



JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

20 CFR Part 901

[TD 10032]

RIN 1545-BQ30

Continuing Professional Education Requirements of the Joint Board for the Enrollment of Actuaries

AGENCY: Joint Board for the Enrollment of Actuaries.

ACTION: Final rule.

SUMMARY: This document sets forth final regulations that amend the continuing professional education requirements for actuaries enrolled by the Joint Board for the Enrollment of Actuaries (Joint Board). These final regulations 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 final regulations also 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. Finally, the final regulations add a requirement that certificates of instruction for continuing professional education courses must reflect the hours credited toward the formal program requirement. These final regulations solely address the enrollment and renewal rules of the Joint Board applicable to enrolled actuaries and do not affect pension plans, plan participants, or the general public.

DATES: *Effective Date:* These regulations are effective on **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

Applicability Date: These regulations apply to all enrollment cycles ending after the effective date of the regulations.

FOR FURTHER INFORMATION CONTACT: Thomas Curtin, Executive Director, Joint Board for the Enrollment of Actuaries at (202) 317-3559.

SUPPLEMENTARY INFORMATION:

Authority

This rulemaking contains final regulations, issued by the Joint Board under the authority of section 3042 of the Employee Retirement Income Security Act of 1974, Pub. L. 93-406, 88 Stat. 829, as amended (ERISA). Section 3042 of ERISA authorizes the Joint Board to issue regulations that establish reasonable standards and qualifications for persons performing actuarial services with respect to plans to which ERISA applies and, upon application by any individual, shall enroll such individual if the Joint Board finds that the individual satisfies such standards and qualifications. Consistent with section 3042, the Joint Board previously has promulgated regulations at 20 CFR part 901 and has amended those regulations from time to time. The Joint Board's Executive Director and staff are located within the Internal Revenue Service's (IRS) Return Preparer Office, and accordingly, the IRS and the Department of the Treasury (Treasury Department) have assisted with the drafting of the regulations.

Background

Section 901.11 of the Joint Board regulations as most recently amended in December 2011 (the existing regulations) provides enrollment and renewal 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 has satisfied a

continuing professional education requirement. Pursuant to section 901.11(e)(2)(i), a minimum of 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) of the existing regulations, 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) of the existing regulations 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 attendee, 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 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 extended and is to apply 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 these final regulations in the Federal Register.

On March 14, 2024, the Joint Board issued proposed regulations under section 3042 of ERISA (89 FR 18579), amending portions of section 901.11. Written comments on the proposed regulations were received and considered. The Treasury Department and the IRS did not receive any requests for a public hearing to address the proposed regulations, and, accordingly, no hearing was held.

Two written public comments were received on the proposed regulations; one comment was not germane to the subject matter. The other commenter was supportive of the proposed regulations and indicated that the removal of the physical presence requirement expands the ways that enrolled actuaries can earn continuing professional education credit. After consideration of the comments received, the proposed regulations are adopted by this rulemaking without modification.

Summary of Comments and Explanation of Provisions

A. Modification of Definition of Formal Program

These final regulations 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 without a physical presence requirement, the final regulations permanently eliminate the physical presence requirement for formal continuing professional education programs for active enrolled actuaries and permit educational

materials to be delivered in an electronic format.

In eliminating the physical presence requirement, these final regulations 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 final regulations retain the requirement that participants have an opportunity for real-time interaction with an instructor to receive formal credit. These final regulations further provide that any materials (for example, outlines or textbooks) for the qualifying program need to be written (either in a paper-based form or in an electronic format) and made available to participants, and allows for additional written materials (such as slide decks or brochures). The one commenter providing germane comments supported the permanent removal of the physical presence requirement for formal continuing professional education programs.

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

These final regulations 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) for the enrollment cycle immediately following the actuary's initial enrollment cycle must complete 36 hours of continuing professional education.

Specifically, these final regulations add an exception to the rule regarding the number of continuing professional education hours required to renew enrollment in this case.

Under this exception, the requirement to complete 36 hours of continuing professional education is adjusted in accordance with section 901.11(e)(2)(ii) or (iii), based on the year of the prior cycle in which the actuary initially enrolled. These final regulations provide a new *Example 9* in section 901.11(o) that illustrates this change. In addition,

the eight pre-existing examples in section 901.11(o) are redesignated as separate paragraphs but are otherwise unchanged.

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

These final regulations eliminate the requirement that a certificate of completion and a certificate of instruction list the location of the training. These final regulations 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).

D. Applicability Date

The proposed regulations did not specify an applicability date for the proposed revisions to paragraphs (f)(2)(i)(D), (f)(2)(ii)(A), (f)(2)(ii)(B), (f)(3)(iv)(C), (f)(3)(v)(C), (f)(3)(v)(F), (l)(7)(i), and the example in paragraph (o)(9). However, since paragraph (p) of the existing regulations contains an applicability date, which continues to apply to portions of the regulations not being amended, the Treasury Department and the IRS have determined that the final regulations should clarify that the amendments to section 901.11 apply to enrollment cycles ending after the effective date of these final regulations.

Effective Date

These regulations are effective on **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

Special Analyses

A. Regulatory Flexibility Act

It is hereby certified that these regulations do 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 final changes primarily affect individual actuaries enrolled by the Joint Board and

providers of their educational programs. These amendments update the regulations given enhanced 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 render the physical presence requirement unnecessary. In addition, these amendments to the regulations 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.

B. Regulatory Planning and Review

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

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) (PRA) generally requires that a Federal agency obtain the approval of the Office of Management and Budget (OMB) before collecting information from the public, whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Any collection of information under these final 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 part 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. IRS received no public comments related to the recordkeeping requirements.

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

Administrative practice and procedure, Pensions.

Amendments to the Regulations

Accordingly, 20 CFR part 901 is 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), removing “and the instructor is in the physical presence of at least three other individuals”;
3. In paragraph (f)(3)(iv)(C), removing “, location,”;
4. In paragraph (f)(3)(v)(C), removing “and location”;
5. Revising paragraph (f)(3)(v)(F);

6. Revising paragraph (l)(7)(i);

7. Revising paragraph (o); and

8. Revising paragraph (p).

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). 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 paragraph (o)(4) of this section (*Example 4*), 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 paragraph (o)(4) of this section (*Example 4*), 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 (I)(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 paragraph (o)(7) of this section (*Example 7*), 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) of this section 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.

(p) *Applicability date.* Generally, this section applies to the enrollment cycle beginning January 1, 2011, and all subsequent enrollment cycles. Paragraphs (f)(2)(i)(D), (f)(2)(ii)(A), (f)(2)(ii)(B), (f)(3)(iv)(C), (f)(3)(v)(C), (f)(3)(v)(F), (l)(7)(i), and (o)(9) of this section apply to all enrollment cycles ending after **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

Joleah M. White,

Chair, Joint Board for the Enrollment of Actuaries.