Perishable Agricultural Commodity Act (PACA)

...facilitating fair trade practices in the fruit and vegetable industry through education, mediation, arbitration, licensing and enforcement.

1-800-495-7222(PACA)
www.ams.usda.gov/fv/paca.htm
What is the PACA?

The **Perishable Agricultural Commodities Act (PACA)** Federal Statute administered by the USDA

--- Establishes a code of fair trading practices covering the marketing of fresh and frozen fruits and vegetables in interstate and foreign commerce.

--- Protects growers, shippers, distributors, retailers and others who deal in fruits and vegetables by prohibiting unfair and fraudulent practices.

--- Industry sponsored and financed.
How Does It Work?

- Traders required to maintain a PACA license.
- Complaints can be filed against that license.
- License can be suspended or revoked for violations of the PACA statute.
- Employment sanctions.
PACA LICENSEE'S RIGHTS AND RESPONSIBILITIES

• Generally, PACA requires that firms and individuals operating in the F&V industry live up to the terms of their agreements.
• Sellers must ship the quantity and quality specified.
• Buyers must accept shipments that meet contract specifications.
• Licensees must pay bills promptly.
• Licensees must keep adequate records in accordance with the type of business their engaged in.
• Licensees must avoid misbranding product.
PACA Statute Requires:

- Sellers to deliver their produce as specified and timely;
- Container markings to accurately reflect the contents;
- Buyers to promptly pay for contracted purchase;
- Proper labeling
Who needs a PACA license?

Almost everyone who deals in fresh or frozen fruit and vegetables in interstate and foreign commerce

– Dealers who buy or sell 2,000 lbs of produce in a given day
– Brokers of fresh and frozen produce and grower’s agents
– Retailers who purchase $230,000 or more of produce per calendar year
Is there a penalty for operating without a PACA license?

Companies that operate without a valid PACA license are subject to fines of up to $1,200 for each offense and $350 each day the offense continues.

Court injunctions can be issued against those who persist in operating without a license.
PACA Trust

• Added to Statute 1984, amended 1995.
• Mechanism to protect creditors if buyer out of business or in bankruptcy.
• Trust rights must be preserved
  ➢ Within 30 days
  ➢ Language on invoices (licensees)
Protecting Trust Rights

- 30 days is the maximum payment time allowed to still exercise your PACA Trust rights.
- Parties may choose different times
- Terms other than 10 days must be in writing before the transaction occurs
- Terms may not exceed 30 days
PROTECTING TRUST RIGHTS

• Whether verbally or in writing, extending terms outside the regulation results in forfeiture of your PACA Trust rights.

• Leniency and flexibility to long-time business associates in difficult economic conditions is a challenge…. but don’t sacrifice your rights!

• PACA Trust Assets include:
  ➢ Fruit & vegetable inventories
  ➢ Products derived from fruit & vegetables
  ➢ All receivables and proceeds from the sale of fruit & vegetables
PACA Trust Filing

Notice of intent to preserve benefits under the trust must be in writing, delivered to the debtor, and must include the following information:
PACA Trust Filing

• The names and addresses of the trust beneficiary, seller-supplier, commission merchant, or agent and the debtor.
• The date of the transaction, commodity, invoice price, and terms of payment.
• The date of receipt of notice that a payment instrument has been dishonored.
• The amount past due and unpaid.
• must include the statement that it is a **notice of intent to preserve trust benefits**
The following statement on an invoice or other billing statement:
"The perishable agricultural commodities listed on this invoice are sold subject to the 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 Program Resources

- Website [www.ams.usda.gov/fv/paca.htm](http://www.ams.usda.gov/fv/paca.htm)
  - License Database
  - On-line and Free Training Program
  - Suitable Shipping Guidelines
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James Bright is the Branch Chief of the National License Center a division of PACA. Mr. Bright has over 30 years of service working for the PACA Division. During his career Jim has served in many roles and capacities. He has served as a Senior Marketing Specialist, Assistant License Section Branch Chief, and Assistant to the Division Director. Jim also worked as a Senior Agricultural Advisor for two tours of duty in Afghanistan and Iraq on the Provincial Reconstruction Team (PRT).

Denetra McPherson has over 9 years of service working for PACA. She is one of four Legal instrument Examiners that oversee the licensing of entities in the produce business. She works closely with the produce industry educating them on their rights and responsibilities with PACA.