United States Department of Agriculture

Agricultural Marketing Service

Fruit and Vegetable Programs-PACA Branch

"Perishable Agricultural Commodities Act (PACA) - Facilitating fair trade practices in the fruit and vegetable industry through education, mediation, arbitration, licensing and enforcement"

PACA Administrative Newsletter

Volume 3, Issue 1

January 1, 2007

Special Note:

- PACA's Toll-Free Info Line: 800-495-PACA

Inside this issue:

The PACA and You in 2007: 77 Years and Counting

Fair trading practices have come a long way since 1930. Before 1930, unfair and deceptive trade practices victimized members of the fruit and vegetable industry. Leading members of the produce industry could not monitor their industry from within. Then in 1930, the Perishable Agricultural Commodities Act, or PACA, was signed into law to protect the produce industry.

PACA became a pioneer in the "user-fee" concept for funding government programs. PACA is industry-sponsored and industry-financed. The annual license fees and complaint filing fees pay for the administration of the law. Dealers, brokers, commission merchants and large retailers that handle fresh or frozen fruits or vegetables in interstate or foreign commerce must have a valid PACA license.

PACA keeps competition fair and honest. The code of fair trading established by PACA benefits both buyer and seller. For instance, under PACA, a seller must ship to the buyer produce that meets the contractual terms. In turn, a buyer must accept and pay promptly for produce that meets contract specifications. If a firm fails to pay for produce, rejects shipments without good reason, fails to deliver produce in accordance with the contract terms, or engages in other unfair practices prohibited by PACA, USDA can step in to ensure that these actions are corrected.

One way to keep business on a level playing field is to make sure everyone understands what they can and cannot do. We'll gladly schedule a PACA seminar for your company or association. Last year, PACA specialists made over 60 presentations nationally covering a wide variety of PACA topics. To request a seminar in your area, contact one of the PACA regional offices on page 4 or call 800-495-PACA.

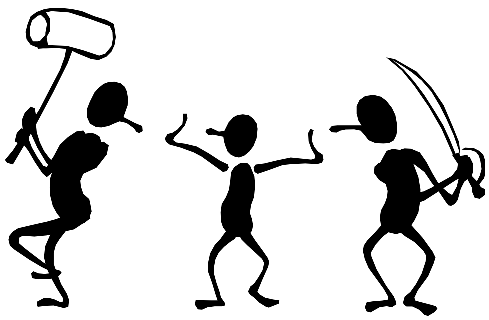
Dial Up PACA's Toll-Free Info Line

PACA's new toll-free number will give you instant access to an expert who can answer your questions. Whether you have a question about a license, interpreting an inspection, a dispute or any other PACA topic, our experts are ready to help you. Best of all, it's one more way to get timely, accurate and reliable answers to your inquiries.

Try it today! Call 800-495-PACA (800-495-7222).

Save Time, Money and Relationships... Use PACA Dispute Resolution Services

Do you have a dispute you have tried to work out on your own? Are you spending more time and money than you expected? Are you afraid that you may lose a valuable customer? If so, you can ask PACA to step in to help resolve your dispute. The disputes we handle may involve a few cartons of fruit or hundreds of thousands of dollars' worth of produce. We will treat each case with care because we know how important your business relationships are to you.



In FY 2006, we had 1,500 reparation complaints filed. Of these, over 90 percent were resolved informally, recovering millions of dollars for the produce industry. Many of these cases were settled as a result of formal mediations conducted by PACA mediators.

You can file a reparation complaint or request mediation services for just $60 if you believe you have suffered damages resulting from a violation of PACA. To serve you better, we also have Spanish- and Korean-speaking employees.

Why not give PACA mediation services a try? To discuss your options and get your questions answered, contact any one of the regional offices listed on page 4.

Learn Something New! PACA and Inspection Training Seminars on Track for 2007

Why not sign up now for a class to learn about PACA and produce inspection procedures? Trained professionals inform you of your rights and responsibilities under PACA and fresh produce inspection procedures. All classes are held at the state-of-the-art USDA Fresh Products Branch National Inspector's Development and Training Center in Fredericksburg, Va. Two-day introductory classes cover PACA background, trade terminology and dispute resolution. This class also covers basic inspection terms, standards and tolerances, equipment overview, reading a certificate, and appeal procedures.

Take a three-day advanced class independently or together with the introductory class. The advanced class covers topics such as hands-on inspection of specific commodities, types of inspections, sampling requirements and import requirements.

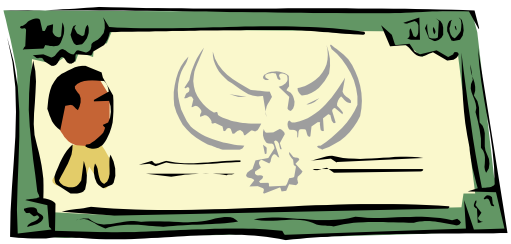
The schedule for 2007 is:

- April 16-17 Introductory Class
- April 18-20 Advanced Class
- June 18-19 Introductory Class
- June 20-22 Advanced Class
- Sept. 24-25 Introductory Class
- Sept. 26-28 Advanced Class

Don't delay – after attending you'll feel more confident in your ability to make crucial business decisions! For more information, call the United Fresh Fruit & Vegetable Association at 202-303-3400, or visit its Web site: www.uffva.org.

PACA Maintains $15-20 Million in Surety Bonds

Did you know that being a PACA licensee helps to ensure monetary protection from persons or firms formerly involved in bankruptcies? Sometimes, we receive a license application from a person or firm previously involved in bankruptcy. Before a license is issued, the firm must post a cash surety or surety bond in an amount approved by USDA. The bond is held for three years after the license is issued. This assures that the firm will conduct business in accordance with PACA. If a PACA order is issued against them during the three years, the order is paid through the bond.



In a recent example, USDA found that a California company owed $11,000 to a Nevada shipper. When the California company failed to pay the $11,000 award, the shipper filed a claim with the USDA on the $35,000 cash surety posted by the buyer after his involvement in bankruptcy.

PACA promptly arranged for payment to be made to the seller through the cash surety. The buyer later replaced the $11,000. The $35,000 cash surety will be held until February 2007 to provide assurance to the produce industry that the buyer will pay for produce purchased and will conduct its business according to PACA rules.

Call 800-495-PACA for more information.

New PACA License Center Serves Up License Info Fast

Ever since the new **National License Center** opened in Manassas, Va., it has been on the fast track for dishing up the license information you are looking for to serve you better. Our License Center will:

- Be a one-stop resource for all your licensing questions and concerns.
- Ease your communications with our specialists.
- Speed up the entire licensing process.

There are about 15,000 firms licensed under PACA. Advances in automation and technology resulted in a dramatic reduction in application processing time. Over 95 percent of license applications are now processed within three days of receipt.

Proposed Changes to PACA Trust Regulations Published

The produce industry and the Secretary's Fruit and Vegetable Industry Advisory Committee have expressed concerns regarding enforcement of the PACA trust through electronic invoicing. As a result, an Advanced Notice of Proposed Rulemaking was published in the *Federal Register* in January 2006 to address the concerns. In response, USDA received 65 comments, of which 62 favored amending the PACA regulations.

Based on a review of the comments, the agency published a Proposed Rule in the *Federal Register* on Nov. 8, 2006, which proposed changes to the regulations. The proposed amendments will ensure that the status of produce sellers as trust creditors is protected when electronic invoicing is used to bill buyers. The revisions will also clarify that PACA licensees are required to allow their produce suppliers to preserve their trust rights and if they do not comply with this responsibility, it will be considered a violation of PACA.

The comment period ended on Jan. 8, 2007. We're reviewing the comments sent in. Stay tuned for further developments.

Firm Pays $50,000 Penalty for Operating Without a PACA License

Most people in the produce industry are law abiding. They follow the rules and guidelines established to protect the industry from dishonest traders. Though rare, violators have been known to operate without a valid license. In those cases, USDA will act to stop the offending firm.

Earlier last year, a case was settled involving a firm that had its PACA license suspended for failure to pay PACA-issued awards. A PACA investigation found the firm continued to operate after the suspension. The U.S. Attorney filed an action to prevent the firm from doing business. The firm agreed to pay a $50,000 penalty and paid off the remainder of the unpaid awards. As a result, the firm is now licensed and is allowed to operate business legally.

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OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE $300

PRESORTED STANDARD
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PERMIT NO. G-297

The PACA and You in 2007!

Our Web Address: www.ams.usda.gov/fv/paca.htm

PACA On-Line Features

- PDF Fillable License Application
- PACA License Search Engine—Search for licensees by business name(s), principal(s), or branch/trade name
- F.O.B. Good Delivery Guidelines
- Interactive Training Course
- Protecting Your Trust Rights
- Damage Claims
- Most Commonly Used Trade Terms and Definitions
- Perishable Agricultural Commodities Act and Regulations
- Frequently Asked Questions
- Office Directory

Send any PACA questions, comments or feedback to: Bruce.Summers@usda.gov

PACA Branch Office Directory

National Toll-Free Number:
800-495-PACA

Washington, D.C.

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Past issues of the "PACA Administrative Newsletter" may be found at: www.ams.usda.gov/fv/paca.htm