



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

MAY 27 2011

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**

| | | | | | | | | | | | | | | | | | | |
|---|--|--|------------------|---|----------------|---|------------------|---|-----------------------|---|-------------------|---|------------------|---|-------------------|---|--|--|
| <p>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)</p> <p>AGPRO FARMS Andrew E. Fisher 3163 Shepard Road Clyde New York 14433</p> | <p>Nos. 4 - 8 for STATE USE ONLY Números 4 a 8 para USO ESTATAL</p> | | | | | | | | | | | | | | | | | |
| | <p>4. Industry Code/Código Industrial</p> <p>11331</p> | <p>5. Job Order No. / Num. de Orden de Empleo</p> <p>NY0982474</p> | | | | | | | | | | | | | | | | |
| | <p>6. Occupational Title and Code / Título Ocupacional y Código</p> <p>Farmworkers & Laborers, Crop 45-2092.02</p> | | | | | | | | | | | | | | | | | |
| | <p>7. Clearance Order Issue Date / Fecha de Tramite</p> <p>JUN 03 2011</p> | | | | | | | | | | | | | | | | | |
| <p>8. Job Order Expiration Date / Fecha de Expiración</p> <p>10/20/11</p> | | <p>9. Anticipated Period of Employment / Periodo Anticipado de Empleo</p> <p>From/ Desde: 08-08-11 To/Hasta: 12/31/11</p> | | | | | | | | | | | | | | | | |
| <p>Telephone number/Teléfono: (315) 923-5561 Fax:</p> | <p>10. No. of Workers Requested / Num. de Trabajadores Solicitados</p> <p>15 workers / 15 trabajadores</p> | | | | | | | | | | | | | | | | | |
| <p>2. Location and Direction to Work Site / Ubicación y Dirección al Lugar de Trabajo</p> <p>Route 31 East to route 414 North, East on Clyde Hunts Corners road, first left onto Shepard road, 1/2 mile. to the Farm, at 2784 Shepard Road, Clyde NY 14433</p> | <p>11. Anticipated Hours of Work per Week / Horas Anticipadas de Trabajo por Semana. Total: 40</p> <table border="0"> <tr> <td>Sunday / Domingo</td> <td>0</td> <td>Monday / Lunes</td> <td>7</td> </tr> <tr> <td>Tuesday / Martes</td> <td>7</td> <td>Wednesday / Miércoles</td> <td>7</td> </tr> <tr> <td>Thursday / Jueves</td> <td>7</td> <td>Friday / Viernes</td> <td>7</td> </tr> <tr> <td>Saturday / Sábado</td> <td>5</td> <td></td> <td></td> </tr> </table> | | Sunday / Domingo | 0 | Monday / Lunes | 7 | Tuesday / Martes | 7 | Wednesday / Miércoles | 7 | Thursday / Jueves | 7 | Friday / Viernes | 7 | Saturday / Sábado | 5 | | |
| Sunday / Domingo | 0 | Monday / Lunes | 7 | | | | | | | | | | | | | | | |
| Tuesday / Martes | 7 | Wednesday / Miércoles | 7 | | | | | | | | | | | | | | | |
| Thursday / Jueves | 7 | Friday / Viernes | 7 | | | | | | | | | | | | | | | |
| Saturday / Sábado | 5 | | | | | | | | | | | | | | | | | |
| <p>3. Location and Description of Housing / Dirección y Descripción de la Vivienda</p> <p>2784 Shepard road, Clyde NY, 1 house and 2 trailers have total capacity of 17 workers; consisting of wood structure. The 3 Barracks have full kitchen and laundry facilities. Housing availability at no cost meets the full set of applicable standards.</p> <p>2784 Shepard road, Clyde NY, 1 casa y 2 trailers con capacidad para 17 trabajadores; consistentes y estructuradas en madera las 3 barracks tienen servicio de cocina y lavandería. Vivienda disponible sin costo alguno con todas las normas en orden.</p> | | <p>12. Collect Calls Accepted from / Aceptan Llamadas por Cobrar de:</p> <p>Employer / Empleador Yes/Si <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>Local Office / Oficina Local Yes/Si <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>Collect call are accepted only from officials of New York state Department of Labor offices.</p> | | | | | | | | | | | | | | | | |
| <p>(If additional space is needed, use separate sheet of paper / Si necesitas más espacio, utilices otra hoja de papel)</p> | | <p>(If additional space is needed, use separate sheet of paper / Si necesitas más espacio, utilices otra hoja de papel)</p> | | | | | | | | | | | | | | | | |

13. Board Arrangements / Arreglo de Alojamiento

Yes, workers must buy and prepare own meals, all cooking utensils and facilities are available at no cost. Employer will transport workers to stores, to purchase groceries. Other incidentals and/or medical necessities.

Si, los trabajadores compraron y prepararon sus propios alimentos, todas las facilidades y utensiles estan disponibles sin costo alguno. El empleador transportara a los trabajadores a la tienda para comprar comida y alimentos necesarios. Otros incidentes y / o (medico) necesidades medicas.

14. Referral Instructions / Instrucciones sobre cómo Referir Candidatos

Contact employer directly or one stop office nearest you, in business hours; Andrew Fisher (315) 923 5561.

Contactar al patron directamente o la oficina "one stop" lo mas cerca de usted, durante horas de oficina; Andrew Fisher (315) 923 5561.

15. Job Specifications / Especificaciones del Trabajo

Harvest apples, detach apples from three and deposit them in a 1/2 picking bucket, to a Bin. Manually harvest fruits, use hand tools such as Picking buckets, stepladders, boxes (Bins), trim clippers, and pruning hooks. Duties may include thinning and pruning crops. Apples injured by bruising during picking shall not exceed 5% (C/W/M) for fresh and 10% (C/W/M) for processing as defined in the U.S. standards for grades. Productivity must be a least 3 bins (60 bushels) - fresh market and/or 4 bins (80 bushels) Processing fruit per day. Employer will furnish to workers, at not 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 temperature may range from below 0 to 90+ degrees (F) with possible wet morning conditions. Workers referred against this order must have a minimum of 1 month experience in performing task described in this order. / Cosechar manzanas; desprendiendo las manzanas del árbol y depositarlas en un mural de pizar y de ahí a una caja (BIN). La cosecha de la fruta es manual, se usan herramientas de mano tales como murales de pizar, escaleras, cajas (BINS), tijeras de recortar y ganchos de podar. Los deberes, pueden incluir descañar y recortar retoños del árbol o malezas. SEE Attachment

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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/Sí | No | Pay Period Período de Pago |
| Cultivos | Salario por Hora | Pago por Pieza / Unidad(es) | Pagos Especiales (Bono, etc.) | Deducciones | | | |
| Apple, fresh market, Standard tree | \$ 10.25 | \$ 0.756 | BUSHEL | Social Security / Seguro Social | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Weekly / Semanal |
| Apple, fresh market, Dwarf tree | \$ 10.25 | \$ 0.850 | BUSHEL | Federal Tax Impuestos Federales | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Apple, hand picked for processing | \$ 10.25 | \$ 0.600 | BUSHEL | State Tax Impuestos Estatales | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Bi-weekly / Quincenal |
| Apple Drops, Hand picked | \$ 10.25 | \$ 0.500 | BUSHEL | Meals / Comidas | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Apple, General Orchard work | \$ 10.25 | \$ NO | NO | 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

NONE / NINGUNO

(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

see Attachment to ETA 790

(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 pagarle a los trabajadores para este(os) tipo(s) de cosecha(s)? Yes / Sí No

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

19. Unemployment Insurance provided? Seguro de Desempleo?

Yes/Sí No

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

Yes/Sí No

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

Yes/Sí 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)

NY
15
L

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

= LABOR
?270

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

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

7259

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.

OWNER

Andrew E. Fisher

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

Date: 5-26-11

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.

AGPRO FARMS

ATTACHMENT TO ETA 790**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 work order will be provided to the workers no later than the day on which the worker begins employment. The employer assures that the work 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.

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.

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: N/A

Item #3: 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 #9: Anticipated period of Employment is From August 08 2011 to December 31 2011.

Item #10: Total number of migrant and seasonal farm workers Needed: 15 Workers.

Item #11: Workers are expected to work at least the number of days and hours specified on the Job Order. However, depending on whether, 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 12 hours per day.

Item #12: Collect call are accepted only from officials of New York State Department of Labor offices.

Item #13: (a) Employer will not provided three meals per day and will deduct \$N/A per day.

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

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

Item #14: 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 effectuate referrals.~~

Item #15: Harvest apples, detach apples from three and deposit them in a 1/2 picking bucket into a Bin. s Manually Harvest Fruits, use hand tools such as Picking buckets, stepladders, boxes (BINS), trim clippers,

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and pruning hooks. Duties may include thinning and pruning crops. Apples injured by bruising during picking shall not exceed 5 % (WNY) for fresh and 10 % (WNY) for Processing as defined in the US, standards for grades. Productivity must be at least *36 bins* ~~(60 bushels)~~ Fresh Market and/or *46 bins* ~~(80 bushels)~~ Processing fruit per day. Employer will furnish to workers, at not 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 temperature may range from below 0 to 90+ degrees (F) with possible wet morning conditions. Workers referred against this order must have a minimum of 1 month experience in performing task described in this order.

Item #15a: Cosechar manzanas; desprendiendo las manzanas del arbol y depositarlas en un morral de pizarra y de ahí a una caja (Bin). La cosecha de la fruta es manual, se usan herramientas de mano tales como los morrales de pizarra, escaleras, cajas (bins), tijeras de recortar y ganchos de podar. Los deberes pueden incluir descuatar y recortar retonos del arbol o malezas. Las Manzanas Danadas contusionadas durante la cosecha no excederan del 5% (WNY) para fresca y el 10% (WNY) para procesar segun lo definido en el estandar de los E.E.U.U. para los grados la productividad debe de ser lo menos marcado fresco *36 bins* ~~(60 celemidas)~~ y/o *46 bins* ~~(80 celemidas)~~ de fruta procesada por dia. El patron suministrara a los trabajadores, sin costo alguno, todas las herramientas y equipo requerido en el funcionamiento desempeño de los deberes asignados. Los trabajadores deberan reportarse a trabajar con su propia ropa de trabajo. La temperatura del campo puede variar por debajo 0 a 90+ grados (F) con condiciones posiblemente mojadas por la mañana. Trabajadores referidos bajo esta orden de trabajo deben tener por lo minimo 1 mes de experiencia en hacer las tareas elaboradas en esta orden.

Item #16: (a) An hourly rate of not less Than the Federal or State Minimum Wage, The Adverse Effect Wage Rate (AEWR), The prevailing hourly rate of the employers hourly rate, whichever is higher is guaranteed to the worker to the period of employment. (Item #9). In the event DOL promulgates a new AEWR during the recruitment or work contract period that affects this order, The employer agrees to pay all workers employed in the 2011 season at the 2011 AEWR when it is established.

(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 a 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 employers hourly rate, whichever is highest.

(c) The employer will make the following deductions: (1) FICA (2) FEDERAL/SATATE tax withholdings.

(d) Employer will maintain adequate payroll records. Workers Will be paid weekly on FRIDAY for work through Wednesday. A written statement showing (1) employers 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.

(e) The employers guarantees to offer employment for a minimum of three-fourths of the work days 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 hour per day, on their Sabbath or Federal Holidays to meet this guarantee. The workers Average hourly earnings will be used under this guarantee where wages are paid on a piece rate basis, for the total amount of \$410.00.

(f) Workers with school age children who have migrated with such children and who depart in time to return home for the beginning of the school year shall be paid, in addition to the basic wages, any bonus or other incentive payments or other expenses to which they would be entitled had they stayed the entire job order period.

(g) The employer may terminate workers' employment hereunder at any time with NOTIFICATION TO

THE LOCAL 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. (ETA 790, Item #15)
- 4.- Job Abandonment- being absent for five (5) consecutive scheduled working days of without excuse of absence, as shown in item #11, 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 #17: Employer agrees to reimburse inbound transportation and subsistence expenses (subsistence no less than \$10.90 per day without receipts and up to \$46.00 per day maximum with receipts) to each worker, or any person, government agency or private organization which, on behalf of the worker has paid or advance such transportation and subsistence expenses, from the residence, place of last employment or place of recruitment to the job side after the workers has complete 50% of the stipulate period of employment, from initial date of need or from the day after actual arrival of workers if later than the stated date to report.

(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 terminate for medical reasons, or as the result of an Act of God, in route from place of employment to place of the 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 in route 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 the Transportation provided by the employer will be by common carrier of other transportation facilities which conform to the applicable regulations of the Interstate Commerce Commission or the United States Department of Labor. If requested by the worker, the employer will assist in making transportation arrangements.

(f) Employer will provided transportation, at not cost to the workers, From the employer housing to the actual work site and return at the end of the day.

Item #18: (a) Employer will not contract with crew leaders currently acting in violating of the Migrant and Seasonal Worker Protection Act (MSPA).

(b) Employer Will negotiated any and all crew leader fees directly with the crew leader.

(c) Crew leader anticipating employment in New York State will be required to register with the New York State Department of Labor and pay a \$200.00 crew leader registration fee in addition to any other fees that may be applicable.

Item #19: Unemployment insurance provided.

Item #20: Workers' compensation insurance is covered by NYS Insurance Fund with Policy# Z 14859706
Policy holder/Address: Agpro Farms, 3163 Shepard Road; Clyde NY 14433

Person to be notified of injury w/ phone number: Andy Fisher, 315-923-5561.

Deadline for notification: Immediately, but not later than 30 days from date of injury.

Item # 21: Are tools provided at no charge to the workers: Yes, all tools needed to perform this Job will be provided by the employer to workers to assure all necessary tools required such as picking bucket, stepladders, boxes (Bins), trim clippers, etc: Everything as needed employer will be provided at no cost to workers.

Item # 24: Address of Order Holding Office (Included telephone number): NYS DEPARTMENT OF LABOR, 1519 NYS Road Lyons, NY 14489. Telephone (315)946-7270.

Item #25: Name and Local Representative (include telephone Number): Dan Roth, Labor Services Representative (Rural). Phone (315) 946-7259.

Complement to Item#16: Wages Rates, Special Pay Information in Crop/Activity:

| <u>CROP/ACTIVITY</u> | <u>PIECE RATE</u> | <u>PRODUCTION UNIT (1)</u> | <u>HOURLY WAGE</u> |
|------------------------|-------------------|----------------------------|--------------------|
| Apples/Harvest Fresh | .756 Per Bushel | 36 1/2 Bushel / Day | \$10.25 Per Hour. |
| Apples/Harvest Process | .600 Per Bushel | 40 1/2 Bushel / Day | \$10.25 Per Hour |
| Apples/Drops | .500 Per Bushel | N/A | \$10.25 Per Hour |
| General Orchard Work | N/A | N/A | \$10.25 Per Hour. |

(1) Minimum Productivity Standards. 67.5 Bushels= 80 1/8 Bu Bx.