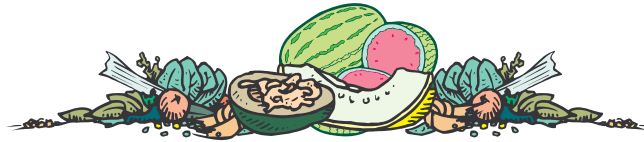


# VEGETABLE CROPS HOTLINE

A newsletter for commercial vegetable growers prepared by the  
Purdue University Cooperative Extension Service

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**PACA - A VALUABLE TOOL FOR GROWERS** - (James Frazier) - Your crop is harvested and ready to market. Getting to this point hasn't been easy. You've endured sleepless nights worrying about weather conditions, bank loans, and spray schedules. You've spent thousands of hours working tirelessly to ensure that your crop is top quality and will provide the best return on your investment. But until you've actually received payment for your hard-earned labors, and the checks have cleared the bank, all of your time and effort has been for nothing.

Producing a crop is only half the job. The rest involves marketing. Too often, however, growers encounter a myriad of difficulties when selling and marketing their produce. Some of the more common dilemmas include buyers who arbitrarily "clip" invoices, or don't pay at all; loads that get rejected at destination without justification; and sales agents who don't properly account for sales and expenses. Any of these can put your entire business at risk. But whom can you turn to when problems like these arise?

**PACA Can Help** - The Perishable Agricultural Commodities Act, or PACA for short, protects growers, shippers, distributors, and retailers dealing in fresh and frozen fruits and vegetables by prohibiting unfair and fraudulent trade practices, and by providing a forum that growers and others can use to settle commercial disputes. PACA is administered by the U.S. Department of Agriculture and is funded almost entirely by license and complaint fees that are paid by companies that buy, sell, or broker commercial quantities of fruits and vegetables. This license requirement is what makes the law so effective. USDA can suspend or revoke the license of firms that don't abide by the law, and hold them liable for any damages that result. Naturally, the type of penalty issued depends upon the seriousness and nature of the violation.

**Dispute Resolution** - What should you do if you encounter problems getting payment from a buyer, or believe that you have suffered damages resulting from unfair trade practices? Your first step should be to call a USDA PACA Branch office to discuss the matter. PACA Branch representatives provide expert, unbiased assistance; whether this involves interpreting a contract term, analyzing an inspection result, or merely providing advice regarding your rights and responsibilities. Frequently, timely guidance is sufficient to avoid any further action on your part. There are instances, however, when

disputes are not so easily settled. In those cases, you'll need to file a claim with a PACA office.

To file a claim, simply submit a letter to any PACA Branch office outlining who you are filing against and the nature of your complaint. Along with your letter, you will need to send copies of any supporting evidence such as invoices, broker's memoranda of sale, accountings, or other paperwork. Also, keep in mind that you must file your claim within 9 months of date that payment became due, or the date that performance of the contract was required. The cost of filing a claim is only \$60.

Once the PACA Branch office receives your complaint, they will gather the relevant facts from all parties involved in the dispute and assist in reaching a settlement. The PACA Branch handles more than 2,000 such cases each year. We resolve about 75 percent of these claims informally, generally within 8 weeks. However, if informal settlement is not possible, the USDA will issue a binding decision and order. Although it costs an additional \$300 to obtain a formal ruling, you can recover this fee from the other party, if you prevail.

**Sales Agents** - Many growers hire sales agents to sell and market their crop. Although arrangements vary, agents typically receive a percentage of the sales price as their commission, and may also be entitled to deduct other expenses. The PACA requires that agents outline the duties and responsibilities of both parties in writing before the first lot is received. In addition, agents must

issue you accurate accountings documenting the sales prices obtained and the expenses deducted from each transaction. Agents are generally required to submit these accountings in 10-day intervals throughout the season, and must promptly pay you the net proceeds due once payment is collected. If you believe your sales agent has not met its responsibilities, you should speak to a PACA Branch specialist. If necessary, you can file a claim and a PACA Branch representative will audit the agent's records to determine whether any additional proceeds are due.

**Mediation Service** - Mediation is an effective way to resolve disputes, since it places the resolution of the dispute directly in the hands of the interested parties. It provides an outlet for settling differences outside of the legal system, strengthens business relationships, and provides a forum where both parties can air their differences in a neutral atmosphere. All PACA Branch personnel that handle disputes are trained in mediation, and can mediate your dispute upon request provided both parties are agreeable. Mediation sessions can be held face-to-face or over the telephone. Furthermore, there is no additional cost to mediate a dispute beyond the initial \$60 filing fee. To obtain more information about this service, or to arrange for mediation of a dispute, you can contact any PACA Branch office.


**Trust Protection** - PACA's dispute resolution and mediation services are important tools that produce businesses can utilize to resolve disputes that sometimes occur between trading partners. But what can you do when a customer owes you money and then goes out of business or files bankruptcy? The PACA trust provision requires that dealers maintain a statutory trust on fruits and vegetables received but not yet paid for. In the case of a business failure, the debtor's trust assets are not available for general distribution to other creditors until all valid trust claims have been satisfied. Because of this, suppliers that file for trust protection have a far greater chance of recovering money owed them when a buyer goes out of business.

To preserve your trust rights, the PACA requires that you, within 30 days from the payment due date, provide to the debtor a written notice stating your intent to preserve your trust rights, including in the notice information about the unpaid transaction. Since specific information is needed for the notice to be valid, it would wise to call a PACA Branch office and speak with a representative before you prepare your notice. The requirement for providing written notification to the debtor applies to all who want to preserve trust rights, whether they are a PACA-licensed firm or an unlicensed grower.

If you have a PACA license, however, the law allows you to automatically file for trust protection simply by including the following wording on your invoice: "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."

The PACA law is here to ensure fairness and offers many services to assist you. For additional information, call any PACA Branch office or visit our website address at [www.ams.usda.gov/fv/paca.htm](http://www.ams.usda.gov/fv/paca.htm). After all, you've worked too hard to be treated unfairly! James Frazier is Chief of the PACA Branch, Fruit and Vegetable Programs, U.S. Department of Agriculture.

PACA Branch Offices		
Tucson, AZ (888) 639-0575	Glen Ellyn, IL (888) 639-0423	N. Brunswick, NJ (877) 471-7720
Arlington, TX (888) 901-6137	Manassas, VA (888) 639-9236	

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**HERBICIDE USE UNDER PLASTIC MULCH** - (*Elizabeth Wahle*) - Many growers are using plastic mulch to improve earliness in vegetable production, but care must be given selecting and using a pre-emergent herbicide under the plastic mulch when not using fumigation. Thoroughly read the label to determine if an herbicide can be used under plastic mulch with your particular vegetable crop, and what restrictions may apply to your production method. Not all labeled herbicides for a particular crop can be applied under plastic, and some crops may have the restriction of row middle spraying only. In general, herbicides that are volatile in nature are restricted in their use under plastic. Injury has been shown to occur under plastic with volatile herbicides. For herbicides that do have a label for use under plastic mulch, there is usually a minimum 7 day wait period from the application of the herbicide and installation of the plastic mulch to when planting can occur. Another restriction may develop depending on how the plastic mulch is installed, particularly for producers who form beds and lay plastic in one pass. Pre-emergent herbicides in general cannot be broadcast applied prior to forming beds, because the herbicide is mixed too deeply into the root zone and may cause serious injury to the planted crop. An exception would be for producers who lay plastic flat without bed shaping. In that system, there is no further mixing of the herbicide deeper into the soil profile. Given the specific example of tomatoes grown on plastic mulch, Sandea (halosulfuron-methyl) may be used as a pre-plant application under the plastic mulch for control of broadleaf weeds listed on the label and suppression of yellow nutsedge. Sandea can be applied following the final bed shaping and just prior to the installation of the plastic mulch. The beds may be

formed and the tomatoes may be transplanted into the treated area 7 days after the application of Sandea. It would not be appropriate to broadcast-spray Sandea, immediately form beds and lay plastic. In that example there is the possibility of injury to the transplanted tomato crop. The alternative is to spray between the rows for control of weeds. Elizabeth Wahle is a University of Illinois Extension Educator for fruits and vegetables at the Edwardsville Extension Center (618) 692-943, email: wahle@uiuc.edu.

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**NEW LABELS FOR PEPPER, POTATO AND TOMATO** - (*Dan Egel*) - Several new fungicides are available this season. Below I have outlined some of the important points for each compound. Details are available in the *Midwest Vegetable Production Guide for Commercial Growers-2003* (ID-56) <[www.entm.purdue.edu/entomology/ext/targets/ID/index.htm](http://www.entm.purdue.edu/entomology/ext/targets/ID/index.htm)>. Always consult the label before any pesticide application.

- **Quadris** - The label for this product has been expanded to include pepper. Diseases labeled for pepper includes anthracnose and powdery mildew. Apply 6.2 to 15.4 fl. oz/A. Observe a 4 hour reentry interval (REI) and a 0 day preharvest interval (PHI). Do not apply more than 2 sequential applications of Quadris before alternating to a fungicide with a different mode of action.



*Wet, rainy weather favors anthracnose of pepper.*

- **Cabrio EG** - This newly labeled fungicide includes uses on peppers and tomatoes. Diseases covered on this new label include early blight, powdery mildew, Septoria leaf spot and late blight. Use 8 to 12 oz/A or 8 to 12 oz/100 gallons. For late blight, apply 8 to 16 oz/A. The REI and PHI for these crops are 12 hours and 0 days respectively. Do not apply more than 2 sequential applications of Cabrio before alternating to a fungicide with a different mode of action. If there is a possibility of the presence of late blight, do not apply more than 1 application of Cabrio before alternating to a fungicide with a different mode of action.

- **Headline** - This new fungicide has the same active ingredient as Cabrio. However, Headline is labeled for potatoes among other crops. Apply 6 to 9 fl. oz/A for

early blight and 6 to 12 oz/A for late blight control. Observe a 12 hour REI and a 3 day PHI. The resistance management strategy for Headline is the same as Cabrio; do not apply Headline more than 2 times before alternating to a fungicide with a different mode of action. However, if late blight is present, do not apply Headline more than 1 time before alternating.



*Septoria leaf spot of tomato is often first observed on lower leaves.*

- **Gavel 75 DF** - The active ingredient of this fungicide is mancozeb, (the same active ingredient found in Dithane, Manzate and Penncozeb) plus zoxamide which is used primarily for late blight control. On potatoes, this fungicide is labeled for early blight and late blight. The rate is 1.5 to 2 lb/A. Observe a 48-hour REI and a 14-day PHI.



*Although unusual in Indiana, late blight of potato can cause large yield losses.*

In the next several issues of the *Vegetable Crops Hotline*, I will outline new fungicides and expanded labels for cucurbits, root crops and other vegetables.

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**INDIANA HORTICULTURAL CONGRESS REVIEW** - (*Peter Hirst and Chris Gunter*) - In January, we hosted another successful Indiana Horticulture Congress. This meeting continues to be well supported by both industry and vendors alike. Educational sessions were well attended and the trade show was filled to overflowing. We appreciate the support of the office of the Commissioner

of Agriculture for a grant to enable us to bring in more invited speakers this year. Our meeting certainly compares favorably with other state meetings. Dr. Vic Lechtenburg, Dean of Agriculture at Purdue University, was presented with the Golden Apple award for strong support of the apple industry in Indiana. He has recently shown his commitment to both the fruit and vegetable production industries with support for the creation of a specialty crops marketing position. This position will have a strong extension emphasis. We are in the process of interviewing three candidates, from Pennsylvania, Washington and New Jersey, to fill this position. Elizabeth Maynard was awarded the research grant from the Indiana Vegetable Growers Association. Also receiving recognition certificates at the meeting were Dr. Randy Woodson (Associate Dean and Director of Agriculture Research Programs) and Dr. Ed Ashworth (Head of the Horticulture and Landscape Architecture Department). If you already have your 2004 calendars, the dates for the next IHC are January 26-28, 2004.

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**REVISED E-53 PROTECTING HONEYBEES FROM PESTICIDES** - (Greg Hunt, Rich Edwards, and Rick Foster) - Honeybees are a vital part of our agricultural system, as are many other pollinators. The annual value of honeybee pollination in the U.S. has been estimated at 14.6 billion dollars. Although this, or any such estimate, is only an approximation at best, the value of bee pollination is staggering.

Our intense agricultural practices have greatly affected the pollination picture in Indiana. The increased use of pesticides, the reduction in the number of wild colonies caused by parasitic mites, and the increased value of both bees and pollinated crops have all added to the importance protecting bees from pesticides. These issues are discussed in the latest revision of this bulletin available by calling 800-EXT-INFO, or online at [www.entm.purdue.edu/Entomology/ext/targets/e-series/beekeeping.htm](http://www.entm.purdue.edu/Entomology/ext/targets/e-series/beekeeping.htm).

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**INDIANA VEGETABLE GROWERS' ASSOCIATION NEWS** - (Liz Maynard) - IVGA members who wish to be included in the IVGA Directory of Wholesale Vegetable Producers for 2003 are reminded to return their form listing crops available as soon as possible. All members should have received a form in the mail. On that form there is also a box to check in order to receive the American Vegetable Grower Magazine for one year at no charge, courtesy of Meister Publishing. To receive the subscription, just check the appropriate box on the form and return it to the address on the form. All current IVGA members should by now have a copy of the *Midwest Vegetable Production Guide for Commercial Growers-2003* (ID-56) that they either picked up at a winter meeting or received in the mail. If you just renewed, a copy is on its way to you. Members who do not have a copy of the MWVPG and would like one should contact me at (219) 785-5673 or email: [emaynard@purdue.edu](mailto:emaynard@purdue.edu).

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