

SERVED: June 23, 1994

NTSB Order No. EA-4199

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 15th day of June, 1994

_____	)	
DAVID R. HINSON,	)	
Administrator,	)	
Federal Aviation Administration,	)	
	)	
Complainant,	)	
	)	Docket SE-12367
v.	)	
	)	
STEPHEN ALBERT NAYPAVER, JR.,	)	
	)	
Respondent.	)	
	)	
_____	)	

**ORDER DENYING RECONSIDERATION**

Respondent seeks reconsideration of our decision, NTSB Order EA-4127, served April 13, 1994. In that decision, we affirmed an order of the Administrator charging that respondent had violated 14 C.F.R. 91.7(a) and (b), and 91.13(a) as a result of his continuing a flight after hitting a power line and rendering the aircraft unairworthy. The Administrator has replied in opposition to respondent's request for reconsideration.

Respondent's res judicata and airworthiness arguments are the same as those we considered below, and there is no need to repeat the conclusions reached there. Respondent's remaining arguments do not convince us we erred in our prior decision. While it may have been inappropriate for counsel for the Administrator to comment regarding further prosecution, their comments did not bind the Administrator. And, respondent has not convinced us that the temporary loss of his certificate, under

the related 1991 emergency order of revocation (see NTSB Order EA-4127 at 4), warrants elimination or reduction of sanction in this separate proceeding.<sup>1</sup>

**ACCORDINGLY, IT IS ORDERED THAT:**

Respondent's petition for reconsideration is denied.

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

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<sup>1</sup>Respondent requests a "stay of execution pending motion for reconsideration." The filing of the petition automatically stayed operation of our prior order. This decision reactivates the 30-day period specified there, within which respondent must surrender his certificate. See Administrator v. Frost, NTSB Order EA-3989 (1993).