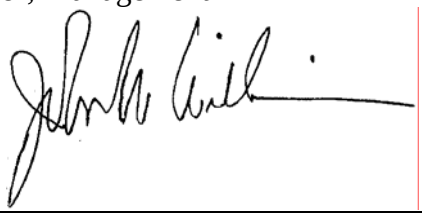
UNITED STATES DEPARTMENT OF AGRICULTURE
Farm Service Agency
Washington, DC 20250

Notice AS-2107

For: FSA Offices

Records Retention Freeze Required by
Tobacco Litigation, Class Action Litigation, and Hurricane Katrina

Approved by: Deputy Administrator, Management



1 Retaining Records Indefinitely

A Background

Notice AS-2090 informed all FSA personnel of the continuation of the freeze on loan and non-loan program related documents and tobacco related records. Upon the advice of the Department of Justice and OGC, **all** records whether program related or administrative in nature, **must** be maintained by FSA Offices until further notice.

In addition, FSA Offices **must** retain, preserve, and maintain all records relating to **Hurricane Katrina**, resulting flooding, or their aftermath.

Note: This includes **all** records maintained in any form.

B Purpose

This notice:

- advises **all** offices of the continuation of the loan and non-loan program-related documents, tobacco related records (see Exhibit 1), and administrative related records retention
- reminds **all** offices of the approved records storage facilities
- identifies records eligible for transfer because of extended retention
- notifies **all** offices to retain, preserve, and maintain **all** records relating to Hurricane Katrina. (see Exhibit 2).

Disposal Date	Distribution
May 1, 2007	State Offices; State Offices relay to County Offices

1 Retaining Records Indefinitely (Continued)

C Action for Tobacco, Loan and Non-Loan Records

FSA Offices shall:

- **not** destroy any tobacco-related documents and information about borrowers and other program participants, including but **not** limited to the following:

  - logs or card files on applicants
  - files on denied applications
  - records recorded or stored electronically
  - any other loan and non-loan program-related documents
  - any personal work papers containing tobacco information
  - displays for tobacco products
  - posters about production of tobacco
  - wholesale packaging for tobacco products
  - samples of tobacco products
  - any other tobacco-related documents

- **disregard** all references in Agency-approved Records Disposition Schedules and other regulations about destroying loan and non-loan program-related records and tobacco-related records.

D Action for Administrative Records in FSA Offices

FSA Offices shall **not** destroy official file copies of administrative records including, but **not** limited to:

- time and attendance files
- travel and training files
- correspondence files
- STC and COC meeting minutes.

2 Destroying Non-Record and Transitory Material

A Destroying Non-Record and Transitory Material

FSA employees may destroy non-record and transitory material such as:

- reading file copies of correspondence

- tickler, follow-up, or suspense copies of correspondence

- identical, duplicate copies of all documents maintained in the same file

2 Destroying Non-Record and Transitory Material (Continued)

A Destroying Non-Record and Transitory Material (Continued)

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- extra copies of printed or processed materials when official copies have been retained for record purposes.
- superseded manuals and other directives maintained outside the office that is responsible for retaining the superseded manuals and other directives
- materials documenting peripheral activities of agencies such as employee welfare activities and charitable fund drives
- routing slips
- working papers
- drafts of reports
- transmittal sheets
- blank forms
- transcribed stenographic materials
- processed or published materials that are received from other activities or offices and that require no action and are not required for any kind of documentation (the originating office or activity is required to maintain record copies)
- catalogs, trade journals, and other publications or papers that are received from Government agencies, commercial firms, or private institutions that require no action and are not part of a case upon which action is taken
- correspondence and other records of short term value that, after action has been completed, have neither evidentiary nor informational value, such as requests for publications and communications on hotel reservations
- confirmation copies of correspondence and other papers on which no documented administrative action is taken.

Note: Any document containing sensitive information **must** be shredded. Applicable office managers are responsible for ensuring that employees adhere to this policy.

3 Records Eligible for Transfer

A Records Storage Approved Facilities

All FSA Offices **must use** the Federal Records Centers (FRC) and **not** commercial storage facilities for storing inactive records. FRC is operated by National Archives and Records Administration (NARA).

B NARA Agreement

NARA is aware of the extended retention requirements and has agreed to accept inactive program and administrative records that are:

- not eligible for destruction
- eligible for destruction, but were stored in offices because of the records freeze or other reasons.

C Destruction

Once the extended retention requirements have been lifted, and records become eligible and are approved for destruction, NARA will destroy the records.

4 Transfer Procedures

A Action

Office managers shall use this table to contact the appropriate coordinator for assistance in preparing records for transfer.

IF…	THEN contact…
County Office	State Office.
States Offices	Francis Gilbert, KCAO at 816-823-2065.
National Offices	Jonathan E. Jones, FSA Records Officer, at 202-690-1870.

B Contact

If there are any questions about this notice, contact Jonathan E. Jones, FSA Records Officer, at 202-690-1870.

OCIO Letter

TO: Michael Gurwitz
Staff Attorney
International Affairs and Commodity Programs Division

FROM: David Combs
Chief Information Officer

DATE: February 24, 2006

SUBJECT: United States v. Phillip Morris: Record Retention

This is in response to your February 7, 2006 memorandum concerning the United States v. Phillip Morris Tobacco Litigation records retention.

As you are aware, in 1991 USDA placed a freeze on **all** USDA records, in all media, both in-house as well as those stored at the Federal Records Center (FRC). This freeze was placed on all records to ensure the retention of all potentially relevant documents. To date, all records relating to the Tobacco Industry Litigation are and will remain frozen. Following is the history and action taken by the Departmental Records Officer.

- During the spring of 2001, DOJ started working with a few select USDA Agencies to review and identify which records are related to the Litigation and should remain under the Tobacco Industry Litigation (TIL) freeze. Upon the start of the trial in 2001, the review ended even though all USDA Agency records had not been examined by DOJ.

- In February 2005, Colleen Snyder the Departmental Records Officer, contacted John Davenport, NARA's General Counsel, and Noelle Kurtin, DOJ Attorney for the Tobacco Litigation regarding an update to the Litigation. They discussed the handling of tobacco and non-tobacco-related records. Both Mr. Davenport and Ms. Kurtin provided Ms. Snyder with guidance on how to handle those specific accessions and/or disposition authorizations that should be exempted from this freeze. Ms. Snyder provided those instructions to the Agency Records Officers during the March 2005 Quarterly Records Officer Meeting.

- On February 13, 2006, Ms. Snyder contacted Ms. Kurtin to obtain an update on the Litigation. Ms. Kurtin informed Ms. Snyder that even though the trial had ended, the TIL is still in effect, USDA Agencies should continue reviewing records and follow the guidance provided in 2005.

If there are any questions, please contact the Department's Records Officer, Colleen Snyder at (202) 720-8020, or via email: colleen.snyder@usda.gov.

Hurricane Katrina Record Retention Memorandum

The following White House memorandum requires USDA to retain, preserve, and maintain **all** records relating to Hurricane Katrina.

THE WHITE HOUSE

WASHINGTON

September 23, 2005

MEMORANDUM FOR: SECRETARY OF STATE
SECRETARY OF THE TREASURY
SECRETARY OF DEFENSE
ATTORNEY GENERAL
SECRETARY OF THE INTERIOR
SECRETARY OF AGRICULTURE
SECRETARY OF COMMERCE
SECRETARY OF LABOR
SECRETARY OF HEALTH AND HUMAN SERVICES
SECRETARY OF HOUSING AND URBAN DEVELOPMENT
SECRETARY OF TRANSPORTATION
SECRETARY OF ENERGY
SECRETARY OF EDUCATION
SECRETARY OF VETERANS AFFAIRS
SECRETARY OF HOMELAND SECURITY
DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET
U.S. TRADE REPRESENTATIVE
ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY
DIRECTOR OF THE OFFICE OF NATIONAL DRUG CONTROL POLICY

FROM: // Original Signed //

FRANCES FRAGOS TOWNSEND
ASSISTANT TO THE PRESIDENT FOR HOMELAND SECURITY AND COUNTERTERRORISM

CC: ANDREW H. CARD, JR.

SUBJECT: COMPREHENSIVE REVIEW OF FEDERAL GOVERNMENT RESPONSE TO HURRICANE KATRINA; RETENTION OF RECORDS

Following up on Secretary Card's Memorandum to you of September 16, in order to determine what went wrong, what went right, and lessons learned from the comprehensive review of the Federal response to Hurricane Katrina that the President has ordered, you are requested to ensure

Hurricane Katrina Record Retention Memorandum (Continued)

that, until further notice and in accordance with applicable laws, your Department or Agency (1) retains, preserves, and maintains all records relating to Hurricane Katrina, resulting flooding, or their aftermath ("Records"), whether presently existing or created in the future, and (2) upon request, provides Records to the Homeland Security Council for review. For purposes of clarity, "Records" is meant in the broadest sense, and includes all documents, reports, writings, letters, memoranda, notes, communications (including e-mails, faxes, and telephone records, and all communications with other Federal Departments and Agencies, State and local governments, and private sector entities), contracts, agreements, schedules, spreadsheets, travel records, data, electronically stored information, audio and video recordings, computer disks and hard drives, drawings, graphs, charts, photographs, and all other records of any kind. "Records" includes, but is not limited to, all records required to be preserved pursuant to the Federal Records Act of 1950, as amended, 44 U.S.C. § 3101 et seq.

If you have any questions regarding any of the foregoing, please contact Associate Counsel John Mitnick (202-456-2607) in the Office of Counsel to the President.

Thank you in advance for your assistance.

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