

Appendix 2

Comments on the Exposure Draft and Responses

The exposure draft of the repeal of ASOP No. 9, *Documentation and Disclosure in Property and Casualty Insurance Ratemaking, Loss Reserving, and Valuations*, was issued to the membership in June 2007 with a comment deadline of August 15, 2007. Seven comment letters were received. The Casualty Committee and the ASB carefully considered all comments received. Summarized below are the significant issues and questions contained in the comments and responses to each. The term “reviewers” in appendix 2 refers to the Casualty Committee and the ASB.

GENERAL COMMENTS	
Comment	One commentator said that the inclusion of the Statement of Principles (Principles) in the appendix of the ASOP gave higher visibility to the Principles. The commentator suggested that the Academy and the ASB find a way to retain access and visibility of the Principles.
Response	The reviewers note that the Principles are not issued or maintained by the ASB. The Principles are readily available on the Casualty Actuarial Society (CAS) website.
Comment	It was noted by a commentator that it was not clear whether the Principles were being retained or repealed.
Response	The action of the ASB to repeal ASOP No. 9 will have no direct impact on the retention or repeal of the Principles since they are issued by the CAS.
Comment	One commentator stated that the overlap between ASOP No. 9 and ASOP No. 41, <i>Actuarial Communications</i> , was not complete. The repeal of ASOP No. 9 would omit several key items. The commentator suggested that the ASB should revise ASOP No. 41 so that appropriate items from ASOP No. 9 are included.
Response	It is the reviewers’ belief that key items within ASOP No. 9 are adequately covered in other ASOPs and the <i>Code of Professional Conduct</i> .
Comment	One commentator noted that the Annual Statement Instructions for the Statutory Statement of Actuarial Opinion for loss reserves provide references to various ASOPs, specifically including ASOP No. 9. The Casualty Actuarial Task Force (CATF) of the National Association of Insurance Commissioners (NAIC) in its Annual Guidance publications references and quotes directly from definition 2.1 of ASOP No. 9. In addition, in its comments on ASOP No. 43, <i>Property/Casualty Unpaid Claim Estimates</i> , the CATF stressed the importance of ASOP No. 9 to regulators and ASOP No. 9’s relevance to ASOP No. 43.
Response	The reviewers note that references to ASOP No. 9 can be replaced by references to ASOP No. 41, other ASOPs, and the <i>Code of Professional Conduct</i> . Until these references are changed, appendix 1 of the repeal document for ASOP No. 9 provides the appropriate cross references.
Comment	Several commentators stated ASOP No. 41 sets a lower standard of practice than ASOP No. 9. They commented that ASOP No. 9 is not redundant with ASOP No. 41 and, in fact, ASOP No. 41 has weaker language in several instances.
Response	The reviewers compared ASOP No. 9 to the relevant sections of other ASOPs as well as the <i>Code of Professional Conduct</i> . The reviewers concluded that the guidance in ASOP No. 9 is adequately covered in ASOP No. 41, other ASOPs, and the <i>Code of Professional Conduct</i> .

SECTION 2. DEFINITIONS	
Section 2.1, Actuarial Report	
Comment	Several commentators noted that ASOP No. 9 in this section sets a higher standard than ASOP No. 41 since ASOP No. 9 includes additional language stating that the actuary was “ensuring that the parties addressed are aware of the significance of the actuary’s opinion or finding.” Failure to include this language weakens the resulting standard and opens the door to placing the burden of determining the significance on the addressees (often regulators).
Response	The reviewers believe this issue is adequately addressed by ASOP No. 41, sections 3.1 and 3.2.
SECTION 5. ANALYSIS OF ISSUES AND RECOMMENDED PRACTICES	
Section 5.2, Extent of Documentation	
Comment	Several commentators noted that, particularly with regard to reserves, the elimination of language requiring the actuary to document any material changes in sources of data, assumptions, or methods from the last analysis, and to explain the reason and describe the impact of these changes, is a relaxation of the standard. Most of these commentators believe that ASOP No. 9 requires quantification of the impact of these changes. It was further suggested that no similar language is found in other ASOPs or the <i>Code of Professional Conduct</i> .
Response	The reviewers note that similar language exists within other ASOPs, including those applying to reserves. For example, the reviewers refer the readers to ASOP No. 43, section 4.2(b); ASOP No. 36, section 4.2(a); and ASOP No. 13, section 4.2(b). The reviewers also believe that the requirement to “describe the impact of these changes” in ASOP No. 9 does not require a quantification of the impact.
Comment	One commentator noted that ASOP No. 9 requires documentation to be sufficient for another actuary practicing in the same field “to evaluate the work,” whereas ASOP No. 41 requires documentation to be sufficient for another actuary practicing in the same field “to evaluate the reasonableness of the actuary’s work.”
Response	The reviewers do not believe this difference is material.
Section 5.4, Disclosure of Conflict with Professional Judgment, and of Advocacy	
Comment	One commentator noted that ASOP No. 41 omits the requirement that the actuary should advise the principal of a conflict of professional judgment and include qualifications in the actuarial communication.
Response	It is the reviewers’ belief that this topic is adequately addressed in ASOP No. 41, sections 3.4.4 and 4.3.
Section 5.5, Availability of Documentation	

Comment	One commentator noted that the correspondence between this section and ASOP No. 41 was not at all clear. While some intent of section 5.5 may overlap with sections of ASOP No. 41 and Precept 10 of the <i>Code of Professional Conduct</i> , section 5.5 is broader.
Response	<p>Section 5.5 of ASOP No. 9 makes three basic statements: (1) Documentation should be available to the actuary’s client or employer; (2) Documentation should be available to others when the client or employer requests if adequate compensation is made, and it is not improper; and (3) Ownership of documentation is established in accordance with law.</p> <p>Sections 2.4 and 3.2 of ASOP No. 41 provide guidance on documentation to be made available to intended users. The second statement is addressed in Precept 10 of the <i>Code of Professional Conduct</i>, which requires the actuary to cooperate in furnishing relevant information, subject to receiving reasonable compensation, when a principal has given consent. The third statement does not establish a requirement but rather notes that ownership is determined by laws outside control of the ASB. The reviewers believe removing this statement should not impact the application of law.</p>
Section 5.6, Conflicting Interests	
Comment	One commentator noted that it was not clear that the indirect user would be covered under the term “prospective principal” as used in the <i>Code of Professional Conduct</i> .
Response	The reviewers believe that the language found in Precept 8 of the <i>Code of Professional Conduct</i> provides sufficient guidance regarding indirect users.
Section 5.9, Waiver of Fee	
Comment	One commentator noted that in Precept 3 of the <i>Code of Professional Conduct</i> the issue of waived fees is not addressed.
Response	The reviewers note that Precept 3 requires the actuary to satisfy professional standards regardless of whether there is any compensation.
SECTION 6. COMMUNICATIONS AND DISCLOSURES	
Section 6.1, Deviation from Standard	
Comment	One commentator noted that while ASOP No. 41 has a similarly titled section, Deviation from Standard, ASOP No. 9 contains additional language requiring an appropriate and explicit statement with respect to the nature, rationale, and effect of such deviation. ASOP No. 41 merely requires that the actuary justify deviation from the standard.
Response	The reviewers believe that section 4 of ASOP No. 41 adequately addresses this issue.