



WEATHER RECORDS IN PRIVATE LITIGATION

The United States Department of Commerce, National Oceanic and Atmospheric Administration (NOAA) is responsible for collecting, checking, publishing, and archiving official weather records for the United States and its possessions. The National Weather Service (NWS) and the National Environmental Satellite, Data, and Information Service (NESDIS), major line offices of NOAA, receive hundreds of requests each year for copies of official weather records for use in legal proceedings. Many of these requests indicate a lack of familiarity with the information available, with the forms in which weather information can be obtained, and with the service that reasonably may be expected from NOAA. This summary has been prepared to assist persons seeking copies of weather records, publications, and supplementary information for court use when the Federal Government does not have a direct interest in the litigation.

1. WHERE ARE OFFICIAL WEATHER OBSERVATIONS MADE?

Official observations are taken at several thousand stations throughout the country. The locations of these stations in any State may be obtained from any National Weather Service Office in that State or from the National Climatic Data Center, NESDIS, NOAA, Federal Building, Asheville, NC 28801-2696.

2. WHAT TYPES OF DATA ARE RECORDED?

Most stations record a daily precipitation measurement. At many stations, the daily highest and lowest temperatures are also recorded. Some stations have automatic precipitation gauges which provide a continuous record of precipitation. At approximately 300 NWS Offices much more detailed data are recorded at hourly intervals, such as wind, temperature, humidity, type of weather, atmospheric pressure, visibility, and clouds. Similar detailed data are recorded at some airports by the Federal Aviation Administration, airlines, military, and contract weather observers.

3. WHAT WEATHER RECORDS OTHER THAN THOSE DESCRIBED ABOVE ARE AVAILABLE FOR SPECIAL NEEDS?

The National Climatic Data Center files forecasts and warnings (beginning July 1983), solar radiation data, upper air data, accounts of major storms, photographs of radar scope imagery, satellite pictures, weather maps, observations from ships and aircraft, a variety of summaries of weather conditions, and climatological publications from foreign countries. Costs for copies of these records depend upon the amount of search time involved and the quantity required.

4. WHERE ARE THESE RECORDED DATA AVAILABLE?

The original records or film copies of data from all types of stations are on file at the National Climatic Data Center (NCDC). Much of the information is also published in the monthly and annual issues of Climatological Data and Hourly Precipitation Data for individual States, and in Local Climatological Data for individual stations. Further information regarding specific data or services can be obtained by contacting the NCDC at the above address. A meteorologist is available for assistance from 8:00 A.M. to 4:30 P.M. Eastern time on (704) 259-0682. Satellite pictures may be obtained from the NCDC Satellite Data Services Division, World Weather Building, Washington, DC 20233 or by calling (301) 763-8111.

5. HOW CAN DATA PUBLICATIONS BE OBTAINED?

They may be ordered directly from the NCDC. There is a charge for publications.

6. WHAT CAN BE DONE IF AN ATTORNEY INVOLVED IN LEGAL PROCEEDINGS FEELS THAT INFORMATION IN ITS PRINTED FORM IS NOT SATISFACTORY EITHER BECAUSE OF THE MANNER IN WHICH IT IS PRESENTED OR BECAUSE SOME DESIRED AVAILABLE DATA ARE NOT CONTAINED IN THE PUBLICATION?

The first alternative is to request copies of the original records from the NCDC. Such copies are available at a nominal charge. If copies of records will not satisfy a need, the attorney may ask for specific information to be extracted or rephrased and written in plain language which could be certified. Since these services require the attention of a professional meteorologist, the charges will be substantially higher than charges for copies of the record. In some cases an attorney may determine that it may be advisable to retain a private consulting meteorologist who also can serve as an expert witness to bring out pertinent details.

7. HOW CAN CERTIFIED COPIES OF RECORDS, PUBLICATIONS, OR TABULATIONS BE OBTAINED?

Copies of records, tabulations, or publications will be appropriately certified, as described below, upon specific request. If certified copies or additional certification of publications that carry a printed certification are needed, the type of certification desired should be specified in the request. Uncertified copies cannot be returned at a later date for certification (a new order for data requesting certification would be required).

8. WHAT TYPES OF CERTIFICATIONS ARE AVAILABLE FROM THE NATIONAL CLIMATIC DATA CENTER?

Two types of certifications are offered; without Department of Commerce (DOC) Seal (EXHIBIT 1) and with DOC Seal (EXHIBIT 2). Samples are enclosed, and a description of each follows:

Certification Without DOC Seal

This type of certification consists of an attached certification statement signed by the Certifying Officer and is acceptable in most courts. The



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL ENVIRONMENTAL SATELLITE, DATA, AND
INFORMATION SERVICE
NATIONAL CLIMATIC DATA CENTER
FEDERAL BUILDING
ASHEVILLE, N.C. 28801

TO WHOM IT MAY CONCERN:

I hereby certify that the annexed are true copies of the specified records and/or publications for the times and places indicated thereon on file in the National Climatic Data Center.

Certifying Officer

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.

METEOROLOGICAL TECHNICIAN
RECORDS CUSTODIAN
INFORMATION SERVICES DIVISION
(Official Title)

.....

I HEREBY CERTIFY THAT _____, RECORDS CUSTODIAN, who signed the foregoing certificate, is now, and was at the time of signing, METEOROLOGICAL TECHNICIAN, MANUSCRIPT AND AUTOGRAPHIC RECORDS SECTION, INFORMATION SERVICES DIVISION, NATIONAL CLIMATIC DATA CENTER and that full faith and credit should be given his 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:

KENNETH D. HADEEN
DIRECTOR, NATIONAL CLIMATIC DATA CENTER
(Certifying Officer)

statement is affixed with a staple to the assembled documents (page limit of 70 per group).

Authenticated Certification Under the Seal of the U.S. Department of Commerce

This two-part cover certificate (certification and authentication) under the Seal of the United States Department of Commerce can be furnished when required (page limit 40 per group). This is the highest form of certification available from the NCDC.

9. WHERE MAY CERTIFIED COPIES OF WEATHER FORECASTS AND WARNINGS BE OBTAINED?

Requests for certified copies of weather forecasts and warnings should be made in writing to the National Weather Service Headquarters, Room 1310, Gramax Building, 8060 13th Street, Silver Spring, MD 20910, Attn: Aviation Safety.

10. MAY NOAA EMPLOYEES GIVE TESTIMONY IN LIGATION NOT INVOLVING THE UNITED STATES?

Generally not, however, requests for such authorization should be addressed to the Office of General Counsel, National Oceanic and Atmospheric Administration, U. S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC 20230.

11. ARE CERTIFIED NOAA RECORDS, PUBLICATIONS, OR SUMMARIES THEREOF ADMISSIBLE IN COURT WITHOUT THE APPEARANCE OF AN EMPLOYEE OF NOAA TO AUTHENTICATE THE RECORDS?

Generally, yes. In accordance with 28 U.S.C. 1733, properly authenticated copies or transcripts of records or publications of NOAA shall be admitted in evidence equally with the originals thereof. Although this statute only applies to Federal Courts, many States have similar provisions. Courts usually will accept certified records.

12. HOW CAN NOAA RECORDS BE ADMITTED WITHOUT AUTHENTICATION AND INTERPRETATION BY NOAA WITNESSES?

If a description of the records in plain language is needed, qualified National Weather Service employees or NCDC meteorologists may draft a narrative summary of a weather document (at additional cost) for certification. This can save a great deal of time on the part of all parties if counsel will stipulate to its admissibility. Delays may be encountered if NOAA witnesses are subpoenaed, since they must notify and consult with the NOAA Office of General Counsel, the technical staff of the appropriate line offices, and in some cases a U.S. Attorney prior to answering the subpoena.

13. MANY TIMES INFORMATION SOUGHT INVOLVES WEATHER CONDITIONS AT A SLIGHTLY DIFFERENT TIME OR PLACE THAN THOSE SHOWN ON THE RECORD, OR INFORMATION ABOUT THE EFFECT OF WEATHER CONDITIONS UPON SUCH THINGS AS VISIBILITY, ROAD CONDITIONS, ETC. ARE NOAA PERSONNEL PERMITTED TO RENDER OPINIONS AS TO APPLICABILITY OF THE DATA AT OTHER LOCATIONS OR AS TO EFFECTS OF THE WEATHER?

NOAA regulations generally preclude NOAA personnel from rendering opinions in private litigation. It is therefore suggested that attorneys obtain the services of a private consulting meteorologist who can give an expert opinion.

14. MAY A NOAA EMPLOYEE TESTIFY AS TO TIME OF OFFICIAL SUNRISE, SUNSET, MOONRISE, OR MOONSET?

No. However, copies of sunrise and sunset tables for the local area prepared by the U. S. Naval Observatory may be examined at local National Weather Service Offices. Upon request, the Nautical Almanac Office, U. S. Naval Observatory, Massachusetts Avenue and 34th Street, NW, Washington, DC 20390, will prepare a certification statement for a specified location and data concerning moonrise, moonset, sunrise, and sunset times. They may be reached at (202) 653-1546. Similarly, a certification statement relative to the moon phase on a particular date will be prepared by the observatory upon request.

15. ARE PRIVATE CONSULTING METEOROLOGISTS AVAILABLE FOR THIS WORK?

Yes. Addresses of private consulting meteorologists may be obtained from the American Meteorological Society, 45 Beacon Street, Boston, MA 02108. Telephone: (617) 227-2425.

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