

# Adding Value to Plant Production— An Introduction to Policies and Regulations for Kentucky Producers

## Introduction

“Value-added agriculture” is a broad term encompassing many practices that increase the value of farm products. Such practices often result in the manufacture of food products. Crop producers entering the realm of food manufacturing may become subject to a wide range of policies and regulations.

This profile identifies the policies and regulations experienced by many value-added crop producers in Kentucky. **This is a summary and is intended only to highlight key considerations for crop producers considering value-added products. Producers should always conduct their own investigation of relevant local, state, and federal requirements for their intended value-added production enterprise.**

The following topics are addressed: marketing new crop food products, homebased processing for crops in Kentucky, and handling bulk crops and commodities.

## Marketing New Crop Food Products

Making new food products from crops may require the



producer to acquire a range of permits and licenses. The producer may also need to meet regulatory requirements in a variety of areas.

A first step to identifying the requirements for a potential new food product is for the producer to identify what agencies regulate their product. One starting point for identifying the regulating agency or agencies is for the producers to answer questions like these about the potential new product:

- What** value-added product will be produced?
- Who** regulates this product?
- Where** will the product be sold?
- Who** will purchase the product?
- How** will the product be purchased?

### *What value-added product will you produce?*

The very value-added product that is produced will affect the scope of the laws and regulations that

may apply to the manufacture of that product. For example, most products containing meat fall under USDA regulation.

Producers wishing to utilize their herb crop in making sausage, for example, will face a different set of requirements than a producer wishing to package a meat rub. Similarly, “low-acid” processed foods will fall under a different set of requirements than “high-acid” processed foods.

By recognizing that different products may have different regulatory environments, producers will be able to make a more informed decision about what value-added crop products to produce.

### ***Who regulates the product?***

Many first-time value-added producers are surprised to discover that their food production may be regulated by several different agencies. For example, producers selling fruit preserves at their farms may need to obtain a local retail permit as well as the appropriate state-level permit(s) for food manufacturing. In Kentucky, food manufacturing is regulated by the Food Safety Branch of the Department for Public Health within the Cabinet for Health and Family Services. This is a good “first stop” for producers interested in producing a food product.



Many food processing facilities, including commercial kitchens, are regulated first by agencies at the local level. Producers of food products should develop a working relationship with the local health department or other agencies that regulate food production. Producers have found that having a clear plan for the value-added activity and keeping a clear line of

communication with local health inspectors can help to minimize the difficulty in navigating the relevant regulatory framework for their product.

Value-added products containing meat are likely regulated by the USDA. Food products containing 3 percent or more beef or 2 percent or more poultry fall under the regulatory jurisdiction of the USDA and a “Grant of Federal Inspection” will be required. If the proposed product falls outside of USDA jurisdiction, the Kentucky Department for Public Health requires a copy of a “letter of release” from the USDA.

Producers should exercise caution when making health claims in advertising and packaging value-added products because health claims for food products have been closely watched by the Food and Drug Administration (FDA).

The Food Safety and Modernization Act (FSMA), enacted into law in January 2011, expands the authority of the FDA to regulate food production. As of May 2011, the effects of this legislation upon production of value-added crop products were unclear. Although the language of the FSMA does include apparent exemptions for smaller producers and direct marketers, the rules and regulations are still in process. Producers interested in this act may monitor the relevant FDA Web site referenced in Selected Resources, below.

A fact sheet regarding the implications of the FSMA for farmers and producers of value-added products is available from the University of Tennessee’s Center for Profitable Agriculture.

### ***Where will the product be sold?***

#### ***Who will purchase the product?***

Different rules may apply to different market channels for value-added products. In Kentucky, some products that have been processed at home may be sold in approved retail markets (see below). Those products could not, however, be legally wholesaled to a grocery or restaurant; different rules apply for those market channels.

Producers wishing to market products to institutions, such as schools, hospitals, and government facilities, may be subject to additional requirements. The requirements for value-added products are typically different than those for fresh products, such as fruits or vegetables.

Other regulations may also apply. Many states, including Kentucky, have restrictions on the shipping of wine from out-of-state wineries. Some states may prohibit the entry of nursery products because of disease concerns.

When a new market opportunity for a value-added product arises, producers should investigate possible differences in rules and regulations for sale into that market.

### ***How (in what form) will the product be purchased?***

Regulations, such as those regarding packaging, may differ between the ways in which products are sold. Pack sizes for wholesaling to a foodservice establishment could be quite different than retail packs for a farmers market.

Other regulations and restrictions may also apply based on the target market for the value-added product. A grain producer, for example, may decide to have crops processed at a regulated facility and then retail the product. Other producers simply sell the end consumers the raw product with the burden of processing falling to the consumer's choice of processing facility (as is commonly the case with meat processing).

## **Homebased Processing and Microprocessing in Kentucky**

House Bill 391, passed by the Kentucky General Assembly in 2003, allows Kentucky farmers the opportunity to process some of their own food products in an on-farm kitchen for sale at farmers markets, Certified Roadside Stands, and/or on the processor's farm. Producers must grow the predominate agricultural ingredient used in the

product. The on-farm kitchen must be separate from a personal kitchen and inspected by the local health department. Producers may also be able to use a rented commercial kitchen or, in some counties, a commercial kitchen owned and operated by the Cooperative Extension Service.



The legislation allows for two certifications: **HOMEBASED PROCESSORS** and **HOMEBASED MICROPROCESSORS**. Homebased processors may sell jams, jellies, breads, fruit pies, cakes, and cookies after registering with the Kentucky Cabinet for Health Services. Homebased microprocessors may sell low-acid, acidified, and acid foods after (1) attending a Homebased Microprocessor Workshop; (2) having their recipes approved by a designated representative of the University of Kentucky; and (3) submitting and receiving approval of an application and fee to the Kentucky Cabinet for Health Services.

Many Kentucky crop producers have utilized the provisions of this legislation to market goods from their farms. More information on the HB 391 provisions for homebased processing of farm crops is available at the University of Kentucky Homebased Processing and Microprocessing Web site. This site also includes information on food labeling requirements, submitting recipes for approval, and applicable forms. The schedule for upcoming home-based microprocessing workshops (required for certification) plus workshop registration and contact information are also at this site.

Many food products made by homebased processing in Kentucky are intended to be sold at farmers markets. The Kentucky Department of Agriculture (KDA) has published a Farmers Market Manual that details the sale of homebased products at farmers markets. In addition, producers wishing to offer product samples at farmers markets are required to obtain a sampling certificate. The Farmers Market Manual and details about sampling certificates for farmers market vendors in Kentucky are available on the KDA Farmers Market Program Web site.



The contact information for this program is on their Web site.

### ***Identity-Preserved Crops***

Identity-preserved crops, usually grains and oilseeds, are kept segregated from commodity grains and oilseeds in the handling process. Identity-preserved (IP) crops are often

monitored through contractual agreements with processors that self-regulate the crop supply chain and processing path.

Federal and state regulation for IP crops is not as extensive as the organic standards that are administered by the state. However, producers of IP crops must be careful to adhere to all the stipulations placed upon their production and handling by the contractor to whom the IP crops will ultimately be sold.

## **Bulk Crops and Commodities**

Value-added products do not only include manufactured food products. Identity-preserved crops and crops grown according to organic standards also have value-added characteristics.

### ***Organic Crops***

Regulations are defined for organic crop certification and labeling of organic products. The use of the terms “organic” and “certified organic” can create additional value for crops, but must also be supported by proper adherence to certification and documentation.

For a food product to be marketed as “certified organic,” it must be manufactured and handled in certified organic facilities. A producer’s farm may be currently certified for organic production; but for the producer to market “certified organic” food products using raw crops from their farm, those crops must be processed and handled in certified organic facilities.

The KDA has an organic program that can help producers interested in producing value-added goods navigate the organic certification process.

## **Selected Resources**

### ***Web sites***

#### STATE AND LOCAL

- Food Safety Branch of the Department for Public Health (Kentucky Cabinet for Health and Family Services)

<http://chfs.ky.gov/dph/info/phps/food.htm>

- Food Systems Innovation Center (University of Kentucky)

<http://www.uky.edu/fsic/>

- Homebased Processing and Microprocessing (University of Kentucky)

<http://www.ca.uky.edu/agc/micro/>

- KDA Farmers Market Program (Kentucky Department of Agriculture)

<http://www.kyagr.com/marketing/farmmarket/index.htm>

- KDA Organic Program (Kentucky Department of Agriculture)

<http://www.kyagr.com/marketing/plantmktg/organic/index.htm>

- KDA Plant Marketing (Kentucky Department of Agriculture)

<http://www.kyagr.com/marketing/plantmktg/index.htm>

- Local Health Department Information (Kentucky Cabinet for Health and Family Services)

<http://chfs.ky.gov/dph/Local+Health+Department.htm>

#### FEDERAL, NATIONAL, AND OTHER STATES

- Center for Profitable Agriculture (University of Tennessee)

<http://cpa.utk.edu>

- FDA Center for Food Safety and Applied Nutrition (Food and Drug Administration)

<http://www.fda.gov/AboutFDA/CentersOffices/OfficeofFoods/CFSAN/default.htm>

- Food Industry (Agricultural Marketing Resource Center)

[http://www.agmrc.org/markets\\_\\_industries/food/](http://www.agmrc.org/markets__industries/food/)

- Food Safety Modernization Act (Food and Drug Administration)

<http://www.fda.gov/Food/FoodSafety/FSMA/default.htm>

- Marketing, Business, and Risk Management (ATTRA)

<http://attra.ncat.org/marketing.html>

- Post-harvest handling and Processing (USDA)

[http://afsic.nal.usda.gov/nal\\_display/index.php?info\\_center=2&tax\\_level=2&tax\\_subject=298&level3\\_id=0&level4\\_id=0&level5\\_id=0&topic\\_id=1431](http://afsic.nal.usda.gov/nal_display/index.php?info_center=2&tax_level=2&tax_subject=298&level3_id=0&level4_id=0&level5_id=0&topic_id=1431)

#### **Online publications**

- Kentucky Farmers Market Manual (Kentucky Department of Agriculture)

[http://www.kyagr.com/marketing/documents/FM\\_Manual.pdf](http://www.kyagr.com/marketing/documents/FM_Manual.pdf)

- Labeling Requirements for Commercial Processors (CHFS Food Safety Branch) Services

<http://chfs.ky.gov/NR/rdonlyres/975F0C12-A5CB-4961-8D0E-6BE2E938AA7D/0/labelingRequirementsforCommercialProcessors.pdf>

- Labeling Requirements for Home Based Processor (CHFS Food Safety Branch)

<http://chfs.ky.gov/NR/rdonlyres/09638ED7-260F-4999-8F8A-807D24587CA1/0/Labelsforhomeprocessors.pdf>

- Selected Resources for Developing Value-added Products in Kentucky (University of Kentucky, 2010)

<http://www.uky.edu/Ag/cdbrec/varesources.pdf>

- Adding Value to Farm Products: An Overview (ATTRA, 2006)

<https://attra.ncat.org/attra-pub/summaries/summary.php?pub=270>

- Guide for Organic Processors (ATTRA, 2012)

<https://attra.ncat.org/attra-pub/summaries/summary.php?pub=407>

- Implications of the 2011 FDA Food Safety Modernization Act on Direct Farm Marketers and Value-Added Producers (Center for Profitable Agriculture, 2011)

<https://ag.tennessee.edu/cpa/Information%20Sheets/cpa185.pdf>

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Photos by Matthew Ernst, University of Kentucky (honey, pg. 1); National Center for Home Food Preservation (preparing strawberry preserves, pg. 2 & canned tomatoes, pg. 3) and Clair Hicks, University of Kentucky (cheese, pg. 4)

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