

SERVED: March 1, 1996

NTSB Order No. EA-4432

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 22nd day of February, 1996

| | | |
|----------------------------------|---|-----------------|
| DAVID R. HINSON, |) | |
| Administrator, |) | |
| Federal Aviation Administration, |) | |
| |) | |
| Complainant, |) | |
| |) | Docket SE-14182 |
| v. |) | |
| |) | |
| RAFAEL GUEL BENZU, |) | |
| |) | |
| Respondent. |) | |
| |) | |

ORDER DISMISSING APPEAL

The Administrator has moved to dismiss the appeal filed by the respondent in this proceeding because the appeal was not perfected by the filing of a timely appeal brief, as required by Section 821.48(a) of the Board's Rules of Practice (49 CFR Part 821).¹ We will grant the motion, to which respondent filed no response.

¹Section 821.48(a) provides as follows:

§ 821.48(a) **Briefs and oral argument.**

(a) Appeal briefs. Each appeal must be perfected within 50 days after an oral initial decision has been rendered, or 30 days after service of a written initial decision, by filing with the Board and serving on the other party a brief in support of the appeal. Appeals may be dismissed by the Board on its own initiative or on motion of the other party, in cases where a party who has filed a notice of appeal fails to perfect his appeal by filing a timely brief.

The record establishes that respondent filed a timely notice of appeal from the written decision the law judge served on September 29, 1995, but he did not file an appeal brief within 30 days after that date; that is, by October 29.²

In the absence of good cause for respondent's failure to comply with the time limit for filing an appeal brief, dismissal of his appeal is required by Board precedent. See Administrator v. Hooper, 6 NTSB 559 (1988).

ACCORDINGLY, IT IS ORDERED THAT:

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

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

²The law judge granted the Administrator's motion to dismiss as untimely the respondent's appeal to the Board from an order of the Administrator revoking his private pilot certificate (No. 264761898) pursuant to section 61.15 of the Federal Aviation Regulations, 14 CFR Part 91.