



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

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Special Notes:

- **New PACA Web Site**
- See page 2
- **New interest rates for unpaid reparation awards** -
See page 2
- **National License Center in Manassas, VA** - See new phone numbers on page 4

New Grade Standards and Good Arrival Guidelines: Mangos and Field-Grown Leaf Lettuce



At the request of the Fruit & Vegetable Industry, which asked that USDA identify commodities that may be better served if standards were developed, USDA has recently established U.S. grade standards for **Mangos** and **Field-Grown Leaf Lettuce**. Many in the produce industry have been looking forward to these standards, which help fruit and vegetable buyers and sellers by providing a common language and uniform basis for buying and selling commodities.

In addition, these grade standards have been used as the basis to establish the PACA Branch's good arrival guidelines for mangos and field-grown leaf lettuce. The PACA Branch Web site contains a link to the *F.O.B. Good Arrival Guidelines* that shows suggested tolerances for F.O.B. coast-to-coast truck shipments of more than 100 different types of fruits and vegetables.

What are the *Good Arrival Guidelines*?

The *Good Arrival Guidelines* set forth on the PACA Web page provide a gauge to assist buyers and sellers trying to assess whether produce has arrived at the buyer's destination without an excessive amount of defects.

By their very nature, fresh fruits and vegetables are living, breathing and perishable products. Over time, they will naturally deteriorate. However, the rate of deterioration can be kept to a minimum by maintaining optimum storage and transit temperatures for the particular commodity. When maintained at their recommended temperatures, all produce will undergo a "normal" amount of deterioration. For example, mangos are best maintained at a temperature of 55 degrees Fahrenheit while leaf

lettuce is best kept at about 32 degrees.

The *Good Arrival Guidelines* set forth USDA's opinion for what amount of deterioration may be considered normal when handling conditions, such as storage temperatures and time in transit, are acceptable.

An understanding of the concepts of "F.O.B." and "suitable shipping condition" will help when determining whether an F.O.B. sale meets contract terms at destination. Both of these terms are fully discussed in the April 2005 issue of the *PACA Administrative Newsletter* which may be found on the PACA Branch Web site, <http://www.ams.usda.gov/fv/paca.htm>.

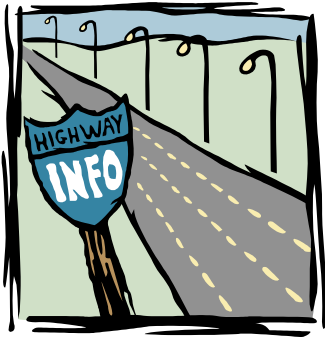
USDA's Fresh Products Branch develops U.S. grade standards for a wide variety of fruits, vegetables, nuts and specialty crops, and provides grading, inspection and certification services throughout the country that facilitate the marketing of fresh fruits and vegetables. New standards are currently being developed for snow peas (pea pods). For additional information about U.S. grade standards or services provided by the Fresh Products Branch, check out their Web site at <http://www.ams.usda.gov/fv/fvstand.htm>, or call 202-720-5870.

For further information or specific guidance about PACA Branch *Good Arrival Guidelines* or other contract-related issues, please visit our Web site at <http://www.ams.usda.gov/fv/paca.htm>, or contact any of the PACA Branch regional offices listed on page 4 of this newsletter.

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PACA Web Site Soon To Get Fresh Look!



USDA's PACA Branch Web site will soon undergo a transformation to a brand new updated look and user-friendly format. The Web address will change slightly, to <http://www.ams.usda.gov/paca>, so be sure to bookmark it in your favorite places.

You can begin your navigation from the PACA Home Page through several key areas of the program, such as guidance on how to file a complaint, mediation services offered by the program, F.O.B. good delivery guidelines, licensing requirements, the PACA license search feature, and a downloadable license application. Other features available on the site include information about protecting your PACA trust rights, scheduling a seminar with a PACA representative, an interactive training

course, frequently asked questions, definitions of the most commonly used trade terms, the Regulations, recent PACA decisions, publications, and an office directory. The Home Page also provides links to other Agricultural Marketing Service programs such as market news; grading, certification and verification; National Organic Program; transportation; and many others.

So don't wait. Check it out for yourself! We are sure you'll agree that the new site is easier to use and still packed with the information you need to make it easier to run your business as effectively as possible and in accordance with the rules of PACA.

Interest Rate in Reparation Complaints Change

USDA has changed the method used to calculate the rate of interest awarded in reparation proceedings under PACA. This change was made to make the PACA dispute resolution process consistent with other Federal programs.

Since 1992, reparation awards issued under PACA have included interest at the rate of 10 percent per year on the basic damage award to provide the injured party the full amount of damages sustained. In a recent decision, the USDA Judicial Officer noted that the rate of interest on monetary judgments issued in all

federal forums should be consistent. Therefore, in all reparation awards issued under PACA, the interest rate will be calculated on the date of the order, at a rate equal to the weekly average 1-year constant maturity treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the date of the order.

If you have any questions regarding this topic, please contact the Dispute Resolution Section of PACA at 202-720-2890.

Wanted: Your Ideas for PACA Administrative Newsletter



Since December 2004 when PACA introduced its first ever *PACA Administrative Newsletter*, we've brought you articles about the latest PACA developments, precedents, terms of sale, and tips to help you run your business in accordance with PACA's rules of the road.

Now that we have published six issues, we'd like your opinion! What do you think about the *PACA Administrative Newsletter*? What can we do better or differently that would make the publication even more useful? Do you have any ideas for stories — PACA-related or industry-related — that you could

share with us? How do you like the format? Is there anything about it that you would suggest we change? Do you find the PDF version of the newsletter on our Web site useful?

Please send any and all comments, suggestions and story ideas to us at <http://www.ams.usda.gov/fvpaca/comments.htm> or click on the "Sound off About PACA" link on our Web site at <http://www.ams.usda.gov/fv/paca.htm>. In the comment area please write "Newsletter Feedback" to ensure that it goes to the right person as quickly as possible. We look forward to hearing your comments and ideas!

Understanding PACA Disciplinary Cases, Part 3

This is the third and final article in a series describing the PACA regulatory enforcement process. In this issue, we will discuss the due process rights afforded to firms involved in administrative proceedings with USDA.

In Parts 1 and 2 of this series, we gave examples of violations of PACA that may result in enforcement actions, explained the written notice of investigation, discussed the process of how the investigation is conducted, detailed the records that are generally reviewed, discussed the consequences of denying access to records, and finally, described the meeting held at the conclusion of the investigation.

Once the on-site investigation is concluded, the investigator will prepare a report. The PACA Branch must send a letter to the firm investigated within 180 days of the original notice of investigation letter. This letter informs the firm that was investigated of the status of the investigation and what may happen next in the process.

If it is determined that violations of PACA are likely to have occurred, a complaint is referred to the USDA's Office of the General Counsel, which acts as USDA's representative in prosecuting the case.



An Administrative Law Judge (ALJ) hears the administrative disciplinary complaint and decides if the firm's actions were a violation of PACA. In many instances the ALJ will hold a hearing so that evidence can be presented by the parties involved. The ALJ may impose sanctions in accordance with the statute ranging from license suspension, monetary penalty, revocation of license, or publication of willful, repeated, and flagrant violations of PACA.

The ALJ's findings are set forth in a written decision and order, which can be appealed to several levels including the Judicial Officer, U.S. Court of Appeals, and U.S. Supreme Court. Not all disciplinary complaints proceed through the entire process. Many are resolved by default, admissions, settlements, or are not appealed beyond the ALJ.

Any questions about investigations, or this administrative process, should be referred to the Trade Practices Section of the PACA Branch at 202-720-6873.

Coming Soon
PACA Branch's New Web Address:
<http://www.ams.usda.gov/paca>

Coming Industry Training Seminars

Training seminars are held to inform you of your rights and responsibilities under PACA at the USDA Fresh Products Branch National Inspector's Development and Training Center in Fredericksburg, Va., in conjunction with courses in introductory and advanced produce inspection.

Here are the next scheduled dates for 2006:

- Aug. 14-15 Introductory Class
- Aug. 16-18 Advanced Class
- Sept. 25-26 Introductory Class
- Sept. 27-29 Advanced Class



For more information, call the United Fresh Fruit & Vegetable Association at 202-303-3400, or visit its Web site: www.uffva.org.



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

National Toll-Free Number:
800-495-7222

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
- PACA Publications
- Most Commonly Used Trade Terms and Definitions
- Perishable Agricultural Commodities Act and Regulations in English and Spanish
- Frequently Asked Questions
- Office Directory

Send any PACA questions, comments or feedback to:

<http://www.ams.usda.gov/fvpaca/comments.htm>

or, click on the “Sound off About PACA” link on our Web site

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To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, DC 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

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