

August 7, 2026

ATTN: Bonnie Heiple, Commissioner, Massachusetts Department of Environmental Protection, and Elizabeth Mahony, Commissioner, Massachusetts Department of Energy Resources

RE: Public Comment on Proposed Amendments to 310 CMR 7.70 (Massachusetts CO2 Budget Trading Program) and 225 CMR 13.00 (DOER CO2 Budget Trading Program Auction Regulation), Implementing the RGGI Third Program Review Revisions

Dear Commissioner Heiple, Commissioner Mahony, and associates,

The Fulcrum Foundation is a nonpartisan organization dedicated to improving state-level regulatory environments through research, policy development, legislative engagement, and implementation support. As a part of its mission to advocate for regulatory relief in critical sectors of the American economy, the Foundation produces public comment on state-level regulatory proposals across the U.S., designed to help highlight the economic costs of regulation and improve regulatory outcomes.

The cost of electricity in the United States has continued to rise, and regional electrical grids face growing strains stemming both from aging infrastructure and from increased demands related to technological development.¹ Unfortunately, these challenges have been compounded in many states by the adoption of production constraints and energy taxes designed to favor the production of “renewable” energy.² The Regional Greenhouse Gas Initiative (RGGI) is one such scheme which continues to hamper energy production and raise the cost of energy for both businesses and consumers in participant states. The Third Program Review Revisions threaten to exacerbate the already-damaging effects of RGGI by forcing drastic new cuts to energy production levels where adopted.

Therefore, the Fulcrum Foundation ("Fulcrum") appreciates this opportunity to provide comment on the proposed amendments to 310 CMR 7.70, the Massachusetts CO2 Budget Trading Program, and 225 CMR 13.00, the DOER CO2 Budget Trading Program Auction

¹ U.S. Energy Information Administration, "Electricity: Average Price of Electricity to Ultimate Customers," Electric Power Monthly, <https://www.eia.gov/electricity/monthly/>. See also North American Electric Reliability Corporation, 2024 Long-Term Reliability Assessment (Atlanta: NERC, 2024), https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_LTRA_2024.pdf.

² For discussion of the cost effects of state renewable energy mandates, see Michael Greenstone and Ishan Nath, "Do Renewable Portfolio Standards Deliver Cost-Effective Carbon Abatement?" (Energy Policy Institute at the University of Chicago Working Paper No. 2019-62, 2019), <https://epic.uchicago.edu/>.

Regulation, adopting revisions from the RGGI Third Program Review, and we thank the Department of Environmental Protection and the Department of Energy Resources (together, the "Departments") for their consideration of our input. We hope to contribute to the Departments' understanding of the potential economic impacts of this action, with the confidence that this analysis will be useful in deliberations over the form and estimated impact of the finalized rules, and with similar other actions in the future.

Our response consists of two sections, which proceed as follows: First, we examine the economic analysis referenced in the Departments' Technical Support Document, illustrating that the conclusion that the proposed rule will not increase electricity bills excludes material evidence about the actual cost impacts of comparable past reductions to program allowance levels, relies on regional modeling not specific to Massachusetts, and is undercut by current allowance prices that already exceed the program's own cost-containment thresholds. Last, we evaluate the potential cost of the proposed elimination of the offset program, which the Departments failed to consider in a meaningful way as part of this proposal.

1. Cost Conclusions are not Supported by Evidence

The Technical Support Document devotes a single paragraph to the economic impact of the proposed rule. It states that "electric sector modeling" "indicates that the proposed program update will not increase electricity bills relative to current allowance price conditions and may even result in modest savings," that impacts are "generally within ± 1 percent," and it directs the reader to detailed modeling results hosted on a third-party website. This conclusion does not withstand scrutiny, for three reasons.

First, the Departments have not engaged the most directly relevant evidence available: the observed record of how allowance prices and ratepayer costs actually responded to prior reductions in the RGGI cap. As detailed in the appendix to this letter, the last comparable RGGI cap reduction was followed by an increase in allowance clearing prices of approximately 160 percent, from \$5.20 per ton in 2019 to roughly \$13.46 per ton by 2022. Applying that observed response to Massachusetts's retail rate base, and discounting substantially to isolate the effect of the cap reduction from coincident factors such as the 2021 to 2022 natural gas price increase, yields an estimated residential cost increase that is materially greater than the near-zero effect the Departments project. The Departments' analysis does not acknowledge this historical record at all. An agency may weigh competing evidence, but it may not disregard the most direct evidence of the very effect it purports to estimate.

Second, the Departments' conclusion is already contradicted by current market conditions. The proposed rule relies on the Cost Containment Reserve, a mechanism that releases additional allowances when auction prices exceed defined trigger levels, as a

principal safeguard against rising allowance prices. The Departments set the Tier 1 trigger at \$19.50 and the Tier 2 trigger at \$29.25 for 2027. Yet allowance prices have already surpassed both thresholds: the June 2026 auction cleared at \$35.00 per ton, and the March 2026 auction at \$24.99. The existence of the Cost Containment Reserve is itself an acknowledgment that the program creates upward pressure on allowance prices, and the fact that recent prices already exceed both trigger levels indicates that the "modest savings" and "within ± 1 percent" projections do not reflect the price environment the market is actually exhibiting. A cost conclusion premised on prices remaining near current levels cannot be reconciled with a market that has already moved above the program's own containment thresholds.

Third, the Departments rely on regional modeling that is not specific to Massachusetts. The Technical Support Document describes the modeling as work performed by the RGGI participating states collectively, and reports a regional result. It contains no Massachusetts-specific bill analysis. Massachusetts bears among the highest electricity rates in the nation and has a distinct generation profile; a regional average of bill impacts across ten states does not establish the effect on Massachusetts ratepayers. The Departments assert a conclusion about Massachusetts bills that their cited evidence, being regional in nature, does not support.

Moreover, the projected allowance-price trajectory that drives the modeling, the single input from which all bill and cost estimates are derived, appears nowhere in the Technical Support Document or the Massachusetts rulemaking record. The Departments state only that "detailed modeling results are available" on a third-party website. The allowance-price projections, the modeling assumptions, and the scenario inputs that produce the "within ± 1 percent" conclusion are thus not available for review in the record of this rulemaking, and the model itself is proprietary and not independently reproducible. Interested parties cannot evaluate whether the Departments' central cost conclusion is sound, because the analysis that produces it has not been disclosed.

These deficiencies are not immaterial. Under M.G.L. c. 30A, the Departments must maintain a record adequate to support the rule and must respond to the principal objections raised during the comment period. The cost of a rule that reduces the allowance cap by approximately 89 percent between 2027 and 2037 is among the most material aspects of this rulemaking, and the Departments' one-paragraph treatment, which excludes the directly relevant historical evidence, is contradicted by current prices, and rests on non-Massachusetts-specific modeling, does not discharge that obligation. At a minimum, the Departments should engage the historical price record, disclose in the Massachusetts rulemaking record the modeling and allowance-price projections on which they rely, and prepare a Massachusetts-specific analysis of the rule's ratepayer impact before proceeding.

2. Material Costs were not Considered

The proposed amendments eliminate the CO₂ emission offset pathway as part of the broader program changes, consistent with the RGGI Updated Model Rule. The Technical Support Document does not analyze the cost consequence of this change. Indeed, the document's economic-impacts discussion does not mention the offset pathway at all. The Departments have thus removed a compliance mechanism without any assessment of what its removal will cost regulated entities or, ultimately, ratepayers.

That omission matters because the value of the offset pathway is a direct function of allowance prices, which this rule is designed to raise. Offsets functioned as a lower-cost substitute for purchasing allowances, available to cover a limited portion of a regulated entity's compliance obligation. Whether that substitute is economical in any given period depends on price: a rational entity uses offsets only when an offset costs less than the prevailing allowance. For most of the program's history, allowances were inexpensive, and offsets accordingly saw little use. But it does not follow that offsets would remain unused under the substantially higher allowance prices this proposal is designed to produce. To the contrary, the value of the offset option is greatest precisely when allowance prices are high, which is the condition the proposed cap reduction is intended to create. The historical observation that offsets were little used when allowances were cheap says nothing about their value once allowance prices rise.

This is the interaction the Departments' analysis overlooks entirely. By eliminating the offset pathway in the same rulemaking that drives allowance prices upward through a steeply declining cap, the Departments foreclose a potential source of cost relief at the very point in the program's trajectory when it would become economically meaningful. The appendix to this letter illustrates the mechanism. Using the proposed rule's own escalating Cost Containment Reserve trigger prices as proxies for future allowance prices, and assuming a compliance entity that uses its full allotment, elimination of the offset pathway increases compliance cost by a margin that grows as allowance prices rise, reaching an estimated increase of approximately 1.6 to 1.9 percent by 2037. That effect is separate from, and additional to, the direct cost of the cap reduction addressed in the preceding section.

In sum, the Departments have eliminated an option whose value is a direct function of allowance price, in a rulemaking whose central purpose is to raise allowance prices, without analyzing that relationship at all. Under M.G.L. c. 30A, the cost of a material program change is among the factors the Departments must consider and address on the record. The Departments should assess the cost of eliminating the offset pathway under the elevated allowance prices the rule is designed to produce, rather than omitting the question entirely.

Conclusion

We thank the Departments for considering our comments on this proposed rulemaking, and we welcome the opportunity for additional engagement on this issue if so desired. We urge the Departments to, at a minimum, take the following steps:

- Engage the historical evidence the Departments have not addressed, including the observed allowance-price response to prior RGGI cap reductions, which indicates a larger ratepayer cost than the Technical Support Document projects.
- Prepare and disclose a Massachusetts-specific analysis of the rule's estimated ratepayer impact, rather than relying on a regional modeling result that is not specific to the Commonwealth.
- Place in the Massachusetts rulemaking record the allowance-price projections and modeling assumptions underlying the cost conclusion, rather than directing the public to a third-party website, so that the conclusion can be independently evaluated.
- Reconcile the projected cost conclusion with current market conditions, in which allowance prices already exceed both of the program's own Cost Containment Reserve trigger prices.
- Assess the cost of eliminating the offset compliance pathway under the elevated allowance prices the rule is designed to produce, a material aspect of the rulemaking the current record does not address.

We further note that the Technical Support Document, though referenced in the public hearing notice as available on the Departments' website, was not located on either the referenced MassDEP comment-opportunities page or the DOER RGGI program page, and Fulcrum was able to obtain it only by direct request to the Departments during the comment period. The analytical basis for a rulemaking of this consequence should be readily available to the public for the full duration of the comment period, not furnished on request.

These deficiencies cannot be cured simply by supplementing the record at the point of final adoption. The Technical Support Document is a component of the basis on which the public is entitled to comment. Furthermore, should the Departments engage the historical evidence, prepare a Massachusetts-specific ratepayer analysis, disclose the underlying allowance-price modeling, or analyze the cost of the offset elimination, that corrected analysis may materially alter the stated basis for the rule or introduce significant information not available to the public during the current comment period. In that event, finalizing the rule on the current record would deprive interested parties of a meaningful opportunity to respond to the Departments' actual analysis and reasoning. We therefore respectfully urge the Departments, if they undertake the analysis described above, to re-

propose the rule or reopen the comment period so that the public may comment on the corrected analysis before the rule is finalized.

Not only are these steps consistent with the Departments' obligations under M.G.L. c. 30A, but they are also essential to an accurate understanding of the true cost of the proposed changes. We recognize that the Departments view these amendments as necessary to maintain Massachusetts's participation in RGGI. But the decision to conform to the regional program does not relieve the Departments of the obligation to understand and disclose what that conformity will cost Massachusetts ratepayers.

This obligation carries particular weight in Massachusetts, where residents and businesses already bear among the highest electricity rates in the nation. Further constraining in-state generation does not reduce the demand for electricity; it shifts more of that demand, and its associated emissions, to generators outside the Commonwealth. To the extent the rule's projected emissions reductions simply reflect generation moving elsewhere rather than disappearing, the Departments would impose real and rising costs on Massachusetts ratepayers in exchange for a benefit that is largely an artifact of the Commonwealth's import dependence, not a genuine regional reduction.

Against that backdrop, a rule that the observed record indicates is more likely to raise rates than lower them warrants a full and transparent accounting of its costs, specific to Massachusetts, before it is finalized.

Sincerely,

A handwritten signature in black ink, appearing to read 'Caleb Taylor', with a stylized flourish at the end.

Caleb Taylor
Chief Executive Officer
The Fulcrum Foundation

Appendix: Independent Analysis

To supplement the record with an independent estimate of the proposed rule's ratepayer impact, Fulcrum has prepared the following analysis using only publicly available data and Massachusetts's own retail rate base. The analysis treats the most recent comparable RGGI cap reduction, the 2021 program adjustment, as a natural experiment: because that event tightened allowance supply and the present proposal does the same, the price and cost response that actually followed offers direct, observed evidence of what the current proposal is likely to produce.

Following the 2021 reduction, allowance clearing prices rose by approximately 160 percent, from \$5.20 per ton in 2019 to a \$13.46 per ton average across 2022. To translate that increase into a residential bill effect, we apply the added allowance cost to the marginal generating unit and pass it through to a representative Massachusetts residential customer at the state's average all-in retail rate of approximately 30 cents per kWh. We then discount that result substantially to isolate the portion of the price increase attributable to the cap reduction itself from coincident factors, most notably the 2021–2022 natural gas price increase, retaining only 25 percent of the observed increase at the low end and 50 percent at the high end. Applied to the 2021 event, this yields an estimated residential price increase of 0.34 percent to 0.69 percent.

Because the presently proposed reduction is somewhat smaller in annualized terms than the 2021 event (approximately 12.5 percent per year against approximately 17 percent), we scale the estimate proportionally, by a factor of 0.74, to project the impact of the current proposal. This produces an independent estimate of a 0.25 percent to 0.51 percent increase in residential electricity costs, equivalent to roughly \$0.43 to \$0.86 on a representative monthly bill.

The significance of this estimate lies in its relationship to the Departments' own conclusion. The Departments state that the rule "will not increase electricity bills" and "may even result in modest savings." Our independent estimate, derived from what actually happened following a comparable cap reduction rather than from undisclosed forward-looking modeling, points in the opposite direction: a modest but real increase in residential costs. The estimate is deliberately conservative at each step, discounting heavily for confounding factors and scaling down for the annualized magnitude of the reduction, yet it still indicates a ratepayer cost increase rather than the savings the Departments project. This divergence suggests that the Departments' reliance on an undisclosed regional model, rather than observed historical outcomes, has led them to understate the likely cost of the proposed reductions to Massachusetts ratepayers.

Table 1: Independently Modeled Estimates of RGGI Ratepayer Impacts

Scenario	Annual Allowance Cap Decrease	Allowance Price Change	Estimated Consumer Price Change
2021 RGGI Cap Reduction	17% ^a	+160% ^b	+0.34% to +0.69% ^c
2026 RGGI Cap Reduction (RGGI Estimate)	12.5% ^d	Not disclosed	"Within ±1%" (not specified) ^e
2026 RGGI Cap Reduction (Independent Est.)	12.5%	+118% ^f	+0.25% to +0.51% (≈ \$0.43–\$0.86/mo) ^g
a. Regional cap reduction associated with the 2021 RGGI program adjustment, annualized. Regional Greenhouse Gas Initiative, Inc. "Elements of RGGI." https://www.rggi.org/program-overview-and-design/elements. b. Allowance clearing-price increase from 2019 to 2022, calculated from Regional Greenhouse Gas Initiative, Inc. "Auction Results." https://www.rggi.org/auctions/auction-results. From \$5.20/ton (Auction 45, September 2019) to a \$13.46/ton average across 2022 (Auctions 55–58), an increase of approximately 160 percent. c. Estimated residential consumer price change. Fulcrum Foundation calculation from the allowance-price increase in note b, applying a marginal emissions rate of 0.5 tCO₂/MWh and Massachusetts's average all-in residential retail rate of approximately 30 cents per kWh. U.S. Energy Information Administration. "Electric Power Monthly," Table 5.6.A. https://www.eia.gov/electricity/monthly/. The range reflects an attribution discount retaining 25 percent (low) to 50 percent (high) of the observed allowance-price increase as attributable to the cap reduction, discounting the remainder for coincident factors including the 2021–2022 natural gas price increase. d. Annualized cap reduction under the proposed rule, steep-phase (2027–2033) average, calculated from the Massachusetts state budget figures. Background Information and Technical Support Document for Proposed Amendments to 310 CMR 7.70 (MassDEP, June 2026), Section III (base budgets declining from 9,008,537 tons in 2027 to 965,200 tons in 2037). The total reduction over 2027–2037 is approximately 89 percent. e. MassDEP estimate as stated in the Technical Support Document, Section IV(a), which reports bill impacts "generally within ±1 percent" without customer-class detail or a Massachusetts-specific figure. Background Information and Technical Support Document for Proposed Amendments to 310 CMR 7.70 (MassDEP, June 2026). f. Allowance-price change for the proposed reduction, estimated as the 2021 response (note b) scaled by the ratio of annualized cap reductions (12.5% ÷ 17% = 0.74). Fulcrum Foundation calculation. g. Consumer price change for the proposed reduction, calculated as the 2021 estimated range (note c) scaled by the same 0.74 cap-magnitude factor; dollar figures reflect a representative Massachusetts monthly residential bill of approximately \$170. Fulcrum Foundation calculation.			

To assess the cost of the proposed elimination of the offset program, Fulcrum has prepared the following analysis, which isolates the effect of removing the offset pathway from the cap-driven price increase addressed in the preceding section. Offsets functioned as a lower-cost substitute for allowances, available to cover a limited portion of a compliance entity's obligation. Their economic value is not fixed; it rises as allowance prices climb, because the higher the price of an allowance, the more an entity saves by meeting part of its obligation with a cheaper offset instead.

The analysis models a compliance entity using its full offset allotment, capped at 3.3 percent of its obligation, and compares its compliance cost with and without the offset option available. For allowance prices, it uses the proposed rule's own escalating Cost Containment Reserve Tier 2 trigger prices as proxies for future price levels, alongside the prevailing 2026 market price. For offset costs, it uses \$25 and \$30 per ton, a range bracketing the level at which offsets can be inferred to sit: because offset projects have remained unused while allowances have recently cleared near \$29 per ton, offsets can be inferred to cost at least that much.

The results demonstrate the central point. At present price levels, the offset option is roughly at parity with allowances, and its elimination has little or no measurable effect, because an entity would not use an offset priced above the prevailing allowance. But as the proposed cap reduction drives allowance prices upward along the rule's own trigger schedule, the same offset option moves increasingly into value, and its elimination imposes a growing cost, reaching approximately 1.6 to 1.9 percent of compliance cost by 2037. This is the precise mechanism the Departments' analysis overlooks: by removing the offset pathway in the same rulemaking that drives allowance prices higher, the proposal forecloses a cost-relief option at exactly the point in the program's trajectory when it would become most valuable. The cost of that foreclosure is separate from, and additional to, the direct cost of the cap reduction itself.

Table 2: Independently Modeled Estimates of Offset Elimination Impacts on Compliance Cost

Scenario/Step	Allowance \$/ton ^a	Offset \$/ton ^b	Offsets Used ^c	Total Cost (100 tons) ^d	Implied Cost of Offset Elimination ^d
Status quo (2026 prevailing)	\$28.92	\$25	3.30%	\$2,879	0.45%
Status quo (2026 prevailing)	\$28.92	\$30	0%	\$2,892	0.00% (no effect)
2027 — near-term trigger	\$29.25	\$25	3.30%	\$2,911	0.48%
2027 — near-term trigger	\$29.25	\$30	0%	\$2,925	0.00% (no effect)
2031 — mid-period trigger	\$38.34	\$25	3.30%	\$3,790	1.16%
2031 — mid-period trigger	\$38.34	\$30	3.30%	\$3,806	0.72%
2037 — end-period trigger	\$57.53	\$25	3.30%	\$5,646	1.90%
2037 — end-period trigger	\$57.53	\$30	3.30%	\$5,662	1.60%
a. Allowance prices. Status-quo figure is the 2026 year-to-date average clearing price of approximately \$28.92 per ton; 2027, 2031, and 2037 figures are the proposed rule's own CO ₂ Cost Containment Reserve					

(CCR) Tier 2 trigger prices (\$29.25, \$38.34, \$57.53), used as defensible proxies for elevated future allowance prices. Regional Greenhouse Gas Initiative, Inc. "Auction Results." <https://www.rggi.org/auctions/auction-results>; 225 CMR 13.00 (proposed), Cost Containment Reserve Tier 2 Trigger Price; see also Background Information and Technical Support Document for Proposed Amendments to 310 CMR 7.70 (MassDEP, June 2026), Section III (Tier 2 trigger of \$29.25 in 2027, increasing 7 percent annually).

b. Offset cost. Because offset projects remained unused while allowances cleared near \$29 per ton in 2026, offsets can be inferred to cost at least that much; \$25 and \$30 bracket that revealed-cost floor. Regional Greenhouse Gas Initiative, Inc. "Auction Results." <https://www.rggi.org/auctions/auction-results>.

c. The illustration assumes a compliance entity using its full offset allotment, capped at 3.3 percent of its compliance obligation, expressed here as 3.3 of every 100 tons. 310 CMR 7.70(6)(e)1.c (proposed).

d. Total cost and implied cost of offset elimination are Fulcrum Foundation calculations. Where the offset cost is below the allowance price, a compliance entity uses its full 3.3 percent allotment (3.3 of 100 tons), and total cost under offsets = $(96.3 \times \text{allowance price}) + (3.3 \times \text{offset price})$. Where the offset cost exceeds the allowance price (2026 and 2027 at \$30), a rational entity uses no offsets, so offset usage is set to 0 percent and elimination produces no cost effect. The implied cost of elimination = $[(100 \times \text{allowance price}) - \text{total cost under offsets}] \div \text{total cost under offsets}$. The effect grows as the allowance price rises relative to the fixed offset cost, reflecting the increasing option value forgone as the cap tightens.