

28 February 2020

Actuarial Standards Board (ASB)
Modeling Task Force
1850 M Street NW
Suite 300
Washington, DC 20036

Re: Request for Input on Potential Property/Casualty Rate Filing ASOP

Dear Colleagues,

The Policy Professionalism Review Council, a committee of the Casualty Actuarial Society, has reviewed and discussed your request for comment and offers the following suggestions.

Before replying to the specific numbered items, we'd like to share some observations on the imperfect analogy between ASOPs 43 and 36 and ASOPs 53 and the proposed one.

The proposed ASOP should apply only to the actuarial memo, if any, contained in the filing, just as ASOP 36 only applies to the NAIC Statement of Actuarial Opinion and not to the yellow book itself. Applying an ASOP to the proposed rate being filed for, as opposed to the actuarial memo, would be an attempt to regulate a business decision rather than actuarial work. Similarly, no ASOP governs the booked reserve in the yellow book, only the actuarial statement of opinion about that reserve.

All that said, the situations are not completely analogous. Financial statements are not marketing or pricing decisions, so the ASB's indirect influence on them via providing standards around the NAIC Statement of Actuarial Opinion is not likely to be challenged on antitrust grounds. On the other hand, providing guidance specifically aimed at any portion of a rate filing could appear to cross the line from regulating actuarial practice and into collusive behavior. The ASB should have thorough legal review done to be sure promulgating this ASOP would not run afoul of the law. We understand that one driving force for this ASOP may be the desire to incorporate the CAS principles of ratemaking into the ASOPs (including the language "not inadequate, excessive, or unfairly discriminatory" that is also embedded in many statutes and in NAIC model law). If this is the primary goal, this might be more simply accomplished by amending ASOP 53.

Finally, if the proposed ASOP moves forward, it will need to contemplate all "rate filings": including regulatory filings by statutorily authorized entities like the California Earthquake Authority, by captive insurance companies, and by risk retention groups—and whether slightly different guidance may be appropriate in different cases, or not. Consideration should also be given to how and whether this standard would apply to

actuarial guidance on individual risk rating in situations where the individually determined rate may itself need to be filed.

In response to the specific numbered areas for comment, the Policy Professionalism Review Committee gives the following considerations. (We have placed in brackets questions or portions thereof where we have no specific comments.)

1. What are the existing or current actuarial responsibilities in determining the final proposed rates?

Practice varies by line of business and by company. Actuaries are typically responsible for determining a cost-plus rate need in compliance with the current ASOPs. This determination includes development of historical claims data and projected trend, and is typically based on company data, third-party data (e.g., from Verisk, NCCI, AAIS, etc.), and competitive market information to the extent that it is relevant to the actuary's judgment. To the extent that this information is desired at a detailed segment level, the actuary would use statistical or machine learning approaches, such as generalized linear models or generalized additive models, along with credibility approaches (including various shrinkage techniques) to develop best estimates at a detailed level. Responsibility for the structure of an experience-rating plan is also typically actuarial.

However, this only determines the actuarially indicated rate. Whoever owns the profits and loss typically has the final say as to what rates the filing will ask for. This would often be a state manager in the context of personal lines business or an underwriting lead in the context of commercial accounts. It could also be someone with the title "actuary" who is not acting as an actuary in this particular instance. This decision would be taken with a view to all stakeholders, including external distribution partners, field personnel, and the marketing organization. The extent to which the actuarial work mentioned in the previous paragraph is included in the filing depends entirely on the regulations for the line of business in the state in question. To the extent underlying actuarial work is not required by regulation, it may or may not actually be performed. Indeed, in profitable markets where there is little innovation by competitors, an actuarial review may not be justified from a cost perspective.

2. What are the existing or current actuarial responsibilities in the development of a rate filing?

Actuarial responsibilities in the development of a rate filing vary from company to company. Some keep actuaries involved in only the minimum amount necessary—preparing an actuarial memo, if required, and answering regulatory questions of an actuarial nature. (Even these are often done through an intermediary regulatory-relations department.) At other companies, actuaries own the entire rate filing process.

3. Are there aspects of rate filings that you consider actuarial in nature? What aspects do you consider not actuarial in nature?

The actuarial aspects of rate filings include:

- Writing the actuarial memo, if any, that supports the proposed rates. This typically includes:
 - Development of the indicated rate
 - Actuarial justification that requested deviations from that indication do not result in a rate that is inadequate, excessive, or unfairly discriminatory.
- Responding to regulatory questions of an actuarial nature
- To the extent that state law incorporates requirements of an actuarial nature, ensuring that the filing meets those requirements

Non-actuarial aspects of rate filings include, but are not limited to:

- Filling out checklists to summarize filing content
- Querying historical financial data (often required in the filing form, quite separately from its use in the actuarial memo)
- Revising the rating manual pages or rule manual pages
- Preparing the filing submission in SERFF
- Monitoring SERFF for objections or approvals
- Ensuring that the format (and other non-actuarial aspects) of the filing conform to state law

4. What aspects of a rate filing frequently cause issues during regulatory review?

[a. Do these issues cover actuarial content that should adhere to ASOP guidance?

b. If so, what makes these issues actuarial content in your opinion?

c. If not considered as actuarial content, why not?]

Aspects of rate filings that frequently cause issues during review include:

- Filings related to new entities or to new coverages (e.g., cyber) or to new entrants (e.g., a company new to writing medical malpractice in a particular state), and that burden on the actuary to defend the choice and use of information in support of the proposed rates.
- Disagreements regarding appropriateness, relevance, and “completeness” of the data underlying the rate filing. This includes whether countrywide data are relevant to the class plan in a particular state, whether years of data that were either too old or too immature were included, and whether old data were adjusted to reflect, e.g., a recent state supreme court decision.
- Request for more explanation when rate changes are selected and the full indications are not filed.
- Questions on support for trend selections

- Questions on support for profit, contingency, investment income, cost of capital selections.
- Requests for more underlying data or actuarial support than included in the filing documents.
- Request for all underlying data – sometimes this information is confidential (especially for modelling filings) and can only be provided if filed under a confidentiality agreement.
- When filings use sophisticated modeling techniques, gaps in expertise on the part of the reviewer and gaps in explanation on the part of the filer.
- Delays in review.
- Delays in response to regulatory questions.

[5. Given that many rate filings contain the results of large computer modeling, does the proposed ASOP on Modeling sufficiently address your concerns with regard to rate filings?]

6. What actuarial aspects need further guidance to actuaries in the rate determination process beyond the guidance already contained in existing ASOPs?

Guidance that is not already included in existing ASOPs that might be valuable (or might not—much of this might more appropriately be the scope of law and regulation rather than professional standards):

- What are the bases for opining on the reasonableness of a proposed rate that differs from the indication? Confidence intervals? Competitive position? Market data? Business judgment when data are inadequate?
- If not specified in regulation, what are appropriate bounds on profit provisions? To what extent is it permissible to vary the profit provision between groups of customers for the same line of business in the same state?
- Many filings cap changes to mitigate large swings. What are considerations around appropriate ways to do this? Do there need to be knock-on provisions for changes in subsequent years until rates get sufficiently close to indicated levels, or is that best left to a filing a year hence, for example, or is either approach acceptable?

7. What actuarial aspects need further guidance to actuaries in the rate filing process beyond the guidance already contained in existing ASOPs?

Current ASOPs do not provide sufficient guidance that actuaries need to be aware of applicable law and regulation. This might, however, be better addressed by amending ASOP 1 than by writing a new ASOP.

8. Is guidance to actuaries needed for all rate filings?

[a. All lines of insurance?

b. All types of rate regulation laws (prior approval, file and use, use and file, etc.)?

c. If not needed for all filings, which specific filings either limited to specific lines of insurance, rate regulatory laws, or other conditions would trigger activation of the ASOP?]

If the ASB proceeds with this ASOP, it should be applicable to all rate filings. Anything else would result in something analogous to forum shopping.

9. Should the scope of this standard be confined to filings that require an actuarial certification?

It's not clear that an actuarial organization would have a basis to opine on non-actuarial work. While the scope should not be confined to rate filings that require an actuarial certification, for the reason mentioned in item 8 above, it should be confined to aspects of the filings that are specifically actuarial in nature. The advantage of the current system of ASOPs is that it is clear which aspects are actuarial in nature...they are covered by very specific ASOPs. A rate filing ASOP could confuse this.

The PPRC does not have strong opinions either for or against the need for this ASOP. It is certainly appealing to have an ASOP regarding a very common actuarial statement, but there are also risks, as we have outlined above.

Several of the positive things that could be accomplished by creating a new ASOP could also be accomplished by amendments to ASOPs 1, 41, and 53. In particular, amendments to ASOP 41 to better clarify how actuaries should interact with regulators and with regulated entities would be beneficial across a far wider range of situations than the narrow scope of property/casualty rate filings. Also of far wider application would be an additional subsection of section 4 of ASOP 1 to outline the responsibility of the actuary to research and understand law and regulation applicable to the actuarial work product. The *Code of Professional Conduct* imposes such an obligation, but, on one reading, only with respect to law regarding professional conduct.

In the event that the ASB decides to proceed with this ASOP, we hope the details we have provided will be found helpful.

Regards,

Christopher Monsour, Chair
The Professionalism Policy Review Council of the Casualty Actuarial Society

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