

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

In the Matter of the Appeal of:

**SUBURBAN PROPANE, LP
2874 S. Cherry Ave.
Fresno, CA 93706**

**Inspection No.
1698769**

**DENIAL OF PETITION FOR
RECONSIDERATION**

Employer

The California 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 filed in the above-entitled matter by Suburban Propane, LP (Employer).

JURISDICTION

On March 4, 2024, the Division of Occupational Safety and Health (the Division) issued two citations to Employer, alleging three violations of safety orders set forth in title 8 of the California Code of Regulations.¹ Employer initiated a timely appeal and selected email as its preferred method of service.

A status conference was originally noticed for October 14, 2024. Employer received notice via email but failed to appear at that conference. Employer's representative, Area Safety Manager John Minchew (Minchew), emailed the ALJ apologizing for the oversight. The ALJ set a new status conference.

A further status conference was noticed for March 3, 2025. Employer again failed to appear and the ALJ issued the Order Dismissing Appeal for Failure to Appear (Order) the following day, served via email. That Order became final on or about March 24, 2025. Labor Code section 6614, subdivision (a), establishes a 30-day period in which a party may petition for reconsideration. Employer did not file a timely petition for reconsideration. Employer did not file its Petition for Reconsideration (Petition) until September 19, 2025, several months late.

The Employer's Petition initially consisted of copies of the email exchange between Minchew and the ALJ pertaining to Employer's failure to appear at the October 14, 2024, status conference. Employer initially appears to have placed the substantive contents of its Petition in the title for its Petition in OASIS. In other words, instead of titling its filed document a petition for reconsideration, Employer's title states,

¹ Unless otherwise specified references are to California Code of Regulations, title 8.

Employer Petition for Reconsideration Our last communication of 10/17/24 via email accepted good cause for non-appearance and stated the conference would be rescheduled in near future. No email/electronic notification (see uploaded document) was received from that date forward. Via postal service, a Cal-OSHA collection letter dated 09/13/25 stating we owed \$ 8,250 was immediately due within 14 days of receipt. As stated in letter, we are contacting you as we are requesting the opportunity to provide our position in this matter.

Thereafter, after being informed of the duty to both verify the Petition and submit an appropriate proof of service, Employer attempted to file a supplemental Petition arguing the merits of the citations.

ISSUES

- 1) Does the Board have jurisdiction to hear the late-filed Petition?

REASONS FOR DENIAL OF PETITION FOR RECONSIDERATION

The Board has fully reviewed the record in this case. The Board has 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 alone to deny the petition. (*Arodz Motorsports, LLC, dba Al Tune & Lube*, Cal/OSHA App. #1087194, Denial of Petition for Reconsideration (Nov. 22, 2017).)

Furthermore, Employer's Petition was filed late. Labor Code section 6614, subdivision (a), establishes a 30-day period in which a party may petition for reconsideration. 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.)

DECISION

For the reasons stated above, the Petition is denied, and the ALJ's 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: 11/03/2025

