

RECEIVED



U.S. Department of Labor  
Employment and Training Administration

JUN 28 2012

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, y código postal).	<b>Numbers 4, 5, 6, 7 and 8 for State use only.</b>																	
	4. Industry Code / Código de Industria 111331	5. Job Order # / No. Orden de Empleo NY 1024053																
Sandy Knoll Farms, Inc.. 2196 Swett Road Lyndonville, NY 14098 Nelson & Patrick Woodworth	6. Occupational Title and Code / Título Ocupacional y Código Farmworkers and laborers crop 45 2092.02																	
	7. Clearance Order Issue Date / Fecha de Tramite: 7/2/12																	
2. Location and Direction to Work Site / Dirección del lugar de trabajo 2196 Swett Rd Lyndonville NY 14098 Rt. 63 South from Lyndonville to Yates Town-line Rd. Turn left and proceed to Swett Rd. Turn Left, Farm located on left 1/2 mile. Ruta 63 al sur de Lyndonville hacia Yates Town-Line Rd. De vuelta a la izquierda y signa hacia Swett Rd. De vuelta a la izquierda el rancho esta sobre la izquierda a 1/2 milla	8. Job Order Expiration Date / Fecha de vencimiento: 9/25/12																	
(If additional space is needed, use separate piece of paper)																		
3. Location and Description of Housing / Dirección y Descripción de la Vivienda 2104 Swett Rd, Wood frame, motel style with central kitchen and baths. 2104 del Camino Swett, Marco de Madera, estilo motel con cocina central y banos.  Barracks/Barracas Number/Numero 30 Total Capacity/Capacidad Total 30  1293 Oak Orchard River Rd, Waterport, NY Total Capacity 15  Wooden frame, 3-5 person units with central kitchen & bath. Directions to this housing is going from 2196 Swett Rd, proceed North to end of Swett Rd, turn right onto Platten Rd and proceed East will turn into Oak Orchard River Road. Go about 12 miles and house will be on right hand side, just before you reach Rt. 18. (See attachment / para más detalles vea _p.1  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. Housing beds, bedding and mattresses will be furnished at no cost to the workers. Housing will be clean and meet the applicable federal and state housing standards. Workers will be responsible for maintaining housing and surrounding areas in a neat, clean manner.  (If additional space is needed, use separate sheet of paper/Si necesita mas espacio, utilice documento adicional)	9. Anticipated Period of Employment / Periodo Anticipado de Empleo From / Desde: 08/26/2012 To / Hasta: 10/25/2012																	
10. No. of Workers Requested / No. de Trabajadores Pedidos 16																		
11. Anticipated Hours of Work per Week / Horas Anticipadas de Trabajo por Semena Total: 35  <table border="1"> <tr><td>Sunday / Domingo</td><td>X</td><td>Monday / Lunes</td><td>6</td></tr> <tr><td>Tuesday / Martes</td><td>6</td><td>Wednesday / Miércoles</td><td>6</td></tr> <tr><td>Thursday / Jueves</td><td>6</td><td>Friday / Viernes</td><td>5</td></tr> <tr><td>Saturday / Sabado</td><td>6</td><td></td><td></td></tr> </table>			Sunday / Domingo	X	Monday / Lunes	6	Tuesday / Martes	6	Wednesday / Miércoles	6	Thursday / Jueves	6	Friday / Viernes	5	Saturday / Sabado	6		
Sunday / Domingo	X	Monday / Lunes	6															
Tuesday / Martes	6	Wednesday / Miércoles	6															
Thursday / Jueves	6	Friday / Viernes	5															
Saturday / Sabado	6																	
12. Collect Calls Accepted / Se Aceptan Llamadas a Cobrar de: Employer / El Empleador Yes <input type="checkbox"/> No X Local Office / La Oficina Local Yes <input type="checkbox"/> No x																		
13. Board Arrangements / Arreglo de Alojamiento Yes/Si Workers must buy and prepare own meals. / Los trabajadores compraran y prepararan sus propios alimentos. Employer will furnish free dishes, cooking utensils and convenient kitchen and cooking facilities. Employer will provide transportation once per week to assure workers access to stores where they can purchase groceries and/or incidentals and/or medical necessities.  (See attachment / para más detalles vea Pg 1)																		
14. Referral Instructions / Instrucciones para el Referimiento de Candidatos Contact Employer Directly During Normal Business Hours 9-12pm- 1-4pm Monday-Friday for appointment :585-765-9618 Patrick Woodworth or see all orders that are available on the NYS DOL Website . Contactar el Negocio Directamente Durante las Horas Normales de Negocio o la Oficina "One Stop" lo Mas Cerca  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 concerns relating to pesticide applications and the operation of equipment on our farm, applicanats must be able to speak and understand basic English.  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.																		

NY STATE EMPLOYMENT CENTER  
10/1/12

**13. Board Arrangements / Arreglo de Alojamiento**

Employer will not provide three meals per day.

Workers must buy and prepare their own meals. Employer will furnish free dishes, cooking utensils and convenient kitchen and cooking facilities.

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

**14. Referral Instructions / Instrucciones sobre cómo Referir Candidatos**

Contact Employer Directly during Normal Business hours for an appointment: 585-765-9618 -Patrick & Nelson Woodworth  
Office: open 9am-12:00pm 1:00 - 4pm Monday thru Friday

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 concerns relating to pesticide applications and the operation of equipment on our farm, applicants must be able to speak and understand basic English.

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.

**15. Job Specifications / Especificaciones del Trabajo**

Under direction of supervisor, will pick apples for fresh market and/or processing. Worker may perform any combination of tasks involved in the operation of farm equipment in the Apple enterprise which may involve 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 be required to work in inclement weather and in a range of field temperatures from 30 degrees to 85 degrees with possible wet morning conditions.

Productivity must be at least 3 bins per day for fresh market apples and 4 bins per day for processing apples. Workers must be physically able to pick fruit, most of which is done from ladders with lower branches 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 shoulders. Filled bucket, weighing up to 40 lbs., is emptied into bulk bins with a capacity equal to 19-22 1 & 1/8 bushel boxes.

Workers are required to handle ladders up to 24' long and weighing about 2 lbs. per foot. 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 bruising, which shall not exceed 3% on fresh and 6% on processing, as defined in the U.S. standard for grades. Each worker's 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, or other USDA grade standards.

All applicants must have 1 month of verifiable experience in hand harvesting apples.

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) **see attachment #1 P1**

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

Crop/Actividad	Hourly Wage	Piece Rate /Unit(s)	Special Pay (bonus, etc.)	Deductions	Yes/Si	No	Pay Period Período de Pago
Cultivos	Salario por Hora	Pago por Pieza / Unidad(es)	Pagos Especiales (Bono, etc.)	Deducciones			
Apples Fresh hand harvest	\$ 10.56	\$.85/bu (DWARF) ET		Social Security / Seguro Social	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Weekly/Semanal
Apples Process hand harvest	\$ 10.56	\$.60/bu		Federal Tax Impuestos Federales	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Apples juice hand harvest	\$ 10.56	\$.55/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**

Workers will not be covered by disability benefits. Work performed under this order will be covered by unemployment insurance. The employer will not pay overtime. Pay day is Friday.

(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. Employers agree to reimburse inbound transportation and subsistence expenses (\$11.13 per day minimum to a maximum 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 the 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 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. See attachment #1 page 3 cont.

(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 / 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

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

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  
458 West Avenue  
Albion, NY 14411 585-589-5335

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.

*Mary Jane Woodworth, Asst. Sec.*

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

Date:

6/27-2012

**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

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

Job Order Number \_\_\_\_\_ Employer-Sandy Knoll Farms, Inc.

**A: CLARIFICATION OF ITEMS ON FORM ETA 790**

**Item 15: Job Specifications cont.**

Fruit picked as drops is never mixed with tree fruit. 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 to work with their own suitable work clothing.

- 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 NYS Department of labor and NPC, if the worker:
  1. Refused, without just cause, to perform work for which the worker was recruited and hired;
  2. Commits serious acts of misconduct;
  3. Fails, after completing any training or break-in period, to reach production standards of at least 3 bins of Fresh fruit or 4 bins of Processing fruit/day
  4. Abandons Job (Job Abandonment) – is absent for five 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: Pick enough fruit to meet productivity standards - 60 boxes per day Fresh market fruit and 80 boxes per day of processing fruit.
- e. Workers hired under this order will be required to show evidence of right to work in the United States.
- f. When a worker is terminated under any of the provisions, or if the worker voluntarily terminates his employment, the employer shall not be liable for the three-fourths guarantee.

One month verifiable experience is necessary.

**Item 16: Wage Rates, Special Pay Information and Deductions cont.**

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, except where a special procedure is approved for an occupation or specific class of agricultural employment. Employer assures that if a change in the AEW requires an increase such increase will be paid as of the effective of the date of the increase. Also if the AEW 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.** This includes deductions:

- a. ( or deposits) for tools, boots, raincoats, or uniforms necessary for the job.
  - b. As fines or penalties for being late, misconduct or quitting without giving notice
  - c. For cash shortages
  - d. For spoilage or breakage
  - e. For damages or losses of any kind.
- 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, 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 the section. 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 17 (a) below.
  - d. Workers will not be required to work more than the number of hours on 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.

On and 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. The employer will provide workers referred through the interstate clearance system 35 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 \$369.60 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 require worker to perform alternative work if the guarantee cited in this section is invoked.

Alternate work: Trim fruit trees, hand thin, weeding, hoeing, succoring and summer thinning. May also repair apple boxes. Employer will maintain adequate payroll records. Workers will be paid weekly on Friday for work through the previous Thursday.

**Item 17: Transportation cont.**

- b. 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 provided timely notification to the NPC and DHS.
- c. If requested by the worker, the employer will assist in making transportation arrangements.
- 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 Dept 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).
- e. Employer will provide transportation, at no cost to the worker, from 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 # G 2118089-8 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 to perform the work.

**B: OTHER CLARIFICATIONS AND ASSURANCES**

1. Employer agrees to abide by the regulations at 20 CFR 655.135 and 20 CFR 653.501.
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 the worker applies for the visa, or to a worker in corresponding employment no later than on the day work commences, 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.

Sandy Knoll Farms, Inc.

EMPLOYER SIGNATURE Mary Jane Woodworth 6-27-2012  
Date