

SERVED: April 26, 1993

NTSB Order No. EA-3870

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 19th day of April, 1993

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JOSEPH M. DEL BALZO,		)	
Acting Administrator,		)	
Federal Aviation Administration,		)	
		)	
Complainant,		)	
		)	
v.		)	Docket SE-12622
		)	
DENNIS W. STUTES,		)	
		)	
Respondent.		)	
		)	
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**ORDER DISMISSING APPEAL**

The Administrator has moved to dismiss the notice of appeal in this proceeding because it was not, as required by Section 821.47 of the Board's Rules of Practice (49 CFR Part 821),<sup>1</sup> filed by the respondent within 10 days after the law judge rendered an oral decision in the matter on January 13, 1993.<sup>2</sup> We will grant

<sup>1</sup>Section 821.47 provides as follows:

**"§821.47 Notice of Appeal.**

A party may appeal from a law judge's order or from the initial decision by filing with the Board and serving upon the other parties (pursuant to §821.8) a notice of appeal within 10 days after an oral initial decision or an order has been served."

the motion, to which respondent has submitted no reply.

Absent a showing of good cause that would provide a basis for excusing the lateness of the notice of appeal, filed January 28, respondent's appeal must be dismissed.<sup>3</sup> See Administrator v. Hooper, NTSB Order EA-2781 (1988).

**ACCORDINGLY, IT IS ORDERED THAT:**

1. The Administrator's motion to dismiss is granted, and
2. The respondent's appeal is dismissed.

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

(..continued)

<sup>2</sup>The law judge affirmed an order of the Administrator suspending respondent's commercial pilot certificate for 30 days for his alleged violations of sections 91.13(a) and 91.131(a)(1) of the Federal Aviation Regulations, 14 CFR Part 91.

<sup>3</sup>It is possible that respondent intended the one-page document he filed on January 28 (dated January 27) to be both a notice of appeal and an appeal brief, as it appears to give respondent's reasons for disagreeing with the law judge's decision. However, since a timely brief can only perfect an appeal that was filed on time, dismissal is nevertheless warranted.