

March 4, 2022

Commissioner Grace Arnold and Deputy Commissioner Kevin Lee  
Minnesota Department of Commerce, Division of Energy Resources  
85 7<sup>th</sup> Place East, Suite 500  
Saint Paul, MN 55101-2198

**RE: In the Matter of Technical Guidance for Eligible Pre-Weatherization Measures for Low-Income Programs**

Docket No. E,G999/CIP-21-837

Dear Commissioner Arnold and Deputy Commissioner Lee

Fresh Energy, Natural Resources Defense Council (NRDC), Minnesota Housing Partnership (MHP), and Community Stabilization Project (CSP) thank the Department of Commerce (Department) for the opportunity to submit comments in response to the Department's technical guidance on eligible pre-weatherization measures issued on February 18, 2022. Fresh Energy will be submitting separate comments on the proposed guidance for efficient fuel switching as well.

**I. Background**

In 2021, Minnesota passed the Energy Conservation and Optimization (ECO) Act, which served to update and expand the state's energy efficiency programming, such as the Conservation Improvement Program (CIP). The ECO Act directed the Department to issue guidance on various topics related to its passage, including establishing "a list of preweatherization<sup>1</sup> measures eligible for inclusion in low-income energy conservation programs no later than March 15, 2022."<sup>2</sup> Pre-weatherization measures are defined as "an improvement that is necessary to allow energy conservation improvements to be installed in a home."<sup>3</sup>

Department forwent convening a working group of interested parties to weigh in on and discuss pre-weatherization measures, and instead published an initial list on February 18, 2022 for parties to respond to via formal comments by March 4, 2022. While we acknowledge the Department likely had limited capacity to convene a working group around pre-weatherization measures given its other ECO Act-related working groups, an opportunity for several guided, dynamic discussion among advocates, agencies, and service providers on this subject would have been preferred given the novelty of establishing a list of pre-weatherization measures for use in "low-income" energy conservation programs. The working group convened by the Department for updating the multifamily eligibility guidance is a model of what may have worked well here.

Absent a working group, additional time to gather feedback and respond would have also been preferred over the two weeks given and would have been more equitable to ensure robust participation among interested parties.

With that note, we provide modifications and additions to the initial list of eligible pre-weatherization measures proposed by the Department below, as well as general considerations for future discussion among interested parties.

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<sup>1</sup> While the statute refers to "preweatherization" sans hyphen, for these comments we will use a hyphen with the term, i.e. pre-weatherization.

<sup>2</sup> Minn Stat. 216B.2403 Sec.3 Subd. 5 (g) (2021) ([link](#))

<sup>3</sup> Minn Stat. 216B.2402 Sec.3 Subd. 20 ([link](#))

## II. Response and proposed modifications to initial list of eligible pre-weatherization measures for “low-income” programs

We generally support the pre-weatherization measures proposed by the Department as being eligible for “low-income” CIP spending and commend the Department for providing an initial list. We also emphasize that with any pre-weatherization action taken, there should be a seamless and concerted effort to connect such action to the next step of weatherization or other energy efficiency upgrades for the customer. Doing so will help utilities and service providers achieve the overarching goal of funding pre-weatherization, i.e. to remove a major barrier to further and deeper energy efficiency upgrades for under-resourced households. Simply put, pre-weatherization work should always be paired and co-delivered with weatherization and energy efficiency upgrades.

Finally, we strongly recommend striking the language that refers to providing pre-weatherization measures “in conjunction with the federal weatherization assistance program.”<sup>4</sup> The statutory definition of what constitutes a pre-weatherization measure notes such measures are intended to “allow energy conservation improvements to be installed in a home”<sup>5</sup> and as such are not restricted to only what is allowed under the federal weatherization assistance program.<sup>6</sup> Striking the language will ensure the most flexibility in funding eligible pre-weatherization measures and ensure more homes may have barriers removed to participating in a myriad of energy conservation programs in the state, and ensuring direct connection with low-income Conservation Improvement Programs especially.

With that context, we provide the following edits and additions to the pre-weatherization measures list. These modifications are compiled from input from several partners and non-profit organizations, both local and national, whose swift feedback is greatly appreciated<sup>7</sup>.

### Modifications to proposed list and language of Department proposed decision:

“Staff propose the following list of preweatherization measures, ~~when delivered in conjunction with the federal weatherization assistance program,~~ be eligible for inclusion in low-income energy conservation programs:

- Remediation of vermiculite and presumed asbestos containing materials, **including but not limited to:** ~~This includes~~ attic insulation, siding, heating, ventilation, and air conditioning (HVAC), ~~or~~ pipe-wrap, floors (e.g. floor tile), ceiling treatments (e.g. popcorn), drywall, mastic, and sealants
- Mold and moisture related repairs:
  - Structural repair: foundation, walls, roofing, windows/doors, repair or replacement
  - Grading for seepage control
  - Gutters/downspouts repair, replacement, or addition

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<sup>4</sup> Department of Commerce, *In the Matter of Technical Guidance for the Inclusion of Efficient Fuel-Switching and Load Management Programs in the Conservation Improvement Program, and Eligible Pre-weatherization Measures for Low-Income Programs*, issued February 18, 2022 in Docket No. E,G999/CIP-21-837 at 26.

<sup>5</sup> See footnote 3.

<sup>6</sup> The statutory language for establishment of the Healthy AIR account does reference that “remediation activities must be executed in conjunction with federal weatherization assistance program services.” This, however, refers to use of funds from this account specifically, rather than “low-income” CIP spending generally. See Minn Stat. 216B.2403 Sec.3 Subd.5 (h) ([link](#))

<sup>7</sup> The following organizations provided feedback: RMI, Natural Resources Defense Council, the Center for Energy and Environment, Minnesota Community Action Partnership, Green Home Institute (Michigan), Michigan Environmental Council, and Ian D. Tran (Michigan).

- Sump pumps – repair, replacement or addition
- Black mold removal
- Drain tile installation
- Radon mitigation, including but not limited to: pre-testing, mitigation, post-testing, and associated repairs
- Structural repair or replacement (non-moisture related) – foundation, roofing, windows/doors, walls, manufactured home skirting
- Plumbing leaks / sewer problems including red-tagged plumbing and correcting spillage, and improving water flow and quality
- Major electrical upgrading – including but not limited to:
  - Replacing ~~K/T~~, knob and tube wiring;
  - Upgrading panel, GFCI outlets, outlet and junction box covers
  - Repairing loose or damaged wiring;
  - Plus any associated repairs required for these upgrades (drywall, pavement, etc)
- Inaccessible crawl spaces
- Remediation of excessive clutter or hoarding
- Chimney liners Correcting/Repairing improper or ineffective HVAC venting (such as installing a chimney liner)
- Integrated pest management (bugs and vermin remediation and blocking)

This list is meant to be comprehensive but not exhaustive, and utilities may propose additional measures for the Department to consider, including other health and safety related repairs that are preventing energy efficiency upgrades or installations. If utilities are uncertain whether their proposed pre-weatherization projects are eligible under this proposed list, please contact the Department of Commerce to ensure eligibility.”

#### Additions to proposed list

In no particular order, the following additions are recommended for inclusion in the eligible pre-weatherization measures list:<sup>8</sup>

- Lead remediation (e.g. lead paint, such as on windows; lead service water lines/pipes, or other lead issues) or encapsulation, especially any that could be disrupted during weatherization
- Chimneys and fireplace inspection/review
- Contaminant detection/abatement:
  - Carbon monoxide (CO) testing and detector/venting installation
  - Argon Detector
  - Smoke Detector
  - Fire extinguishers (when solid fuel sources are utilized)
- Combustion safety-related repairs or equipment replacement, including:
  - Gas stove Building Performance Institute (BPI) test<sup>9</sup> and remediation

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<sup>8</sup> We note that we received feedback on additions to this list from partners and other advocates primarily through email and with short notice due to the deadline, our attempt to categorize and group the additional measures we are proposing may not be precise. We encourage the Department to consider how best to group measures as it finalizes its list, for ease of reference and for potential ease of reporting, which is discussed further in the next section.

<sup>9</sup> See [Building Performance Institute, CST for Gas Ovens et. al](#)

- Testing of water heater and furnace exhaust flues, e.g. natural draft water heater/furnace Combustion Appliance Zone (CAZ) test,<sup>10</sup> and remediation
- Gas leak test (home-wide) and remediation (e.g. repairing leaking fuel supply lines)
- Ventilation inspection and repair including but not limited to:
  - Inspecting, installing or repairing exhausts fans in kitchen (e.g. over-range hoods) and bathrooms in accordance with ASHRAE 62.2 protocols;
  - Inspecting, installing or repairing Heat Recovery Ventilation or Energy Recovery Ventilation systems;
  - Correcting/repairing unsafe or ineffective dryer venting;
  - Re-building the old vent stacks off of furnaces and water heaters so they work properly
  - HVAC repair such as ductwork, piping, vents, furnace/boiler repairs, and thermostat replacement
- Other repairs including:
  - Minor electrical repairs (e.g. fixing junction boxes and unsafe wiring to HVAC equipment)
  - Flue repair (e.g. correcting improper flue venting, correcting high CO in combustion appliance flue gases)
  - Gas valve repair
  - Sensor repairs not yet captured by list
  - Repair stairs and/or replacing hand railings for workers (and occupants) health/safety
  - Replace broken or missing lamps in light fixtures

### III. Other considerations

Beyond the specific response to the list of proposed pre-weatherization measures, we would like to note other consideration related to the overall implementation of pre-weatherization measures into the “low-income” CIP spending. These may be further discussed as part of the meetings planned for quarter 2 of 2022 (hereby “spring workshops”), as outlined by the Department in its final decision for utilities’ proposed “low-income” CIP spending modifications, filed earlier this year.<sup>11</sup>

- *Creating a structure for or limiting the amount of allowed pre-weatherization spend that a utility may transfer to the Healthy AIR account* – While we understand the flexibility provided to utilities to meet their “low-income” spending requirement via investment into the Healthy AIR account, we want to ensure that funds do not inadvertently accumulate in this account and lessen funding for other, more immediate pre-weatherization needs to help facilitate energy efficiency and weatherization directly, particularly as funds placed into the Healthy AIR account may not be deployed in the year they are transferred. We are interested in discussing with other parties the potential for a cap on how much of a utilities’ limited pre-weatherization spending can be transferred into the Healthy AIR Account in a given year or triennial, when those dollars can be transferred, or other structures to

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<sup>10</sup> See Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, “Combustion Appliance Zone (CAZ) Testing” ([link](#))

<sup>11</sup> Department, *Decision In the Matter of CenterPoint Energy’s 2021-2023 CIP Modification Request filed November 1, 2021*. Issued January 31, 2022, in Docket G999/CI-20-478 at 11. “during the second quarter of 2022, the Commissioner directs Staff to work with Fresh Energy, the utilities, and other stakeholders to map out the CIP 2024-2026 financial incentive process, including what data would be useful to obtain related to implementation of pre-weatherization measures.” Fresh Energy and partners will leverage this process to discuss broader issues related to CIP as well with the Department, utilities, and other parties.

address this concern. There should be guidance to ensure best efforts are made to spend the dollars on pre-weatherization measures first.

- *Reporting on pre-weatherization spending* – as low-income CIP spending from utilities increases, tracking how funds are spent and for whom will be important to help advocates and other parties better able to identify and mitigate potential inequities or gaps in the program outcomes. How this data is reported will be determined in the spring workshops, but could include examples from other utilities providing similar reporting for their own energy efficiency programs, such as ComEd.<sup>12</sup> Such tracking will be critical to understanding which of the pre-weatherization measures proposed here are being addressed with “low-income” CIP spending, where funds are going (e.g. geographically and by housing type), and why measures are or are not having funds spent on them.

#### **IV. Conclusion**

We thank the Department for the opportunity to comment on this proposed technical guidance. We look forward to continuing to work together to bring healthier, safer, and more efficient homes to under-resourced Minnesotans.

Sincerely,

/s/ Anjali Bains

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<sup>12</sup> ComEd, for instance, provides the following Health & Safety (H&S)-related metrics annually for its IE Whole Building Retrofit Programs: number of properties assessed for the program (broken out by single-family and multifamily); number of assessed properties that had identified H&S issues; breakdown of type of H&S issues identified and addressed; number of properties deferred because of H&S issues and general trends in the type of related H&S issues; and the percentage and/or dollar amount of the H&S Fund that has been spend down