

NATIONAL WEATHER SERVICE INSTRUCTION 10-2005

November 8, 2011

Operations and Services

Forensic Services, NWSPD 10-20

HANDLING AND RELEASING ACCIDENT-RELATED WEATHER INFORMATION

NOTICE: This publication is available at: <http://www.nws.noaa.gov/directives/>.

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SUMMARY OF REVISIONS: This directive supersedes NWS Instruction 10-2005, dated September 21, 2007. The changes are:

- Updated the mailing address of the Forensic Services Meteorologist (FSM).
- Minor corrections for grammar, and directive OPRs.
- Clarified sections 1.3 and 1.3.1 to note NWS personnel statements are in reference to transportation accidents, and no other type of investigations.
- Section 1.3.1: Added the sentence, "An email to the FSM; including the relevant RH Program Leader, and local NWS manager of the person asked to provide a statement, as addressees; can suffice as notification in cases where an urgent response to the requestor is needed." This provides documentation for those times when an investigation is known to be underway, but until a certain moment no statement had been requested.

//Signed//

October 25, 2011

David B. Caldwell

Date

Director, Office of Climate, Water, and Weather Services

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1. Procedures for Releasing Accident-Related Weather Information.

1.1 Requests for Weather Data - General. Government agency and private party requests for weather exhibits related to various types of accidents may go directly to any National Weather Service (NWS) office. In the interest of expediting service, the NWS office receiving the request should provide uncertified copies of weather information, which are a matter of public record (e.g., surface observations, forecasts and warnings), if readily available on site. As an alternative, explain that copies of official records are available within three to four days after the product valid time directly from the archives using the following URL: <http://hurricane.ncdc.noaa.gov/pls/plhas/has.dsselect>. Regardless how uncertified copies are provided, explain the process for requesting certified copies as shown in the next paragraph. If the information request appears to be in preparation for litigation against the government, the Forensic Services Meteorologist (FSM) at NWS Headquarters (NWSH) and appropriate regional headquarters (RH) personnel should be notified immediately. Furthermore, if any concerns or questions are raised about a request for NWS records, RH or NWS offices should contact the FSM before taking any action.

If certified copies are requested, forward requests to the National Climatic Data Center (NCDC):

National Climatic Data Center
151 Patton Avenue
Asheville, North Carolina 28801-5001
Telephone No. (828) 271-4800
Email: ncdc.info@noaa.gov

1.2 Unauthorized Information. Personal views, opinions, or conjectures about the cause of an accident or the quality of weather products and services possibly associated with the accident will not be released publicly, either verbally or in writing. See Section 1.3.2 for procedures on the release of written statements.

The following are considered privileged information and are not generally furnished to the general public:

- a. Inter- or intra-agency memoranda or letters
- b. Investigatory files compiled for law enforcement purposes
- c. Information related solely to the personnel rules and practices of any agency
- d. Personnel, medical, and similar files, the disclosure of which would constitute a clearly unwarranted violation of the Privacy Act
- e. Memoranda, reports, and files prepared for litigation.

NOTE: Refer all requests for privileged information to the FSM, NWSH for appropriate action.

1.3 Statements. Government officials investigating a major transportation accident routinely request oral or written statements from persons who may have knowledge of weather conditions or services incident to the accident.

1.3.1 Handling of Requests for Statements. Written statements, narratives, or summary and hindcasts will not be provided to offices, agencies, or organizations, government or public, outside the NWS without approval from the FSM. The FSM will be immediately notified of any requests for oral or written statements coming directly from any source outside of the NWS. An email to the FSM; including the relevant RH Program Leader, and local NWS manager of the person asked to provide a statement, as addressees; can suffice as notification in cases where urgent response is needed.

In most cases, requests for statements from NWS personnel related to transportation accident investigations will come from the National Transportation Safety Board (NTSB). The requests normally will be sent to the FSM and passed on to the NWS employee through the appropriate RH Program Leader and NWS office manager. The NWS employee will complete and submit the statement as quickly as possible. The original and a second copy will be forwarded directly to the FSM.

On occasion, personnel interviews are requested by NTSB field investigators. The appropriate RH program leader will arrange these interviews. The NWS member on the NTSB's investigation team or the NWS office manager, if no other NWS member is on the team, will attend the interview. NWS personnel should make all reasonable effort to avoid the recording of their oral statements.

1.3.2 Preparation of Statements. Use Appendix A as a guide for preparing written statements. The author will type or print a statement on plain paper in the format outlined in Appendix A. The statement should not be addressed to anyone. It will be dated, and contain an identifying paragraph including the individual's name, address, occupation, and location of employment. The statement will contain only facts and will be devoid of opinions and conclusions. It should be written in the first person--"I am, I saw, I did, etc."

The statement should be clear and concise with all pertinent facts in chronological order. Information included should identify all referenced weather information, equipment and/or operational procedures, taking care to avoid acronyms.

The statement will be considered along with other testimony and evidence in seeking the probable cause of an accident and the contributing factors. Additionally, personnel statements are frequently produced in litigation evolving from accidents where they are viewed as the employee's most recent recollection while acting in an official capacity. Information in the statement should be confined to functions and responsibilities relating to the NWS.

Opinions of any kind, including those on the probable cause of an accident, will not be rendered. The author is expected to sign the statement above his/her printed name and title.

1.4 Requests from the Forensic Services Meteorologist. When a major accident occurs, the FSM may require immediate access to official weather records relating to the accident. Quick access is essential in providing preliminary weather information to NTSB and other government investigators. It also allows a preliminary analysis of the availability of weather products and/or services relating to the accident. The appropriate RH will be advised of such requests as soon as possible.

For routine requests of data available at NWS offices from the FSM, NWS offices will forward two certified copies of each weather exhibit to the address below. The submitted data should be limited to the period specified in the request. NWS office identification, along with the time(s) and date of the data, should be indicated on the front of each page. The data should be sent by first class mail. However, when requested, send by certified mail as soon as possible to:

National Weather Service Headquarters
Silver Spring Metro Center #2
ATTN: W/OS52, Forensic Services Meteorologist, 14th Floor
1325 East-West Highway
Silver Spring, Maryland 20910

Where reproduction cannot be accomplished locally, NWS offices should not forward original records. In such cases, inform the FSM at NWSH through the RH.

1.5 Responding to the News Media. Following major accidents suspected to be weather-related; a NWS office is often contacted by the news media and asked questions about the weather at the accident site; specifically if warnings were in effect at the time. When this occurs, the NWS office manager or the person in charge of station operations at the time of the incident will field the questions.

Regardless of who responds to the questions, no interpretation or speculation will be provided concerning the accident. The answers should be documented and made available to others on station to ensure consistency. Most of the time, the questions can be answered in a straightforward manner.

In situations when information may be misinterpreted, the following response to news media questions is recommended:

"All weather information applicable to the time and place of the referenced accident has been (or will be) made available to the National Transportation Safety Board. It would be inappropriate for me to comment on the questions asked before the Safety Board completes its investigation."

If the above approach is used and the media person persists and states the information requested is a matter of public record, inform them copies of the information can be obtained by submitting a written request to the FSM at NWSH.

1.6 Requests for Office Visits by Private Attorneys and Consultants. On occasion, a NWS office will be contacted by a private attorney, or a consulting meteorologist working for an attorney, requesting a visit or tour of the office facilities. The Department of Commerce (DOC) has regulations (15 C.F.R. Part 15, Subpart B) governing testimony by employees, the production of documents, and the dissemination of official information in legal proceedings. These regulations require attorneys or their representatives to submit a written request for testimony, documentation, or official information in connection with potential or pending legal proceedings. A site visit to a NWS facility falls under the category of obtaining "official information."

Therefore, when a NWS office receives a request for a visit from an attorney or their representative, the purpose of the visit should be discerned:

- a. Is the visit connected in any way to ongoing or potential litigation? If so, who are the parties to the case?
- b. Is the visit related to the investigation of an aircraft accident, marine casualty, severe weather event, or similar incident?

If the answer to either question above is "yes," or office personnel suspect such involvement, the proposed visit will not be permitted until it has been discussed with the FSM, DOC's General

Counsel's Office, or the National Oceanic and Atmospheric Administration's (NOAA) Office of the General Counsel.

2. Certification of Records. Most requests for official weather data can be handled by referring the requestor to the NCDC web-based data retrieval site. The site is located at: <http://hurricane.ncdc.noaa.gov/pls/plhas/has.dsselect>. This service is free to all users for any data available on-line. The on-line data retrieval system accesses archived official data and products prepared by NWS forecast offices. Most archived records are available within three days of the issue date. Only data which must be special ordered, or requires full certification, and therefore must be handled by a person, may have a fee associated with the service.

2.1 Types of Certification. The following are the three types of certification.

a. Stamped (or Individual). The certification of an individual record or document by a NWS office is limited to unique information available only at that office. Note: The WFO certifying official may certify only those records, documents, and products issued by the NWS office that do not contain, nor are related to, World Meteorological Organization (WMO) identification (ID) headers. The vast majority of products containing WMO ID headers are archived at NCDC. If any questions arise as to what should or should not be certified by the WFO, contact the FSM at NWSH.

The certification may be typed, written, or stamped. It includes a certification statement, signature in ink, the signatory's title, the office location, and the date of the record or document being certified. To facilitate reproduction, enter the certification directly on the front of each page of an exhibit. Each NWS office should obtain a rubber stamp in the following format:

This is a certified true copy of

Weather records available at this

Office for (date)

Signature

Title

Office

b. Group. Use a group certification in lieu of stamped certification on individual pages in cases involving a large volume of similar records (e.g., several days of river gauge measurements, etc.). The certification may be typed, written or stamped on a blank page and attached to the records.

c. Authentication Certification by the Department of Commerce (DOC). Prepared by NCDC on occasions when a stamped or group certification is not acceptable. A completed Form CD-64 (see Appendix B) represents DOC certification and authentication.

2.2 National Climatic Data Center (NCDC) Certification of Permanent Records. The NCDC is custodian of NWS service products and provides group and DOC certifications for these and all other records permanently archived at the NCDC. NWS offices will not certify records scheduled for permanent archiving at the NCDC.

2.3 Authenticity of Certified Records in Court Cases. The United States Code (28 U.S.C. 1733(b)) provides: "Properly authenticated copies or transcripts of any books, records, papers, or documents of any department or agency of the United States shall be admitted in evidence equally with the originals thereof."

3. National Weather Service (NWS) Charges for Mission Information and Disposition of Collections. The "Ordering NCDC Data and Products" section of the NCDC's web site (<http://www.ncdc.noaa.gov/oa/about/ncdcordering.html>) provides information and a list of applicable fees and charges for mission information.

Field offices should avoid copying materials when possible. If necessary, appropriate charges should be assessed. Requests for information involving copies or transcriptions of observations, forecasts, warnings, local climatological data, or similar information can be assessed a fee. In addition, NWS offices often receive requests for release of information under the Freedom of Information Act (FOIA). Charges for FOIA requests are the same as those for mission information described above. NWS offices should discourage cash payments. Checks should be made payable to "NOAA, National Weather Service."

3.1 Office Records. An office record will be maintained of all collections. This record will include: (1) date payment received, (2) total amount of the payment, (3) the payer, (4) purpose of payment (e.g., copies of observations, local climatological data, and may be consolidated into one entry), and (5) the date the check or money order is forwarded to the Administrative Support Center (ASC).

3.2 Disposition of Collections. NWS Offices should forward collected payments to the appropriate ASC within 30 days of collection, accompanied by a copy of the office record or a covering memorandum showing: (1) the date of the collection(s), (2) the amount of the collection(s), and (3) the purpose of the collection(s). The ASC should be instructed to forward the collection(s) to the United States Treasury.

3.3 Security of Funds. Section 4 of the NOAA Cashier's Handbook contains instructions for the proper safeguarding of funds. NWS office managers will ensure there is a strict internal accounting and safeguard of all local collections and funds.

Appendix A – Sample Statement

S T A T E M E N T
Weather Forecast Office
Fort Worth, Texas
June 23, 1998

The following is a report concerning the accident involving aircraft N1027X at Dallas/Fort Worth International Airport (DFW), Texas. The accident occurred during the evening of May 16, 1998, at approximately 9:30 p.m. Central Daylight Time (CDT).

My name is John Doe. I am employed as a meteorologist at the Weather Forecast Office at Fort Worth, Texas. I was on duty as the aviation forecaster during the period from 4:00 p.m. to midnight CDT on May 16, 1998. My duties included the issuance of Aviation Terminal Forecasts (TAFs) for north Texas, including DFW.

I arrived on duty about 10 minutes before 4:00 p.m. I was briefed by the previous aviation forecaster on the weather conditions and trends, and what I might expect during my shift. After the briefing, I reviewed the current weather situation and the latest radar data, and checked the existing forecasts for any amendments that might be needed.

At about 5:45 p.m., I began preparing the routine TAF package valid for the period beginning 7 p.m. CDT (0000Z May 17th). The portion of the DFW TAF valid for the period from 7 p.m. to 11 p.m. included a forecast for winds from the southeast at 15 knots, visibility of greater than 6 statute miles and a cloud base of 25 hundred feet broken, with conditions temporarily lowering to a visibility of 2 miles in thunderstorms with light rain between 9 p.m. and 11 p.m.

Shortly after 8 p.m., the Weather Surveillance Radar-1988 Doppler (WSR-88D) indicated an intensifying area of thunderstorms to the northwest, moving towards the Dallas-Fort Worth metroplex area. At the same time we began to receive reports of heavy rain and gusty winds from amateur radio operators and phone calls from the public in the area of the thunderstorms. At 8:10 p.m., a Severe Thunderstorm Watch was issued by the Storm Prediction Center in Norman, Oklahoma, for much of northern Texas, including DFW. At 8:15 p.m., I began to amend the existing TAFs for DFW and other airports in the metroplex area. The amended TAF for DFW forecast a temporary condition of southwesterly winds of 25 knots gusting to 40 knots, a visibility of 2 mile in thunderstorms with heavy rain and a cloud base of 8 hundred feet during the period from 9 p.m. to 11 p.m. After sending the amended TAF, I observed the thunderstorm area approaching the metroplex area on the WSR-88D radar.

A thunderstorm began at DFW at 9:15 p.m. At 9:20 p.m., I received a special surface weather observation from DFW reporting gusty winds of 35 knots and a visibility of 1 mile in thunderstorms with heavy rain. Frequent cloud to ground lightning was reported in all quadrants. Shortly after 9:30 p.m., I received a call from the DFW observer notifying us that an aircraft mishap had occurred at the airport. At 10 p.m., the Fort Worth Air Route Traffic Control Center called to provide us with additional information.

At 11:45 p.m. the next duty aviation forecaster for the midnight shift arrived. I briefed him about the weather situation and provided him with the available information about the aircraft mishap. I left the office shortly after midnight.

(Signed) John Doe
Meteorologist

Appendix B - Department of Commerce Form CD-64 for Certification

Form CD-64 form is available on-line from the DOC electronic forms web-site. The only user will be NOAA's NCDC in its capacity as the archive repository of all official NWS products. The sample below shows the NCDC overprint to CD-64.

FORM CD-64
(REVISED)
Prescribed By
D.A.O. 201-17

U. S. DEPARTMENT OF COMMERCE
Asheville, N.C.

I CERTIFY that the attached are authentic and true copies of
meteorological records on file in the NATIONAL CLIMATIC DATA
CENTER, ASHEVILLE, NORTH CAROLINA.

NANCY A. RITCHEY
RECORDS CUSTODIAN
DATA ADMINISTRATOR
(Official Title)

.....

I HEREBY CERTIFY that NANCY A. RITCHEY, RECORDS
CUSTODIAN, who signed the foregoing certificate, is now, and was at the time of
signing, DATA ADMINISTRATOR, NATIONAL CLIMATIC DATA
CENTER, and that full faith and credit should be given her certificate as such.
I further state that I am the person to whom the said custodian reports.

IN WITNESS WHEREOF, I have hereunto
subscribed my name and caused the
seal of the Department of Commerce
to be affixed
on this date:

For the SECRETARY OF COMMERCE:

THOMAS R. KARL
DIRECTOR
NATIONAL CLIMATIC DATA CENTER
(Certifying Officer)