(vi) A copy of the plan actuary's most recent certification under section 305(b)(3) of ERISA, including a detailed description of the assumptions used in the certification, and the basis under which they were determined. The description must include information about the assumptions used for the projection of future contributions, withdrawal liability payments, and investment returns, and any other assumption that may have a material effect on projections.

(vii) A statement of whether the plan sponsor is requesting an exception from the condition under paragraph (g)(1) or (2) of this section or both and a demonstration of how the proposed exception lessens the risk of loss to plan participants and beneficiaries and does not increase expected employer withdrawals. The statement must also include a demonstration that the exception does not increase the amount of the plan's special financial assistance or unreasonably increase PBGC's risk of loss.

(viii) A list of employers contributing greater than 5 percent of plan contributions in a plan year.

(ix) A certification by the plan's actuary that the amount of special financial assistance that will be requested in the plan's application for special financial assistance will be determined assuming the exception will be approved.

(x) A detailed statement certified by an enrolled actuary of the effect of the proposed exception, and a demonstration for 30 years that the estimated withdrawal liability payments and contributions with the proposed exception exceed the estimated withdrawal liability payments and contributions without the proposed exception. The demonstration must show an aggregate of all withdrawal liability payments and an aggregate of all contributions for each year in the 30-year period and include representative examples of employer withdrawal liability payments and contributions. An individual employer's withdrawal liability assessment reflecting the proposed exception must be no less than what would be assessed without the proposed exception.

(xi) Any additional information PBGC determines it needs to review a request for approval of a proposed exception.

* * * * *

Issued in Washington, DC.

Gordon Hartogensis,

Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2023–01415 Filed 1–25–23; 8:45 am]

BILLING CODE 7709–02–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 11

[Docket No. PTO–C–2022–0028]

RIN 0651–AD62

Final Rule Eliminating Continuing Legal Education Certification and Recognition for Patent Practitioners

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Final rule.

SUMMARY: This final rule adopts, without change, an interim final rule with a request for comments published in the **Federal Register** on November 14, 2022, that eliminated provisions of the Code of Federal Regulations related to voluntary continuing legal education (CLE) certification and recognition for registered patent practitioners and individuals granted limited recognition to practice in patent matters before the United States Patent and Trademark Office (USPTO or Office).

DATES: *Effective Date:* February 27, 2023.

FOR FURTHER INFORMATION CONTACT: Will Covey, Deputy General Counsel and Director for the Office of Enrollment and Discipline (OED Director), at 571–272–4097.

SUPPLEMENTARY INFORMATION: The USPTO adopts a final rule amending 37 CFR 11.11(a)(1) and (a)(3) to eliminate provisions concerning the voluntary CLE certification for registered patent practitioners and persons granted limited recognition to practice in patent matters before the USPTO under 37 CFR 11.9.

Effective August 3, 2020, 37 CFR 11.11(a)(3) provided that patent practitioners could voluntarily certify completion of CLE to the OED Director (Setting and Adjusting Patent Fees During Fiscal Year 2020, 85 FR 46932). Section 11.11(a)(1) provided that the OED Director may publish whether each registered patent practitioner or person granted limited recognition under 37 CFR 11.9 has voluntarily certified that they completed the specified amount of CLE in the preceding 24 months.

On October 9, 2020, the USPTO published proposed CLE guidelines with a request for comments (Proposed Continuing Legal Education Guidelines, 85 FR 64128). The USPTO received public comments through January 7, 2021. On June 10, 2021, the USPTO published a **Federal Register** Notice providing, inter alia, that the USPTO would proceed with the voluntary CLE certification in the spring of 2022 (New Implementation Date for Patent Practitioner Registration Statement and Continuing Legal Education Certification, 86 FR 30920). On December 16, 2021, after considering public comments received regarding the proposed CLE guidelines, the USPTO published another **Federal Register** Notice indefinitely delaying implementation of the voluntary CLE certification (New Implementation Date for Voluntary Continuing Legal Education Certification, 86 FR 71453).

After receiving and considering stakeholder feedback on the certification process and possible details regarding implementation, the USPTO determined that it will not implement the voluntary CLE certification program at this time. Accordingly, on November 14, 2022, the USPTO published an interim final rule (IFR) eliminating voluntary CLE certification and recognition provisions from the rules governing practice in patent matters before the Office. The IFR provided an opportunity for interested persons to submit comments on or before December 14, 2022. The USPTO did not receive any comments. Based on the rationale set forth in the IFR, the USPTO adopts the IFR without change.

In the future, the Office may reconsider CLE reporting for patent practitioners, and nothing in this notice is intended to restrict or prohibit such action at a later time.

Discussion of Specific Rules

The USPTO amends § 11.11 to remove the last sentence in paragraph (a)(1) to reflect the elimination of the voluntary CLE certification for registered patent practitioners and individuals granted limited recognition to practice in patent matters before the USPTO under 37 CFR 11.9, and to remove the entirety of paragraph (a)(3).

Rulemaking Requirements

A. Administrative Procedure Act: This final rule, without change, removes the provisions that apply to voluntary CLE certification for registered patent practitioners and individuals granted limited recognition to practice in patent matters before the USPTO under 37 CFR 11.9. The changes in this rulemaking involve rules of agency practice and procedure, and/or interpretive rules. *See Perez* v. *Mortgage Bankers Ass'n,* 135 S. Ct. 1199, 1204 (2015) (interpretive rules ''advise the public of the agency's construction of the statutes and rules which it administers'') (citations and internal quotation marks omitted); *Nat'l Org. of Veterans' Advocates* v. *Sec'y of*

Veterans Affairs, 260 F.3d 1365, 1375 (Fed. Cir. 2001) (rule that clarifies interpretation of a statute is interpretive); *Bachow Commc'ns Inc.* v. *FCC,* 237 F.3d 683, 690 (D.C. Cir. 2001) (rules governing an application process are procedural under the Administrative Procedure Act); *Inova Alexandria Hosp.* v. *Shalala,* 244 F.3d 342, 350 (4th Cir. 2001) (rules for handling appeals are procedural where they do not change the substantive standard for reviewing claims).

Accordingly, prior notice and an opportunity for public comment for the changes in this rulemaking are not required pursuant to 5 U.S.C. 553(b) or (c), or any other law. *See Perez,* 135 S. Ct. at 1206 (notice-and-comment procedures are not required when an agency ''issue[s] an initial interpretive rule'' or when it amends or repeals that interpretive rule); *Cooper Techs. Co.* v. *Dudas,* 536 F.3d 1330, 1336–37 (Fed. Cir. 2008) (stating that 5 U.S.C. 553, and thus 35 U.S.C. 2(b)(2)(B), do not require notice-and-comment rulemaking for ''interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice'' (quoting 5 U.S.C. 553(b)(A))).

Moreover, the Office, pursuant to the authority at 5 U.S.C. 553(b)(B), finds good cause to adopt this final rule without prior notice and an opportunity for public comment, as such procedures would be contrary to the public interest. This rule will make final the removal of provisions related to voluntary CLE certification from the regulations at 37 CFR 11.11(a) to avoid any confusion as to the status of the program. Although the voluntary CLE certification program was codified in the regulations, it was never implemented, and no patent practitioner participated in the program. Implementing this interim rule without prior notice and an opportunity for public comment is in the public interest because the time needed to do so would further delay the removal of the regulations and could lead to confusion as to the current status of the program among practitioners who practice before the USPTO.

B. Regulatory Flexibility Act: For the reasons set forth below, the Senior Counsel for Regulatory and Legislative Affairs, Office of General Law, of the USPTO has certified to the Chief Counsel for Advocacy of the Small Business Administration that the changes in this rule will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 605(b).

This final rule will eliminate the provisions related to voluntary CLE certification. Because the voluntary CLE certification program was never implemented, no registered patent practitioners or persons granted limited recognition to practice in patent matters before the USPTO will be affected. Accordingly, the changes are expected to be of minimal or no additional burden to those practicing before the Office, and this rulemaking will not have a significant economic impact on a substantial number of small entities.

C. Executive Order 12866 (Regulatory Planning and Review): This rulemaking has been determined to be not significant for purposes of E.O. 12866 (Sept. 30, 1993).

D. Executive Order 13563 (Improving Regulation and Regulatory Review): The USPTO has complied with E.O. 13563 (Jan. 18, 2011). Specifically, the Office has, to the extent feasible and applicable: (1) made a reasoned determination that the benefits justify the costs of the rule; (2) tailored the rule to impose the least burden on society consistent with obtaining the regulatory objectives; (3) selected a regulatory approach that maximizes net benefits; (4) specified performance objectives; (5) identified and assessed available alternatives; (6) involved the public in an open exchange of information and perspectives among experts in relevant disciplines, affected stakeholders in the private sector, and the public as a whole, and provided online access to the rulemaking docket; (7) attempted to promote coordination, simplification, and harmonization across Government agencies and identified goals designed to promote innovation; (8) considered approaches that reduce burdens and maintain flexibility and freedom of choice for the public; and (9) ensured the objectivity of scientific and technological information and processes.

E. Executive Order 13132 (Federalism): This rulemaking does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under E.O. 13132 (Aug. 4, 1999).

F. Executive Order 13175 (Tribal Consultation): This rulemaking will not: (1) have substantial direct effects on one or more Indian tribes, (2) impose substantial direct compliance costs on Indian tribal governments, or (3) preempt tribal law. Therefore, a tribal summary impact statement is not required under E.O. 13175 (Nov. 6, 2000).

G. Executive Order 13211 (Energy Effects): This rulemaking is not a significant energy action under E.O. 13211 because this rulemaking is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required under E.O. 13211 (May 18, 2001).

H. Executive Order 12988 (Civil Justice Reform): This rulemaking meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden, as set forth in sections 3(a) and 3(b)(2) of E.O. 12988 (Feb. 5, 1996).

I. Executive Order 13045 (Protection of Children): This rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children under E.O. 13045 (Apr. 21, 1997).

J. Executive Order 12630 (Taking of Private Property): This rulemaking will not effect a taking of private property or otherwise have taking implications under E.O. 12630 (Mar. 15, 1988).

K. Congressional Review Act: Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), the USPTO will submit a report containing the final rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the Government Accountability Office. The changes in this rulemaking are not expected to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, this rulemaking is not expected to result in a ''major rule'' as defined in 5 U.S.C. 804(2).

L. Unfunded Mandates Reform Act of 1995: The changes in this rulemaking do not involve a Federal intergovernmental mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, of $100 million (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of $100 million (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. *See* 2 U.S.C. 1501 *et seq.*

M. National Environmental Policy Act of 1969: This rulemaking will not have any effect on the quality of the environment and is thus categorically excluded from review under the National Environmental Policy Act of 1969. *See* 42 U.S.C. 4321 *et seq.*

N. National Technology Transfer and Advancement Act of 1995: The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) are not applicable because this rulemaking does not contain provisions that involve the use of technical standards.

O. Paperwork Reduction Act of 1995: The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) requires that the Office consider the impact of paperwork and other information collection burdens imposed on the public. This rulemaking does not involve information collection requirements that are subject to review and approval by the Office of Management and Budget under the Paperwork Reduction Act.

P. E-Government Act Compliance: The USPTO is committed to compliance with the E-Government Act to promote the use of the internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes.

List of Subjects in 37 CFR Part 11

Administrative practice and procedure, Inventions and patents, Lawyers, Reporting and recordkeeping requirements.

PART 11—REPRESENTATION OF OTHERS BEFORE THE UNITED STATES PATENT AND TRADEMARK OFFICE

■ Accordingly, the interim final rule amending 37 CFR part 11, which published on November 14, 2022 (87 FR 68054), is adopted as a final rule without change.

Katherine K. Vidal,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2023–01552 Filed 1–25–23; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R3–ES–2021–0140; FF09E21000 FXES1111090FEDR 234]

RIN 1018–BG14

Endangered and Threatened Wildlife and Plants; Endangered Species Status for Northern Long-Eared Bat; Delay of Effective Date

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; delay of effective date.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are delaying the effective date of a final rule we published on November 30, 2022, reclassifying the northern long-eared bat (*Myotis septentrionalis*) as an endangered species under the Endangered Species Act of 1973, as amended (Act). This delay is necessary for the Service to finalize conservation tools and guidance documents to avoid confusion and disruption with members of the public who would be regulated by the rule and Federal agencies in the implementation of section 7 of the Act.

DATES: The effective date of the final rule amending 50 CFR part 17, published November 30, 2022, at 87 FR 73488, is delayed until March 31, 2023.

ADDRESSES: This final rule is available on the internet at *https://www.regulations.gov.* For access to the docket to read the November 30, 2022, final rule or other background documents, including the comments received on that final rule, go to *https://www.regulations.gov* and search for Docket No. FWS–R3–ES–2021–0140.

FOR FURTHER INFORMATION CONTACT: Shauna Marquardt, Field Supervisor, U.S. Fish and Wildlife Service, Minnesota—Wisconsin Ecological Services Field Office, 4101 American Boulevard East, Bloomington, MN 55425; telephone 952–252–0092. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

I. Background

On November 30, 2022, we published in the **Federal Register** (87 FR 73488) a final rule reclassifying the northern long-eared bat as an endangered species under the Act (16 U.S.C. 1531 *et seq.*). The rule was to be effective on January 30, 2023. However, with this rule, we are delaying the effective date to March 31, 2023, without opportunity for public comment. This delay will allow us to finalize conservation tools and guidance documents, thereby preventing confusion and disruption with other Federal agencies under section 7 of the Act.

Currently, the northern long-eared bat is listed as a threatened species under the Act (see 80 FR 17974; April 2, 2015) with a species-specific rule issued under section 4(d) of the Act (hereafter, ''section 4(d) rule'') (see 81 FR 1900; January 14, 2016). When the November 30, 2022, final rule goes into effect, the reclassification of the northern long-eared bat to an endangered species will nullify the section 4(d) rule that currently tailors prohibitions and exceptions to the prohibitions necessary and advisable for the species. We recognize that the change to endangered status will result in questions and concerns about establishing compliance under the Act for forestry, wind energy, infrastructure, and many other projects within the 37 States that comprise the range of the northern long-eared bat. We are committed to working proactively with stakeholders to conserve and recover northern long-eared bats while reducing impacts to landowners, where possible and practicable. Thus, we are working to finalize tools that will help guide project managers through section 7 consultation once the reclassification of the northern long-eared bat takes effect to prevent delay for projects currently reviewed under the section 4(d) rule. We are also developing an online determination key that will provide predetermined consultation outcomes and automatic project concurrence for some projects as well as voluntary guidance for wind facilities and private activities that involve habitat modification. Delaying the effective date will allow us to finalize these documents and communicate with external partners.

Over the last 3 years, we have completed consultation under section 7(a)(2) of the Act on 24,480 projects across the 37-State range for the northern long-eared bat. Many of these projects are not complete. Under the 4(d) rule, incidental take of the northern long-eared bat was not prohibited except in certain situations. With the final rule reclassifying the northern long-eared bat as endangered, incidental take of the species that is reasonably certain to occur as a result of some of these actions would now be prohibited, absent an incidental take statement (ITS) from the Service in accordance with section 7(o)(2) of the Act. Therefore, when the final rule becomes effective, numerous Federal agencies will need to reinitiate consultation with the Service, and the Service must develop and provide biological opinions and incidental take statements with terms and conditions to ensure any taking of the northern long-eared bat that occurs as a result of each of the subject actions is not a prohibited taking