

August 4, 2003

Mr. Lawrence W. Smith Director—Technical Application & Implementation Financial Accounting Standards Board 401 Merritt 7 P.O. Box 5116 Norwalk, CT 06856-5116

Re: 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

## Dear Mr. Smith:

The Eastman Kodak Company ("Kodak") appreciates the opportunity to respond to the 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 ("Proposed FSP"). While we appreciate the FASB staff's willingness to address implementation concerns on a timely basis, we do not agree with the conclusions reached in the Proposed FSP.

We do not agree with the FASB staff's assertion that the existence of regulated asbestos containing material (RACM) in an asset automatically triggers a retirement obligation. Currently, legislation requires the owner of a building to remove and dispose of asbestos when the RACM is disturbed. No legal obligation exists until the asset(s) containing the RACM has been disturbed.

We agree with the Staff's position that a "legal obligation to remove and dispose of RACM in a certain manner exists **when** a building or a component of a building is either demolished or renovated." [Emphasis added.] However, a building owner is not required to either demolish or renovate a building containing RACM.

In addition, it is our view that the Staff's list of four retirement outcomes for buildings that contain RACM presented in the Proposed FSP is incomplete. We submit that an additional retirement option would be to maintain the building until the end of its useful life and then abandon it without disturbing the RACM. As an example, assume RACM is contained in an office building used as a corporate headquarters. At the end of the useful life of that building (i.e., if the company moved its corporate headquarters facilities to a new building), that company would have the option of simply abandoning the building, without selling it, demolishing it, or otherwise disturbing the RACM. Since no action would be undertaken to disturb the RACM, there would be no related obligation associated with the retirement. Such course of action is legally acceptable under the

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environmental laws and would satisfy the definition of retirement as presented in footnote 2 to paragraph 2 of Statement No. 143. ("That term encompasses sale, abandonment, recycling or disposal in some other manner.")

We also disagree with the argument presented that "events outside the control of the owner (for example, fires, boiler explosions, water damage, natural disaster) could require that RACM be removed from a building at any time." The possibility of events occurring outside the control of a company, such as those provided in the Proposed FSP should not influence the determination of an obligation under Statement No. 143. Following the logic of the Proposed FSP, similar events could also occur with manufacturing equipment or building material that does not contain RACM. Local ordinances often require damaged assets to be cleaned up or disposed in a specified manner. We believe that the FASB should not allow the possibility that extraordinary events may occur, accelerating the retirement dates and influencing the method of retirement (disposal vs. abandonment) to affect the recognition of an obligation as defined in Statement No. 143. Furthermore we believe that assets being damaged, thus potentially disturbing any RACM, is clearly beyond the "normal operation" of the asset and would be considered outside the scope of Statement No. 143.

Without a plan either in place or even considered to demolish, renovate, or sell a facility that contains RACM, we believe no liability is triggered and, therefore, no asset retirement obligation should be recognized. We believe recognizing an obligation in accordance with the Proposed FSP would be inconsistent with the second and third characteristics of a liability as defined in FASB Concepts Statement No. 6, Elements of Financial Statements: "(b) the duty or responsibility obligates a particular entity, leaving it little or no discretion to avoid the future sacrifice, and (c) the transaction or other event obligating the entity has already happened." Without actually disturbing the RACM in some fashion, the obligating event that would allow for little or no discretion regarding the transfer of assets has not occurred and, therefore, no liability should be recognized.

We urge the FASB staff to reconsider issuing this proposed position, as we believe it would not satisfy the requirements presented in Statement No. 143, nor would it necessarily fulfill the characteristics of a liability as defined in Concepts Statement No. 6.

We appreciate the opportunity to comment on the Proposed FSP. If you have any questions regarding our comments or would like further information, please contact Gisele Dion, Director of Accounting Research, Policies, and Procedures at 585-724-6246.

Sincerery,

Robert P. Rozek