

STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL
WRITTEN PUBLIC COMMENT — PROCEDURAL
Proposed Amendments to 7 DE Admin. Code 1147 — CO2 Budget Trading Program —
SAN 2026-02

Docket #2026-R-A-0003

Letter of John N [REDACTED], Delaware Ratepayer, Regarding Notice of the July 28, 2026 Public Hearing

Lisa Vest, Hearing Officer

DNREC – Office of the Secretary

89 Kings Highway

Dover, DE 19901

Sent via email: DNRECHearingComments@delaware.gov

cc: Valerie Gray, Program Administrator, Division of Air Quality (valerie.gray@delaware.gov)

cc: Westley Look, Enforcement and FOIA Coordinator
(DNREC_FOIA_Request@delaware.gov)

Dear Ms. Vest:

I am submitting this letter as a written public comment in Docket #2026-R-A-0003, separate from my comment on the merits of the proposed amendments to 7 DE Admin. Code 1147. Its purpose is narrower: to place on the record a notice problem specific to this docket, and to ask that it be addressed before this rulemaking is concluded.

On March 16, 2026, I was included in DNREC's email distribution of the approved SAN 2026-02 notice, sent by Michelle Jacobs. That distribution confirms my email address was correctly registered and actively receiving notices concerning this docket at that time.

Two days later, on March 18, 2026, I filed a hearing request to participate in this proceeding.

Between that hearing request and the eventual hearing, DNREC also conducted a public workshop on the draft amendments, held April 30, 2026 under Notice AQ20260111, published April 1, 2026, with its own written comment deadline of May 15, 2026. I did not receive notice of that workshop either. I have since confirmed that both the workshop and the July 28 hearing were conducted as scheduled; I was simply never told of either one. Because I was still on the distribution list on March 16 and did not receive the notice published April 1, the omission of my address from this docket's distribution appears to have occurred within roughly two weeks of my filing a hearing request to participate in this same proceeding — not at some indeterminate point over the following months.

On June 24, 2026, DNREC sent the public notice containing the hearing information for this

same docket. I did not receive that one either. As a result, I was not aware that the public hearing had been scheduled, and I was not present when it was held on July 28, 2026.

On July 29, 2026, I wrote to Valerie Gray to ask why. Her response, received the same day, confirmed that my email address does not appear on the recipient list for the June 24 notice. She did not identify a cause for the omission. Her response recommended that I re-register my subscription and that I routinely check five separate channels going forward — the public calendar, the notice email, the Administrative Law website docket, legal notices in two general-circulation newspapers, and the Delaware Register of Regulations — rather than rely on the notification system alone.

I do not raise this to allege that anyone at DNREC acted improperly, and I am not asking this agency to reach that conclusion. I do not yet know why my address was omitted from the June 24 notice. What I am asking the agency to recognize is narrower and does not depend on motive: a citizen who had filed a formal request to participate in this specific proceeding, and whose registration for this specific docket was confirmed working just over two months earlier, did not receive notice of the one hearing tied to that request. The purpose of a notification subscription is to relieve a registered subscriber of the burden of independently monitoring multiple public channels. Placing that burden back on a subscriber after a documented failure of the notification he relied on does not cure the defect.

On July 29, 2026, I filed a Freedom of Information Act request with Mr. Look seeking the distribution and subscription records that would explain what happened to my registration in this window — a window that, in light of the missed workshop notice, now appears to run from March 16 to April 1, 2026, rather than the full span to June 24. As of the date of this letter, I have not received a response. Delaware's FOIA statute, 29 Del. C. §10003(h), gives a public body 15 business days to respond; that window does not close until after this written comment period ends on August 14, 2026. I am submitting this letter now, without the benefit of that response, because the comment deadline does not wait for it. I reserve the right to supplement this letter once DNREC responds to the pending request.

I am asking the agency to do three things:

First, enter this letter into the record for Docket #2026-R-A-0003.

Second, determine whether any other individual who filed a hearing request in this proceeding was similarly omitted from the April 1, 2026 workshop notice or the June 24, 2026 hearing notice, and disclose the result.

Third, provide a substantive response to my July 29, 2026 FOIA request without further delay, consistent with the timeframe set by 29 Del. C. §10003(h).

A rulemaking record is only as sound as the process that produced it. I am asking DNREC to confirm that the process here reached everyone who asked to be part of it.

Sincerely,

John N. [REDACTED]