Lawrence W. Smith, Director, TA&I – FSP Financial Accounting Standards Board 401 Merritt 7 P. O. Box 5116 Norwalk, CT 06856-5116

COMMENTS ON PROPOSED FSP

Dear Mr. Smith:

Thank you for the opportunity to comment on the "Proposed FSP – 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 applaud the FASB Staff's efforts to clarify specific questions related to the implementation of standards, we do not agree with the conclusions reached in the Proposed FSP.

The treatment of regulated asbestos containing material (RACM) is predicated by those assets containing RACM being disturbed in some fashion. Some action by management is necessary to trigger any requirement for remediation. No obligation exists until that action to disturb the RACM is taken. As long as the RACM is encapsulated, it is advisable not to disturb it. Continued maintenance, the ultimate method of asset retirement and the potentially open-ended timing of asset retirement all influence the nature of any obligation related to RACM. We do not agree with the FASB staff's assertion that the existence of RACM in an asset automatically triggers a retirement obligation.

While it may be true that the four options presented in the Proposed FSP to address RACM are possible retirement outcomes, we believe an additional option should be included. Option (d), as stated in the Proposed FSP, is "maintain the building until the end of its useful life and then remove and dispose of the RACM." This option assumes that once the building has been retired, actions would be taken that would disturb the RACM. We submit that an additional possible 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. Such a course of action 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.") However, since no action would be undertaken to disturb the RACM, there would be no related obligation associated with that retirement.

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." Paragraph 2 of Statement No. 143 includes in its scope "legal obligations...that result from the acquisition, construction, or development and (or) the normal operation of a long-lived asset." 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 that does not contain RACM. Local ordinances may require the such damaged assets to be cleaned up or otherwise addressed; however the possibility that those events may occur, accelerating the retirement dates and influencing the method of asset retirement (disposal vs. abandonment) should not affect the recognition of an obligation as defined in Statement No. 143. Assets being damaged, thus potentially disturbing any RACM, is clearly beyond the "normal operation" of the assets and would be considered outside of the scope of Statement No. 143.

Without a plan either in place or even considered to sell or modify a facility that contains RACM, we believe no liability is triggered and, therefore, no asset retirement obligation should be recognized. Given the extremely uncertain nature regarding both the requirement to address RACM and the potential timing, we believe recognizing an obligation would be counter to 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.

Regards,

Frank H. Brod Vice President and Controller The Dow Chemical Company