



United States
Department of
Agriculture

Agricultural
Marketing
Service

Fruit and Vegetable Programs-PACA Branch

“Perishable Agricultural Commodities Act (PACA) -
Working in partnership with the fruit and vegetable industry PACA facilitates fair trade
practices through education, mediation, arbitration, licensing and enforcement”

PACA Administrative Newsletter

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USDA Begins Evaluating Possible National Marketing Agreement to Address Food Safety Concerns for Leafy Greens

USDA recently invited the public – specifically growers, handlers, buyers, sellers and consumers of leafy greens – to submit comments and information that would help USDA evaluate the need and support for a nationwide program that would regulate the handling of leafy green vegetables throughout the United States. USDA is considering the program in response to public and industry concern about reducing the risk of pathogenic contamination during the production and handling of leafy green vegetables.

Many industry members might recall that in September 2006, the U. S. Food and Drug Administration (FDA) issued a public alert in response to a multi-state *E. coli* outbreak linked to fresh spinach. The resulting recall was the largest ever for leafy green vegetables. In response, members of the California industry initiated the establishment of a state marketing agreement for handlers of leafy green products. This agreement became effective Feb. 10, 2007. Members of the leafy greens industry have expressed a similar interest in establishing a national federal food safety program – similar to the California marketing

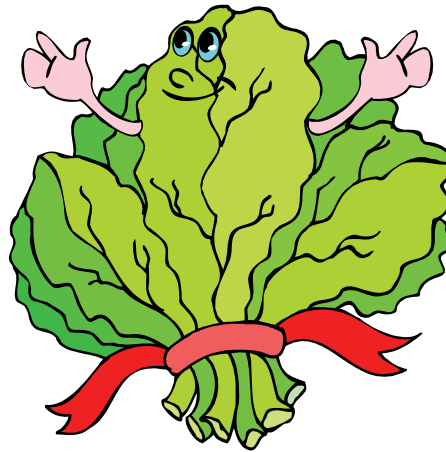
agreement – that is designed to maintain the quality of leafy green vegetables.

Options being considered by USDA include: a marketing agreement that requires handlers to comply with the agreement’s regulations after voluntarily entering the program, and a marketing order that would be implemented following a grower referendum, requiring mandatory compliance for all handlers.

The Advance Notice of Proposed Rulemaking being considered would require packers, processors, shippers and marketers, as signatories under a marketing agreement for leafy greens, to certify that their products are produced, harvested, packed, shipped, processed and/or handled based on FDA guidelines,

adopted as best practices under the agreement. The signatory handlers might be authorized to place an official certification mark on their leafy green products. This mark would certify that those products have been grown, harvested, packed, shipped, processed and/or handled in accordance with the agreement’s regulations.

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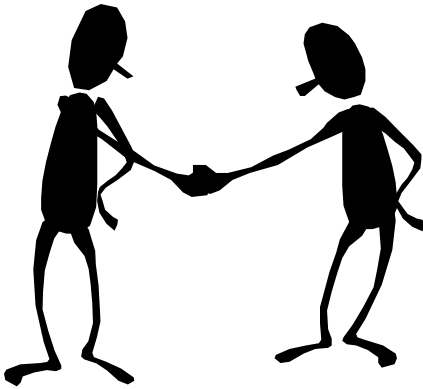


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Marketing Agreement for Leafy Greens



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Authorities and regulations under the program would not replace those of FDA, which is responsible for ensuring that foods are safe, wholesome and sanitary.

Comments on the proposal were due Dec. 3, 2007, and are now being reviewed. If the response is favorable, USDA will proceed to develop the marketing program in

cooperation with the industry. A notice of public hearing will be published in the *Federal Register*. Public comment and rulemaking will precede implementation of the proposed marketing amendment.

For more information about the proposed marketing agreement (program), contact Laurel May or Kathleen Finn at 202-720-2491, or email laurel.may@usda.gov or kathy.finn@usda.gov.

2008 Schedule Set for PACA and Inspection Training Seminars

Start the new year off right with a plan to sharpen your professional skills! Sign up now for a class to learn about PACA and produce inspection procedures. Trained professionals will inform you of your rights and responsibilities under PACA and fresh produce inspection procedures. All classes will be 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 appeals 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 2008 schedule is:

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|------------------|--------------------|
| • Jan. 28-29 | Introductory Class |
| • Jan. 30-Feb. 1 | Advanced Class |
| • June 2-3 | Introductory Class |
| • June 4-6 | Advanced Class |
| • Sept. 22-23 | Introductory Class |
| • Sept. 24-26 | 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.

Don't delay – after attending you'll feel more confident in your ability to make crucial business decisions!

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USDA Pursues Penalty for Mislabeling Produce as “Organic”

USDA has charged a California grower with falsely claiming to market certified organic produce. If the charges brought by USDA are upheld, the grower’s license to operate a produce business under PACA may be suspended for up to 90 days.

The USDA complaint alleges that between 2005 and 2006, the grower mislabeled cartons and bags of sweet potatoes he grew in Merced County, Calif. According to the complaint, the field where the sweet potatoes were grown had not been certified for organic production in conformity with USDA’s National Organic Program.

It also is alleged in the complaint that the grower sold the mislabeled sweet potatoes at higher prices than sweet potatoes from the same field that were not sold as organic. In addition, the grower is alleged to have further violated the PACA by not keeping records that fully and correctly disclose all of the transactions involved in his business.

PACA requires that all companies buying and selling fruits and vegetables in wholesale quantities be licensed to conduct business. The law prohibits a wide range of unfair trade practices such as mislabeling produce, and calls for penalties ranging from monetary fines to suspension or revocation of the PACA license.

For more information about this case, call 202-720-6873.

Information about USDA’s National Organic Program can be found at its Web site, www.ams.usda.gov/nop or by calling 202-720-3252.



PACA Complaint Fees to Go Up Soon

After remaining unchanged since 1995, PACA complaint fees will increase in 2008.

Proposed changes to PACA regulations were published in the *Federal Register* on Nov. 1, 2007, increasing the informal and formal reparation complaint fees. The changes, if finalized, will:

- Increase the informal filing fee from \$60 to \$100
- Increase the formal handling fee from \$300 to \$500

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 recommended to the Secretary of Agriculture that PACA complaint fees be increased as soon as possible.

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 cost cutting also slowed the use of the reserve fund.

The 60-day comment period ended on Dec. 31, 2007. For more information about the proposed changes, call John Koller, Director, Dispute Resolution Section, at 202-720-1442.

New COLOR PACA Brochures are Here!

The following full-color PACA brochures have been updated. They can be obtained by contacting any regional office and are also posted on our Web site, www.ams.usda.gov/fv/paca.htm.

- ***The Produce Industry’s Perishable Agricultural Commodities Act*** - Are you new to PACA? This attractive brochure gives you an overview of the PACA program and its services.
- ***PACA Fact Finder*** (in English and Spanish) - Your quick reference to frequently asked questions about PACA.
- ***Growers Trust in the PACA*** - Find out how the PACA trust provides financial protection to produce sellers if a customer goes bankrupt or out of business.
- ***PACA Mediation Services*** - Find out how PACA can help you settle your disputes and save your business relationships through mediation.
- ***Growers’ Agents’ Responsibilities Under PACA*** - If you provide services for growers such as packing, selling or marketing their crop, this handy brochure should be within easy reach. It will tell you clearly what you need to know to perform your services legally.

To request copies of any of these brochures, call 800-495-PACA or contact one of the offices on Page 4.

To download a PDF version of the current or any past issues of the ***PACA Administrative Newsletter***, visit our Web site at: www.ams.usda.gov/fv/paca.htm.

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Fruit and Vegetable Programs-PACA Branch

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

PACA Branch Office Directory

PACA Customer Service Line:
800-495-PACA

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

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

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