

Perishable Agricultural Commodities Act (PACA)

The Perishable Agricultural Commodities Act, also referred to as PACA, is a Federal law that was enacted at the produce industry's request in 1930 to promote fair trade. The PACA protects those businesses dealing in highly perishable produce. The law enables them to get their produce to market quickly by ensuring a level playing field for everyone in the industry.

PACA provides many services to the fruit and vegetable industry. A customer service line is answered Monday through Friday from 7:00 am until 7:00 pm, Eastern Standard Time. PACA representatives answer many telephone calls each week from individuals requesting assistance on problems unique to the industry, such as interpretation of inspection certificates, advice on contract disputes, and bankruptcy issues. Basic services may include filing an informal or formal complaint, mediation, and investigative enforcement.

PACA assists the produce industry by facilitating a dispute resolution process for those involved in buying and selling fresh and frozen fruits and vegetables. If a firm is involved in a dispute, or has not been paid for produce, an informal reparation complaint can be filed. The complaint must be in writing, accompanied by the \$100 filing fee. Over 90 percent of informal complaints are resolved within 90 days -- a great value for everyone in the fruit and vegetable industry!

Additionally, PACA staff can help resolve contract disputes through mediation, which preserves business relationships, and keeps the fruit and vegetable industry moving forward. A great low-cost option to expensive private mediation services or lawsuits, PACA focuses on meeting the industry's needs with creative alternatives to the legal system.

In the event informal efforts fail to settle a claim, the complaining firm can file a formal reparation complaint which could result in an order issued by USDA for payment.

The PACA Division also has an Investigative Enforcement Branch. The purpose of the enforcement program is to promote compliance with the fair trading provisions of the PACA, by seeking administrative action against those firms or individuals that are not trading fairly, and by stimulating payment of past due produce transactions back to the industry when company circumstances permit.

In 1984 the PACA Trust was established, which provides produce sellers with financial protection if a customer goes bankrupt or out of business. Since its inception, hundreds of millions of dollars have been paid to qualified produce creditors under the Trust provision. PACA Trust provisions put sellers of fresh and frozen fruits and vegetables in a priority status in the event their buyers become insolvent or file for bankruptcy protection. When a supplier sells produce to a buyer, the supplier becomes eligible to participate in the Trust, whether licensed or not. In the case of a business failure or bankruptcy, the debtor's trust assets are not available for general distribution to other creditors until all valid trust claims have been satisfied. To preserve Trust rights, it is important to remember that payment terms must not exceed 30 days, and the necessary Trust language must be conveyed to the customer. Those who have a PACA license can conveniently place an official Trust paragraph on the bottom of all invoices, which will help preserve the seller's rights on every transaction.

The law requires produce dealers have a PACA license to operate a produce business. In general, any business that buys or sells wholesale quantities (2,000 lbs.) of fresh or frozen fruits and vegetables must have the license. This includes shippers, wholesalers, brokers, retailers, processors, and many e-commerce firms. Growers or farmers are not required to have a PACA license unless they purchase wholesale quantities of produce from another grower or company.

To contact a PACA office or to use our customer service line, please call us at 1-800-495-7222. This toll free number is a direct connection to someone in the PACA office, who is ready to help. Additionally, the PACA website, <http://www.ams.usda.gov/paca>, contains more valuable information, such as:

- Education and training (including online brochures about PACA services)
- Online webinars (with valuable question & answer sessions)
- Information on PACA licensing (including an online, fillable license application)
- A link to file an informal complaint
- Trust information