Committee meetings, the June 25, 1997, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This action will not impose any additional reporting or recordkeeping requirements on either small or large California kiwifruit handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1997–98 fiscal period begins on August 1, 1997, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable kiwifruit handled during such fiscal period; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this rule.

### List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements.

For the reasons set forth in the preamble, 7 CFR part 920 is amended as follows:

## PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 920 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

**§ 920.213 [Amended]**

2. Section 920.213 is amended by removing ''August 1, 1996,'' and adding in its place ''August 1, 1997,'' and by removing ''$0.0175 and adding in its place ''$0.0225.''

Dated: August 18, 1997.

**Robert C. Keeney,**

*Director, Fruit and Vegetable Division.*

[FR Doc. 97–22579 Filed 8–25–97; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

### 8 CFR Parts 3, 103, and 240

**[EOIR No. 114F; A.G. Order No. 2106–97]**

**RIN 1125–AA15**

## Fees for Motions to Reopen or Reconsider

**AGENCY:** Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** This final rule clarifies when and how fees must be paid when a motion to reopen or reconsider is filed concurrently with any application for relief under the immigration laws for which a fee is chargeable. This final rule applies to motions to reopen or reconsider that are filed in all types of immigration proceedings, including those over which the Immigration and Naturalization Service (the ''Service'') and the Board of Immigration Appeals (the ''Board'') have appellate jurisdiction, respectively.

**DATES:** This final rule is effective September 25, 1997.

**FOR FURTHER INFORMATION CONTACT:** Margaret M. Philbin, General Counsel, Executive Office for Immigration Review, Suite 2400, 5107 Leesburg Pike, Falls Church, Virginia 22041, telephone (703) 305–0470, or Ernest B. Duarte, Branch Chief, Immigration and Naturalization Service, Office of Examinations, Benefits Division, 425 I Street NW., Suite 3214, Washington, DC 20536, telephone (202) 307–3587.

**SUPPLEMENTARY INFORMATION:** On September 3, 1996, the Executive Office for Immigration Review (EOIR) and the Immigration and Naturalization Service (the Service) published an interim rule with request for comments in the **Federal Register** (61 FR 46373) amending 8 CFR parts 3, 103, and 242. The amendments clarified when the required fees must be paid when a motion to reopen or reconsider is filed concurrently with any application for relief under the immigration laws for which a fee is chargeable. This final rule applies to motions to reopen or reconsider that are filed in all types of immigration proceedings, including those over which the Service and the Board of Immigration Appeals have appellate jurisdiction. This rule is necessary to eliminate questions that have arisen regarding the payment of fees for applications for relief that require their own separate fees when filed concurrently with motions to reopen or reconsider.

Neither the Service nor EOIR received any public comments to the September 3, 1996 interim rule. However, upon further review by both agencies, the following changes have been made to the interim rule.

In § 103.7(b)(1), language has been added to reflect two additional situations in which an individual filing a motion to reopen or reconsider need not pay the required fee for the motion. The first situation involves an individual who is filing a motion to reopen or reconsider concurrently with an *initial* application for relief under the immigration laws for which no fee is chargeable. Without this change, the language in the interim rule only covers a situation in which an individual is filing a motion to reopen or reconsider a decision on a previous application for relief for which no fee is chargeable. The second situation involves an individual who is filing a motion to reopen pursuant to 8 U.S.C. 1252b(c)(3)(B) as it existed prior to April 1, 1997, or section 240b(5)(C)(ii) of the Immigration and Nationality Act, as amended. These sections pertain to aliens who demonstrate that they did not receive notice of their immigration proceedings, or aliens who demonstrate that they were in Federal or State custody and did not appear through no fault of their own. This second situation is limited to motions to reopen or reconsider immigration proceedings over which the Immigration Court has jurisdiction.

EOIR and the Service have concluded that individuals in these situations should not be required to pay a fee for the motion to reopen or reconsider. As an example in the first instance, an alien filing a motion to reopen to initially apply for asylum for which no fee is chargeable should not be in a different position than an alien who is filing a motion to reopen a previously adjudicated asylum application. As an example in the second instance, an alien should not be required to pay a fee to reopen a proceeding for which he or she never received notice.

This rule provides a fair and equitable fee structure for motions to reopen or

reconsider and their underlying applications by requiring payment of a fee for the underlying application only if the motion to reopen or reconsider is granted. This rule will prevent imposing undue financial burdens on those individuals filing such motions.

Since the publication of this interim rule on September 3, 1996, new regulations implementing the recently enacted Illegal Immigration Reform and Immigrant Responsibility Act of 1996 have been published (62 FR 10312). These regulations revised and redesignated many of the provisions previously found at 8 CFR. Whereas the interim rule amended 8 CFR part 242, this final rule now amends 8 CFR part 240.

**Regulatory Flexibility Act**

In accordance with 5 U.S.C. 605(b), the Attorney General has reviewed this regulation and, by approving it, certifies that this rule does not have a significant economic impact on a substantial number of small entities because of the following factors: This rule adds two situations in which an individual filing a motion to reopen or reconsider need not pay the required fees for the motion. This rule will prevent imposing undue financial burdens on those individuals filing such motions.

**Unfunded Mandates Reform Act of 1995**

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

**Small Business Regulatory Enforcement Fairness Act of 1996**

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $110 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

**Executive Order 12866**

The Attorney General has determined that this rule is not a significant regulatory action under Executive Order No. 12866, and accordingly this rule has not been reviewed by the Office of Management and Budget.

**Executive Order 12612**

This rule has no federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order No. 12612.

**Executive Order 12988**

The rule meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order No. 12988.

**List of Subjects**

*8 CFR Part 3*

Administrative practice and procedure, Immigration, Lawyers, Organizations and functions (Government agencies), Reporting and recordkeeping requirements.

*8 CFR Part 103*

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

*8 CFR Part 240*

Administrative practice and procedure, Aliens.

Accordingly, chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

## PART 3—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

### Subpart C—Rules of Procedure for Immigration Judge Proceedings

1. The authority citation for part 3 continues to read as follows:

**Authority:** 5 U.S.C. 301; 8 U.S.C. 1103, 1252 note, 1252b, 1362; 28 U.S.C. 509, 510, 1746; sec. 2, Reorg. Plan No. 2 of 1950, 3 CFR, 1949–1953 Comp., p. 1002.

2. In § 3.31, paragraph (b) is amended by revising the first sentence to read as follows:

**§ 3.31 Filing documents and applications**

* * * * *

(b) Except as provided in 8 CFR 240.11(f), all documents or applications requiring the payment of a fee must be accompanied by a fee receipt from the Service or by an application for a waiver of fees pursuant to 8 CFR 3.24. * * *

* * * * *

## PART 103—POWERS AND DUTIES OF SERVICE OFFICERS: AVAILABILITY OF SERVICE RECORDS

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

**Authority:** 5 U.S.C. 552, 552(a); 8 U.S.C. 1101, 1103, 1201, 1252 note, 1252b, 1304, 1356; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

4. In § 103.7, paragraph (b)(1) is amended by revising the two entries for ''Motion'', respectively, to read as follows:

**§ 103.7 Fees.**

* * * * *

(b) * * *

(1) * * *

* * * * *

Motion. For filing a motion to reopen or reconsider any decision under the immigration laws in any type of proceeding over which the Board of Immigration Appeals has appellate jurisdiction. No fee shall be charged for a motion to reopen or reconsider a decision on an application for relief for which no fee is chargeable, for any motion to reopen or reconsider made concurrently with any initial application for relief under the immigration laws for which no fee is chargeable, or for a motion to reopen a deportation or removal order entered in absentia if that motion is filed pursuant to 8 U.S.C. 1252b(c)(3)(B) as it existed prior to April 1, 1997, or section 240b(5)(C)(ii) of the Immigration and Nationality Act, as amended. (The fee of $110 shall be charged whenever an appeal or motion is filed by or on behalf of two or more aliens and all such aliens are covered by one decision. When a motion to reopen or reconsider is made concurrently with any application for relief under the immigration laws for which a fee is chargeable, the fee of $110 will be charged when the motion is filed and, if the motion is granted, the requisite fee for filing the application for relief will be charged and must be paid within the time specified in order to complete the application.)—$110.

Motion. For filing a motion to reopen or reconsider any decision under the immigration laws in any type of proceeding over which the Board of Immigration Appeals does not have appellate jurisdiction. No fee shall be charged for a motion to reopen or reconsider a decision on an application for relief for which no fee is chargeable or for any motion to reopen or reconsider made concurrently with any initial application for relief under the immigration laws for which no fee is chargeable. (The fee of $110 shall be charged whenever an appeal or motion is filed by or on behalf of two or more aliens and all such aliens are covered by one decision. When a motion to reopen or reconsider is made concurrently with any application for relief under the immigration laws for which a fee is chargeable, the fee of $110 will be charged when the motion is filed and, if the motion is granted, the requisite fee for filing the application for relief will be charged and must be paid within the time specified in order to complete the application.)—$110.

* * * * *

## PART 240—PROCEEDINGS TO DETERMINE REMOVABILITY OF ALIENS IN THE UNITED STATES

5. The authority citation for part 240 continues to read as follows:

**Authority:** 8 U.S.C. 1103, 1182, 1186a, 1224, 1225, 1226, 1227, 1251, 1252 note, 1252a, 1252b, 1362; 8 CFR part 2.

6. In § 240.11, paragraph (f) is amended by adding two new sentences after the 1st sentence, to read as follows:

**§ 240.11 Ancillary matters, applications.**

* * * * *

(f) * * * When a motion to reopen or reconsider is made concurrently with an application for relief seeking one of the immigration benefits set forth in paragraphs (a) and (c) of this section, only the fee set forth in § 103.7(b)(1) of this chapter for the motion must accompany the motion and application for relief. If such a motion is granted, the appropriate fee for the application for relief, if any, set forth in 8 CFR 103.7(b)(1), must be paid within the time specified in order to complete the application.

Dated: August 18, 1997.

**Janet Reno,**

*Attorney General.*

[FR Doc. 97–22598 Filed 8–25–97; 8:45 am]

BILLING CODE 4410–30–M

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 265

**[Docket No. R–0984]**

### Rules Regarding Delegation of Authority

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** The Board is amending its delegation rules to remove the delegation to the Board's General Counsel to approve provisions of Federal Reserve Bank operating circulars related to uniform services. Under a newly amended supervisory letter, other Board officials will review uniform Reserve Bank operating circulars, in consultation with the General Counsel.

**EFFECTIVE DATE:** August 21, 1997.

**FOR FURTHER INFORMATION CONTACT:** Oliver Ireland, Associate General Counsel, (202/452–3625) or Stephanie Martin, Senior Attorney (202/452–3198), Legal Division. For the hearing impaired *only*, contact Diane Jenkins, Telecommunications Device for the Deaf (TDD) (202/452–3544), Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551.

**SUPPLEMENTARY INFORMATION:** The Board recently revised its supervisory letter containing policies and guidelines concerning Federal Reserve Bank operations. One of the provisions of the amended supervisory letter requires the Reserve Banks to submit proposed operating circulars or amendments to circulars to the Director of the Division of Reserve Bank Operations and Payment Systems (or to the Director of the Division of Monetary Affairs, in the case of the lending circular). The Reserve Bank may issue or amend the circular if the appropriate Director, in consultation with the General Counsel, does not object within ten business days of receiving the proposed circular or amendment. In accordance with this new review procedure, the Board is amending its Rules Regarding Delegation of Authority (12 CFR part 265) to remove the delegation to the Board's General Counsel to approve provisions of Federal Reserve Bank operating circulars related to uniform services.

### Administrative Procedure Act

The Administrative Procedure Act (5 U.S.C. 553(a)(2)) exempts ''matters relating to agency management or personnel'' from the requirements regarding notice of proposed rulemaking, public comment, and 30-day advance publication. Because the Board's delegation rules fall under this exemption, the Board is adopting this amendment without notice-and-comment or advance publication procedures.

### List of Subjects in 12 CFR Part 265

Authority delegations (Government agencies), Banks, banking, Federal Reserve System.

For the reasons set forth in the preamble, the Board is amending 12 CFR Part 265 as set forth below:

## PART 265—RULES REGARDING DELEGATION OF AUTHORITY

1. The authority citation for Part 265 continues to read as follows:

**Authority:** 12 U.S.C. 248(i) and (k).

**§ 265.6 [Amended]**

2. In § 265.6, paragraph (a)(5) is removed.

By order of the Board of Governors of the Federal Reserve System, August 21, 1997.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 97–22685 Filed 8–25–97; 8:45 am]

BILLING CODE 6210–01–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. 97–CE–75–AD; Amendment 39–10113; AD 97–18–03]**

**RIN 2120–AA64**

### Airworthiness Directives; Puritan-Bennett Aero Systems Co., Cone and Seal Assemblies, Part Numbers 210543 and 210543–01

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that applies to Puritan-Bennett Aero Systems Co. (Puritan-Bennett) cone and seal assemblies, part numbers 210543 and 210543–01, that were manufactured or repaired from August 1996 through July 1997. This AD applies to cone and seal assemblies regardless of whether or not they are attached to certain Puritan-Bennett sweep-on crew masks. The AD requires replacing any cone and seal assembly manufactured or repaired during the above time frame. This AD results from quality control tests that show that these cone and seal assemblies could have faulty ultrasonic welds. The actions specified by this AD are intended to prevent failure of the ultrasonic weld on the cone and seal assembly of the oxygen mask with consequent reduced oxygen flow through the mask, which could result in the crew not being able to obtain oxygen in an emergency situation.

**DATES:** Effective September 22, 1997.

Comments for inclusion in the Rules Docket must be received on or before October 31, 1997.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 97-CE–75-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Service information that applies to this AD may be obtained from Puritan-Bennett Aero Systems Co., 10800 Pflumm Road, Lenexa, Kansas 66215; telephone (913) 338–9800; facsimile (913) 338–7353. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 97-CE–75-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

**FOR FURTHER INFORMATION CONTACT:** Michael D. Imbler, Aerospace Engineer,