
USDA AMS Fruit and Vegetable Program

Presents...



An Overview of the PACA Complaint Process

April 30, 2014

www.ams.usda.gov/paca



Your Host

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U.S. Dept. of Agriculture (USDA)

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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)



Your Speaker

John Koller

Chief

Dispute Resolution Branch

PACA Division

AMS Fruit and Vegetable Programs

U.S. Dept. of Agriculture (USDA)



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Webinar Topics

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



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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



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Who Must Maintain a PACA License?

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



- Retailers
- Processors
- Commissioned Merchants

1-800-495-PACA (7222)

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How Does PACA Work?

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



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PACA Rights and Responsibilities

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



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Common Complaints

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



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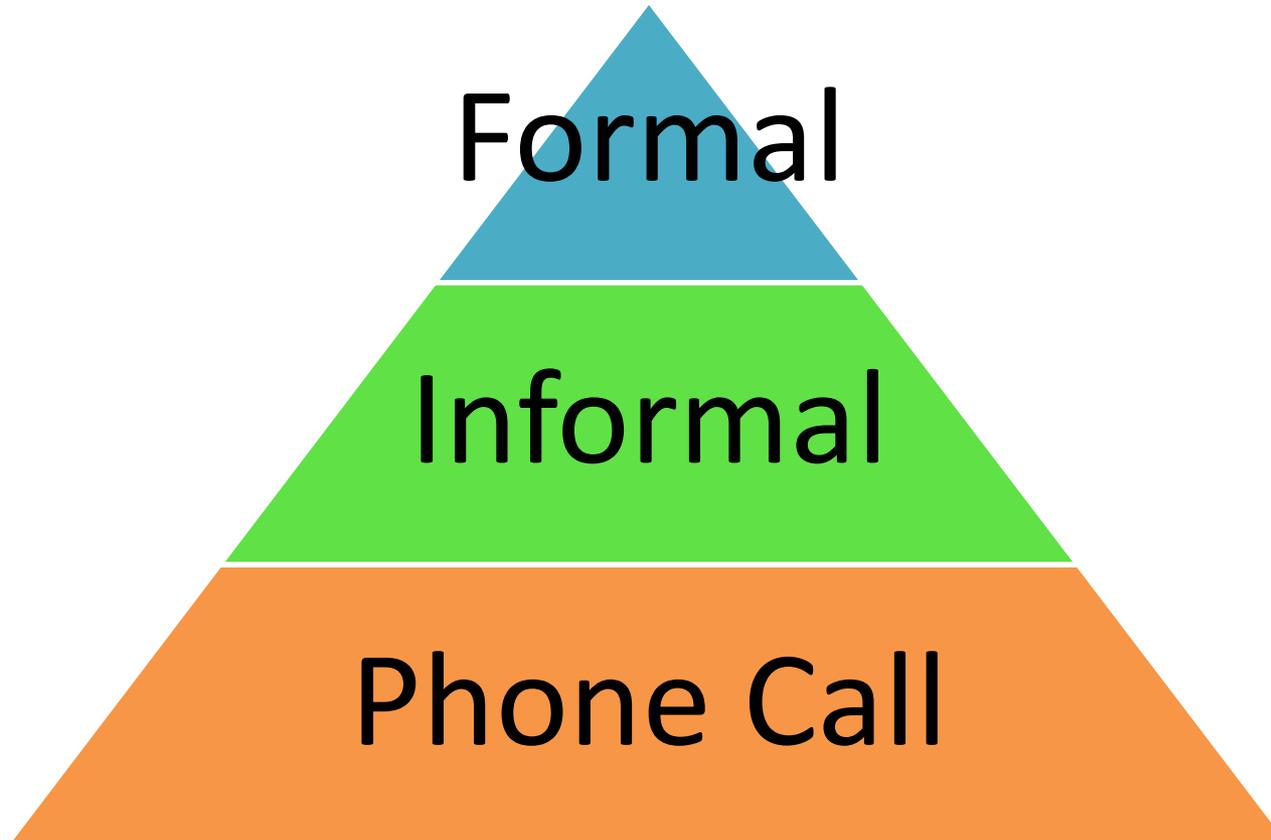
Who May File Complaints?

- 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



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PACA's Complaint Process



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Tier 1. Phone Call to “Good Delivery” Hotline

- 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)

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Tier 2. Informal Complaints

- 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



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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 lading, 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:

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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



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Good Delivery

Suitable Shipping Condition and Good Delivery

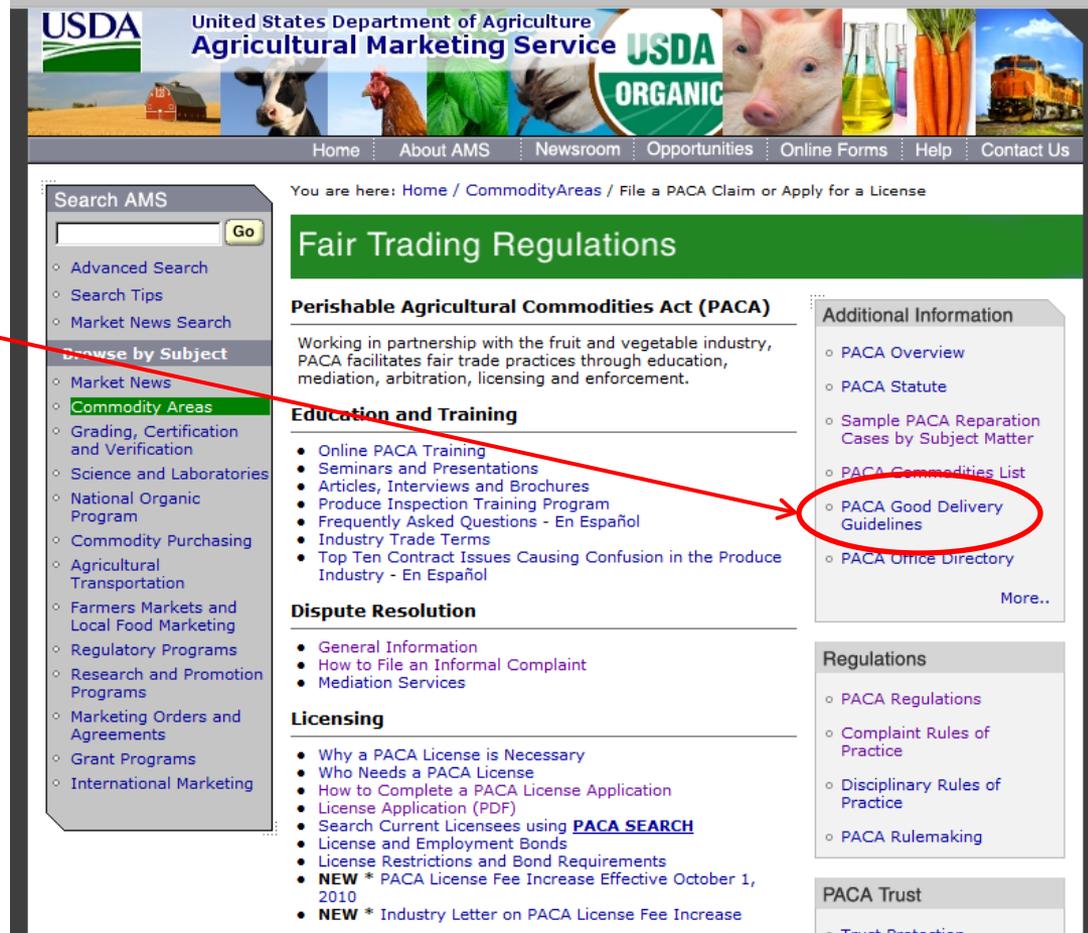
- Used interchangeably in the industry
- At time of shipment, product handled under normal transportation conditions, will arrive without abnormal deterioration at the contract destination
- Protect your rights & document your efforts
 - Submit a trouble report



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 navigation bar includes links for Home, About AMS, Newsroom, Opportunities, Online Forms, Help, and Contact Us. The breadcrumb trail indicates the user is in the 'CommodityAreas' section. The page title is 'Fair Trading Regulations'. The main content area is divided into sections: 'Perishable Agricultural Commodities Act (PACA)', 'Education and Training', 'Dispute Resolution', and 'Licensing'. The 'Education and Training' section contains a list of links, with 'PACA Good Delivery Guidelines' circled in red. A red arrow points from the text 'Good Delivery guidelines on our website' to this link. The 'Additional Information' sidebar on the right also lists 'PACA Good Delivery Guidelines' as a link.

Good Delivery Guidelines

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

The guidelines allow:

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

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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. | | | | |
| LOT A (QAC) - ASPARAGUS, FRESH | | | | |
| 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: | | |
| INJURY | DAM | SER DAM | V.S. DAM | OFFSIZE/DEFECTS |
| 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 | | | |
| <small>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.</small> | | | | |
| <small>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.</small> | | | 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



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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

- 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



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Mediation Example

- Mutually beneficial solutions to disagreements
- Saving business relationships



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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)

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

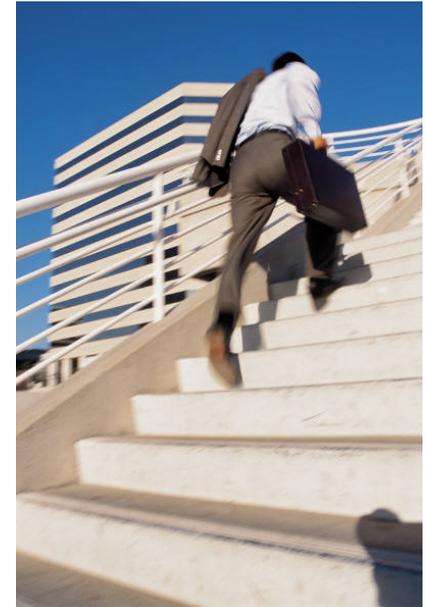


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Formal Complaints (cont'd)

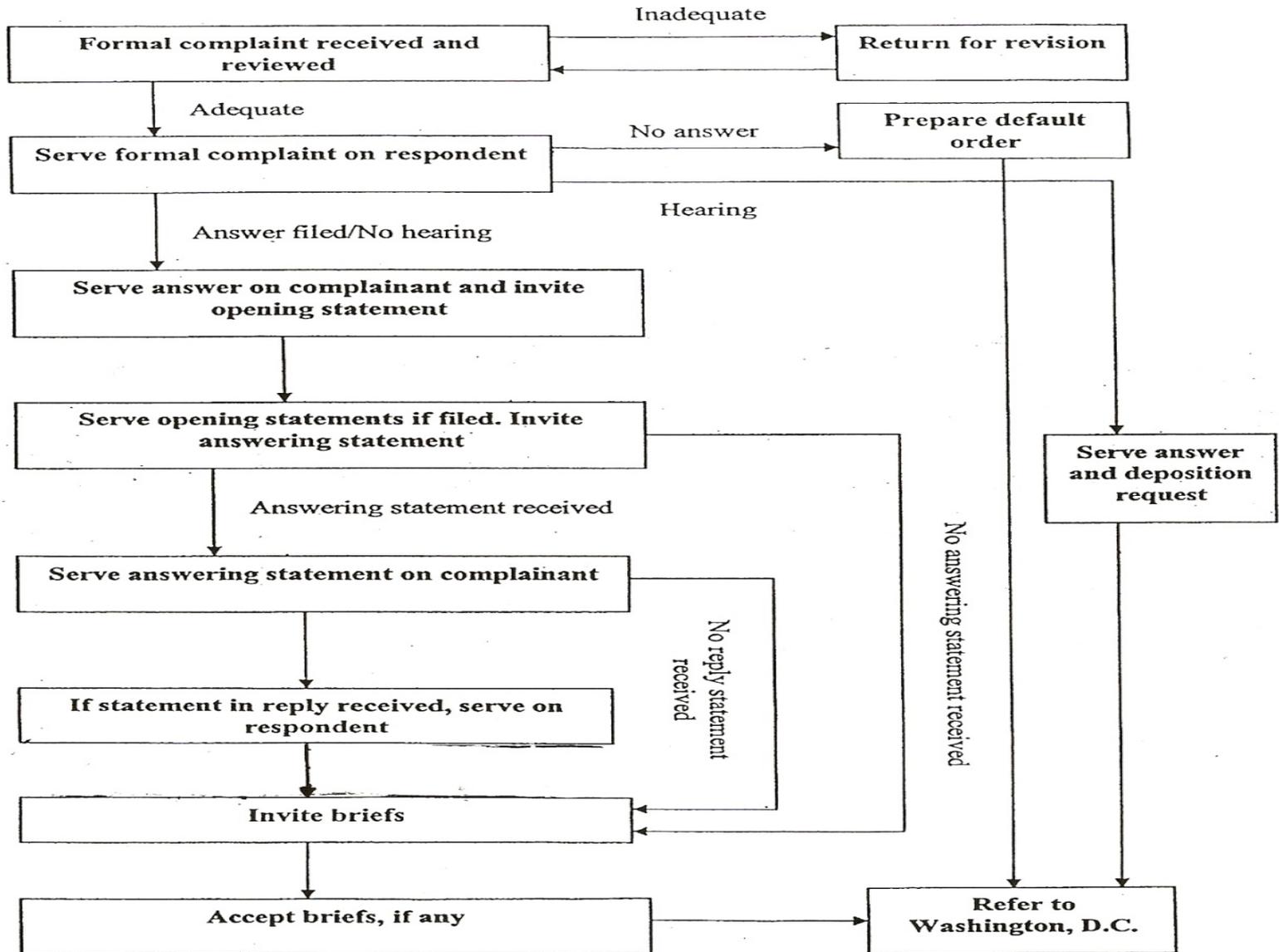
What if an answer is submitted?

- 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

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

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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



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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

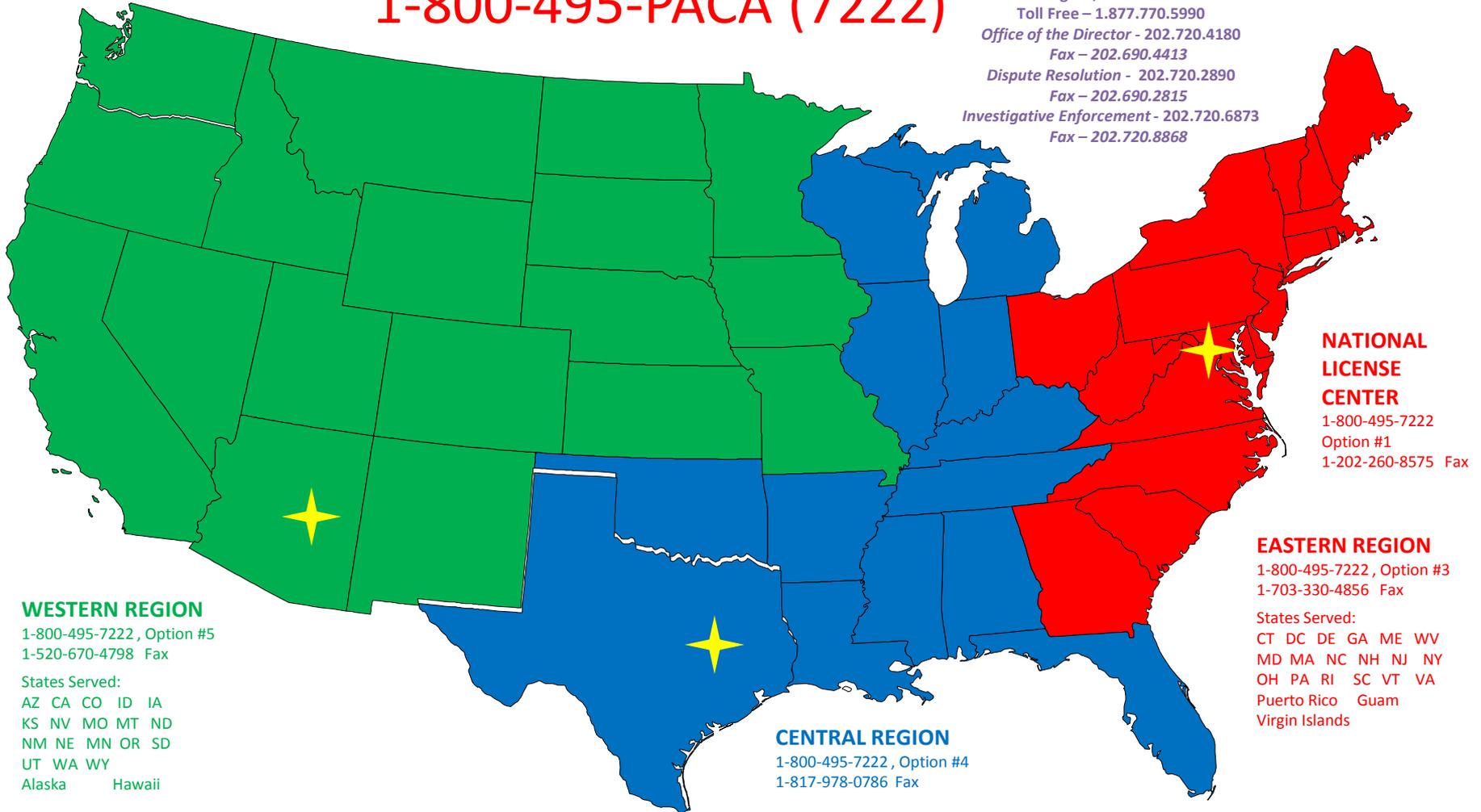
Fax - 202.690.4413

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

OH PA RI SC VT VA

Puerto Rico Guam

Virgin Islands



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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](#)

Additional Information

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

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- [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

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[More..](#)

Regulations

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

PACA Trust

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

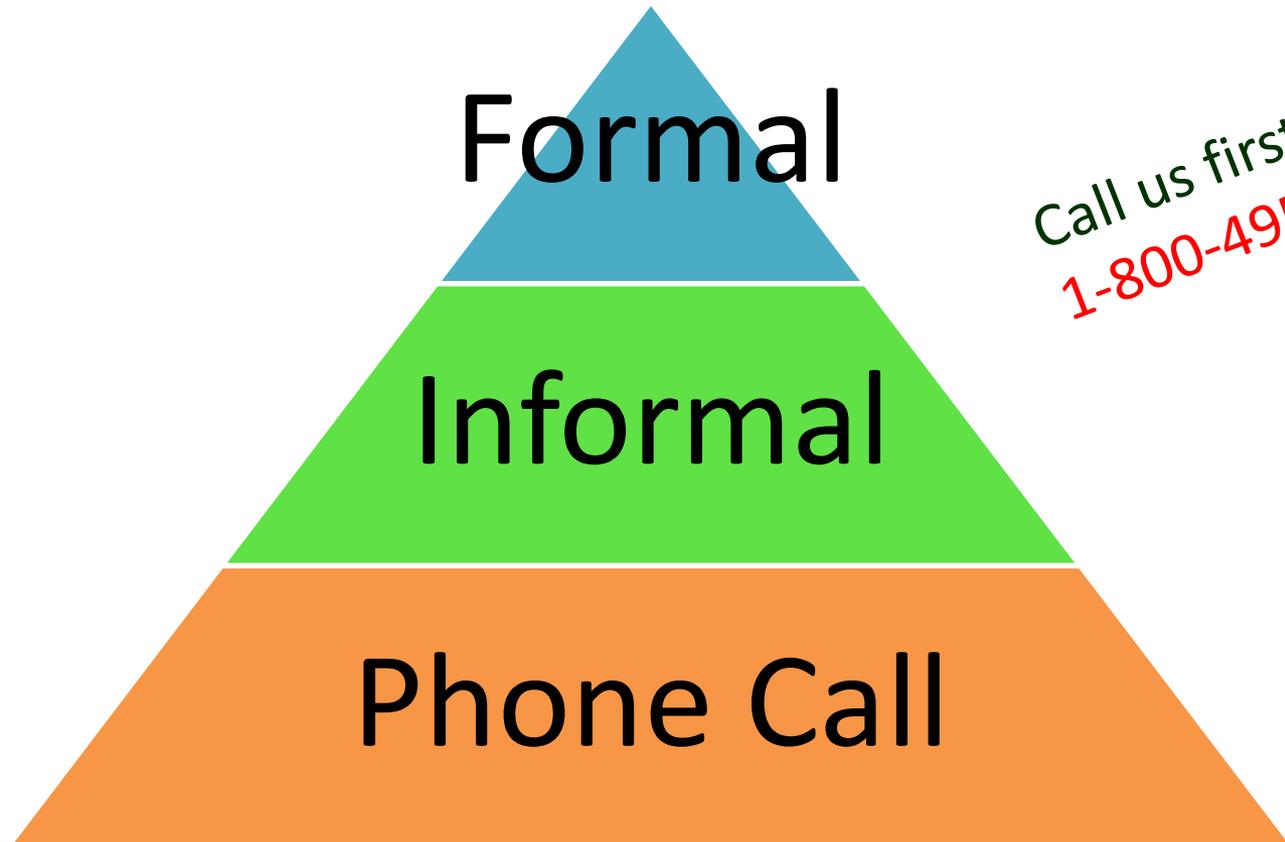
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- [Industry Marketing and Promotion](#)
- [International Marketing](#)

PACA's Complaint Process -- Recap



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

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Other PACA Webinars

- 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>



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