

Commentator #1 - July 6, 2007 – 7:74 a.m.

I have no argument with the analysis that led to the proposed repeal of ASOP 9.

However, the Appendices to ASOP 9 (three sets of "Principles") although not part of the ASOP, are useful and have been widely quoted, and they are more widely available to actuaries as ASOP 9 Appendices than they would be if if they were simply CAS-adopted Principles.

I encourage the ASB and the Academy to find a way in which the sets of Principles can continue to be widely available as a ready reference.

Dan McCarthy

Comment Letter #5 – August 13, 2007 – 1:40 p.m.

I have read the EXPOSURE DRAFT on the Proposed Repeal of Actuarial Standard of Practice No. 9 and see that the Casualty Committee has concluded that ASOP No. 9 is redundant with ASOP No. 41 and the Code of Conduct. However, I believe that you have missed three significant items in your comparison of ASOPs #9 and #41. Those items are highly important to regulators. Without notifying the membership of the Academy of these differences, the proposed repeal announcement inappropriately suggests that the standards are comparable. I believe they are not comparable, and that repeal of ASOP #9 constitutes "lowering the bar" for our profession. Without comparable language in ASOP #41, or another Standard, on each of these items, ASOP #9 should remain in effect.

There is no doubt in my mind that the Casualty Committee made honest efforts in reaching their conclusion of redundancy. I do recognize that the members of the Committee bring their experience from private industry and consulting practice in reaching that conclusion. But I do not see regulatory experience on the Committee. That perspective leads me to a different conclusion. It is unfortunate that the Committee did not have the benefit of current regulatory actuaries' interests regarding ASOP #9. Even so, it is surprising to me that these clear differences went unnoticed in the comparison of 9 and 41.

The Annual Statement Instructions for the statutory Statement of Actuarial Opinion were significantly revised for year-end 2004 opinions and reports. Those Instructions added reference to expectations of consistency in the Statement of Actuarial Opinion, the Actuarial Opinion Summary, the supporting Actuarial Report, and with appropriate ASOPs, specifically identifying the importance of ASOP #9.

Since then, annual Guidance published by the Casualty Actuarial Task Force (CATF) of the National Association of Insurance Commissioners reaffirms the value and importance of ASOP #9, directly quoting the definition of an Actuarial Report in Section 2.1.

In June of 2006 the CATF sent a letter to the Actuarial Standards Board with extensive comments on the first exposure draft of what is now ASOP #43. In that letter the CATF commented on the importance of ASOP #9 to regulators, and its relevance to the proposed standard.

The three items I feel need to be revisited are as follows.

Item 1. Definition of the Actuarial Report. The comparison table in the Appendix notes that Section 2.1 in ASOP #9 is appropriately covered in Section 2.3 in ASOP #41.

The missing element in ASOP #41 is the expectation in the last phrase of ASOP #9 Section 2.1 of "ensuring that the parties addressed are aware of the significance of the actuary's opinion or findings."

Why is this important – part 1? The Statement of Actuarial Opinion is an important regulatory document. The statutory requirement means that the regulator is to be one of the parties addressed. With a required Opinion and a required supporting report the NAIC also makes a strong statement of reliance on the professionalism of actuaries. Supporting reports are often used and relied upon in financial examinations. The ability to use a report in this way can provide a significant cost benefit to a company. When a report does not adequately provide the regulator with the significance of the actuary's findings, other more costly examination procedures are needed. The language of ASOP #41 lowers the bar by placing the burden on the reader to figure out on one's own what the actuary considers significant in reaching an opinion.

Why is this important – part 2? Regulators rely on qualified actuaries to render opinions. Each year nearly all opinions are rendered as reasonable. Occasionally things turn out to be not as they seemed. Sometimes a review of the actuary's work verifies that fortuitous events were at work, or that the risks were clearly identified. Unfortunately, situations do arise in which questionable work by an actuary has delayed appropriate regulatory action. These are the situations that trouble regulators. In such cases a common response from the actuary emphasizes the lowest possible interpretation of compliance with a standard. ASOP #9 places a burden on the PC actuary that has been valuable to regulators. It is the current standard of our profession.

Repealing ASOP #9 lowers the value of our professional standards and would be a disservice to regulation.

Item 2. The comparison table notes that Section 5.2 in ASOP #9 is appropriately covered in Sections 3.1.8 and 3.6 in ASOP #41.

The missing element in ASOP #41 is the expectation in the last two sentences of ASOP #9 Section 5.2 that "Any material changes in sources of data, assumptions, or methods from the last analysis should be documented. The actuary should explain the reason(s) for and describe the impact of the changes."

My comments on this item are essentially the same as in item 1. I will not repeat them. But I will offer an example for illustration. See the attached XL file. It is a real example that I have encountered in evaluating actuarial work products. I have adjusted the data so that the company is not identifiable.

Two successive opinions are rendered as reasonable. In each, the actuary's indications are significantly below the company carried by about 15% of surplus. But that is not apparent in either opinion. The opinions only assert "reasonable". The deficiencies are only revealed on later review of the supporting reports. In comparing the current report with the prior, one finds that certain assumptions have changed, yielding a lower indication. Had the assumptions from the prior report been used in the current report, the difference between the indication and the carried would have grown to about 30% of surplus. The current report makes no disclosure regarding a change in assumptions, or the impact.

- Was this a violation of ASOP #9? I think so.
- Would it be a violation of ASOP #41? No. ASOP #41 sets a lower bar!

Why is this important? The problem regulators will have to deal with if ASOP #9 is repealed is that a small minority of unscrupulous appointed actuaries can continue to act that way. And, unfortunately, some of those on the fence, fearing the loss of a client or the wrath of an employer, will quickly learn that they can buy time with the lowered standards.

Item 3. The comparison table makes no reference to ASOP #9 Section 6.1 Deviation from Standard. ASOP #41 Section 4.2 contains a comparably titled section. However, the difference is readily apparent and meaningful. ASOP #9 calls for "an appropriate and explicit statement with respect to the nature, rationale, and effect of such use." ASOP #41 merely requires that the actuary "be prepared to justify the use of any procedures that depart materially from those set forth in this standard."

ASOP #9 clearly requires the actuary to be aware of consistency with the Standard. Without the "appropriate and explicit statement" regarding deviation, the actuary is effectively stating that no deviation exists. On the other hand, ASOP #41 lowers the bar by eliminating the need for awareness of consistency at the time actuarial work is done, and within the communication issued. It is up to a reader of the work product to identify a conflict. Even then, it is possible for the actuary to rationalize deviation in hindsight.

Why is this important? It lowers the expectations of the actuary in doing professional work. I do not see why it is so difficult for an actuary to be aware of deviation and to disclose it up front.

Why does the comparison table in the Appendix of the Exposure Draft not point out these differences? Was it an oversight? Were they considered unimportant?

Our website proclaims that the Academy serves its members and the public by establishing, maintaining, and enforcing high professional standards of actuarial qualification, practice, and conduct. I hope that we will not change course.

--Richard Marcks

Comment Letter No. #6 – August 13, 2007 – 5:55 p.m.

Thomas Hess
Ohio Department of Insurance
tom.hess@ins.state.oh.us

August 13, 2007

Repeal of SAOP 9

ASOP 41 sets a lower standard than ASOP 9. ASOP 9 is not redundant.

section1=

section2=ASOP 9 Section 2.1 sets an higher standard than ASOP 41 Section 2.3 ASOP 9 Section 5.2 sets a higher standard than ASOP 41 Section 3.1.8 and 3.6 I do not favor lowering the standards for communications with those who read and use actuarial reports.

section3=

section4=

appendix=

Comment Letter #7 – August 15, 2007 – 10:56 a.m.

I endorse the comments made by Messrs Herbers and Savage. As a regulator I have had occasion to quote SSAP 9 to opining actuaries. The corresponding language in SSAP 41 appears weaker.

For instance, SSAP 9 states "Documentation should be sufficient for another actuary practicing in the same field to evaluate the work."

The comparable language in SSAP 41 appear to revise the last four words to say - to evaluate the reasonableness of the work. It is a subtle difference but appears to indicate that less support is now required.

My job is to evaluate the reasonableness of the opining actuaries work.

However if I find it unreasonable, I must then produce an alternative calculation and explain why my result is more reasonable than the opining actuary's. To do this I need to fully understand and evaluate the work of the opining actuary. I have always fallen back on SSAP 9 to get me the information I need if not already provided. I'm not sure I can do that based on the SSAP 41 language.

Thank you for the opportunity to comment.

-- Holmes Gwynn

Commentator #4 – August 9, 2007 – 5:18 p.m.

The cross reference grid in the appendix is a very helpful way to look at the overlap between ASOP No. 9 and No. 41. I would argue, however, that the overlap is not complete. As detailed below, a repeal of ASOP No. 9 would omit several items. It may be decided that some or all of these items are too specific or too trivial to justify retaining an otherwise superfluous standard but their omission should be noted. One potential solution would be to revise ASOP No. 41 so that it includes items from ASOP No. 9 that would otherwise be lost.

ASOP No. 9 sections 2.3, 2.4, 2.5:

These terms are not used or defined in ASOP No. 41. However, section 3.4 of ASOP No. 41 addresses Prescribed Actuarial Communications, which are analogous to Required Actuarial Documents (defined in 2.3) and ASOP No. 36 covers Statements of Actuarial Opinion (2.4) in great detail.

section 5.2: Mr. Herbers's comments have already addressed the discrepancies between this section and ASOP No. 41 sections 3.1.8 and 3.6

section 5.4: The wording in section 3.1.8 of ASOP No. 41 omits the prescription that the actuary should advise the principal of a conflict of professional judgement and include qualifications in the actuarial communication.

section 5.5: The correspondence between this section and ASOP No. 41 section 3.1.5 is not at all clear. Although some of the intent of section 5.5 may overlap with ASOP No. 41 section 3.6 or Precept 10 (Annotation 10-5) of the Code of Professional Conduct, section 5.5 appears to address situations that are not clearly covered by either one.

section 5.6: It is not clear whether an indirect user (the term used in ASOP No. 9) would be covered under the term prospective Principal (used in the Code of Professional Conduct, Precept 7).

section 5.9: Precept 3 of the Code of Professional Conduct does not specifically address the issue of waived fees, which is the entire purpose of this section.

Note also that section 6.1 of ASOP No. 9 was omitted from the table but very clearly corresponds to section 4.2 of ASOP No. 41

Thank you for your consideration and hard work.

Eric L. Savage, FCAS

Commentator #3 - July 8, 2007 – 4:47 p.m.

It is not clear what will happen to the 3 Statement of Principles. Will they also be repealed or included in a separate document? I personally believe the Principles to be valuable and would like them to be maintained.

Matt Kunish, FIA, FCAS, FSA, MAAA
Vice President & Actuary
Crum & Forster



Express Mail: 2817 Reed Road, Suite 2, Bloomington IL 61704
Reg. Mail: P.O. Box 6139, Bloomington IL 61702-6139
Phone (309) 665-5010 • Fax (309) 662-8116

Joseph A. Herbers, ACAS, MAAA
e-mail jherbers@pinnacleactuaries.com

July 7, 2007

ASOP 9 Repeal
Actuarial Standards Board
1100 Seventeenth Street, NW, 7th Floor
Washington, DC 20036-4601

Re: Proposed Repeal of ASOP 9

A key feature of ASOP 9 that has been debated among my fellow actuaries relates to Section 5.2 - Extent of Documentation. In particular, the last two sentences read:

“Any material changes in sources of data, assumptions, or methods from the last analysis should be documented. The actuary should explain the reason(s) for and describe the impact of the changes.”

I believe this provision puts a significant (but altogether appropriate) burden on the actuary to justify judgments made in the current year analysis if it was developed using significantly different means (either data, assumptions or methods) from the prior year.

Many actuaries adamantly disregard the last sentence of Section 5.2 - that is they do not view the need to quantify the impact of such material changes because it is “hidden” in Section 5.2. For example, there is no mention of the need to describe the impact of changes in ASOP 36 as relates to formal Statements of Actuarial Opinion (SAO). Section 4.5 of ASOP 36 does require the actuary to disclose the nature of such changes, but stops short of requiring the actuary to “describe the impact of such changes.” So many actuaries don’t provide such disclosures in the SAO nor in the actuarial report supporting the SAO as it is not required by ASOP 36. But it is required by ASOP 9.

My review of sections 3.1.8 and 3.6 of ASOP 41 (Actuarial Communications) do not reveal any requirement similar to that in ASOP 9 that the actuary describe the impact of such changes.

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My review of Precepts 4, 5 and 6 (involving Communications and Disclosures) of the Code of Conduct promulgated by the American Academy of Actuaries reveals no such requirements.

I believe this is the most significant impact of the repeal of ASOP 9 and would request that members of the Academy be made aware of this "relaxation" in the standards of practice. That presumes this is truly the intent of the Actuarial Standards Board and not an oversight.

Thank you for considering these comments.

Regards,

A handwritten signature in black ink, appearing to read "Joe Herbers". The signature is stylized and cursive.

Joseph A. Herbers, ACAS, MAAA
Principal & Consulting Actuary