Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 875—Chapter 216
"Records to be Kept by Employers"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 91D.1
State or federal law(s) implemented by the rulemaking: Executive Order 10

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

September 24, 2024 9:30 to 10 a.m.	Lake Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Division of Labor Services no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Purpose and Summary

Proposed Chapter 216 details records that must be maintained by employers to prove compliance with wage law, doing so with 8 rules rather than 33.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

The rulemaking does not impose any meaningful costs. Employers subject to Iowa wage law will bear the costs.

- Classes of persons that will benefit from the proposed rulemaking:

Employees will benefit by being paid properly. Employers will know minimum wage coverage and be able to establish compliance.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

The rulemaking does not impose any meaningful additional costs. It requires less than the prior chapter.

- Qualitative description of impact:

The rules provide clarity for minimum wage compliance.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

There are no increased implementation or enforcement costs.

- Anticipated effect on state revenues:

The rulemaking has no anticipated impact on state revenues.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The benefit of minimum wage compliance overrides any costs of employer compliance.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The Department has not identified less costly methods or less intrusive methods.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

No alternative methods were seriously considered.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

Alternative methods were rejected because this is a significant reduction in the chapter.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The chapter is shorter and more understandable. The rules do not have a substantial impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 875—Chapter 216 and adopt the following **new** chapter in lieu thereof:

CHAPTER 216
RECORDS TO BE KEPT BY EMPLOYERS

875—216.1(91D) Employees subject to minimum wage.

216.1(1) *Items required.* Every employer shall maintain and preserve payroll or other records containing the following information and data with respect to each employee to whom the Act applies:

a. Name in full, as used for social security recordkeeping purposes, and on the same record, the employee's identifying symbol or number if such is used in place of name on any time, work, or payroll records;

b. Home address, including ZIP code;

c. Basis of pay by indicating the monetary amount paid on a per hour, per day, per week, per piece, commission on sales, or other basis;

d. Hours worked each workday and total hours worked each workweek (for purposes of this rule, a "workday" is any fixed period of 24 consecutive hours and a "workweek" is any fixed and regularly recurring period of seven consecutive workdays);

e. Total additions to or deductions from wages paid each pay period including employee purchase orders or wage assignments. Also, in individual employee records, the dates, amounts, and nature of the items that make up the total additions and deductions;

f. Date of payment and the pay period covered by payment.

216.1(2) Reserved.

SOURCE: 29 CFR 516.2.

875—216.2(91D) Exempt employees. With respect to each exempt employee, employers shall maintain and preserve records containing all the information and data required by subrule 216.1(1) except paragraphs 216.1(1)*"c"* and *"d"* and, in addition, the basis on which wages are paid in sufficient detail to permit calculation for each pay period of the employee's total remuneration for employment including fringe benefits and perquisites.

SOURCE: 29 CFR 516.3.

875—216.3(91D) Posting of notices. Every employer employing any employees subject to the minimum wage provisions of the Iowa minimum wage Act shall post and keep posted a notice explaining the Act, as prescribed by the director, in conspicuous places in every establishment where such employees are employed so as to permit them to readily observe a copy.

SOURCE: 29 CFR 516.4.

875—216.4(91D) Records to be preserved three years. Each employer shall preserve payroll records for at least three years from the last date of entry, all payroll or other records containing the employee information and data required under any of the applicable rules.

SOURCE: 29 CFR 516.6.

875—216.5(91D) Records to be preserved two years.

216.5(1) *Supplementary basic records.* Each employer required to maintain records under this chapter shall preserve for a period of at least two years basic employment and earnings records. From the date of last entry, all basic time and earning cards or sheets on which are entered the daily starting and stopping time of individual employees, or of separate work forces, or the amounts of work accomplished by individual employees on a daily, weekly, or pay-period basis (for example, units produced) when those amounts determine, in whole or in part, the pay-period earnings or wages of those employees.

216.5(2) *Records.* Records of additions to or deductions from wages paid include those records relating to individual employees referred to in paragraph 216.1(1)*"e."*

SOURCE: 29 CFR 516.6.

875—216.6(91D) Tipped employees.

216.6(1) With respect to each tipped employee whose wages are determined pursuant to the definition of "wage" in Iowa Code section 91D.1(1)*"c,"* the employer shall maintain and preserve payroll or other records containing all the information and data otherwise required and the following:

a. Weekly or monthly amount reported by the employee, to the employer, of tips received (this may consist of reports made by the employees to the employer on IRS Form 4070);

b. Amount by which the wages of each tipped employee have been deemed to be increased by tips as determined by the employer (not in excess of 40 percent of the applicable statutory minimum wage);

c. Hours worked each workday in any occupation in which the employee does not receive tips, and total daily or weekly straight-time payment made by the employer for such hours; and

d. Hours worked each workday in occupations in which the employee receives tips, and total daily or weekly straight-time earnings for such hours.

SOURCE: 29 CFR 516.28.

216.6(2) Federal special minimum wage certificates will be honored at the applicable Iowa minimum wage rate as applied to the certificate.

SOURCE: 29 CFR 516.30.

875—216.7(91D) Industrial homeworkers.

216.7(1) *Definitions.*

"Industrial homeworker" or *"homeworker,"* as used in this rule, means any employee employed or suffered or permitted to perform industrial homework for an employer.

"Industrial homework," as used in this rule, means the production by any person in or about a home, apartment, tenement, or room in a residential establishment of goods for an employer who suffers or permits production, regardless of the source (whether obtained from an employer or elsewhere) of the materials used by the homeworker in production.

216.7(2) *Items required.* Every employer shall maintain and preserve payroll or other records containing the following information and data with respect to every industrial homeworker employed:

a. Name in full, and on the same record, the employee's identifying symbol or number if used in place of name on any time, work, or payroll records. This shall be the same as that used for social security purposes.

b. House address, including ZIP code.

c. Date of birth, if under 19.

d. With respect to each lot of work:

(1) Piece rates paid,

(2) Hours worked on each lot of work turned in,

(3) Wages paid for each lot of work turned in, and

(4) Date of wage payment and pay period covered by payment.

e. With respect to each week:

(1) Hours worked each week,

(2) Wages earned for each week at regular piece rates,

(3) Extra pay due each week for overtime worked, and

(4) Total wages earned each week.

SOURCE: 29 CFR 516.31.

875—216.8(91D) Employees in agriculture. No records need to be maintained by an employer who did not use more than 500 days of agricultural labor in any quarter of the preceding calendar year, unless it can be reasonably anticipated that more than 500 days of agricultural labor will be used in at least one calendar quarter of the current calendar year. The 500-day test includes the work of agricultural workers supplied by crew leaders, or farm labor contractors, if the farmer is an employer of the workers, or a joint employer of the workers with the crew leader or farm labor contractor. However, members of the employer's immediate family are not included. A "day" is any day during which an employee does agricultural work for one hour or more.

SOURCE: 29 CFR 516.33.

These rules are intended to implement Iowa Code chapter 91D.