

# You've Been Cited by OSHA: Now What?

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Troutman Pepper Counsel Greg Narsh was quoted in the *Construction Dive* article, "[You've Been Cited by OSHA: Now What?](#)"

There are four general reasons that federal OSHA will inspect a construction project, said attorney Gregory Narsh with Troutman Pepper Hamilton Sanders LLP in Detroit. These are:

- A fatality.
- A catastrophic incident like a building collapse.
- An employee complaint.
- A routine inspection.

While OSHA will always respond in some way to the first three scenarios, Narsh said, the last is more unpredictable because OSHA simply does not have the resources to inspect all establishments on a regular basis. However unlikely, though, it is still a very real possibility.

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There are very few exceptions to this deadline, Narsh said, and even if it seems likely that the OSHA area office and the employer will reach an agreement through the negotiation of an informal settlement, if that settlement cannot be finalized within the 15 working day time period, then it is prudent for the employer to file a formal contest even if it is simply to preserve its rights.

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At this point, Narsh said, it's also possible that a company facing a citation could choose to just pay the fine and be done with it, although he recommends consulting an attorney before admitting to any violation, but especially when there has been a death or serious injury. The damages due to an injured employee are usually limited by workers' compensation laws, but, depending on the state, third-party contractors on a project where there is a serious accident may not be protected by such laws and are often targets of lawsuits as well.

Rules around inspections and contest procedures could differ in states with their own OSHA-approved plans, Narsh said.

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Once an employer files a notice of intent to contest, Narsh said, the citations, including the proposed penalties and abatement dates, are put on hold pending a final resolution, be it through settlement or trial.

Disputes, he said, don't usually make it to trial, even though the entire process starts heading that way once the employer formally contests the citation(s).

"Typically," he said, "the notice of contest will just give you more time to negotiate a settlement."

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