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# USDA AMS Fruit and Vegetable Program

*Presents...*



## An Overview of the PACA Complaint Process

April 30, 2014

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



## *Your Host*

### *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)

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



# 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 product
- Collect and disseminate Market News reports and information
- Partner with industry boards and committees to help overcome marketing barriers
- Facilitate fair trade and dispute resolution through enforcement of the Perishable Agricultural Commodities Act (PACA)

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



## *Your Speaker*

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### ***John Koller***

Chief

Dispute Resolution Branch

PACA Division

AMS Fruit and Vegetable Programs

U.S. Dept. of Agriculture (USDA)



Tel. 202-720-2890

[John.koller@ams.usda.gov](mailto:John.koller@ams.usda.gov)

[disputeresolutionsection@ams.usda.gov](mailto:disputeresolutionsection@ams.usda.gov)

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

# *Webinar Topics*

- PACA Basics
- PACA Complaint Process
- Industry Terms
- Inspection Certificate
- And More



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

# *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



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

# Why is PACA Needed?

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



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

# *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)

# *How Does PACA Work?*

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



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

# *PACA Rights and Responsibilities*

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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



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

# *Who May File Complaints?*

- Growers
- Unpaid Sellers
- Associations for their members
- Attorneys, on behalf of their clients
- Sales agents
- Grower's agents on behalf of shippers
- Foreign traders
- Buyers seeking damages

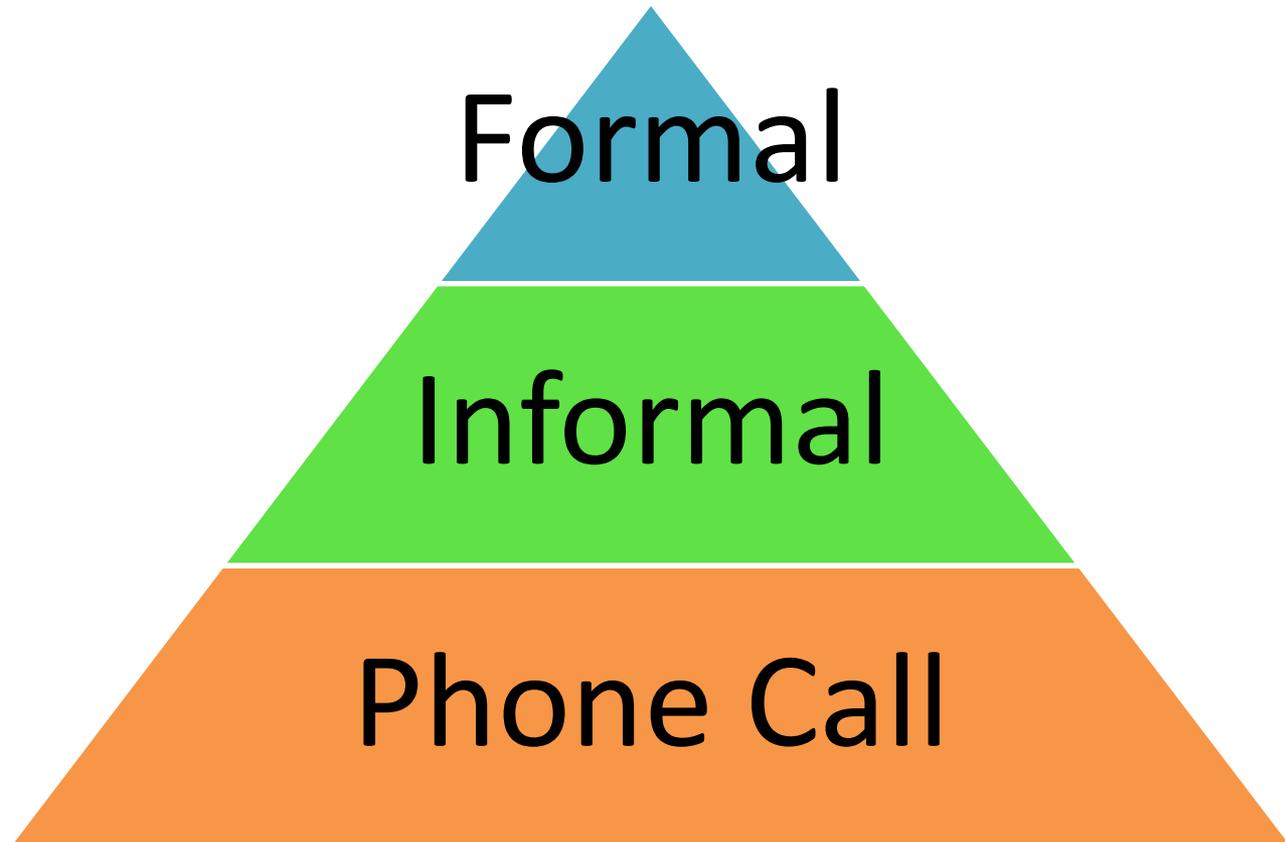


[www.ams.usda.gov/paca](http://www.ams.usda.gov/paca)



# *PACA's Complaint Process*

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# *Tier 1. Phone Call to “Good Delivery” Hotline*

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

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



## *Tier 2. Informal Complaints*

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- Submit transaction information and invoices in writing expressing your desire to file an informal complaint
- Can be faxed, mailed, or emailed
- Include a \$100 filing fee
- Must be filed within 9 months of the due date or cause of action



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

# Informal Complaint Worksheet

**INFORMAL COMPLAINT TO BE FILED UNDER  
THE PERISHABLE AGRICULTURAL COMMODITIES ACT**

**Complaining Party:** Date: \_\_\_\_\_  
 Company Name: \_\_\_\_\_ Contact Person: \_\_\_\_\_  
 Address: \_\_\_\_\_ Phone No: \_\_\_\_\_  
 \_\_\_\_\_ Fax No: \_\_\_\_\_  
 PACA License No.: \_\_\_\_\_ Email: \_\_\_\_\_

**Complaint To Be Filed Against:**  
 Company Name: \_\_\_\_\_ Contact Person: \_\_\_\_\_  
 Address: \_\_\_\_\_ Phone No: \_\_\_\_\_  
 \_\_\_\_\_ Fax No: \_\_\_\_\_  
 PACA License No.: \_\_\_\_\_ Email: \_\_\_\_\_

If there is a dispute, or the complaint does not involve unpaid invoices, please state your claim below. You may also attach a separate letter describing the dispute. Please be sure to include copies all relevant documents, such as invoices, passings, bills of ladings, and inspections. If a broker was involved, please provide name and address of the broker, along with copies of the confirmations of sale, and/or any other documents issued by the broker.

**Please Provide Your Written Explanation Below:**

Please use the table below to list the unpaid invoices. If you require more space you may use a separate sheet of paper to list the invoices and amounts due.

Invoice No.	Date Shipped	Invoice Amount	Amount Paid	Balance Due
Total Claim Amount:				

- Documents and items required with this complaint:**
- \$100 Filing Fee. Please make checks payable to "USDA-AMS"
  - Include copies of supporting transaction documents such as: Invoices, Revised Invoices, Passings, Account Statements, Credit Memorandums, Payment Term Agreements, Contracts, Bills of Lading, Confirmations of Sale, and Inspection Certificates

**Please Note: Complaints received without the Filing Fee cannot be processed.**

**INFORMAL COMPLAINT TO BE FILED UNDER  
THE PERISHABLE AGRICULTURAL COMMODITIES ACT**

**If you prefer, you may pay the filing fee with a credit card. If so, please provide the following information:**

Check Type of Credit Card:  Visa  MasterCard  American Express  Discover

Indicate Credit Card Charge Amount:  Informal, \$100  Formal, \$500  Other, \$ \_\_\_\_\_

Account No: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

Card Holder Name: \_\_\_\_\_ Card Holder Signature: \_\_\_\_\_  
(Please Print as Shown on Card)

Daytime Phone No: \_\_\_\_\_ Contact Name: \_\_\_\_\_

**USDA PACA Field Offices:**

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

U.S. Department of Agriculture  
 AMS, F&V Programs, PACA Branch  
 Tucson Federal Building, Room 7 T  
 300 West Congress Street  
 Tucson, AZ 85701-1319  
 Telephone: 800-495-7222 (toll free) Ext. #5  
 Fax: 520-670-4798  
**States Served:** AZ, CA, CO, ID, IA, KS, MN, MO,  
 MT, ND, NM, NE, NV, OR, SD, UT, WA, WY, AK, HI

U.S. Department of Agriculture  
 AMS, F&V Programs, PACA Branch  
 819 Taylor Street  
 Suite 8B02  
 Fort Worth, Texas 76102-9727  
 Telephone: 800-495-7222 (toll free) Ext. #4  
 Fax: 817-978-0786  
**States Served:** AL, AR, FL, IL, IN, KY, LA,  
 MI, MS, OK, TN, TX, WI

U.S. Department of Agriculture  
 AMS, F&V Programs, PACA Branch  
 8700 Centreville Road, Suite 206  
 Manassas, VA 20110-8411  
 Telephone: 800-495-7222 (toll free) Ext. #3  
 Fax: 703-330-4856  
**States Served:** CT, DC, DE, GA, ME, MD, MA, NC,  
 NH, NJ, NY, OH, PA, RI, PR, SC, VA, VI, VT, WV, Guam

# *Complaint Triggers*

What are the most common problems discussed on our Customer Service Line?

- Unpaid Invoices
- Good Delivery of a load
- Rejection
- Acceptance



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

## Suitable Shipping Condition and Good Delivery

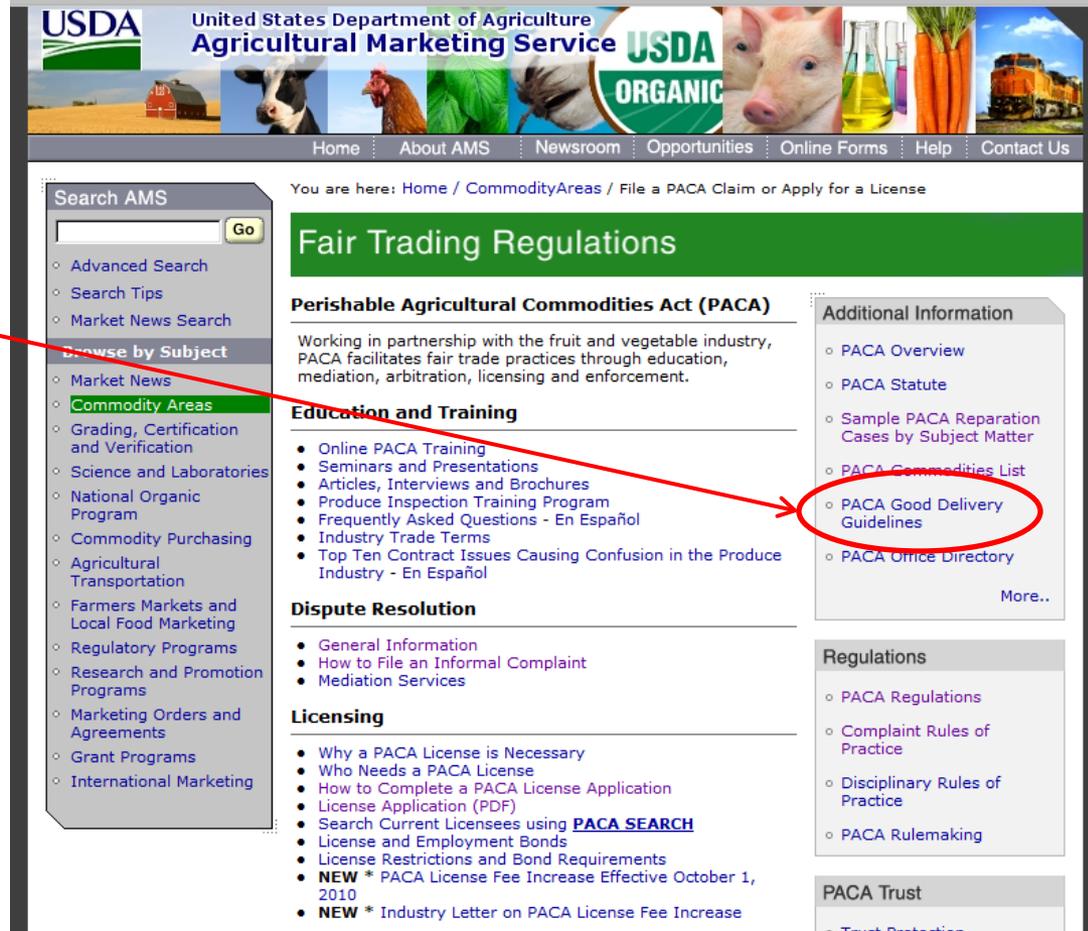
- Used interchangeably in the industry
- At time of shipment, product handled under normal transportation conditions, will arrive without abnormal deterioration at the contract destination
- Protect your rights & document your efforts
  - Submit a trouble report



# Good Delivery

Good Delivery guidelines on our website

- Cantaloupes
- 4% decay
- 3% soft
- 9% Bruising
- 16% Total



The screenshot shows the USDA Agricultural Marketing Service website. The main heading is "Fair Trading Regulations". Below this, there are sections for "Perishable Agricultural Commodities Act (PACA)", "Education and Training", "Dispute Resolution", and "Licensing". A red circle highlights the link "PACA Good Delivery Guidelines" in the "Additional Information" sidebar. A red arrow points from the text "Good Delivery guidelines on our website" to this link.

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- Farmers Markets and Local Food Marketing
- Regulatory Programs
- Research and Promotion Programs
- Marketing Orders and Agreements
- Grant Programs
- International Marketing

You are here: Home / CommodityAreas / File a PACA Claim or Apply for a License

## 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
- Articles, Interviews and Brochures
- Produce Inspection Training Program
- Frequently Asked Questions - En Español
- Industry Trade Terms
- Top Ten Contract Issues Causing Confusion in the Produce Industry - En Español

### Dispute Resolution

- General Information
- How to File an Informal Complaint
- Mediation Services

### Licensing

- Why a PACA License is Necessary
- Who Needs a PACA License
- How to Complete a PACA License Application
- License Application (PDF)
- Search Current Licensees using [PACA SEARCH](#)
- License and Employment Bonds
- License Restrictions and Bond Requirements
- **NEW** \* PACA License Fee Increase Effective October 1, 2010
- **NEW** \* Industry Letter on PACA License Fee Increase

#### Additional Information

- PACA Overview
- PACA Statute
- Sample PACA Reparation Cases by Subject Matter
- PACA Commodities List
- **PACA Good Delivery Guidelines**
- PACA Office Directory

More..

#### Regulations

- PACA Regulations
- Complaint Rules of Practice
- Disciplinary Rules of Practice
- PACA Rulemaking

#### PACA Trust

- Trust Protection

# *Good Delivery Guidelines*

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<b>COMMODITY</b>	<b>U.S. GRADE STANDARDS</b>	<b>MAXIMUM % OF DEFECTS ALLOWED</b>	<b>OPTIMUM TRANSIT TEMP (F)†</b>	<b>CHILLING INJURY?</b>
Cantaloupes	12-6-2 (Destination)	15-8-5	36-41	Yes

The guidelines allow:

- 15% Total
- 8% Serious Damage
- 5% Decay

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

# Keys to the Inspection Certificate

- Inspection Date and Time
- Loading Status
- Temperatures
- Quantity
- Defects
- Grade Certification
- Plus shipment date

USDA U.S. DEPARTMENT OF AGRICULTURE AGRICULTURAL MARKETING SERVICE http://FPBInspections.ams.usda.gov		INSPECTION CERTIFICATE	T-000-0167-00020
			PAGE 1 of 1
CARRIER or LOT ID: LOT 1212	APPLICANT: (000000000)TEST APPLICANT	REQUESTED: 12/13/2007 1:07 PM	
LOADING STATUS: UNLOADED	WASHINGTON, DC	STARTED: 12/14/2007 8:00 AM	
STATED BY: APPLICANT	SHIPPER: TEST APPLICANT	COMPLETED: 12/14/2007 8:04 AM	
ADDITIONAL ID: NA	WASHINGTON, DC	PASSWORD FOR ONLINE ACCESS	
CARRIER TYPE:NA	MARKET OFFICE: HQ	5S25S27CKCSZN5YZ	
REFRIG UNIT: NA	DOORS: NA	INSP SITE: APPLICANT'S STORE	ESTIMATED FEE: NO CHARGE
REMARKS: INSPECTION BASED ON US NO. 1, 1/2 INCH MINIMUM, AT APPLICANT'S REQUEST.			
<b>LOT A (QAC) - ASPARAGUS, FRESH</b>			
TEMP: 37° to 39°F	INSP CT: YES	NUMBER OF CONTAINERS: 843 CARTON(S)	ORIGIN: PU
MARKINGS: BRAND: EAT GOOD MARKINGS: EAT GOOD, NET WT. 11 LBS., MARKED: SMALL			
PLI: NONE, 5		OTHER ID:	
<b>INJURY</b>	<b>DAM</b>	<b>SER DAM</b>	<b>V.S. DAM</b>
<b>OFFSIZE/DEFECTS</b>			
NA	12	0	NA
DIAMETER UNDER SPECIFIED MINIMUM 1/2 INCH (4 to 18%)			
NA	2	0	NA
QUALITY DEFECTS (0 to 4%)(HOLLOW STALKS)			
NA	1	0	NA
SPREADING (0 to 2%)			
NA	0	0	NA
DECAY			
NA	15	0	NA
CHECKSUM			
GRADE:	FAILS TO GRADE U.S. NO. 1 ACCOUNT UNDERSIZE.		
LOT DESC:	DIAMETER: MOSTLY 6/16 TO 10/16 INCHES IN DIAMETER. PACK: FAIRLY TIGHT		
I, the undersigned, a duly authorized inspector of the United States Department of Agriculture, do hereby certify that at the request of the applicant and on the date indicated, samples of the herein described product were inspected and the quality and/or condition as shown by said samples were as herein stated.			
Warning: Any person who knowingly shall falsely make, issue, alter, forge, or counterfeit this certificate or participate in any such actions, is subject to a fine of not more than \$1,000 or imprisonment for not more than one year, or both.		Signature: 0167 - CRANE, GARY M	Date: 12/14/2007
FORM FV-E300 (1.0.12.1)			

# *Acceptance*

**Acceptance** of a load includes: diversion, unloading, and/or failure to notify the seller of a rejection

- A single shipment of one or more products sold and delivered on a single contract is a Commercial Unit
- Such units must be accepted or rejected in their entirety



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# Rejection

**Rejection** – Timely notice of rejection must be given in order to have an effective **rejection**

- Once an effective **rejection** is made, the ownership of the product reverts back to the seller
- If there is not an effective **rejection**, the product remains the responsibility of the buyer



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

# *Informal Complaint Process*

## What happens in the informal process?

- PACA Investigator gathers and analyzes case facts
- Shares conclusion with parties and attempts settlement
- Option to pursue formal complaint



# *Mediation Services*

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- PACA offers mediation services for commercial disputes
  - Fast and effective way to resolve issues
  - Face-to-face or by teleconference
  - Little extra cost to you



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

# *Mediation Example*

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- Mutually beneficial solutions to disagreements
- Saving business relationships



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

## *Tier 3. Formal Complaints*

### Formal Complaints require the following:

- Submission of original and notarized document
- Include two copies
- Include a \$500 filing fee
  - Recoverable if the respondent is found violating the PACA
- Claim interest if stated on invoice



## *Formal Complaints (cont'd)*

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### What happens next?

- A Formal Claim will be served
- the Respondent is given 20 days to answer
- failing to answer may result in a Default Order

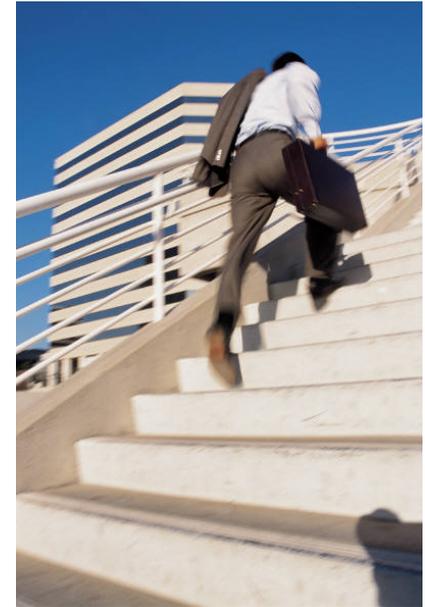


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## *Formal Complaints (cont'd)*

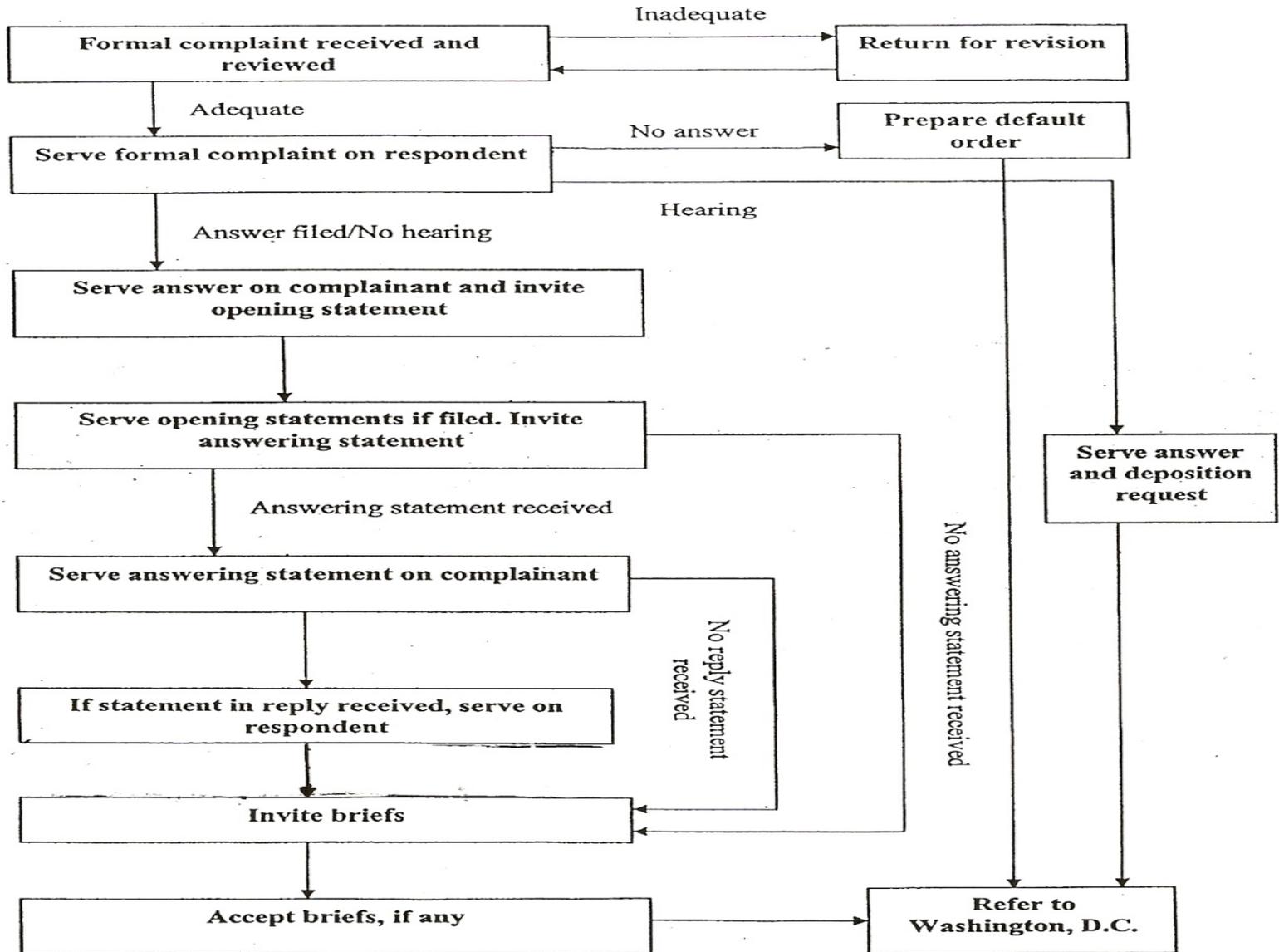
### What if an answer is submitted?

- Rules of Practice
- Step by step process
- Can take from one to six months
- Send to Washington DC for decision
- Turn around can be up to four months
- Less than a year for final outcome



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# Formal Complaint Process in Regional Office



## *Formal Decision Issued*

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### **After the decision is issued, what next?**

- Award is paid
- Or license suspended or sanctions imposed
- Press Release issued
- Take Decision to Civil Court for judgment
  - Enforce trust
- PACA monitors the firm and principals
- Industry lets PACA know of activities

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

# *The PACA Trust*

- What is the PACA Trust
- A Seller must pursue this option through U.S. District Court
- A reparation complaint can be pursued at the same time as a Trust action
- Go to PACA Homepage – click “Trust” Link



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



# PACA Offices

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

### PACA DIVISION HEADQUARTERS

Washington, DC 20250-0235

Toll Free - 1.877.770.5990

Office of the Director - 202.720.4180

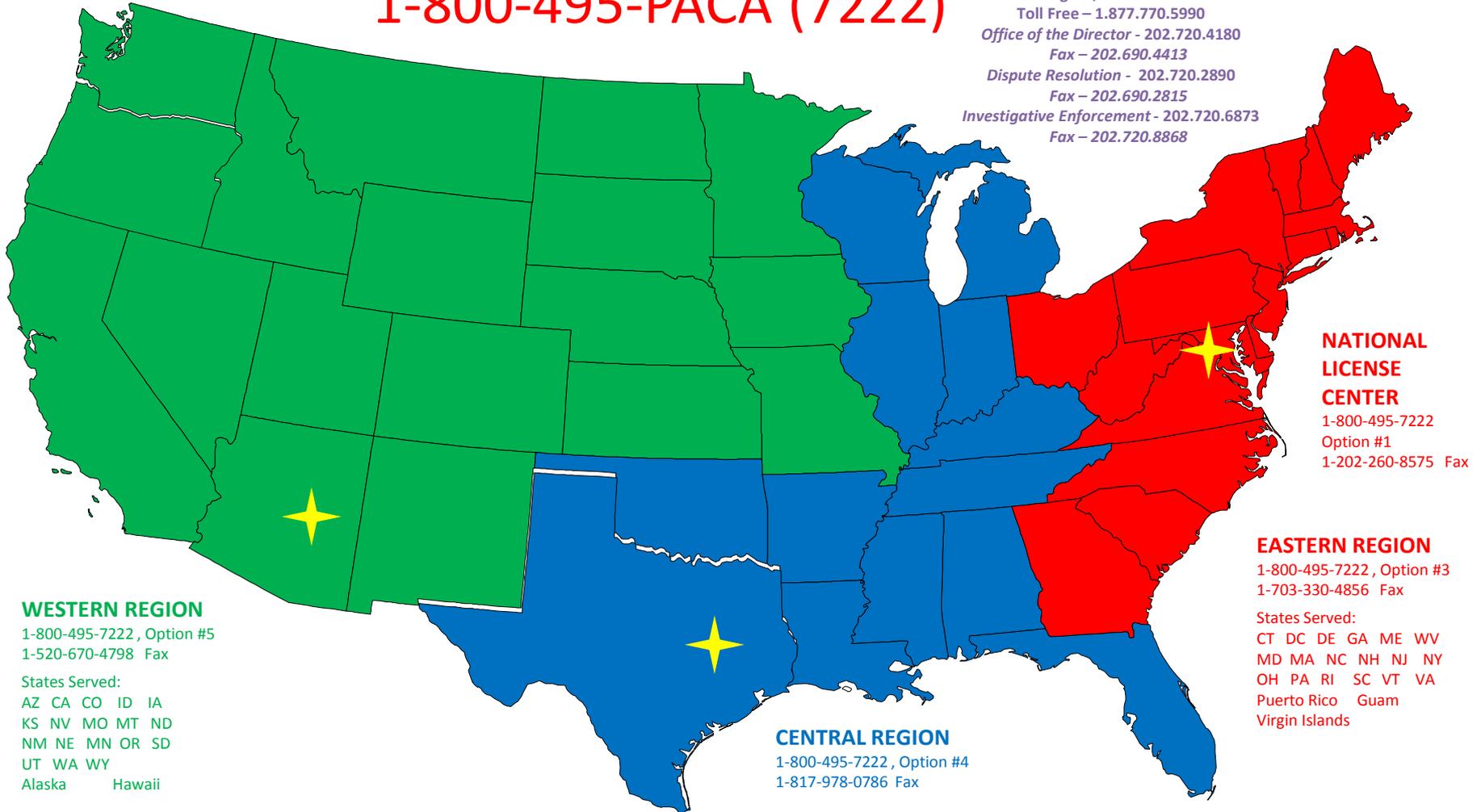
Fax - 202.690.4413

Dispute Resolution - 202.720.2890

Fax - 202.690.2815

Investigative Enforcement - 202.720.6873

Fax - 202.720.8868



### WESTERN REGION

1-800-495-7222, Option #5  
1-520-670-4798 Fax

States Served:

- AZ CA CO ID IA
- KS NV MO MT ND
- NM NE MN OR SD
- UT WA WY
- Alaska Hawaii

### CENTRAL REGION

1-800-495-7222, Option #4  
1-817-978-0786 Fax

States Served:

- AL AR FL IL IN KY
- MI MS OK TN TX WI LA

### NATIONAL LICENSE CENTER

1-800-495-7222  
Option #1  
1-202-260-8575 Fax

### EASTERN REGION

1-800-495-7222, Option #3  
1-703-330-4856 Fax

States Served:

- CT DC DE GA ME WV
- MD MA NC NH NJ NY
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- [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](#)

### Additional Information

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

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

### PACA Trust

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

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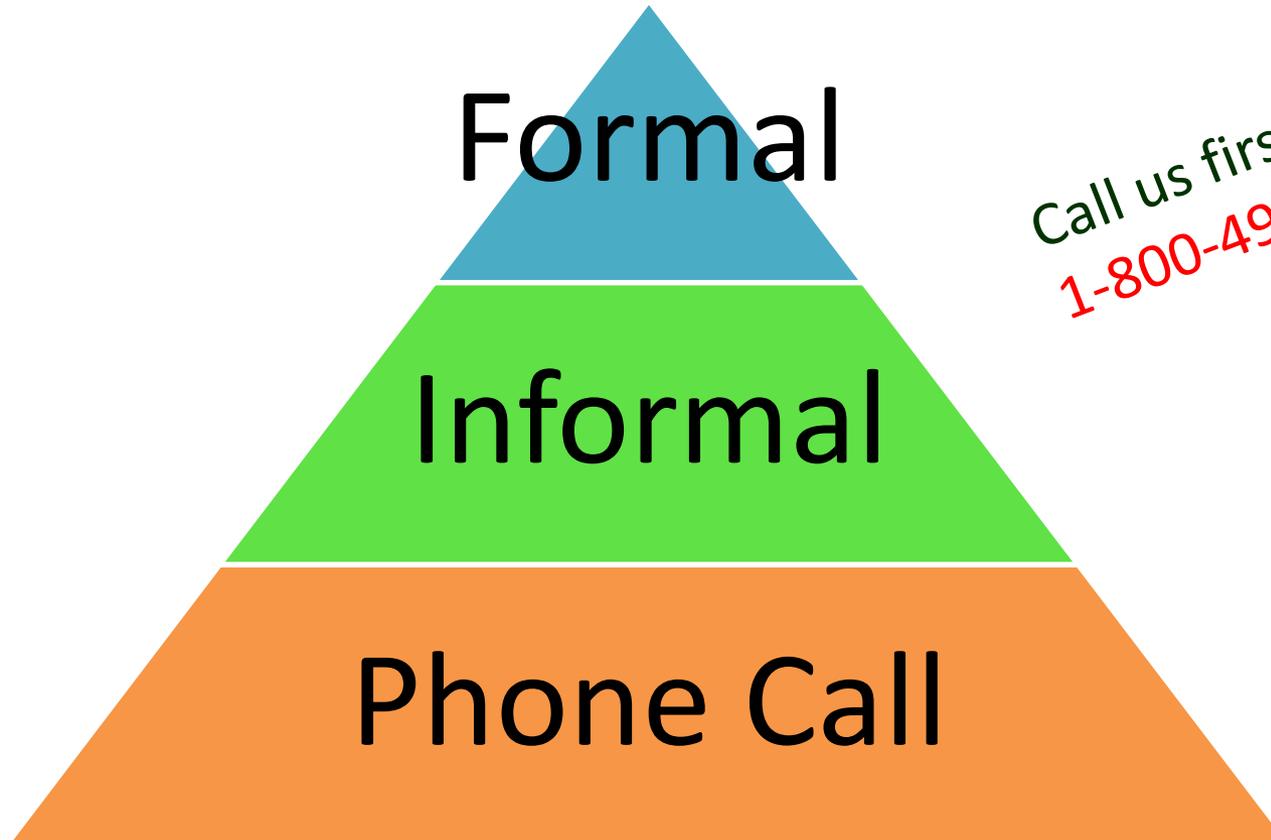
 

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# *PACA's Complaint Process -- Recap*



Call us first:  
**1-800-495-7222, #2**

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# Other PACA Webinars

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- Interpreting USDA Fruit & Vegetable Inspections: Does the shipment make good delivery? (Dec. 2013)  
<https://amsfv.webex.com/amsfv/lsr.php?RCID=9fd8b46631b97924c9f84f1cf28dfa64>
- The PACA Complaint Process--An Interactive Discussion (Aug. 2013)  
<https://amsfv.webex.com/amsfv/lsr.php?RCID=446aaba8e99af05c18418cad6a00f3ed>
- An Introduction to PACA—In Korean (Jan. 2014)  
<https://amsfv.webex.com/amsfv/lsr.php?RCID=a555c13bcfa6f65089b475a5f42ce1db>



# Your Speaker

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## ***John Koller***

Chief

Dispute Resolution Branch

PACA Division

AMS Fruit and Vegetable Programs

U.S. Dept. of Agriculture (USDA)



Tel. 202-720-2890

[John.koller@ams.usda.gov](mailto:John.koller@ams.usda.gov)

[disputeresolutionsection@ams.usda.gov](mailto:disputeresolutionsection@ams.usda.gov)

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