

Technical Bulletin 2006-1 Comment Letters

#1 – Management Concepts, Charles Maloney, External – Users, academics, others



June 23, 2006

Wendy M. Comes, Executive Director
Federal Accounting Standards Advisory Board
comesw@fasab.gov

Reference: Technical Bulletin 2006-1 Recognition and
Measurement of Asbestos-Related Cleanup Costs

Dear Ms. Comes:

Management Concepts appreciates the opportunity to respond to FASAB's proposed Technical Bulletin 2006-1 on *Recognition and Measurement of Asbestos-Related Cleanup Costs*.

We agree with all five questions that you posed. We believe this new Interpretation should assist the accounting for asbestos-related as well as other types of cleanup costs.

We would like to comment on one aspect of the draft Interpretation. This relates to adjustment to previously recorded liabilities. In paragraphs 30 and 37, you state "Adjustments to the liability shall be recognized in expense. . . ." This method is appropriate for situations where 1) the liability and concomitantly the expense would increase; and 2) the liability would decrease and not all cleanup expenses have yet been recognized. In case 2, an adjustment to the annual cleanup expense charge would reduce the expense recognized that year.

However, in situations where all cleanup expenses for an asset have been charged - for all Stewardship PP&E and for General PP&E where the estimated life has been exceeded - the method in paragraphs 30 and 37 would result in a "negative" cleanup expense for the asset in question during the reporting year the re-estimate is made. In addition, a "negative" expense could occur when the estimated liability reduction is large in relation to the original estimate. In these cases, the reduction would exceed the annual expense charge.

In these situations, it would seem appropriate to charge the estimated liability reduction to Net Position. This would result in a more fairly stated annual Statement of Net Cost.

The question of materiality is clearly a consideration here. This raises the question of whether the approach should differ based on materiality. In some cases, these estimates may be adjusted by significant amounts so the question of whether the charge is made to expense or Net Position is important. If the amount is not material, either method could be used. Therefore, one consistent method is recommended.

Again, thank you for this opportunity. We look forward to reviewing your impending draft concepts statement, Definition and Recognition of Elements of Accrual-Basis Financial Statements.

Sincerely,

Charles J. Maloney, CGFM
Executive Director
Financial Management Programs

slb

#2 – KPMG, External – Auditor



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June 28, 2006

Ms. Wendy M. Comes
Executive Director
Federal Accounting Standards Advisory Board
441 G Street, NW, Suite 6814
Mailstop 6K17V
Washington, DC 20548

Dear Ms. Comes:

We appreciate the opportunity to respond to the proposed Technical Bulletin, *Recognition and Measurement of Asbestos-Related Cleanup Costs*. We fully support the adoption of this exposure draft (ED) to clarify reporting requirements for liabilities and related expenses arising from friable and nonfriable asbestos-related cleanup costs.

In the remainder of this letter we provide our responses to the questions posed in the ED and other comments.

ED Request for Comments and Our Response

1. Does the guidance in paragraphs 1 through 4 clearly explain who and what is affected by this technical bulletin?

KPMG Response: We generally agree that the ED explains who and what is affected by the ED, however, we believe the ED should clarify whether naturally occurring asbestos is included within the "other tangible property, plant, and equipment" category. We understand that federally-owned land may contain naturally occurring asbestos, which is defined by the U.S. Department of Health and Human Services' Agency for Toxic Substances and Disease Registry as follows.

"Naturally occurring asbestos refers to those fibrous minerals that are found in the rocks or soil in an area and released into the air by: routine human activities or weathering processes. If naturally occurring asbestos is not disturbed and fibers are not released into the air, then it is not a health risk."

We recommend that the ED explicitly address naturally occurring asbestos.

2. Does the guidance in paragraphs 5 through 19 clearly explain the difference between friable and nonfriable asbestos and the accounting issue being addressed?

KPMG Response: Yes.

KPMG LLP, a U.S. limited liability partnership, is the U.S. member firm of KPMG International, a Swiss cooperative.

3. Do you agree with the guidance in paragraphs 20 through 32 that federal entities should estimate both friable and nonfriable asbestos-related cleanup costs and recognize a liability and related expense for those costs that are probable and reasonably estimate, consistent with SFFAS 6, Chapter 4, Cleanup Costs, and Technical Release No. 2, *Determining Probable and Reasonably Estimable for Environmental Liabilities in the Federal Government*?

KPMG Response: We agree.

4. Do you agree with the guidance in paragraphs 33 through 34.e regarding note disclosures required for both friable and nonfriable asbestos-related cleanup costs, consistent with SFFAS 6, Chapter 4, Cleanup Costs?

KPMG Response: We agree.

5. Do you agree with the guidance in paragraphs 35 through 39 regarding the treatment of both friable and nonfriable asbestos-related cleanup costs related to stewardship PP&E (Heritage Assets and Stewardship Land), consistent with SFFAS 6, Chapter 4, Cleanup Costs?

KPMG Response: We agree.

Other Comments

Disclosure Requirements

Paragraph 34 of the ED refers to note disclosures in the section entitled, "General PP&E," however, note disclosures for cleanup costs related to stewardship PP&E are not addressed in the section entitled, "Stewardship PP&E (Heritage Assets and Stewardship Land)." We recommend that note disclosures be added to the question posed in paragraph 35 by referencing paragraphs 107, 108, 110, and 111 of the Statement of Federal Financial Accounting Standards No. 6, *Accounting for Property, Plant, and Equipment*.

Liability Recognition

We believe that cost/benefit considerations should not be the basis for not recording a liability. Accordingly, we recommend the following changes (added text is underscored, deleted text is ~~struck through~~) to the ED.

1. Revise the following sentence in paragraph 25 of the ED to be "If the item is deemed to be probable, but not reasonably estimable ~~for cost/benefit or other reasons~~, it should be disclosed in the notes to the financial statements."
2. Remove Scenario B from Appendix B of the ED.
3. Revise paragraph 51 of the ED to be "In the case of estimating friable and nonfriable asbestos-related cleanup costs in federal facilities, ~~significant~~ consideration needs to be given to the availability of relevant and reliable data upon which to base an estimate, ~~the cost/benefit considerations of providing such data~~, the needs of the report users, the objective of reporting such information, and the materiality involved. ~~The costs of determining a liability in the current period may outweigh the benefits if little value is added to the financial report, while a well-written, less costly note disclosure could achieve the same objective. In addition, estimating settlement value — which does not adjust for uncertainty in the same manner as fair value — may result in routine misstatements of liabilities.~~"

4. Revise paragraph 53 of the ED to be "The effective date of this Technical Bulletin – for reporting periods beginning after September 30, 2008 – is established as such to allow federal entities the time to complete remedial investigation/feasibility studies or take similar steps to determine the materiality of this liability cost~~benefit of determining a liability versus a note disclosure~~. Earlier adoption is permitted."

Editorial Suggestions

We recommend editorial changes (added text is underscored, deleted text is ~~struck through~~) to the following excerpts from the ED.

- **(Paragraph 17)** In March 2006, representatives from two of the major CFO Act agencies informed FASAB staff that their ~~its~~ independent public accountant (IPA) indicated that the agencies needed to reconsider their accounting for nonfriable asbestos for fiscal year 2006.

The issue arose as a result of the Financial Accounting Standards Board's (FASB) issuance of FASB Interpretation No. 47, Accounting for Conditional Asset Retirement Obligations (FIN 47) in March 2005.

- **(Paragraph 43)** In March 2006, a representative from one of the major CFO Act agencies informed FASAB staff that its independent public accountant (IPA) requested that the agency ~~agencies~~ reconsider their accounting for nonfriable asbestos-related cleanup costs for fiscal year 2006.
- **(Paragraph 45)** The IPA representatives also stated that they believe there is a divergence in practice across the federal government, with some agencies reporting a liability for both friable and nonfriable asbestos-related cleanup costs in past years, while others have recognized only liabilities for friable cleanup costs.
- **(Appendix B Page 16)** A federal facility, general PP&E, was placed in operation in 1970.
- **(Appendix B Page 17)** At the end of 2006, the estimated total cleanup costs were \$48,000,~~000~~.

If you have questions about our response, please contact Mr. Terrill E. Menzel at 518-427-4607 or tmenzel@kpmg.com.

Very truly yours,

KPMG LLP

**#3 –Greater Washington Society of CPAs and GWSCPA
Educational Foundation, Dan Kovlak, External – Users,
academics, others**



Greater Washington Society of CPAs and GWSCPA Educational Foundation

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June 30, 2006

Wendy Comes, Executive Director
Federal Accounting Standards Advisory Board
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441 G Street, NW – Suite 6814
Washington, DC 20548

Dear Ms. Comes:

The Greater Washington Society of Certified Public Accountants (GWSCPA) Federal Issues and Standards Committee (FISC) appreciates the opportunity to provide comments on the Federal Accounting Standards Board's (FASAB) Exposure Draft "*Recognition and Measurement of Asbestos-Related Cleanup Costs: Technical Bulletin 2006-1*," dated June 1, 2006.

FISC consists of 18 GWSCPA members who are active in accounting and auditing in the Federal sector. This comment letter represents the consensus comments of our members.

RESPONSES TO REQUEST FOR COMMENTS – PAGE 3 OF ED FOLLOW:

1. Does the guidance in paragraphs 1 through 4 clearly explain who and what is affected by this technical bulletin?

No. This guidance needs additional clarification. We understand that there is naturally-occurring asbestos in soil, rocks, and mines. We recommend that the TB also address asbestos in soil, rocks, and mines.

Members generally agree with paragraphs 2 through 5. Our response to those questions is "yes."

Additional comments follow.

Paragraph

Comment

- | | |
|----|---------------------------------------------------------------------------------------|
| 17 | In the first sentence, replace the work "its" with "their." |
| 17 | In line 7, replace "Board" with "Board's." |
| 23 | In the last line of the last sentence, replace the word "may" with the word "should." |

35 through 39	Consider adding a paragraph to the Stewardship PPE section discussing the required note disclosures similar to the general PPE note disclosures.
43	In the first sentence, in line 2, replace “agencies” with “agency.”
45	In the last sentence, add “representatives” after “IPA.”
51	In line 2 of the first sentence, take out the word “significant.”
51	Take out the last 2 sentences. We do not believe that a note disclosure is a substitute for liability recognition. We are troubled by the implication in paragraphs 51 and 52, and Appendix B, Scenario B, that an entity may elect to disclose information about its asbestos disposition obligations rather than recording a liability.
52	In this paragraph, we question how an agency would demonstrate that the costs outweigh the benefits of estimating and disclosing the liability. How does an agency effectively determine the benefits to readers of having the liability amount recorded?
53	In the first sentence, replace the phrase “cost/benefit of determining a liability versus a note disclosure” with “materiality of this liability.”
Appendix B	<p>In Scenario A, indicate that this example is addressing general PPE. Although, it currently does not say that, it is implied because there is depreciation expense.</p> <p>On the top of page 17, change \$48,000,000 to \$48,000 as the amounts in this note are in thousands. Another alternative is to use “\$48 million”.</p> <p>Scenario B suggests that the federal government does not have the technology or experience to clean up asbestos. An agency may not have personal experience, but there are several agencies that do and there are numerous companies that provide clean up services. Considering this, we question whether this scenario is realistic.</p> <p>If the scenario remains, more background should be provided for the conception rational behind the formula for estimating costs, the journal entries, and the financial statement presentation. As currently written and presented, the underlying logic of the formula might not be readily apparent to all readers.</p> <p>As stated above, we also question the option of disclosing the issue in a footnote rather than recording a liability in the financial statements.</p> <p>-----</p>

This comment letter was reviewed by the members of FISC, and represents the consensus views of our members.

Very truly yours,

A handwritten signature in black ink, appearing to read 'D. Kovlak', with a stylized, cursive script.

Daniel L. Kovlak
FISC Chair



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#4 –AGA Financial Management Standards Board, Russell Hinton, External – Users, academics, others

June 30, 2006

Wendy Comes, Executive Director
Federal Accounting Standards Advisory Board
Mailstop 6K17V
441 G Street, NW, Suite 6814
Washington, DC 20548

Dear Ms. Comes:

The Association of Government Accountants (AGA) Financial Management Standards Board (FMSB) appreciates the opportunity to provide comments on the FASAB's exposure draft of proposed Technical Bulletin (TB) 2006-1 entitled *Recognition and Measurement of Asbestos-Related Cleanup Costs*.

FMSB comprises 21 members with accounting and auditing backgrounds in federal, state and local government, academia and public accounting, and reviews and responds to proposed standards and regulations of interest to AGA members. Local AGA chapters and individual members are also encouraged to comment separately.

We agree generally with the provisions of the proposed ED. However, we note that the provisions are not comparable to the new GASB pollution remediation standard, *Accounting and Financial Reporting for Pollution Remediation Obligations*. The proposed FASAB TB provides for treatment consistent with that of SFFAS 5 and SFFAS 6. The FASAB does not appear to have considered the new GASB standard in this area. Specifically, we are thinking of concepts such as probabilities, liabilities of third parties, etc. Consistency among the different standard setting bodies is a laudable goal, but perhaps is not possible when issuing a Technical Bulletin rather than a Statement of Standards. We hope that in the final guidance, the FASAB will consider explaining why the provisions are not the same as in the GASB ED. See the next page for our specific comments on this.

We noticed that the Executive Summary to the TB says "II. If adopted, the effect of this technical bulletin would be to clarify ... b. Federal entities should disclose information related to friable and nonfriable asbestos-related cleanup costs that are probable but not reasonably estimable in a note to the financial statements, consistent with SFFAS 5 and SFFAS 6." However, we could find no statement to this effect in the TB itself, unless it is somehow implied. It is certainly not in the section dealing with "note disclosures" in paragraphs 33 and 34. The only mention of the need to disclose this information (e.g., probable but not reasonably estimable) is at the end of Appendix B. It seems that this requirement should be in the TB itself, not presented in an Appendix. We recommend that the FASAB consider adding the statement to the note disclosures section.

Our specific responses to the Request for Comments are as follows:

1. Does the guidance in paragraphs 1 through 4 clearly explain who and what is affected by this technical bulletin?

Yes



2. Does the guidance in paragraphs 5 through 19 clearly explain the difference between friable and nonfriable asbestos and the accounting issue being addressed?

Yes

3. Do you agree with the guidance in paragraphs 20 through 32 that federal entities should estimate both friable and nonfriable asbestos-related cleanup costs and recognize a liability and related expense for those costs that are probable and reasonably estimable, consistent with SFFAS 6, Chapter 4, Cleanup Costs, and Technical Release 2, Determining Probable and Reasonably Estimable for Environmental Liabilities in the Federal Government?

Yes

4. Do you agree with the guidance in paragraphs 33 through 34.e regarding note disclosures required for both friable and nonfriable asbestos-related cleanup costs, consistent with SFFAS 6, Chapter 4, Cleanup Costs?

Yes. See also our comment about the need for note disclosure for probable but not estimable costs.

5. Do you agree with the guidance in paragraphs 35 through 39 regarding the treatment of both friable and nonfriable asbestos-related cleanup costs related to stewardship PP&E (Heritage Assets and Stewardship Land), consistent with SFFAS 6, Chapter 4, Cleanup Costs?

Yes

Finally, we suggest that the FASAB may want to indicate in the TB if consideration was given to the guidance in the GASB ED on pollution remediation obligations. If the FASAB had considered it in developing its guidance, but decided to disregard it, we think it would be appropriate to state that and provide a short rationale for the decision to do so. Admittedly, there are no significant differences; the examples under both EDs do show that a liability should be recorded for 'expected outlay' and GASB does not have 'note disclosures' concerning the asbestos remediation.

The GASB in paragraph 84, page 26 of the GASB ED used the following wording to indicate that they had chosen not to follow FASB EITF guidance:

"The Board considered referring to existing guidance, such as FASB Emerging Issues Task Force (EITF) Issues No. 89-13, "Accounting for the Cost of Asbestos Removal," and No. 90-8, "Capitalization of Costs to Treat Environmental Contamination." However, that guidance often would result in capitalization of outlays that the Board believes extinguish obligations more than they create future benefits."

We suggest that the FASAB could use similar wording to address the issue of consideration of the GASB guidance.

The FMSB appreciates the opportunity to comment on the exposure drafts. No members objected to its issuance. This response letter represents a consensus of the views of the FMSB members. We would be pleased to discuss this letter with you at your convenience. You can contact me at hintonrw@audits.state.ga.us or (404) 656-2174 or Anna D. Gowans Miller, CPA, AGA's Technical Manager and facilitator for this project, at amiller@agacgfm.org or (703) 684-6931, ext. 313.

Sincerely,

A handwritten signature in black ink, appearing to read "Russell W. Hinton". The signature is fluid and cursive, with a large initial "R" and a stylized "H" at the end.

Russell W. Hinton, CGFM, Chair,
AGA Financial Management Standards Board

cc. Sam M. McCall, MPA, CGFM, CPA, CIA, CGAP
AGA National President

#5 – Department of Interior, Office of Financial Management, Dan Fletcher, Internal – Preparers and Financial Managers

Wendy M. Comes, Executive Director
Federal Accounting Standards Advisory Board
Mailstop 6K17V
441 G Street, N.W., Suite 6814
Washington, D.C. 20548

RE: FASAB Exposure Draft of Technical Bulletin 2006-1, *Recognition and Measurement of Asbestos-Related Cleanup Costs*, dated June 1, 2006

Dear Ms. Comes:

We have reviewed the subject Exposure Draft. Overall, we believe that it adequately clarifies reporting requirements for liabilities and related expenses regarding friable and nonfriable asbestos-related cleanup costs, and we offer the following responses for your consideration.

I. Explanation of Who and What is Affected by this Technical Bulletin

Paragraphs 1 through 4 identify who and what is affected by this technical bulletin. The guidance states that it applies to federal entities that *own buildings, facilities, ships, or other tangible property, plant, and equipment (PP&E) that contains any form of asbestos*. We suggest the Exposure Draft include a statement clarifying that **naturally occurring asbestos** in soil, rocks, and mines is generally not a liability for financial reporting purposes. Once a determination is made that other contaminants are present, it may be determined that they represent an environmental and disposal liability.

In addition, the guidance should indicate, if true, that it is not intended to be applicable to **contaminants other than friable and nonfriable asbestos, such as lead-based paints**, for which the existing guidance is considered adequate. Presumably, in the context of asset retirement, lead-based paints would not entail the significant removal and disposal costs applicable to asbestos. It should be clarified that such situations are not within the scope of the Technical Bulletin.

We noted that owner/operator requirements are not addressed for **properties that have been relinquished to Indian tribes where there is a reversionary clause**. In the past, the Bureau of Indian Affairs has been required to clean up releases in such properties when tribes returned the buildings to the Bureau for various reasons.

II. Explanation of Difference Between Friable and Nonfriable Asbestos and the Accounting Issue Being Addressed

Paragraphs 5 through 19 adequately distinguish friable and nonfriable asbestos and identify the accounting issue addressed. FIN 47 requires recognition of a liability for the fair value of a conditional asset retirement obligation if the fair value of the liability can be reasonably estimated, and it includes asbestos-related examples. Evidently, the scope of the exposure draft is limited to liability for asbestos cleanup costs.

III. Guidance that Federal Entities Should Estimate both Friable and Nonfriable Asbestos-Related Cleanup Costs and Recognize a Liability and Related Expense for Costs that are Probable and Reasonably Estimable

We concur with the guidance in paragraphs 20 through 32 requiring estimating both friable and nonfriable asbestos-related cleanup costs and recognition of liability and expense for probable and reasonably estimable costs.

However, discussion of when such costs are **not reasonably estimable** (and therefore footnote disclosure is appropriate), along with examples, would be helpful. The Technical Bulletin should address how agencies would demonstrate that costs outweigh benefits of estimating and reporting the liability. Appendix A, paragraph 48 states: *The estimation of a liability for friable and nonfriable asbestos-related cleanup costs is not explicitly addressed by SFFAS 5, SFFAS 6, or TR 2, but staff believes it is covered under the requirements of these pronouncements*; also paragraphs 51 and 52 of Appendix A refer to availability of relevant and reliable data upon which to base an estimate and to cost/benefit considerations. Nevertheless, we anticipate that some federal agencies that undertake to develop costs estimates would use significant resources and incur sizable expenditures to do so, while others similarly situated would simply deem the costs not reasonably estimable, leading to inconsistent application across the Government.

In addition, it would be helpful if the technical bulletin discussed **retirement of assets** containing friable and nonfriable asbestos.

IV. Guidance Regarding Note Disclosures Required for Both Friable and Nonfriable Asbestos-Related Cleanup Costs

We concur with the guidance in paragraphs 33 and 34 regarding note disclosures required for both friable and nonfriable asbestos-related cleanup costs.

V. Guidance Regarding Treatment of Both Friable and Nonfriable Asbestos-Related Cleanup Costs Related to Stewardship PP&E (Heritage Assets and Stewardship Land)

We concur with the guidance in paragraphs 35 through 39 on asbestos-related cleanup costs related to stewardship PP&E (heritage assets and stewardship land).

V. Other

Paragraph 53 states that the effective date of reporting periods beginning after September 30, 2008 will allow time for completing remedial investigation/feasibility studies or take similar steps to determine the cost/benefit of determining a liability versus a note disclosure. We suggest changing the **effective date** to reporting periods beginning **after September 30, 2009**, in order to provide more time for agencies to collect the necessary data from their components. The additional time may be necessary due to budget constraints, fragmented sources of information, and staffing requirements.

We question whether the **term hazardous waste** (rather than other technical language) is appropriate in reference to asbestos in general. Likewise, we suggest that, where no release has occurred, one of the terms **mitigation, abatement, or removal** is preferable to the term *cleanup*.

Also, in the first sentence of Paragraph 17, *its* should be replaced with *their* (for agencies, plural). It appears that the *e.g.*, in the parenthetical of paragraph 34(c) should be changed to *i.e.*, as it is a clarification rather than an example. And in the first sentence of Paragraph 43, *agencies* should be changed to *agency*.

We appreciate the opportunity to provide comments on the subject Exposure Draft.

Sincerely,

Daniel L. Fletcher
Director, Office of Financial Management

PFM:EEisenstein:cag:6/29/06: O:/common/Final – cag/ED-TB Re. Asbeston

#6 – NASA, Environmental Management Division, Chris Hart, Internal – Users, Academics, Others

COMMENTS REGARDING TECHNICAL BULLETIN 2006-01 Recognition and Measurement of Asbestos-Related Cleanup Costs

1. Does the guidance in paragraphs 1 through 4 clearly explain who and what is affected by this technical bulletin?
 - A. *The guidance clearly explains who and what is affected by the TB but it fails to draw an appropriate bright line to facilitate practical implementation (see responses below).*
2. Does the guidance in paragraphs 5 through 19 clearly explain the difference between friable and nonfriable asbestos and the accounting issue being addressed?
 - A. *Yes, the guidance in these paragraphs clearly explains the intended difference between friable and nonfriable asbestos and the guidance also clearly outlines the accounting issue. The guidance does not, however, accurately interpret the environmental standards underlying the difference between friable and nonfriable asbestos. 40 CFR 61.145 addresses asbestos standards for renovation and demolition. While it is true that there are notification requirements for these activities when they involve regulated asbestos containing materials(RACM), and specific procedures for surgical removal of friable asbestos and emissions controls of RACM, the regulations do not require removal or emissions controls of nonfriable asbestos in good condition. In addition, 40 CFR 61.150 addresses standards for disposal of RACM from renovation or demolition activities but specifically excludes nonfriable asbestos from the special handling and disposal requirements. Absent those requirements, nonfriable asbestos may be demolished and disposed of in the same manner as the rest of the building or structure (wood, metals, plaster, etc.) in an ordinary construction debris landfill. It's telling that FIN 47, the FASB pronouncement upon which this technical bulletin was premised, is silent on the issue of nonfriable vs. friable asbestos and instead consistently uses the example of an asbestos-laden factory to illustrate proper recording of asset retirement obligations. Paragraph 45 (appendix A) of the technical bulletin suggests that FASAB staff accepted the interpretation of FIN 47 by one IPA in lieu of closely reading the pronouncement and the underlying laws and regulations.*
3. Do you agree with the guidance in paragraphs 20 through 32 that federal entities should estimate both friable and nonfriable asbestos-related cleanup costs and recognize a liability and related expense for those costs that are probable and reasonably estimable, consistent with SFFAS 6, Chapter 4, Cleanup Costs, and Technical Release 2, *Determining Probable and Reasonably Estimable for Environmental Liabilities in the Federal Government*?
 - A. *No, SFFAS number 6 and Technical Release 2 require recognition of a liability when it is probable that a cleanup expense will ultimately be incurred. These two documents address actions typically required by the two main cleanup statutes promulgated by law: the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) and the Resource Conservation and Recovery Act (RCRA). In extending this logic to the regulations addressing asbestos (Clean Air Act NESHAPS), the draft crosses a line separating end of life requirements for cleanup from ongoing day to day compliance issues. In the case of RCRA and CERCLA cleanups, there is little doubt that a cleanup will eventually have to be undertaken and costs to contain or dispose of hazardous constituents will naturally accrue. In the case of nonfriable asbestos regulated under Clean Air Act NESHAPS, that same conclusion cannot be drawn because the regulations do not require special handling and disposal of this type of material (see response to question number 2 above). As a practical*

matter, ongoing compliance with any environmental law or regulation should be differentiated from the cleanup requirements of RCRA and CERCLA and should never be recorded as a liability. These types of expenditures more appropriately fall into the category of ordinary expenses and thus do not belong on a balance sheet.

4. Do you agree with the guidance in paragraphs 33 through 34.e regarding note disclosures required for both friable and nonfriable asbestos-related cleanup costs, consistent with SFFAS 6, Chapter 4, Cleanup Costs?

A. No for the same reasons noted in the responses to questions 2 & 3 above. A case can be made that a footnote disclosure is appropriate for nonfriable asbestos that (if neglected) could turn friable and thus could eventually be subject to recording as a liability but it would difficult to judge that outcome as anything more than remote. In addition, most federal agencies, when confronted with friable asbestos, would choose to address the issue as soon as it was discovered rather than apply the management controls necessary to prevent exposure to airborne asbestos meaning that a liability would effectively be liquidated in the year of discovery before it was ever recorded.

5. Do you agree with the guidance in paragraphs 35 through 39 regarding the treatment of both friable and nonfriable asbestos-related cleanup costs related to stewardship PP&E (Heritage Assets and Stewardship Land), consistent with SFFAS 6, Chapter 4, Cleanup Costs?

A. No for the same reasons noted in the responses to questions 2, 3, & 4 above.

General Comments: *Paragraph 49 (appendix A) of the technical bulletin makes an even bigger logic leap than the preceding paragraphs when it places with the federal government ultimate responsibility for cleanup of asbestos even if the buildings are sold. While this may true of land that is excess to the federal government and eventually donated or sold to private entities, the same does not hold true for asbestos laden buildings and structures. Federal property regulations administered by the General Services Administration allow for transfer of properties containing asbestos provided notification is made to the accepting entity. Unlike CERCLA, the Clean Air Act does not legally provide for recovery of cleanup costs from potentially responsible parties and thus could never be used as a legal basis for pinning responsibility for cleaning up asbestos on former owners including the federal government.*

#7 – GSA, Douglass Glenn, Internal – Preparers and Financial Managers

Response to FASAB Technical Bulletin 2006-1

Recognition and Measurement of Asbestos-Related Cleanup Costs

1. Does the guidance in paragraphs 1 through 4 clearly explain who and what is affected by this technical bulletin?

Yes. These paragraphs clearly identify that all federal agencies owning buildings, facilities, ships, or other tangible property, plant, and equipment (PP&E) that contain any form of asbestos (friable or nonfriable, and, apparently, accessible and inaccessible – see comments below) need to comply with this guidance. It further states that all federal entities have a responsibility to report liabilities and related expenses arising from asbestos-related cleanup costs for both friable and nonfriable asbestos-containing material.

2. Does the guidance in paragraphs 5 through 19 clearly explain the difference between friable and nonfriable asbestos and the accounting issue being addressed?

The bulletin clearly explains what asbestos is and the difference between friable and nonfriable asbestos. It appears as though all asbestos, regardless of whether it is friable or nonfriable, is being treated as an environmental liability. While the reasons for the issuance of this bulletin are addressed, the proposed guidance does not explain why all asbestos should be considered an environmental liability even if it is not expected that these materials might contaminate the environment. Furthermore it fails to make any distinction between asbestos that is accessible and that which is inaccessible, regardless of its status as friable or nonfriable.

3. Do you agree with the guidance in paragraphs 20 through 32 that federal entities should estimate both friable and nonfriable asbestos-related cleanup costs and recognize a liability and related expense for those costs that are probable and reasonably estimable, consistent with SFFAS 6, Chapter 4, Cleanup Costs, and Technical Release 2, *Determining Probable and Reasonably Estimable for Environmental Liabilities in the Federal Government*?

No. Federal entities should not be required to estimate both friable and nonfriable asbestos-related compliance costs and recognize a liability and related expense for those costs that are probable and reasonably estimable.

There is no discussion of why FASAB believes liabilities should be recorded for interior conditions where the pertinent federal environmental law regulating the cleanup of hazardous substances the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. §9601, et seq.), exempts such conditions. See 42 U.S.C. §9604(3)(B) which exempts releases "from products which are part of the structure of and result in exposure within, residential buildings or business or community structures." Instead, interior asbestos is regulated by the Clean Air Act, 42 U.S.C. §7401 where asbestos is treated as a substance to be managed and maintained, and not presumptively removed or the subject of a "clean up" (and the Occupational Safety and Health Act which regulates the actual process of asbestos abatement). Under the Clean Air Act nonfriable or even encapsulated friable asbestos are not hazards that require actions to remediate. Other than periodic monitoring of hazards for possible risk to the environment, there is no requirement to eliminate asbestos that is not a current hazard. In effect, it can remain in place in perpetuity. By definition that indefinite life would eliminate the ability to estimate costs. We do not concur with the underlying presumption that liabilities arise and would require reporting for instances where there is no legal basis requiring any action. We would not concur with the discussion related to FIN 47 that asbestos cleanup is unconditional. This guidance also is in conflict with the Federal Management Regulations which regulate the disposal of all excess federal property and which state that asbestos

does not have to be removed when disposing of a facility (see 41 C.F.R. §102-75.335).

In sharp contrast, CERCLA requires that only when asbestos is released into the environment outside of structures, must the entity immediately take action to cure such a situation. In such a case the entity would establish a project to cure the situation. The establishment of such work project would then follow the established guidelines for capitalization or expensing. However, most asbestos response situations that we address relate to interior activities that are incidental to building operations. In daily operations, addressing exposed friable asbestos or friable asbestos that is determined to soon become accessible is like so many other OSHA-regulated safety standards. Once safety hazards are found, they must be addressed. Isolating asbestos as having unique requirements would be inconsistent with the treatment of other similar hazards. Full disclosure is not required of other capital projects or of other business expenses. The Federal government does not have an exemption to the requirement of addressing friable asbestos. We are required by law to promptly address its friability or accessibility.

Likewise, if the law does not require attention be given to nonfriable or friable inaccessible asbestos, how can a valid liability exist if there has been no release or need to cleanup, whether the asbestos is located in either an interior or exterior area? Numerous things can happen in the future, but the standards should deal with a currently known requirement. Until there is a current obligation under law to act on the cleanup of asbestos released into the environment, no liability exists.

Finally, even assuming the costs of managing asbestos were to be calculated, the timeframe of the response action that is taken is important because if the problem is corrected immediately it should not be recorded as an environmental liability when such costs are incidental to operations, or even to an alteration/modernization effort. On the other hand, if the scope of cleanup of the environment that is required by CERCLA is expected to cover an extended period of time, estimated costs should be recorded as an environmental liability (as is currently required). Also, if the government chooses to take action to remove asbestos, even when not required, consideration could be given to cost recognition when contracts are let to perform such work (similar to government-acknowledged events).

4. Do you agree with the guidance in paragraphs 33 through 34.e regarding note disclosures required for both friable and nonfriable asbestos-related cleanup costs, consistent with SFFAS 6, Chapter 4, Cleanup Costs?

No. These disclosure requirements should not be required for nonfriable asbestos or inaccessible friable asbestos cleanup costs since they require no action.

If the asbestos is friable and accessible, then it must be dealt with immediately and treated in accordance with established procedure. Nonfriable asbestos and inaccessible friable asbestos is not identified as an environmental contaminant (whether located in interior or exterior locations) and therefore a liability, a clean up or a containment responsibility does not exist. If no liability exists for asbestos, then nothing should be disclosed in the statements.

5. Do you agree with the guidance in paragraphs 35 through 39 regarding the treatment of both friable and nonfriable asbestos-related cleanup costs related to stewardship PP&E (Heritage Assets and Stewardship Land), consistent with SFFAS 6, Chapter 4, Cleanup Costs?

No, the guidance with respect to the treatment of asbestos should be the same regardless of the type of property it is identified in.

Other Comments

- This bulletin mentions expensing these cleanup costs, but nothing about the capitalization of costs. If there is an instance where a building is being modernized and in the process disposing of materials containing asbestos, why would those costs not be capitalized? Normally, costs are capitalized if they significantly increase the value of the property, if that's the case, it does not seem right to expense the entire project. In addition, the bulletin needs to offer guidance on when an agency chooses to perform a renovation project that incidentally involves asbestos containing material. If that is not significant to the purpose or cost of the renovation, should liability recognition still be required?

- Throughout the bulletin, there is mention that if unable to estimate probable asbestos related cleanup costs, disclose that information in the notes to the financial statements. Greater definition is needed in this area to identify appropriate estimating techniques and required factors, with some discussion of reasonable conditions for being inestimable. Without further definition, the room for differing interpretations will continue to cause inconsistent treatment across the Federal government, and potentially create conflict between agency management and the audit community due to these differing interpretations. For instance, any significant effort we would address for non-friable asbestos (such as part of modernization or major alteration project), would normally be tied to specific funding approval by Congress (via a prospectus) and enacted in an appropriations act. Without such legislative action, no costs could be computed as the timeframe is not reasonably estimable.
- This bulletin is also silent in regards to the other environmental hazards addressed in FIN47. Similar issues may exist with those hazards, which would warrant broadening the scope of this bulletin to ensure consistency in treatment of similar liabilities.
- Since cleanup activities, interior or exterior, arise from requirements imposed by federal, state and local laws and regulations, communication with and input from the legal community needs to be further addressed. Characterizing costs associated with maintaining asbestos in interior spaces as in the same league as exterior releases, and treating both as creating "liability for cleanup" would have significant impacts on other programs within most federal agencies such as day-to-day compliance with these laws and regulations, the role of regulators in agency operations, and property disposals. The legal community is in the best position to advise on the implications of such a new approach. In addition the legal community is in the best position to determine whether the nature of an expense would be classified as probable, possible, or remote in assessing likeliness in contingent liability reporting.

#8 – Department of Transportation, Laurie Howard, Internal – Preparers and Financial Managers

Comment re: paragraph 26: When this agency originally adopted accounting for environmental liabilities, we elected to recognize the total estimated cleanup cost liability (and expense) in the year of adoption because, as is provided in the guidance, the related PP&E had been in service for a substantial portion of its estimated useful life, and the costs were not intended to be recovered primarily through user charges. However, when Exposure Draft of Technical Bulletin 2006-1 becomes effective for fiscal years beginning after September 30, 2008, this agency may have transitioned to a user fee-based approach for recovering the majority of its costs. Thus, it appears that an increase to our environmental liability estimate for the nonfriable asbestos component would need to be recognized according to the service life of the related PP&E. It seems illogical to have recognized the total estimated cleanup cost liability (and expense) in the year of adoption, but then to recognize the nonfriable asbestos component according to the service life of the associated assets. Please provide clarification on this matter.

We request that the effective date be delayed by one year, to reporting periods beginning after September 30, 2009. To implement this Technical Bulletin, a detailed evaluation of many assets will be required. Time is needed to first estimate the cost of conducting site visits that will be necessary to update the environmental liability to include cleanup costs associated with nonfriable asbestos. The budget to accomplish these field visits then needs to be requested, the field visits conducted, and the analysis/projection completed. This series of steps cannot be reasonably accomplished by the effective date currently proposed in the Exposure Draft.

Answers to FASAB's questions posed on page 3 of the technical bulletin:

1. Yes, we believe that the guidance in paragraphs 1 through 4 clearly explain who and what is affected by this technical bulletin.
2. Yes, we believe that the guidance in paragraphs 5 through 19 clearly explains the difference between friable and nonfriable asbestos and the accounting issue being addressed.
3. Yes, we agree that federal entities should estimate both friable and nonfriable asbestos-related cleanup costs.
4. Regarding note disclosures in paragraphs 33 through 34 – it is not clear to us whether the various disclosures related to total friable and nonfriable asbestos-related cleanup costs requires distinguishing the friable portion from the nonfriable portion of the cleanup costs, or whether the cleanup costs associated with both (together) can be disclosed. We suggest using the wording “total **combined** friable and nonfriable asbestos-related cleanup costs...”
5. We do not comment on question 5, as this disclosure is not applicable to this agency.

#9 – Department of Commerce, Office of Federal Financial Management, Lisa Casias, Internal – Preparers and Financial Managers



UNITED STATES DEPARTMENT OF COMMERCE
Chief Financial Officer
Assistant Secretary for Administration
Washington, D.C. 20230

JUL - 5 2006

Ms. Wendy M. Comes
Federal Accounting Standards Advisory Board
441 G Street, NW, Suite 6814
Mail Stop 6K17V
Washington D.C. 20548

Dear Ms. Comes:

As requested by the Federal Accounting Standards Advisory Board, attached are the Department of Commerce's comments on Exposure Draft of Technical Bulletin 2006-1, which addresses Recognition and Measurement of Asbestos-Related Cleanup Costs. Please note that many of our detail comments on asbestos-related cleanup costs came from an environmental manager within Commerce.

Thank you for providing us with the opportunity to comment on this draft. If you have any questions regarding our comments, please contact Bruce Henshel at 202-482-0646 or me at 202-482-1207.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lisa Casias".

Lisa Casias
Deputy Chief Financial Officer and
Director for Financial Management

Attachment

Department of Commerce (DOC) Response to Exposure Draft for Technical Bulletin 2006-1, *Recognition and Measurement of Asbestos-Related Cleanup Costs*

Prepared by: DOC Office of Financial Management
Date Prepared: June 30, 2006

QUESTIONS/RESPONSES:

1. Does the guidance in paragraphs 1 through 4 clearly explain who and what is affected by this technical bulletin?

In paragraph 4, we believe that the intent of the Technical Bulletin is to recognize and report liabilities and expenses for asbestos-related cleanup costs *in total*. We believe the Technical Bulletin is trying to make it very clear that asbestos-related cleanup costs include cleanup costs related to both friable and nonfriable asbestos-containing material. We believe, however, that this paragraph may be misinterpreted to convey that liabilities and expenses should be *separately* identified, calculated, and possibly reported for asbestos-related cleanup costs for a) friable asbestos-containing material and b) nonfriable asbestos-containing material.

Accordingly, we recommend that paragraph 4 be reworded to the following:

“This guidance clarifies the responsibility of all federal entities to recognize and report liabilities and expenses for asbestos-related cleanup costs, including related note disclosures. Asbestos-related-cleanup costs include cleanup costs related to both friable asbestos-containing material and nonfriable asbestos-containing material.”

2. Does the guidance in paragraphs 5 through 19 clearly explain the difference between friable and nonfriable asbestos and the accounting issue being addressed?

Paragraph 7:

Friable and nonfriable describe the state of the asbestos. The information in paragraph 7 adequately explains the difference in these states, but this information is not important to developing the estimate for asbestos-related cleanup costs as the state of the asbestos can change. Grinding, sanding, burning, hammering, or damaging nonfriable asbestos may make that asbestos friable. The process of removing nonfriable asbestos may make the asbestos friable. (Example: A building's interior walls contain asbestos in the drywall joint compound. The walls are in good condition. The asbestos is nonfriable. Removing the asbestos requires demolition of the wall usually by cutting and hammering. This may change the asbestos to friable. The cost to demolish the wall is not dependent on whether the asbestos is friable or nonfriable.)

The distinction between friable and nonfriable asbestos is of primary importance in clarifying to the reader that asbestos-related cleanup costs include that related to both friable and nonfriable asbestos-containing material.

Accordingly, we recommend that the Technical Bulletin initially define, in paragraph 4, that asbestos-related cleanup costs relate to both friable and nonfriable asbestos containing material. We then recommend that the terms friable and nonfriable be removed from the Technical Guidance throughout the remainder of the Bulletin and replaced with the term asbestos. We recommend this, because, breaking out the terms “friable” and “nonfriable” throughout the Technical Guidance may be misinterpreted by the reader to be a requirement that the asbestos-related cleanup costs/liability be separately identified, calculated, and possibly reported for a) friable asbestos-containing material and b) nonfriable asbestos-containing material. The initial definition of asbestos-related cleanup costs as related to both friable and nonfriable asbestos-containing material, per our recommendation contained in our response to Question 1, is sufficient in our opinion, so that continued reference of friable and nonfriable asbestos in the Technical Guidance would not be necessary.

Paragraphs 10 through 13:

Our research has indicated that asbestos is not a hazardous waste, as defined in SFFAS 6, Chapter 4, paragraph 86.

To arrive at our opinion that asbestos is not a hazardous waste, our review included:

EPA’s *Introduction to Hazardous Waste Identification (40CFR Parts 261)*, September 2005

NESHAP (National Emissions Standards for Hazardous Air Pollutants)

CERCLA (Comprehensive Environmental Response, Compensation, and Liability Act)

RCRA (Resource Conservation and Recovery Act)

Website and contents: <http://www.epa.gov/epaoswer/osw/hazwaste.htm>

Website and contents: <http://www.osha.gov/SLTC/asbestos/>

Website and contents: <http://www.epa.gov/epahome/laws.htm>

EPA regulations, TITLE 15--COMMERCE AND TRADE, CHAPTER 53--TOXIC SUBSTANCES CONTROL, SUBCHAPTER II--ASBESTOS HAZARD EMERGENCY RESPONSE, Sec. 2643. EPA regulations

We have not found any references in the above documents and websites that indicate asbestos is a hazardous waste.

Although, asbestos may not be considered a hazardous waste for cleanup costs by environmental managers, we believe that SFFAS 6, Chapter 4, *Accounting Standards: Cleanup Costs*, in its current form, is not applicable to asbestos-related cleanup costs and recommend that it should be modified to specifically include asbestos since the same types

of disclosures required for hazardous wastes should also apply to cleanup costs for asbestos.

3. Do you agree with the guidance in paragraphs 20 through 32 that federal entities should estimate both friable and nonfriable asbestos-related cleanup costs and recognize a liability and related expense for those costs that are probable and reasonably estimable, consistent with SFFAS 6, Chapter 4, Cleanup Costs, and Technical Release 2, Determining Probable and Reasonably Estimable for Environmental Liabilities in the Federal Government?

As described in our answer to Question 2, we believe that SFFAS 6, Chapter 4, *Accounting Standards: Cleanup Costs*, in its current form, is not applicable to asbestos-related cleanup costs and recommend that it should be modified to specifically include asbestos since the same types of disclosures required for hazardous wastes should also apply to cleanup costs for asbestos.

We do believe, however, that both SFFAS 5 and TR2 are applicable to asbestos-related cleanup costs, and that guidance and requirements related to SFFAS 5 and TR2 are appropriate.

4. Do you agree with the guidance in paragraphs 33 through 34.e regarding note disclosures required for both friable and nonfriable asbestos-related cleanup costs, consistent with SFFAS 6, Chapter 4, Cleanup Costs?

As described in our answer to Question 2, we believe that SFFAS 6, Chapter 4, *Accounting Standards: Cleanup Costs*, in its current form, is not applicable to asbestos-related cleanup costs and recommend that it should be modified to specifically include asbestos since the same types of disclosures required for hazardous wastes should also apply to cleanup costs for asbestos.

We do believe, however, that both SFFAS 5 and TR2 are applicable to asbestos-related cleanup costs, and that disclosure guidance or disclosure requirements related to SFFAS 5 and TR2 would be appropriate.

5. Do you agree with the guidance in paragraphs 35 through 39 regarding the treatment of both friable and nonfriable asbestos-related cleanup costs related to stewardship PP&E (Heritage Assets and Stewardship Land), consistent with SFFAS 6, Chapter 4, Cleanup Costs?

As described in our answer to Question 2, we believe that SFFAS 6, Chapter 4, *Accounting Standards: Cleanup Costs*, in its current form, is not applicable to asbestos-related cleanup costs and recommend that it should be modified to specifically include asbestos since the same types of disclosures required for hazardous wastes should also apply to cleanup costs for asbestos.

We do believe, however, that both SFFAS 5 and TR2 are applicable to asbestos-related cleanup costs, and that disclosure requirements related to SFFAS 5 and TR2 would be appropriate.

ADDITIONAL COMMENTS:

There are many practical considerations that Federal agencies will have to deal with when implementing the proposed standard. We would like to share some of these with FASAB.

The Technical Bulletin seems to contemplate that all asbestos (friable and nonfriable) will be identified. Unfortunately, not all asbestos has been identified in all government buildings, and it is expensive to identify and inventory all the asbestos and maintain the asbestos inventory. Asbestos may be “hidden” behind walls or buried in layers of roofing. Finding the asbestos requires some level of demolition to the walls, roof, or other building component. It is not prudent to drill a hole in a roof just to determine the presence of asbestos as the hole in the roof deteriorates the functionality of the roof and shortens the lifespan of the roof membrane. Flooring may contain multiple layers. One must sample all layers to determine the presence of asbestos. Older buildings tend to have had multiple renovations conducted at different times. Walls, flooring, and other building components are not homogeneous and all must be sampled to identify asbestos. Identification of asbestos is a large cost of the asbestos cleanup costs liability. Once asbestos is identified, the inventory must be maintained. Small repairs or renovations may remove some asbestos. Resources must be dedicated to update the asbestos inventory appropriately. The cost to identify asbestos and then manage the asbestos inventory should be calculated as part of the asbestos cleanup costs.

The Technical Bulletin seems to assume that the Federal government must one day remove asbestos either by demolishing the building or after the building is destroyed. This assumption is faulty. The Federal government could sell or transfer the building to another party. Asbestos removal is not required during this transaction, only notification of the presence of asbestos. Asbestos liability is transferred to the new owner. (It appears that liability for asbestos-related cleanup costs is being treated as a liability for a hazardous substance under CERCLA. Under CERCLA, the Federal government retains liability for the environmental clean up of CERCLA hazardous substances at buildings/sites even when those sites or buildings are transferred or sold. Asbestos is not a CERCLA hazardous substance and is therefore not an environmental liability under CERCLA.

Accuracy of asbestos cleanup cost estimates is dependent on the accuracy of the asbestos inventory. Emphasis should be placed on establishing accurate and complete asbestos inventories/surveys.

The National Emissions Standards for Hazardous Air Pollutants (NESHAP) applies differently to building demolition and building renovation. According to NESHAP, prior to demolition of a building, all asbestos must be removed. (Note: NESHAP does not differentiate between friable and nonfriable asbestos.) NESHAP does not require

the removal of all asbestos during a renovation, only the asbestos impacted by the renovation. Asbestos may remain in the building. Here are a few examples:

The drywall joint compound of a building's interior walls contains asbestos. Only those sections of walls that are being removed, demolished, or modified require asbestos removal.

Asbestos floor tile may remain and carpet or another layer of flooring placed on top of it.

A hot water pipe with asbestos insulation in good condition will be extended 100 feet. Only the asbestos at the end of the pipe where the extension will be connected must be removed. All other asbestos may remain in place.

#10 – Department of Defense, Office of the Under Secretary, Mike Weber, Internal – Preparers and Financial Managers

FASAB Exposure Draft for Technical Bulletin 2006-1: *Recognition and Measurement of Asbestos-Related Cleanup Costs*
July 2006

Name: Mike Weber

Agency: Department of Defense

Phone: (703) 697-6149

Comment #	Paragraph	Recommended Changes	Rationale
1.	Paragraphs 20-32	Statements of Federal Financial Account Standards (SFFAS) #6 paragraph 104 discusses implementation approaches for assets placed into service prior to October 1, 1997. If costs were not intended to be recovered primarily through user charges, management could elect to recognize the estimated total cleanup costs as a liability upon implementation. In periods following the implementation period, any changes in the estimated total cleanup cost would then be expensed when reestimates occur and the liability balance adjusted. We recommend that FASAB includes this guidance, clarifying that the full liability may be recognized on assets placed into service prior to October 1, 1997, in the technical bulletin.	This implementation approach is acceptable for assets placed into service prior to October 1, 1997 in accordance with SFFAS #6, which likely includes most assets with asbestos liability costs.
2.	Paragraph 34	Some readers interpreted the wording in paragraph 34 to require separate tracking and reporting of friable and nonfriable costs. We do not believe this is the intent of the paragraph. Instead, we believe the intent is to ensure both friable and nonfriable costs are included in the total asbestos liability costs. If our interpretation is correct, we recommend adding this clarification to paragraph 34.	Clarification
3.	Paragraphs 35-39	Stewardship PP&E. Overall the document does not reference Standard 29, July 2005, Heritage Assets and Stewardship Lands (HA/SL). The problem this creates is that Standard 29 distinguishes between HA/SL and Multi-Use HA/SL. Federal agencies only have to report traditional PP&E information, to include liabilities, for multi-use HA/SL (for example the Pentagon). The draft does not make that distinction. Not every HA/SL is multi-use. For HA/SL not used to support an agency mission (DoD examples include the USS Constitution and USS Nautilus), Standard 29 does not compel us to provide the traditional PP&E liability data. DoD only has to account for each in a separate table. As a minimum, please insert a reference to Standard 29 and add the term "multi-use" to the paragraphs.	Clarification

Comment #	Paragraph	Recommended Changes	Rationale
4.	Appendix B	The journal entry illustration debits net position. According to SFFAS No. 21, adjustments for a change in accounting principle should be made to the beginning balance of the cumulative results of operations in the statement of changes in net position for the period that the change is made. The entry to record this transaction in accordance with the U.S. Standard General Ledger (USSGL) debits 7401: Prior Period Adjustment Due to Changes in Accounting Principles, rather than net position.	USSGL Compliance

**#11 – NASA, Office of the Chief Financial Officer, Gwendolyn Sykes,
Internal – Preparers and Financial Managers**

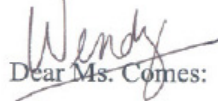
National Aeronautics and
Space Administration
Headquarters
Washington, DC 20546-0001



July 25, 2006

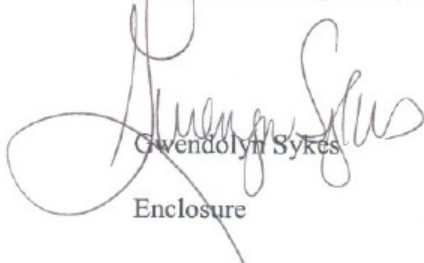
Reply to Attn of: **Office of the Chief Financial Officer**

Ms. Wendy Comes
Executive Director
Federal Accounting Standards Advisory Board
441 G Street, NW
Washington, DC 20548


Dear Ms. Comes:

Enclosed are our comments to Federal Accounting Advisory Board Exposure Draft on Recognition and Measurement of Asbestos-Related Cleanup Costs (Technical Bulletin 2006-1). Thank you for the opportunity to provide comments on this Exposure Draft.

If you have questions regarding our comments, please contact Mr. Ronald Brooks, Director for Policy and Business Integration Division, at (202) 358-4473 or by e-mail at ronald.s.brooks@nasa.gov.


Gwendolyn Sykes
Enclosure

**COMMENTS TO EXPOSURE DRAFT (TECHNICAL BULLETIN 2006-1)
RECOGNITION AND MEASUREMENT OF ASBESTOS RELATED CLEANUP COSTS**

1. Does the guidance in Paragraph 1 through 4 clearly explain who and what is affected by this technical bulletin?

Yes, the guidance clearly states who will be affected by this technical bulletin. But we believe that what is affected by this exposure draft needs more clarification. By definition, asbestos are classified into five categories (Appendix D):

- Category 1 nonfriable asbestos-containing material (ACM)
- Category 2 nonfriable ACM
- Friable asbestos material
- Nonfriable asbestos-containing material
- Regulated asbestos-containing material (RACM)

A reference and/or citation to the relevant sections of the Code of Federal Regulation (CFR) that clearly states that both friable and nonfriable asbestos are a health hazard and therefore need clean up is necessary to establish any legal requirements. The fact that a distinction is made between friable and nonfriable asbestos seems to imply that there is some difference in the hazardous nature of these two types. Paragraph 17 of this guidance states that in the past some agencies have recognized an estimated liability for removal of friable asbestos posing an immediate health threat, but not prepared an estimate for the future removal of nonfriable asbestos that does not pose an immediate health threat. Paragraph 34.a. of this guidance requires agencies to disclose the sources (applicable laws and regulations) of friable and nonfriable asbestos related cleanup requirements. Paragraph 9 of this guidance states that "Asbestos was one of the first hazardous pollutants regulated under section 112. On March 31, 1971, Environmental Protection Agency (EPA) identified asbestos as a hazardous pollutant, and on April 16, 1973, EPA first promulgated the Asbestos National Emission Standards for Hazardous Air Pollutants in 40 CFR Part 61." However, under this requirement, there is no clear affirmative statement for the inclusion of nonfriable asbestos.

2. Does the guidance in Paragraphs 5 through 19 clearly explain the difference between friable and nonfriable asbestos and the accounting issue being addressed?

While the guidance is clear in defining what is friable, and nonfriable asbestos, it is not that clear as to the accounting issues addressed. As stated above, Paragraph 9 needs more relevant citation of the specific regulation requiring the reporting of asbestos related hazards for both categories of friable and nonfriable. Our reading of CFR, Part 61 does not show such a requirement.

Enclosure

Paragraph 17 states that the issue arose as a result of the Financial Accounting Standards Board (FASB) Interpretation Number (FIN) 47, Accounting for Conditional Asset Retirement Obligations FIN 47 issued in March 2005.

FIN 47 was issued to interpret FASB 143, Accounting for Asset Retirement Obligations. According to FIN 47, an entity shall recognize a liability for the fair value of a conditional asset retirement obligation if the fair value of the liability can be reasonably estimated. It is not clear how agencies are going to establish the fair value of their obligations (liabilities) related to nonfriable asbestos, when the health hazards related to it are not immanent. Also from an accounting perspective, if the absence of immediate health threat is considered as the remote chance of the health hazard happening, there is no mandatory accounting requirement to recognize or disclose it.

Paragraph 4 of FIN 47 states that asset retirement obligation would be reasonably estimable if (a) it is evident that the fair value of the obligation is embodied in the acquisition price of the asset, (b) an active market exist for the transfer of the obligation, or (c) sufficient information exists to apply an expected present value technique. This regulation is silent on how agencies can determine the fair value of their obligation. FASAB 6 only states that current cost needs to be used when estimating cleanup costs. The fair market value calculation for liability has not been addressed either in guidance of Statements of Federal Financial Accounting Standards (SFFAS) 6 or 7.

3. Do you agree with the guidance in Paragraphs 20 through 32 that federal entities should estimate both friable and nonfriable asbestos-related cleanup costs, recognize a liability and related expense for those costs that are probable and reasonably estimable, consistent with SFFAS 6, Chapter 4, Cleanup costs, and Technical Release two, *Determining Probable and Reasonably Estimable for Environmental Liabilities in the Federal Government*?

The determination of liabilities associated with nonfriable asbestos is dependant upon expensive engineering studies and uncertain estimating processes. We believe agencies should have the option to come to the conclusion that the liability is remote and hence no recognition or disclosure, if after engineering studies and cost-benefit analysis they determine that probability of health hazard occurring from nonfriable asbestos is remote. We agree with the general accounting principle that a liability should be recognized where the chance of incurring the liability cost is probable and measurable and/or reasonably estimable.

4. Do you agree with the guidance in Paragraphs 33 through 34.e. regarding note disclosures required for both friable and nonfriable asbestos-related cleanup costs, consistent SFFAS 6, Chapter 4, Cleanup Costs?

3

We do not agree for the reasons included in our responses to the previous questions. For example, Paragraph 34.a requires agencies to disclose the applicable laws and regulations of friable and nonfriable asbestos related cleanup requirements. We do not see any clear requirement for nonfriable asbestos in CFR, 61.

Do you agree with the guidance in Paragraphs 35 through 39 regarding the treatment of both friable and nonfriable asbestos-related cleanup costs related to stewardship Property, Plant, and Equipment (Heritage Assets and Stewardship Land), consistent with SFFAS 6, Chapter 4, Cleanup Costs?

No, for the same reasons noted for the previous questions.

**#12 – Architect of the Capitol, Accounting Division, Tim Macdonald,
Internal – Preparers and Financial Managers**

UNITED STATES GOVERNMENT
MEMORANDUM

ARCHITECT OF THE CAPITOL
WASHINGTON, DC 20515

ACCOUNTING DIVISION
FHOB H2-205, (202) 226-2552

DATE: August 17, 2006

TO: Julia Rangan

FROM: Tim Macdonald Accounting Officer Architect of the Capitol

Dear Ms. Rangan,

We appreciate the opportunity to comment on the proposed Technical Bulletin, Recognition and Measurement of Asbestos-Related Cleanup Costs.

In response to the questions posed in the ED and other comments:

- 1) Does the guidance in paragraphs 1 through 4 clearly explain who and what is affected by this technical bulletin?

AOC Response:

We agree that the guidance clearly explains who is affected. While it appears the guidance does clearly address what is affected, “reporting liabilities and related expenses arising from asbestos-related cleanup costs for both friable and nonfriable asbestos containing material”, we do not agree with the intent to include non-friable asbestos in the calculation as this is above and beyond EPA regulations.

- 2) Does the guidance in paragraphs 5 through 19 clearly explain the difference between friable and nonfriable asbestos and the accounting issue being addressed?

AOC Response

We agree that the guidance does clearly differentiate between friable and nonfriable asbestos. We do not agree with the statement in paragraph 7 that, “but both forms must be properly contained and disposed of during repair, renovation, demolition, or other disturbance of the property.” It is our understanding that if asbestos is in a nonfriable state the best action to take is to implement a “maintain-in-place” philosophy and not disturb much less “dispose.”

We also do not agree with paragraph 8 that states, “Exposure to asbestos can cause asbestosis...” You state in paragraph 12, “Hazardous waste is a solid, liquid, or gaseous waste, or combination of these wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible,

illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.” Through conversations with EPA personnel, it is our understanding that asbestos is only hazardous when it is in a friable state and fibrous material are emitted into the air, thus leading to health related concerns. It is also our understanding that nonfriable asbestos cannot emit these fibers thus it has to become friable (i.e. through damage) in order to emit these fibers. To be correct, this paragraph should reference friable asbestos only.

- 3) Do you agree with the guidance in paragraphs 20 through 32 that federal entities should estimate both friable and nonfriable asbestos-related cleanup costs and recognize a liability and related expense for those costs that are probable and reasonably estimable, consistent with SFFAS 6, Chapter 4, Cleanup Costs, and Technical Release 2, *Determining Probable and Reasonably Estimable for Environmental Liabilities in the Federal Government*?

AOC response

We do not agree that nonfriable asbestos should be included in an estimate related to Cleanup Costs. Asbestos is a hazardous air pollutant under the Clean Air Act and a hazardous substance under CERCLA. It is also a hazardous waste under the statutory definition of hazardous waste in RCRA, but not a hazardous waste under the regulatory definition. However, simply because asbestos is regulated under these statutory authorities does not mean environmental liability exists in all instances where asbestos exists. For example, the Clean Air Act NESHAP standards apply only to asbestos mills, roadways, manufacturing, and demolition and renovation activities involving asbestos (40 CFR Part 61, Subpart M). CERCLA cleanup liability for asbestos occurs only when asbestos has been released into the environment which may present an imminent and substantial endangerment to human health and the environment (42 USC 9604). RCRA cleanup liability for asbestos occurs only when asbestos has become a waste and then only to the extent it poses an imminent and substantial endangerment to health or the environment (42 USC 6973). Thus, non-friable asbestos is not regulated under the Clean Air Act unless and until it becomes friable as a result of any demolition or renovation, it is not regulated under CERCLA unless and until it has been released into the environment (i.e., becomes friable) and then possibly only if released outside a building, and it is not regulated under RCRA unless and until it becomes a waste (i.e., friable).

As stated earlier in the response to question 2, we believe estimating a liability should only refer to friable asbestos. We also believe a liability should only be recorded when it is supported by a legal standard and/or management's intent is to perform above the legal standard. We understand that FASAB only sets financial statement standards and not legal standards; we believe the only time a liability should be recorded is when it is supported by a legal standard and/or management's intent is to perform above the legal standard. If we are to begin recording liabilities in compliance with financial standards that may not have legal standard support and/or management's intent is not to perform above the legal standard, the integrity and meaning of the financial statements is greatly diminished.

- 4) Do you agree with the guidance in paragraphs 33 through 34.e regarding note disclosures required for both friable and nonfriable asbestos-related cleanup costs, consistent with SFFAS 6, Chapter 4, Cleanup Costs?

AOC response

See comment to question 3)

- 5) Do you agree with the guidance in paragraphs 35 through 39 regarding the treatment of both friable and nonfriable asbestos-related cleanup costs related to stewardship PP&E (Heritage Assets and Stewardship Land), consistent with SFFAS 6, Chapter 4, Cleanup Costs?

AOC response

We do not agree. We may be unique in that, all of our buildings are Multi-Use Heritage Assets (the Capitol building, Senate and House of Representatives, Library of Congress, and Supreme Court) and the assumption that a demolition is “inevitable” is just not true.

In addition, we believe the cost of estimating is prohibitive and timely. We estimate the cost of performing an asbestos related assessment of our buildings and tunnels to be around \$1,200,000, would take several years to perform, and not be available for the 2008 budget submission and we believe the cost to remove nonfriable asbestos to be in the BILLIONS. In legislation this year, Congress made it clear they will not fund the removal of nonfriable asbestos, acting on advice from GAO that the standard is to “manage-in-place.” If Congress will not fund this task, recording a liability without the means/intent to address it would render our statements meaningless.

Other Comments:

We also have reservations regarding the tracking of the liability to the subsequent work (if funded). This immense task alone would require additional human resources in a time of a shrinking work force and attempts to constrain budgetary dollars.

In the document “*Technical Bulletin 2006-1, Comment Letters Received through July 13, 2006 I – Tab G*” you state, “Furthermore, staff does not intend to imply that recognizing a liability for asbestos-related cleanup costs in any way reflects a judgment about the extent or nature of any legal obligation of the federal government for asbestos-related cleanup.” This attempt to separate financial intent from regulatory is fallacious.