

SERVED: February 14, 2008

NTSB Order No. EA-5361

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 February, 2008

In the matter of)	
)	
TIMOTHY JAMES ITZENHEISER,)	
)	
Petitioner.)	Docket CD-41
)	
)	
)	
)	

ORDER DISMISSING APPEAL

On October 7, 2007, petitioner, through counsel, filed a timely notice of appeal from the law judge's September 28, 2007 order dismissing the petition without prejudice.¹ However, petitioner did not subsequently file a timely appeal brief,² and has not provided good cause for this failure. His appeal is therefore subject to dismissal under Section 821.48(a) of the

¹ The law judge dismissed the petition for review of "the continuing denial" by the Administrator of the issuance of a pilot certificate because petitioner has not been formally denied such a certificate by the Administrator. As the law judge stated, "absent a formal denial of certification by the Administrator, the Board has no review authority...."

² Petitioner's appeal brief was due no later than October 29, 2007.

Board's Rules of Practice (49 C.F.R. Part 821).³ We note that, as of the service date of this order, we have not received an appeal brief from petitioner.

Without good cause to excuse a failure to file a timely appeal brief, or a request to file one out of time before it is due, a party's appeal will be dismissed. See Administrator v. Hooper, 6 NTSB 559 (1988).

ACCORDINGLY, IT IS ORDERED THAT:

Petitioner's appeal is dismissed.

Gary L. Halbert
General Counsel

³ Section 821.48(a) provides as follows:

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

(a) Appeal brief ... each appeal must be perfected, within 50 days after the date on which the oral initial decision was rendered, or 30 days after the date on which the written initial decision or appealable order was served, by the filing, and simultaneous service on the other parties, of a brief in support of the appeal. An appeal may be dismissed by the Board, either on its own initiative or on motion of another party, where a party who has filed a notice of appeal fails to perfect the appeal by filing a timely appeal brief.