
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 IC 15-17-5-11

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**” (HBV) shall prepare and sell only a food product that is:
 - made, grown, or raised by an individual at the individual’s primary residence, including any permanent structure that is on the same

property as the residence. HBV may sell the food product anywhere directly to “end consumer” in person, by mail or shipping by a third-party carrier “inside the state of Indiana”.

- Not a potentially hazardous food product;
- Prepared using proper sanitary procedures;
- not resold; (e.g. you must sell to the end user not someone who intends to resell; if you did this you must be licensed as a wholesaler.)
- May not use leased spaced that are located off the property of a HBV’s primary residence to make, grow or raise food products.
- Complies with code IC 16-42-5.3 (HBV hb1149.04.enrs.pdf) effective 7/1/22.

❖ A “**Roadside Stand**” is:

- A place, building, tent, trailer/vehicle, structure along, or near, a road, street, lane, avenue, boulevard, or a highway where a HBV sells food product(s) to the public.

❖ A “**Third Party Carrier**” is:

- an individual or business that is not the HBV but delivers products to end consumers for the sole purpose of transporting the food products on behalf of the HBV.

❖ An “**End Consumer**” is:

- a person who is the last person to purchase any food product and who does not resell the food product

Statutory Term – Potential Hazardous Food (PHF)

❖ 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

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 or 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 (no mixtures of low acid and high acid)
- ❖ May be temperature controlled only for quality
- ❖ Some frozen 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 16-42-5.3 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

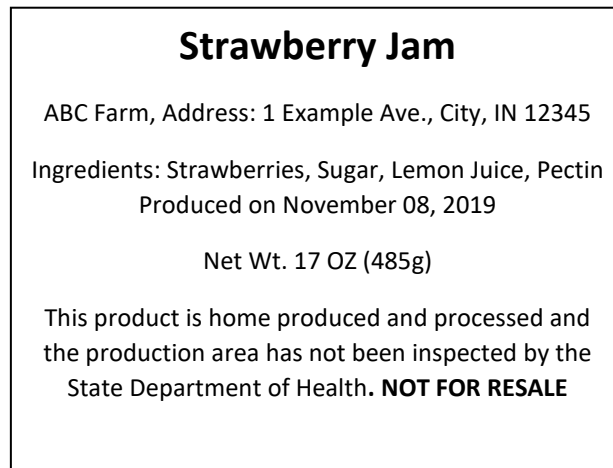
Types of Vendors at Farmers Market

- ❖ 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 16-42-5.3-5

- Producer’s name and address
 - Common or usual name of food product
 - Ingredients of food product
 - Net weight or 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.”**
 - **NOT FOR RESALE**
- ❖ 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 16-42-5.3-5



- ❖ 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

Shipping IC 16-42-5.3-6

- HBV's must maintain an electronic or paper record of the shipping or delivery address of each end consumer the vendor sells a food product to for at least one (1) year after the date of sale. Such records may be requested at any time by IDOH, specially for food complaints and outbreak investigations.
- All products must be protected by tamper resistant packaging to allow end consumers to visually determine if the products were tampered with.

Food Handler Certificate IC 16-42-5.3-7

- HBV's must obtain a food handler certificate from a certificate issuer accredited by the American National Standards Institute (ANSI). HBV must provide a copy of the certificate to the local health department in the county where the HBV's residence is located. Further upon request, the HBV must provide a copy of the certificate to the regulatory agency or an end consumer.
 - Information regarding ANSI certified courses can be found at <https://anabpd.ansi.org/accreditation/credentialing/certificate-issuers/AllDirectoryListing?prgID=212,238&statusID=4>
 - HBV's must keep the food handler certificate current, and not let it expire.
 - A Food Protection Manager Certificate that is accredited by ANSI meets this requirement.

Giving Samples of HBV Products

- ❖ IC 16-24-5-29(c)(3) says, "practices proper sanitary procedures"
 - Sampling does 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 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 16-42-5.3
 - 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

Individual vendors who solely certain poultry, rabbits or chicken eggs

- ❖ Individual vendors who solely sell certain poultry, rabbits or chicken eggs and meet certain requirements are not considered HBV’s but are exempt from food establishment requirements.
- ❖ Because they are solely selling poultry, rabbits or chicken eggs they are exempt from the Food Handler Certificate requirements.

Vendors who Sell Poultry and Rabbits IC 16-42-5.3-10

- Poultry and rabbits are permitted to be sold only at roadside stands, producing farms and/or farmers’ markets.
- Poultry and rabbits sold on the farm where the product is produced must be kept refrigerated at the point of sale and through delivery by the producer to the end consumer.
- All poultry and rabbits sold at farmers’ markets and roadside stand must be frozen at the point of sale.
- Rabbits must be labeled according to the same label requirements as in IC 16-42-5.3-5. Poultry must be labeled according to IC-15-17-5-11.

- BOAH regulates the slaughter and processing of poultry and poultry products. A vendor selling poultry should contact BOAH regarding additional requirements and abide by IC 15-17-5-11.

Vendors who Sell Chicken Eggs IC 16-42-5.3-11

- In-shell chicken eggs can be sold if the vendor is registered under and follows the guideline of the Indiana State Egg board.
- Vendor selling chicken eggs must follow IC 16-42-11, including the label requirements. Pack date and expiration date must appear on each carton. Expiration date is 30 days from date of pack.
- Used egg cartons may be used ONLY if relabeled with name and address of supplier of eggs.
- Must be held and sold refrigerated at ambient air temperature 45° or below.

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 16-42-5.3-10 & eggs)
 - 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 16-42-5.3