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June 17, 2022

Ms. Vanessa A. Countryman, Secretary  
U.S. Securities and Exchange Commission  
100 F Street, N.E.  
Washington, DC 20549-1090

**Re: File No. S7-10-22; Release Nos. 33-11042; 34-94478: The Enhancement and Standardization of Climate-Related Disclosures for Investors**

Dear Ms. Countryman:

The National Waste & Recycling Association (NWRA) is pleased to submit these comments in response to the U.S. Security and Exchange Commission's (SEC's) proposed rule on the Enhancement and Standardization of Climate-Related Disclosures for Investors. NWRA is a trade association representing the private sector recycling and waste industry. Our members operate in all fifty states and the District of Columbia.

Our industry supports the intent of the SEC's proposal, as disclosing material risks of climate change in a consistent and comparable manner will assist companies and investors in identifying and understanding climate-related risks and opportunities. We nevertheless urge the agency to consider certain unique circumstances confronting the waste sector that, if left unaddressed, could pose challenges to meeting the intent of the proposed rule for NWRA members.

By way of background, the NWRA and its members are supportive and believe that we play a critical role in the transition to a low carbon economy. The U.S. Environmental Protection Agency (EPA) recently has recognized that nationwide annual GHG emissions from landfills alone have decreased by approximately 67.3 million metric tons of carbon dioxide equivalent since 1990. These substantial GHG emissions reductions were achieved through the efforts of our industry. Reducing GHG emissions across our sector is an ongoing effort and remains a top priority for the waste sector.

Also, as an industry, we are not only doing our part to reduce GHG emissions from our operations, but we also provide products and services that help our customers achieve their GHG reduction goals—a critical step in the transition to a low carbon economy. For example, many of our sites capture and convert landfill gas to renewable electricity or renewable natural gas. Customers, in turn, purchase these products in lieu of using

electricity from the grid or operating their vehicles with conventional vehicle fuels, thereby reducing their consumption of fossil-based resources. Our recycling operations also recover and return valuable commodities to the marketplace with a lower carbon footprint than their virgin raw material counterparts.

### **Unique Challenges**

For those of our members with landfills in their greenhouse gas inventories, landfills are the major source of Scope 1 emissions. Unlike Scope 1 emissions from stationary sources that can be continuously measured at a combustion source, a portion of the GHGs produced within a landfill will escape through the landfill surface, resulting in the release of fugitive emissions to the atmosphere. The direct measurement of Scope 1 fugitive landfill GHG emissions is an active and challenging area of research, particularly given that landfills are dynamic biological systems covering large areas, have significant variations in topography and climate, and contain different waste compositions.

**As a result, an accepted method for the direct measurement of landfill emissions is not currently available. Instead, Scope 1 landfill GHG emissions are estimated** based on a calculation methodology developed by the EPA. Our sector is working closely with government and academia to improve upon the reliability of these modeling tools and in evaluating emerging technologies for the direct measurement of Scope 1 fugitive landfill emissions.

### **Proposed Solutions to Unique Challenges**

Due to the inherent uncertainty and current lack of precision in calculating landfill Scope 1 emissions, however, we recommend that the SEC consider providing the following accommodations to the waste sector in the final rule:

- It is unclear to our industry whether Scope 1 landfill GHG modeled emissions will meet SEC requirements for disclosure or meet requirements for attestation at a “reasonable assurance” level. Given our reliance on estimates and data needed for Scope 1 emissions reporting that are outside of our sector’s control, we recommend that the SEC consider providing 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.
- Many waste sector stakeholders already report and obtain third party limited assurances for Scope 1 and 2 emissions disclosures on a voluntary basis, and the timeframe to efficiently prepare these data currently lags financial disclosures by up to six months. This lag is primarily due to the relatively complex calculation methodologies that are currently being used to model landfill emissions - the amount of data and engineering analysis necessary to reduce the level of inherent uncertainty in the estimation methodologies gives rise to a more dynamic process than could be expected of financial reporting. The dynamic nature of estimation methodologies also means that providing an estimated Q4 emissions rate into the annual disclosures could yield significantly different results than the results estimated otherwise. Obtaining attestation at a reasonable assurance level adds further burden to the process. As such, SEC should consider allowing certain companies to report their climate-related disclosures later in the year separate from Form 10-K or to disclose climate-related data for a given year on the Form 10-K for the following year.

**Other Concerns**

We have also identified the following concerns with the proposed rules that are not necessarily unique to our industry but could be overly burdensome to a broad set of stakeholders:

- The proposed requirement to disclose board members and managers with climate expertise likely would impact corporate governance structures, raising questions as to whether individual board members or management teams have a sufficient level of expertise for compliance with the rule.
- The proposed initial compliance dates would allow 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.
- The proposed 1 percent disclosure threshold runs counter to a company's obligation to conduct a true materiality assessment (i.e., elevating climate-related risks over other risks for which companies determine materiality on a case-by-case basis).
- Any such proposed SEC requirements that are inconsistent with widely accepted frameworks, namely the standards published by the GHG Protocol and recommendations by the Task Force on Climate-Related Financial Disclosures, would be unnecessarily burdensome and counterproductive to the standardization of GHG reporting requirements that is necessary for investor confidence.
- Recognizing the diversity of activities that will be regulated under the proposed rules, including the unique circumstances of our industry that are described in this letter, we request that the SEC provide a mechanism for the current and future inclusion of industry-specific frameworks to calculate and address GHG emissions.

We appreciate the opportunity to provide these comments, and we look forward to working with you as you continue to review the proposed rule. If you have any questions, please feel free to contact Anne Germain at [REDACTED].

Very truly yours,



Darrell K. Smith  
President & CEO