

SERVED: October 23, 1992

NTSB Order No. EA-3701

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 14th day of October, 1992

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THOMAS C. RICHARDS,)	
Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	Docket SE-10369
v.)	
)	
THOMAS D. HITE,)	
)	
Respondent.)	
)	
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ORDER DENYING STAY

Respondent seeks a stay of our order, NTSB Order EA-3652, served August 25, 1992, pending an anticipated petition for review to a United States Court of Appeals. The Administrator has replied in opposition. Respondent's request is denied.

As we stated in Administrator v. Balestra, NTSB Order EA-3065, served January 11, 1990, we consistently deny requests for stays pending judicial review in cases involving revocation "because the revocation of a certificate, in contrast to a suspension, is based upon the conclusion that the airman's conduct is sufficiently egregious as to demonstrate a lack of the qualifications required of a certificate holder." Id. at 1-2.

Respondent's rationale for departing from precedent in this case is not convincing. That the FAA did not revoke respondent's certificate on an emergency basis during the pendency of this proceeding does not justify a stay of that revocation now.

Respondent's other arguments are not unique to this case; under respondent's criteria, stay of orders of revocation would be the general rule rather than the exception. Moreover, and as we noted in our decision (see Administrator v. Hite, NTSB Order EA-3652 at 9), the Constitutional and Administrative Procedure Act arguments respondent has raised and relies on for a stay have been rejected on judicial review.

ACCORDINGLY, IT IS ORDERED THAT:

Respondent's request for a stay is denied.

VOGT, Chairman, COUGHLIN, Vice Chairman, LAUBER, HART and HAMMERSCHMIDT, Members of the Board, concurred in the above order.