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# USDA AMS Fruit and Vegetable Programs

*Presents...*



**The PACA Complaint Process:  
An Interactive Discussion**  
August 22, 2013

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

## *Your Speaker*

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PACA Division

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# *Webinar Topics*

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



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# *How Does PACA Work?*

- Defines common language
- Establishes fair business rules
- Provides a forum for dispute resolution



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# ***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!



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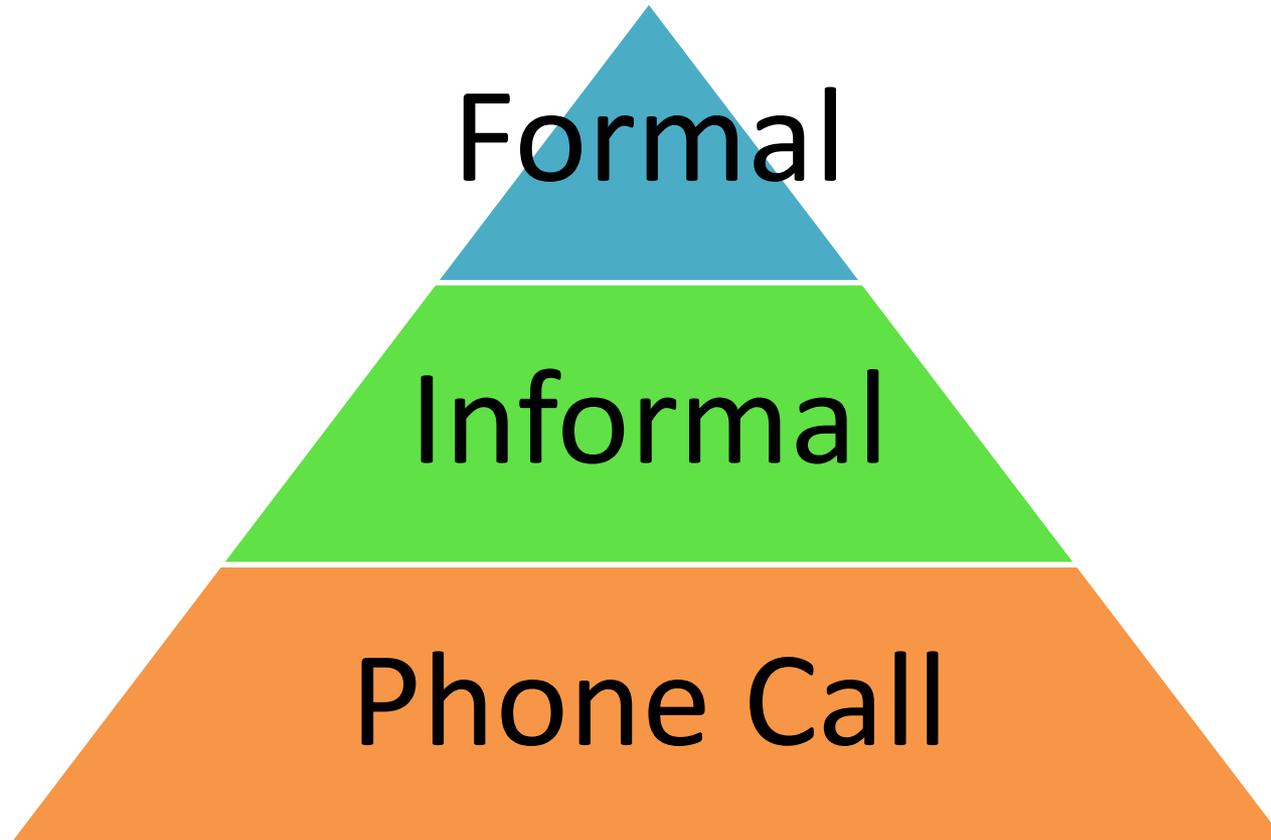
# *Who May File Complaints?*

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



# ***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)

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## *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



## 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 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'. On the right side, there is an 'Additional Information' sidebar with a list of links. One link, 'PACA Good Delivery Guidelines', is circled in red. A red arrow points from the text 'Good Delivery guidelines on our website' to this circled link.

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- Marketing Orders and Agreements
- Grant Programs
- International Marketing

**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

**Regulations**

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

**PACA Trust**

- Trust Protection

# *Good Delivery Guidelines*

<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:

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

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## *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** -- An effective **rejection** must be timely and notice of rejection must be performed in a timely manner

- 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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## ***Tier 3. Formal Complaints***

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### **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 claimed on invoice



## *Formal Complaints (cont'd)*

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### **What happens next?**

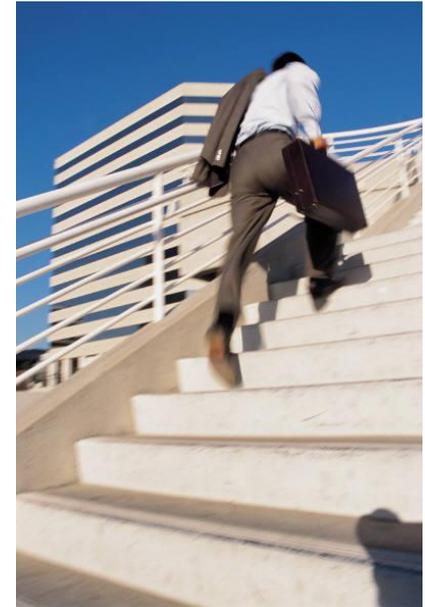
- A Formal Claim will be served
- the Respondent is given 20 days to answer
- failing to answer may result in a Default Order



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### **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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### **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 trust rights
- 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

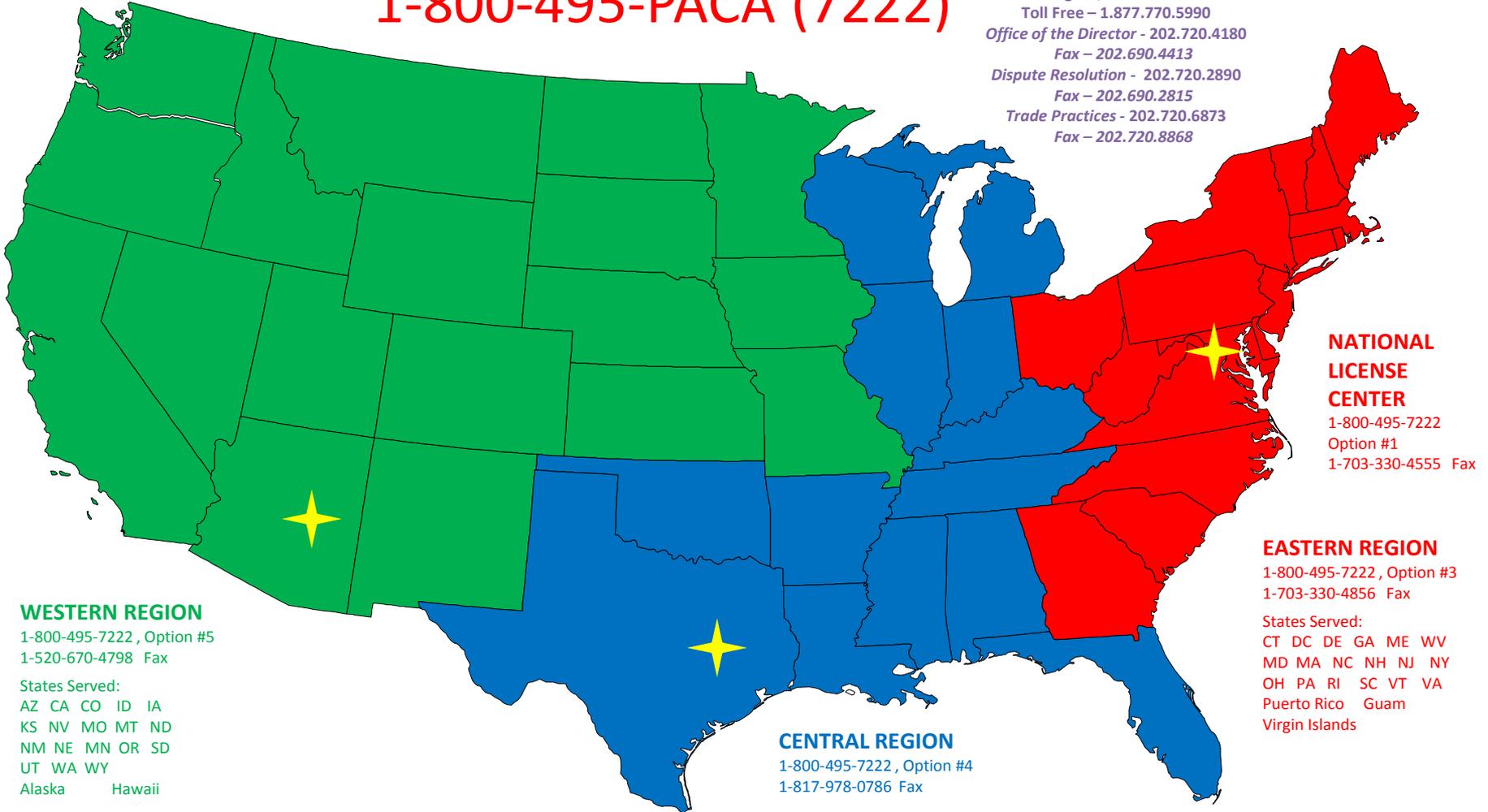
Fax - 202.690.4413

Dispute Resolution - 202.720.2890

Fax - 202.690.2815

Trade Practices - 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

1-703-330-4555 Fax

### EASTERN REGION

1-800-495-7222, Option #3

1-703-330-4856 Fax

States Served:

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## Fair Trading Regulations

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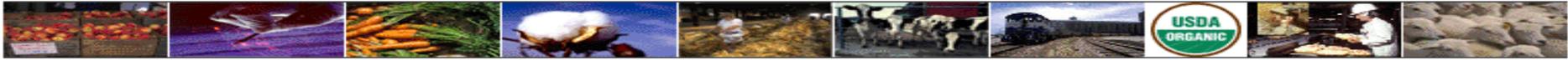
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- [Online PACA Training](#)
- [Seminars and Presentations](#)
- [Produce Inspection Training Program](#)
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- [Industry Trade Terms](#)
- [RedBook University Presentation - "PACA 101" \(2/11/10\)](#)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

### Additional Information

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- [PACA Fee Increase - Proposed Rule, March 11, 2010, Federal Register](#)

### Fair Trade Enforcement

- [Reporting Unfair Trade Practices](#)

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### PACA Trust

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- [How to Preserve Trust Rights](#)

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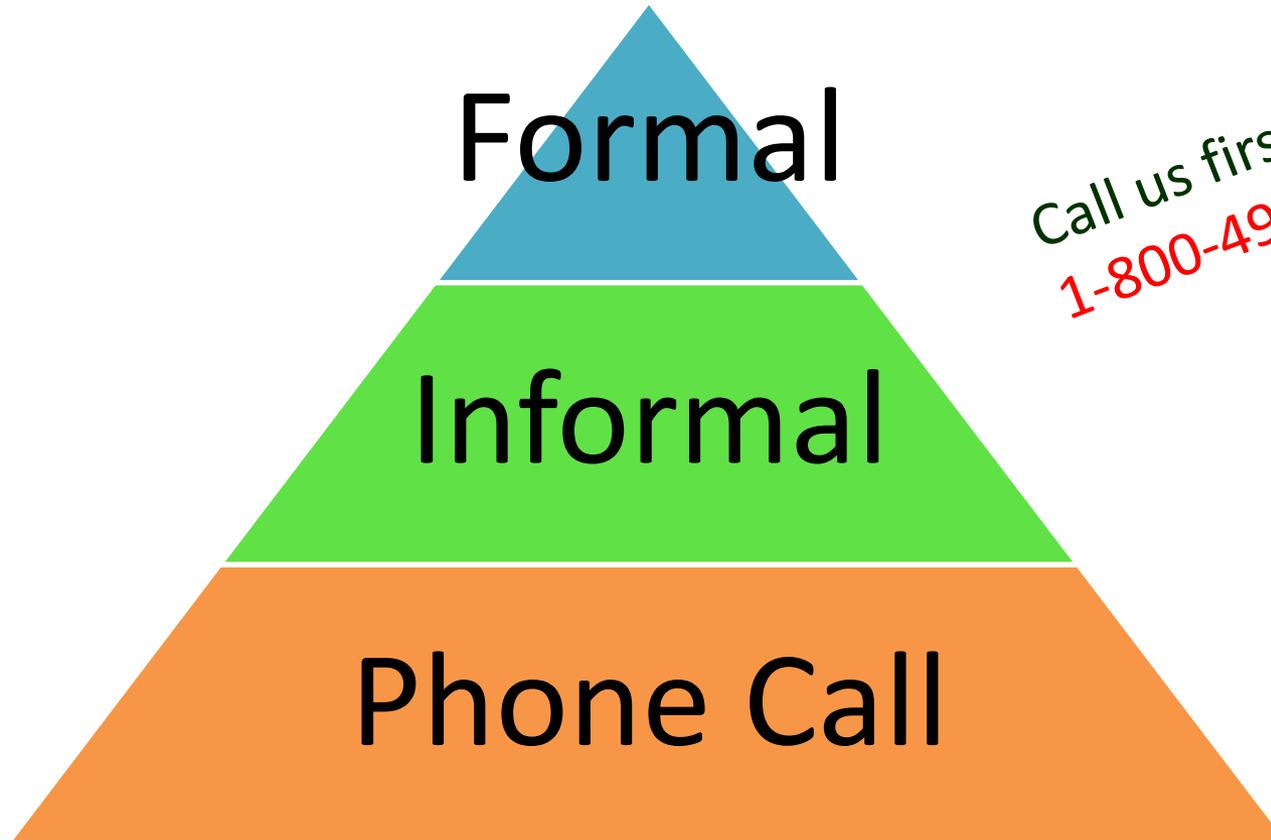
 

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# *PACA's Complaint Process -- Recap*



*Call us first:  
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# Your Speaker

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