August 24, 2017

The Honorable Ricardo Lara
Chair, Senate Appropriations Committee
State Capitol, Room 2206
Sacramento, CA 95814

AB 1158 (Chu) - Support

Dear Chair Lara:

The undersigned organizations are writing to express support for AB 1158 (Chu). It is high time to reform the California Carpet Stewardship program that was enacted by AB 2398 (Perez) in 2010. Since then, the carpet industry, via the Carpet America Recovery Effort (CARE), has used California consumer fees to create a program that poorly serves consumers and the environment and undermines the intent of the law. We applaud Assembly Members Chu and Stone for their leadership in attempting to fix legislation that has had great promise but has been poorly implemented. We support this legislation and appreciate recent amendments that prohibit the use of consumer fees by the stewardship organization to defend against enforcement action by the state or pay penalties, as well as a prohibition on using consumer fees to subsidize various forms of incineration including, carpet waste-to-energy, carpet waste used as fuel, or burning in cement kilns.

However, we recommend that the bill be amended prior to vote in the Appropriations Committee or the Senate floor to ensure the success of the carpet stewardship program. Since CARE has been selected as the operator of the carpet stewardship program in California, recycling has only increased from 8% of discards in 2011 to 11% in 2016- a 4% increase for a program that to date has collected $41 million in consumer fees. In addition, contrary to the state goal of prioritizing recycling over landfill and incineration, the carpet stewardship program has increased carpet
incineration by 4% (incineration went from 4% in 2011 to 8% in 2016). In order to make more meaningful progress on recycling, we suggest the following amendments.

1. Put incineration in its place. Bring back the language that proposed that stewardship plans demonstrate how they will increase diversion of waste carpet from landfills and incineration. “Incineration” could be defined as “transformation” or specify waste-to-energy, CAAF, and kiln. The intent of the program is to drive source reduction by better design, reuse, and recycling. Burning up carpet, even if it creates energy to send power to the grid or fuel a cement kiln, is a bad idea. It drives against recycling, emits significant greenhouse gases, and it’s poorly monitored, such that communities are being exposed to sulfur dioxide (SO2); nitrogen oxides (NOx); fine and ultra-fine particulate matter (PM10 and PM2.5). California Air Resources Board data shows that the air pollution control technologies in use in California WTE facilities do not prevent the release of hazardous air emissions.1 For extremely dangerous dioxin/furan emissions, the monitoring of emissions occurs only once per year, not continuously, and therefore is not a trustworthy measure of whether communities are adequately protected from the most dangerous of all human-made toxic chemicals.

2. Setting a Recycling Goal Doesn’t Go Far Enough. We need an Enforceable Recycling Rate and a Goal to Move Towards Closed Loop Recycling. We applaud the bill’s inclusion of a firm recycling goal of 24% by 2020, but it doesn’t go far enough. It should be an enforceable target not just a state goal. Furthermore, the bill needs to affirm as its ultimate goal, moving towards a closed loop and circular carpet sector in which valuable resources are reduced, reused or (ultimately) recycled. This language should be added to the 42972(a)(8) to provide clear guidance to CalRecycle about the long-term goal of the program “The Department should pursue the goal of moving the carpet industry towards a closed loop, circular economy in which carpet is designed for reuse and recycling, and carpet materials are ultimately recycled back into carpet materials.” Lacking a long-term goal, the bill doesn’t direct CalRecycle to drive the transformation of the carpet sector, via design for reduction, reuse, and recycling.

3. Consumer Fees and Carpet Sector Subsidies Should Incentivize Design for Recycling. While a 24% goal for recycling is achievable in the short term, higher recycling rates won’t be possible when so much carpet put on the market is not recyclable. The fees and incentives should be set in a way to promote better designed carpets to be put in the market, as well as carpets with higher amount of recycled materials. In addition, there should also be a mid-term goal in order to drive the industry to design carpets that are more recyclable. We suggest a target of 65% by 2030. In order to ensure that CalRecycle develops regulations that are consistent with these goals, Section 42972.2 should reference these goals by being amended to read: “On or after January 1, 2021, the department may adopt regulations to set carpet recycling rate goals for carpet stewardship organizations, consistent with section 42972(a)(8).”

4. Carpet Underpad Should be Included. Carpet recycling should include the underlayment materials- carpet pads and cushions. The exclusion in Section 42971(c)(3) should be removed.

5. A Goal to Achieve Closed Loop Recycling. To date, the carpet industry has not demonstrated adequately why it is unable to provide recycling, reuse and source reduction at an adequate rate and how it proposes to use the consumer generated fees to get there. At the same time, a lot of carpets that are being sold cannot be recycled, but only down-cycled. We believe that this is a key missing link for the transition towards the closed-loop system and it is important to incentivize fully recyclable carpets on the market. We propose adding in Section 42972(a)(3)

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statement that “a stewardship plan must provide data and methodologies that demonstrate how the plan will incentivize and increase better design, reuse, source reduction and recycling and continual improvement towards carpet-to-carpet (i.e. closed loop) recycling.”

6. Data Transparency. There are a few things that the stewardship organization should be required to disclose to the state in order to have a more effective program. First, it should back up the reporting on quantity of carpet discards recycled or incinerated with specific reports on what quantities went to which facilities. There is currently no way for the state to check the veracity of the reporting. Furthermore, for the stewardship to boost recycling, collectors as well as recyclers need to know the material composition of the carpet. Carpets should be labeled as to the materials in the backing and face-fiber in order to facilitate recycling. Furthermore, to enable consumers to choose not to be exposed to hazardous air contaminants, carpets treated with “candidate chemicals” listed in the state’s Safer Consumer Products program, should be labeled as such.

7. State procurement. The bill should require that procurement of carpet by the state for state-owned or operated facilities meet strict standards for recycled and recyclable carpet. The carpet purchased by the state should contain a minimum quantity of post-consumer recycled carpet materials, it should be made from materials that are currently capable of being recycled, and should not contain toxic chemicals listed by the state safer consumer products program as “candidate chemicals” – i.e. chemicals deemed by the state to be chemicals to which consumers should not be exposed.

Thank you for considering our input. If you have questions or comments about the suggestions we have provided, please contact Monica Wilson- monica@no-burn.org, (510)883-9490.

Sincerely,

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CC: The Honorable Kansen Chu, 25th Assembly District
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