NATIONAL WEATHER SERVICE INSTRUCTION 10-2005
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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 December 17, 2015. The changes are:

- Updated NWS office change from OCOO to AFS24 due to program transition.
- Updated process for DOC and NOAA GC interactions with weather data requests in 1.1.
- Updated FOIA request process in 1.1.2 due to confusing wording.
- Updated wording for forensics and regional headquarters coordination in NTSB investigation requests in 1.3.1.
- Updated 1.4 due to confusing wording.
- Updated wording from Forensic Services Meteorologist to Forensic Services Program Manager throughout the document to be consistent with other NWS Directives.
- Other minor grammatical and spelling corrections as needed.

________Signed_______________________ 4/30/2019_____
Andrew D. Stern Date
Director
Analyze, Forecast, and Support Office
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 Forensic Services Program Manager (FSPM) at NWS Headquarters (NWSH) and the appropriate regional headquarters (RH) personnel immediately. The FSPM is responsible for liaising with the Department of Commerce (DOC) and National Oceanic and Atmospheric Administration (NOAA) General Counsels (GC) and will work with them on any NWS requirements or responsibilities.

Furthermore, if any concerns or questions are raised about a request for NWS records, RH or NWS offices should contact the FSPM 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 GC, 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 Program Leader and FSPM for their situational awareness.

1.1.2 FOIA Requests Received at Any 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. Office management should also be notified of any FOIA request(s) received.

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 FSPM, 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 FSPM. The FSPM 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 FSPM 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 FSPM 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 FSPM. Email is the most efficient way to transmit the statement.

On occasion, personnel interviews are requested by NTSB field investigators. The FSPM will coordinate with the appropriate RH program leader to arrange these interviews. If the FSPM is not available, NTSB investigators may contact the appropriate RH program leader who can then arrange these interviews. The RH program leader will, in turn, ensure that the FSPM is copied for situational awareness. 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. Once signed, this document should be sent back to the FSPM so that it can be forwarded along to the requesting agency.
1.4 Requests from the Forensic Services Program Manager
When a major accident occurs, the FSPM may require immediate access to official weather records relating to the accident. Most likely these records will not have reached the NCEI database 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 services relating to the accident. The appropriate RH will be advised of such requests as soon as possible.

For requests from the FSPM for data available at NWS offices, submit electronic copies of each weather exhibit by responding to the email request from the FSPM. 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 that are 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 FSPM 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 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 FSPM, 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 that 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 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

STATEMENT
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