**Farmers Markets**

**What is a Food Establishment?**

* Food Establishment (FE) is defined in IC 16-18-2-137 and regulated under

IC 16-42-5

* + - Selling whole uncut produce, pre-packaged non -potentially hazardous food
* Retail Food Establishment (REF), regulated under 410 IAC 7-24
  + - Restaurants, Schools, Hospitals, Grocery Stores
* Wholesale Food Establishments (WFE). Regulated under 410 IAC 7-21
  + - Manufacturers, Warehouses

**What is not a Food Establishment?**

* Private residences and bed and breakfasts under 410 IAC 7-15.5
* Private gatherings such as Weddings, Family Reunions, Etc.
* Vehicles transporting food to the needy
* Some not-for-profits organizations, some schools, and some churches
* “Home Based Vendor” (HBV), aka “Section 29 Vendor” when they comply with IC 16-42-5-29
* Holder of a winery/brewery permit (Indiana Alcohol and Tobacco Commission) at a temporary event regulated under IC 7.1
* Sellers of some poultry, eggs, rabbits (further discussed)

**ISDH Terms**

* A “***Famers Market”*** is a common facility where two or more farmers or growers gather on a regular basis to sell a variety of fruits, vegetables and other farm products directly to consumers
  + - Could be simulated with other events
    - This is NOT an individual food establishment, such as a store that buys and sells local grown produce
* A ***“Home -Based Vendor”*** is an individual who:
  + - Has made, grown, or raised a food product at their primary residence, property owned or leased by them
    - Is Selling the food product they made, grew or raised ***ONLY*** at a roadside stand of farmers market; poultry, rabbit and eggs may be sold from a farm
    - Complies with IC 16-42-5-29
* A ***“Roadside Stand”*** is:
  + - A place, building or structure along, or near, a road, street, lane, avenue, boulevard, or a highway where a HBV sells food product(s) to the public.

**Statutory Term**

* PHF are natural or synthetic foods that require temperature control because of capability to support:
  + - Rapid and progressive growth of infectious / toxigenic microorganisms
    - Growth and toxin production of Clostridium botulinum
    - In raw shell eggs, the growth of Salmonella enteritidis
    - pH (acidity), water activity (AW) and other intrinsic factors are considered when making a determination
    - The term includes: meat, dairy, cut melons, cook produce, raw seed sprouts, and garlic-in-oil mixture that are not modified in a way that results in mixtures that do not support growth
* An ***“End Consumer”*** is a person who is the last person to purchase any food product and who does not resell the food product
  + - As found in IC 16-42-5-29(b)

**Examples of PHF**

* Meat, poultry, aquatic animal products
* Dairy
* Egg products
  + - Excluding some baked items and dried noodles; raw shell eggs are able to be sold through the Indiana State Egg Board
* Use of “reduced oxygen packaging” (ROP) methods
* Canned of hermetically sealed containers of acidified or low-acid foods; produce items in an oxygen sealed container
* Cut melons, raw seed sprouts
* Jerky
* Non-modified garlic-in-oil mixtures
* Cut tomatoes and cut leafy greens
  + - FDA says these products require Time/ Temperature Control for Food Safety (TCS) which equals a potentially hazardous food

**Examples of HBV Products**

* Baked goods- cakes, fruit pies, cookies, brownies, dry noodles
* Candy and confections- caramels, chocolates, fudge, hard candy
* Whole, uncut produce
* Tree nuts and legumes
* Honey, molasses, sorghum, maple syrup
* Jams, jellies, preserves
  + - Only high acid fruit in sugar
* May be temperature controlled only for quality
* Some rabbit, poultry and in-shell chicken eggs
* Wild mushrooms (risk with this product therefore ISDH strongly advised the mushrooms be identified by an ISDH recognized mushroom expert)

**Can’t be Done as a HBV**

* Heat treated vegetable
* Fermented vegetables in sealed containers
* “Low acid” or “acidified” canned foods
* Shell eggs not from a domestic chicken
  + - Duck
    - Quail’
    - Turkey

**HBV Poultry**

* Up to 1000 birds not FE
  + - Can be sold to the end consumer at a Farmers Market, roadside stand from the farm
* Over 1000 birds contact Meat and Poultry Division of the Indiana State Board of Animal Health (BOAH)
* 1-20,000 BOAH ***“Limited Permit”*** to sell the RFEs
* All poultry produced and sold at a farmer’s market or roadside stand must be sold frozen
* All poultry sold on the farm must be sold refrigerated at the point of sale

**HBV Rabbit**

* IC 16-42-5-29(i) says: rabbits that are slaughtered and processed on the farm to be sold on the farm, at a farmer’s market, or a roadside stand
  + - Is not a “food establishment”
    - Must sell Rabbits frozen at a farmer’s market or roadside stand
    - Must sell rabbits refrigerated from the farm at the point of sale and through delivery
    - Only to end consumers

**Types of Vendors at Farmers Market**

* A Farmers Market must have at least 2 farmers present, but there may also be other types of Vendors
* Market organizers may choose which types of vendors may be present at the Farmer’s Market
  + - Food establishments selling prepackaged, non-PHF from commercial source
    - Whole, uncut produce
    - Retail food establishments (RFEs)
    - Some not -for-profit organizations
    - Wholesalers
    - Farmers of live fish and shrimp

**Labeling**

* HBV food products must be labeled according to IC 16-42-5-29 (c)(5)
  + - Producer’s name and address
    - Common or usual name of food product
    - Ingredients of food product
    - Net weight and volume or numerical count
    - Date food product was processed
    - The following statement in 10-point type: **“This product is home produced and processed and the production area has not been inspected by the State Department of Health.”**
* In Labeling on the product, a placard may be used in some situations:
  + - When the product sold is not packaged (i.e. produce)
    - Must contain all required labeling information in IC 16-42-5-29(c)(5)
* Labeling Exceptions to IC 16-42-5-29 (c)
  + - Poultry see BOAH
      * Labeling will include the name & address of the producer, common or usual name of the product, net weight or volume, ingredient list, date the food product was produced & the statement:
        + “Exempt P.L. 90-492” or similar statement notifying the consumer that the product was produced and processed at a facility that is exempt from inspection under IC 15-17-5-11, or
        + “Limited Permit-Retail HRI” if produced in an establishment under a limited permit described at IC 15-17-5-11 (f)
    - Chicken eggs see Indiana State Egg Board

**Giving Samples of HBV Products**

* IC 16-24-5-29(c)(3) says, “practices proper sanitary procedures”
  + - Sampling dose not include assembling of 2 or more HBV food products at a point of sale
    - Sampling must be discontinued if not conducted in a sanitary manner
    - Practicing proper sanitary procedures include:
      * Handwashing
      * Sanitation of container packaging
      * Safe storage of food product
      * Protection from contamination
      * May not sell other commercially prepared products (prepackaged items)
      * Shall not deliver to any location other than a farmer’s market or roadside stand (pre-ordering is acceptable)
      * May not sell products in other another state at a farmers market or roadside stand without meeting the requirements of that state

**Regulatory Authority**

* HBV is subject to inspection and/or laboratory sampling **IF:**
  + - The HBV is non-compliant with IC 16-42-5-29 (d) or €
    - The HBV ‘s food product is misbranded or adulterated
    - A consumer complaint is received
    - There is an imminent health hazard
* Why would the regulatory authority be at the farmers market?
  + - May be at a farmer’s market inspecting the RFEs and other general sanitary conditions of the market
    - May be ensuring that HBV products are not PHF, labeled, and sanitary requirements are met
    - Educate market masters and vendors

**HBV Review**

* HBV becomes a food establishment and is subject to applicable food safety laws if they do any of the following:
  + - Sells a PHF (except poultry/rabbits under IC 16-42-5-29 (h) & eggs under (j))
    - Sells food products other than those produced in the home
    - Sells wholesale (not to the end consumer)
    - Fails to meet the specified requirements in IC 16-42-5-29