



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 2

April 1, 2007

Organics...Misbranding and Misrepresentation Under PACA...What it Means to You

Special Note:

- **PACA Customer Service Line:**
800-495-PACA
- National License Center in Manassas, Va.

"I just bought a package of leafy greens labeled 'organic.' How do I know if it's really organic? What does this mean under PACA rules?"

In this age of increased consumer demand for organic products, particularly in produce, we often receive questions like these about PACA labeling requirements.

PACA doesn't require any specific markings or descriptions of fruits and vegetables be placed on stickers, labels, boxes, bags or other forms of containers used to package produce. But the law does require that any descriptions which are placed on the containers or labels accurately represent the product.



The *USDA Organic* seal tells you that a product is at least 95 percent organic.

This means that if you are a packer or buyer of labeled produce, you must make sure that the markings on the packages or the individual commodities are accurate. Under PACA, it is unlawful to misrepresent fresh or frozen fruits or vegetables received, shipped, sold or offered for sale in interstate or foreign commerce as to grade, size, weight, variety, origin, organic status, etc.

If you believe that a commodity labeled as "organic" or "100 percent organic" is incorrectly labeled, contact the PACA Branch or USDA's Agricultural Marketing Service, National

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Be Safe With Fresh Produce!

The topic of food safety has taken center stage with industry and consumers in light of the recent foodborne outbreaks.

Addressing foodborne illness requires a cooperative effort by government agencies, the produce industry, and consumers. The produce industry has expressed its commitment to restore consumer confidence in produce by introducing several initiatives. One is the California "Leafy Greens Initiative."

USDA's Fruit and Vegetable Programs can help you take steps to reduce food-safety hazards. The following two examples of voluntary USDA programs are at your service:

- **The Good Agricultural Practices & Good Handling Practices (GAP & GHP)** audit verification program – This national, user-funded audit program was developed by

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PACA Customer Service Line: 800-495-PACA

PACA Safeguards Interstate Transactions

Do you buy or sell fruits or vegetables in interstate or foreign commerce? If so, you probably have PACA protection.

How do you know if your transactions are considered to be in interstate or foreign commerce and covered by PACA? If any of the following applies, your transaction is probably under PACA jurisdiction:

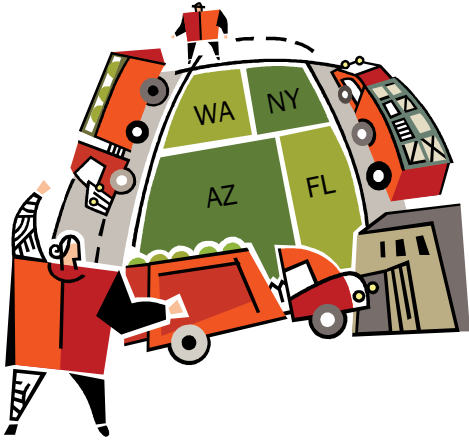
- The commodities that you buy or sell move from one state to another at any time during handling.
- The party you deal with is in a different state.
- You purchase commodities that originate from a location outside the United States.
- You ship commodities that originate from the U.S. to a point outside the U.S.
- You have an understanding with your customer that the product will eventually be shipped out of state.

Other circumstances may also be considered to be in interstate or foreign commerce and covered by PACA. For example, if a combination of the following factors occurs, PACA may have jurisdiction:

- Two parties regularly buy and sell in interstate commerce.
- A buyer has multiple business locations in other states.
- A buyer is licensed under PACA.
- The buyer is located near a state or national border and the commodities involved commonly move in interstate or foreign commerce.

To see if your particular situation is under PACA jurisdiction, call our toll-free Customer Service Line at 800-495-PACA.

At your request, we'll be glad to mediate or arbitrate a disputed transaction between you and your customer.



Be Safe With Fresh Produce!

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USDA's Fresh Products Branch at the industry's request. It verifies a participant's adherence with FDA's *Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables*.

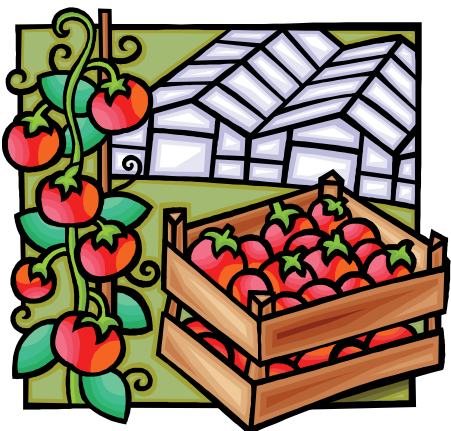
Under the program, government officials review a company's facilities, agronomic practices, and documented procedures to determine if "Good Agricultural Practices" and/or "Good Handling Practices" are maintained. For more information about this program, contact the Fresh Products Branch at 800-811-2373 or view their Web site: <http://www.ams.usda.gov/fv/fpbgapghp.htm>.

- The **Qualified Through Verification**

(QTV) Program – This is a user-fee, audit-based inspection service for producers of fresh-cut fruits and vegetables. It is designed to verify the suitability of a firm's Hazard Analysis Critical Control Points (HACCP) food safety system.

In this program, you apply science-based HACCP principles to identify hazards in your food manufacturing processes and take steps to prevent, reduce or eliminate risks associated with these hazards. For more information, contact the Processed Products Branch at 202-720-4693 or check out their Web site at: <http://www.ams.usda.gov/fv/ppbweb/QTV/qtv.htm>.

Experts from both programs are ready to offer their services!



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Organics... Misbranding and Misrepresentation under PACA

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Organic Program (NOP). The NOP has developed labeling standards and categories based on the percentage of organic ingredients in a product. Examples and detailed information about this program can be found at their Web site, www.ams.usda.gov/nop or by calling 202-720-3252.

When PACA misrepresentation or misbranding violations are found, a firm can settle its liability informally by written warnings or monetary penalties. In more serious cases, violations may justify suspending or revoking a firm's PACA license.

For more information regarding PACA's misrepresentation or misbranding requirements, contact the PACA misbranding officer at 202-720-5073.

Comment Period for Proposed Trust Rule Ends...Final Rule Being Drafted

The comment period for proposed changes to PACA trust regulations published in the *Federal Register* ended on Jan. 8, 2007.

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. If they do not comply with this responsibility, it will be considered a violation of PACA.

All comments are being reviewed. The final rule is being drafted and should be published in the coming months.

For more information about the proposed changes, call 202-720-6873.

PACA Fees to Rise?

After remaining unchanged since 1995, PACA complaint and license fees will probably go up. The PACA program is funded by user fees collected when firms obtain a PACA license or file a complaint. In order to fully fund the program, the Fruit and Vegetable Industry Advisory Committee made the following PACA-related recommendations to the Secretary of Agriculture:

- Increase complaint fees immediately;
- Create a fee structure to capture part of the costs for audits conducted at the request of complainants in reparation proceedings; and
- Increase license fees in 2010 sufficient to fully fund the program.

Fees have remained steady partly because of a one-time, \$30.45 million Congressional appropriation to the PACA fund. The recent closing of two field offices, staffing reductions and cutting of costs also slowed the use of the reserve fund.

The amounts of the fee increases have not been determined. However, it's likely that the complaint fees will increase first and the license fees may double by 2010.

2007 PACA and Inspection Training Classes Have Started...

But, it's not too late to sign up.

Wouldn't you like to be more knowledgeable and confident in your ability to make business decisions? Then don't delay and sign up today! Whether you're a buyer, seller, quality control inspector, manager or supervisor, this course is for you!

Trained professionals inform you of your rights and responsibilities under PACA and fresh produce inspection procedures. All classes are held at the USDA Fresh Products Branch National Inspector's Development and Training Center in Fredericksburg, Va. The 2007 schedule is:

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..... **PACA Customer Service Line: 800-495-PACA**



OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE \$300

Fruit and Vegetable Programs-PACA Branch

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

PACA Branch Office Directory

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2007 PACA and Inspection Training Classes Have Started

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- 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

For more information or to register, call the United Fresh Produce Association at 202-303-3400, or visit its Web site: www.unitedfresh.org.

Send any PACA questions, comments or feedback to:
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Washington, D.C.

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www.ams.usda.gov/fv/paca.htm