

**NATIONAL WEATHER SERVICE INSTRUCTION 10-2005
NOVEMBER 7, 2023**

**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, *Handling and Releasing Accident-related Weather Information*, dated May 14, 2019. The changes are:

- Provided introductory information in Section 1.
- Updated Section 1.1 for better clarity.
- Updated Section 1.1.2 to point to NWSI 1-603 on Freedom of Information Act (FOIA) requests and processes.
- Rewrote Section 1.3 and associated subsections for better clarity on interview and statement processes.
- Added Section 1.3.1 to better explain the investigative interview process.
- Restructured Section 2 for better clarity.
- Restructured Appendix A to remove borders around documentation.
- Added Appendix B as an example of Prepared Questions for Written Statements.

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Handling and Releasing Accident-related Weather Information

Table of Contents	Page
1. Procedures for Releasing Accident-Related Weather Information	2
1.1 Requests for Weather Data - General	2
1.1.1 Requests for Weather Data by Subpoena.....	3
1.1.2 Freedom of Information Act Requests Received at Any NWS Office	3
1.2 Unauthorized Information	3
1.3 Investigative Interviews and Statements	4
1.3.1 Requests for Investigative Interviews	4
1.3.2 Requests for Written Statements	5
1.4 Requests from the NWS Forensic Services Program Manager (FSPM)	6
1.5 Responding to the News Media.....	6
1.6 Requests for Office Visits by Private Attorneys and Consultants	6
2 Certification of Records	7
2.1 Authenticity of Certified Records in Court Cases.....	7
Appendix A – Example - Generic Written Statement	A-1
Appendix B – Example - Prepared Questions for Written Statements.....	B-1

1. Procedures for Releasing Accident-Related Weather Information

This instruction provides guidance for various types of requests associated with transportation accidents including weather data and interview or statement requests. Additional information on the National Weather Service (NWS) Accident Investigation and Litigation Process can be found in [NWSI 10-2006](#).

The NWS Forensic Services Program Manager (FSPM) in the Analyze, Forecast, and Support Office (AFSO)/Aviation and Space Weather Services Branch (AFS24) at NWS Headquarters (NWSH) is the main point of contact in the NWS for transportation accident and investigation support and information. All NWS offices should route all requests for data and information related to transportation accident support through the FSPM for appropriate coordination and tracking.

1.1 Requests for Weather Data - General

Requests for weather data and information related to various types of transportation accidents may occasionally be received by any NWS office. These requests should be forwarded to the FSPM at NWSH for coordination, completion, and tracking.

If the request appears to be in preparation for litigation against the government, the receiving office should notify the General Litigation Division in the Department of Commerce (DOC) General Counsel's Office

and provide it with the original claim and copy to the FSPM and the appropriate regional headquarters (RH) personnel immediately. The FSPM is responsible for liaising with the DOC and National Oceanic and Atmospheric Administration (NOAA) General Counsel Offices and will work with them on any NWS requirements or responsibilities.

If any concerns or questions are raised about a request for NWS data or records, 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 NWS office. The applicable DOC regulations at 15 C.F.R. Part 15 Subpart B, DOC regulations generally prohibit NOAA NWS employees from appearing as witnesses in litigation not involving the United States. In addition, per 15 C.F.R. § 15.18(a), under no circumstances may an NWS employee provide expert or opinion witness testimony for any party other than the United States. See the [NOAA Office of General Counsel Subpoena Fact Sheet](#) for more information.

If an employee receives a subpoena, they should contact the appropriate RH or National Center manager immediately. The RH or National Center personnel will contact the FSPM in order to further coordinate with NOAA GC for guidance and ensure that a copy of the subpoena is provided to the FSPM for NOAA GC action. If additional information is needed, the FSPM or NOAA GC staff will coordinate with the RH or National Center manager or staff being subpoenaed depending on the subpoena request and time constraints. The FSPM will ensure all necessary NWS personnel remain informed of any necessary activities related to the subpoena request.

1.1.2 Freedom of Information Act Requests Received at Any NWS Office

Local, regional, and national center office management should be notified of any Freedom of Information Act (FOIA) request(s) received as appropriate. Refer to [NWSI 1-603](#) for complete instructions and contact information.

At times individuals may direct FOIA requests for weather data to NWS offices. When this occurs, immediately refer the request to the NWS FOIA Administrators in the Management and Organization Division of the NWS Office of the Chief Financial Officer/Chief Administrative Officer (W/CFO2). The FOIA process cannot be used to circumvent the federal process for employee testimony or to avoid fees associated with sending the request to the National Centers for Environmental Information (NCEI).

1.2 Unauthorized Information

Personal views, opinions, or conjectures about the cause of an accident or the quality of weather products and services potentially associated with an accident are not to be stated publicly, either verbally or in writing. See [Section 1.3](#) for procedures on investigative interviews and the release of written statements.

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

- a. Intra- or interagency memoranda or letters,
- b. Investigatory files compiled for investigation or 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 for appropriate action.

1.3 Investigative Interviews and Statements

Government officials investigating transportation accidents routinely request interviews or written statements from persons who may have knowledge of weather conditions or services at the time of an accident. The FSPM is responsible for coordinating and tracking these requests. In most cases, requests for interviews or statements from NWS personnel related to transportation accident investigations will come from the National Transportation Safety Board (NTSB); however other federal agencies such as the Federal Aviation Administration (FAA) and the United States Coast Guard (USCG) also conduct investigations and may make requests from the NWS.

Notify the FSPM immediately 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 and should include the original request. The email should also be directed to the appropriate Regional Program Manager and local NWS manager of the person asked to provide a statement.

The interviews conducted and statements taken by the investigating U.S. Government officials will be considered, along with other testimony and evidence, in seeking to determine the probable cause and any contributing factors in the accident. Additionally, statements frequently are 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 interviews and statements should be confined to functions and responsibilities relating to the NWS and focus only on information known surrounding the time of the accident, refraining from adding details not available to the staff at the time of the accident.

Being interviewed or asked for a written statement for an accident investigation does not imply fault or blame. Investigators are gathering facts to ascertain what happened prior to and at the time of the accident.

1.3.1 Requests for Investigative Interviews

On occasion, field investigators request to interview NWS staff; they should work directly with the FSPM to schedule and conduct these interviews. When requests come directly to an NWS office from outside of the agency, staff should contact the FSPM immediately before agreeing to any accident-related interview. The interviews generally are recorded and may become part of the public docket for the accident investigation. The FSPM will coordinate with the appropriate RH or local office manager to arrange these interviews.

In most cases, when NWS staff are being interviewed, they are allowed to have one additional person in the room at the time of the interview. This person can be any other NWS staff that the interviewee is comfortable with (e.g., a member of the management team, NWSEO office steward, or other office staff); however, this additional person cannot answer any of the questions posed to the interviewee. The questions can be discussed among the two, but the interviewee must be the one answering during the interview.

1.3.2 Requests for Written Statements

Requests made by federal agencies for written statements related to an accident investigation should come to the FSPM and will be passed to the NWS employee for completion through the appropriate NWS office manager. The NWS employee will complete and submit the statement as quickly as possible and forward a pdf file, signed by the employee, to the FSPM. Email is the most efficient way to transmit a written statement.

If an employee directly receives a request for a written statement, that employee should forward the request and any other pertinent information to the FSPM and copy their office manager and appropriate region or National Center manager. The FSPM will coordinate with the requesting agency and advise the region, office, and employee of what is needed.

Written statements, narratives, or summaries related to transportation accidents **will not** be provided to other offices, agencies, organizations, or the public without coordination with the FSPM.

1.3.2.1 Preparation of Written Statements

If a written statement is requested by the investigating agency, the author should prepare the written statement in the format outlined in [Appendix A](#) unless the investigating agency requests otherwise (see the example in [Appendix B](#)).

The statement

- Will contain only facts, be devoid of opinions and conclusions, be written in the first person (i.e., I am, I saw, I did, etc.), and should be clear and concise with all pertinent facts in chronological order.
- Should be dated and contain an identifying paragraph including the individual's name, work address, occupation, and location of employment.
- Should be clear and concise with all pertinent facts in chronological order. Information should identify all referenced weather information, equipment, and operational procedures, spelling out any acronyms used.

The statement will be considered along with other testimony and evidence in seeking the probable cause of an accident and the contributing factors. Additionally, statements made by agency personnel frequently are produced in litigation evolving from accidents where these statements are viewed as the employee's recollection while acting in an official capacity. Information in the statement should be factual and confined to functions and responsibilities relating to the NWS. Opinions of any kind, including those on the probable cause or contributing factors of an accident, should not be volunteered.

The author is expected to sign the statement above the printed name and title. Once signed, this document should be sent back to the FSPM so that it can be sent back to the requesting agency.

1.4 Requests from the NWS Forensic Services Program Manager (FSPM)

When a transportation accident occurs, the FSPM may require immediate access to weather records related to the accident. In some cases, these records will not have reached the database at NCEI. 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 government investigators. It also allows a preliminary analysis of the availability of weather products and services relating to the accident. The FSPM will work through the appropriate Regional Operations Centers (ROC), National Centers, or Program Managers to secure these records as needed.

For requests from the FSPM, submit electronic copies of the requested data by responding to the email request from the FSPM. The submitted data should be limited to the period specified in the request. Where practical, NWS office identification, along with the time(s) and date of the data, should be indicated in the attachment file names.

1.5 Responding to the News Media

Following accidents where weather may have been a cause or contributing factor, an NWS office may be contacted by the media and asked questions about the weather at the accident time and site, specifically if warnings were in effect at the time. Follow local and regional guidance when responding to media requests. **No interpretation or speculation should be provided concerning the accident.** The questions and answers should be documented and made available to others on station to ensure consistency with any subsequent media requests.

In situations where staff are uncomfortable answering media questions, or where information may be easily misinterpreted or potentially controversial, a response similar to below 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 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 weather data can be obtained from NCEI and provide them with NCEI's contact information. If the media person continues to persist, please refer them to the FSPM.

With some transportation accidents, for example, commercial airline accidents or any type of accident that involves political personnel or celebrities, there may be a large amount of media attention. When this occurs, NOAA Public Affairs is likely to be involved and will take the lead on media requests. If there are any questions regarding media requests involving transportation accidents, reach out to the FSPM for additional support or clarification.

1.6 Requests for Office Visits by Private Attorneys and Consultants

On occasion, an NWS office will be contacted by a private attorney, or a consulting meteorologist or investigator 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 an NWS facility of this nature falls under the category of obtaining "official information." Therefore, when an 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?
- 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 if office personnel suspect the request is for litigation or investigation purposes then the proposed visit will not be permitted until it has been coordinated with the FSPM, which will work with DOC's GC and the NOAA GC to determine the proper course of action. 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

NCEI is the Custodian of Record for many NWS service products, whether text or graphic. NCEI staff includes designated certifying officers who can authenticate copies of records from the files for the purposes of 28 U.S.C. §1733(b) and as otherwise authorized by law and to affix the seal of the Department or primary operating unit, as appropriate, using approved embossing dies for such purpose (see, DAO 201-1, Sec. 4.02). Many requests for official weather data can be handled by referring the requestor to the [NCEI website](#). This online service is free to all users for any data available online through NCEI. The online data retrieval system accesses archived official data and products prepared by NWS forecast offices. Most archived records are available within three (3) days of the issue date. In general, only data that must be special ordered, or requires full certification (blue ribbon/gold star¹), and therefore must be handled by a person, may have a fee associated with the service.

For NWS data that are not archived at NCEI, other offices within NWS will be the Custodian of Record. The NWS Chief of Staff is also a designated certifying officer and can provide certification for those data, if needed. The FSPM can assist with these requests.

Data and databases used by the NWS but owned by other agencies such as river gage streamflow (United States Geological Survey (USGS)), or lightning data (United States Forest Service (USFS)) cannot be certified as true and correct records by the NWS. If there is a request for certified weather data that is not archived at NCEI, refer the request to the FSPM.

2.1 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 into evidence equally with the originals thereof." This allows certified data to be introduced into evidence in court cases rather than having to present the original document or data and have an agency employee authenticate it in person. All NWS meteorological or hydrological data products are now produced in

¹ Certified records from NCEI are at times referred to as a "Blue Ribbon" or "Gold Star" copy. An example of this can be found at: https://www.ncei.noaa.gov/sites/default/files/2022-06/Updated_certification.pdf

digital form, with no paper versions, either as graphical depictions or text products produced by automated formatters and based on the graphic.

Appendix A – Example - Generic Written 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, visibility of 2 miles 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
Printed Name
Position

Appendix B – Example - Prepared Questions for Written Statements

The following comes from an example request for a written statement from the NTSB.

Please provide the following information:

Name:

Title:

Years of experience with the NWS:

Years of experience at [office]:

Position on [date of inquiry]:

Scheduled shift time and actual worked time on [date of inquiry]:

Physical location during your shift (e.g., office, home, field):

A brief synopsis of the role and normal responsibilities for the position you worked on [date of inquiry]:

Please answer the following questions:

Were you concerned about any weather hazards during your shift on [date of inquiry], and if so, what were they specifically?

What were your expectations for convective trends through your AOR on [date of inquiry]?

Did you have any additional or collateral tasks/duties that you were performing to support your office's operations on [date of inquiry]? If so, please describe.

When, and how, did you learn of the accident?