

**BEFORE THE
STATE OF CALIFORNIA
OCCUPATIONAL SAFETY AND HEALTH
APPEALS BOARD**

In the Matter of the Appeal of:

**DE YOUNG POWER SYSTEMS, INC.
2011 W. Park Avenue
Redlands, CA 92373**

Employer

Inspection No.

1600532

**DENIAL OF PETITION FOR
RECONSIDERATION**

The Occupational Safety and Health Appeals Board (Board), acting pursuant to authority vested in it by the California Labor Code hereby denies the petition for reconsideration (Petition) filed in the above-entitled matter by De Young Power Systems, Inc. (Employer).

JURISDICTION

The California Division of Occupational Safety and Health (Division) issued four citations to Employer alleging 4 serious violations of occupational safety and health standards codified in California Code of Regulations, title 8.¹ The citations were issued on August 31, 2022, and Employer timely appealed.

The matter was assigned to an administrative law judge (ALJ) of the Board for appeal proceedings. The record shows that Employer failed to participate in duly-noticed proceedings since the filing of it appeals. Accordingly, on April 2, 2025, the ALJ issued an Order Dismissing Appeal for Failure to Appeal (ODA). The ODA provided Employer the opportunity to establish that its failures to appear were for good cause. Employer filed a response on April 4, 2025.

On April 28, 2025, the ALJ issued a further Order Dismissing Appeal for Failure to Appear (Second ODA), finding that Employer did not establish good cause for its failure to appear. The Second ODA informed Employer that if it disagreed with the Second ODA it could petition the Board for reconsideration within 30 days.

Employer filed a petition for reconsideration (Petition) on July 23, 2025.

The Division did not answer the Petition.

ISSUE

Does the Board have jurisdiction to grant reconsideration?

¹ References are to California Code of Regulations, title 8 unless specified otherwise.

**REASON FOR DENIAL
OF
PETITION FOR RECONSIDERATION**

The Board has fully reviewed the record in this case, including the arguments presented in the petition for reconsideration. We have taken no new evidence.

Labor Code section 6617 sets forth five grounds upon which a petition for reconsideration may be based:

- (a) That by such order or decision made and filed by the appeals board or hearing officer, the appeals board acted without or in excess of its powers.
- (b) That the order or decision was procured by fraud.
- (c) That the evidence does not justify the findings of fact.
- (d) That the petitioner has discovered new evidence material to him, which he could not, with reasonable diligence, have discovered and produced at the hearing.
- (e) That the findings of fact do not support the order or decision.

Employer's petition asserts none of the statutory grounds upon which we may grant reconsideration, which is reason to deny the petition. (*Arodz Motorsports, LLC, dba A1 Tune & Lube*, Cal/OSHA App. #1087194, Denial of Petition for Reconsideration (Nov. 22, 2017).) Even if the Petition had stated one or more of the statutory grounds for reconsideration, we would be required to deny it.

As noted, the Second ODA was issued on April 28, 2025, and informed Employer it had 30 days to file a petition for reconsideration. Including a five-day period for mail, the time to petition expired on June 2, 2025. Also as noted, Employer's Petition was mailed on July 23, 2025, which was more than one month late.

Labor Code section 6614, subdivision (a), establishes a 30-day period in which a party may petition for reconsideration. Thus, although we are sympathetic to the circumstances affecting Employer, the Board lacks jurisdiction to grant reconsideration of a late-filed petition. (*Victor C. Garcia, dba Flores Auto Service*, Cal/OSHA App. 1359495, Denial of Petition for Reconsideration (Sep. 16, 2021) citing *Amerisk Engineering Corp.*, Cal/OSHA App. 1129146, Denial of Petition for Reconsideration (Dec. 21, 2018), citing Labor Code sections 5900 and 5903; *Nestle Ice Cream Co., LLC v. Workers' Comp. Appeals Bd.* (2007) 146 Cal.App.4th 1104, 1108; citing *Scott v. Workers' Comp. Appeals Bd.* (1981) 122 Cal.App.3d 979, 984.) We must, accordingly, deny Employer's petition.

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DECISION

For the reasons stated above, Employer’s Petition is denied. The Order is affirmed.

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

/s/ Ed Lowry, Chair
/s/ Judith S. Freyman, Board Member
/s/ Marvin P. Kropke, Board Member



FILED ON: 09/05/2025