

RESPONSE TO PUBLIC COMMENTS

American Academy of Actuaries

- *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.*
 - There will be no required attachments to the form. The Service utilizes the information provided on the Form 5500 series to address more detailed information regarding the multiemployer actuarial funding. It will be at the discretion of the actuary whether or not to include attachments to the form.
 - If additional information is deemed necessary in future years, modifications may be made to the form’s instructions.
- *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.*
 - The Service concurs that this is a more precise estimate of the total annual burden.
- *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.*
 - The Service concurs that clarification is necessary regarding Part IV.
 - A suggested revision is to add the following to the instructions: “If the plan is not required to have a Funding Improvement Plan or Rehabilitation Plan, i.e. the funding zone is Neither Endangered nor Critical, this section may be skipped. If the plan is still in the adoption plan period, select “N/A.” In addition, only one selection should be made, depending on the funding zone. “N/A” may be selected for the other. Either a selection of “Yes” or “No” should be made for a Funding Improvement Plan or a Rehabilitation Plan, but not both.”
- *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.*
 - The intent of this item is to identify those plans that have made the election to enter Critical status. If replaced by “Projected Critical within 5 years,” those plans making the election would not be identified.
 - We are aware that the first plan year the election is made may not be reflected on the certification, as the election is not due until 30 days later. The subsequent year’s certification should reflect the election. If it is not known if an election will be made for the first year, an amended certification can be filed.

- *We suggest that the “Statement by Enrolled Actuary” section should more closely align with the language on the Form 5500 Schedule MB.*
 - o The Statement by Enrolled Actuary can be changed to the following, to more closely align with the Form 5500 Schedule MB:

“To the best of my knowledge, the information supplied in this schedule and accompanying schedules, statements and attachments, if any, is complete and accurate. As required by Section 432(b)(3)(B)(iii), the projected industry activity is based on information provided by the plan sponsor. Each prescribed assumption was applied in accordance with applicable law and regulations. In my opinion, each other assumption is reasonable (taking into account the experience of the plan and reasonable expectations) and such other assumptions, in combination, offer my best estimate of anticipated experience under the plan.”
- *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.*
 - o The Service concurs with this statement, and 2b will be removed.

Segal

- *The Instructions state that the Proposed Form may be provided by email with “Multiemployer Certification” in the subject line. We suggest that the Instructions allow additional information (such as the plan name) be provided in the subject line for ease of reference for actuaries responsible for multiple filings.*
 - o The Service has no objection to including additional information in the subject line.
- *The Instructions state that the annual status certification should include, among other things, a statement as to when the plan adopted a funding improvement plan (FIP) or rehabilitation plan (RP), if applicable. We believe that such information is not helpful because FIPs and RPs are to be updated annually. If, however, the intent is to establish whether a “scheduled progress” certification (line 4) is required, the date that the Funding Improvement Period or Rehabilitation Period began would provide that information. The targeted year of emergence for a plan in critical or endangered would also be informative. The Instructions permit, but do not require, that actuarial projections, statements (such as the date on which a plan has adopted or modified a FIP or RP), and exhibits be attached to the Proposed Form. If information as to the date of the original adoption of the FIP or RP is nonetheless required to be provided on the Proposed Form, the Instructions and the Proposed Form should be modified to specifically require this information.*
 - o The intent is to identify when the FIP or RP was initially adopted. The Instructions may be revised for clarity, from “when a plan has adopted,” to “when a plan originally adopted.”
 - o This information is not required, as Part IV addresses whether the plan is making scheduled progress.
- *Neither the Instructions nor the Proposed Form address plans that are subject to emergence from critical status under the rules provided under IRC §432(e)(4)(B)(ii). We suggest both the Instructions and the Proposed Form be modified to include this.*
 - o The Service respectfully declines to make this suggested revision, as sufficient information is requested to determine if the plan has emerged from critical status.