

SERVED: September 5, 1997

NTSB Order No. EA-4588

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 29th day of August, 1997

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JANE F. GARVEY,	)	
Administrator,	)	
Federal Aviation Administration,	)	
	)	
Complainant,	)	
	)	Docket SE-14317
v.	)	
	)	
ARTHUR CHRISTIAN GOTISAR,	)	
	)	
Respondent.	)	
	)	

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**ORDER DENYING PETITION FOR RECONSIDERATION**

Respondent seeks reconsideration of our decision, EA-4544, served May 14, 1997, in which we affirmed an order of the Administrator suspending respondent's certificates for violating 14 CFR 61.15(d) (two motor vehicle actions within 3 years). Respondent's petition challenges our refusal to find that our stale complaint rule requires dismissal of the Administrator's order. Specifically, we found that good cause existed to excuse the Administrator's delay in prosecution and, therefore, justify an exception to the stale complaint rule, 49 CFR 821.33.

We are not persuaded by respondent's challenges to our analysis of good cause. We decline to find, as respondent would have us, that the Administrator is not permitted to obtain copies of the necessary motor vehicle action records before proceeding with an action against a certificate holder. And, contrary to respondent's claim, we are not here creating exceptions to the stale complaint rule. What we are doing is applying that rule to the facts of this case.

Respondent's other argument relates to the public interest exception to the stale complaint rule. This argument was not raised earlier, and therefore may not be raised now. 49 CFR 821.50. In any case, respondent misapprehends the purpose of this provision. It is an avenue available to the **Administrator** to argue that particular circumstances warrant sanction despite the fact that the case would otherwise be dismissed due to the Administrator's unjustified delay. It is not an alternative to the good cause analysis, nor is the public interest otherwise a factor in the stale complaint analysis.

**ACCORDINGLY, IT IS ORDERED THAT:**

1. Respondent's appeal is denied; and
2. The 90-day suspension of respondent's certificates shall begin 30 days from service of this order.<sup>1</sup>

HALL, Chairman, FRANCIS, Vice Chairman, HAMMERSCHMIDT, GOGLIA, and BLACK, Members of the Board, concurred in the above order.

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<sup>1</sup> For the purpose of this order, respondent must physically surrender his certificates to a representative of the Federal Aviation Administration pursuant to 14 C.F.R. 61.19(f).