

SERVED: December 4, 2008

NTSB Order No. EM-206

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

Issued under delegated authority (49 C.F.R. 800.24)
on the 4th day of December, 2008

_____)	
THAD W. ALLEN,)	
Commandant,)	
United States Coast Guard,)	
)	
)	Docket ME-181
v.)	
)	
)	
JOHN C. McCARTHY, III,)	
)	
Appellant.)	
)	
_____)	

ORDER DENYING STAY

Appellant has requested a stay of NTSB Order No. EM-205, served November 5, 2008, pending disposition of a petition for review of that order to be filed in the United States Court of Appeals. In NTSB Order No. EM-205, the Board affirmed an 8-month suspension of appellant's pilot's license for misconduct and negligence under 33 C.F.R. § 162.65(b)(3). The Commandant did not respond to appellant's request for a stay of the order. The Board denies appellant's request.

The Board's policy with respect to stays of orders pending judicial appeals was summarized in Administrator v. Todd, NTSB Order No. EA-4399 (1995), in which we denied a request for stay of a 180-day suspension: "We generally grant a stay when a suspension of less than six months [180 days] is affirmed ... Cases involving suspensions of six months or more are evaluated on a case-by-case basis, considering the seriousness of the violations." See also Administrator v. Powell, NTSB Order No. EA-4328 (1995), and Administrator v. Auburn Flying Service,

5 NTSB 587 (1985), in which the Board denied respondents' requests for stays of 180-day suspensions. Appellant cites no precedent for a holding that a stay would be appropriate in his case.

As the underlying case, NTSB Order No. EM-205, determined, appellant exceeded the minimum safe speed while navigating his tank vessel along the Savannah River, which damaged a moored ship and shore structures. Thus, the seriousness of the established violation in this case counsels against a stay.

ACCORDINGLY, IT IS ORDERED THAT:

Appellant's request of a stay of the 8-month suspension affirmed in NTSB Order No. EM-205 is denied.

Gary L. Halbert
General Counsel