Charles City, IA, Northeast Iowa Rgnl, RNAV (GPS) RWY 30, Orig
Greensboro, NC, Piedmont Triad Intl, Takeoff Minimums and Obstacle DP, Orig
Roxboro, NC, Person County, RNAV (GPS) RWY 24, Orig
Washington, NC, Warren Field, RNAV (GPS) RWY 5, Amdt 1
Washington, NC, Warren Field, RNAV (GPS) RWY 17, Amdt 1
Washington, NC, Warren Field, RNAV (GPS) RWY 23, Amdt 1
Washington, NC, Warren Field, RNAV (GPS) RWY 35, Amdt 1
Broken Bow, NE, Broken Bow Muni, NDB RWY 14, Amdt 8, CANCELLED
Batavia, NY, Genesee County, ILS OR LOC RWY 28, Amdt 6
Batavia, NY, Genesee County, RNAV (GPS) RWY 28, Orig
Batavia, NY, Genesee County, VOR/DME–A, Amdt 5B
Cleveland, OH, Cleveland-Hopkins Intl, ILS PRM RWY 24R (Simultaneous Close Parallel), Orig
Cleveland, OH, Cleveland-Hopkins Intl, LDA/DME RWY 24L, Amdt 1
Cleveland, OH, Cleveland-Hopkins Intl, LDA PRM RWY 6R (Simultaneous Close Parallel), Amdt 1
Cleveland, OH, Cleveland-Hopkins Intl, LDA PRM RWY 24L (Simultaneous Close Parallel), Orig
Norman, OK, University of Oklahoma Westheimer, RNAV (GPS) RWY 3, Amdt 1
Oklahoma City, OK, Will Rogers World, RNAV (GPS) RWY 17R, Amdt 2A
Sparta, TN, Upper Cumberland Rgnl, RNAV (GPS) RWY 4, Orig
Sparta, TN, Upper Cumberland Rgnl, RNAV (GPS) RWY 22, Orig
Sparta, TN, Upper Cumberland Rgnl, Takeoff Minimums and Obstacle DP, Orig
Abilene, TX, Abilene Rgnl, RNAV (GPS) RWY 22, Orig
Abilene, TX, Abilene Rgnl, VOR RWY 22, Amdt 4
Childress, TX, Childress Muni, VOR RWY 35, Amdt 10
Midland, TX, Midland Intl, RNAV (GPS) RWY 10, Amdt 1
Midland, TX, Midland Intl, Takeoff Minimums and Obstacle DP, Orig
Port Aransas, TX, Mustang Beach, Takeoff Minimums and Obstacle DP, Amdt 1
Spearman, TX, Spearman Muni, RNAV (GPS) RWY 2, Orig
Spearman, TX, Spearman Muni, RNAV (GPS) RWY 20, Orig
Spearman, TX, Spearman Muni, Takeoff Minimums and Obstacle DP, Orig
Spearman, TX, Spearman Muni, VOR/DME RWY 2, Amdt 1
Victoria, TX, Victoria Rgnl, ILS OR LOC RWY 12L, Amdt 10
Victoria, TX, Victoria Rgnl, RNAV (GPS) RWY 12L, Orig
Victoria, TX, Victoria Rgnl, RNAV (GPS) RWY 30R, Orig
Victoria, TX, Victoria Rgnl, VOR RWY 12L, Amdt 16
Victoria, TX, Victoria Rgnl, VOR/DME RWY 30R, Amdt 6
Tangier, VA, Tangier Island, RNAV (GPS)–B, Orig
Tangier, VA, Tangier Island, Takeoff Minimums and Obstacle DP, Orig
Tangier, VA, Tangier Island, VOR/DME–A, Orig
Tangier, VA, Tangier Island, VOR/DME OR GPS RWY 2, Orig-C, CANCELLED

[FR Doc. E8–29006 Filed 12–9–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 351

RIN 0625–AA79

Withdrawal of the Regulatory Provisions Governing Targeted Dumping in Antidumping Duty Investigations

AGENCY: International Trade Administration, Import Administration.

ACTION: Interim final rule.

SUMMARY: Import Administration issues this interim final rule for the purpose of withdrawing the regulatory provisions governing the targeted dumping analysis in antidumping duty investigations.

DATES: This interim final rule is effective for all antidumping duty investigations initiated on or after December 10, 2008. Although the amendment made by this Interim Final Rule is effective on December 10, 2008, Import Administration seeks public comments. To be assured of consideration, written comments must be received not later than January 9, 2009.

ADDRESSES: Comments on this Interim Final Rule must be sent to David M. Spooner, Assistant Secretary for Import Administration, Central Records Unit, Room 1870, U.S. Department of Commerce, Pennsylvania Avenue.

FOR FURTHER INFORMATION CONTACT: Michael Rill, telephone 202–482–3058.

SUPPLEMENTARY INFORMATION: The Uruguay Round Agreements Act (''URAA''), enacted into law in 1994, changed the methodology used to determine whether a company is selling foreign merchandise into the United States at dumped prices in antidumping investigations. Prior to the URAA, the Department usually compared the six-month period of investigation average normal value to individual U.S. transaction prices to determine the margin of dumping (known as the average-to-transaction method). The URAA, however, directed the Department normally to calculate dumping margins by one of two methods: (1) By comparing weighted-average normal values to the weighted average of the export prices for comparable merchandise (known as the average-to-average method); or (2) by comparing the normal values of individual transactions to the export prices of individual transactions for comparable merchandise (known as the transaction-to-transaction method). *See* 19 U.S.C. 1677f–1(d)(1)(A). Congress, however, was aware that these methodologies could mask certain types of dumping. ''In such situations, the exporter may sell at a dumped price to particular customers or regions, while selling at higher prices to other customers or regions.'' *Uruguay Round Agreements Act, H.R. 103–826, Oct. 3, 1994, p. 98.*

To address this possibility, Congress enacted a statutory provision that allows an exception to the above two comparison methodologies. Specifically, when the Department finds that there is a pattern of export prices for comparable merchandise that differ significantly among purchasers, regions, or periods of time, and where such differences cannot be taken into account using one of the preferred methods referred to above, the Department could compare the weighted average of the normal values to the export price of individual transactions for comparable merchandise (i.e., average-to-transaction comparisons). *See* 19 U.S.C. 1677f–1(d)(1)(B).

Sections 19 CFR 351.414(f) and (g) of the Department's regulations establish certain criteria for analyzing allegations and making targeted dumping determinations in antidumping duty investigations. Section 19 CFR 351.301(d)(5) provides that an allegation of targeted dumping is due no later than 30 days before the scheduled date of the preliminary determination. The Department promulgated these provisions (*i.e.*, 19 CFR 351.414(f), (g), and 351.301(d)(5)) on May 19, 1997 (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27374–76 (May 19, 1997)). At that time, the Department had never performed a targeted dumping analysis. Therefore, the provisions were promulgated without the benefit of any departmental experience on the issue of targeted dumping. Until recently, there have been very few allegations or findings of targeted dumping. This situation has caused the Department to question whether, in the absence of any practical experience, it established an appropriate balance of interests in the provisions. The Department believes that withdrawal of the provisions will provide the agency with an opportunity to analyze extensively the concept of targeted dumping and develop a meaningful practice in this area as it

gains experience in evaluating such allegations.

The Department may have established thresholds or other criteria that have prevented the use of this comparison methodology to unmask dumping, contrary to the Congressional intent. In that case, these provisions would act to deny relief to domestic industries suffering material injury from unfairly traded imports. Accordingly, immediate revocation of the provisions will facilitate the proper and efficient operation of the antidumping law.

The Department believes the withdrawal of this rule is not significant. Withdrawal will allow the Department to exercise the discretion intended by the statute and, thereby, develop a practice that will allow interested parties to pursue all statutory avenues of relief in this area.

The Department is not replacing these provisions with new provisions. Instead, the Department is returning to a case-by-case adjudication, until additional experience allows the Department to gain a greater understanding of the issue.

Parties are invited to comment on the Department's withdrawal of the regulatory provisions governing targeted dumping in antidumping duty investigations. Parties should submit to the address under the **ADDRESSES** heading a signed original and two copies of each set of comments including reasons for any recommendation, along with a cover letter identifying the commentator's name and address. To be assured of consideration, written comments must be received not later than January 9, 2009.

Classification

Executive Order 12866

It has been determined that this interim final rule is not significant for purposes of Executive Order 12866 of September 30, 1993 (''Regulatory Planning and Review'') (58 FR 51735 (October 4, 1993)).

Paperwork Reduction Act

This interim final rule contains no new collection of information subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

Executive Order 13132

This rule does not contain policies with federalism implications as that term is defined in section 1(a) of Executive Order 13132, dated August 4, 1999 (64 FR 43255 (August 10, 1999)).

Administrative Procedure Act

The Assistant Secretary for Import Administration finds good cause to waive the requirement to provide prior notice and opportunity for public comment, pursuant to the authority set forth at 5 U.S.C. § 553(b)(B), as such requirement is impracticable and contrary to the public interest. Courts have determined that notice and comment is impracticable when ''the agency could both follow section 553 and execute its statutory duties.'' *Lavesque* v. *Block,* 723 F.2d 175, 184 (5th Cir. 1980). It went further to clarify that the Administrative Procedure Act good cause waiver authorizes departures from the requirements ''only when compliance would interfere with the agency's ability to carry out its mission.'' *Riverbend Farms, Inc.* v. *Madigan,* 958 F.2d 1479, 1485 (9th Cir. 1992).

Here, under the Tariff Act of 1930, as amended, the Department may employ the average-to-transaction comparison method in an investigation if: (i) There is a pattern of export prices (or constructed export prices) for comparable merchandise that differ significantly among purchasers, regions, or periods of time, and (ii) the agency explains why such differences cannot be taken into account using one of the preferred methods. *See* 19 U.S.C. 1677f–1(d)(1)(B)(i) and (ii). Sections 19 CFR 351.414(f) and (g) of the Department's regulations establish certain criteria for analyzing targeted dumping allegations in antidumping investigations. These provisions were intended to clarify when the Department would use the average-to-transaction comparison method in antidumping duty investigations. As the provisions were promulgated without the benefit of any experience on the issue of targeted dumping, the Department may have established thresholds or other criteria that have prevented the use of this comparison methodology to unmask dumping. Likewise, 19 CFR 351.301(d)(5), the provision that establishes the deadline for submitting allegations, was promulgated without the benefit of any experience on the issue of targeted dumping. Consequentially, the Department may have established an impractical deadline for submitting such allegations. Given the above, sections 19 CFR 351.414(f), (g), and 351.301(d)(5) would act to deny relief to domestic industries suffering material injury from unfairly traded imports. This effect is contrary to the Department's intention in promulgating the provisions, and inconsistent with the Department's statutory mandate to provide relief to domestic industries materially injured by unfairly traded imports. Because the provisions are applicable to ongoing antidumping investigations, and because the application of the provisions can act to deny relief to domestic industries suffering material injury from unfairly traded imports, immediate revocation is necessary to ensure the proper and efficient operation of the antidumping law and to provide the relief intended by Congress.

The Assistant Secretary for Import Administration also finds good cause to waive the 30-day delay in effectiveness, pursuant to the authority set forth at 5 U.S.C. 553(e), for the reasons given above. Significantly, the Department may employ the average-to-transaction comparison method in an antidumping duty investigation if certain conditions are met. *See* 19 U.S.C. 1677f–1(d)(1)(B)(i) and (ii). Sections 19 CFR 351.414(f) and (g) of the Department's regulations may have established thresholds or other criteria that have prevented the use of this comparison methodology to unmask dumping, contrary to the Congressional intent. Likewise, the Department may have established an impractical deadline when it promulgated section 351.301(d)(5). Given that the provisions are applicable to ongoing antidumping investigations, and because the application of the provisions can act to deny relief to domestic industries suffering material injury from unfairly trade imports, immediate revocation is necessary to ensure the proper and efficient operation of the antidumping law and to provide the relief intended by Congress.

Regulatory Flexibility Act

Because a notice and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, a regulatory flexibility analysis has not been prepared.

List of Subjects in 19 CFR Part 351

Administrative practice and procedure, Antidumping duties, Business and industry, Cheese, Confidential business information, Investigations, Reporting and recordkeeping requirements.

■ For the reasons stated above, amend 19 CFR part 351 as follows:

PART 351—ANTIDUMPING AND COUNTERVAILING DUTIES

■ 1. The authority citation for part 351 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1202 note; 19 U.S.C. 1303 note; 19 U.S.C. 1671 *et seq.;* and 19 U.S.C. 3538.

§ 351.301. [Amended]

■ 2. Amend § 351.301 by removing and reserving paragraph (d)(5).

§ 351.414 [Amended]

■ 3. Amend § 351.414 by removing and reserving paragraphs (f) and (g).

Dated: November 24, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–29225 Filed 12–9–08; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF JUSTICE

28 CFR Part 28

RIN 1105–AB09; 1105–AB10; 1105–AB24

[OAG Docket Nos. 108, 109, 119; AG Order No. 3023–2008]

DNA-Sample Collection and Biological Evidence Preservation in the Federal Jurisdiction

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice by this publication is amending regulations relating to DNA-sample collection in the federal jurisdiction. This rule generally directs federal agencies to collect DNA samples from individuals who are arrested, facing charges, or convicted, and from non-United States persons who are detained under the authority of the United States, subject to certain limitations and exceptions.

By this rule, the Department is also finalizing, without change, two related interim rules concerning the scope of qualifying federal offenses for purposes of DNA-sample collection and a requirement to preserve biological evidence in federal criminal cases in which defendants are under sentences of imprisonment.

DATES: *Effective Date:* This rule is effective January 9, 2009.

FOR FURTHER INFORMATION CONTACT: David J. Karp, Senior Counsel, Office of Legal Policy, Main Justice Building, 950 Pennsylvania Ave., NW., Washington, DC 20530. Telephone: (202) 514–3273.

SUPPLEMENTARY INFORMATION:

This final rule finalizes a proposed rule, DNA-Sample Collection Under the DNA Fingerprint Act of 2005 and the Adam Walsh Child Protection and Safety Act of 2006 (OAG 119; RIN 1105-AB24) (published April 18, 2008, at 73 FR 21083), which was designed to implement amendments made by section 1004 of the DNA Fingerprint Act of 2005, Public Law 109–162, and section 155 of the Adam Walsh Child Protection and Safety Act of 2006, Public Law 109–248, to section 3 of the DNA Analysis Backlog Elimination Act of 2000, Public Law 106–546. These regulatory provisions direct agencies of the United States that arrest or detain individuals, or that supervise individuals facing charges, to collect DNA samples from individuals who are arrested, facing charges, or convicted, and from non-United States persons who are detained under the authority of the United States. Unless otherwise directed by the Attorney General, the collection of DNA samples may be limited to individuals from whom an agency collects fingerprints. The Attorney General also may approve other limitations or exceptions. Agencies collecting DNA samples are directed to furnish the samples to the Federal Bureau of Investigation (''FBI''), or to other agencies or entities as authorized by the Attorney General, for purposes of analysis and entry into the Combined DNA Index System.

The final rule also finalizes two interim rules. The first interim rule, DNA Sample Collection From Federal Offenders Under the Justice for All Act of 2004 (OAG 108; RIN 1105-AB09) (published on January 31, 2005, at 70 FR 4763), implemented section 203(b) of the Justice for All Act of 2004, Public Law 108–405. That statutory provision expanded the class of offenses constituting qualifying federal offenses for purposes of DNA-sample collection to include all felonies (as well as certain misdemeanors), thereby permitting the collection of DNA samples from all convicted federal felons.

The second interim rule, Preservation of Biological Evidence Under 18 U.S.C. 3600A (OAG 109; RIN 1105-AB10) (published on April 28, 2005 at 70 FR 21951), implemented 18 U.S.C. 3600A. That statute requires the government to preserve biological evidence in federal criminal cases in which defendants are under sentences of imprisonment, subject to certain limitations and exceptions. Subsection (e) of the statute requires the Attorney General to promulgate regulations to implement and enforce the statute. The regulations issued for that purpose, which are finalized by this final rule, explain and interpret the evidence preservation requirement of 18 U.S.C. 3600A, and include provisions concerning sanctions for violations of that requirement.

Background

All 50 States authorize the collection and analysis of DNA samples from convicted state offenders, and enter resulting DNA profiles into the Combined DNA Index System (''CODIS''), which the FBI has established pursuant to 42 U.S.C. 14132. In addition to collecting DNA samples from convicted state offenders, several states authorize the collection of DNA samples from individuals they arrest.

This final rule addresses corresponding requirements and practices in the federal jurisdiction. The DNA Analysis Backlog Elimination Act of 2000 (the ''Act'') initially authorized DNA-sample collection by federal agencies only from persons convicted of certain ''qualifying'' federal, military, and District of Columbia offenses. Public Law 106–546 (2000). The Act also addressed the responsibility of the Federal Bureau of Prisons (''BOP'') and federal probation offices to collect DNA samples from convicted offenders in their custody or under their supervision, and the responsibility of the FBI to analyze and index DNA samples. On June 28, 2001, the Department of Justice published an interim rule, Regulations Under the DNA Analysis Backlog Elimination Act of 2000 (OAG 101I; RIN 1105–AA78), to implement these provisions. 66 FR 34363. The rule, in part, specified the qualifying federal offenses for which DNA samples could be collected and addressed responsibilities of BOP and the FBI under the Act.

After publication of the June 2001 interim rule, Congress enacted the USA PATRIOT Act, Public Law 107–56. Section 503 of that Act added three additional categories of qualifying federal offenses for purposes of DNA-sample collection: (1) Any offense listed in section 2332b(g)(5)(B) of title 18, United States Code; (2) any crime of violence (as defined in section 16 of title 18, United States Code); and (3) any attempt or conspiracy to commit any of the above offenses. The Department of Justice published a proposed rule, DNA Sampling of Federal Offenders Under the USA PATRIOT ACT of 2001 (OAG 105; RIN 1105–AA78) on March 11, 2003, to implement this expanded DNA-sample collection authority. 68 FR 11481. On December 29, 2003, the Department published a final rule, Regulations Under the DNA Analysis Backlog Elimination Act of 2000 (OAG 101; RIN 1105-AA78), implementing this authority. 68 FR 74855.