



## **JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES**

### **20 CFR Part 901**

**[REG-127915-17]**

**RIN 1545-BQ30**

### **Regulations for Continuing Professional Education Requirements of the Joint Board for the Enrollment of Actuaries**

**AGENCY:** Joint Board for the Enrollment of Actuaries.

**ACTION:** Proposed rule.

**SUMMARY:** This document sets forth proposed regulations that would amend the continuing professional education requirements for actuaries enrolled by the Joint Board for the Enrollment of Actuaries (Joint Board). These proposed regulations would remove the physical presence requirement for formal continuing professional education programs required for active enrolled actuaries and the physical location requirement from course certifications. These proposed regulations also would modify the continuing professional education requirement for certain actuaries who seek to return to active enrollment from inactive status due to their failure to timely satisfy the renewal requirements in the first enrollment cycle after their initial enrollment cycle. Finally, the proposed regulations would add a requirement that certificates of instruction for continuing professional education courses include the number of hours counted towards the required number of hours for formal programs. These proposed regulations solely address the enrollment rules of the Joint Board and do not affect pension plans, plan participants, or the general public.

**DATES:** Written or electronic comments and requests for a public hearing must be received by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Commenters are strongly encouraged to submit public comments electronically. Submit electronic submissions via the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov) (indicate IRS and REG-127915-17) by following the online instructions for submitting comments. Requests for a public hearing must be submitted as prescribed in the “Comments and Requests for a Public Hearing” section. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. Because the Joint Board’s Executive Director office is within the IRS Return Preparer Office, the Department of the Treasury (the Treasury Department) and the Internal Revenue Service (IRS) will publish for public availability any comment, whether submitted electronically or on paper, to its public docket. The Treasury Department and the IRS are collecting comments on behalf of the Joint Board. Send paper submissions to: CC:PA:01:PR (REG-127915-17), room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, D.C. 20044.

**FOR FURTHER INFORMATION CONTACT:** Thomas Curtin, Executive Director, Joint Board for the Enrollment of Actuaries at (202) 317-3559; concerning submission of comments, the public hearing, and the access code to attend the hearing by telephone, Vivian Hayes at (202) 317-6901 (not toll-free numbers) or [publichearings@IRS.gov](mailto:publichearings@IRS.gov) (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:**

**Background**

This document sets forth proposed amendments to 20 CFR Part 901 under section 3042 of the Employee Retirement Income Security Act of 1974 (88 Stat. 829), Public Law 93-406 (ERISA). Section 3042 of ERISA provides that the Joint Board shall, by regulations, establish reasonable standards and qualifications for persons performing actuarial services with respect to plans to which ERISA applies and, upon application by any individual, will enroll such individual if the Joint Board finds that such individual

satisfies such standards and qualifications. The Joint Board's Executive Director and staff are located within the IRS's Return Preparer Office, and, accordingly, the Treasury Department and the IRS are assisting with the drafting of these proposed regulations.

Section 901.11 of the Joint Board regulations provides enrollment procedures for the Joint Board, including continuing professional education requirements for enrolled actuaries. Section 901.11(d) provides that, to maintain active enrollment to perform actuarial services under ERISA, each enrolled actuary is required to periodically renew enrollment. Pursuant to section 901.11(d)(1), the process for renewing enrollment as an enrolled actuary with the Joint Board occurs on a three-year cycle. Part of the renewal process includes a certification that the actuary satisfied a continuing professional education requirement. Pursuant to section 901.11(e)(2)(i), 36 hours of continuing professional education credits are required within the three-year cycle for every enrolled actuary. For newly enrolled actuaries, however, the 36-hour requirement is reduced pursuant to section 901.11(e)(2)(ii) or (iii) depending on the particular year of the three-year cycle in which the actuary enrolled. Under these rules, those who initially enroll during the first year of an enrollment cycle must complete 24 hours of continuing professional education; those who enroll during the second year of an enrollment cycle must complete 12 hours of continuing professional education; and those who enroll during the third year of an enrollment cycle are exempt from the continuing professional education requirements until the next enrollment cycle.

Pursuant to section 901.11(f)(1), in order to earn their required continuing professional education credits, enrolled actuaries must attend qualifying programs (as defined in section 901.11(f)(2)) conducted by qualifying sponsors (as defined in section 901.11(f)(3)) and at least a third of the credits must be earned by attending a formal program (as defined in section 901.11(f)(2)(ii)). Formal programs under section 901.11(f)(2) are required to include an in-person element, and special rules apply

depending on whether the enrolled actuary is participating in the program as a participant or as an instructor (physical presence requirement). A program participant must simultaneously participate in the program in the same physical location with at least two other participants engaged in substantive pension service, and the participants must have the opportunity to interact with a qualified individual who serves as an instructor (whether or not in the same physical location). Instructors, however, must be in the physical presence of at least three other individuals engaged in substantive pension service.

Section 901.11(f)(3) defines qualifying sponsors as organizations recognized by the Executive Director of the Joint Board whose programs offer opportunities for continuing professional education. Pursuant to section 901.11(f)(3)(iv), upon verification of successful completion of a qualifying program, the program's qualifying sponsor must furnish each individual who successfully completed the qualifying program with a certificate listing certain information, including the location of the program. Section 901.11(f)(3)(v) further requires that the program's qualifying sponsor must furnish to each instructor, discussion leader, or speaker a certificate listing certain information, including the location of the program.

An actuary who fails to timely satisfy the requirements for renewal of enrollment is placed in inactive status pursuant to section 901.11(l)(4). Section 901.11(l)(7)(i) specifies the continuing professional education requirements for actuaries who seek to return to active enrollment after being placed in inactive status. Currently, under section 901.11(l)(7), all actuaries in their first inactive enrollment cycle, including newly enrolled actuaries, must complete 36 hours of qualifying continuing professional education in order to return to active status. That is, section 901.11(l)(7)(i) disregards the special rules under section 901.11(e)(2)(ii) or (iii) that prorate the number of hours of continuing professional education required for newly enrolled actuaries based on the year of their

initial enrollment.

Prior to the commencement of the COVID-19 pandemic, some interested parties had sent comments to the Joint Board expressing the view that the physical presence requirement is outdated and imposes a burden on actuaries who are unable, for health, safety, or other reasons, to meet the physical presence requirement. Once the COVID-19 pandemic commenced, qualifying sponsors were prevented from conducting in-person continuing professional education programs. As a result, and consistent with its waiver authority under section 901.11(k), the Joint Board announced in August of 2020, via a news release (IR-2020-177, August 10, 2020), and notified all enrolled actuaries and qualifying sponsors, that the Joint Board was waiving the physical presence requirement for continuing professional education programs through the end of the enrollment cycle ending on December 31, 2022. The Joint Board announced in March of 2024, and notified all enrolled actuaries and qualifying sponsors, that the waiver was being extended. The extended waiver applies to continuing professional education credits earned for programs held during the period from January 1, 2023, through the date that is 30 days after the publication of the Treasury decision finalizing these proposed regulations.

## **Explanation of Provisions**

### **A. Modification of Definition of Formal Program**

This document sets forth proposed regulations that would amend section 901.11 of the Joint Board regulations to remove the physical presence requirement from the definition of a formal program. After considering the input of interested parties and taking into account the successful operation of the continuing professional education programs that were conducted during the COVID-19 pandemic in 2020, 2021, and 2022 without a physical presence requirement, the Joint Board is proposing to permanently eliminate the physical presence requirement for formal continuing professional

education programs for active enrolled actuaries and also to permit educational materials to be delivered in an electronic format.

In eliminating the physical presence requirement, these proposed regulations would remove the requirement that the instructor of a qualifying program be in the physical presence of the program participants in order for the instructor to receive formal credit and the requirement that a program participant be in the same physical location as other program participants in order for the participant to receive formal credit. These proposed regulations would retain the requirement that the participants have an opportunity for real-time interaction with an instructor to receive formal credit. These proposed regulations would further provide that any materials (for example, outlines, or textbooks) for the qualifying program still need to be written and made available to the participant, but need not be provided in physical paper-based form; rather, they could be provided by any other mode of conveying written educational material.

#### B. Amendment to the Additional Continuing Professional Education Requirement for Return to Active Enrollment from Inactive Status

These proposed regulations would change the requirement in section 901.11(l)(7)(i) that an enrolled actuary who fails to satisfy the renewal requirements by the deadline set forth in section 901.11(d) must complete 36 hours of continuing professional education, if the failure to timely renew is for the enrollment cycle immediately following the actuary's initial enrollment cycle. Specifically, these proposed regulations would add an exception to the rule regarding the number of continuing professional education hours required to renew enrollment in this case. Under this exception, actuaries who fail to timely renew their enrollment for the enrollment cycle immediately following their initial enrollment cycle could adjust the requirement to complete 36 hours of continuing professional education based on the year of the prior

cycle in which they initially enrolled pursuant to section 901.11(e)(2)(ii) or (iii). These proposed regulations provide an example that illustrates the proposed change to the rule.

### C. Amendment to the Information Requirement for Certificates of Completion and Certificates of Instruction

These proposed regulations would eliminate the requirement that a certificate of completion and a certificate of instruction list the location of the training. These proposed regulations would also add a requirement that the certificate of instruction include the number of hours that are counted toward the formal program requirement in section 901.11(g)(2).

#### **Effective Date**

The regulations will not become effective until the date that is 30 days after the date of publication in the *Federal Register* of the Treasury decision finalizing these proposed regulations. For a course conducted on or after January 1, 2023, but prior to the date that is 30 days after the date the final regulations are published in the *Federal Register*, the March 2024 waiver described in the Background section of this preamble will apply with respect to the physical presence requirement.

#### **Special Analyses**

It is hereby certified that these regulations would not have a significant economic impact on a substantial number of small entities within the meaning of section 601(6) of the Regulatory Flexibility Act (5 U.S.C. chapter 6). The Joint Board believes that these proposed changes would primarily affect individual actuaries enrolled by the Joint Board and providers of their educational programs. These amendments would update the regulations in light of the workplace technology (including newly developed technology for delivering education and educational materials) that became more prevalent in response to the COVID-19 pandemic and that continues to develop in ways that make

the physical presence requirement unnecessary. In addition, these amendments to the regulations would revise the continuing professional education requirements for actuaries returning from inactive status and provide an exception to the 36-hour continuing professional education requirement for recently enrolled actuaries who fail to timely satisfy the requirements for renewal of enrollment. Notwithstanding this certification, the Joint Board invites comments from the public about the impact of these proposed regulations on small entities.

This rule has been designated as not significant for purposes of Executive Order 12866, as amended.

### **Paperwork Reduction Act**

Any collection of information under these proposed regulations has been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-0951. The regulations (20 CFR 901) require that records be kept that verify satisfaction of requirements and requirements for certificates of completion of continuing education. It is estimated that this recordkeeping will take .25 hours and that there are 4,100 recordkeepers annually for a total of 1,000 burden hours. Comments concerning the collection of information and the accuracy of estimated average annual burden and suggestions for reducing this burden should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224. Comments on the burden associated with this collection of information must be received by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

### **Comments and Requests for a Public Hearing**

Before these proposed amendments to the regulations are adopted as final regulations, consideration will be given to comments that are submitted timely to the Joint Board as prescribed in the preamble under the “ADDRESSES” section. The Joint Board requests comments on all aspects of these proposed regulations. Any comments submitted will be made available at [www.regulations.gov](http://www.regulations.gov) or upon request.

A public hearing will be scheduled if requested in writing by any person who timely submits electronic or written comments. Requests for a public hearing are also encouraged to be made electronically by sending an email to [publichearings@irs.gov](mailto:publichearings@irs.gov). If a public hearing is scheduled, notice of the date and time for the public hearing will be published in the *Federal Register*.

### **Drafting Information**

The principal author of these regulations is Tom Morgan of the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). Other personnel from the Treasury Department, the IRS, and the Joint Board also participated in the development of these regulations.

### **List of Subjects in 20 CFR Part 901**

Regulations governing the performance of actuarial services under the Employee Retirement Income Security Act of 1974

### **Proposed Amendments to the Regulations**

Accordingly, 20 CFR part 901 is proposed to be amended as follows:

### **PART 901—REGULATIONS GOVERNING THE PERFORMANCE OF ACTUARIAL SERVICES UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974**

**Paragraph 1.** The authority citation for part 901 continues to read as follows:  
Authority: Sec. 3042, subtitle C, title 3, Employee Retirement Income Security Act of 1974. (88 Stat. 1002, 29 U.S.C. 1241, 1242) \* \* \*

**Par. 2.** Section 901.11 is amended by:

1. Revising paragraphs (f)(2)(i)(D) and (f)(2)(ii)(A);
2. In paragraph (f)(2)(ii)(B), by removing “and the instructor is in the physical presence of at least three other individuals”;
3. In paragraph (f)(3)(iv)(C), by removing “, location,”;
4. In paragraph (f)(3)(v)(C), by removing “and location”;
5. Revising paragraph (f)(3)(v)(F);
6. Revising paragraph (l)(7)(i); and
7. Revising paragraph (o).

The revisions read as follows:

**§901.11 Enrollment procedures.**

\* \* \* \* \*

(f) \* \* \*

(2) \* \* \*

(i) \* \* \*

(D) Includes outlines, textbooks, and other written educational material;

\* \* \* \* \*

(ii) \* \* \*

(A) *Participants.* Formal programs are programs that meet all of the requirements of this paragraph (f)(2)(ii) and paragraph (f)(2)(i) of this section. Whether a program qualifies as a formal program is determined on a participant-by-participant basis. A qualifying program qualifies as a formal program with respect to a participant if the participant has the opportunity for real-time interaction with another individual qualified with respect to the course content who serves as an instructor, and at least three individuals engaged in substantive pension service simultaneously participate in the program in addition to the instructor. A qualifying program that is pre-recorded will

qualify as a formal program with respect to a participant if the participant has the opportunity for real-time interaction immediately after the pre-recorded program with a qualified individual who serves as the instructor or discussion leader and is available to answer questions, and at least three individuals engaged in substantive pension service simultaneously participate in the entire program (including the discussion time immediately following the pre-recorded program) in addition to the instructor or discussion leader.

\* \* \* \* \*

(3) \* \* \*

(v) \* \* \*

(F) Whether or not the program is a formal program with respect to the instructor and the number of hours counted toward the formal program requirement.

\* \* \* \* \*

(l) \* \* \*

(7) \* \* \*

(i) During the first inactive enrollment cycle, 36 hours of qualifying continuing professional education as set forth in paragraph (e)(2) of this section, without regard to the reduction in hours provided to newly enrolled actuaries set forth in paragraph (e)(2)(ii) or (e)(2)(iii) of this section must be completed, except with regard to actuaries whose first inactive cycle immediately follows the initial enrollment cycle, in which case, paragraph (e)(2)(ii) or (e)(2)(iii) of this section may be applied. Any hours of continuing professional education credit earned during the immediately prior enrollment cycle may be applied in satisfying this requirement.

\* \* \* \* \*

(o) Examples. The following examples illustrate the application of the rules of paragraph (l)(7) of this section and the effective date of an enrolled actuary's renewal:

(1) *Example 1.* Individual E, who was initially enrolled before January 1, 2008, completes 12 hours of core continuing professional education credit and 24 hours of non-core continuing professional education credit between January 1, 2011, and December 31, 2013. E files a complete application for reenrollment on February 28, 2014. E's reenrollment is effective as of April 1, 2014.

(2) *Example 2.* Individual F, who was initially enrolled before January 1, 2008, also completes 12 hours of core continuing professional education credit and 24 hours of non-core continuing professional education credit between January 1, 2011, and December 31, 2013. However, F does not file an application for reenrollment until March 20, 2014. The Joint Board notifies F that it has granted F's application on June 25, 2014. Accordingly, effective April 1, 2014, F is placed on the roster of inactive enrolled actuaries. F returns to active status as of June 25, 2014. F is ineligible to perform pension actuarial services as an enrolled actuary under ERISA and the Internal Revenue Code from April 1 through June 24, 2014.

(3) *Example 3.* Individual G, who was initially enrolled before January 1, 2008, completes only 8 hours of core continuing professional education credit and 24 hours of non-core continuing professional education credit between January 1, 2011, and December 31, 2013. G completes another 6 hours of core continuing professional education on January 15, 2014, and files an application for return to active status on January 20, 2014. G's application shows the timely completion of 32 hours of continuing professional education plus the additional 4 hours of continuing professional education earned after the end of the enrollment cycle. The Joint Board notifies G that it has granted the application on April 20, 2014. Accordingly, effective April 1, 2014, G is placed on the roster of inactive enrolled actuaries. G returns to active status as of April 20, 2014. G is ineligible to perform pension actuarial services as an enrolled actuary under ERISA and the Internal Revenue Code from April 1 through April 19, 2014. Of the

6 hours of continuing professional education earned by G on January 15, 2014, only 2 hours may be applied to the enrollment cycle that ends December 31, 2016.

(4) *Example 4.* (i) Individual H, who was initially enrolled before January 1, 2008, completes 5 hours of core continuing professional education credit and 10 hours of non-core continuing professional education credit between January 1, 2011, and December 31, 2013. Accordingly, effective April 1, 2014, H is placed on the roster of inactive enrolled actuaries and is ineligible to perform pension actuarial services as an enrolled actuary under ERISA and the Internal Revenue Code.

(ii) H completes 7 hours of core continuing professional education credit and 14 hours of noncore continuing professional education credit between January 1, 2014, and May 24, 2016. Because H has completed 12 hours of core continuing professional education and 24 hours of non-core continuing professional education during the last active enrollment period and the initial period when on inactive status, H has satisfied the requirements for reenrollment during the first inactive cycle. Accordingly, H may file an application for return to active enrollment on May 24, 2016. If this application is approved, H will be eligible to perform pension actuarial services as an enrolled actuary under ERISA and the Internal Revenue Code, effective with the date of such approval.

(iii) Because H used the 21 hours of continuing professional education credit earned after January 1, 2014, for return from inactive status, H may not apply any of these 21 hours of core and non-core continuing professional education credits towards the requirements for renewed enrollment effective April 1, 2017. Accordingly, H must complete an additional 36 hours of continuing professional education (12 core and 24 non-core) prior to December 31, 2016, to be eligible for renewed enrollment effective April 1, 2017.

(5) *Example 5.* (i) The facts are the same as in example 4 in paragraph (o)(4) of this section except H completes 2 hours of core continuing professional education credit

and 8 hours of non-core continuing professional education credit between January 1, 2014, and December 31, 2016. Thus, because H did not fulfill the requirements for return to active status during his first inactive cycle, H must satisfy the requirements of paragraph (l)(7)(ii) of this section in order to return to active status.

(ii) Accordingly, in order to be eligible to file an application for return to active status on or before December 31, 2019, H must complete an additional 38 hours of continuing professional education credit (of which at least 14 hours must consist of core subject matter) between January 1, 2017, and December 31, 2019, and have 18 months of certified responsible pension actuarial experience during the period beginning on January 1, 2014.

(iii) Note that the 5 hours of core continuing professional education credit and the 10 hours of non-core continuing professional education credit that H completes between January 1, 2011, and December 31, 2013, are not counted toward H's return to active status and are also not taken into account toward the additional hours of continuing professional education credit that H must complete between January 1, 2017, and December 31, 2019, in order to apply for renewal of enrollment effective April 1, 2020.

(6) *Example 6.* (i) The facts are the same as in example 4 in paragraph (o)(4) of this section except H completes 2 hours of core continuing professional education credit and 8 hours of non-core continuing professional education credit between January 1, 2014, and December 31, 2016, and 12 hours of core continuing professional education credit and 24 hours of non-core continuing professional education credit between January 1, 2017, and December 31, 2019. Thus, because H did not fulfill the requirements for return to active status during his first or second inactive cycles, H must satisfy the requirements of paragraph (l)(7)(iii) of this section in order to return to active status.

(ii) Accordingly, in order to be eligible to file an application for return to active status on or before December 31, 2022, H must complete an additional 24 hours of continuing professional education credit (of which, at least 8 hours must consist of core subject matter) between January 1, 2020 and December 31, 2022, and have at least 18 months of certified responsible pension actuarial experience during the period beginning on January 1, 2017.

(iii) Note that the total of 15 hours of continuing professional education credit that H completes between January 1, 2011, and December 31, 2013, as well as the 10 hours of continuing professional education credit between January 1, 2014, and December 31, 2016, are not counted toward H's return to active status and are not taken into account toward the additional hours of continuing professional education credit that H must complete between January 1, 2020, and December 31, 2022, in order to be eligible to file an application for renewal of enrollment active status effective April 1, 2023.

(7) *Example 7.* (i) Individual J, who was initially enrolled July 1, 2012, completes 1 hour of core continuing professional education credit and 2 hours of non-core continuing professional education credit between January 1, 2012, and December 31, 2013. Accordingly, effective April 1, 2014, J is placed on the roster of inactive enrolled actuaries and is ineligible to perform pension actuarial services as an enrolled actuary under ERISA and the Internal Revenue Code.

(ii) J completes 5 hours of core continuing professional education credit and 4 hours of non-core continuing professional education credit between January 1, 2014, and October 6, 2014. Because J did not complete the required 12 hours of continuing professional education (of which at least 6 hours must consist of core subject matter) during J's initial enrollment cycle, J is not eligible to file an application for a return to active enrollment on October 6, 2014, notwithstanding the fact that had J completed

such hours between January 1, 2012, and December 31, 2013, J would have satisfied the requirements for renewed enrollment effective April 1, 2014.

(iii) Accordingly, J must complete an additional 24 hours of continuing professional education (of which at least 12 hours must consist of core subject matter) during his/her first inactive enrollment cycle before applying for renewal of enrollment.

(8) *Example 8.* The facts are the same as in example 7 in paragraph (o)(7) of this section except that J completes 17 hours of core continuing professional education credit and 16 hours of non-core continuing professional education credit between January 1, 2014, and February 12, 2015. Accordingly, because as of February 12, 2015, J satisfied the continuing professional education requirements as set forth in paragraph (e)(2) of this section without regard to paragraph (e)(2)(ii) thereof, J may file an application for return to active enrollment status on February 12, 2015.

(9) *Example 9.* Individual K was initially enrolled on July 1, 2024, in the second year of the three-year enrollment cycle ending December 31, 2025. K satisfied all continuing professional education requirements during the cycle. K fails to timely file for renewal for the enrollment cycle beginning January 1, 2026, and instead files on May 1, 2026, which is after the March 1, 2026, deadline for filing to renew enrollment. Therefore, pursuant to paragraph (l)(4)(i) of this section, K is placed in inactive status. Under paragraph (e)(2)(ii) of this section, K, who was initially enrolled in the second year of an enrollment cycle, was required to complete 12 hours of continuing professional education in order to satisfy the continuing professional education requirement to renew after K's initial enrollment. Under paragraph (l)(7)(i) of this section, because K was placed on inactive status for the enrollment cycle immediately following K's initial enrollment cycle, K may apply the 12 hours of continuing professional education credits that K earned during the prior enrollment cycle for the purpose of returning to active status. K does not need to earn any additional continuing

professional education credits in order to return to active status. Once K returns to active status for the enrollment cycle beginning on January 1, 2026, K will be required to earn the full 36 hours of continuing professional education credits during that cycle for renewal for the enrollment cycle beginning January 1, 2029.

\* \* \* \* \*

Chet Andrzejewski,

Chair, Joint Board for the Enrollment of Actuaries.

[FR Doc. 2024-05240 Filed: 3/13/2024 8:45 am; Publication Date: 3/14/2024]