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# USDA AMS Fruit and Vegetable Program

**Presents...**



## Introduction to the Perishable Agricultural Commodities Act (PACA)

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[www.ams.usda.gov/paca](http://www.ams.usda.gov/paca)

# *Your Host*

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## ***Christopher Purdy***

Business Development

AMS Fruit and Vegetable Program

U.S. Dept. of Agriculture (USDA)

Tel. 202-720-3209

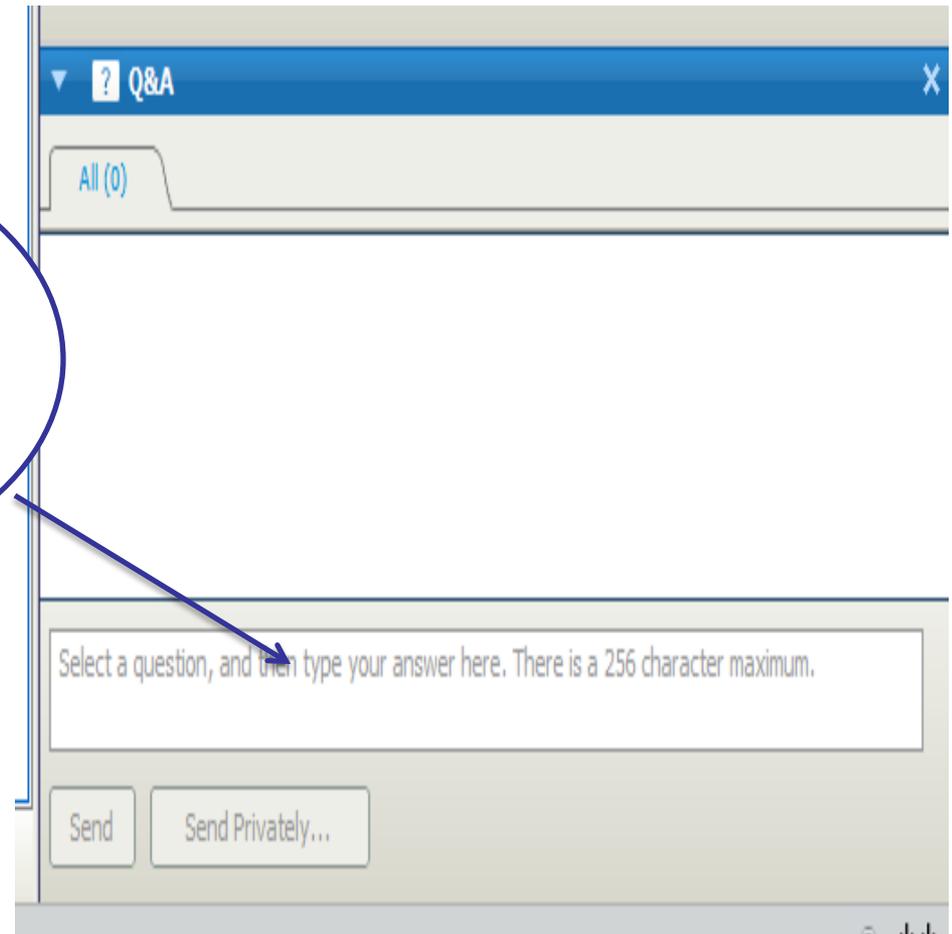
[christopher.purdy@ams.usda.gov](mailto:christopher.purdy@ams.usda.gov)

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# AMS Fruit and Vegetable Program

Help buyers and sellers market their fresh and processed fruits, vegetables and other specialty crops. We:

- Develop U. S. Grade Standards
- Grade and inspect fresh and processed product nationwide
- Collect and disseminate Market News reports and information
- Partner with industry boards and committees to help overcome marketing barriers
- Good Agricultural Practices (GAP) and Good Handling Practices
- Facilitate fair trade and dispute resolution through enforcement of the Perishable Agricultural Commodities Act (PACA)



# Today's Speaker

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***Karla Whalen***

*Director*

PACA Division

U.S. Dept. of Agriculture (USDA)  
AMS Fruit & Vegetable Program

Tel. 202-720-4180

[karla.whalen@ams.usda.gov](mailto:karla.whalen@ams.usda.gov)

[www.ams.usda.gov/paca](http://www.ams.usda.gov/paca)



# *Webinar Overview*

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- What is the PACA?
- How does the PACA work and who is required to be licensed?
- Dispute Resolution Services
- Understanding the PACA Trust

# *What is PACA?*

- PACA-Perishable Agricultural Commodities Act
- Facilitates fair trading practices in the fruit and vegetable industry
- Regulates interstate and foreign commerce
- Promotes fair trade and prompt pay



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## *Why is PACA Needed?*

- Extreme perishable nature of product
- Easy environment for unscrupulous dealers
- Misbranding or misrepresentation
- Slow pay, or no pay
- bankruptcies



# *Who Must Maintain a PACA License?*

- Brokers
- Grower's Agents
- Shippers
- Wholesaler Dealer



- Retailers
- Processors
- Commissioned Merchants

**1-800-495-PACA (7222)**

[www.ams.usda.gov/paca](http://www.ams.usda.gov/paca)

## *Who is Exempt?*

- Growers who handle only their own product
- Truckers who haul “for hire” only



# How Does PACA Work?

- Requires mandatory licenses
- Defines common language
- Establishes fair business rules
- Provides a forum for dispute resolution
- Institutes enforcement mechanism



PACA  
SEARCH

1-800-495-PACA (7222)

[www.ams.usda.gov/paca](http://www.ams.usda.gov/paca)

# ***PACA Rights and Responsibilities***

Firms and individuals operating in the fruit and vegetable industry must live up to the terms of their agreements!



[www.ams.usda.gov/paca](http://www.ams.usda.gov/paca)

# Common Complaints

- Failure to pay
- Failure to ship or deliver
- Ineffective or wrongful rejection
- Misunderstood contract terms
- Disagreement with inspection results
- Unauthorized deductions
- Bankruptcy



## *“Customer Service” Hotline*

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- Call **1-800-495-7222**, then select Option #2 for **FREE** assistance
- Staffed by fruit & vegetable experts (Spanish and Korean speakers on staff)
- Available 7AM – 7PM Mon-Fri (EST)
- Call upon delivery of a load with a potential problem

[www.ams.usda.gov/paca](http://www.ams.usda.gov/paca)

## *PACA Professionals Help You*

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- Acceptance / rejection
- “Rightful” vs. “Wrongful” rejections
- Responsibilities after rejection
- Acts of acceptance
- Breach of warranty
- Damage calculations

[www.ams.usda.gov/paca](http://www.ams.usda.gov/paca)

## *Common Language*

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- Statute—Sec. 1 (b) (1-13)  
(7 U.S.C. 499a-499t)
- Regulations Sec. 46.2 (a-ii)  
(7 C.F.R. Part 46)
- Case Precedents (80 years of produce issue resolution)



## *Dispute Resolution Branch*

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- Provides expert advice to the produce industry
- Offers mediation services for commercial disputes
  - Fast and effective way to resolve issues
  - Face-to-face or by teleconference
  - No extra cost to you!
- Handles disputes through
  - Customer Service Line
  - Informal complaint process
  - Formal complaint process



## *Dispute Resolution Branch*

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- PACA handled **8,647** industry complaints during the last 5 1/2 years (2009 – June 2014)
- Our Dispute Resolution Services handled informal claims valued at **\$305,469,860.05** (2009 – June 2014)
- **92%** of Informal Complaints were settled < 4 months!

[www.ams.usda.gov/paca](http://www.ams.usda.gov/paca)

## *When Do I File a Complaint?*

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A Reparation Complaint is filed for issues like:

- Non-payment
- Short pay
- Unfair return
- Customer must be licensed or subject to license
- Nine months from cause of action

[www.ams.usda.gov/paca](http://www.ams.usda.gov/paca)

# *Investigative Enforcement*

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- PACA may only take action after **WRITTEN** notice from outside the Division is received.
- Examples of unfair trade practice include:
  - Fraud
  - Non payment
  - Employing people under employment restrictions
  - False or misleading statements
  - Misbranding/Mislabeled

## *Statistics*

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- Up to 60–90 investigations pending
- On average may file 25-30 complaints with judge
- Settlement and civil penalty resolutions authorized

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# *PACA Trust Basics*

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- Applies to all fruit and vegetable purchases
- Insolvency or bankruptcy does not affect debtor's liability
- A Seller must "perfect" their trust rights



## *What are PACA Trust assets?*

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- Fruit and vegetable inventory
- Products derived from fruit and vegetables
- All receivables/proceeds from the sale of these fruits and vegetables

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# *Requirements for Trust Protection*

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- Notification to the buyer within 30 days
- Payment terms other than 10 days must be in writing & may not exceed 30 days
- Two methods to provide notice

[www.ams.usda.gov/paca](http://www.ams.usda.gov/paca)

## *Providing Trust Notice*

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- Licensee via “magic language” on invoice or customary billing instrument
- Non-licensee via separate written notice providing material terms of the transaction
- See more details on our website at:  
[www.ams.usda.gov/paca](http://www.ams.usda.gov/paca)

## *What is the “Magic Language”?*

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*The perishable agricultural commodities listed on this invoice are sold subject to statutory trust authorized by section 5(c) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499e(c)). The seller of these commodities retains a trust claim over these commodities, all inventories of food or other products derived from these commodities, and any receivables or proceeds from the sale of these commodities until full payment is received.*

# *PACA and the F&V Industry*

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A 2012 study by the Bureau of Labor Statistics (BLS) indicated retail sales (both fresh and processed forms) of fruits and vegetables for at-home consumption was \$90.9 billion.

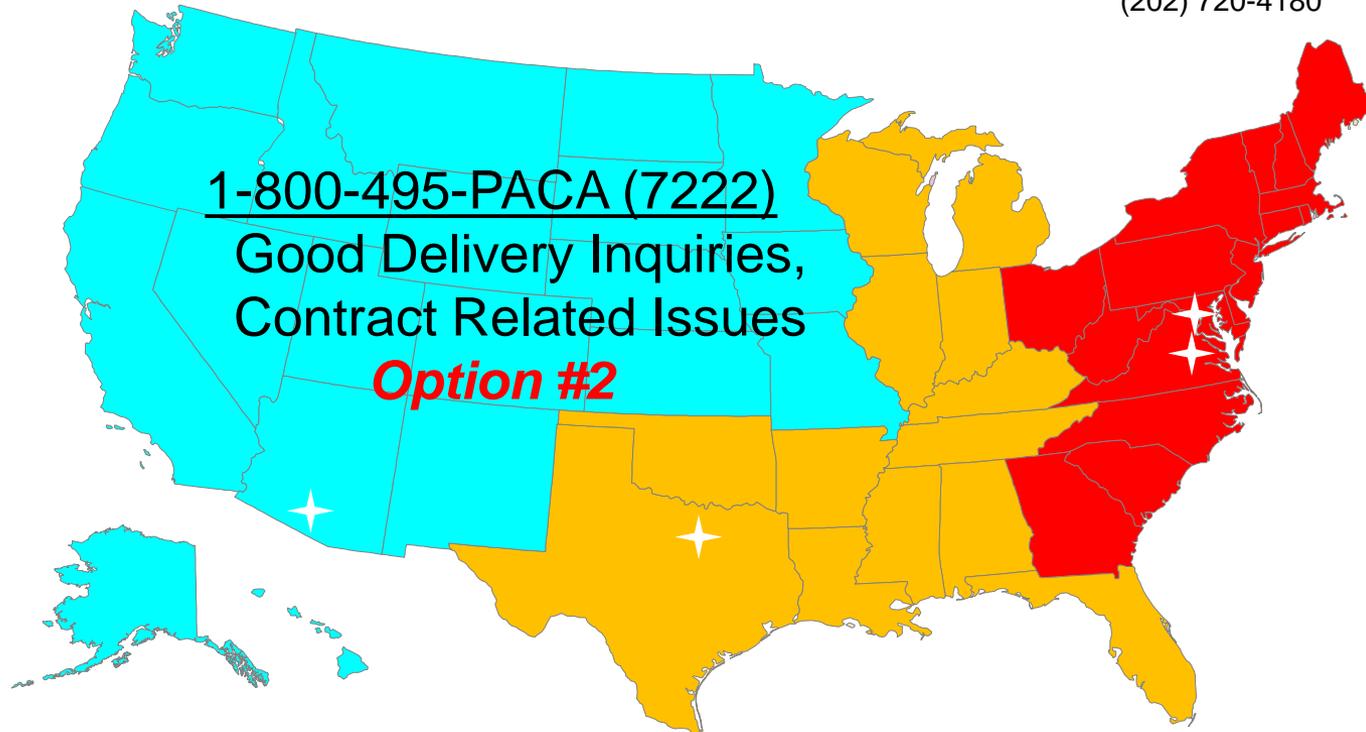
A 2012 study by Bureau of Economic Analysis (BEA) indicated the value was \$103.8 billion.

***The PACA Division, for less than \$10 million, ensures a GROWING industry through mandatory licensing, dispute resolution, enforcement, and the protection of the PACA Trust.***

# PACA Offices

PACA Investigative Enforcement Branch (IEB) (202) 720-6873  
Misbranding Officer **Option #6**  
PACA Dispute Resolution Branch (DRB) (202) 720-2890  
PACA National License Center (NLC) Toll Free (800) 495-7222 **Option #1**

**PACA Division Headquarters (PACA HQ)**  
1400 Independence Ave SW  
Room 1510-S, Stop 0242  
Washington, DC 0250-0242  
(202) 720-4180



 **Western Regional Office (WRO)**  
Tucson Federal Building  
300 West Congress St Room 7 T  
Tucson, Arizona 85701-1319  
Toll Free (800) 495-7222  
**Option #5**

 **Central Regional Office (CRO)**  
819 Taylor Street Suite 8B02  
Fort Worth, Texas 76102-9727  
Toll Free (800) 495-7222  
**Option #4**

 **Eastern Regional Office (ERO)**  
100 Riverside Parkway, Suite 101  
Fredericksburg, VA 22406  
Toll Free (800) 495-7222  
**Option #3**



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## Fair Trading Regulations

### 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.

### Education and Training

- [Online PACA Training](#)
- [Seminars and Presentations](#)
- [Produce Inspection Training Program](#)
- [Frequently Asked Questions](#)
- [Industry Trade Terms](#)
- [RedBook University Presentation - "PACA 101" \(2/11/10\)](#)
- [Top Ten Contract Issues Causing Confusion in the Produce Industry](#)

### Dispute Resolution

- [General Information](#)
- [How to File an Informal Complaint](#)
- [Mediation Services](#)

### Licensing

- [Why a PACA License is Necessary](#)
- [Who Needs a PACA License](#)
- [License Application \(PDF\)](#)
- [Search Current Licensees using \*\*PACA SEARCH\*\*](#)
- [License and Employment Bonds](#)
- [License Restrictions and Bond Requirements](#)
- [PACA Fee Increase - Proposed Rule, March 11, 2010, Federal Register](#)

### Fair Trade Enforcement

- [Reporting Unfair Trade Practices](#)

### Additional Information

- [PACA Overview](#)
- [PACA Statute](#)
- [Sample PACA Reparation Cases by Subject Matter](#)
- [PACA Commodities List](#)
- [Recent Complaint Decisions \(PDF\)](#)
- [PACA Office Directory](#)

[More..](#)

### Regulations

- [PACA Regulations](#)
- [Complaint Rules of Practice](#)
- [Disciplinary Rules of Practice](#)
- [PACA Rulemaking](#)

### PACA Trust

- [Trust Protection](#)
- [How to Preserve Trust Rights](#)

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