

SERVED: June 4, 1993

NTSB Order No. EA-3891

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 28th day of May, 1993

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JOSEPH M. DEL BALZO,		)	
Acting Administrator,		)	
Federal Aviation Administration,		)	
		)	
Complainant,		)	
		)	Docket SE-12947
v.		)	
		)	
JANE C. HARTMAN,		)	
		)	
Respondent.		)	
		)	
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**ORDER DENYING RECONSIDERATION**

The respondent requests that we reconsider our decision, in NTSB Order No. EA-3834, served March 17, 1993, to dismiss her appeal as untimely under Section 821.57(a) of our Rules of Practice. We will deny the request, for respondent's belief that her appeal was in fact timely is based on the mistaken assumption that she did not have to count Saturday, Sunday or a Monday holiday in computing either the appeal deadline or the due date for an appeal brief that was also filed late.<sup>1</sup> Respondent has

<sup>1</sup>Respondent's request for reconsideration, filed March 22, 1993, as supplemented by an April 20 filing, also contains various allegations concerning the merits of the Administrator's case. Given the disposition of respondent's appeal on a procedural ground, no issue concerning the merits is properly before us. See Administrator v. Jensen, NTSB Order No. EA-3369 (1991).

identified no circumstance which would serve to excuse her error, and we perceive none.<sup>2</sup>

**ACCORDINGLY, IT IS ORDERED THAT:**

The request for reconsideration is denied.

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

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<sup>2</sup>We note, in this regard, that the law judge (Hearing transcript at 657) advised respondent, at the conclusion of an evidentiary hearing ending on Friday, February 12, that any appeal would be due "within two days from today." Since February 15 was a holiday, the notice of appeal had to be filed by February 16. See Section 821.10 of our rules, 49 CFR Part 821. Respondent's notice was filed on February 17.