

# Rules and Regulations

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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]

**BILLING CODE 4910-13-M**

## 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