

Agricultural and Food Processing Clearance Order
Pedido de Empleados para Agricultura y Procesamiento de Alimentos

U.S. Department of Labor
 Employment and Training Administration
 OMB Approval No. 1205-0134, Expires 11/30/2012

1. Employer's Name and Address (Number, Street, City, State, Zip Code, and telephone number) / Nombre y Dirección del Empleador (Número calle, ciudad, código postal y teléfono) Lakeview Orchards, Inc. 5530 Wilson-Burt Road Burt, NY 14026 Attn: Dan Sievert (716) 778-7491	Numbers 4, 5, 6, 7 and 8 for State use only.	
	4. Industry Code/Código de Industria 111331	5. Job Order #/No. Orden de Empleo NY.0940171
2. Location and Direction to Work Site/Dirección del lugar de trabajo 5530 Wilson-Burt Rd., Rt. 78 North from Lockport, Left 1 mile onto Wilson-Burt Road (If additional space is needed, use separate sheet of paper)	6. Occupational Title and Code / Título Ocupacional y Código Farm workers & Laborers 4520902	
	7. Clearance Order Issue Date / Fecha de Tramite APR 22 2010	
3. Location and Description of Housing / Dirección y Descripción de la Vivienda Lake Road camp - Block frame-Town of Newfane-north side of route 18, 1/8 mile east of North Bebee Rd - Central showers & Toilets. Known as Sayer Camp. 18 Occupants Transit Road Camp 1 story cement block building, separate building w/showers/toilets, 7184 Lake Rd.Appleton, NY 14006 1/2 Mile East of Hess Rd. intersection, 24 occupants. Both camps are fully furnished. Medical facilities within 5 miles of camps. (If additional space is needed, use separate sheet of paper) / Si necesita más espacio, utilice documento adicional.)	8. Job Order Expiration Date / Fecha de vencimiento 9/10/2010	
	9. Anticipated Period of Employment / Periodo Anticipado de Empleo From/ Desde: 7/06/2010 To/Hasta: 11/12/2010	
10. No. of Worker's Requested / No. de Trabajadores Pedidos 18		
11. Anticipated Hours of Work per Week/Horas Anticipadas de Trabajo por Semana. Total: <u>48</u> Sunday / Domingo <u>0</u> Monday / Lunes <u>8</u> Tuesday / Martes <u>8</u> Wednesday / Miércoles <u>8</u> Thursday / Jueves <u>8</u> Friday / Viernes <u>8</u> Saturday / Sábado <u>8</u>		
12. Collect Calls Accepted from/Se Aceptan Llamadas a Cobrar de: Employer / El Empleador Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Local Office / La Oficina Local Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
13. Board Arrangements / Arreglo de Alojamiento Workers buy and prepare their own food. Weekly trips to a grocery store provided at no cost to workers. Trabajadores de comprar y preparar sus propios alimentos. Semanal de viajes a una tienda de comestibles proporcionan sin costo alguno para los trabajadores.		
14. Referral Instructions / Instrucciones para el Referimiento de Candidatos Call employer for appointment. All applicants should receive full disclosure prior to referral. Complete job order available on the NYS-DOL website or at any One-Stop or DOL office. Llame al empleador para su nombramiento. Todos los solicitantes deben recibir información completa y antes de acudir, orden de trabajo completa disponible en la página web del estado de NY-DOL o en cualquier otro One-Stop o la oficina DOL. Dan Sievert (716) 751-5191		
15. Job Specifications / Descripción del Trabajo Under direction of supervisor, worker will perform any combination of tasks involved in the operation of farm equipment: in the apple enterprise only for the purpose of tilling soil, mowing grass, cutting brush, planting young trees and plants, spraying fruit trees and plants. May prune trees, remove suckers, remove blossoms, and thin fruit to improve quality. May engage in weeding and other activities to keep orchards clean. Will be required to work in inclement weather and in a range of field temperatures. May move empty bins around orchard for use by pickers. Pick apples for fresh market and/or processing. Other fruit picking, if required, is shown on Attachment #2 & 3. Productivity must be at least 3 - 20 bushel bins per day for fresh market apples and 4 - 20 bushel bins per day for processing apples. Workers must be physically able to pick fruit, most of which is done from ladders with lower branches picked from the ground. Picked fruit is placed in metal-framed, canvas-covered picking bucket with canvas straps that slip over the head and rest on the shoulders. The bucket, when filled, weighs up to 40 pounds and is emptied into bulk bins with capacity equal to twenty (20) 1 & 1/8 bushels. Workers are required to handle ladders up to 24 feet long and weighing about two pounds per foot. Workers may be instructed to selectively pick mature fruit according to size, color, and other USDA grade standard. Trim fruit trees, hand thin, weeding, hoeing, suckoring, and summer thinning. May also repair boxes. All applicants must have 1 month experience in the jobs described in this job order. el trabajador desempeñara cualquier combinación de tareas envueltas en la operación del equipo de la finca en el negocio de la manzana solo para el propósito de ara tierra, cortar zacate, cortar ramas extras, plantar árboles y plantas pequeñas, cortar árboles frutales y plantas. Puede que puede árboles, cortar ramas de más, cortar retoños y despuntar fruta para mejorar su calidad. Puede que trabaje usando el azadón y otras actividades para mantener el huerto limpio. Se requerirá que trabaje en mal tiempo y en diferentes cambios de temperatura en los campos. Puede que mueva cajas recolectoras en la huerta para uso de los que cosechan. Cosechar manzanas frescas para el Mercado y/o para el proceso de la misma. Otra cosecha de fruta si es que se requiere su cosecha se encuentran en el adjunto #2 y 3. La productividad debe ser al menos 60 cestos de 1 y 1/8 de medida al día de fruta fresca para el Mercado y 80 cestos de 1 y 1/8 de medida por día para el proceso de la misma. Los trabajadores deben de estar físicamente aptos par la cosecha de la fruta, lo cual se hace con escaleras y ramas más bajas se cosechan estando parados sobre el terreno. La fruta cosechada es puesta cestos con marco de metal y cubiertos de lona y tienen tirantes de lona que se deslizan sobre la cabeza y reposan sobre los hombros. El cesto una vez ya lleno pesa hasta 40 lbs. (approx 20 kgs) y se vacía en cajas recolectoras con una capacidad igual a 20 cestos de 1 y 1/8 de medida. Se requiere que los trabajadores manejen escaleras que miden hasta 24 pies de longitud (approx 5.2 mts.) y pesan como 2 lbs por pie (approx 1 kg por 30 cms). Puede que se les indique a los trabajadores que cosechen selectivamente fruta madura de acuerdo a su tamaño, color y otras normas generales estipuladas por el USDA/ Pocar árboles frutales, dexuetar a mano, deshierbar, azadonear, despuntar y poda de verano. También puede que repare cajas. Todos los solicitantes deben tener 3 meses de experiencia comprobable en los trabajos descritos en esta orden de trabajo.		

16. Wage Rates, Special Pay Information and Deductions / Tarifa de Pago, Información Sobre Pagos Especiales y Deducciones (Rebajas)						
Crop Activities / Cullivos	Hourly Wage	Piece Rate / Unit(s)	Special Pay (bonus, etc.)	Deductions /	YES / NO	Pay Period
	Salario por Hora	Pago por Pieza / Unidad(es)	Pagos Especiales (Bono, etc.)	Deducciones	SI	Periodo de Pago
Apples /Fresh Market	\$10.16	\$0.850 / Bu.		Social Security / Seguro Social	X	Weekly / Semanal
Apples /Processing	\$10.16	\$0.600 / Bu.		Federal Tax Impuestos Federales	X	X
Apples /Drops	\$10.16	\$0.500 / Bu.		State Tax Impuestos Estatales	X	Bi-weekly / cada 2 semanas
Pears	\$10.16	\$		Meals / Comidas		N/A
Peaches	\$10.16	\$		Other (specify)/ Otro	X	Other / Otro N/A

More Details About the Pay / Mas Detalles Sobre el Pago (If additional space is needed, use separate sheet of paper / Si necesita más espacio, utilice documento adicional)

17. Transportation Arrangements / Arreglos de Transportación

All transportation is arranged by Florida East Coast Travel and the employer at no cost to the workers.

Todo el transporte está organizado por Florida East Coast Viajes y el empleador, sin costo para los trabajadores.

(If additional space is needed, use separate sheet of paper / Si necesita más espacio, utilice documento adicional.)

18. Is it the prevailing practice to use Farm Labor Contractors (FLC) to recruit, supervise, transport, house, or pay workers for this (these) crop activity(ies)? Es la costumbre en el área de usar Contratistas Agrícolas para reclutar, supervisar, transportar, dar vivienda, o pagarle a los trabajadores en estos tipos de cosecha(s)? Yes / Si No
If you have checked yes, what is the FLC wage for each activity? / Si contesto "Si," ¿cual es el salario que le paga al Contratista Agrícola por cada actividad?

19. Unemployment Insurance provided? Seguro de Desempleo?

Yes No

20. Workers' compensation insurance provided? Indemnización por accidente de trabajo:

Yes No

21. Are tools provided at no charge to the workers? / Se le proveen las herramientas de trabajo a los trabajadores sin cargo alguno?

Yes No

22. List any arrangements which have been made with establishment owners or agents for the payment of a commission or other benefits for sales made to workers. (If there are no such arrangements, enter "None") / Indique todo acuerdo o convenio con los propietarios del establecimiento o sus representantes con respecto al pago de una comisión u otros beneficios por ventas hechas a los trabajadores. (Si no hay ningún acuerdo o convenio indique "Ninguno") NONE / Ninguno

23. List any strike, work stoppage, slowdown, or interruption of operation by the employees at the place where the workers will be employed.

(If there are no such incidents, enter "None") / NONE

Enumere toda huelga, paro o interrupción de las operaciones por parte de los empleados en el lugar de empleo. (Si no hay, indique "Ninguno") Ninguno

24. Add	2 nd	Telephone number / Numero de teléfono)
num New York State Department of Labor	ny	New York State Department of Labor
num One Stop Office nearest to you		One Stop Office nearest to you
Room		

26. Employer's Certification: This job order describes the actual terms and conditions of the employment being offered by me and contains all the material terms and conditions of the job.
Certificación del Empleador: Esta orden de trabajo describe los términos y condiciones de trabajo, y contiene todos los materiales, términos, y condiciones ofrecidos.
Employer's Signature & Title / Firma y Título del Empleador
Daniel W. Sievert PRESIDENT 4-22-10

READ CAREFULLY In view of the statutory established basic function of the Employment Service as a no-fee labor exchange, that is, as a forum for bringing together employers and job seekers, neither the ETA nor the State agencies are guarantors of the accuracy or truthfulness of information contained on job orders submitted by employers. Nor does any job order accepted or recruited upon by the One-Stop Career Center constitute a contractual job offer to which the One-Stop Career Center, ETA or a State agency is in any way a party.

Public Burden Statement Public reporting burden for the ETA Form 790 is estimated to be approximately 60 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and reviewing the collection. Respondents' obligation to reply to these requirements is obligatory by 20 CFR 653.500 and 44 U.S.C. 3501. Persons are not required to respond to this collection of information unless it displays a currently valid OMB Control Number. Public reporting burden for this collection is estimated to average 8 minutes per response, including the time to review instructions, searching data sources, gather and maintain the data needed, and complete and review the collection of information. Send comments regarding this burden estimate or any other aspect of this collection, including suggestions for reducing this burden, to the U.S. Department of Labor, Migrant and Seasonal Farmworker Program, Room S4209, 200 Constitution Avenue, NW, Washington, DC 20210.

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New York State Department of Labor
FORM ETA 790
Attachment 1

Job Order Number NX.0940171**A, CLARIFICATION OF ITEMS ON FORM ETA 790**Item 1: E mail address lvorchards@hotmail.com**Item 3: Housing**

- a. Housing and utilities are provided at no cost to workers who are unable to return to their place of residence the same day.
- b. Housing beds, bedding and mattresses will be furnished at no cost to the workers.
- c. Housing will be clean and meet the applicable Federal and State housing standards.
- d. Workers will be responsible for maintaining housing and surrounding areas in a neat, clean manner.

Item 13: Board Arrangements

- a. Employer will will not provide three meals per day and will deduct \$ n/a per day. Employer will will not furnish free dishes, cooking utensils and convenient kitchen and cooking facilities.
- b. Employer will will not provide transportation to assure workers access to stores where they can purchase groceries and/or other incidentals and/or medical necessities.
- c. Amount of meal charges will be consistent with 20 CFR 355.173.

Item 14 Referral Instructions

Workers hired under this Job Order will be required to show evidence of right to work in the United States of America.

Due to health and safety requirements, applicants must be able to speak and understand basic English.

Item 15: Job Specifications

(con't) Worker places ladder firmly against or within tree in a secure position so as not to break limbs or knock off fruit and to prevent slipping or falling. All fruit to be handled with care to avoid causing bruising. Each worker's picked fruit will be inspected according to instructions given each day by the orchard foreman. Workers will be directed to strip all fruit from tree at one picking or to spot pick (selective picking) according to size and color depending on crop conditions and state of maturity. Fruit picked as drops is never mixed with tree fruit.

May also perform any combination of tasks involved in planting, cultivating and harvesting of fruits such as tilling soil, planting stock, pruning trees and bushes, removing suckers and runners from trees, vines and plants. Other duties may include laying out irrigation pipe and installing sprinklers, assisting in repairing fences, unloading trucks, clearing fields, burning brush, hand thinning fruit and smudging. Will use appropriate tools such as shovels, hoes, tampers, pruning hooks and shears. Employer will furnish to

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workers, without cost, all tools and equipment required in the performance of the duties assigned. Workers should report for work with their own suitable work clothing. Field temperatures may range from 30 degrees to 85 degrees with possible wet morning conditions.

- a. Workers must be able to demonstrate that they are physically able to perform the work as described.
- b. Employer may terminate worker with notification to the New York State Department of Labor, if the worker:
 - 1) refuses, without just cause, to perform work for which the worker was recruited and hired;
 - 2) commits serious acts of misconduct; or
 - 3) fails, after completing any training or break-in period, to reach production standards.
- c. The employer will provide 3 days of training and/or allow 3 days of work for worker to reach production standards if applicable.
- d. Production Standards (if applicable): After completion of training or break-in period, employer will expect worker to:

Item 16: Wage Rates, Special Pay Information and Deductions

- a. If piece-rate earnings for total hours of work at a piece-rate during a pay period do not result in average hourly earnings equal to the guaranteed minimum hourly rate, the worker will receive make-up pay to the guaranteed minimum wage rate.
- b. In the event the DOL promulgates a new AEWR during the recruitment or work contract period which is lower than the current AEWR at the time of application, this lower AEWR will become the guaranteed minimum.
- c. In New York State, the only deductions that can be taken from worker pay are:
 1. Those required by law, such as social security, income tax, and garnishment of wages,
 2. Those that benefit workers and are authorized in writing, such as life insurance or a savings account.Any other deduction is illegal. This includes deductions:
 - (or deposits) for tools, boots, raincoats, or uniforms necessary for the job;
 - As fines or penalties for being late, misconduct, or quitting without giving notice;
 - For cash shortages;
 - For spoilage or breakage; or
 - For damages or losses of any kind.
- d. The employer guarantees to offer employment for a minimum of $\frac{3}{4}$ of the hours in the workdays during the period of the contract, and all extensions thereof. This guarantee begins with the first workday after the worker's arrival at the place of employment and ends on the date specified on the job order or extensions thereof. In Act of God terminations, the $\frac{3}{4}$ guarantee period ends on the date of termination. Workers will not be required to work more than the number of hours specified in the job order for a workday or on their Sabbath or Federal holidays to meet this guarantee. The worker's average hourly earnings will be used under this guarantee where wages are paid on a piece rate basis. Workers who are terminated for cause or who voluntarily abandon their job are not entitled to this guarantee.
- e. Workers with school age children who have migrated with such children and who depart in time to return home for the beginning of the school year shall be paid, in addition to the basic wages, any bonus or other incentive payments or other expenses to which they would be entitled had they stayed the entire job order period.
- f. The employer will provide workers referred through the interstate clearance system 48 hours of work for the week beginning with the anticipated date of need, unless employer

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has amended the date of need by notifying the local office no later than 10 business days before the date of need. If the employer fails to notify the order-holding office, then employer shall pay an eligible worker referred through the clearance system \$487.68 (or \$81.28 per day for partial week) for the first week starting with the originally anticipated date of need. If worker referred fails to notify the NYS Department of Labor (preferably the order-holding office) of continued interest in the job at least 5 days before date of need, worker will be disqualified from this assurance. Employer will X will not ___ require worker to perform alternative work if the guarantee cited in this section is invoked.

Alternative work: Trim fruit trees, hand thin, weeding, hoeing, succoring, and summer thinning. May also repair boxes.

- f. Employer will maintain adequate payroll records. Workers will be paid weekly on Friday for work through the previous Sunday.

Item 17: Transportation

- a. Employer agrees to reimburse inbound transportation and subsistence expenses (\$10.64 per day without receipts, max. of \$46.00 per day with receipts) to each worker, or any person, government agency or private organization which, on behalf of the worker has paid or advanced such transportation and subsistence expenses, from the residence, place of last employment or place of recruitment to the job site after the worker has completed 50% of the stipulated period of employment, from initial date of need or from the day after actual arrival of worker if later than the stated date to report.
- b. Employer will provide or pay the cost of return transportation and subsistence to each worker who completes the employment period, or who is terminated for medical reasons, or as the result of an Act of God, from place of employment to place of recruitment, except when the worker is not returning to his place of recruitment and had subsequent employment with an employer who will bear transportation expenses, in which case this employer only pays for the transportation to the next job.
- c. Employer will not be responsible for providing return cost of transportation and subsistence from place of employment to place of recruitment if the worker voluntarily abandons the job or is terminated for cause and employer provides timely notification to the NPC and DHS.
- d. The amount of the transportation payment will be equal to the most economical and reasonable similar common carrier transportation charges for the distance involved. All transportation provided by the employer will be by common carrier or other transportation facilities which conform to the applicable regulations of the Interstate Commerce Commission or the United States Department of Labor. If requested by worker, the employer will assist in making transportation arrangements. The amount of daily subsistence will be in accordance with current rates published in Federal Register (for workers with and without receipts).
- e. Employer will provide transportation, at no cost to the worker, from the employer provided housing to the actual work site and return at the end of the day.

Item 20: Workers' Compensation

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The employer assures that Policy # Z-1182-670-8 issued by NYS Insurance Fund provides the required insurance for injuries arising out of and in the course of employment. Employer's proof of insurance coverage will be provided to the Chicago Processing Center before certification is granted.

Item 21: Tools and Equipment

The employer will furnish without cost all tools, supplies, or equipment required in the performance of work.

B. OTHER CLARIFICATIONS AND ASSURANCES

1. The employer agrees to abide by the regulations at 20 CFR 653.501 and 20 CFR 655.103.
2. The employer will expeditiously notify the order-holding office or State agency by telephone immediately upon learning that a crop is maturing earlier or later, or that weather conditions, over-recruitment, or other factors have changed in terms and conditions of employment.
3. Outreach workers shall have reasonable access to the worker in the conduct of outreach activities pursuant to 20 CFR 653.501(xvi).
4. Where appropriate, the employer is certified in the use and application of pesticides per Federal Environmental Protection Agency and State Department of Environmental Conservation requirements. The employer assures that workers hired under this order who will be handling pesticides will be provided appropriate training.
5. A copy of the contract or this Job Clearance Order will be provided to the worker by the employer no later than on the day the work commences.
6. The employer assures that if acting as a farm labor contractor (FLC) or farm labor contractor employee (FLCE) on the order, he has a valid federal FLC certificate or FLCE identification card.
7. The applicant also assures that he/she complies with NYS registration requirements. Farm labor contractors anticipating employment contracting with growers or processors in New York State, growers or processors in New York State who use the services of a farm labor contractor, and growers or processors in New York State who, without using the services of a farm labor contractor, are responsible for bringing into the state five or more out-of-state migrant farm or food processing workers, including H-2A workers, are required to register with the New York State Department of Labor and pay a registration fee in addition to any other fees that may be applicable.

AGRICULTURAL AND FOOD CLEARANCE ORDER
JOB TITLE: Farmworkers & Laborers, Crop