



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

OMB Control No. 1205-0134
Expiration Date: October 31, 2015

**Agricultural and Food Processing Clearance Order ETA Form 790
Orden de Empleo para Obreros/Trabajadores Agrícolas y Procesamiento de Alimentos**

(Print or type in each field block - To include additional information, go to block # 28 - Please follow Step-By-Step Instructions)

(Favor de usar letra de molde en la solicitud - Para incluir información adicional vea el punto # 28 - Favor de seguir las instrucciones paso-a-paso)

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

B & D Farms, Inc
4495 Williamson Rd (Route 21) PO Box 380
Marion NY 14505

a) Federal Employer Identification Number (FEIN) / Número federal de Identificación del Empleador: 16-1290030

b) Telephone Number / Número de Teléfono: 315-926-5118

c) Fax Number / Número de Fax: 315-926-5118

d) E-mail Address / Dirección de Correo Electrónico: sdfisher@five95.net

2. Address and Directions to Work Site / Domicilio y Direcciones al lugar de trabajo:

4495 Williamson Road (Route 21) Marion NY 14505
As you pull out of the camp driveway, turn left. Travel about 5 miles until you reach the stop light in Williamson. Turn left at the light which you will now be on Williamson Road (Rt 21) Drive 5 miles and on the right hand side is B & D Farms, Inc.

5325 Williamson Rd., Marion, NY 14505

All worksites are owned and operated by employer.

3. Address and Directions to Housing / Domicilio y Direcciones al lugar de vivienda: 5460 Ridge Road Sodus

When you are leaving the farm turn left onto Williamson Road (Rt 21) drive 5 miles until you reach the stop light. Turn right at the light which will put you on Ridge Road. Drive 5 miles staying on Ridge Road until you reach the camp on the right hand side and sits back from the road.

Capacity: 36

EJ 6/27/13

a) Description of Housing / Descripción de la vivienda:

See Attached map and description.
Workers should expect to share a room with another worker.

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

4. SOC (O*NET/OES) Occupational Code / Código Industrial:

45-2092.02

a. SOC (ONET/OES) Occupational Title / Título Ocupacional
Farmworkers and Laborers
Crops

5. Job Order No. / Num. de Orden de Empleo:

N 1062565

6. Address of Order Holding Office (include Telephone number) / Dirección de la Oficina donde se radico la oferta (incluya el número de teléfono):

(877) 466-9757

a. 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).

(877) 466-9757

7. Clearance Order Issue Date / Fecha de Emisión de la Orden de Empleo:

6/27/13

8. Job Order Expiration Date / Fecha de Vencimiento o Expiración de la Orden de Empleo:

10/5/13

9. Anticipated Period of Employment / Periodo anticipado o previsto de Empleo:

From / Desde: 9/5/13

To / Hasta: 11/5/13

10. Number of Workers Requested / Número de Trabajadores Solicitados:

15

11. Anticipated Hours of Work per Week / Horas Anticipadas/Previstas de Trabajo por Semana. Total: 45

| | | | |
|-----------------------|---|-------------------|---|
| Sunday / Domingo | 0 | Thursday / Jueves | 9 |
| Monday / Lunes | 9 | Friday / Viernes | 9 |
| Tuesday / Martes | 9 | Saturday / Sábado | 0 |
| Wednesday / Miércoles | 9 | | |

12. Anticipated range of hours for different seasonal activities: / Rango previsto de horas par alas diferentes actividades de la temporada:

45

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

Employer / Empleador:

Yes / SI No

RECEIVED
JUN 25 2013

14. Describe how the employer intends to provide either 3 meals a day to each worker or furnish free and convenient cooking and kitchen facilities for workers to prepare meals / Describa cómo el empleador tiene la intención de ofrecer, ya sea 3 comidas al día a cada trabajador, o proporcionar gratuitamente instalaciones para cocinar.

Workers must buy and prepare own meals.

Employer will NOT provide three meals per day and will deduct \$N/A per day.

Employer will furnish free dishes, cooking utensils and convenient kitchen and cooking facilities to workers to whom housing is provided.

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

15. Referral Instructions and Hiring Information / Instrucciones sobre cómo Referir Candidatos/Solicitantes - (Explain how applicants are to be hired or referred, and the Employer's/Agent's available hour to interview workers / Explique cómo los candidatos serán contratados o referidos, y las horas disponibles del empleador/agente para entrevistar a los trabajadores). See instructions for more details / Vea las instrucciones para más detalles.

Referral Instructions: Call 877-468-9757 for your nearest one (1) stop Office. Or contact employer directly - Steven Fisher at (315) 926-5118 during normal business hours.

ET 6/27/13

16. Job description and requirements / Descripción y requisitos del trabajo:

Manually cultivate and harvest fruits. Use hand tools such as pruning hooks and shears. Duties may include summer pruning crops and harvesting fruits by hand. Apples injured by bruising during picking shall not exceed 2% (w/w) for fresh and 2% (w/w) for processing. Productivity must be at least 6 bins (120 bushels) fresh market and/or 8 bins processing (160 bushel) fruit per day. Use equipment, sanitizers and hand tools to sanitize and hand tools to sanitize bins, machinery and equipment to meet food safety regulations. Inform farmers or farm managers of crop progress. Identify plants, pests and weeds to determine the selection and application pesticides and fertilizers. Inform farm manager of potential pests issues and or food safety threats. Workers are expected to work at least the number of days and hours specified. Depending on weather, crop or other conditions workers may be requested, but not required, to work up to seven days per week and /or on the Sabbath and up to 12 hours a day. Employer will furnish to workers without cost, all tools and equipment required in the performance of duties assigned. Workers should report to work with their own suitable work clothing and foot ware. Field temperatures may range from below 0 to 90+ degrees (f) with possible wet morning conditions. Due to both worker safety and food safety concerns, worker must be able to understand enough English to follow directions and communicate safety threats to the farmer, other workers and supervisors. Workers referred against this order must have a minimum of 3 months experience in performing tasks described in this order. Employer may conduct random drug tests, post hire, at the employer's expense.

Workers must be able to demonstrate that they are physically able to perform the work as describe.

The employer will provide 0 days of training and / or allow 0 days of work for workers to reach production standards if applicable.

Employer may terminate worker with timely notification to the NPC and DHS, if the worker:

Refuses, without cause to perform work for which the worker was recruited and hired.

Commits serious acts of misconduct

Falls, after completing any training or break-in period to reach production standards Or Abandons Job ("job Abandonment) is absent for five (5)

Consecutive previously scheduled days without prior notification to employer.

* See attachment for "B & D Farms, Inc Work Rules"

1. Is previous work experience preferred? / Se prefiere previa experiencia? Yes / SI No If yes, number of months preferred: / Si es así, número de meses de experiencia: 3 months

2. Check all requirements that apply:

- Certification/License Requirements / Certificación/Licencia Requisitos
- Driver Requirements / Requisitos del conductor
- Employer Will Train / Empleador entrenará o adiestrará
- Extensive Sitting / Estar sentado largos ratos
- Exposure to Extreme Temp. / Expuesto a Temperaturas Extremas
- Lifting requirement / Levantar o Cargar _50 _lbs./libras
- Repetitive Movements / Movimientos repetitivos
- Criminal Background Check / Verificación de antecedentes penales
- Drug Screen / Detección de Drogas
- Extensive Pushing and Pulling / Empujar y Jalar Extensamente
- Extensive Walking / Caminar por largos ratos
- Frequent Stooping / Inclinandose o agachándose con frecuencia
- OT/Holiday is not mandatory / Horas Extras (sobre tiempo) / Días Feriados no obligatorio

We do not hire sex offenders as we are located next to a school and are in a residential area. Employees are often scattered throughout the farm and may have no direct supervision for up to 2 hours during work hours.

Our employees may drive farm equipment not only on the farm, but on town and county roads to get between orchards. With being on a busy road and residential neighborhood, during the course of employment during working hours employees must not be under the influence of drugs or alcohol which could affect their judgment or ability to operate this equipment safely for the sake of other motorists, pedestrians or other employees working in the field.

| 17. 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 |
| Cultivos | Salario por Hora | Pago por Pieza / Unidad(es) | Pagos Especiales (Bono, etc.) | Deducciones | | | / / |
| Orchardwork | \$10.91 | \$ | NO | Social Security / Seguro Social | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Weekly / Semanal |
| Standard Fresh Pick Apples | \$ 10.91 | \$.90 | NO | Federal Tax / Impuestos Federales | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Dwarf Fresh Pick Apples | \$ 10.91 | \$.85 | NO | State Tax / Impuestos Estatales | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Bi-weekly / Quincenal |
| Drops | \$ 10.91 | \$.60 | NO | Meals / Comidas | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Process | \$ 10.91 | \$.60 | NO | Other (specify) / Otro (especifica) | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Monthly/Mensual |
| ET 6/24/13 | | | | | | | Other/Otro |
| | | | | | | | <input type="checkbox"/> |

18. **More Details About the Pay / Mas Detalles Sobre el Pago:** The employer will offer, advertise in its recruitment, and pay a wage that is the highest of the AEWR, the prevailing hourly wage or piece rate, the agreed upon collective bargaining wage, or the Federal or State minimum wage, except where a special procedure is approved for an occupation or specific class or agricultural employment. Employer assures that if a change in the AEWR requires an increase such increase will be paid as of the effective date of the increase. Also if the AEWR is decreased this will become the wage effective on the date of the decrease.

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.

In New York State, the only deductions that can be taken from worker pay are: Those required by law, such as Social Security, income tax, and garnishment of wages; and those that benefit workers and are authorized in writing, such as life insurance, or a savings account. Any other deductions are illegal.

The employer guarantees to offer employment for a minimum of ¾ (three-fourths guarantee) 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 workers' arrival at the place of employment and ends on the date specified on the job order or extensions thereof. In fire, weather, or Act of God terminations (as determined by the Certifying Officer) the ¾ guarantee period on the date of termination. The employer must make efforts to transfer the worker to other comparable employment acceptable to the worker, consistent with existing immigration law, as applicable. If such a transfer is not effected, the employer must (1) return the worker, at the employers expense, to the place from which the worker (disregarding intervening employment) came to work for the employer, or transport the worker to the workers next certified H-2 A employer, which ever the worker prefers; (2) reimburse the worker the full amount of any deductions made from the worker's pay by the employer for transportation and subsistence expenses to the place of employment; and (3) pay the worker for any costs incurred by the worker for transportation and daily subsistence to that employer's place of employment. Daily subsistence must be computed as set forth in paragraph (h) of 655.122. The amount of the transportation payment must not be less (and is not required to be more) than the most economical and reasonable common carrier transportation charges for the distances involved provide the guarantees in item 19 (a) below.

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 the guarantee if employer provides timely notification to the NPC and DHS.

On or before each payday the employer will provide to each worker in one or more written statements the following information: the workers total earnings for the pay period, the workers hourly rate and/or piece rate of pay, the hours of employment offered to the worker (showing offers in accordance with the ¾ guarantee as determined in paragraph (1) of the regulations at 20 CFR sec 655.122(k) separate from any hours offered over and above the guarantee: the hours actually worked by the worker, and itemization of all deductions made from the workers wages, if piece rates are used, the units produced daily, beginning and ending dates of the pay period and the employer's name address and FEIN .

Workers with school age children who have migrated with such children and who depart in time 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. The employer will provide workers referred through the Interstate clearance system 40 hours for the week beginning with the anticipated Date of need unless employer has amended the date of need by notifying the SWA no later than 10 business days before the date of need. If the employer fails to notify the NYS Department of Labor, then the employer shall pay an eligible worker referred through the clearance system \$438.40 (number of hours work x AEWR/prevailing wage/minimum wage) for the first week starting with the originally anticipated date of need. If worker referred fails to notify the NYS Department of Labor of continued interest in the job at least 5 days before date of need, worker will be disqualified from this assurance.

Employer will will not require worker to perform alternative work if the guarantee cited in the section is invoked.

Alternative work: Building, labor camp and equipment cleaning, maintenance and repair, and or orchard block sign construction and installation.

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

ET 6/26/13
490.95

19. **Transportation Arrangements / Arreglos de Transportación:** Employer agrees to reimburse inbound transportation and subsistence expense (\$11.42 / day without receipts or up to \$46.00/ 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 place from which the worker has come to work for the employer, whether in the US or abroad to the place of employment, after the worker has completed 60% of the stipulated period of employment, from the initial date of need or from the day after actual arrival of worker if later than the stated date to report. The 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 fire, weather or an act of God (as determined by the certifying officer) from place of employment to place of recruitment, except if the worker is not returning to his/her place of recruitment and as a subsequent employer who will bear transportation expenses, in which case this employer only pays for transportation to the FOB.

20. 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 usar Contratistas de Trabajo Agrícola para reclutar, supervisar, transportar, dar vivienda, y/o pagarle 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," cuál es el salario que le paga el Contratista de Trabajo Agrícola por cada actividad?

The FLC wage is \$10.00/hour plus 20% of the workers gross salaries.

21. Are workers covered for Unemployment Insurance? / ¿Se le proporcionan Seguro de Desempleo a los trabajadores? Yes/Si No

22. Are workers covered by workers' compensation? / ¿Se le provee seguro de compensación/indemnización al trabajador? Yes/Si No

23. Are tools, supplies, and equipment provided at no charge to the workers? / ¿Se les proveen herramientas y equipos sin costo alguno a los trabajadores? Yes/Si No

24. 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

25. 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

26. Is this job order to be placed in connection with a future Application for Temporary Employment Certification for H-2A workers? / ¿Esta orden de empleo ha sido puesta en conexión con una futura solicitud de certificación de empleo temporal para trabajadores H-2A?

Yes/ No

27. 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.

Steven D Fisher Vice President
Employer's Printed Name & Title / Nombre y Título en Letra de Molds/Imprenta del Empleador

[Signature]
Employer's Signature / Firma y Título del Empleador

6/1/13
Date / Fecha

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 Employment and Training Administration (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 American Job Center constitute a contractual job offer to which the American Job 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 Camerass (American Job Center) constituyen una oferta de trabajo contractuales a las que el American Job 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, Employment and Training Administration, Office of Workforce Investment, Room C-4510, 200 Constitution Avenue, NW, Washington, DC 20210.

DECLARACION DE CARGA PÚBLICA

La carga de información pública para responder a la Forma ETA 790, que se requiere para obtener o retener beneficios (44 USC 3501), se estima en aproximadamente 60 minutos por respuesta, incluyendo el tiempo para revisar las instrucciones, buscar fuentes de datos existentes, recopilar y revisar la colección. El público no tiene por qué responder a esta recopilación de información a menos que muestre un número de control OMB válido. Esta información es pública y no hay ninguna expectativa de confidencialidad. Envíe sus comentarios acerca de esta carga o cualquier otro aspecto de esta colección, incluyendo sugerencias para reducir esta carga, al U.S. Department of Labor, Employment and Training Administration, Office of Workforce Investment, Room C-4510, 200 Constitution Avenue, NW, Washington, DC 20210.

28. Use this section to provide additional supporting information (including section Box number). Include attachments, if necessary. / Utilice esta sección para proporcionar información adicional de apoyo; incluya el número de la sección e incluya archivos adjuntos, si es necesario.

**20 CFR 653.501
Assurances**

INTRASTATE AND INTERSTATE CLEARANCE ORDER

The employer agrees to provide to workers referred through the clearance system the number of hours of work per week cited in Item 10 of the clearance order for the week beginning with the anticipated date of need, unless the employer has amended the date of need at least 10 working days prior to the original date of need by so notifying the Order-Holding Office (OHO). If the employer fails to notify the OHO at least 10 working days prior to the original date of need, the employer shall pay eligible workers referred through the intrastate/interstate clearance system the specified hourly rate or pay, or in the absence of a specified hourly rate or pay, the higher of the Federal or State minimum wage rate for the first week starting with the original anticipated date of need. The employer may require workers to perform alternative work if the guarantee is invoked and if such alternative work is stated on the job order.

The employer agrees that no extension of employment beyond the period of employment shown on the job order will relieve the employer from paying the wages already earned, or specified in the job order as a term of employment, providing transportation or paying transportation expenses to the worker's home.

The employer assures that all working conditions comply with applicable Federal and State minimum wage, child labor, social security, health and safety, farm labor contractor registration and other employment-related laws.

The employer agrees to expeditiously notify the OHO 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 the terms and conditions of employment.

The employer, if acting as a farm labor contractor, has a valid farm labor contractor registration certificate.

The employer assures the availability of no cost or public housing which meets applicable Federal and State standards and which is sufficient to house the specified number of workers requested through the clearance system.

The employer also assures that outreach workers shall have reasonable access to the workers in the conduct of outreach activities pursuant to 20 CFR 653.107.

Employer's Name B+D Farms, Inc Date: 6/1/13

Employer's Signature 

Besides the material terms and conditions of the employment, the employer must agree to these assurances if the job order is to be placed as part of the Agricultural Recruitment System. This assurance statement must be signed by the employer, and it must accompany the ETA Form 790.

**New York State Department of Labor
FORM ETA 790 Attachment #1
Terms and Conditions/Clarifications and Assurances**

Job Order Number: _____

A: CLARIFICATION OF ITEMS ON FORM ETA 790

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.

Item 16: Job Specifications

- a. Workers must be able to demonstrate that they are physically able to perform the work as described.
- b. Employer may terminate worker with timely notification to the NPC and DHS, if the worker:
 - 1) Refuses, without 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 (if applicable)
 - 4) Abandons Job ("Job Abandonment") – is absent for five consecutive previously scheduled days without prior notification to employer.

Item 17: Wage Rates, Special Pay Information and Deductions

The employer will offer, advertise in its recruitment, and pay a wage that is the highest of the AEWR, the prevailing hourly wage or piece rate, the agreed upon collective bargaining wage, or the Federal or State minimum wage, except where a special procedure is approved for an occupation or specific class of agricultural employment. Employer assures that if a change in the AEWR requires an increase such increase will be paid as of the effective date of the increase. Also if the AEWR is decreased this will become the wage effective of the date of the decrease.

- 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 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 deductions are illegal.

- c. The employer guarantees to offer employment for a minimum of $\frac{3}{4}$ ("three fourths guarantee") 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 fire, weather or Act of God terminations (as determined by the Certifying Officer) the $\frac{3}{4}$ guarantee period ends on the date of termination. The employer must make efforts to transfer the worker to other comparable employment acceptable to the worker, consistent with existing immigration law, as applicable. If such a transfer is not affected, the employer must (1) return the worker, at the employers expense, to the place from which the worker

(disregarding intervening employment) came to work for the employer, or transport the worker to the workers next certified H2A employer, whichever the worker prefers (2) reimburse the worker the full amount of any deductions made from the workers pay by the employer for transportation and subsistence expenses to the place of employment; and (3) pay the worker for any costs incurred by the worker for transportation and daily subsistence to that employers place of employment. Daily subsistence must be computed as set forth in paragraph (h) of 655.122. The amount of the transportation payment must not be less (and is not required to be more) than the most economical and reasonable common carrier transportation charges for the distances involved provide the guarantees in Item 19 (a) below.

- d. 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 if employer provides timely notification to the NPC and DHS.
- e. On or before each payday the employer will provide to each worker in one or more written statements the following information: (1) the workers total earnings for the pay period; (2) the workers hourly rate and/or piece rate of pay; (3) the hours of employment offered to the worker (showing offers in accordance with the ¾'s guarantee as determined in paragraph (i) of the regulations at 20 CFR sec. 655.122(k), separate from any hours offered over and above the guarantee); (4) the hours actually worked by the worker; (5) an itemization of all deductions made from the worker's wages; (6) If piece rates are used, the units produced daily; (7) beginning and ending dates of the pay period; (8) the employer's name, address, and FEIN.
- 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.

Item 19: Transportation

Employer agrees to reimburse inbound transportation and subsistence expenses (\$11.42 per day minimum to a maximum of \$46.00 per day) 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 place from which the worker has come to work for the employer, whether in the U.S. or abroad to the place of employment, 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.

- a. 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 fire, weather or an Act of God (as determined by the Certifying Officer), from place of employment to place of recruitment, except if the worker prefers not to return to his place of recruitment and has subsequent employment with an employer – see Item 17 (c) above. 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.
- b. 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. The amount of daily subsistence will be in accordance with current rates published in the *Federal Register* (for workers with and without receipts).
- c. If requested by the worker, employer will assist in making transportation arrangements.
- d. 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.

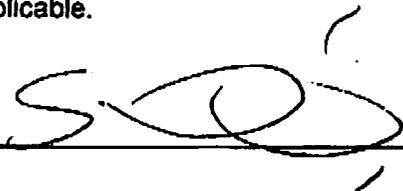
Item 23: Tools and Equipment

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 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 the 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. The employer will provide to an H-2A worker no later than the time at which the worker applies for the visa, or to a worker in corresponding employment no later than on the day work commences, a copy of the work contract between the employer and the workers in a language understood by the worker
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 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.

Employer Signature _____



3-2013

New York State Department of Labor
Form ETA 790 Attachment #2 – Additional Information

Item 1:

Employer Email: Sd Fisher@five95.net **Agent Email:**
Employer Fax: 315-926-5118 **Agent Fax:**

Item 13: Board Arrangements

Employer will ~~will not~~ provide three meals per day and will deduct \$ per day.
Employer ~~will~~ will not furnish free dishes, cooking utensils and convenient kitchen and cooking facilities.
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.

Item 15: Job Specifications

The employer will provide days of training and/or allow days of work for worker to reach production standards if applicable.

Production Standards (if applicable): After completion of training or break-in period, employer will expect worker to: complete 6 bins (120) bushel fresh or 8 bins (160) bushel process per day

Item 16: Wage Rates, Special Pay Information and Deductions

The employer will provide workers referred through the interstate clearance system 45 hours of work for the week beginning with the anticipated date of need, unless employer has amended the date of need by notifying the State agency no later than 10 business days before the date of need. If the employer fails to notify NYS Department of Labor office, then employer shall pay an eligible worker referred through the clearance system \$490.95 for the first week starting with the originally anticipated date of need. If worker referred fails to notify the NYS Department of Labor of continued interest in the job at least 5 days before date of need, worker will be disqualified from this assurance. Employer ~~will~~ will not require worker to perform alternative work if the guarantee cited in this section is invoked.

Alternative work: building labor camp, and equipment cleaning, maintenance and repair, and or orchard block sign construction and installation.
Employer will maintain adequate payroll records. Workers will be paid weekly on Friday for work through the previous Wednesday

ET 6/27/13

Item 20: Workers' Compensation

The employer assures that Policy # 2532-2 issued by NYSIF 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

3/4/2011

B & D FARM INC WORK RULES

Although not intended to be a complete list, these work rules are intended to provide guidance to workers of standards of conduct expected of them.

Notice is provided that violation of lawful job-related requirements, including these works rules will be considered ground for immediate termination of a worker's employment. Penalties such as suspension from work opportunity for the remainder of a day to three days may be made in case of less serious violations.

Workers are expected to comply with all rules relating to discipline, attendance, work quality and effort, and the care and maintenance of all property provided to them by the employer.

1. Workers who perform sloppy work may be suspended without pay for the remainder of the workday or for up to three days in sole judgment of their supervisor, depending on the degree of infraction, the workers prior record and other relevant factors. Discharge of the worker may result from any subsequent offense.
2. No use or possession of beer, liquor or illegal drugs is permitted during work time or during any workday before work is completed for the day (such as during meals): workers may not report for work under the influence of beer, liquor or illegal drugs. Employees may be terminated for excessive use of alcohol, drunk and/or disorderly conduct in housing after hours. Illegal drugs may not be used, sold, manufactured or kept on any empery premised, including housing.
3. Excessive absences will not be permitted. This is regular, every day work for which employees are expected to be present, able and willing to perform every scheduled work day. This is not sporadic or "day work". Excessive or repeated tardiness is not acceptable. Any absence from work must be reported by 7am. Five consecutive work days of unexcused absence will constitute abandonment of employment and the worker will be terminated.
4. Workers shall maintain any living quarters provided to them clean and good repair, given reasonable wear and tear. Workers shall cooperate in maintaining common kitchen and living areas. No pets of any kind are permitted.
5. All poster required by federal and state law will be posted at the main office.
6. All housing must be locked each morning before leaving for work. Lights, televisions and unnecessary heat should be turned off, doors and windows closed in event or rain and when the heat is on.
7. Workers must leave mattresses in the bed frame. Mattresses are not to be placed on the floor.
8. Workers must not remove batteries or wiring from smoke detectors. All cooking must take place on provided stove tops, ovens or microwave ovens. Workers must remain present when operating stove tops, ovens or microwave. These appliances must be turned OFF if unattended.

9. Workers must drop paper, cans, bottles or other trash in fields, work areas or on housing premises. Trash and waste receptacles must be used.
10. Workers may not take unauthorized breaks from work.
11. Workers may not leave the field or other assigned work area without permission of the employer or person in charge.
12. Workers may not enter the employer's premises without authorization.
13. Workers may not begin work prior to scheduled starting time or continue working after stopping time.
14. Workers living in employer's housing must be considerate of other workers in housing and may not entertain guest in housing premises overnight. No persons, other than workers assigned by an employer to a room may sleep in any room. All workers in housing must recognize the right of co-workers right to a quiet environment for rest and sleep after 10:00pm work nights and 12 midnight on Saturday.
15. Workers may not deliberately restrict production, damage plants or bruise fruit.
16. Any worker who physically threatens another worker, the employer or any supervisor with any tool or weapon will be subject to immediate discharge.
17. Any worker who if found carrying, using or possessing any dangerous or deadly weapons will be subject to immediate discharge.
18. Workers will be discharged for fighting on the employer's premises, including housing premises, at any time.
19. Workers will be discharged if they steal from fellow workers or employer.
20. Workers will not falsifying identification, personnel, medical, production, time worked or other legal or work related records. Falsifying legal record is grounds for dismissal.
21. Workers may not willfully abuse or destroy any machinery, truck or other vehicle, equipment, tools, or other property belonging to the employer or to other employees or neighboring properties.
22. Workers may not use or operate trucks or other vehicles, machines, tools or other equipment, and property to which the worker has not been specifically assigned by his supervisor. Workers may not use or operate trucks or other vehicles, tools or other equipment or property for their personal use unless expressly authorized by the employer.
23. Workers must not misuse or remove from the farm premises without authorization any employer owned property.
24. Workers must obey all safety rules and common safety practices and must report any injuries or accidents promptly to their supervisor or the employer's office.
25. Workers must follow supervisor's instructions. Insubordination is cause for dismissal.
26. Long distance telephone calls are prohibited without prior permission of employer and costs of such calls, if made by workers without employer's prior permission, will be charged to the worker making the call.

27. Except as otherwise noted about, employees who violate work rules will be disciplined according to the following schedule:

First offense: oral warning and correction

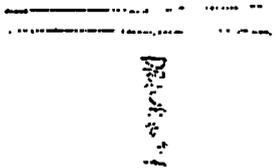
Second offense: written warning and unpaid leave for balance of the day.

Third offense: immediate discharge with written fact statement. Employee will be asked to sign written fact statement.

*Use of the masculine pronoun herein is for convenience of reference only.

LABOR COSTS

16 TOTAL ROOMS



DOUBLE

4 SINGLES

11 DOUBLES

1 BOARD

CONCRETE BLOCK

3.5)

CONCRETE BLOCK

ONE BRANDED STYLE UNIT

OCCUPANCY 30

MOBILE HOME

OCCUPANCY 4

BRANDED STYLE UNIT

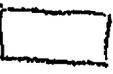
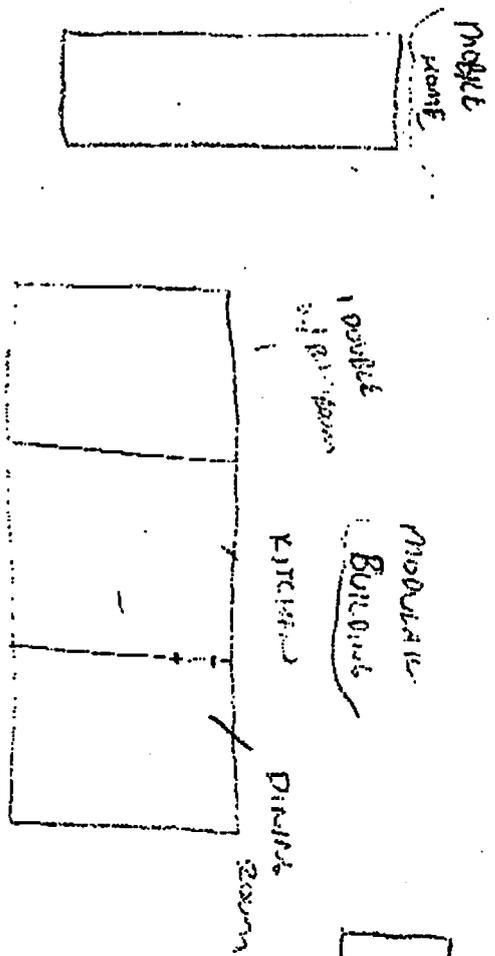
CONCRETE BLOCK UNIT

OCCUPANCY 2

COMMUNAL BATHROOM

OCCUPANCY 2

4 PEOPLE
 KITCHEN
 2 BATHROOMS
 WASHING & DRYER FOR ALL WORKERS TO USE



BACK BATHROOM