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

July 30, 2004

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 email: director@fasb.org

Re: File Reference 1099-001

An Interpretation of FASB Statement 143, ***Accounting for Conditional Asset Retirement Obligations***

Dear Ms. Bielstein:

The New York State Society of Certified Public Accountants, the oldest state accounting association, represents approximately 30,000 CPAs that will implement the provisions proposed in the captioned exposure draft. NYSSCPA thanks FASB for the opportunity to comment on its exposure draft.

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

Sincerely,

John J. Kearney
President

Attachment

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NEW YORK STATE SOCIETY OF
CERTIFIED PUBLIC ACCOUNTANTS

COMMENTS ON FASB EXPOSURE DRAFT

An Interpretation of FASB Statement 143, *Accounting for Conditional Asset Retirement Obligations*

File Reference 1099-001

July 30, 2004

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NEW YORK STATE SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS

FINANCIAL ACCOUNTING STANDARDS COMMITTEE

COMMENTS ON FASB EXPOSURE DRAFT

An Interpretation of FASB Statement 143*, Accounting for Conditional Asset Retirement Obligations*

File Reference 1099-001

General Comments

Any uncertainty about the timing and method of settlement of an obligation should not affect the recognition of a liability for a conditional asset retirement obligation, but such uncertainty should be factored into the fair value measurement of the liability. In addition, all asset retirement obligations that meet the definition of a liability, as presented in Statement of Financial Accounting Concepts (Concept Statement) No. 6, ***Elements of Financial Statements***, paragraph 36, should be recognized.

The proposed interpretation's requirement to recognize an asset retirement liability in all circumstances unless sufficient information is not available to estimate fair value does not adequately consider situations where a current owner does not settle any liability relative to the asset retirement obligation. In such circumstances, the committee recommends that the Board revise the proposed interpretation to permit the rebuttal of the presumption that a conditional asset retirement liability should be recognized according to FASB Statement 143, ***Accounting for Asset Retirement Obligations*.**

The presumption that an asset retirement obligation exists should be rebuttable if the reporting entity both intends and has the ability to sell such an asset in its current condition without any specific sales price adjustment. In this situation, which is common in commercial real estate, the current reporting entity does not pay the ultimate liability. Concept Statement 6, paragraph 36, requires that the reporting entity recognize a liability when it has little or no discretion to avoid a future sacrifice. It does not require the recognition of a liability that will be settled by another entity, such as a subsequent owner. In this regard, the committee disagrees with the assertion in paragraph A3 that a liability should be recognized because somebody in the future must pay an obligation. The current owner (the reporting entity) should not recognize a liability to be settled by another entity, such as a subsequent owner. Entities that intend to sell an asset before its retirement and whose value is impaired due to the existence of a condition should test that asset for impairment according to FASB Statement 144, ***Accounting for the Impairment or Disposal of Long-Lived Assets***. To illustrate this position, the entity discussed in Example 1 of Appendix A should test its factory for impairment as required by Statement 144 (thus potentially writing down the asset), rather than increasing the carrying value and recording a corresponding liability to reflect an asset retirement obligation.

An example of a condition that could rebut the presumption of the recognition of an asset retirement liability is the existence of regulated asbestos containing material (RACM), widely used in the construction of commercial real estate between 1945 and 1970. Currently, most companies follow EITF Issue No. 89-13, ***Accounting for the Cost of Asbestos Removal***, and, accordingly, do not recognize a liability for the removal and disposal of RACM.

Companies have little, if any experience, in estimating removal costs of asbestos originally sprayed on beams and ironwork. Such asbestos is generally encapsulated rather than removed. In addition, in the committee's collective experience, in no instance have the estimated costs of removing RACM sprayed on beams and ironwork been reflected in the purchase or sales prices of property. This experience is consistent with the most recent edition of The Appraisal Institute's publication, ***The Appraisal of Real Estate*** (12^{th} 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 apart from providing an accounting estimate to satisfy this proposed interpretation. On the other hand, asbestos used in the walls, ducts, etc. is routinely removed during renovations and such costs can readily be estimated.

If the presumption of the existence of an asset retirement obligation is successfully rebutted, the committee recommends that the reporting entity disclose the future risks and obligations of the asset in question.

Specific Comments

Issue 1

Except for the change allowing a rebuttable presumption discussed in the General Comments above, the committee agrees that the uncertainty surrounding the timing and method of settlement should not affect whether the fair value of a liability for a conditional asset retirement obligation would be recognized but, rather, should be factored into the measurement of the liability.

Issue 2

The committee knows of no instances where a law or regulation obligates an entity to perform asset retirement activities but allows the entity to permanently avoid settling the obligation. As discussed in the General Comments above, the committee is aware of circumstances where an entity is not required to settle the obligation because it will not own the asset when the settlement of such obligation is required.