

DEPARTMENT OF HOMELAND SECURITY**8 CFR Part 103****[DHS Docket No. ICEB–2021–0015]****RIN 1653–AA85****Immigration Bond Notifications**

AGENCY: U.S. Immigration and Customs Enforcement (ICE), Department of Homeland Security (DHS).

ACTION: Interim final rule (IFR); request for comment.

SUMMARY: DHS is revising its regulations governing service of bond notifications. Current regulations authorize ICE to serve documents in-person, or by certified, registered, or first-class (regular) mail. This IFR authorizes ICE to electronically serve bond-related notifications to obligors for immigration bonds. The ICE transition to electronic notifications for bond-related documents is part of an electronic bonds system ICE developed to simplify the posting of bonds.

DATES: This rule is effective as of September 7, 2023; comments must be received by September 7, 2023.

ADDRESSES: You may submit comments on this IFR, identified by DHS Docket No. ICEB–2021–0015, through the Federal eRulemaking Portal at <https://www.regulations.gov>. Follow the website instructions to submit comments.

Comments submitted in a manner other than the one listed here, including emails or letters sent to DHS officials, will not be considered comments on the IFR and may not receive a response from DHS. Please note that DHS cannot accept any comments that are mailed, hand delivered, or couriered. In addition, DHS cannot accept mailed comments contained on any form of digital media storage devices, such as CDs/DVDs and USB drives. If you cannot submit your material using <https://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

FOR FURTHER INFORMATION CONTACT: Sharon Hageman, Deputy Assistant Director, Office of Regulatory Affairs and Policy, U.S. Immigration and Customs Enforcement, Department of Homeland Security, 500 12th Street SW, Mail Stop 5006, Washington, DC 20536. Telephone 202–732–6960 (not a toll-free number).

SUPPLEMENTARY INFORMATION:**I. Public Participation**

DHS encourages all interested parties to participate in this rulemaking by submitting written data, views, comments and arguments on all aspects of this IFR. Comments providing the most assistance to DHS will reference a specific portion of the IFR, explain the reason for any recommended change, and include the data, information, or authority that supports the recommended change. Under the guidelines of the Office of the Federal Register, all comments received will be posted to <https://www.regulations.gov> as part of the public record and will include any personal information you have provided. See the **ADDRESSES** section for information on how to submit comments.

A. Submitting Comments

To submit your comments online, go to <https://www.regulations.gov> and insert “ICEB–2021–0015” in the “Search” box. Click on the “Comment” box and type your comments in the text box provided. When you are satisfied with your comments, follow the prompts, and then click “Submit Comment.”

DHS will post comments to the Federal eRulemaking Portal at <https://www.regulations.gov> and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary public comment submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines is offensive. For additional information, please read the “Privacy & Security Notice,” via the link in the footer of <https://www.regulations.gov>. DHS will consider all comments and materials received during the comment period and may change this rule based on your comments.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov> and insert “ICEB–2021–0015” in the “Search” box. Next, click on “Dockets,” then on the name of the rule, and finally on “Browse All Comments.” Individuals without internet access can make alternate arrangements for viewing comments and documents related to this rulemaking by contacting the individual listed in the **FOR FURTHER INFORMATION CONTACT** section above. You may also sign up for email alerts on the online

docket to be notified when comments are posted, or a final rule is published.

C. Privacy Act

You may consider limiting the amount of personal information that you provide in your voluntary public comment submission because anyone can electronically search comments received in any of DHS’s dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For additional information, please read the Privacy and Security Notice posted on <https://www.regulations.gov>.

II. Abbreviations

BIA Board of Immigration Appeals
CBP U.S. Customs and Border Protection
CeBONDS Cash Electronic Bonds Online System
CFR Code of Federal Regulations
COVID–19 Coronavirus Disease 2019
DHS Department of Homeland Security
eBONDS Electronic Bonds Online System
e-signature Electronic Signature
ERO Enforcement and Removal Operations
FY Fiscal Year
GPEA Government Paperwork Elimination Act
ICE U.S. Immigration and Customs Enforcement
INA Immigration and Nationality Act
NARA National Archives and Records Administration
OMB Office of Management and Budget
USCIS U.S. Citizenship and Immigration Services

III. Background and Purpose**A. Legal Authority**

The Homeland Security Act of 2002, Public Law 107–296, section 102, 116 Stat. 2135 (Nov. 25, 2002), 6 U.S.C. 112, and the Immigration and Nationality Act of 1952 (INA), as amended, section 103(a)(1), 8 U.S.C. 1103(a)(1), charge the Secretary of the Department of Homeland Security (DHS) (the Secretary) with administration and enforcement of the immigration and naturalization laws. The Secretary promulgates this interim final rule (IFR) under the broad authority to administer DHS, and the authorities provided under the Homeland Security Act of 2002, the immigration and nationality laws, and other delegated authority.

Over the past twenty years, Congress and the Executive Branch have promoted the use of electronic transactions and electronic records when feasible instead of relying solely upon in-person or paper transactions. Under the Government Paperwork Elimination Act (GPEA), Public Law 105–277, tit. XVII, section 1703, 112 Stat. 2681, 2681–749 (Oct. 21, 1998), 44

U.S.C. 3504 note, Federal agencies are required, when practicable, to provide the option of electronic maintenance, submission, or disclosure of information as a substitute for paper transactions. More recently, on June 28, 2019, the Office of Management and Budget (OMB) and the National Archives and Records Administration (NARA) jointly issued a memorandum that encouraged agencies to consider cost-effective opportunities to transition related business processes to an electronic environment.¹ Offering electronic processes in place of paper or in-person transactions has the benefits of making it “easier for the public to connect with the Federal Government, and apply for and receive services, improving customer satisfaction. Electronic records . . . reduce processing times and decrease the probability of lost or missing information . . . [and] . . . greatly improve agencies’ ability to provide public access to Federal records, promoting transparency and accountability.” Executive Office of the President, *Delivering Government Solutions in the 21st Century: Reform Plan and Reorganization Recommendations*, at 100 (June 2018). The GPEA establishes the means for the use and acceptance of electronic signatures (e-signatures). This rule will significantly enhance the ability of U.S. Immigration and Customs Enforcement (ICE) to fully implement the GPEA.

The Electronic Signatures in Global and National Commerce Act (E-SIGN Act), 15 U.S.C. 7001–7031, effective for most purposes on October 1, 2000, allows electronic records and signatures to be given the same effect as paper and ink documents. See 15 U.S.C. 7001(a). The E-SIGN Act provides “legal parity” for electronic records with paper records, when the procedures an agency adopts for the creation, maintenance, and retention of electronic records comply with the Federal Records Act and NARA guidelines governing digitization of records.² Except for records maintained by government agencies (other than contracts to which it is a party), the E-SIGN Act does not require any person to agree to use or accept electronic records. *Id.* sec. 7001(b)(2); see also 12 CFR 609.910(a) (noting that under the E-SIGN Act, “E-commerce is optional; all parties to a legally valid transaction must agree to

the electronic use before it can be used”). ICE intends to comply with this requirement by obtaining consent from immigration bond sureties and obligors to send electronic notifications.

The Secretary is charged with the administration and enforcement of laws relating to the immigration and naturalization of noncitizens and “shall [. . .] prescribe such forms of bond” as deemed necessary for carrying out the authority under the INA. See INA 103(a)(1), (3), 8 U.S.C. 1103(a)(1), (3). Additionally, where a noncitizen is arrested and detained pending a decision on removal from the United States, the Secretary is authorized to “release [a noncitizen] on . . . (A) bond of at least \$1,500 with security approved by, and containing conditions prescribed by [the Secretary of Homeland Security]. See INA 236(a)(2), 8 U.S.C. 1226(a)(2). Further, the Secretary “at any time may revoke a bond” authorized under INA 236(a)(2), re-arrest the noncitizen, and detain them. See INA 236(b), 8 U.S.C. 1226(b). Under the terms and conditions of DHS’s Immigration Bond, Form I–352, “Federal law shall apply to the interpretation of the bond.” Immigration Bond, ICE Form I–352, at 1 (rev. 11/20). ICE approves several types of immigration bonds such as delivery bonds, 8 CFR 236.1(c)(10), voluntary departure bonds, 8 CFR 240.25(b), 8 CFR 1240.26(b)(3)(i), (c)(3)(i), and order of supervision bonds, 8 CFR 241.5(b).

With respect to cash bonds, the Secretary delegated to the ICE Director the authority to “issue and execute detainers and warrants of arrest or removal, detain aliens, release aliens on bond and other appropriate conditions as provided by law”³ With respect to surety bonds, the Secretary delegated to the ICE Director the “[a]uthority to approve surety bonds⁴ issued pursuant to the immigration laws, to determine whether such surety bonds have been breached, and to take appropriate action to protect the interests of the United States with respect to such surety bonds.”⁵

³ DHS Delegation No. 7030.2, *Delegation of Authority to the Assistant Secretary for U.S. Immigration and Customs Enforcement*, ¶ 2(T) (Nov. 13, 2004) (effective Mar. 1, 2003). See <https://dhsconnect.dhs.gov/org/comp/mgmt/policies/Delegations/07030.2.pdf>.

⁴ In this context, “surety bonds” is used in the same manner as it is used in 8 CFR 103.6(b)(1) to include immigration bonds underwritten by a surety company or posted by an entity or individual who deposits cash equal to the face amount of the bond as security for performance.

⁵ DHS Delegation No. 7030.2, ¶ 2(U).

B. Background

ICE’s mission is to protect America from cross-border crime and illegal immigration that threaten national security and public safety.⁶ ICE secures the Nation’s borders by enforcing more than 400 Federal statutes and issuing a wide range of notices, decisions, and other documents to entities such as, but not limited to, universities, businesses, courts, and noncitizens.⁷ Generally, DHS regulations authorize ICE to serve notices, decisions, and other documents in person or through the U.S. Postal Service. DHS regulations distinguish between “personal” and “routine” service of notices, decisions, and other documents. See 8 CFR 103.8.

Personal service is required in any proceeding initiated by DHS that has a proposed adverse effect on the recipient, if the recipient is confined to a penal or mental institution, or if the recipient is a minor under the age of 14 or mentally incompetent. See 8 CFR 103.8(c)(1) and (2). Current regulations define personal service⁸ as personal delivery; delivery at a person’s home or usual residence by leaving a copy with a person of suitable age and discretion; delivery at an attorney’s or corporate office by leaving a copy with a person in charge; mailing a copy by certified or registered mail, return receipt requested, addressed to a person at his or her last known address; or notifying the party by electronic mail and posting the decision to the party’s account with U.S. Citizenship and Immigration Services (USCIS) if so requested by the party. See 8 CFR 103.8(a)(2).

Routine service is not required by regulations but may be used when personal service is not required. Routine service includes mailing a notice by “ordinary” mail (first-class mail) addressed to the affected party or the party’s attorney/representative at his or her last known address or notifying the party by electronic mail and posting the decision to the party’s USCIS account if so requested by the party. See 8 CFR 103.8(a)(1); See also 8 CFR part 292 (Representation and Appearances) and 8 CFR part 1292 (Representation and Appearances).⁹

⁶ See <https://www.ice.gov/mission> (last visited Jun 30, 2022).

⁷ The preamble of this IFR uses “noncitizen” as equivalent to the statutory term “alien.” See *Barton v. Barr*, 140 S. Ct. 1442, 1446 n.2 (2020) (quoting 8 U.S.C. 1101(a)(3)).

⁸ Cf. 8 CFR 103.8(a)(3) (providing additional methods for “personal service involving notices of intention to fine.”).

⁹ Subject to the limitations in 8 CFR 103.2(a)(3).

¹ Transition to Electronic Records (OMB/NARA M–19–21), available at <https://www.archives.gov/files/records-mgmt/policy/m-19-21-transition-to-federal-records.pdf>.

² Robert A. Wittie & Jane K. Winn, *Electronic Records and Signatures under the Federal E-Sign Legislation and the UETA*, 56 Bus. Law. 293, 314 (2000).

C. Immigration Bonds

An immigration bond is a formal written guarantee by an obligor (an individual, entity, or surety company) posted as security for the amount noted on the face of the immigration bond. The bond assures ICE that the obligor will perform the obligations for the type of bond indicated on the Immigration Bond, Form I-352. The posting of immigration bonds can occur with the deposit of cash in the full principal amount of the bond, known as “cash bonds;”¹⁰ or where a surety company and its agent agree to pay the amount of the bond if there is a substantial violation of the bond’s terms and conditions, known as a “surety bond.” Out of a total 33,237 approved immigration bonds that ICE issued in 2020,¹¹ 25,751 (78 percent) were cash bonds and 7,486 (22 percent) were surety bonds. If the obligor performs the conditions set forth in the bond, the bond will be cancelled. If the obligor substantially violates the conditions of the bond, the bond will be considered breached (a breached bond). See 8 CFR 103.6(e).

An immigration bond may be posted by a surety company or a cash bond obligor (provided that the bond is approved by ICE). Surety bonds are bonds underwritten by a surety company certified to issue bonds on behalf of the Federal Government. See generally 8 CFR 103.6(b) (identifying the parties that may serve as sureties on immigration bonds). Under the terms of the bond contract, the surety is the obligor, the co-obligor is the agent that posts a bond on behalf of a surety, the noncitizen (on whose behalf the bond is issued) is the principal, and ICE is the beneficiary of all bonds it authorizes. An acceptable surety is either a company that appears on the current Department of the Treasury (Treasury) Circular 570 as a company holding a certificate of authority to underwrite Federal bonds pursuant to 31 U.S.C. 9304–9308 or is an entity or individual who deposits the amount of the bond with ICE. See 8 CFR 103.6(b)(1). The surety (obligor) and its agent (co-obligor) guarantee the performance and fulfillment of the noncitizen’s duties as set forth in the bond form. See Form I-352, at 1 (rev. 11/20).

ICE approves and issues three different types of bonds.

- **Delivery Bonds:** To release a noncitizen from DHS custody while removal proceedings are pending.

- **Voluntary Departure Bonds:** To ensure a noncitizen who is granted voluntary departure leaves the United States on or before the voluntary departure date set by an Immigration Judge or the Board of Immigration Appeals (BIA).

- **Order of Supervision Bonds:** To ensure noncitizens released on an order of supervision comply with the material terms of the supervised release.

Out of the 33,237 immigration bonds that ICE issued in 2020,¹² 93 percent were delivery bonds, six percent were voluntary departure bonds, and fewer than one percent were order of supervision bonds.¹³

To trigger an obligor’s performance, ICE issues a demand notice on Form I-340, *Notice To Obligor To Deliver Alien*. DHS regulations authorize ICE to use personal service as defined by 8 CFR 103.8 to deliver demand notices issued on delivery bonds so ICE can confirm receipt (the date the obligor receives the demand notice). ICE confirms receipt of demand notices (proof of service) issued on delivery bonds to confirm that timely notice was provided to an obligor of their duty to surrender a noncitizen at an ICE office on the designated date. For breach notices,¹⁴ cancellation notices, and notices of bond breach reconsideration decisions, DHS regulations authorize ICE to use routine mail service using first-class mail to the obligor’s last known address. See 8 CFR 103.8(a)(1). ICE uses routine mail service as well to issue invoices and demand letters to surety companies and their agents, either by regular mail or a mail method that allows ICE to track and confirm delivery, or by email (electronically) with the co-obligors’ consent.

After an immigration bond is issued, depending on the type of, and action needed on the, bond, ICE may issue the following notification(s) to the bond obligor.

1. **Delivery Demand.** Form I-340, *Notice to Obligor to Deliver Alien*,

¹² *Id.*

¹³ *Ibid.*

¹⁴ Immigration bonds are contracts subject to a regulatory scheme with the result that ICE bond breach determinations are reviewed by a court under the arbitrary and capricious standard of review set forth in the Administrative Procedure Act (APA), 5 U.S.C. 706(2)(A). *United States v. Gonzales & Gonzales Bonds & Ins. Agency, Inc.*, 728 F. Supp. 2d 1077, 1087–92 (N.D. Cal. 2010); *Safety Nat’l Cas. Corp. v. DHS*, 711 F. Supp. 2d 697, 701 & 708–09 (S.D. Tex. 2008), *rev’d in part on other grounds*, *AAA Bonding Agency Inc. v. DHS*, 447 F. App’x 603 (5th Cir. 2011); *United States v. Minnesota Trust Co.*, 59 F.3d 87, 90 (8th Cir. 1995).

instructs the bond obligor to surrender the noncitizen to an ICE Office or to an immigration court on a designated date.

2. **Breach Notice.** Form I-323, *Notice—Immigration Bond Breached*, informs the obligor that a condition of the bond was substantially violated, notating the date the bond was breached, and appraises the obligor of the right to file an administrative appeal of the breach determination.¹⁵

3. **Cancellation Notice.** Form I-391, *Notice—Immigration Bond Cancelled*, informs the obligor that substantial compliance with the conditions of the bond was performed and that, for cash bonds, the deposit will be refunded.¹⁶

4. **Bond Breach Reconsideration.** Form 71-042, *Notice of Bond Breach Reconsideration Decision*, rescinds a bond breach issued in error and informs the obligor either that the bond has been reinstated or cancelled.¹⁷

For surety bonds that have been breached, ICE issues an invoice with information about the government’s collection processes to satisfy the requirement to notify the co-obligors of the demand for payment under 31 CFR 901.2. ICE may issue a demand letter to the co-obligors summarizing the facts supporting the breach determination and attaching documents that support the determination that a debt is owed.

D. Need for Changes

DHS is amending its regulations to permit ICE to transition to a more modern, secure, and electronic environment. Initially, ICE’s Enforcement and Removal Operations (ERO) Bond Management Unit will utilize electronic service in the immigration bonds context. Specifically, this IFR permits ICE to issue bond-related notifications to obligors electronically when enrolling in ICE’s electronic bond systems: (1) Electronic Bonds Online System (eBONDS) and (2) Cash Electronic Bonds Online System (CeBONDS). This capability will improve security and transparency in the bond process and facilitate quicker information and communication to both the public and the government with minimal burden. ICE ERO is currently developing CeBONDS, a system that allows obligors to conveniently post ICE immigration cash bonds online without visiting an ICE office in-person.

ICE’s CeBONDS system will permit the general public to post and pay bonds online. However, due to current regulations, ICE only permits

¹⁵ 8 CFR 103.6(e); ICE Form I-323 (rev. Oct. 2020).

¹⁶ ICE Form I-391 (rev. Oct. 2020).

¹⁷ ICE Form 71-042 (rev. Jan. 2013).

¹⁰ An immigration bond secured by a cash deposit posted by an individual, law firm, non-profit organization, or other entity.

¹¹ Immigration Bond Statistics maintained by ICE’s Bonds Branch, Financial Service Center-Burlington. Accessed 7/19/2022.

individuals to post bonds online, but ICE is not permitted to serve notices, decisions, or other documents electronically. See 8 CFR 103.8(a)(1) and (2). ICE is seeking this regulatory change to create efficiencies and avoid lags in bond processing that may occur when allowing the general public to post and pay bonds electronically but where ICE then must serve a paper notice, decision, or other document through paper-based service. See current 8 CFR 103.8(a)(1) and (2). Regulatory changes in this rule will permit ICE to conduct an entirely electronic transaction with obligors posting bonds online, instead of permitting obligors to post bonds online but serving bond-related notices via regular or certified mail. Without this rule, eBONDS and CeBONDS notifications cannot be served electronically once that system development is completed because the rule is needed to authorize electronic notifications.

In 2010, ICE deployed the Electronic Bonds Online System (eBONDS), a web-based system designed to automate the issuance of ICE immigration bonds underwritten by surety companies and their agents.¹⁸ Prior to the deployment of eBONDS, a surety agent was required to visit an ERO field office in person. First, a surety agent would request that an ERO field officer verify a noncitizen was eligible for bond, and then complete and submit the hard copy Form I-352 bond documentation package in order to post bond. Once the ERO officer reviewed and approved the package, ERO would create a financial record of the bond in the appropriate ICE system and ICE would release the noncitizen. If the noncitizen did not satisfy the terms of the bond (e.g., failed to appear at an ICE office in response to a demand notice), the bond was considered breached, and the surety company was required to pay the bond amount to the U.S. Government.

The eBONDS system streamlined the processing and issuing of surety bonds and allowed a surety company and its agent to initiate and process an immigration bond online rather than appearing in person at an ICE office to request a bond be issued and approved. The eBONDS system enabled ICE offices to prepare and issue demand, breach, and cancellation notices directly to surety companies and their agents electronically. However, due to current regulations, eBONDS could not be fully

implemented, in that ICE cannot electronically serve the bond-related notifications it generates unless the surety company agrees otherwise. See 8 CFR 103.6 and 8 CFR 103.8(a)(1) and (2). Instead, eBONDS automatically generates bond-related notifications that ICE personnel must print on paper and serve via certified or regular mail.¹⁹

ICE is currently developing the CeBONDS system to allow cash bonds to be posted online. CeBONDS will incorporate the functionality of eBONDS to allow ICE to issue and serve all bond notices electronically to any cash bond obligor who registers with the CeBONDS system. This alternative method for issuing and serving cash bond notices will increase security, efficiency, and accessibility for both obligors and ICE. As stated above, no regulatory changes are needed to allow cash bond obligors to post bonds online. However, current regulations do not permit ICE to serve notifications electronically as they limit the available methods of service to those listed in 8 CFR 103.8(a)(1) and (2) (routine service and personal service). Without this rule, ICE cannot send electronic bond notifications using CeBONDS and eBONDS.

ICE currently prepares and serves paper bond notices for sureties and their agents who post bonds electronically in eBONDS but ICE prefers to shift to an entirely electronic process with the release of CeBONDS. Of the 33,237 approved immigration bonds that ICE issued in 2020, 25,751 were cash bonds.²⁰ Expanding the hybrid electronic-paper process from eBONDS to a larger number of cash bonds posted by individuals, would be unduly burdensome to ICE as well as unnecessarily delay receipt of bond-related notices to individuals posting cash bonds. ICE does not believe it is reasonable to have an electronic transaction delayed or disrupted by requiring a paper document to be served via regular or certified mail when more

efficient and cost-effective methods are available.

IV. Discussion of Changes

The definition of means of “service” in 8 CFR part 103 will be amended to provide flexibility and promote the Federal Government’s goal of building better digital service transformation.²¹ The regulations in chapter I of title 8 of the CFR contain provisions that, to varying degrees, govern facets of the immigration-related components of DHS, including but not limited to U.S. Customs and Border Protection (CBP), ICE, and USCIS. Because “the Service” in 8 CFR may refer to any immigration-related component of DHS, including CBP, ICE, and/or USCIS, DHS is adding provisions to 8 CFR 103.6 to serve bond-related notices electronically when consenting, enrolling, and using an ICE electronic bonds systems.

DHS is adding two paragraphs to § 103.6, Immigration bonds, to specifically authorize ICE to send all bond-related notifications electronically to cash bond obligors and surety companies and their agents who post an immigration bond using the eBONDS or CeBONDS. Because an obligor must login to eBONDS or CeBONDS with a unique password, an electronic record from the ICE bonds system indicating that the obligor opened a particular notification will serve as valid proof of receipt service of the notice.

Proof of service functions as a receipt confirming the delivery of documents from one party to another. ICE will verify that the email provided by the noncitizen or the person authorized to accept service on behalf of the noncitizen is valid users cannot create an online account if their email is not validated. ICE will generally perform a validity check as part of the sign-up process for receiving electronic bond-related notices which is common practice with establishing online accounts and notifications.²² ICE will retain that confirmation of consent in order to document the noncitizen’s consent. For bond-related notifications,²³ when the obligor receives an email that a bond-related notification has been issued, the obligor must login with a unique password to CeBONDS or eBONDS to view the notice. In amended § 103.6, ICE will

²¹ U.S. General Services Administration, *Guidance on building better digital services in government*, <https://digital.gov/> (last visited July 5, 2022).

²² ICE will use another method of notification in the event that the validity checks fails.

²³ Currently, bond-related notices are automatically generated from an electronic transaction.

¹⁸ eBONDS may only be used for surety bonds. However, of the 33,237 approved immigration bonds that ICE issued in 2020, only 7,486 were surety bonds. See Immigration Bond Statistics maintained by ICE’s Bonds Branch, Financial Service Center-Burlington.

¹⁹ eBONDS was built to provide bond-related notices electronically, but current regulation does not recognize that form of service. As such, that functionality was never enabled. eBONDS has a secure process set up for electronic service. Because bond-related notices contain sensitive information, a notice is transmitted to the surety companies and their agents in a two-step process. First, the eBONDS system generates an email to the surety and/or agent informing them that a notice was issued. Second, to actually view the notice, the surety or agent must log in to eBONDS and review the notice. eBONDS tracks and records when the notice is opened, thereby permitting ICE to verify receipt of the notice.

²⁰ See Immigration Bond Statistics maintained by ICE’s Bonds Branch, Financial Service Center-Burlington.

consider proof of service to be sufficient when ICE is able to verify that the document was opened in eBONDS or CeBONDS. Electronic bond-related notifications will serve as a valid form of notice that are reasonably calculated to inform an individual, surety company, or agent of the requirement to take some action.²⁴

V. Implementation of Electronic Notices

A. eBONDS and CeBONDS

ICE's eBONDS system allows surety companies or their agents to initiate and process immigration bonds online rather than appear in person at an ICE office to request a bond be issued and approved. eBONDS also enables ICE to generate electronic bond-related notifications to surety companies and their agents, although those notifications cannot be served electronically under current regulations. See 8 CFR 103.8(a)(1) and (2). The surety companies and their agents can open an online account in eBONDS to view, print, or save any documents or notifications associated with a bond at any time. Surety companies and their agents who post bonds electronically enter into a contract with ICE called an "eBONDS Access Application and Agreement." This contract grants the co-obligors access to eBONDS if the surety company and their agents agree to the terms and conditions of use. Once an obligor chooses to post a bond electronically with ICE, the obligor agrees to accept and receive bond notifications and notices electronically and agrees that opening a notice in eBONDS will constitute as proof of service that that notice was received.

ICE's CeBONDS system will use the same processes and procedures for cash bonds. Within CeBONDS the cash bond obligor is responsible for ensuring that the email address provided is current and that email settings (such as spam and other filters) will allow ICE electronic bond-related notifications to be received. It is the responsibility of the cash bond obligor to ensure that electronic bond-related notifications can be received.

When developed and fully implemented, CeBONDS will notify the cash bond obligor by generating an email notification that a document is in their account so the obligor can log into the system to view the "queue" organized by a unique identifier for each bond (coinciding with each notification issued). To view the bond-related notification, the cash bond obligor

clicks on an attachment. Obligor will be able to view, download, and print the bond form and any bond-related notification issued by ICE. Similar to eBONDS, CeBONDS will electronically record the date and time the obligor opened the document, so ICE has proof of receipt of the electronic bond-related notification.

B. Electronic Immigration Bonds System Safeguards

ICE built safeguards into eBONDS and CeBONDS to ensure both surety companies and individuals posting bonds actually receive their electronic bond-related notifications. The systems will confirm that obligors and surety companies (or their agents) that post bonds electronically have the ability to send and receive emails and are aware that bond-related notifications will be sent by email.

For surety companies, their agents, and cash bond obligors posting multiple bonds, ICE will allow the obligors to post a new bond when all notifications are opened within seven calendar days of being sent. eBONDS tracks, and when fully developed in the future CeBONDS will track, "unopened" notifications. Obligor who are not in compliance with this requirement will be placed in a "deficient electronic recipient" category and be prevented from posting new bonds in the electronic systems. This safeguard ensures that bond obligors open electronically served bond-related notifications in a timely fashion and are aware of any significant actions taken on the bond. For obligors in the "deficient electronic recipient" category, ICE will reissue bond-related demand notifications by mailing them using a tracking method, such as certified or registered mail with a return receipt requested and will reissue all other bond-related notifications by first-class mail to the obligor's last known address. ICE's eBONDS and CeBONDS systems default to electronic service of bond-related notifications, but if there is a problem with that electronic service ICE reverts to another permitted form of paper-based service. Once the system shows that the obligor complies with opening all electronic bond-related notifications within seven calendar days of being sent, the obligor may once again post new bonds electronically in eBONDS and CeBONDS.

An important goal of this IFR is to reduce situations where surety and cash bond notifications are sent by certified, registered, or regular mail but are not delivered to obligors who have moved after posting the bond. By authorizing electronic service, bond-related notifications are received quicker,

electronic service can be verified in moments, and the number of bond-related notifications that are returned as undeliverable will be reduced. While these are all efficiencies gained for ICE, they are also benefits for surety companies, agents, and for individuals posting cash bonds for noncitizens or family members.

C. In Person Option

ICE does not intend to refuse surety companies or individuals from posting a bond in-person at the appropriate ICE office. Cash bond obligors and surety companies and their agents (on behalf of a noncitizen) still have the option to appear in person at an ICE office to request a bond be issued and approved. However, ICE intends to largely transition to an electronic environment for the posting of immigration bonds. ICE has developed eBONDS and CeBONDS, building in numerous safeguards and conveniences for the obligors. ICE anticipates high adoption of CeBONDS because it will be more convenient posting an immigration bond online rather than physically traveling to the appropriate ICE office. However, ICE recognizes that there will be instances where non-electronic bond-related notifications will have to be served by another authorized form of paper-based service (e.g., deficient electronic recipients, obligors who choose to post a bond in-person). In such cases, obligors would receive non-electronic bond-related notifications under the current system using certified, registered, or regular mail.

D. E-SIGN Act

A bond is a contract with obligations on both ICE and the obligor. When ICE approves an immigration bond, ICE engages in a governmental function pursuant to its statutory and regulatory authority.²⁵ Unlike a "service" such as banking or lending where consumer disclosures are mandated by law, such as the Truth in Lending Act²⁶ or the Truth in Savings Act,²⁷ bond-related notifications are issued pursuant to the bond contract and the regulatory scheme governing immigration bonds.²⁸ Electronic bond-related notifications will serve as a valid form of notice that

²⁵ See INA 103(a)(1), (3), 8 U.S.C. 1103(a)(1), (3); 8 CFR 236.1(c)(10); 8 CFR 240.25(b), 8 CFR 1240.26(b)(3)(i), (c)(3)(i); and 8 CFR 241.5(b).

²⁶ 15 U.S.C. 1601–1667f (requiring creditors who loan to consumers to make certain written disclosures concerning finance charges).

²⁷ 12 U.S.C. 4301 *et seq.* (applicable to all insured depository institutions and credit unions and imposing standardized disclosures about interest rates and fees on deposit accounts).

²⁸ See 8 CFR 236.1(c)(10); 8 CFR 240.25(b), 8 CFR 1240.26(b)(3)(i), (c)(3)(i); and 8 CFR 241.5(b).

²⁴ Rule 4(f)(3) of the Federal Rules of Civil Procedure allows service of process by email under certain circumstances.

are reasonably calculated to inform an individual of the requirement to take some action. For example, Rule 4(f)(3) of the Federal Rules of Civil Procedure allows service of process by email under certain circumstances.

Requiring obligors using eBONDS and CeBONDS to accept electronic notifications is permissible under the E-SIGN Act.²⁹ If an electronic notification is returned as undeliverable or is received but not opened by the obligor within seven days (resulting in the obligator being deficient), ICE will reissue the electronic bond-related notification in another authorized form of paper-based service to the obligor's most recent address on record. However, ICE recognizes that mailing bond-related notifications to the obligor's address of record may result in a delay and one bond-related notification being served multiple times (e.g., the electronic notification in the immigration bonds system followed by paper-based service to the address of record).

Further, because participation in eBONDS currently requires consent to receive electronic bond-related notifications, and participation in CeBONDS will require the same consent when that system is developed and fully implemented, ICE is not required to obtain separate or additional consent before issuing electronic bond-related notifications to obligors using CeBONDS or eBONDS for the changes made by this rule. All obligors posting bonds in eBONDS or CeBONDS must consent to receive electronic bond-related notifications as a pre-condition of enrolling in and using the systems. As such, any consent requirements of the E-SIGN Act will be satisfied.

VI. Statutory and Regulatory Requirements

DHS developed this rule after considering numerous statutes and Executive orders related to rulemaking. The sections below summarize the

analyses based on a number of these statutes or Executive orders.

A. Administrative Procedure Act

The APA requires agencies to provide public notice and seek public comment on substantive regulations. *See* 5 U.S.C. 553. The APA, however, provides limited exceptions to this requirement for notice and public comment, including for "rules of agency organization, procedure, or practice." *See* 5 U.S.C. 553(b)(A). In the D.C. Circuit's "oft-cited formulation," this procedural-rule exception "'covers agency actions that do not themselves alter the rights or interests of parties, although it may alter the manner in which the parties present themselves or their viewpoints to the agency.'" *JEM Broad. Co., Inc. v. FCC*, 22 F.3d 320, 326 (D.C. Cir. 1994) (quoting *Batterton v. Marshall*, 648 F.2d 694, 707 (D.C. Cir. 1980)); *see also Mendoza v. Perez*, 754 F.3d 1002, 1023–24 (D.C. Cir. 2014). This rule adds another method (e.g., electronic service) for ICE to serve bond-related notifications for anyone enrolling in or using an ICE electronic bonds systems. This rule expressly permits ICE to serve electronic bond-related notifications for all immigration bonds through the eBONDS and CeBONDS systems. Neither DHS nor ICE are removing or limiting any of the current methods of service found in 8 CFR 103.8(a)(1) or (2). For these reasons, DHS believes that these changes are procedural in nature, improve the effectiveness and efficiency of agency operations, and do not alter substantive rights. Therefore, because this IFR is procedural, notice and opportunity for public comment are not required. *See* 5 U.S.C. 553(b)(A). DHS nevertheless invites comments on this IFR and will consider all timely comments submitted during the public comment period as described in the **ADDRESSES** section.

B. Executive Orders 12866 and 13563: Regulatory Review

Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits

(including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This IFR has not been designated a "significant regulatory action," under section 3(f) of Executive Order 12866, as amended by Executive Order 14094. Accordingly, the rule has not been reviewed by the Office of Management and Budget. The analysis period of this rule covers 10 years to ensure it captures impacts that accrue over time. DHS expresses quantified impacts in 2021 dollars and uses discount rates of 3 and 7 percent, pursuant to Circular A–4.

Summary of the Analysis

DHS estimates that the IFR will have public costs and unquantified benefits, and result in cost-savings and unquantified benefits to the Government. The overall quantified impact of this rule is a net savings of \$1,062,712 discounted at 3 percent and \$655,278 discounted at 7 percent, with unquantified benefits expected to outweigh the unquantified costs. The rule is expected to expedite delivery and improve the reliability of service of bond-related notifications. In accounting for the costs and cost-savings of this IFR, ICE has assumed that all current obligors will transition to electronic notification within the first year of the publishing of this IFR. New bond obligors enrolling in CeBONDS or eBONDS will de facto agree to the use of electronic notifications as a feature of using these systems, though they will have the option to utilize physical notification under certain circumstances, such as an obligor lacking the means to access the internet. Lastly, while the analysis assumes that bond obligors will enroll in these services sooner rather than later, full adoption may ultimately depend on several factors, such as obligors being made aware of these changes, understanding the benefits of these provisions, and possessing the means to access the internet. Table 1 summarizes the findings of this regulatory impact analysis (RIA).

²⁹ Under the definition of a "consumer" by the E-SIGN Act, bond obligors are not "consumers" because a "product or service" is not obtained through the transaction of posting a bond. An obligor does not meet the definition of "consumer" for any of the three types of bonds (delivery bonds, voluntary departure bonds, and order of supervision bonds) issued by ICE. *See* 15 U.S.C. 7006(1).

TABLE 1—OMB CIRCULAR A–4 ACCOUNTING STATEMENT 2021
[Millions]

Category	Impact	Source
Benefits		
Annualized Monetized Benefits (\$ Mil)		
(3%)		RIA.
(7%)		RIA.
Annualized Quantified, but Unmonetized, Benefits.		
Unquantified Benefits	Improved program delivery. Reduced paper waste.	RIA.
Costs		
Annualized Monetized Costs (\$ Mil)		
(3%)	– 0.124	RIA.
(7%)	– 0.093	RIA.
Annualized Quantified, but Unmonetized, Costs.		
Unquantified Costs	Cost to public to access electronic system.	RIA.
Transfers		
Annualized Monetized Transfers.		
From Whom to Whom.		
Other Analyses		
Effects on State, Local, and/or Tribal Governments	No Impact	IFR.
Effects on Small Business	Undetermined	IFR.
Effects on Wages.		
Effects on Growth.		

Background and Purpose of Interim Final Rule

As part of its mission to enforce U.S. immigration laws, ICE currently issues a wide range of notices, decisions, and other documents to entities such as, but not limited to, universities, businesses, noncitizens, courts, and employees. Current regulations authorize ICE to serve documents in-person or by certified, registered, or regular mail. However, serving documents in this manner can take time and be more costly, compared to electronic methods of service. The IFR authorizes ICE to serve electronic bond-related notifications to obligors who enroll in CeBONDS and eBONDS.

Currently, ICE uses certified mail for the service of demand notices issued on delivery bonds so that ICE can confirm the date upon which an obligor receives the demand notice. Since 2010, ICE has employed eBONDS, which is a web-based system used primarily by surety agents and ICE to facilitate the ICE immigration bond management process. This system was implemented to allow surety agents the option to post surety bonds electronically for noncitizens determined by ICE to be eligible for release on bond. Additionally, eBONDS was built with functionality that included the ability to serve electronic bond-related notifications to surety

companies and their agents within eBONDS for those companies who opted-in to electronic service, but due to current regulatory requirements for personal and routine service, that capability has not been implemented in eBONDS.³⁰ See 8 CFR 103.8(a)(1) and (2). Similarly, ICE is currently developing CeBONDS to allow cash bond obligors to post cash immigration bonds online without obligors having to appear in person at an ICE office. CeBONDS will offer to individuals posting cash bonds all the conveniences that eBONDS provides to surety companies. This IFR will allow ICE to fully implement eBONDS and CeBONDS by authorizing ICE to serve bond-related notifications electronically for those who consent, setup an account, and utilize the eBONDS and CeBONDS systems.

Time Horizon for the Analysis

ICE estimates the economic effects of this IFR will be sustained indefinitely. ICE assumes a 10-year timeframe to outline, quantify, and monetize the costs and benefits of the rule, and to demonstrate its net effects.

³⁰ Mead, Gary. "Privacy Impact Assessment Update for the Bonds Online System (eBONDS) Phase Two." January 23, 2013. Available at: <https://www.dhs.gov/sites/default/files/publications/ice-pia-008-a-ebonds-2013.pdf>, accessed Mar. 16, 2021.

Analysis Considerations

With regard to bond-related notifications, ICE derived quantitative estimates of the costs that will be saved in ICE's operations, attributable to ICE serving the notifications electronically rather than through a non-electronic method. In order to calculate these estimates, this analysis assumes that full use of eBONDS and CeBONDS will require that current obligors transition from physical notifications to that of electronic notifications as they become familiar with the changes presented in this IFR. Based on input from ICE subject matter experts, this analysis also assumes that the majority of current bond obligors will adopt these services within the first year of publishing this rule to realize the benefits of electronic bond-related notifications, and will elect to use these services sooner rather than later. However, while the analysis assumes that the majority of bond obligors will utilize these systems, full adoption may ultimately depend on several factors, such as obligors being made aware of these changes, understanding the benefits of these provisions, and possessing the means to access the internet. Lastly, this estimate does not account for any change in the total number of notices that will occur in the future, or under circumstances when ICE needs to send paper notices

by mail if emails fail, or the possibility of less than full adoption by the public. With this IFR, new bond obligors utilizing CeBONDS and eBONDS will automatically enroll in electronic notifications upon consent, though they will have the option to utilize physical notification under certain circumstances—such as an obligor lacking the means to access the internet.

Affected Population

The IFR will affect ICE officers and all bond obligors who post immigration

bonds online using CeBONDS or eBONDS. Once ICE has the ability to serve electronic notifications to bond obligors, ICE will begin to serve all bond-related notifications electronically to any obligor who chooses to post a bond electronically.

To account for these populations, ICE utilized its Bond Management Information System to collect and analyze data on surety companies and their agents that post bonds and data on individual obligors who post cash

bonds. Using this information, ICE found that an average of 41,820 cash bonds were posted annually by obligors between fiscal years 2018 and 2020. Additionally, ICE found that between fiscal years 2018 and 2020, a total of 15 agents and 11 surety companies posted ICE immigration bonds on behalf of surety bond obligors. Combined, these representatives posted bonds for an average 8,190 obligors. Table 2 displays this information below by fiscal year and category of bonds.

TABLE 2—TOTAL BONDS POSTED BY CASH AND SURETY OBLIGORS

Category	2018	2019	2020	Average
Surety Bonds	8,081	9,098	7,391	8,190
Cash Bonds	49,793	50,135	25,531	41,820
Total	57,874	59,233	32,922	50,010

Source: DHS/ICE Bond Management Information System (BMIS).

Baseline

This section details the regulatory baseline for this IFR. The table below

provides a summary of the anticipated changes to baseline conditions due to this IFR.

TABLE 3—SUMMARY OF EXPECTED IMPACTS

Provision	Description of change	Affected population	Cost impact to affected population	Benefit impact
Serve Bond-Related Notices Electronically.	Serve all immigration (ICE) bond-related notifications electronically to bond obligors who have posted a bond using the eBONDS and CeBONDS systems.	All bond obligors who post immigration bonds on-line using the CeBONDS or eBONDS system. Federal Government	• Familiarization costs • Potential technology costs. • Opportunity costs. • Program cost savings ...	• Improved program delivery. • Expedited Notifications.

Current Regulatory Baseline

Currently, ICE uses routine service as defined by 8 CFR 103.8(a)(1) to serve breach notices, cancellation notices, and notices of bond breach reconsideration decisions. ICE performs the routine service by sending first-class mail to the obligor's last known address. ICE also uses routine service to serve invoices and demand letters to surety companies and their agents, sending them either by regular mail, an alternative mailing method that allows ICE to track and confirm delivery, or email (with the co-obligors' consent).

Additionally, ICE uses personal service as defined by 8 CFR 103.8(a)(2) ³¹ to effect service of demand notices issued on delivery bonds so that ICE may confirm the date on which the obligor receives the demand notice. Currently, for ICE, "personal service"

may be effected through any of the following methods: personal delivery; delivery at a person's home or usual residence by providing a copy to a person of suitable age and discretion; delivery at the office or residence of an attorney or representative; or mailing by certified or registered mail, with return receipt requested, to a person's last known address.

To establish a baseline analysis for all bond-related notices, ICE calculated the average number of notifications served by mail per year, of each type of immigration bond, based on data from 2018 to 2020 (Table 4). ICE found the average number of all types of notifications per year to be 45,358.

TABLE 4—TYPES OF IMMIGRATION BOND NOTICES

Notice type	Average annual number of notices ³² mailed (2018–2020)
I-391 Cash Bond Cancellations	15,317
I-340 Cash Bond Obligor to Deliver Noncitizen	12,020
I-323 Cash Bond Breaches	7,128
I-340 Surety Bond Obligor to Deliver Noncitizen	6,080
I-391 Surety Bond Cancellations	2,841
I-323 Surety Bond Breaches	1,412
Surety Bond Motion to Reopen or Reconsider	306
Cash Bond Motion to Reopen or Reconsider	254
Total	45,358

³¹ Except that portion of 8 CFR 103.8(a)(2) that is applicable solely to USCIS.

³² Source: DHS/ICE BMIS. Accessed July 26, 2021.

ICE anticipates that, in the absence of this rulemaking, the agency would continue to serve all bond-related notifications using personal or routine service, at a cost to both the Federal Government and the recipients. ICE would still be required to process and serve notifications manually, and bond obligors would continue to receive physical notifications via an authorized form of paper-based service.

Costs of the Interim Final Rule

This alternative electronic method of ICE's process for serving bond notices has the potential to introduce familiarization, technology, and opportunity costs to the affected population.

Quantified Costs

Familiarization—A likely impact of the IFR is that various individuals and other entities will incur costs associated with familiarization with the provisions of the rule. Familiarization costs involve the time spent reviewing and learning the provisions of a rule. Various offices throughout ICE may review the rule to determine how they are subject to the IFR. To the extent these entities are directly regulated by the rule, familiarization costs would be incurred, and those familiarization costs are a direct cost of the rule.

In addition to those being directly regulated by the rule, a wide variety of other entities would likely choose to read the rule and incur familiarization costs. For example, surety companies and noncitizens may want to become familiar with the provisions of this rule. At approximately 16,800 words, ICE estimates the time that would be necessary to read the IFR would be approximately 56 to 67.2 minutes per person, resulting in opportunity costs of time. Congruent with other DHS impact analyses, ICE assumes the average professional reads technical documents at a rate of 250 to 300 words per minute.³³ An entity, such as a surety company may have more than one person who reads the IFR. Using the average hourly rate of total compensation as \$37.83 for all occupations (both civilian and private),³⁴ ICE estimates that the opportunity cost of time will range from \$35.31 to \$42.37 per individual who

must read and review the IFR (in 2021 dollars).³⁵

While the analysis assumes the majority of bond obligors will utilize these systems, there are many factors which may impact the adoption of CeBONDS, such as awareness of the system and internet access. Given this, ICE can provide an estimate for the number of people that would familiarize themselves with this rule based on expected users. To estimate this population, ICE utilized counts of bond obligors³⁶ and surety companies³⁷ between 2018 and 2020 to derive an annual average of 41,846 obligors (41,820 cash obligors + 11 surety companies + 15 agents). Assuming that at least one person from each entity would be responsible for reading the IFR, the total familiarization cost would range from \$1,477,582 to \$1,773,015 (in 2021 dollars).³⁸ The average of this estimated range for familiarization for bond obligor entities, \$1,625,299, is used in the accounting of the first year of the cost of this rule.

Account Creation—In accounting for the costs of electronic bond-related notifications, ICE considered whether bond obligors or surety companies would face opportunity costs to utilize eBONDS and CeBONDS. For ICE to send notices electronically to bond obligors, the bond obligors will need to create a personal account to access bond-related notifications and process bond payments. ICE estimates the time that would be necessary to create this account would be no more than 10 minutes. Using the average total rate of compensation as \$37.83³⁹ per hour for all occupations, ICE estimates that the opportunity cost of time will be \$6.31 per individual (or surety company) who creates an account. To estimate this population, ICE utilized a three-year

³⁵ Calculation: ((Total compensation for civilian workers + total compensation for private industry workers)/2) * (Time (in minutes) to read rule—(lower or upper bound)) = (Opportunity cost of time [OCT] to read rule) = \$37.83 * (67.2/60) = \$42.37, = \$37.83 * (56/60) = \$35.31. Word count estimated as of 8/15/2022.

³⁶ Data was obtained from the BMIS, accessed July 16, 2021 (see Table 2). An average of 41,820 cash bonds were posted annually between 2018 and 2020. ICE used the average cash bonds posted as an estimate of the number of cash bond obligors. Cash bonds are generally posted by noncitizens or loved ones.

³⁷ This includes surety agents who post bonds of behalf of obligors. ICE found that between fiscal year 2018 and 2020, a total of 15 agents and 11 surety companies posted ICE immigration bonds on behalf of surety bond obligors.

³⁸ Range for total familiarization cost: lower bound \$35.31 × 41,846 = \$1,477,582; upper bound \$42.37 × 41,846 = \$1,773,015.

³⁹ Includes both civilian and private occupations. https://www.bls.gov/news.release/archives/eccec_06172021.pdf. Accessed July 12, 2022.

average population count⁴⁰ of bond obligors between fiscal year 2018 and 2020 (from table 2) and assumes that most obligors will enroll into the program within the first year of implementation. The estimated total opportunity cost during the first year adoption period for the current obligor population to transition to these systems is \$263,884.⁴¹ To account for surety companies and surety agents, ICE also utilized BMIS to account for each representative which posted surety bonds between fiscal year 2018 and 2020, determining that a total of 15 agents and 11 surety companies had posted immigration bonds. The estimated total opportunity cost during the first year adoption period for this population to transition to these systems is \$164.06.⁴²

Lastly, in order to determine the cost of new obligors entering the pool and creating new accounts over the time horizon, ICE utilized prior cash bond obligor population data from fiscal years 2018 to 2020 to project that an average of 41,820 new cash bond obligors would create accounts each year. This would equate to a total cost to the public of \$2,639,006 over 10 years.

CeBONDS Development & Maintenance—CeBONDS began development in April of 2021, with the total development cost for ICE being estimated at roughly \$1,507,000. The maintenance costs for ICE have been estimated to be \$150,000 annually.⁴³ Similar to eBONDS, without this rule, ICE would still develop and implement CeBONDS to allow obligors to post cash bonds electronically and ICE would continue to serve all bond-related notifications using personal or routine service. Therefore, ICE did not include these development and maintenance costs as a part of the total costs in this analysis since the development and operation of the CeBONDS system is occurring independent of this IFR.

Unquantified Costs

ICE also identified additional unquantified costs that could result from this IFR.

Technology—In accounting for the costs of electronic bond-related notifications, ICE considered whether

⁴⁰ Data was obtained from the Bond Management Information System (BMIS), and utilized the number of unique Tax Identification Numbers (TIN) for bond obligors within a given set of years. Accessed July 16, 2021.

⁴¹ \$263,884 = \$6.31 × 41,820 annual average number of unique cash bond obligors (see Table 2).

⁴² \$164 = \$6.30 × 26 annual average number of surety companies and surety agents FY2018–FY2020.

⁴³ Estimates provided by ERO, Bond Management Unit, July 14, 2022.

³³ See 87 FR 10570 (published February 24, 2022) and 87 FR 18078 (published March 29, 2022).

³⁴ Average hourly total compensation \$37.83 = (\$39.01 civilian workers + \$36.64 private industry workers)/2; Total Compensation for civilian workers and private industry workers: https://www.bls.gov/news.release/archives/eccec_06172021.pdf. Accessed July 12, 2022.

bond obligors would face technology costs to utilize these services, namely the cost to access the internet. There are a variety of means by which obligors can access the internet to receive electronic bond-related notifications, including the use of smart phones or personal computers. That said, due to the high prevalence and wide-ranging public and private access the internet, including access to free WiFi in public and private locations, access to computers and internet at public libraries, as well as likely connections to family and friends who have ready access to the internet, ICE expects bond obligors who opt for electronic service will be able to gain access with de minimis cost. Furthermore, obligors can still opt out of electronic service and follow the same practice as in the

baseline case. It is unclear how many obligors will choose to use the in-person option, but since the rule provides greater flexibility by permitting electronic service while retaining the existing method for paying bonds, ICE does not expect the rule to induce substantive access costs.

Validity Check—In creating the online account for obligors, ICE will perform a validity check as part of the sign-up process for receiving electronic bond-related notices, as users cannot complete their account creation if their email is not first validated. The time burden to perform this check will be based on how long it takes for ICE to submit a verification email to the provided email address and confirm the accuracy of that address. However, because this process will likely be

automated via computer software that is already available to ICE (see CeBONDS system development costs), ICE does not expect this process to produce a substantive cost.

Total Estimated Costs

Table 5 summarizes the quantified impact of this IFR. The total monetized costs of the rule do not include the development and annual maintenance costs required to operate the CeBONDS system given that they are not tied to this IFR, as discussed above. The 10-year costs of the IFR are approximately \$3.83 million and \$3.37 million (in 2021 dollars) at 3 and 7 percent discount rates, respectively, and include the opportunity costs of familiarization and setting up an online account.

TABLE 5—TOTAL ESTIMATED QUANTIFIED COSTS

Year	Undiscounted costs	Annual costs discounted at 3%	Annual costs discounted at 7%
1	\$1,889,347	\$1,834,317	\$1,765,745
2	263,884	248,736	230,487
3	263,884	241,491	215,408
4	263,884	234,458	201,316
5	263,884	227,629	188,146
6	263,884	220,999	175,837
7	263,884	214,562	164,334
8	263,884	208,312	153,583
9	263,884	202,245	143,536
10	263,884	196,354	134,145
Total	4,264,303	3,829,103	3,372,537
Annualized		448,888	480,173

Cost Savings of the Interim Final Rule

This alternative method of ICE's process for issuing electronic bond-related notifications is expected to reduce labor costs for the government by reducing the time needed to process these notices, and it will eventually significantly reduce, if not eliminate, the costs of material items such as postage and paper that would otherwise be incurred for notices that are physically mailed. As mentioned above, ICE calculates quantitative benefits based on the assumption that new obligors are incentivized toward adoption into the eBONDS and CeBONDS systems within the first year of publishing this IFR.

Cost Savings to Electronically Served Bond-Related Notifications

Mailing Cost Savings—ICE estimated the cost-savings to government that would be obtained from a 100 percent transition to electronic service of immigration bond-related notifications to be \$573,470 per year (in 2021 dollars). To arrive at the full cost savings estimate, ICE calculated the average cost of sending physical notices by certified or first-class mail. Specifically, ICE calculated the time required for an ICE official to collect, process, and place in the mail each physical notice, which was 5 minutes. ICE divided the 5 minutes by 60 minutes per hour, and multiplied by \$52.87, which is the fully loaded average hourly wage based on a General Schedule Grade 11, Step 10 salary, with

a "Rest of U.S." locality payment of 15.95 percent.⁴⁴ ICE based the fully loaded wage rate on the wage rate of \$40.27 per hour, adjusted upward by 31.3 percent to account for compensation for benefits (in addition to wages).⁴⁵ This calculation resulted in an estimated labor cost of \$4.41 per mailing. ICE then added this labor cost to the cost of materials (for the envelope, paper, etc.)⁴⁶ and the postage per notice (which varies depending on the type of notice) to determine the various costs per notice. ICE then multiplied this total by the number of pieces that are mailed per notice (which also varies depending on the type of notice), and by the average total number of notices issued for each type. Table 6 displays how the total cost of \$573,470 was derived.

⁴⁴ https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/21Tables/html/RUS_h.aspx.

⁴⁵ https://www.bls.gov/news.release/archives/eccec_03182021.pdf (released Mar 18, 2021).

⁴⁶ Source: Cost per notice estimates provided by ERO Bond Management Unit and include, when

applicable, costs for certified mail, postage, paper, envelopes, and materials (such as toner/ink). July 26, 2021.

TABLE 6—GOVERNMENT COST SAVINGS OF BOND-RELATED NOTICES

Notice type	Average number of notices mailed (2018–2020)	Cost per notice *	Total cost
I–391 Cash Bond Cancellations	15,317	\$5.08	\$77,810
I–340 Cash Bond Obligor to Deliver Alien	12,020	9.99	120,080
I–323 Cash Bond Breaches	7,128	9.99	71,209
I–340 Surety Bond Obligor to Deliver Alien	6,080	39.95	242,896
I–391 Surety Bond Cancellations	2,841	10.16	28,865
I–323 Surety Bond Breaches	1,412	19.98	28,212
Surety Bond Motion to Reopen or Reconsider	306	10.16	3,109
Cash Bond Motion to Reopen or Reconsider	254	5.08	1,290
Totals	45,358	110.39	573,470

* Labor cost included per notice is \$4.41.

Total Estimated Quantified Savings

Table 7 summarizes the quantified cost savings of this interim final rule. The total monetized savings of the rule includes the average cost savings for ICE of replacing physically mailed notices (by certified, registered, or regular mail)

with electronic bond-related notifications. In order to capture these cost savings over the time horizon of the analysis, ICE assumed a constant average rate of notices over a ten-year period. Thus, this estimate does not account for any change in the total number of notices that may occur in the

future, or circumstances under which ICE needs to send paper notices by mail if emails fail, or the possibility of less than full adoption by the public. The 10-year cost-savings of the interim final rule in 2021 dollars are \$4.9 million and \$4.0 million at 3 and 7 percent discount rates, respectively.

TABLE 7—TOTAL ESTIMATED QUANTIFIED COST SAVINGS

Year	Undiscounted cost-savings	Annual cost-savings discounted at 3%	Annual cost-savings discounted at 7%
1	\$573,470	\$556,767	\$535,953
2	573,470	540,550	500,891
3	573,470	524,806	468,122
4	573,470	509,521	437,498
5	573,470	494,680	408,876
6	573,470	480,272	382,127
7	573,470	466,284	357,128
8	573,470	452,703	333,765
9	573,470	439,517	311,930
10	573,470	426,716	291,523
Total	5,734,700	4,891,815	4,027,813
Annualized		573,470	573,470

Unquantified Benefits of the Interim Final Rule

This alternative method of ICE's process for issuing electronic bond-related notifications is expected to increase efficiency, accessibility, expedited delivery, and reliability of bond notices to the obligor. These benefits are described in more detail below.

Program Delivery—By serving bond-related notifications electronically and making bond obligors responsible for ensuring that electronic bond-related notifications can be received, ICE expects it will significantly reduce the number of bond-related notifications that are not received by the obligor. A random sample of 100 delivery cash bonds that were declared as being

breached during calendar years 2017–2019 indicates that approximately 28 percent of demand notices sent by certified mail to the obligor's address of record were returned as undeliverable or unclaimed.⁴⁷ Electronic bond-related notifications will significantly reduce the occurrence of notices being lost in the mail during delivery, while still providing notifications in the event that obligors move from their physical address or are away from that address for an extended period of time. Additionally, in creating the online account for obligors, ICE will perform a validity check as part of the sign-up

⁴⁷ Data obtained internally by DHS/ICE Bond Management Information System (BMIS), Financial Service Center-Burlington. Accessed on Mar. 8, 2021.

process for receiving electronic bond-related notices, as users cannot create an online account if their email is not validated. This use of a verified email address will ensure that the notices have a high probability of being successfully delivered electronically to an email address that the obligor uses, ensuring that the notification reaches its proper recipient.

ICE also intends to expedite delivery of notifications. For example, when an obligor chooses to post a bond online and receive bond-related notifications electronically, the system is designed to notify the obligor immediately by email when a notification has been issued. ICE, in turn, would also be able to confirm immediately the date that the cash bond obligor opens and

acknowledges receipt of the electronic notification. In this way, recipients can receive notifications without being present at their physical mailing address as long as they have access to the internet.

Paperless Records—The changes due to this IFR are consistent with the types of changes now being made across the Federal Government regarding the

mechanisms through which Federal offices deliver documents to the public. In accordance with the Government Paperwork Elimination Act,⁴⁸ electronic notifications have significantly reduced the use of paper and physical storage space.

Alternative Analysis

Before proposing service of electronic bond-related notifications, ICE evaluated one alternative option that would affect the entities subject to the rule requirements, namely the no action alternative. The details of this option are described below, and Table 8 presents the unquantified costs and benefits for this alternative.

TABLE 8—SUMMARY OF ALTERNATIVES

Action	Benefits	Costs
• Take No Action	• No familiarization, technology, or opportunity cost to public.	• Cost to process nonelectronic mail. • Nonalignment with the Government Paperwork Elimination Act. • No improvement in program delivery. • Costs to maintain physical records.

Alternative: Take No Action

ICE considered a “no action” alternative under which ICE would continue to serve bond-related notifications to obligors for immigration bonds using personal or routine service, at a cost to both the Federal Government and the recipients.

The opportunity costs associated with electing a “no action” alternative would be equivalent to the current average cost to ICE of sending physical notices by certified or first-class mail, which ICE estimated to be \$573,470 per year. ICE would still be required to process and mail notifications by hand, and bond obligors would continue to receive physical notifications. This alternative also means that ICE would not be acting in alignment with government-wide efforts to transition agencies’ business processes and recordkeeping to a fully electronic environment as encouraged by statutes like the Government Paperwork Elimination Act,⁴⁹ and more recently, the joint memorandum issued by OMB and the National Archives and Records Administration⁵⁰ requiring the government to store records electronically. Additionally, this alternative of “no action” would also not result in any cost savings with regard to system development or deployment, because the eBONDS systems was already built and deployed independent of this IFR and the CeBONDS system is already being built and deployed independent of this IFR.

The cost savings and benefits associated with this action involve the development, familiarization, technology, and opportunity costs

associated with implementing this IFR. Absent the requirement to use the CeBONDS system, bond obligors would not face the potential costs associated with learning about the IFR, acquiring the necessary technological means to access the internet, or the expended time in creating an eBONDS or CeBONDS account.

Additionally, any preference by obligors either to maintain physical records or to receive nonelectronic mail notices has already been considered in the development of IFR. As part of the process of deciding to post a bond electronically with ICE, the obligor will be informed that bond notifications will be served electronically, and the obligor must agree to receive them electronically. If the obligor does not wish to post a bond electronically or receive bond notifications electronically, the obligor may post the bond in-person at an ICE office and receive notifications via another form of authorized paper-based service.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act at 5 U.S.C. 603 requires agencies to consider the economic impact its rules will have on small entities. The term “small entities” comprises small business, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. However, a regulatory flexibility analysis is not required when a rule is exempt from notice and comment rulemaking. This IFR is exempt from the

notice and comment rulemaking, as stated in the APA, 5 U.S.C. 551 *et seq.*, section of the preamble. Therefore, a regulatory flexibility analysis is not required for this rule.

D. Small Business Regulatory Enforcement Fairness Act of 1996

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, DHS wants to assist small entities in understanding this rule so that they can better evaluate the effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction, and you have questions concerning the provisions or options for compliance; please consult ICE using the contact information provided in the **FOR FURTHER INFORMATION** section above.

E. Congressional Review Act

This rule is not a major rule as defined by 5 U.S.C. 804, also known as the “Congressional Review Act,” as enacted in section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, 110 Stat. 847, 868 *et seq.* This rulemaking would not 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 companies to compete with foreign based companies in domestic and export markets. A report about the issuance of this IFR has been submitted to Congress and the

⁴⁸ See Public Law 105–277, tit. XVII, section 1703, 112 Stat. 2681, 2681–749 (Oct. 21, 1998), 44 U.S.C. 3504.

⁴⁹ Public Law 105–277, tit. XVII, section 1703, 112 Stat. 2681, 2681–749 (Oct. 21, 1998), 44 U.S.C. 3504.

⁵⁰ Transition to Electronic Records (OMB/NARA M–19–21), available at <https://www.archives.gov/files/records-mgmt/policy/m-19-21-transition-to-federal-records.pdf>.

Comptroller General of the United States prior to its effective date.

F. Unfunded Mandates Reforms Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Unfunded Mandates Reform Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any year. Though this rule would not result in such an expenditure, DHS does discuss the effects of this rule elsewhere in this preamble.

G. Paperwork Reduction Act—Collection of Information

All Departments are required to submit to OMB for review and approval any reporting or recordkeeping requirements inherent in a rule under the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, 109 Stat. 163 (codified at 44 U.S.C. 3501 *et seq.*). Under the PRA, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the agency obtains approval from OMB for the collection and the collection displays a valid OMB control number. *See* 44 U.S.C. 3506, 3507.

With respect to immigration bonds, regardless of using either eBONDS today or CeBONDS in the future when fully implemented, there would be no changes to the reporting burden for the existing collection of information associated with Form I–352, *Immigration Bond* (OMB control number 1653–0022), or Form I–333, *Obligor Change of Address* (OMB control number 1653–0042). There are no substantive changes to those forms because of this rulemaking. The only changes being made are revisions that will need to be included in the electronic system currently being built to accommodate electronic bond related notifications. Once CeBONDS is fully developed and this rule is effective, if DHS identifies any impacts that would modify or create a new collection, DHS will submit a revision to OMB at that time.

H. Executive Order 13132: Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. DHS has analyzed

this rule under Executive Order 13132 and determined that it does not have implications for federalism.

I. Executive Order 12988: Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, *Civil Justice Reform*, to eliminate drafting errors and ambiguity, minimize litigation, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

J. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

DHS analyzed this rule under Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*. DHS has determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

K. National Environmental Policy Act (NEPA)

The U.S. Department of Homeland Security Management Directive (MD) 023–01, Rev. 01 establish procedures that DHS and its Components use to comply with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321–4375, and the Council on Environmental Quality (CEQ) regulations for implementing NEPA, 40 CFR parts 1500 through 1508.

CEQ regulations allow Federal agencies to establish categories of actions, which do not individually or cumulatively have a significant effect on the human environment and, therefore, do not require an Environmental Assessment or Environmental Impact Statement. 40 CFR 1508.4. The DHS Categorical Exclusions are listed in IM 023–01–001–01 Rev. 01, Appendix A, Table 1.

For an action to be categorically excluded, MD 023–01 requires the action to satisfy each of the following three conditions:

- (1) The entire action clearly fits within one or more of the Categorical Exclusions;
- (2) The action is not a piece of a larger action; and
- (3) No extraordinary circumstances exist that create the potential for a significant environmental effect. IM 023–01–001–01 Rev. 01, sec. V(B)(2)(a)–(c). If the action does not clearly meet

all three conditions, DHS or the Component prepares an Environmental Assessment or Environmental Impact Statement, according to CEQ requirements, MD 023–01, and IM 023–01–001–01 Rev. 01.

ICE has analyzed this rule under MD 023–01 Rev. 01 and IM 023–01–001–01 Rev. 01. ICE has made the determination that this rulemaking action is one of a category of actions, which does not individually or cumulatively have a significant effect on the human environment. This IFR clearly fits within the Categorical Exclusion found in IM 023–01–001–01 Rev. 01, Appendix A, Table 1, number A3(d): “Promulgation of rules . . . that interpret or amend an existing regulation without changing its environmental effect.” This rule is not part of a larger action. This rule presents no extraordinary circumstances creating the potential for significant environmental effects. Therefore, this rule is categorically excluded from further NEPA review.

ICE seeks any comments or information that may lead to the discovery of any significant environmental effects from this IFR.

L. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments*, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

M. Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights

This rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, *Governmental Actions and Interference with Constitutionally Protected Property Rights*.

N. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 requires agencies to consider the impacts of environmental health risk or safety risk that may disproportionately affect children. DHS has reviewed this rule and determined that this rule is not an economically significant rule and would not create an environmental risk to

health or risk to safety that might disproportionately affect children. Therefore, DHS has not prepared a statement under this executive order.

O. National Technology Transfer and Advancement Act

The National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impracticable. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, DHS did not consider the use of voluntary consensus standards.

P. Family Assessment

DHS has determined that this rule action will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Pub. L. 105–277, 112 Stat. 2681).

List of Subjects in 8 CFR Part 103

Administrative practice and procedures, Authority delegations (government agencies), Freedom of information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

Regulatory Amendments

Accordingly, DHS amends chapter I of title 8 of the Code of Federal Regulations as follows:

PART 103—IMMIGRATION BENEFIT REQUESTS; USCIS FILING REQUIREMENTS; BIOMETRIC REQUIREMENTS; AVAILABILITY OF RECORDS

■ 1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a; 8 U.S.C. 1101, 1103, 1304, 1356, 1365b; 31 U.S.C. 9701; Pub. L. 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*); E.O. 12356, 47 FR 14874, 15557; 3 CFR, 1982 Comp., p. 166; 8 CFR part 2; Pub. L. 112–54; 125 Stat. 550; 31 CFR part 223.

■ 2. Section 103.6 is amended by adding paragraphs (g) and (h) to read as follows:

§ 103.6 Immigration bonds.

* * * * *

(g) *Delivery bond notifications to surrender aliens.* Notwithstanding the requirements of § 103.8 for the service of other notices, ICE may serve demand notices electronically or by any mail service that allows delivery confirmation to bond obligors, who consent to electronic delivery of service, to cause an alien who has been released from DHS custody on an immigration delivery bond to appear at an ICE office or an immigration court. An electronic record from the ICE bonds system showing that the obligor opened the demand notice will constitute valid proof of receipt service of the notice. If ICE cannot confirm receipt of the electronic notice, ICE will reissue a new another demand notice to the bond obligor's last known address using any mail service that allows delivery confirmation.

(h) *Bond breach, bond cancellation, and other bond notifications.* Notwithstanding the service requirements for demand notices in paragraph (g) of this section, ICE may serve any other bond-related notifications electronically or by first-class mail to obligors, who consent to electronic delivery of service, that pertain to delivery, order of supervision,

or voluntary departure immigration bonds, such as bond breach or cancellation notifications. An electronic record from the ICE bonds system showing that the obligor opened the bond-related notification will constitute valid proof of receipt service of the notice. If ICE cannot confirm receipt of the electronic notice, ICE will reissue another notice to the obligor's last known address using regular mail.

Alejandro N. Mayorkas,
Secretary, U.S. Department of Homeland Security.

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DEPARTMENT OF ENERGY

10 CFR Parts 429 and 430

[EERE–2021–BT–TP–0036]

RIN 1904–AF26

Energy Conservation Program: Test Procedure for Air Cleaners

Correction

In rule document 2023–03987, appearing on pages 14014 through 14045 in the issue of Monday, March 6, 2023, on page 14045, in the middle column, make the following correction to paragraph 5.1.2.:

PART 430 ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS [Corrected]

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Appendix FF of Subpart B

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5.1.2. PM_{2.5} CADR may alternately be calculated using the smoke CADR and dust CADR values determined according to sections 5 and 6, respectively, of AHAM AC–1–2020, according to the following equation:

$$PM_{2.5}CADR = \sqrt{Smoke\ CADR\ (0.1 - 1\ \mu m) \times Dust\ CADR\ (0.5 - 3\ \mu m)}$$

* * * * *

[FR Doc. C1–2023–03987 Filed 8–7–23; 8:45 am]

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DEPARTMENT OF ENERGY

10 CFR Parts 429 and 431

[EERE–2021–BT–TP–0021]

RIN 1904–AF17

Energy Conservation Program: Test Procedure for Fans and Blowers

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule; technical amendments.

SUMMARY: On May 1, 2023, the U.S. Department of Energy (“DOE”) published a final rule adopting procedures for fans and blowers (hereafter the “May 2023 Final Rule”). This document corrects editorial and typographical errors in the May 2023 Final Rule. Neither the errors nor the corrections in this document affect the