \$300 more than that cost requires. Therefore, <i>"[w]hen the money collected is this many multiples of the cost of running the program, and the surplus flows to other government programs and to a private nonprofit corporation entirely apart from the program administration, the fees has become something else."</i>	The Department offers the Technical Support Document (Exhibit 5 – Section 8) for further information regarding the impact of the RGGI program on rate payers.
	Mr. Nichols believes the distribution of RGGI proceeds to the SEU is unconstitutional as the enabling RGGI legislation [SB 263] must receive approval by three-fourths of all members elected to each House.	The General Assembly adopted the RGGI authorizing statute (7 Del. Code Chapter 60, Section 6046) which establishes the distribution of auction revenue.

Table 2 - Written comments received by the 8/14/2026 comment deadline:

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	- Mr. Nichols states that RGGI compliance is an unlawful tax. <i>“The questions here are structural: whether the relationship between what RGGI collects and what it costs to administer renders the charge a tax, and whether the 2008 provision directing RGGI proceeds to the SEU was validly enacted, regardless of any single ratepayer’s bill.”</i>	The Department does not agree. The CO₂ Budget Trading Program is not a tax, but a market-based approach to reducing CO₂ emissions in the power sector and is similar to the existing cap and trade programs for SO₂ and NO_x. Although there are costs associated with compliance for electricity generating units, the purpose of the program is to stabilize and reduce CO₂ emissions at the lowest possible cost to compliance entities. The program does not result in taxes or fees for electricity ratepayers and, as stated above, has not increased electricity rates.
<u>Eastern Shore Natural Gas</u>, submitted by Steve Baccino, Director, State Affairs & Regional Engagement	- Mr. Baccino states concern <i>“that Department has not clearly demonstrated that the Delaware law requires the implementation of these specific revisions at this time, particularly as Delaware and the broader PJM region face growing concerns about electricity reliability, generation adequacy, and energy affordability.”</i> - Because of the changes in the energy landscape – <i>electricity demand is projected to increase due to electrification initiatives, economic growth,</i>	The Department disagrees. The Department has authority to adopt and amend regulations through the authority granted by the General Assembly within the statutes of the Delaware Code Title 7, Chapter 60 subchapter II Powers and Duties of the Secretary and Department §6010 (a).² <i>§ 6010. Rules and regulations; plans.</i> <i>(a) The Secretary may adopt, amend, modify or repeal rules or regulations,</i>

² [Delaware Code Online](#)

Table 2 - Written comments received by the 8/14/2026 comment deadline:

Commentor	Summary of the Comment submitted	Department Response
	<i>advanced manufacturing, artificial intelligence applications, and data center development.</i> ○ “[P]olicymakers should exercise caution before adopting additional regulations that increase operating costs for dispatchable generation resources or create uncertainty regarding generation investment.” • The commentor also recommends that the Department defer implementation of the proposed amendments until the State has had an opportunity to better understand, the regional generation adequacy concerns, PJM reliability forecasts, electricity demand growth, consumer affordability impacts, and economic development implications. • Mr. Baccino states that his company – Chesapeake Utilities is unaware of any specific statutory provision requiring Delaware to adopt every revision to the RGGI Model Rule or every recommendation from the 2025 RGGI Program Review. The commentor requests the Department identify the specific statutory authority that requires implementation of the proposed amendments at this time.	<i>or plans, after public hearing, to effectuate the policy and purposes of this chapter. No such rule or regulation shall extend, modify or conflict with any law of this State or the reasonable implications thereof.</i> Participation in a regional program requires coordination with the participating states in order to implement the reductions in GHG emissions. These proposed amendments reflect the outcome of the Third Program Review conducted by the RGGI participating states in order to make progress towards each state’s GHG reduction goals. The General Assembly has found as stated in 7 Del. C. §6043 (a) (10) that the most cost effective and least burdensome way to control CO₂ emissions is to continue Delaware’s participation in the Regional Greenhouse Initiative. <i>6043 (a)(10) Implementation of a CO₂ reduction program on a large scale, such as regionally, or nationally,</i>

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		<i>is important so as to maximize our efficient use of energy and our contribution to lowering CO₂ emissions while minimizing impacts on electric system reliability and unnecessary costs to Delaware power consumers. Further, costs of the CO₂ cap and trade program are anticipated to be less burdensome if the program is implemented, to the extent possible and practicable, on a regional level.</i> The Department believes the amendments proposed to the CO₂ Budget Trading Program are within the statutes of Delaware Code Title 7, Chapter 60, subchapter II-A. §6044 (a) states³: <i>“The General Assembly explicitly authorizes and sanctions the prior and ongoing participation of the Secretary of the Department of Natural Resources and Environmental Control, and the Chair of the Public Service</i>

³ [Delaware Code Online](#)

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		<i>Commission, and their duly authorized representatives, as part of their official duties, to implement and participate in the Regional Greenhouse Gas Initiative (RGGI)."</i> The General Assembly has further directed Delaware to reduce GHG emissions. The Climate Solutions Act of 2023⁴ requires Delaware to reduce GHG emissions to achieve net zero emissions by 2050. RGGI is the foundational control strategy / policy for achieving this target. <i>This Act, known as the Delaware Climate Change Solutions Act of 2023, follows the issuance of Delaware's Climate Action Plan in 2021, and establishes a statutory target of greenhouse gas emissions reductions over the medium and long term to mitigate the adverse effects of climate change due to anthropogenic greenhouse gas emissions on the State. The Act establishes a process of regular updates to</i>

⁴ HB 99 – Climate Solutions Act of 2023 - [Bill Detail - Delaware General Assembly](#).

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		<i>the Climate Action Plan to serve as the framework to achieve the targeted emissions reductions and develop resilience strategies for the State.</i>
	• He points out that fuel switching from coal to natural gas has been one of the most significant contributors to emissions reductions throughout Delaware, the Mid-Atlantic, and the broader RGGI region...[Natural gas] has been one of Delaware’s greatest success stories in emissions reductions.	The Department’s Technical Support Document (Exhibit 5 – Section 6.0, Appendix A) provides detailed information on the modeling performed by the RGGI participating states and the Delaware specific modeling in support of the proposed amendments. The General Assembly has charged Delaware with reducing GHG emissions now based on the information that is currently available.
	• He believes RGGI will decrease investment in natural gas fired generation – new, repowering, or upgrades. <i>“Delaware should encourage investment in reliable electricity generation, not create barriers at a time when reliability concerns are growing and future capacity needs remain uncertain.”</i> • The commentor believes the reduction in the Delaware allowance budget are significant and raise <i>“practical concerns about future investment in electricity generation.”</i> <i>The commentor recommends Delaware</i>	The Department fails to understand how these proposed amendments are a barrier to investments in reliable generation. The Department’s Technical Support Document (Exhibit 5 – Section 6.0, Appendix A) provides detailed information on the modeling performed by the RGGI participating states and the Delaware specific modeling in support of the proposed amendments. The modeling results provide details on the amount of natural gas generation projected through the

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	<i>“should encourage investment in reliable electric generation [and] not create barriers.”</i>	2037-time horizon – natural gas combined cycle and combustion turbine technologies are anticipated to remain consistent through 2037.
	The commentor points out that Delaware imports electricity from out-of-state power suppliers. The commentor further states that <i>“Delaware has a real opportunity to increase its clean dispatchable electric generation”</i> and counters that the proposed amendments <i>“attempt to hamstring that ability, keeping Delawareans dependent on out-of-state dispatchable generation.”</i>	The Department’s Technical Support Document (Exhibit 5 – Section 6.0, Appendix A) provides detailed information on the modeling performed by the RGGI participating states and the Delaware specific modeling in support of the proposed amendments.
	The commentor recommends that the Department defer implementation of the proposed amendments until the State has had an opportunity to better understand, the regional generation adequacy concerns, PJM reliability forecasts, electricity demand growth, consumer affordability impacts, and economic development implications.	The General Assembly has found that the most cost effective and least burdensome way to control CO₂ emissions is to continue Delaware’s participation in the Regional Greenhouse Initiative. Participation in a regional program requires coordination with the participating states in order to implement the reductions in GHG emissions. These proposed amendments reflect the outcome of the Third Program Review conducted by the RGGI participating states in order to make progress towards each state’s GHG reduction goals.

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		The General Assembly has further directed Delaware to reduce GHG emissions. The Climate Solutions Act of 2023 ⁵ requires Delaware to reduce GHG emissions to achieve net zero emissions by 2050. RGGI is the foundational control strategy / policy for achieving this target.
NRG , submitted by David Bacher, Regional Manager, NRG Environmental Business	- David Bacher recommends the Department evaluate implementation of the RGGI program changes and encourages prioritization of reliability, customer affordability and investment certainty. - NRG encourages the participating RGGI states to evaluate the interaction between future cap reductions and regional resource adequacy needs.	The Department encourages NRG to participate in future program reviews and offer their insights into how the program should be adjusted in the future. The RGGI Participating states in the July 2025 press release for the completion of the Third Program Review announced that the next program review is to commence not later than 2028. The scoping process for that program review was announced this past May.
The Fulcrum Foundation , submitted by Caleb Taylor, CEO	RFA – points out the statutory language quoted for the definition of a “small business” is incorrect. [Statute updated in 2015 to increase the gross receipts from \$4,000,000 to \$10,000,000.]	The Department agrees that the statutory language was amended to increase the annual gross receipts from \$4,000,000 to \$10,000,000. This increase does not change the applicability of the RGGI program because

⁵ HB 99 – Climate Solutions Act of 2023 - [Bill Detail - Delaware General Assembly](#).

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		all entities required to comply have gross receipts in excess of \$10,000,000. The Department does not believe a correction to the RFA is necessary as the current statutory citation was provided and the definition of a small business does not require any Delaware small business to comply with 7 DE Admin. Code 1147. The Department provided a list of the fossil-fuel fired power plants that are compliance entities for 7 DE Admin. Code 1147 in the Department Presentation at the Public Hearing (Exhibit 13 – Slide 8). All Department exhibits were posted on the DNREC Administrative Law Website for this Docket #2026-R-A-0003 on 7/20/2026.
	• RIS – the commentor believes the Department failed to conduct an analysis of the proposed amendments.	The Department provided a detailed analysis of the proposed amendments in Exhibit 5 – Sections 6-7, Technical Support Document which included the modeling spreadsheets for the estimated impact of the proposed amendments and the Cost Benefit analysis for rate payers. All Department exhibits were

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Commentor	Summary of the Comment submitted	Department Response
		posted on the DNREC Administrative Law Website for this Docket #2026-R-A-0003 on 7/20/2026.
	• RIS – the commentor states the Department failed to identify less costly alternatives to the proposed amendments.	The Department provided a detailed discussion of the Third Program Review in the Technical Support Document (Exhibit 5 – Sections 2.0 and 5.0) and referenced the information provided on the RGGI Inc. website which includes the six stakeholder engagement sessions where alternatives were presented. All Department exhibits were posted on the DNREC Administrative Law Website for this Docket #2026-R-A-0003 on 7/20/2026. These analyses modeled alternatives to the proposed amendments. The General Assembly (7 Del. C. §6043(a)(10)) has found that the most cost effective and least burdensome way to control CO₂ emissions is to continue Delaware’s participation in the Regional Greenhouse Initiative.

Table 2 - Written comments received by the 8/14/2026 comment deadline:

Commentor	Summary of the Comment submitted	Department Response
	• RIS – the commentor states the RIS documentation failed to properly cite the source of the program proceeds that have been generated since 2009.	The Department provided a detailed discussion of the program proceeds in Exhibit 5 – Section 8.0, Technical Support Document. All Department exhibits were posted on the DNREC Administrative Law Website for this Docket #2026-R-A-0003 on 7/20/2026.
	• Offsets – the commentor states the Department failed to fully analyze the economic impact of the proposed elimination of the offsets program.	The Department provided a detailed discussion of the program proceeds in Exhibit 5 – Technical Support Document. All Department exhibits were posted on the DNREC Administrative Law Website for this Docket #2026-R-A-0003 on 7/20/2026. This program has been available since 2009 and no applications have been received for projects in Delaware. The Department is happy to review this program as part of the Fourth Program Review should a project sponsor seek to develop an offset project in Delaware.