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Enforcement and Standardization of Climate-Related Disclosures for Investors/Securities and Exchange Commission Proposed Rule: National Waste & Recycling Association Comments

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The National Waste & Recycling Association (“NWRA”) submitted comments to the United States Securities and Exchange Commission (“SEC”) addressing its proposed rule titled:

Enhancement and Standardization of Climate-Related Disclosures for Investors (“Proposed Rule”)

The SEC proposed the rule on March 21st with the objective of mandating that domestic or foreign registrants include certain climate-related information in registration statements and periodic reports.

The proposal would amend the SEC’s rules under the Securities Act of 1933 and Securities Exchange Act of 1934.

Registrants would be required to disclose information about:

- Their direct greenhouse gas (“GHG”) emissions (Scope 1)
- Indirect emissions from purchased electricity or other form of energy (Scope 2)
- GHG emissions from upstream and downstream activities and their value change (Scope 3)
- If the registrant has set a GHG emissions targeted goal

The NWRA describes itself as representing the private sector of waste and recycling services industry. It states that Association members conduct business in all 50 states and include companies that manage waste, recycling and medical waste, equipment manufacturers and distributors along with other service providers.

The NWRA notes that its members are playing a role in the transition to a low carbon economy by:

- Nationwide annual GHG emissions from landfills are stated to have decreased by approximately 67.3 million metric tons of CO2 equivalent since 1990.
- Many facilities capture and convert landfill gas to renewable electricity or renewable natural gas
- Recycling operations recover commodities to the marketplace resulting in a lower carbon footprint than virgin raw material counterparts.

Nevertheless, the comments note that landfills are a major source of Scope 1 emissions. Further, a portion of the GHGs (unlike stationary sources) escape through the landfill surface resulting in the release of fugitive emissions. As a result, the direct measurement of Scope 1 fugitive landfill GHG emissions is indicated to be challenging.

An accepted method for the direct measurement of landfill emissions is stated to be unavailable. NWRA states the landfill sector is undertaking efforts to improve models and evaluate what it describes as “emerging technologies” for direct measurement of such emissions.

The NWRA requests that the SEC address the above-referenced concern by including certain accommodations for the waste sector which would include:

- Provide a safe harbor to landfill operators from liability for estimated Scope 1 emissions disclosures (as the methodology and measurement of fugitive landfill emissions continues to evolve)
- Allow certain companies to report their climate-related disclosures later in the year separate from Form 10-K or disclose climate-related data for a given year on the Form 10-K for the following year

Additional concerns identified by the NWRA that may not necessarily be unique to its members include:

- Concern about whether individual board members and management teams have a sufficient level of expertise for compliance with the rule
- Insufficient time for many companies to implement the internal processes needed for the collection, analysis, and disclosure of accurate, timely, and useful GHG emissions data
- One percent disclosure threshold runs counter to a company’s obligation to conduct a true materiality assessment
- Standards published by the GHG Protocol and recommendations by the Task Force on climate-related financial disclosures are unnecessarily burdensome and counterproductive to the standardization of GHG reporting requirements
- A mechanism should be provided for the current and future inclusion of industry-specific frameworks to calculate and address GHG emissions

A copy of the comments can be downloaded [here](#).