



AMERICAN ACADEMY *of* ACTUARIES

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August 24, 2020

Kinna Brewington
Internal Revenue Service
Room 6529
1111 Constitution Avenue NW
Washington, DC 20224

RE: Proposed Form Relating to the Annual Certification for Multiemployer Defined Benefit Plans
OMB Number: 1545-2111. Regulation Project Number REG-151135-07.

Dear Ms. Brewington:

The Multiemployer Plans Committee of the American Academy of Actuaries¹ is providing comments on the proposed form relating to the annual certification for multiemployer defined benefit plans. Our comments are organized below based on the particular interest identified in the notice and some additional comments.

- **Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility**

We have interpreted “functions of the agency” in this context as the collection of the annual certifications by plan actuaries in accordance with Employee Retirement Income Security Act (ERISA) 432(b)(3)(A). The annual certification includes the zone status and whether the plan is making scheduled progress. On this basis, the proposed form would allow the agency to meet this function, but we believe the practical utility is very limited. However, if the form allows the agency to make the data readily available to the public after it has been compiled and reviewed, then we see that as an improvement in practical utility.

Actuaries submit certifications in various formats and lengths, which likely include the support for the annual certifications such as calculation details, minimum funding projections, and solvency projections. The practical utility could be enhanced if the form were expanded to

¹ The American Academy of Actuaries is a 19,500-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

include additional information (e.g., projected year of insolvency for plans in Critical & Declining status, when the Funding Improvement Plan or Rehabilitation Plan is scheduled to be completed as a result of emergence, and whether the Rehabilitation Plan is forestalling insolvency), but note that would broaden the scope and additional burden on the respondents. Some of this additional information is already provided on the Form 5500 Schedule MB, but that is typically not reported until almost two years later.

We believe an appropriate alternative would be for the agency to detail information that should be provided in attachments to the form. The last sentence of the “Purpose of Form” section of the General Instructions indicates that such information may be attached to the form. We believe such information should be required as an attachment. We believe that generally actuaries are already currently including this information in certifications to plan sponsors, in compliance with actuarial standards of practice (ASOPs), and much of that material is eventually filed as an attachment to the Form 5500 Schedule MB; as such, there would be no increased burden.

- **Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used**

We agree with the agency’s estimate of the burden of 45 minutes per plan to complete the form. However, the total annual burden is likely fewer than 1,200 hours because some plans are not required to complete the annual certification (terminated plans, insolvent plans, and plans created after July 16, 2006). We estimate the total annual burden to complete the form to be closer to 900 hours assuming 1,200 respondents.

- **Enhance the quality, utility, and clarity of the information to be collected**

We do not believe the proposed form would enhance quality given the very limited information collected. However, the utility and clarity may be enhanced given the ease of use with the electronic submission, which should reduce the possibility of data entry error. Ultimately, utility and clarity will depend on how the agency is using this data.

The agency should consider clarifying the instructions for Part IV. In our view, plans neither endangered nor critical that do not have a Funding Improvement Plan or Rehabilitation Plan should not be required to respond. Furthermore, the instructions would benefit by clarifying when it is appropriate to select “N/A”—we have assumed this is for plans that are in the adoption period.

Note, a modification is needed to Part III. The item “Critical due to election under Section 432(b)(4)” would not be known until 30 days after the certification is due. We suggest replacing this with a check box “Projected Critical within 5 years” that could be selected if applicable along with the current zone status.

- **Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., by permitting electronic submissions of responses**

Actuaries are bound by the Code of Professional Conduct, which includes, among other items, adhering to the U.S. Qualification Standards and the actuarial standards of practice when providing a Statement of Actuarial Opinion. While the form is simple, we believe it would be a Statement of Actuarial Opinion. Therefore, to allow actuaries to satisfy their professional standards, we recommend the agency require supporting documentation be attached to the form (e.g., exhibits, projections, assumptions and methods, plan provisions, and all necessary disclosures). We believe the form would not replace our current method of preparing certifications and while it would instead increase the overall burden on responding actuaries, the agency's burden would decrease significantly for time spent compiling the data, which may create an opportunity to more quickly publish the data.

The ability to submit the form electronically reduces the additional time and expense of mailing, but we've had this as an option for a few years.

- **Other comments**

We suggest that the "Statement by Enrolled Actuary" section should more closely align with the language on the Form 5500 Schedule MB.

We appreciate the clarification in the instructions that the form due date is adjusted for weekends and holidays.

In Part II, Plan Actuary's Information, you are requesting the address of both the plan actuary and their firm. We suggest removing 2b and renumbering the other items.

We suggest the form be reviewed for formatting, including spacing, capitalizing defined terms, and consistent font size.

The Multiemployer Plans Committee appreciates the opportunity to provide this input. We would be happy to discuss any of the issues raised in this letter at your convenience. Please contact Philip Maguire, the Academy's pension policy analyst (202-785-7868 or maguire@actuary.org), if you have any questions or would like to discuss these issues further.

Sincerely,

Christian Benjaminson, MAAA, FSA, EA
Chairperson, Multiemployer Plans Committee
American Academy of Actuaries