

certification decisions thereon would result in unreasonable delays and monetary loss to the producer, and (3) samples are provided and the educational character of the future programs can be generally described before certification and can be verified by a post-certification review of the items or through descriptive material such as a script of the narration. The Agency received one comment on the proposed amendment to the existing regulations, which agreed that the amendment was necessary to facilitate the free flow of eligible information to interested audiences.

#### **Regulatory Analysis and Notices**

In accordance with 5 U.S.C. 605(5), the Agency certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not considered to be a major rule within the meaning of section 1(b) of Executive Order 12291, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

No additional burden under the Paperwork Reduction Act, 44 U.S.C. Chapter 35, will result from the promulgation of this rule.

#### **List of Subjects in 22 CFR Part 502**

Audiovisual material, Education, Exports, Imports, Trade Agreement.

For the reasons set out in the preamble, 22 CFR part 502 is amended as follows:

#### **PART 502—WORLD-WIDE FREE FLOW OF AUDIO-VISUAL MATERIALS**

1. The authority citation for part 502 continues to read as follows:

**Authority:** 5 U.S.C. 301, 19 U.S.C. 2051, 22 U.S.C. 1431 *et seq.*; Pub. L. 102-138, E.O. 11311, 31 FR 13413, 3 CFR 1966-1970 comp., page 593.

2. Section 502.2 is amended by adding, in alphabetical order, a definition for "serial certification" to read as follows:

#### **§ 502.2 Definitions.**

\* \* \* \* \*

*Serial certification*—means

certification by the Agency of materials produced in series form and which, for time-sensitive reasons, cannot be reviewed prior to production; but samples are provided on application, and the materials are subject to post-certification review.

\* \* \* \* \*

3. Section 502.3 is amended by adding new paragraphs (d) and (e) to read as follows:

#### **§ 502.3 Certification and authentication criteria.**

\* \* \* \* \*

(d) The Agency may certify or authenticate materials which have not been produced at the time of application upon an affirmative determination that:

(1) The materials will be issued serially,

(2) Representative samples of the serial material have been provided at the time of application,

(3) Future titles and release dates have been provided to the Agency at the time of application,

(4) The applicant has affirmed that:

(i) Future released materials in the series will conform to the substantive criteria for certification delineated at paragraphs (a) through (c) of this section;

(ii) Such materials will be similar to the representative samples provided to the Agency on application; and

(iii) The applicant will provide the Agency with copies of the items themselves or descriptive materials for post-certification review.

(e) If the Agency determines through a post-certification review that the materials do not comply with the substantive criteria for certification delineated at paragraphs (a) through (c) of this section, the applicant will no longer be eligible for serial certifications. Ineligibility for serial certifications will not affect an applicant's eligibility for certification of materials reviewed prior to production.

Dated: June 1, 1995.

**Les Jin,**

*General Counsel.*

[FR Doc. 95-13959 Filed 6-6-95; 8:45 am]

**BILLING CODE 8230-01-M**

#### **NATIONAL ARCHIVES AND RECORDS ADMINISTRATION**

#### **36 CFR Part 1236**

**RIN 3095-AA51**

#### **Management of Vital Records**

**AGENCY:** National Archives and Records Administration.

**ACTION:** Final rule.

**SUMMARY:** This regulation revises NARA regulations on Federal agencies' management of vital records in order to place the vital records program in the context of agency emergency management responsibilities. The vital records program is intended to ensure continuity of agency operations and protect rights of citizens and the Government. The regulation affects all Federal agencies.

**EFFECTIVE DATE:** This rule is effective June 7, 1995.

**FOR FURTHER INFORMATION CONTACT:** Mary Ann Hadyka or Nancy Allard at 301-713-6730.

**SUPPLEMENTARY INFORMATION:** NARA published a notice of proposed rulemaking on May 31, 1994 (59 FR 28033) for a 60-day comment period. The proposed rule expanded the vital records program to incorporate contingency planning and records disaster mitigation and recovery. Twenty written comments were received. It was clear that the extension of the regulation on vital records to a broader context was perceived by the agencies to be confusing, redundant, and burdensome. Consequently, NARA has revised the regulation to limit its application to vital records responsibilities, in the context of the larger emergency management program. Additional information will be provided in a forthcoming NARA management guide. The guide will provide more detail on vital records program planning, identifying vital records, training agency staff, and assessing records damaged in an emergency or disaster to determine what steps, if any, should be taken to recover the information in them. Its provisions will be advisory, rather than mandatory.

Following is a section-by-section discussion of the major issues raised in the written comments.

#### **Section-by-Section Analysis**

##### **Section 1236.10 Purpose**

One agency thought that vital records should be presented as part of the disaster recovery program, rather than the reverse. Another agency recommended that the rule clarify the relationship between contingency planning, vital records, and records disaster mitigation and recovery. This section has been modified to reflect the revised scope of the regulation.

##### **Section 1236.12 Authority**

NARA reconsidered the authorities cited for this regulation and deleted 44 U.S.C. 3105 because that section of the law relates to unauthorized disposal. It supports the records disposition regulations at 36 CFR 1228 and has no direct relationship to regulations on vital records.

##### **Section 1236.14 Definitions**

One agency noted that the definition of contingency planning actually described risk analysis. Another agency recommended that the definition of emergency operating records be modified to clearly cover records

needed to operate during and after an emergency in addition to records containing procedures for operating during an emergency. That agency also suggested that the definition of records disaster mitigation and recovery was too broad and recommended that it be clearly limited to emergency situations. The definitions of contingency planning and emergency operating records have been revised. In response to a third agency recommendation, the definition of off-site was added. NARA changed rights-and-interests records to legal and financial rights records because the latter term is more precise. The definitions of emergency coordinator, hazard, and vital records manager, were deleted because they are not used in the revised regulation.

#### *Sections 1236.20 through 1236.24*

These sections, originally proposed to cover contingency planning, have been deleted. Contingency planning for emergencies is adequately covered in FEMA issuances such as the "Federal Response Planning Guide, Continuity of Operations (COOP) Planning Guidance (FRPG 01-94)."

#### *Section 1236.30 Vital Records Program*

Six agencies questioned one or more of the elements of the vital records program described in this section, including issuance of a separate directive for the program, establishing a separate position for the vital records manager, providing training, and conducting annual reviews. NARA did not intend this section to require separate directives, full-time positions, elaborate training, or burdensome reviews. Management of vital records should be the responsibility of the agency records manager. It is one of many records management functions that should be addressed in agency records management directives, training, and program reviews. This section was modified to include only the basic requirements relating specifically to vital records.

#### *Section 1236.32 Identifying, Using and Protecting Vital Records*

This section has been divided into three sections, now designated § 1236.22, § 1236.24, and § 1236.26. One agency recommended that the inventory of vital records be integrated into the records scheduling process. NARA did not intend that this inventory necessarily duplicate inventory for scheduling. Section 1236.22 clarifies that point, and further explanation will be provided in the forthcoming guide. Another agency suggested that common vital records be so designated in the

General Records Schedules. NARA declines to accept this suggestion because many vital records common to many agencies are permanent and therefore not in the General Records Schedules (GRS). Many other vital records are unique to individual agencies. As vital records are identified in the course of contingency planning, NARA believes it inappropriate to mandate that specific series in the GRS be treated as vital records.

One agency recommended that this section more clearly address electronic records and security backup copies. In particular, the agency asked if electronic records could be regarded as the vital record copy, even if it is not an exact duplicate. In § 1236.22, NARA modified the regulation to clarify that it is the informational content, not the form, of the records that must be considered. Also, § 1236.26 indicates that copies of electronic records created for security purposes are adequate for protecting vital information, even if the copies include records not containing vital information. Additional guidance on electronic records will be provided in the forthcoming guide.

Two agencies raised questions about copies of vital records, and one recommended a risk analysis to determine whether duplication is necessary. Section 1236.24 clarifies that agencies determine when copies are needed.

Several agencies questioned the restriction on use of Federal Records Centers (FRC's) to copies of legal and financial rights records. We have modified the rule at § 1236.26(c) to allow agencies to store emergency operating records at FRC's under certain conditions.

One agency pointed out that not all vital record copies are cycled, and two agencies stated that the disposition of the copies may not be the same as the originals. This rule was clarified on these points.

#### *Sections 1236.40 and 1236.42 Records Disaster Mitigation and Recovery Program*

Three agencies found § 1236.40, Records protection, confusing in relation to the scope of the records protection plan. Three agencies raised questions about the scope of § 1236.42, Elements of a records disaster mitigation and recovery program. One recommended that the program be integrated with information security plans and contingency of operations plans. Another objected to the requirement that agencies test records recovery programs for all offices. The third asked if a plan was required for

each series or for records in each medium. NARA reconsidered the propriety of including this level of detail about the broader emergency management program in its regulations on vital records and deleted the entire section. NARA concluded that the proposed regulation was confusing to agencies, duplicative of requirements imposed by FEMA on emergency management and by GSA on computer security, and unnecessarily burdensome.

The Administrative Procedures Act (5 U.S.C. 553(d)) provides that the effective date of a final rule may be less than 30 days after publication in the **Federal Register** when the rule relieves a restriction. This rule will allow agencies to store their emergency operating vital records in the Federal Records Centers. Previously, only legal and financial rights vital records could be transferred to a records center. Accordingly, we are making this final rule effective immediately.

This rule is not a significant regulatory action for purposes of Executive Order 12866 of September 30, 1993, and has not been reviewed under the Order by the Office of Management and Budget. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small entities.

#### **List of Subjects in 36 CFR 1236**

Archives and records.

For the reasons set forth in the preamble, 36 CFR chapter XII is amended by revising part 1236 to read as follows:

### **PART 1236—MANAGEMENT OF VITAL RECORDS**

#### **Subpart A—General**

Sec.

- 1236.10 Purpose.
- 1236.12 Authority.
- 1236.14 Definitions.

#### **Subpart B—Vital Records**

- 1236.20 Vital records program objectives.
- 1236.22 Identification of vital records.
- 1236.24 Use of vital records and copies of vital records.
- 1236.26 Protection of vital records.
- 1236.28 Disposition of original vital records.

**Authority:** 44 U.S.C. 2104(a), 2904(a), 3101; E.O. 12656, 53 FR 47491, 3 CFR, 1988 Comp., p. 585.

#### **Subpart A—General**

##### **§ 1236.10 Purpose.**

This part prescribes policies and procedures for establishing a program for the identification and protection of vital records, those records needed by

agencies for continuity of operations before, during, and after emergencies, and those records needed to protect the legal and financial rights of the Government and persons affected by Government activities. The records may be maintained on a variety of media including paper, magnetic tape or disk, photographic film, and microfilm. The management of vital records is part of an agency's continuity of operations plan designed to meet emergency management responsibilities.

#### **§ 1236.12 Authority.**

Heads of agencies are responsible for the vital records program under the following authorities:

(a) To make and preserve records containing adequate and proper documentation of the agency's organization, functions, policies, procedures, decisions, and essential transactions, and to furnish information to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities (44 U.S.C. 3101).

(b) To perform national security emergency preparedness functions and activities (Executive Order 12656).

#### **§ 1236.14 Definitions.**

Basic records management terms are defined in 36 CFR 1220.14. As used in part 1236:

*Contingency planning* means instituting policies and procedures to mitigate the effects of potential emergencies or disasters on an agency's operations and records. Contingency planning is part of the continuity of operations planning required under Federal Preparedness Circulars and other guidance issued by the Federal Emergency Management Agency (FEMA) and Executive Order 12656.

*Cycle* means the periodic removal of obsolete copies of vital records and their replacement with copies of current vital records. This may occur daily, weekly, quarterly, annually or at other designated intervals.

*Disaster* means an unexpected occurrence inflicting widespread destruction and distress and having long-term adverse effects on agency operations. Each agency defines what a long-term adverse effect is in relation to its most critical program activities.

*Emergency* means a situation or an occurrence of a serious nature, developing suddenly and unexpectedly, and demanding immediate action. This is generally of short duration, for example, an interruption of normal agency operations for a week or less. It may involve electrical failure or minor flooding caused by broken pipes.

*Emergency operating records* are that type of vital records essential to the continued functioning or reconstitution of an organization during and after an emergency. Included are emergency plans and directive(s), orders of succession, delegations of authority, staffing assignments, selected program records needed to continue the most critical agency operations, as well as related policy or procedural records that assist agency staff in conducting operations under emergency conditions and for resuming normal operations after an emergency.

*Legal and financial rights records* are that type of vital records essential to protect the legal and financial rights of the Government and of the individuals directly affected by its activities. Examples include accounts receivable records, social security records, payroll records, retirement records, and insurance records. These records were formerly defined as "rights-and-interests" records.

*National security emergency* means any occurrence, including natural disaster, military attack, technological emergency, or other emergency, that seriously degrades or threatens the national security of the United States, as defined in Executive Order 12656.

*Off-site storage* means a facility other than an agency's normal place of business where vital records are stored for protection. This is to ensure that the vital records are not subject to damage or destruction from an emergency or disaster affecting an agency's normal place of business.

*Vital records* mean essential agency records that are needed to meet operational responsibilities under national security emergencies or other emergency or disaster conditions (emergency operating records) or to protect the legal and financial rights of the Government and those affected by Government activities (legal and financial rights records).

*Vital records program* means the policies, plans, and procedures developed and implemented and the resources needed to identify, use, and protect the essential records needed to meet operational responsibilities under national security emergencies or other emergency or disaster conditions or to protect the Government's rights or those of its citizens. This is a program element of an agency's emergency management function.

#### **Subpart B—Vital Records**

##### **§ 1236.20 Vital records program objectives.**

The vital records program is conducted to identify and protect those records that specify how an agency will operate in case of emergency or disaster, those records vital to the continued operations of the agency during and after an emergency or disaster, and records needed to protect the legal and financial rights of the Government and of the persons affected by its actions. An agency identifies vital records in the course of contingency planning activities carried out in the context of the emergency management function. In carrying out the vital records program agencies shall:

- (a) Specify agency staff responsibilities;
- (b) Ensure that all concerned staff are appropriately informed about vital records;
- (c) Ensure that the designation of vital records is current and complete; and
- (d) Ensure that vital records and copies of vital records are adequately protected, accessible, and immediately usable.

##### **§ 1236.22 Identification of vital records.**

Vital records include emergency plans and related records that specify how an agency is to respond to an emergency as well as those records that would be needed to continue operations and protect legal and financial rights. Agencies should consider the informational content of records series and electronic records systems when identifying vital records. Only the most recent and complete source of the vital information needs to be treated as vital records.

##### **§ 1236.24 Use of vital records and copies of vital records.**

Agencies shall ensure that retrieval procedures for vital records require only routine effort to locate needed information, especially since individuals unfamiliar with the records may need to use them during an emergency or disaster. Agencies also shall ensure that all equipment needed to read vital records or copies of vital records will be available in case of emergency or disaster. For electronic records systems, agencies also shall ensure that system documentation adequate to operate the system and access the records will be available in case of emergency or disaster.

##### **§ 1236.26 Protection of vital records.**

Agencies shall take appropriate measures to ensure the survival of the vital records or copies of vital records in

case of emergency or disaster. In the case of electronic records, this requirement is met if the information needed in the event of emergency or disaster is available in a copy made for general security purposes, even when the copy contains other information.

(a) *Duplication.* Computer backup tapes created in the normal course of system maintenance or other electronic copies that may be routinely created in the normal course of business may be used as the vital record copy. For hard copy records, agencies may choose to make microform copies. Standards for the creation, preservation and use of microforms are found in 36 CFR part 1230, Micrographic Records Management. The Computer Security Act of 1987 (40 U.S.C. 759, Pub. L. 100-235), OMB Circular A-130, and 36 CFR part 1234, Electronic Records Management, and 41 CFR part 201, subchapter B, Management and Use of Information and Records, specify protective measures and standards for electronic records.

(b) *Storage.* When agencies choose duplication as a protection method, the copy of the vital record stored off-site is normally a duplicate of the original record. Designating and using duplicate copies of original records as vital records facilitates destruction or deletion of obsolete duplicates when replaced by updated copies, whereas original vital records must be retained for the period specified in the agency records disposition schedule. The agency may store the original records off-site if protection of original signatures is necessary, or if it does not need to keep the original record at its normal place of business.

(c) *Storage considerations.* Agencies need to consider several factors when deciding where to store copies of vital records. Copies of emergency operating vital records need to be accessible in a very short period of time for use in the event of an emergency or disaster. Copies of legal and financial rights records may not be needed as quickly. In deciding where to store vital records copies, agencies shall treat records that have the properties of both categories, that is, emergency operating and legal and financial rights records, as emergency operating records.

(1) Under certain circumstances, Federal records centers (FRC's) may store copies of emergency operating vital records. FRC's will store small volumes of such records, but may not be able to provide storage for large collections or ones requiring constant recycling of the vital records, except under reimbursable agreement. Prior to preparing the records for shipment, the

agency must contact the FRC to determine if the center can accommodate the storage requirements and return copies in an acceptable period of time.

(2) The off-site copy of legal and financial rights vital records may be stored at an off-site agency location or, in accordance with § 1228.156 of this chapter, at an FRC.

(3) When using an FRC for storing vital records that are duplicate copies of original records, the agency must specify on the SF 135, Records Transmittal and Receipt, that they are vital records (duplicate copies) and the medium on which they are maintained. The agency shall also periodically cycle (update) them by removing obsolete items and replacing them with the most recent version, when necessary.

(4) Agencies that transfer permanent, original vital records maintained on electronic or microform media to the custody of the National Archives may designate such records as their off-site copy. That designation may remain in effect until the information in such transferred records is superseded or becomes obsolete.

#### **§ 1236.28 Disposition of original vital records.**

The disposition of original vital records is governed by records schedules approved by NARA (see part 1228, Disposition of Federal Records). Original records that are not scheduled may not be destroyed or deleted.

Dated: May 30, 1995.

**Trudy Huskamp Peterson,**  
Acting Archivist of the United States.  
[FR Doc. 95-13951 Filed 6-6-95; 8:45 am]

BILLING CODE 7515-01-P

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#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 721**

[OPPTS-50615A; FRL-4916-3]

RIN 2070-AB27

#### **Organotin Lithium Compound; Revocation of Significant New Use Rule**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Revocation of final rule.

**SUMMARY:** EPA is revoking a significant new use rule (SNUR) promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the chemical substance described generically as an organotin lithium compound which was the subject of

premanufacture notice (PMN) P-93-1119. EPA initially published this SNUR using direct final rulemaking procedures. EPA received adverse comments on this rule. Therefore, the Agency is revoking this rule, as required under the expedited SNUR rulemaking process. In a separate notice of proposed rulemaking in today's issue of the **Federal Register**, EPA is proposing a SNUR for this substance with a 30-day comment period.

**EFFECTIVE DATE:** This action is effective on June 7, 1995.

**FOR FURTHER INFORMATION CONTACT:**

Susan B. Hazen, Director,  
Environmental Assistance Division  
(7408), Office of Pollution Prevention  
and Toxics, Environmental Protection  
Agency, Rm. E-543B, 401 M St., SW.,  
Washington, DC 20460, Telephone:  
(202) 554-1404, TDD: (202) 554-0551.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of May 27, 1994 (59 FR 27474), EPA issued several direct final SNURs including a SNUR for the substance described generically as organotin lithium compound, PMN P-93-1119. As described in 40 CFR 721.160, EPA is revoking the rule issued for P-93-1119 under direct final rulemaking procedures because the Agency received adverse comments. Pursuant to § 721.160(c)(3)(ii), EPA is proposing a revised SNUR for this chemical substance elsewhere in today's issue of the **Federal Register**. For details regarding EPA's expedited process for issuing SNURs, interested parties are directed to 40 CFR part 721, subpart D. The record for the direct final SNUR which is being revoked was established at OPPTS-50615. That record includes information considered by the Agency in developing the rule and includes the adverse comments to which the Agency is responding with this notice of revocation. The docket control number for the revocation is OPPTS-50615A. For more information, refer to the proposal published elsewhere in today's issue of the **Federal Register**. The relevant portions of the original docket for the direct final SNUR are being incorporated under OPPTS-50615B, which is established for the proposed rule.

A public version of the record without any confidential business information is available in the TSCA Nonconfidential Information Center (NCIC) from 12 noon to 4 p.m., Monday through Friday, except legal holidays. The TSCA NCIC is located in Rm. NE-B607, 401 M St., SW., Washington, DC 20460.