

## **COMMENT #12: DECEMBER 8, 2008**

**From:** Harrington Jan R (HR&IS)  
**Sent:** Monday, December 08, 2008 4:57 PM  
**To:** ASB Comments  
**Subject:** ASB COMMENTS

Comments on ASOP 41 exposure draft

This email presents my personal comments on the Exposure Draft for ASOP 41. I emphasize that these comments do not necessarily correspond to the views of my employer or of any actuarial body to which I belong. I am a FSA, FIA, MAAA, and EA.

Please eliminate, from this and all future ASOPs, wording in the passive voice. It makes a sentence sag. You can always avoid passive tense without the need for fancy footwork. Software is readily available (e.g., StyleWriter) to help locate and eliminate passive voice entries. No entry in this email contains the passive tense.

The Key Changes contains a statement that when an actuarial communication contains appropriate documentation of methods, procedures, assumptions, and data, that communication is an actuarial report. Therefore, any communication that fails to provide “appropriate documentation” of any of these items is, by definition, NOT an actuarial report. The failure of any actuary to provide proper documentation of any of these items in a communication avoids the communication meeting the definition, under this ASOP, of an actuarial report. Surely, that is not what you want. It is the actuarial equivalent of a designer drug – which differs from a controlled substance by one element and is not a controlled substance. Here, you have a recipe for an actuarial report. Anyone who fails to follow the recipe, e.g., by not providing adequate documentation of the methods, escapes sanction since the document is not an actuarial report, despite the document bearing that title.

In response to the Request for Comments on page vi, my responses are:

1 I believe, unless the structure prevents it (e.g., an electronic PBGC or IRS filing) the communication should state (a) those assumptions and methods mandated by law; (b) those chosen by the actuary; (c) those chosen by others with a legal mandate, and (d) those chosen by others without a legal mandate. Time was when the general freedom of actuaries to choose assumptions made it probable the actuary chose the assumptions and methods. That time no longer exists. If the actuary does not write the communication, then the actuary should ensure that, at the very least, the communication clearly states who chose each assumption and method.

2 Change the title of the ASOP to Actuarial Communications and Documentation.

3 No, but addressing my initial observation, above, should achieve that clarity.

4 Yes, they are clear. They are more appropriate than the previous version. The actuarial profession should abolish all inherently ossifying ASOPs and replace them with a best practice web site, where actuaries can post their ideas for improving the ways we do actuarial work and communicate it. That would allow the profession to improve quickly, without fear that any change from mandated ASOP rules will cause one to breach the deviation clause. Many people consider an actuary who uses the deviation clause fails to comply with an ASOP.

The remainder of this email covers the draft ASOP paragraph by paragraph.

1.2 Delete from the second paragraph the words between “standard” and “for” and delete “other.” This makes the paragraph read “If the actuary departs from the guidance set forth in this standard for any reason, the actuary should refer to section 4 regarding deviation.”

Delete from the third paragraph the words “possible while complying with” and replace them with “not prohibited by.”

Delete from the fourth paragraph the words “inconsistent with” and replace them with “prohibited by.”

2.3 Delete from the first sentence the words “the actuary’s methods” and replace them with “the methods.” (Reason – because the methods, etc., may not be the actuary’s but the actuary should still communicate methods, etc., that are not the actuary’s.)

3.1 This paragraph presents inconsistent descriptions of an actuarial report. The opening paragraph clearly states the cumulative series of communication represent the report. Paragraph 3.1.4 discusses material found in a “previous actuarial report.” Based on the definition set out in the opening paragraph of 3.1, the entire series of communications, including the earlier one, comprise "the report," so the earlier communication is not a separate “report.”

3.1.4 For another actuary to use data to appraise the reasonability of a report, the data may need to be so comprehensive to count as PI. Given the prohibition on communicating PI to those not entitled to see it, I urge the ASOP include guidance on maintaining

confidential information while facilitating the “other actuary” rule. The ASOP should contain a clear statement that requires actuaries to keep all PI, confidential and make it available to the other actuary with appropriate safeguards.

3.2.2 I question if anyone can know all the pertinent information that is not apparent. Please provide clear guidance on the range of ideas intended by this paragraph, since the paragraph seems to lack pertinent information (to allow the reader to know what to disclose about what.) Perhaps the paragraph should establish a laundry list of required disclosure.

3.2.4 I dispute the opening claim that members of the intended audience will generally expect the actuary endorses the assumptions and methods used in a communication. That may have been true twenty years ago. Actuaries long since lost their absolute power to choose assumptions, or to use only those methods they endorsed. As I noted earlier on in this email, I believe any communication should contain a clear statement about which assumptions and methods the actuary chose, those mandated by law, and which neither the law or an actuary chose. Throughout this paragraph replace the words "the assumption" with "an assumption."

3.4 If both the earlier and later communications are oral, it is not clear why the actuary needs to document, in writing, the reasons for the changes. Surely, when anything changes, the communication of the change should be in the same form as the original communication.

4.1 (paragraph e) If the totality of communications represents a report, then surely, at some point in the series of communications, there will be disclosure of any real or potential conflict of interest. The problem with this paragraph, is the intended audience may change, and the new audience may not be aware of the earlier series of communications and the discussion of real or potential conflict of interest, for example. I think you need to reword this caution to eliminate the “not readily apparent” and replace it with a discussion regarding when the audience expands or changes, and the new audience do not have access to the complete earlier series of communications that represent “the report.” This underlying problem arises from the ASOP's premise that a report is the cumulative documentation, rather than a single document bearing the word "report" in its title. Perhaps you should revisit the ASOP and revise it consistent with two alternative definitions of a report. Under the default definition, an actuarial report is a single document that provides a stated list of items. Under the alternate definition, an actuarial report is the cumulative documentation that includes several different communications. One then needs to impose certain requirements for the alternate definition if the audience changes or expands, so some of the audience lack access to the earlier documentation.

4.2 (paragraph b) Please clarify how one meets this requirement. Does a pension actuary, for example, refer to each relevant section of the IRC, or ERISA, or proposed regulations, to explain the law under which the actuary prepared a pension valuation report, or is it sufficient for the actuary to mention PPA without giving paragraph numbers or regulation numbers?

4.3 I question the presumption the reader of an actuarial communication will assume the actuary chose the assumptions. I think the communication should always state, for the assumptions; (a) those chosen by the actuary; (b) those mandated by law; (c) those chosen by others under legal mandate (e.g., a plan sponsor for FAS 87 assumptions); and (d) those chosen by others without a legal mandate.

4.4 It is not clear to me why the "appropriate statement" in the first sentence of this paragraph is insufficient for compliance. If the statement is appropriate, it should serve both to inform the intended audience of the statement and the profession's disciplinary bodies. If someone complains to an actuarial disciplinary body (a) about the deviation or (b) about the "appropriate statement," that might give rise to the actuary explaining the deviation to the disciplinary body. Given that actuary's must explain to the profession's disciplinary bodies about other complaints that do not involve a claimed deviation, I fail to see the need for the final sentence of this paragraph. The sentence suggests that, even if nobody complains about the deviation, the profession's disciplinary bodies can haul the actuary in and demand an explanation. I object to such a suggestion, regardless of how recently the ASB adopted the wording.

I will be happy to provide any additional information regarding the above comments.

Best Wishes  
Jan Harrington