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

MAY 12 2010

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 (Numero, calle, ciudad, código postal y teléfono)

Dolan Orchards
1166 Rt 208
Wallkill, NY 12589
845-895-2153

C/O Valley Growers, Agent
61 Main Street
Milton, NY 12547
845-795-2128

4. Industry Code/Código de Industria 111331

5. Job Order #/No. Orden de Empleo NY0942377

6. Occupational Title and Code /Titulo Ocupacional y Código
45-2091 AG. EQUIPMENT OPERATOR

2. Location and Direction to Work Site/Dirección del lugar de trabajo
1166 Rt 208 in Wallkill, NY

(If additional space is needed, use separate sheet of paper)

7. Clearance Order Issue Date / Fecha de Tramite JUN 25 2010

8. Job Order Expiration Date / Fecha de vencimiento 9/05/2010

9. Anticipated Period of Employment / Periodo Anticipado de Empleo
From/ Desde: 07/10/10 To/Hasta: 11/01/10

3. Location and Description of Housing / Dirección y Descripción de la Vivienda
Wooh house at home farm 1166 Rt 208, Wallkill,NY Capacity 7

10. No. of Worker's Requested / No. de Trabajadores Pedidos
7

11. Anticipated Hours of Work per Week/Horas Anticipadas de Trabajo por Semana. Total: 40
Sunday / Domingo ____ Monday / Lunes 7
Tuesday / Martes 7 Wednesday / Miércoles 7
Thursday / Jueves 7 Friday / Viernes 5
Saturday / Sábado 7

12. Collect Calls Accepted from/Se Aceptan Llamadas a Cobrar de:

Employer / El Empleador Yes ☐ No XX☐
Local Office / La Oficina Local Yes ☐ No ☐XX

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

13. Board Arrangements / Arreglo de Alojamiento
Workers buy and prepare own food. Employer takes workers shopping once a week.

14. Referral Instructions / Instrucciones para el Referimiento de Candidatos

Call Mr. Dolan at 845-895-2153 Mon Thru Fri. 1pm to 5PM or go to the nearest One Stop Ctr

15. Job Specifications / Descripción del Trabajo Under direction of supervisor, worker will perform any combination of tasks involved in the operation of tractors and farm equipment for the purpose of tilling soil, mowing grass, cutting brush, planting young trees and plants, spraying fruit trees and plants. May use tractors and trucks on farm property to move equipment and supplies such as irrigation pipes and pumps, smudging equipment fertilizer, ladders, bins and other supplies for harvest workers. May move empty bins around orchard for use by pickers, may transport full bins of fruit from orchard to packing shed or storage facility. May operate engines and pumps for irrigation and move, set up and start fans or smudge pots for frost protection. May pick apples. Workers referred as a result of this order must have ~~a minimum of~~ 6 months of ~~verifiable~~ experience in performing the tasks described in this order.

(If more space is needed, summary of Material Job Specifications in ENGLISH can be included in separate document, and may also be included in SPANISH)

16. Wage Rates, Special Pay Information and Deductions / Tarifa de Pago, Información Sobre Pagos Especiales y Deducciones (Rebajas)

Crop Activities / Cultivos	Hourly Wage	Piece Rate / Unit(s)	Special Pay (bonus, etc.)	Deductions /	YES / SI	NO	Pay Period Periodo de Pago
	Salario por Hora	Pago por Pieza / Unidad(es)	Pagos Especiales (Bono, etc.)	Deducciones			
~~Apples/harvest~~ Agricultural	~~$10.16~~	~~$N/A~~	~~N/A~~	Social Security / Seguro Social	x		Weekly / Semanal x
Equip Operator	$10.16	$n/a	n/a	Federal Tax Impuestos Federales	x		
	$	$		State Tax Impuestos Estatales	x		Bi-weekly / cada 2 semanas

5/25/10

	$	$		Meals / Comidas		X	
	$	$		Other (specify)/ Otro		X	Other / Otro

More Details About the Pay / Mas Detalles Sobre el Pago
NONE

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

17. Transportation Arrangements / Arreglos de Transportación

See attached

(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 ☐XX

If you have checked yes, what is the FLC wage for each activity? / Si contesto "Si," cual es el salario quo le paga al Contratista Agrícola por cada actividad?

19. Unemployment Insurance provided? Seguro de Desempleo? Yes ☐ No ☐XX
20. Workers' compensation insurance provided? Indemnización por accidence de trabajo: Yes ☐XX 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 ☐XX 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") /
Enumere toda huelga, paro o interrupción de las operaciones por parte de los empleados en el lugar de empleo. (Si no hay, indique "Ninguno")

NONE

24. Address of Order Holding Office (include Telephone number)/Dirección de la Oficin

NYS Dei New York State Department of Labor
One Stop Office nearest to you 240

25. Name of Local Office Representative (include direct dial telephone number) / Nombre del Representante de la Oficina Local (Incluya nu

New Y New York State Department of Labor
One Stop Office nearest to you

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

Robert J Dolan Owner

READ CAREFULLY, In view of the statutorily 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

STATE OF NEW YORK
ORDER NO. _____

DEPARTMENT OF LABOR

ATTACHMENT #1

Item #11, (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. Fruit injured by bruising during picking shall not exceed _4%___ * as defined in the U.S. standard for grades. Fruit injured by bruising during picking for processing shall not exceed ___n/a__ ** as defined in the U.S. standard for grades. 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.

Employer will furnish to 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.

PESTICIDE TRAINING: 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. _____(If not applicable, insert N/A)

During temporary periods of time when work specified in the order is not available, the worker may be assigned any combination of the following related tasks: (Specify tasks) Dates of Activity for crop activities: (for 2 or more crops)

Crop/Activity	Dates of Activity	Tasks

STATE OF NEW YORK
ORDER NO. _____

DEPARTMENT OF LABOR

ATTACHMENT #2

Assurances & Requirements

GENERAL: (a) The terms and conditions of this order shall be no less favorable than those contained in any existing labor contract or agreement by me or my agent for the same type of work. A copy of the Work Agreement and/or Job Order shall be posted in the labor camp and be made available. A copy of the Job Order will be provided to the worker no later than the day on which the worker begins employment. The employer assures that the working conditions of this order comply with the applicable Federal and State employment related laws and agrees to abide by the regulations at 20 CFR 655.103, Assurances, and 20 CFR 653.501.

(b) Duly authorized State and Federal representatives (including outreach workers) will be allowed reasonable access to the workers during normal working hours.

(c) Workers hired under this order will be required to show evidence of right to work in the United States.

(d) Workers must be able to demonstrate that they are physically able to perform the work specified in this Job Order.

Item #5 - (a) Starting Date: The employer may amend the starting date of need by notifying the ***H2-A Central Office in Albany*** no later than **06/30** . If the employer fails to amend the date of need, the employer shall pay eligible workers referred through the interstate clearance system a minimum rate of the current H2A wage for each eight (8) hour work day in the first week on which those workers were present and available for work and no work specified in the Job Order (Item #11) is offered. Hours worked x Hourly wage = Total **($10.16 x 40 = $406.40)**

(b) Failure of workers referred against this order to notify the local office of their continued interest and/or verify the date of need no sooner ***than 07/01 nor later than 07/05*** will disqualify the worker from the above assurance.

(c) Ending date: An extension of employment beyond the period of employment in the Job Order shall not relieve the employer from paying wages already earned, transportation/subsistence expenses and bonuses if applicable.

STATE OF NEW YORK
ORDER NO. _____

DEPARTMENT OF LABOR

ATTACHMENT #3

Item #7 - (a) Employer will not accept referrals of crew leaders currently in violation of the Migrant and Seasonal Worker Protection Act (MSPA). However the employer will interview the crew members and crew leader as separate individuals.

(b) Employer will negotiate any and all crew leader fees directly with the crew leader.

(c) Crew Leaders anticipating employment in New York State will be required to register with the New York State Department of Labor and pay the required $100 crew leader registration fee in addition to any other fees that may be applicable.

Item #8 - Total number of migrant and seasonal farmworkers needed 7.

Item #9 - (a) An hourly rate of not less than the Federal or State minimum wage, The Adverse Effect Wage Rate (AEWR), the prevailing hourly rate or the employers hourly rate, whichever is highest, is guaranteed to the worker for the period of employment. (Item # 5). In the event 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 (unless there is a prevailing hourly rate which is higher than the AEWR).

(c) The employer will make the following deductions: (1) FICA (as required) (2) Federal/State tax withholdings (as required)

(d) Employer will maintain adequate payroll records. Workers will be paid weekly on _____Friday_____for work through _Thursday_ __ A written statement showing (1) employer's full name and address, (2) worker's social security number, (3) total hours offered and total hours actually worked or total number of units, if piece rate, (4) total earnings for the pay period, and (5) deductions will be furnished the worker each pay day. (See attachment No. 6 Item #4 for payday/workweek applicable to this order).

(e) The employer guarantees to offer employment for a minimum of three-fourths of the workdays of the total specified period during which the job order, and all extensions thereof, are in effect. 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. Workers will not be required to work more than eight hours per day, 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.

(f) 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.

(g) The employer may terminate worker's employment hereunder at any time with **notification to the local New York State Department of Labor office** for any of the following reasons:

(1) Refusing, without just cause, to perform the duties for which the worker was recruited and hired.

(2) Committing a serious act of misconduct or breach of discipline.

(3) Failure to reach productivity standards, <u>if applicable</u>. (See Attachment 1 Item 11)

(4) Job Abandonment- being absent for more than one (1) work day, as shown in Item 10, without prior notification to the employer.

When worker is terminated under any of these provisions, or if the worker voluntarily terminates his employment, the employer shall not be liable for the three-fourths guarantee.

<u>**Item #10**</u> - Workers are expected to work at least the number of days and hours specified on the Job Order. However, depending on weather, crop or other conditions, workers may be requested, but not required, to work up to six days per week and/or on their Sabbath and up to_10_hours per day.

<u>**Item #13**</u> - (a) Employer (will not) provide three meals per day and will deduct $__n/a_____ per day. (Deductions will not depress the minimum wage).

(b) Employer (will) furnish free dishes, cooking utensils and convenient kitchen and cooking facilities.

(c) Employer (will) provide transportation at no cost to worker to assure workers access to stores where they can purchase groceries and/or other incidentals.

<u>**Item #14**</u> - Housing, beds, bedding and mattresses will be furnished at no cost to the workers. Employer assures that housing will be clean and in compliance with all applicable standards during the occupancy. Workers will be responsible for maintaining housing and surrounding area in a neat and clean manner.

ATTACHMENT #5

Item #15 - In order to assure the most effective referral and placement of workers, all referrals should be made during normal business hours.

In addition, if the person designated as the contact person on the Summary of Employment Conditions sheet attached to this order is not available for an extended period of time, there will be someone available at the farm to process referrals.

Item #17 - (a) Employer agrees to reimburse inbound transportation and subsistence expenses 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. Travel subsistence is paid at the rate of $10.64 per day for a maximum of $46.00.

(b) The employer assures that the employer will bear and pay transportation related expenses either directly to the provider of travel or indirectly to reimburse the worker so that the workers weekly pay is not diminished below the applicable Federal minimum wage required by Section 6 of the Fair Labor Standards Act, 29 USC 201.

(c) 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, enroute 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.

(d) Employer will not be responsible for providing return cost of transportation and subsistence enroute from place of employment to place of recruitment if the worker voluntarily abandons the job or is terminated for cause.

(e) The amount of transportation payment will be equal to the most economical and reasonable similar common carrier charges for the distance involved. All transportation provided by the employer will be by common carrier of other transportation facilities which conform to the applicable regulations of the Interstate Commerce Commission or the United States Department of Labor. If requested by the worker, the employer will assist in making transportation arrangements.

(f) 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.

STATE OF NEW YORK
ORDER NO. _____

DEPARTMENT OF LABOR

ATTACHMENT #6

SUMMARY OF EMPLOYMENT CONDITIONS

1. Employer: Dolan Orchards
2. Referral instructions: Call Mr. Dolan at 845-895-2153, Mon thru Fri between 1 pm and 5 pm or go to the nearest One Stop Ctr

3. Crop/Activity/Wage Information:

Crop/Activity	Piece Rate	Production Unit (1)	Hourly Wage (2)
Equip Op.	**N/A**	**N/A**	**10.16**
Apples/harvest	**N/A**	**N/A**	**10.16**

4. Workers will be paid weekly on _Friday_____for work through Thursday.

5. Workers required to be covered by Workers Compensation.
   Compensation Carrier: ___State Ins. Fund_____Policy #: 514072-8
   Policy holder/address: Dolan Orchards, 1166 Rt 208, Wallkill, NY

   Person to be notified of injury w/phone number Robert Dolan 845-895-2153
   Deadline for notification: **Immediately, but no later than 30 days from date of injury.**

6. Workers (will not) be covered by disability benefits.

7. Work performed under this order (will not) be covered by Unemployment Insurance:

8. The employer (will not) pay overtime.

9. (a) Employer (will not) provide three meals per day and will deduct $n/a_____per day. (Deductions will not depress the Federal minimum wage).

   (b) Employer (will) furnish free dishes, cooking utensils and convenient kitchen and cooking facilities.

   (c) Employer (will) provide transportation to assure workers access to stores where they can purchase groceries and/or other incidentals and/or medical necessities.

STATE OF NEW YORK
ORDER NO. _____

DEPARTMENT OF LABOR

ATTACHMENT #6
(CONTINUED)

SUMMARY OF EMPLOYMENT CONDITIONS

10. DEDUCTIONS FROM WAGES:

Type:	Amount:
Social Security	$ As Required
Federal/State Withholding Tax	$ As Required
Meals	N/A

11. **NOTES TO WORKER** (See Item #19 of ETA 790)
A copy of the full job order is available for inspection **on the NYS DOL webpage.** The employer has guaranteed your first week wages unless he/she notifies this Department of Labor Office of a later starting date by **06/30**.

In order for you to be eligible for this guarantee, you must contact the Department of Labor Office during the period of **07/01** **and** **07/05.**

12. Alternate work tasks to be performed, and pay during first week in case of crop delay:
NONE

STATE OF NEW YORK
ORDER NO. _____

DEPARTMENT OF LABOR

ATTACHMENT #7

REQUEST FOR CONDITIONAL ACCESS INTO CLEARANCE SYSTEM

NAME OF EMPLOYER Dolan Orchards

LOCATION AND DESCRIPTION OF HOUSING Wood building, barracks style w/all facilities at home farm at 1166 Rt 208 in Wallkill, NY

I hereby request conditional access into the intrastate/interstate clearance system so that my clearance order can be transmitted to labor supply states in a timely manner for the recruitment of agricultural workers.

As a condition of placing my order into clearance, I assure that such housing will be in full compliance with the requirements of the U.S. Department of Labor and Part 15 of the New York State Sanitary Code for Migrant Labor Camps by 6/10/10 which is 30 days prior to date of need.

Representatives from the New York State Department of Labor, New York State Health Department and/or U.S. Department of Labor are invited to inspect such housing at any reasonable time to verify its condition.

Robert J. Dolan
EMPLOYER'S SIGNATURE

05/04/2010
DATE