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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