

SERVED: January 14, 2004

NTSB Order No. EA-5074

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

Issued under delegated authority (49 C.F.R. 800.24)
on the 14th day of January, 2004

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Petition of)
)
GREGORY BRENT SUTHERLAND)
)
for review of the denial by the)
Administrator of the Federal)
Aviation Administration of the	Docket SM-4585)
issuance of an airman medical)
certificate.)
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ORDER DISMISSING APPEAL

On September 24, 2003, Administrative Law Judge William E. Fowler, Jr., served a written order terminating this proceeding without prejudice because the Administrator had withdrawn the letter denying the petitioner an airman medical certificate. Assuming, *arguendo*, that the petitioner could appeal from the law judge's order,¹ he was required to do so by October 6, 2003; that is, within 10 days after service of the order. 49 CFR Section 821.47. Because the petitioner did not file a notice of appeal until October 15, it was untimely and may not be considered.

ACCORDINGLY, IT IS ORDERED THAT:

Petitioner's appeal is dismissed.

Ronald S. Battocchi
General Counsel

¹The Board's review authority in a medical certification case is dependent on the existence of a final denial by the Administrator of a certificate application.