

SERVED: September 28, 1993

NTSB Order No. EA-3990

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 27th day of September, 1993

DAVID R. HINSON,)	
Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	Docket SE-11653
v.)	
)	
ANDREW F. POTANKO,)	
)	
Respondent.)	
)	

ORDER DENYING STAY

Respondent, by counsel, has requested a stay of NTSB Order EA-3937 (served July 23, 1993) pending the disposition of a petition for review of that order to be filed in the U.S. Court of Appeals.¹ The Administrator has replied in opposition. Respondent's request is denied.

Ordinarily, the Board denies a request for stay from a revocation order because such a case encompasses a conclusion that the airman lacks the qualifications required of a certificate holder. Administrator v. Morse, NTSB Order No. EA-3889 (1993), citing Administrator v. Balestra, NTSB Order No. EA-3065 (1990). Although the Administrator sought revocation in the instant case, the sanction ultimately imposed was an eight-month suspension. The Board must therefore consider the "seriousness of the underlying charges" to determine whether a stay will be

¹By Order EA-3937, The Board imposed an eight-month suspension of respondent's mechanic certificate.

granted. Administrator v. Ter Keurst, NTSB Order No. EA-3656 (1992).²

Respondent was found to have improperly combined two aircraft into one, including switching the data plate from one aircraft to the other. We agree with the Administrator's assertion that respondent's violations are sufficiently egregious to support a denial of his motion for stay.

ACCORDINGLY, IT IS ORDERED THAT:

Respondent's request for a stay of Board Order No. EA-3937 is denied.

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

²Stays are consistently denied by the Board in revocation cases because the respondent lacks qualifications. Stay of a sanction that is less than six months generally is granted. When the sanction is a suspension of six months or more, however, a case-by-case method of evaluation is utilized, with the seriousness of the violation(s) becoming the deciding factor. Administrator v. Auburn Flying Service, 5 NTSB 587 (1985).