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DEPARTMENT OF TRANSPORTATION Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2004-18014; Airspace
Docket No. 04-ACE-43]

Modification of Class E Airspace; Fairbury, NE

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of
effective date.

SUMMARY: This document confirms the
effective date of the direct final rule
which revises Class E airspace at
Fairbury, NE.

EFFECTIVE DATE: 0901 UTC, September
30, 2004.

FOR FURTHER INFORMATION CONTACT:
Brenda Mumper, Air Traffic Division,
Airspace Branch, ACE-520A, DOT
Regional Headquarters Building, Federal
Aviation Administration, 901 Locust,
Kansas City, MO 64106; telephone:
(816) 329-2524.

SUPPLEMENTARY INFORMATION: The FAA
published this direct final rule with a
request for comments in the **Federal
Register** on July 15, 2004 (69 FR 42331).
The FAA uses the direct final
rulemaking procedure for a non-
controversial rule where the FAA
believes that there will be no adverse
public comment. This direct final rule
advised the public that no adverse
comments were anticipated, and that
unless a written adverse comment, or a
written notice of intent to submit such
an adverse comment, were received
within the comment period, the
regulation would become effective on
September 30, 2004. No adverse
comments were received, and thus this
notice confirms that this direct final rule
will become effective on that date.

Issued in Kansas City, MO on August 18,
2004.

Paul J. Sheridan,
*Acting Manager, Air Traffic Division, Central
Region.*

[FR Doc. 04-19735 Filed 8-27-04; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

19 CFR Parts 12 and 24

[CBP Decision 04-29]

RIN 1651-AA36

Patent Surveys

AGENCY: Customs and Border Protection,
Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This document amends the
Customs and Border Protection (CBP)
Regulations to eliminate patent surveys.
The change is made based on a lack of
demand for the program due to
diminishing effectiveness within the
current statutory scheme and other
changed circumstances. CBP will
continue to enforce the law and
regulations it is responsible for
enforcing regarding the importation of
patented merchandise registered with
CBP, and importers and others may
continue to avail themselves of the
procedures administered by the
International Trade Commission
regarding the importation of patent-
infringing merchandise.

DATES: Effective September 29, 2004.

FOR FURTHER INFORMATION CONTACT:
George Frederick McCray, Chief,
Intellectual Property Rights Branch
(202) 572-8710.

SUPPLEMENTARY INFORMATION:

Background

On March 20, 2003, the U.S. Customs
Service (Customs) published a notice of
proposed rulemaking (NPRM) in the
Federal Register (68 FR 13636)
proposing to amend the Customs
Regulations (19 CFR Chapter I) to
eliminate patent surveys. The NPRM
explained that patent surveys are
conducted by CBP to assist registered
patent owners in pursuing enforcement

actions by the International Trade
Commission (ITC) under section 337 of
the Tariff Act of 1930, as amended (19
U.S.C. 1337; hereafter, section 1337),
pertaining to unfair practices in import
trade.

It is noted that Customs was made a
component of the Department of
Homeland Security and is now known
as U.S. Customs and Border Protection
(CBP). While this document is being
issued by CBP, the agency is sometimes
referred to as Customs in this document
to reflect historical accuracy.

The Statute

Under section 1337, it is unlawful to,
among other things, import merchandise
into the United States that infringes a
valid and enforceable United States
patent. Under the statute, the ITC, after
conducting a proper investigation, is
authorized to exclude patent-infringing
merchandise from entry into the United
States. (19 U.S.C. 1337(a)(1)(B)(i) and 19
U.S.C. 1337(d).) The statute also
authorizes the ITC, under certain
circumstances, to issue cease and desist
orders, impose civil penalties, and order
seizure and forfeiture relative to
unlawful acts under the statute.

CBP plays a supporting role with
respect to patent infringement cases
under section 1337. Where the ITC has
determined that merchandise infringes a
patent and has ordered that the patent-
infringing merchandise be excluded
from entry, CBP will refuse entry of the
merchandise covered by the order after
notification by the ITC (see 19 CFR
12.39). In addition to enforcing ITC
exclusion orders, CBP enforces ITC
seizure/forfeiture orders (19 U.S.C.
1337(i)(2)) and certain court orders.

Patent Surveys

In 1956, while under no statutory
mandate to do so, Customs promulgated
a regulation designed to assist patent
holders in obtaining information they
would need to seek action by the ITC
under section 1337. In Treasury
Decision (T.D.) 54087, published in the
Federal Register (21 FR 3267) on May
18, 1956, Customs amended § 24.12(a)
of the Customs Regulations by adding
paragraph (3), under which Customs
would issue the names and addresses of
importers of articles appearing to
infringe a registered patent. The T.D.
explained that the purpose of the new
provision was to assist the owner of a
registered patent in obtaining data upon