new york state society of
NYSSCPA
certified public accountants
530 fifth avenue, new york, ny 10036-5101
www.nysscpa.org

August 7, 2003

Ms. Suzanne Q. Bielstein
Director of Major Projects and Technical Activities
Financial Accounting Standards Board
401 Merritt 7, PO Box 5116
Norwalk, CT 06856-5116

By e-mail: director@fasb.org

Re: Proposed FASB Staff Position – Applicability of FASB Statement No. 143 to Asbestos Removal

Dear Ms. Bielstein:

The New York State Society of Certified Public Accountants, the oldest state accounting association, representing approximately 30,000 CPAs, welcomes the opportunity to comment on the proposed FASB Staff Position regarding the applicability of FASB Statement No. 143 to asbestos removal.

The NYSSCPA Financial Accounting Standards Committee deliberated the proposed Staff Position and, with input from the NYSSCPA Real Estate Committee, prepared the attached comments. If you would like additional discussion with the committee, please contact Robert Dyson, chair of the Financial Accounting Standards Committee, at (212) 842-7565, or Robert Colson, NYSSCPA staff, at (212) 719-8350.

Sincerely,

Jeffrey R. Hoops
President

Attachment

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NEW YORK STATE SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS

FINANCIAL ACCOUNTING STANDARDS COMMITTEE

COMMENTS ON PROPOSED FASB STAFF POSITION

Applicability of FASB Statement No. 143, *Accounting for Asset Retirement Obligations*, to Legislative Requirements on Property Owners to Remove and Dispose of Asbestos or Asbestos-Containing Materials

August 7, 2003

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Abraham E. Haspel

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We generally support the Board's desire to provide timely guidance on the accounting on various issues. This proposal, however, represents a change in existing accounting literature and is expected to cause a major change in practice for a relatively large number of companies. Accordingly, the Board should give this matter greater consideration by submitting it either as a proposed FASB Interpretation with an adequate comment period or as an agenda item to the Emerging Issues Task Force (EITF).

The proposed FASB Staff Position (FSP) represents a change in existing practice rather than a clarification of existing practice. We sense that most companies have not recognized a liability for the removal and disposal of regulated asbestos containing material (RACM) pursuant to EITF Issue No. 89-13, *Accounting for the Cost of Asbestos Removal*. The "Status" section of Issue No. 89-13 states: "An obligation for asbestos removal that results from the other-than-normal operation of an asset is not within the scope of Statement 143 but may be subject to the provisions of SOP 96-1 or this consensus."

The proposed FSP, in its current format, needs to occupy a higher level in the hierarchy of generally accepted accounting principles (GAAP). According to AU Section 411.18, *The Meaning of Present Fairly in Conformity with Generally Accepted Accounting Principles*, consensus positions of the EITF are "c" level GAAP. AU Section 411.18 does not address FSPs, but "Qs and As" published by FASB staff are classified as "d" level GAAP. Therefore, FSPs also may be considered "d" level GAAP. The proposed FSP may be construed as holding a lower position in the GAAP hierarchy than EITF Issue 89-13 and its contradictory guidance can only cause confusion and divergence in practice.

The proposed FSP will affect a large number of companies. RACM was widely used during the construction of commercial real estate between 1945 and 1970.

We disagree with the FASB staff's opinion that a liability regarding RACM can be readily estimated. Removal costs of asbestos used in the walls, ducts, etc can be estimated. This asbestos is routinely removed during renovations and the cost of any remaining work could be estimated. Nonetheless, companies have little, if any experience, in estimating removal costs of asbestos originally sprayed on the various beams and ironwork. Companies generally encapsulate, rather than remove, such

asbestos. In addition, in our collective experience, we are not aware of any instances where the estimated costs of removing RACM sprayed on beams and ironwork are reflected in the purchase or sales prices of property. Our experience is consistent with the most recent edition of The Appraisal Institute's publication, *The Appraisal of Real* Estate" (12th ed., 2001), which states on page 232: "One market's reaction to the effect asbestos has on the value of income producing properties may differ from the reaction of other markets. There is little evidence, however, that investors are willing to sell properties at sharp discounts because of the problem." Thus, in estimating the complete liability for RACM removal, many companies would be compelled to engage in costly, speculative studies that would provide no benefit other than making an accounting estimate in applying this FSP.

We are concerned that the FASB's staff refers to remote contingent events, such as fires, boiler explosions, water damage and natural disasters, to justify the recognition of a liability. The criteria in recognizing a contingent liability, as presented in Statement 5, *Accounting for Contingencies*, does not require the recognition of a liability due to the mere existence of a possibility of an event.

We recommend that the Board withdraw this proposed FSP. If the Board believes that this is a significant issue, we recommend that it be given more consideration and greater exposure as a proposed interpretation to Statement 143 or added to the EITF agenda as a proposed amendment to EITF Issue No. 89-13.