

NATIONAL MARINE FISHERIES SERVICE INSTRUCTION 34-105-01
March 31, 2014

Facilities and Equipment
Personal Property

SPECIAL BOARD OF REVIEW
Procedures for Completing Required Reporting for Lost, Stolen, or Missing Portable Devices

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

OPR: F/MB6 (T. Deckard)
Type of Issuance: Initial

Certified by: F/MB6 (N. Leivers)

SUMMARY OF REVISIONS:

Signed



Gary C. Reisner

Chief Financial Officer/Chief Administrative Officer (CFO/CAO)

Date



1. Background

NOAA Fisheries employees must properly care for, handle, use, and protect Government furnished equipment assigned to them. This includes using the equipment in a safe, responsible manner to protect the equipment and any data the device may contain.

Failure to do so *may* expose the employee to cost recovery for equipment and potential disciplinary action.

2. Purpose

This document provides instruction on actions required to *notify, investigate, and report* lost, stolen, and missing equipment¹, in order to comply with NOAA requirements for submitting a Special Board of Review (SBOR) package to NOAA. This instruction cannot cover the entire range of possibilities that may occur with respect to a loss. Responsible parties are expected to exercise judgment in meeting the intent as well as the letter of this instruction to best fit the circumstances. For example, NOAA guidance includes a strict requirement to submit a report to the NOAA CAO within 15 days of the loss. NMFS can find flexibility when offices demonstrate due diligence in addressing the loss, such as when an active ongoing investigation exceeds the guidance time frames. Regardless of the specific circumstances, the three basic steps involved in addressing the loss – to *notify, investigate, and report* – are universal.

¹ Throughout this document, “loss” may be used as shorthand to refer to equipment that was lost, stolen, or discovered missing.

Department of Commerce · National Oceanic & Atmospheric Administration · National Marine Fisheries Service

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This document provides instruction on actions required to *notify, investigate, and report* lost, stolen, and missing equipment¹, in order to comply with NOAA requirements for submitting a Special Board of Review (SBOR) package to NOAA. This instruction cannot cover the entire range of possibilities that may occur with respect to a loss. Responsible parties are expected to exercise judgment in meeting the intent as well as the letter of this instruction to best fit the circumstances. For example, NOAA guidance includes a strict requirement to submit a report to the NOAA CAO within 15 days of the loss. NMFS can find flexibility when offices demonstrate due diligence in addressing the loss, such as when an active ongoing investigation exceeds the guidance time frames. Regardless of the specific circumstances, the three basic steps involved in addressing the loss – *to notify, investigate, and report* – are universal.

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3. Scope

This procedure covers losses of portable personal property equipment that have one or more of the following capabilities: computing, data storage, or wireless communications.

Examples include: laptops and tablets; cellular telephones, including smartphones and other wireless handheld devices; and, personal digital (or data) assistant (PDA) devices.

Applicability for non-NMFS employees

NMFS policies/procedures apply to NMFS employees. Non-federal entities, including contractors, associates, and volunteers, are bound by the agreement that governs their relationship with NMFS. Therefore, to the extent possible, offices should work with NOAA's Acquisition and Grants Office to ensure language appropriate to the agreement is included (e.g., FAR clause 52.245-1 for contracts). Such language would outline their responsibility to notify NMFS and support investigation of lost government equipment; and, include provisions for the reimbursement to the government to the extent allowable.

4. Roles and Responsibilities

Overall, while actions taken vary as cases are situation-specific, the Financial Management Center (FMC) is expected to demonstrate quick response in addressing the basic tenets of actions:

1. Notify: police; NOAA Office of Security (OSY); NOAA's Computer Incident Response Team (N-CIRT); supervisor, and FMC chain of command;
2. Investigate: mitigate against additional damage; question, probe, evaluate; develop and implement after-event action plan as necessary; and,
3. Report: prepare SBOR package; administrative actions; Corrective Action Plan (CAP).

The following outlines specific responsibilities of each party:

- Deputy Assistant Administrator for Operations (DAA/O): Signs SBOR submission to NOAA.
- Employee: Completes items in the notification section; provides employee statement; responds to inquiries associated with investigation.
- FMC Director: Overall responsibility for ensuring FMC is responsive in meeting requirements; signs SBOR submission to NMFS DAA/O.
- FMC Panel: Assigned by the Office of Management & Information (OMI) Director (or equivalent, or as delegated); convenes to assess facts, determine NMFS recommendation of employee liability, develop memo, assemble SBOR package.
- NMFS Headquarters Property Manager (PM): Reviews FMC SBOR package for clarity and completeness; provides intermediary between NMFS and NOAA.
- (NOAA) Personal Property Management Branch (PPMB): Provides secretariat for the SBOR Review Board. The Board is chaired by a NOAA CAO designate. The NOAA CAO renders final decision on submissions, and addresses line office or employee appeals.
- (NOAA) Special Board of Review (SBOR) Review Board: Reviews SBOR package submissions from NOAA headquarters, line and staff offices; provides recommendation on equipment disposition and employee financial liability.

- OMI Director (or equivalent), and Property Accountability Officer (PAO): In coordination, on behalf of the FMC Director, ensure FMC's responsibilities are met. OMI (or equivalent) assigns members to the FMC panel.
- Property Custodian (PC): Assists the FMC in property inventory and prepares required property documents for the SBOR package. May further assist in reporting and/or investigation phases.
- Supervisor: Completes items in the notification, investigation, and reporting section. Responsible for administering corrective action if necessary.

5. Process

NOAA issued guidance² for reporting lost, stolen, or missing SBOR equipment, and that guidance should be accessed as needed. NOAA requirements are incorporated in this procedure, and following this procedure will ensure compliance with relevant DOC and NOAA requirements. This procedure builds on the guidance by identifying both responsibilities and actions for the three phases -- notification, investigation, and reporting -- which culminates in NMFS' submission of the required memorandum. An additional section (Section D.), while outside the scope of this document is included for information on the disposition.

A. Notification

Notification involves all actions immediately following identification that an item has been lost. The employee should document for their records (who, what, when, how, etc.) as they complete these steps. Requirements for immediate notifications in instances where sensitive data is involved (PII, budget, acquisition, etc.) is imperative.

- i. Employee contacts 911/obtains medical attention if needed (e.g., robbery including battery) -- immediately
- ii. Employee communicates theft (including instances of suspected theft) with police/file police report – immediately
- iii. Employee notifies supervisor – immediately

Note that circumstances may dictate whether contact is active (i.e., telephonic) or passive (i.e., email/voice mail). Employees should use best judgment in evaluating these factors, such as whether the employee required medical attention, time difference if traveling, theft versus loss, potential data loss risk, etc.

At this point, the employee is still required to complete additional notifications because they have the most detail on the device and its data, the circumstances surrounding the loss, and other information that might be needed. If circumstances preclude that, the supervisor *may agree to assist* the employee in completing these notifications.

- iv. Employee contacts DOC's Office of Security – immediately
- v. Employee contacts the NOAA Computer Incident Response Team (N-CIRT) – immediately.

The employee should discuss with the N-CIRT staff the types of data that were contained on the device. If the device contained procurement sensitive data or pre-release budget

² http://www.pps.noaa.gov/personal_property_policies_procedures/012709_missing_device_guidance.pdf

data, an additional immediate contact to the NMFS CFO/CAO is required. S/he will notify the Acquisition and Grants Office or the NOAA Budget Officer immediately.

Note: Particularly for lost or missing equipment, employees frequently delay making this notification, thinking they can recover the equipment. Calling the N-CIRT immediately provides NOAA the ability to significantly limit data vulnerabilities from the incident; and, increases the opportunity for recovery.

- vi. FMC personnel take actions appropriate to mitigate against additional loss – immediately, if applicable. For example, if the office was burgled but additional equipment is at the site, proactive action should be taken to secure against additional loss by moving equipment to a secure location or adding a temporary padlock to a storage room.
- vii. Employee provides written statement regarding circumstances of loss, theft, or missing equipment – immediately, or the first business day after the incident if during non-business hours.
- viii. Supervisor uses information from employee, along with subsequent interview if necessary to clarify/add information, in order to complete/electronically file NOAA form 47-43 – NOAA’s requirement is within the first 24 hours.
- ix. Supervisor provides email notification to the FMC OMI Director (or equivalent), PAO, and Property Custodian -- immediately, or the first business day after the incident if during non-business hours. This notification should include facts/known information only. It should include information (who, what, when) on actions already taken.

B. Investigation

Within 5 days of the loss, the OMI (or equivalent) will convene the FMC panel. The panel will convene within 5 days (within 10 days of the loss). The panel must include the employee’s supervisor. The OMI determines any additional members, and assigns a chair. While individual members are at the election of the OMI, panel members who might be implicated as causal or contributory to the loss should be recused.

The panel is charged with reviewing materials, including requesting additional information if necessary, in order to reach conclusions regarding the loss, financial liability, and preparing the NMFS report (see letter “C” below, and the Appendix for template/sample), including compiling necessary documentation. The panel will:

- i. validate the facts and information surrounding the loss/theft/missing property;
- ii. ensure all notifications were completed, including validation of timeliness or reasons for delay;
- iii. assess controls in place before the loss, as well as those instituted or planned following the loss;
- iv. evaluate whether the employee’s actions contributed to the incident and, if so, provide a recommendation on whether the employee is financially liable based on the extent the employee’s actions contributed to the loss. The DOC Personal Property Manual finds a recommendation of financial liability when the employee’s contribution to the loss meets a standard of both simple and gross negligence. Note that financial reimbursement is separate and apart from and administrative corrective action/discipline.
- v. develop a corrective action plan (CAP), as appropriate. CAPs require executable actions that address the specific vulnerabilities identified. The actions are assigned and have deadlines. CAPs must be tracked and reported by the FMC until completed. CAPs are not a requirement, though generally warranted based on the panel’s findings. Effective CAPs need not be overly broad.

Following the panel meeting, the supervisor will notify the PC to complete the CD-52 to request retirement of the asset from the inventory.

C. Reporting (including follow up and tracking)

The FMC will submit a complete SBOR package to the NMFS Property Manager. Because it may contain Personally Identifiable Information (PII), the package will be sent via secure file transfer, and will include the following:

- A memorandum signed by the FMC Director (or equivalent), addressed to the NOAA Chief Administrative Officer with a through line for the NMFS Deputy Assistant Administrator for Operations. In addition, an editable electronic version will be sent as well. The memo will include information from the steps outlined by NOAA, although the format is not specifically dictated (see appendix for sample).
- Police Report (if applicable)
- Print screen capture of the completed CD-52 final event report
- Employee statement/Official statement from the assigned user
- CAP (if applicable) – including specific assignments and due dates
- Any other relevant materials (emails, documentation, other) used by the panel in creating the package, or determining recommended disposition

D. Disposition

Once the package is received at headquarters, it is reviewed by the NMFS PM for completeness and clarity. All required documentation must be included, and the package must describe the loss and the three elements (notification, investigation, and reporting) in a clear, logical, and succinct manner. Any questions, concerns, or inconsistencies are coordinated between the PM and the memo signator (or his designee).

The package is forwarded for DAA/O signature, and submitted to NOAA's CAO. The PPMB serves as the host organization, and coordinates the monthly SBOR Review Board (Board).

The Board is composed of representatives from each NOAA line and staff office. The Board reviews packages and is a recommending panel to determine whether the package supports acceptance for removal of the equipment from the NOAA inventory, and recommending employee financial liability.

The NOAA CAO is the deciding official, reviewing the Board's recommendation and issuing a final decision. In cases where the Board accepts the package and recommends no financial liability, PPMB staff complete the removal of property from inventory.

In cases where the Board cannot recommend removal of the equipment from the NOAA inventory, the package is returned to the line office. Common reasons for returning the package are (1) the package did not provide clarity regarding the circumstances for the loss, or to whom the property was assigned or under whose responsibility the equipment was; (2) the package was incomplete (e.g., it lacked a required form); or, (3) there was no CAP when one is needed or the CAP was non-responsive to the circumstances of the loss. The line office representative is expected to address the reasons/questions precipitating the return of the package; and, resubmitted packages are addressed at the following meeting.

6. Definitions

(Equipment) Lost – end user had device in possession, and has clear recollection of last sighting. Items are generally “lost” away from the office, most frequently during travel.

(Equipment) Missing – *generally* no specified end user, and no clear recollection of last sighting (or, last sighting was in the distant past). Items are generally “missing” from the office. A common example of missing equipment is an item excessed without obtaining proper documentation to remove from inventory.

(Equipment) Stolen – involves a known willful action, regardless of whether or not the victim was present.

Negligence (Gross) – involves a *willful* act or omission by the employee, or a wanton and reckless disregard for property.

Negligence (Simple) – is a failure of the employee to exercise the degree of precaution, attention, and vigilance necessary to protect the interest of the Government.

Personally Identifiable Information (PII) – information about an individual maintained by the agency that contains an individual’s name and one of the following: social security number, date and place of birth, and mother’s maiden name. Other information considered PII includes financial transactions, medical history, biometric records, and criminal and detailed employment information that could be used to trace an individual’s identity.

Sensitive Data – data or information for which release would compromise the confidentiality or integrity of NOAA programs. Examples include procurement-sensitive data, pre-release budget information, investigative materials, etc.

7. References

- Department (of Commerce) Personal Property Management Manual.
- William F. Broglie Memorandum, “What to Do When a Laptop Is Identified as Missing,” dated January 27, 2009.

8. Appendices

- A. References for Links and Required Notification Contacts
- B. SBOR Actions -- Line Diagram
- C. Sample SBOR Confidential Memos (with guidance notes)

Appendix A. -- References for Links and Required Notification Contacts

The information contained in the appendix was confirmed complete and accurate as of the issuance date. However, because the information is not under NMFS' purview, the maintenance and future accuracy is not guaranteed.

NOAA Office of Security (OSY)

Telephone: (301)713-0954

Email: There is no general email address for reporting equipment loss.

Internet: http://www.osec.doc.gov/osy/NOAA/NOAA_Security.htm

NOAA Computer Incident Response Team (N-CIRT)

Telephone: (301)713-9111

Email: There is no general email address for reporting equipment loss.

Internet: <https://www.csp.noaa.gov/noaa/ncirt/itsecreport.xhtml>

Form 47-43: https://www.csp.noaa.gov/V3_Form/index.php

Appendix B. – SBOR Process Flow Chart (after item discovered lost, missing, or stolen)

Event	Timeline (days)	Who	Action	Notes
Notification	0 -- Immediately	Employee	Seek medical attention	(if applicable)
	0 -- Immediately	Employee	For suspected theft, contact police	Request copy of police report
	0 -- Immediately	Employee	Notify Supervisor	
	0 -- Immediately	Employee	Contact DOC Office of Security	
	0 -- Immediately	Employee	Telephone N-CIRT; report and discuss information on device. If budget or acquisition sensitive, contact NMFS CFO.	If circumstances dictate (e.g., employee on foreign travel) supervisor <i>may</i> assist with this step
	0 -- Immediately	Employee, Supervisor, and/or PC	Take any necessary actions to prevent additional losses	(if applicable, e.g., locked area broken into and additional equipment still in area)
	1	Employee	Provide official statement outlining circumstances of loss	
	1	Supervisor	File electronic form 47-43	This is the N-CIRT report
	1	Supervisor	Notify PC, OMI Director (or equivalent), and PAO	
Investigation	5	Supervisor	Conducts investigation of loss	
	5	OMI	Assigns panel	Panel includes Supervisor; others at the panel chair's determination
	10	Investigation Panel	Convenes to review facts and data, recommend actions, prepare draft SBOR memo	
	12	Supervisor/PC	Supervisor notifies PC, and PC completes CD-52 request to retire asset	
Reporting	15	Panel Chair/FMC Director	Draft completed and signed by FMC Director	Forward to NMFS PM
				These actions are outside the scope of the procedure
	20	PM/ DAA/O	Draft reviewed, finalized, signed by DAA/O and forwarded to NOAA	
	Monthly	NOAA SBOR panel	Meets to review all submitted packages	Makes recommendations to retire asset, and whether employee is financially culpable
	Monthly	PM	Reports on status of all packages that have been received by NMFS HQ	

NMFS PD 34-105-01 March 31, 2014

Appendix C. – Sample Confidential

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: Edward C. Horton
Chief Administrative Officer

THROUGH: Paul N. Doremus
Deputy Assistant Administrator for Operations

FROM: Jackie Stewart
Director, Mountain Fisheries Science Center

SUBJECT: Stolen Laptop Computer – CD0000135790; N-CIRT 10824

Mr. John Doe is a Biologist with NOAA Fisheries' Mountain Fisheries Science Center (MTFSC). On March 26, 2013, Mr. Doe arrived home at approximately 5:15pm MST to discover that his home in Benthall, Colorado, had been burglarized. In addition to personal items, Mr. Doe's government iPhone was stolen.

Notification:

Mr. Doe immediately contacted the Benthall Police Department, and a police report was taken. While waiting for the police, Mr. Doe contacted his supervisor via telephone. After the police left, Mr. Doe also contacted the DOC Office of Security and the NOAA-Computer Incident Response Team (N-CIRT). Mr. Doe confirmed that the device did not contain either Personally Identifiable Information (PII), or other sensitive information. The following morning, Mr. Doe submitted a statement to his supervisor, Dr. William Biddle. Dr. Biddle completed internal notifications within MTFSC, and submitted NOAA Form 47-43 electronically.

Assessment and Investigation:

On April 1, 2013, the MTFSC convened a panel to review actions taken, evaluate liability, and determine whether additional corrective actions were needed. The panel was chaired by Dr. Phillipa Johansson, Director, Mountain Species Biodiversity Group. Other panel members were Dr. William Biddle, Mr. Doe's immediate supervisor; and, Mr. Joseph Pinkston, MTFSC Property Accountability Officer. The panel concluded:

- Notifications were in accordance with policy and procedures.
- No additional mitigation steps were appropriate.
- The employee did not contribute to the loss. The recommendation was that Mr. Doe was not financially liable.
- No additional corrective actions were warranted.

Attachments:

- Police Report
- N-CIRT Form 47-43
- Employee Statement
- Sunflower: CD-52, Inventory Asset Summary and History, and Final Event Report

Comment [nl1]: Note this first sample is abbreviated, but STILL contains all information required by the NOAA guidance. The content is more important than the format. For comparison, the second Sample memo contains the same report in the NOAA format.

Comment [nl2]: Do NOT Change.

Comment [nl3]: Insert device type

Comment [nl4]: Insert bar code and N-CIRT Number

Comment [nl5]: The introductory paragraph should briefly describe the factual known circumstances surrounding the loss: who, what, when, and where. It should not include items related to the investigation, or other conclusions.

Comment [nl6]: The notification section should briefly and factually recount, including times, who took what action.

The only additional information in this section is assertion whether or not the device included PII or other sensitive information.

Comment [nl7]: This section will detail conclusions, as well as any actions taken or required.

Comment [nl8]: Assert whether notifications were completed in accordance with policy and procedures. If not, why not; and, are corrective actions needed?

Comment [nl9]: This comment addresses cases where, for example, theft was the cause of loss but additional equipment is still on site and unprotected.

Comment [nl10]: Include a statement on the employee's contribution to the loss. If s/he contributed, the panel includes an assessment whether the employee's contribution amounted to simple or gross negligence.

Comment [nl11]: The NOAA CAO designee makes final determination on financial liability; the panel includes a recommendation. The recommendation is based on the degree of negligence.

Comment [nl12]: CAPs are not mandatory, but must be included when conclusions warrant. When included, be specific, and ensure CAPs are responsive to findings.

Comment [nl13]: Include a listing of all documents included in the SBOR package, as well as those reviewed and considered by the FMC panel.

Comment [nl14]: Note that although the format is different and the memo slightly longer, the information is exactly the same. The emphasis is on creating a “clear, complete, and concise” report.

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: Edward C. Horton
Chief Administrative Officer

THROUGH: Paul N. Doremus
Deputy Assistant Administrator for Operations

FROM: Jackie Stewart
Director, Mountain Fisheries Science Center

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In accordance with the January 27, 2009, memorandum, “What To Do When A Laptop Is Identified As Missing,” the following information is provided:

STEP ONE: Initial Notification

Mr. Doe immediately contacted the Benthall Police Department. While waiting for the police to arrive, Mr. Doe contacted his supervisor, Dr. William Biddle. An officer arrived and filed a report.

After the police left, Mr. Doe also contacted the DOC Office of Security (approximately 7:30pm) and the NOAA-Computer Incident Response Team (N-CIRT)(7:45pm). That evening, Mr. Doe completed a statement of loss and provided the document electronically to Dr. Biddle.

STEP TWO: Initial Incident Assessment

Mr. Doe consulted with the N-CIRT, and it was determined the device did not contain either Personally Identifiable Information (PII), or other sensitive information.

STEP THREE: Notification of Security and Law Enforcement Officials

Dr. Biddle filed an N-CIRT report electronically on 3.26.13.

STEP FOUR: Appropriate Immediate Mitigation Action

Not Applicable.

STEP FIVE: Notification of Incident Involving Other Sensitive Data (but not PII)

Not applicable.

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STEP SIX: Conduct Follow-On Management Fact Finding

On April 1, 2013, the MTFSC convened a panel to review actions taken, evaluate liability, and determine whether additional corrective actions were needed. The panel was chaired by Dr. Phillipa Johansson, Director, Mountain Species Biodiversity Group. Other panel members were Dr. William Biddle, Mr. Doe's immediate supervisor; and, Mr. Joseph Pinkston, MTFSC Property Accountability Officer. The panel concluded:

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- No additional mitigation steps were appropriate.
- The employee did not contribute to the loss. The recommendation is that Mr. Doe was not financially liable.
- No additional corrective actions were warranted.

STEP SEVEN: Management Documentation Requirements

Attached:

- Police Report (3.26.13)
- N-CIRT Form 47-43 (3.26.13)
- Employee Statement (3.27.13)
- Sunflower: CD-52, Inventory Asset Summary and History, and Final Event Report