

## **A Company's Rights during an Inspection**

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Restaurants are beginning to reopen, and county health inspectors are among those returning, according to a May 7th press conference held by the Maricopa County Environmental Services Department. This pattern will be repeated by numerous other state and county agencies.

State and county inspectors must comply with dozens of requirements under the Arizona law known as the "Regulatory Bill of Rights" in order to protect a business's rights during an inspection or audit. Here is a sampling of what the inspector must do at the beginning of the inspection to protect your company's rights:

- Present a photo ID and state the purpose of and the legal authority for the inspection
- Give a written copy of the Regulatory Bill of Rights
- Allow your authorized representative to accompany the inspection and have your experts and attorney there to advise you
- Give written notice of your right to have splits and results of any samples taken, copies of any original documents taken, and copies of any documents to be relied upon by the inspector to determine compliance
- Give notice that participation in an interview is voluntary
- Give notice before making an audio recording of a conversation
- State the right to review and revise any witness written statement drafted by the inspector
- Give notice of the right to protect trade secrets and proprietary and confidential information in anything taken from you

There are more rights, and there are exceptions, but this list gives a good overview of a company's rights during a governmental agency inspection.

The law says that an inspector who fails to comply may be disciplined or dismissed. More important, if a company's case eventually ends up in a civil or administrative action, any evidence improperly obtained may be excluded and any fines may be reduced. As a practical matter, this means an agency with a deficient inspection may be more willing to consider a company's point of view early in the process, before things escalate.

The next installment will cover how and when a company is entitled to know what the inspector is thinking.