



**U.S. Department Labor
Employment and Training Administration**

OMB Control No. 1205-0134
Expiration Date: November 30, 2012

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

1. Employer's Name and Address (Number, Street, City, State, and Zip Code)/
Nombre y Dirección del Empleador (Número, Calle, Ciudad, Estado y Código Postal)

Lakeview Orchards, Inc.
5530 Wilson-Burt Road
Burt, NY 14028

Attn: Daniel W Sievert
(716) 778-7491

**Nos. 4 - 8 for STATE USE ONLY
Números 4 a 8 para USO ESTATAL**

4. Industry Code/Código Industrial 111331	5. Job Order No. /Num. de Orden de Empleo NY0984939
--	--

6. Occupational Title and Code /Título Ocupacional y Código
Farmworker in Laboratory, Prop 45-2092.02

7. Clearance Order Issue Date / Fecha de Trámite
JUN 23 2011

8. Job Order Expiration Date / Fecha de Expiración
10/10/11

9. Anticipated Period of Employment / Periodo Anticipado de Empleo
From/ Desde: 9/7/2011 To/Hasta: 11/10/2011

Telephone number/Teléfono: (716) 778-7491 Fax: (716) 778-7672

2. Location and Direction to Work Site/ Ubicación y Dirección al Lugar de Trabajo
5530 Wilson-Burt Road
Route 78 North from Lockport
Left on Wilson-Burt Road, 1 mile on left

10. No. of Workers Requested / Num. de Trabajadores Solicitados
36

11. Anticipated Hours of Work per Week/Horas Anticipadas de Trabajo por Semana. Total: 48

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>		

(If additional space is needed, use separate sheet of paper/ Si necesitas más espacio, utilices otra hoja de papel)

3. Location and Description of Housing / Dirección y Descripción de la Vivienda
Town of Newfane, Niagara County, New York. 1/8 mile East of North Bebee Road on the North side of Route 18. 1 story cement building, central showers/toilets, with kitchen in each room, capacity of 18 occupants. Known as "Sayer Camp".
Town of Newfane, Niagara County, NY. Located at intersection of Route 18 and North East side Transit Road. 1 story cement block building with kitchen in each room. Separate building with showers and toilets. Capacity of 24 occupants. Known as the "Ontario Camp".
Town of Newfane, 7184 Lake Road, Appleton, New York, one mile east of Hess Road on the south side of Route 18, 2 story cement block building, central showers /toilets, with kitchen in each room, capacity of 32 occupants. Known as the "Greenlane Camp".

See attached for Spanish

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

Employer / Empleador	Yes/Si <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Local Office / Oficina Local	Yes/Si <input type="checkbox"/>	No <input checked="" type="checkbox"/>

(If additional space is needed, use separate sheet of paper / Si necesitas más espacio, utilices otra hoja de papel)

RECEIVED

JUN 21 2011

FDSU

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.

Los trabajadores compran y preparan su propio alimento. Los rasgones semanales a una tienda de comestibles proporcionaron en ningún costo a trabajadores.

14. Referral Instructions / Instrucciones sobre cómo Referir 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. Daniel W. Sievert (716) 778-7491

Llame a empleador por la cita. Todos los solicitantes deben recibir prior lleno de revelación a la referencia. Complete orden de Trabajo disponible en el sitio web de NYS-DOL o en Integrado o la oficina de DOL. Daniel W. Sievert (716) 778-7491

15. Job Specifications / Especificaciones del Trabajo

During the anticipated period of employment, the primary activity on this farm will be the hand harvest of apples. May plant, cultivate, spray and harvest apples. Remove excess growth from trees to improve fruit quality using pruning saws and clippers. May thin blossoms or immature fruit to obtain better quality fruit. Other harvesting fruit or other job duties, if required, are shown on attachment # 1. Workers must be able to pick fruit, most of which is done from ladders, with lower branches being picked from the ground. Picked fruit is placed in a metal-framed, canvas-covered picking bucket with canvas straps that slip over the head and rest on the shoulder. The bucket when filled weights up to 40lbs. and is emptied into bulk boxes known as "tote boxes". Each tote box has a capacity of 20 bushels. Workers are required to handle ladders up to 24 feet long and weighing about 2 lbs. per foot. In apple harvest work, may be instructed to selectively pick mature fruit according to size, color, and grade standards factors.

See attached for Spanish

(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	Hourly Wage	Piece Rate / Unit(s)	Special Pay (bonus, etc.)	Deductions	Yes/Si	No	Pay Period Periodo de Pago
Apple/Fresh	\$ 10.25	\$ 0.756 Bu.		Social Security / Seguro Social	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Weekly / Semanal
Apple/Process	\$ 10.25	\$ 0.60 Bu.		Federal Tax Impuestos Federales	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Apple/Drop	\$ 10.25	\$ 0.50 Bu.		State Tax Impuestos Estatales	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Bi-weekly / Quincenal
	\$	\$		Meals / Comidas	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	\$	\$		Other (specify)/ Otro (especifica)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Other / Otro <input type="checkbox"/>

More Details About the Pay / Mas Detalles Sobre el Pago

(If additional space is needed, use separate sheet of paper. / Si necesitas más espacio, utilice otra hoja de papel)

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 necesitas más espacio, utilices otra hoja de papel)

18. Is it the prevailing practice to use Farm Labor Contractors (FLC) to recruit, supervise, transport, house, and/or pay workers for this (these) crop activity (ies)? ¿ Es la práctica habitual de usar Contratistas de Trabajo Agrícola para reclutar, supervisar, transportar, dar vivienda, y/o pagarte a los trabajadores para este(os) tipo(s) 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 pagas al Contratista de Trabajo Agrícola por cada actividad?

19. Unemployment Insurance provided? Seguro de Desempleo?

Yes/Si No

20. Workers' compensation insurance provided? Se le provee seguro de compensación/indemnización al trabajador:

Yes/Si No

21. Are tools provided at no charge to the workers? / Se les proveen herramientas sin costo alguno a los trabajadores?

Yes/Si 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") / Enumere todos los acuerdos o convenios hechos con los propietarios del establecimiento o sus agentes para el 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 operaciones de trabajo por parte de los empleados en el lugar de empleo. (Si no hay incidentes de este tipo, indique "Ninguno")
NONE / Ninguno

24. Address of Order Holding Office (include Telephone number)/Dirección de la Oficina donde se radica la oferta (incluya el 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 el número de teléfono de su línea directa)
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 del empleo que se le ofrece, y contiene todos los términos y condiciones materiales ofrecidos.

Samuel W. Sewer PRES.
Employer's Signature & Title/ Firma y Título del Empleador

Date: 6/21/11

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.

LEA CON CUIDADO, En vista de la función básica del Servicio de Empleo establecida por ley, como una entidad de intercambio laboral sin comisiones, es decir, como un foro para reunir a los empleadores y los solicitantes de empleo, ni ETA ni las agencias del estado pueden garantizar la exactitud o veracidad de la información contenida en las órdenes de trabajo sometidas por los empleadores. Ni ninguna orden de trabajo aceptado o contratado en el Centro de Carreras (One-Stop Career Center) constituyen una oferta de trabajo contractuales a las que el One-Stop Career Center, ETA o un organismo estatal es de ninguna manera una de las partes.

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, DC 20210.

ETA Form 790 (Revised Oct, 2010)
Previous versions not usable

3. El pueblo de Newfane, Condado de Niágara, Nueva York. 1/8 milla al este de Bebee Camino del norte en el lado del norte de Ruta 18. 1 edificio del cemento de la historia, rega/baños centrales, con la cocina en cada cuarto, la capacidad de 18 ocupantes. Conocido como "Campamento de Sayer". El pueblo de Newfane, Condado de Niágara, NY. Ubicado en cruce de Ruta 18 y el Camino del norte de Tránsito de zona del este. 1 edificio del bloque del cemento de la historia con la cocina en cada cuarto. Separe la construcción con duchas y baños. La capacidad de 24 ocupantes. Conocido como el "Campamento de Ontario". El pueblo de Newfane, 7184 Camino de Lago, Appleton, Nueva York, una milla al este del Camino de Hess en el lado del sur de Ruta 18, 2 bloque de cemento de historia que construye, duchas centrales/baños, con la cocina en cada cuarto, la capacidad de 32 ocupantes. Conocido como el "Campamento de Greenlane".

15. Durante el período anticipado del empleo, la actividad primaria en esta granja será la cosecha de mano de manzanas. Puede plantar, puede cultivar, puede rociar y puede cosechar de manzanas. Quite exceso de crecimiento de árboles para mejorar las sierras de podar de utilizar de calidad de fruta y las esquiladoras mayo afina flores o fruta inmadura para obtener mejor fruta de calidad. Otra fruta que cosecha u otros deberes del trabajo, si necesario, son mostrados en la fijación # 1. Los trabajadores deben poder escoger fruta, la mayor parte de que es hecho de escaleras, con ramas más bajas ser escogido del suelo. La fruta escogida es colocada en un metal-encuadrado, lona-cubrió que escoge cubo con correas de lona que resbala sobre la cabeza y el descanso en el hombro. El cubo cuando pesas llenadas hasta 40lbs. y es vaciado en cajas al por mayor conocidas como "cajas de carga". Cada caja de la carga tiene una capacidad de 20 fanegas. Los trabajadores son requeridos a manejar escaleras arriba a 24 pies de largo y pesar acerca de 2 lbs. por pie. En el trabajo de cosecha de manzana, puede ser instruido para escoger selectivamente fruta madura según calibrar, colorar, y para graduar los factores de estándares.

New York State Department of Labor
FORM ETA 790
Attachment 1

Job Order Number _____

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 H-2A workers and those workers in corresponding employment 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.
- e.

Item 13: Board Arrangements

- a. Employer will ___ will not X provide three meals per day and will deduct \$ n/a per day. Employer will X will not ___ furnish free dishes, cooking utensils and convenient kitchen and cooking facilities.
- b. Employer will X 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 655.173.

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 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.
 - 4) Abandons Job ('Job Abandonment') – is absent for 5 consecutive previously scheduled days without prior notification to employer
- 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. The employer will offer, advertise in its recruitment, and pay a wage that is the highest of the AEW, the prevailing hourly wage or piece rate, the agreed upon collective bargaining wage or the Federal or State minimum wage.
- 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 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 local office, then employer shall pay an eligible worker referred through the clearance system \$492.00 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 local 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 (\$10.73 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. The employer will make efforts to transfer the worker

- to other comparable employment acceptable to the worker, consistent with existing Immigration law as applicable.
- 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

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 655.135.
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.