

UNITED STATES DEPARTMENT OF AGRICULTURE

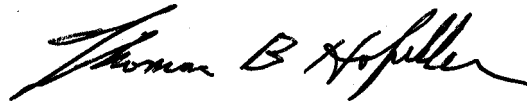
Farm Service Agency
Washington, DC 20250

Notice AS-2152

For: FSA Offices

Recordkeeping Requirements Because of the Records Retention Freeze

Approved by: Associate Administrator for Operations and Management



1 Records Retention Freeze Notification

A Background

FSA personnel have been informed that **all** FSA program and administrative records are frozen and will remain frozen, regardless of whether or not the records are beyond their normal retention period. **All** records **must** be preserved by FSA offices until further notice. Litigations and events that affect FSA records are:

- the **Tobacco Industry Litigation** records freeze; in 1999, USDA placed a freeze on **all** USDA records, **in all formats**, both in-house and stored at FRC's
- various **class actions** that pertain to Agency records, such as *Pigford*, *Brewington*, and *Keepseagle*
- the requirement to preserve records relating to **2005 Hurricane Programs**. **All** records pertaining to 2005 hurricanes, including Hurricanes Katrina, Ophelia, Rita, and Wilma, may have historical value and **must** be preserved by FSA offices until further notice.

Note: Exhibit 3 lists specific forms used to collect data for all eligible operations, commodities, or livestock covered under the 2005 Hurricane Programs. Other existing disaster program forms may be applicable in addition to these, as specified in 4-DAP, 5-DAP, 1-TAP, and Notice ECP-41.

Disposal Date	Distribution
June 1, 2009	FSA Offices; State Offices relay to County Offices

1 Records Retention Freeze Notification (Continued)

B Purpose

This notice informs **all** FSA offices that because of **Tobacco Industry Litigation**, class actions, and Hurricane Programs, **all** offices **shall continue** disregarding **all** references in FSA-approved Records Disposition Schedules and FSA Handbooks about destroying administrative and program related records. All official records **must continue** being retained by FSA offices until further notice. **Only** nonrecords may be destroyed at this time (subparagraph F).

C Definition of Records

[44 U.S.C. 3301] “records” include all books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them.

Records:

- correctly reflect what was communicated or decided, or what action was taken
- support the needs of the business to which it relates, and may possibly be used for accountability purposes
- and information are created, captured in some form, maintained, and ultimately destroyed or preserved for posterity.

D Approved Record Storage Facilities

All FSA offices **must use** FRC’s and **not** commercial storage facilities for storing official records. FRC’s are operated by the National Archives and Records Administration and are the **only** approved storage facilities for FSA records.

E Transfer Procedures

All FSA offices shall use the Records Transfer Desk Reference Guide at http://intranet.fsa.usda.gov/records_mgmt/RMMainPage.htm that outlines steps and procedures for transferring inactive and closed official records.

1 Records Retention Freeze Notification (Continued)

F Destroying Nonrecord Material

Nonrecord materials are U.S. Government-owned documentary materials excluded from the legal definition of records (subparagraph C), either by failing to meet the general conditions of record status or by falling into 1 of the following categories:

- extra copies preserved for convenience
- stocks of extra publications
- excess forms (the originals are considered an official record).

FSA employees may **only** destroy nonrecord materials at this time, because of the record freezes under which FSA is currently operating. Sensitive nonrecords with Personally Identifiable Information (PII) **must** be destroyed in a manner that prevents reconstruction of the nonrecords. Currently, **only** micro-cut shredding meets PII destruction requirements. Refer to current guidance issued in notices about proper nonrecord shredding techniques.

G FLP Appraisal Work Files

Appraiser work files **must**:

- **not** be destroyed or otherwise removed from FSA when retention requirements expire according to the Uniform Standards of Professional Appraisal Practice
- be relinquished when appraisers leave FSA appraiser employment positions; appraisers may make copies of their work files at no cost before departure.

Note: As necessary, appraisers will be provided access to the work files on an as-needed basis to address future State board concerns.

H Contact

If there are any questions about this notice, contact John Underwood, Chief, MSD, Kansas City Administrative Services Branch, Information Management Section, at either of the following:

- e-mail to john.underwood@kcc.usda.gov
- telephone at 816-926-6992.

OCIO Letter

The following is a copy of the letter about retaining records for *United States v. Phillip Morris*.

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 Program Records Retention Memorandum

The following White House memorandum requires USDA to retain, preserve, and maintain **all** records relating to the 2005 Hurricane Programs.

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 Program Records 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.

Forms Related to 2005 Hurricane Programs

The following forms are used to collect data for all eligible operations, commodities, or livestock covered under the 2005 Hurricane Programs:

- CCC-552 Citrus
- CCC-552 F&V
- CCC-552 Nursery
- CCC-552 Tropical
- CCC-770 Hurricane
- CCC-770 LCP
- CCC-770 LIP-II
- CCC-770 TAP
- CCC-894
- CCC-894 Appendix
- CCC-896
- CCC-897
- CCC-898
- FSA-573
- FSA-849.

Note: Other existing disaster program forms are applicable, as specified in 4-DAP, 5-DAP, 1-TAP, and Notice ECP-41. Regardless of whether a disaster form is listed or not for 2005 Hurricanes, **all** USDA records in all formats, both in-house and stored at FRC's, are currently frozen because of the Tobacco Industry Litigation freeze until further notice.