

Commonly Asked Questions from Small and Very Small Plants on Rules of Practice

Q1: What is due process?

A1: Due process refers to the procedures that FSIS follows before taking certain administrative enforcement actions against an establishment. When there is no imminent threat to public health or safety, the establishment will be provided prior notification that the Agency intends to take the enforcement action, and will have an opportunity to demonstrate that there is not a basis for the proposed action or to achieve compliance. Due process also entitles the establishment to a timely decision on any appeal. If there is an imminent threat to public health or safety, FSIS can act without prior notice.

Q2: What are the Rules of Practice (ROP)?

A2: The Rules of Practice are set out in the regulations in 9 CFR Part 500. These regulations identify the conditions under which enforcement actions can be taken by the Agency and include the criteria for when those actions are warranted. These regulations were issued to ensure that all establishments are afforded due process.

Q3: Why are the Rules of Practice important?

A3: FSIS is responsible for treating all facilities consistently and fairly and for ensuring that each facility is afforded due process under the law.

Q4: Does the issuance of a Notice of Intended Enforcement (NOIE) require prior notification as defined in the Rules of Practice?

A4: It depends on the basis for the Agency's action. The Rules of Practice identify those situations in which prior notification is not required (9 CFR 500.3), as well as those in which notification must be provided to the establishment before the initiation of a specific enforcement action (9 CFR 500.4). They also outline what is required in the NOIE that is used to provide prior notification in each of these circumstances (9 CFR 500.5).

Q5: Do the ROP in 9 CFR Part 500 apply to egg products, custom, and voluntary operations?

A5: No, but due process is afforded by the USDA Uniform Rules of Practice (7 CFR, Subtitle A, Part I, subpart H) for egg products facilities, custom operations, and voluntary operations.