

**NATIONAL WEATHER SERVICE INSTRUCTION 10-2005**

**December 17, 2015**

**Operations and Services**

**Forensic Services, NWSPD 10-20**

**HANDLING AND RELEASING ACCIDENT-RELATED WEATHER INFORMATION**

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

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**OPR:** W/COO11 (B. McNulty)

**Certified by:** W/COO1 (C. Woods)

**Type of Issuance:** Routine

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**SUMMARY OF REVISIONS:** This directive supersedes NWS Instruction 10-2005, dated November 8, 2011. The changes are:

- Updated name of National Climate Data Center (NCDC) to National Centers for Environmental Information (NCEI).
- Removed appendix B: example Certification Certificate (Form CD-64) on the basis that how NCEI completes a certificate is not in the purview of this directive.
- Updated contact information for NCEI.
- Added information in section 1 for how to handle subpoenas and Freedom of Information Act (FOIA) requests.
- Added information on NWS Chief of Staff providing limited certification of NWS records in section 2. Also updated general language used in section 2.
- Removed option for local office certification from section 2. All requests to local offices for certified data are now referred to NCEI.
- Updated contact information for forensic meteorologist.
- Clarified section 1.4, requests from the Forensic Meteorologist.
- Updated office symbols for OPR and Certification officials, and template used for directive.
- Other minor grammatical and spelling corrections as needed.

/Signed/

3 December 2015

John D. Murphy  
Chief Operating Officer

Date

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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. The NWS office receiving the request should refer the requestor to the on-line data service provided by the National Centers for Environmental Information (NCEI) at <https://www.ncei.noaa.gov/>. If the information request appears to be in preparation for litigation against the government, notify the NOAA General Counsel, the Forensic Services Meteorologist (FSM) at NWS Headquarters (NWSH) via the NWS Operations Center (“Attention Forensic Services” in subject), and the appropriate regional headquarters (RH) personnel immediately. Contact information for the NOAA General Counsel:

Weather, Satellites and Research Section  
 NOAA, Office of General Counsel  
 1315 East-West Highway  
 SSMC3-Room 15137  
 Silver Spring, MD 20910

Telephone: 301/713-1337

Fax: 301/713-1494

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.

### **1.1.1 Requests for Weather Data by Subpoena**

Occasionally an attorney's office will serve a subpoena on a local NWS office. The local office must immediately notify the NOAA General Counsel, and follow their guidance. Typically the general counsel will request a copy of the subpoena and any additional information the local office may have. Send a courtesy copy of correspondence with counsel to the appropriate RH and FSM for their situational awareness.

### **1.1.2 FOIA Requests Received at the Local NWS Office**

At times an attorney's office will use the Freedom of Information Act (FOIA) to request weather data. When this occurs, refer the request to NOAA GC; attorneys cannot use FOIA to circumvent fees charged by NCEI. Duty office management should also be notified.

## **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 can suffice as notification where urgent response is needed; including as addressees the relevant RH Program Leader, and local NWS manager of the person asked to provide a statement.

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. Forward a pdf file, signed by the employee, to the FSM. Email is the most efficient way to transmit the statement.

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. The interview is generally used to answer questions that arose from the written statement by the NWS member, and therefore the content should parallel the earlier document. The employee should keep to information known at the time of the forecast and refrain from adding details not available to the forecaster at that time.

### **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. Most likely these records will not have reached the NCEI data base when a copy is needed. Such data is understood to be preliminary and not certifiable until the database is updated at NCEI. 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 from the FSM for data available at NWS offices forward electronic copies of each weather exhibit to the return email address. 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 in the cover message accompanying the attachments.

#### **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. For additional guidance refer to section 1.1.1, and NWSI 10-2006, *The Accident Investigation/Litigation Process*, section 2.2.

## **2 Certification of Records**

Most requests for official weather data can be handled by referring the requestor to the NCEI web-based data retrieval site. 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. In general 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**

NWS records may only be certified at two levels, depending on the circumstances. For limited data requests, often related to responses to higher level agency requests for information the NWS Chief of Staff office may provide certification of records owned by NWS but not stored at NCEI. Those databases used by NWS, but owned by other agencies such as river gage streamflow (owned by United States Geological Survey (USGS)), or lightning data (owned by United States Forest Service (USFS)) cannot be certified as true and correct by NWS. Authentication certification from the Department of Commerce (DOC) is prepared by NCEI.

### **2.2 National Centers for Environmental Information (NCEI) Certification of Permanent Records**

The NCEI is custodian of NWS service products, whether text or graphic, and provides group and DOC certifications for these and all other records permanently archived at the NCEI. NWS will not certify records scheduled for permanent archiving at the NCEI. The rationale for NWS refraining from certifying records archived at NCEI: NWS does not use NWS resources (equipment, staff, or virtual) to maintain the archive. Persons or organizations requesting certified copies of NWS products should be made aware that NCEI may charge fees based on the number of pages requested.

### **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.” All NWS meteorological or hydrological data products are now produced in digital form, with no paper versions, either as graphical depictions or text products produced by automated formatters and based on the graphic. The digital archives at NCEI are the sole repository for products with WMO headers.

**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