



Agricultural and Food Processing Clearance Order ETA Form 790
Pedido de Empleados para Agricultura y Procesamiento de Alimentos

NOV 16 2010

Form with 15 numbered sections. Section 1: Employer's Name and Address (Soons Orchard, Valley Growers Co-Op). Section 2: Location and Direction to Work Site (23 Soons Circle, New Hampton, NY). Section 3: Location and Description of Housing (4 Bdrm trailer). Section 4: Industry Code (111331). Section 5: Job Order # (NY 0962208). Section 6: Occupational Title (Ag Equipment Operator). Section 7: Clearance Order Issue Date (NOV 19 2010). Section 8: Job Order Expiration Date (7/03/2011). Section 9: Anticipated Period of Employment (02/01/11 to 12/01/11). Section 10: No. of Workers Requested (4). Section 11: Anticipated Hours of Work per Week (Total 40). Section 12: Collect Calls Accepted (Yes x No). Section 13: Board Arrangements (Workers must buy and prepare own meals). Section 14: Referral Instructions (Contact Employer directly at 845-374-5471). Section 15: Job Specifications (Under direction of supervisor, worker will perform any combination of tasks involved in the operation of tractors and farm equipment).

Crop Activity / Actividad	Hourly Wage / Salario por Hora	Rate per Piece / Unidad(es)	Special Payments (Bonus, etc.) / Pagos Especiales (Bono, ect.)	Deductions / Deducciones	Yes / SI	No / NO	Pay Period / Período de Pago
Agricultural Equipment Operator	\$10.16	N/a	N/a	Social Security Seguro Social	X		Weekly / Semanal
General Orchard	\$10.16	N/a	N/a	Federal Tax Impuestos Federales	X		
				State Tax/Impuestos Estatales	X		Bi-weekly / cada 2 sem.
				Meals (comidas)		X	

More Details About the Pay/Más Detalles Sobre el Pago

(See Attachment)

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

17. Transportation Arrangements / Arreglos de Transportación (Please explain)

(See Attachment)

(If additional space is needed, use separate sheet of paper/Si necesita mas 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 area de usar Contratistas Agricolas para reclutar, supervisar, transportar, dar vivienda, ó pagarle a los trabajadores en esta/estos tipo(s) de cosecha(s)/sembrado(s)? Yes/SI  No X 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 para cada actividad?

19. Unemployment Insurance provided / Seguro por Desempleo:

Yes  No

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

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

None/Ninguno

24. Address of Order Holding Office (include Telephone number)/Dirección de la Oficina donde se Radicó la Oferta (incluya número de teléfono)

New York State Department of Labor  
One Stop Office Nearest You

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

New York State Department of Labor  
One Stop Office Nearest 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, terminus, y condiciones ofrecidos.

Employer's Signature & Title/ Firma y Título del Empleador



Date: 11/12/10

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**

The public reporting burden for responding to ETA Form 790, which is required to obtain or retain benefits (44 USC 3501), is estimated to be approximately 60 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and reviewing the collection. The public need not respond to this collection of information unless it displays a currently valid OMB control number. This is public information and there is no expectation of confidentiality. 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, D.C. 20210.

ETA Form 790 (Revised May, 2010)  
Previous versions not useable

**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 3% 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.

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 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.

**TRAINING:** Three days training will be provided for inexperienced or new workers to familiarize them with the employer's harvest and orchard practices. This "hands-on-training" will consist of demonstrations and verbal instruction given by the employer or his trainer and workers will practice what they learned under the observation of the trainer. Training will cover safety practices in handling and climbing ladders, climbing trees, recognizing varieties of fruit, estimating percent of color in fruit, assessment of size and maturity of fruit and proper techniques for picking and handling fruit to minimize bruising. Workers will be encouraged to ask questions and will be questioned by the trainer to ensure that the training is fully understood. Following completion of the three days of training, the worker will have one trial day to demonstrate their ability to harvest fruit. Workers unable to meet employer's production standards after completion of the trial date may be terminated. \_\_\_\_\_ (If not applicable, insert N/A)

**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
ORCHARD/TREES	FEBRUARY-APRIL	PRUNE

**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 informing the order holding office no later than 01-17-11. 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 Adverse Effect Wage Rate (AEWR) 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 required per week x current AEWR = Total dollar amount earned: 40 hours x \$10.16 = \$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 01-18-11 nor later than 01-25-11 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.

**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 is willing to interview and offer employment to the crew leader and crew members as single 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 4.

**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).

(b) If a piece rate is offered on the Job Order, the work at the piece rate will be guaranteed to the workers for the stated period of employment unless crop activity is such that the piece rate will not realize the workers an hourly equivalent of at least the current AEWR, in which case the worker will be paid the equivalent of an hourly rate of not less than the AEWR, the Federal or State minimum rate, the prevailing hourly rate or the employer's hourly rate, whichever is highest.

(c) The employer will make the following deductions: (1) FICA (as required) (2) Federal/State tax withholdings (as required) (3) other (specify)

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~~(4) cash advances (as required)~~ (5) commissary meals, if provided and to the extent permissible under Federal and State wage requirements and

JPS

~~(6) voluntary deductions evidenced by written authorization signed by the worker~~

(d) Employer will maintain adequate payroll records. Workers will be paid weekly on SATURDAY for work through FRIDAY. 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).

(d) 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.

(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 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, if applicable. (See Attachment 1 Item 11)
- (4) Job Abandonment- being absent for more than five (5) consecutive work days, 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.

**Item #10** - 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.

**Item #13** - (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 to assure workers access to stores where they can purchase groceries and/or other incidentals.

**Item #14** - 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.

**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 #16** - Collect calls will be accepted only from officials of New York State Department of Labor offices.

**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 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 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.

SUMMARY OF EMPLOYMENT CONDITIONS

1. Employer: SOONS ORCHARD
2. Referral instructions: MON-FRI-9AM-5PM Contact person: JEFF 845 374-5471  
*or go to the nearest One Stop Office*

3. Crop/Activity/Wage Information:

Crop/Activity	Piece Rate	Production Unit (1)	Hourly Wage (2)
GEN. ORCHARD	N/A		\$10.16
APPLES, HARVEST	N/A		\$10.16

- (1) Minimum Productivity Standards *70 1/2 bu bush per day with no more than 4% bruising.*
- (2) Employer agrees to pay all workers employed in the 2011 season at the 2011 AEWB when it is established.

4. Workers will be paid weekly on SAT. for work through FRIDAY
5. Workers required to be covered by Workers Compensation.  
 Compensation Carrier: STATE INS. FUND Policy #: Z-329071-5  
 Policy holder/address: SOONS ORCHARD

Person to be notified of injury w/phone number JEFF SOONS-845 374-5471  
 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.

**SUMMARY OF EMPLOYMENT CONDITIONS****10. DEDUCTIONS FROM WAGES:**

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

**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 01/17/11

In order for you to be eligible for this guarantee, you must contact the Department of Labor Office during the period of 01/18/11 and 01/25/11.

**12. Alternate work tasks to be performed, and pay during first week in case of crop delay:**

NONE

**REQUEST FOR CONDITIONAL ACCESS INTO CLEARANCE SYSTEM**

**NAME OF EMPLOYER: SOONS ORCHARD**

**LOCATION AND DESCRIPTION OF HOUSING: TRAILER AT 23 SOONS CIRCLE,  
NEW HAMPTON, NY 10958**

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 01 / 02/ 11 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.

  
\_\_\_\_\_  
EMPLOYER'S SIGNATURE

11/12/10  
\_\_\_\_\_  
DATE

