

CHAPTER 215
MINIMUM WAGE SCOPE AND COVERAGE

[Prior to 10/21/98, see 347—Ch 215]

875—215.1(91D) Initial employment wage rate.

215.1(1) The 90-calendar-day period set forth in Iowa Code section 91D.1(1)“d” is counted from the employee’s initial day of work.

215.1(2) If the state minimum initial employment wage rate changes during the 90-calendar-day period, the employer shall pay the new effective rate.

215.1(3) If, after less than 90 calendar days from the initial day of work, the employee’s employment is terminated and the employee is rehired by the same employer within three years of the initial hiring, the initial employment wage rate in effect at rehiring may be paid until the 90-calendar-day employment period is reached. If, after 90 calendar days from the initial day of work, the employee’s employment is terminated and the employee is rehired in less than three years from the last date of employment, the employee shall not be employed at the initial employment wage rate.

[ARC 8747C, IAB 1/8/25, effective 2/12/25]

875—215.2(91D) Definitions. As used in 875—Chapters 216 through 220:

“*Agriculture*” includes farming in all its branches and among other things includes the cultivation and tillage of the soil; dairying; the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities; the raising of livestock, bees, furbearing animals, or poultry; and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm incident to or in conjunction with farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

“*Commerce*” means trade, commerce, transportation, transmission, or communication among the several states or between any state and any place outside thereof.

“*Director*” means the director of the department of inspections, appeals, and licensing or the director’s designee.

“*Employee*” means any individual employed by an employer. In the case of an individual employed by a public agency, the term means any individual employed by the state, political subdivision of the state, or an interstate governmental agency, other than the individual:

1. Who is not subject to the civil service laws of the state, political subdivision, or agency that employs the individual; and

2. Who:

- Holds a public elective office of that state, political subdivision, or agency,
- Is selected by the holder of the office to be a member of the holder’s personal staff,
- Is appointed by the officeholder to serve on a policy-making level,
- Is an immediate adviser to the officeholder with respect to the constitutional or legal powers of the office, or
- Is an employee in the legislative branch or legislative body of that state, political subdivision, or agency and is not employed by the legislative library of the state, political subdivision, or agency.

“*Employee*” does not mean:

1. For purposes of the definition of “person-day,” any individual employed by an employer engaged in agriculture if the individual is the parent, spouse, child, or other member of the employer’s immediate family.

2. Any individual who volunteers to perform services for a public agency that is the state, a political subdivision of the state, or an interstate government agency, if:

- The individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered; and
- The services are not the same type of services that the individual is employed to perform for the public agency.

However, an employee of a public agency that is the state, a political subdivision of the state, or an interstate governmental agency may volunteer to perform services for any other state, political subdivision, or interstate governmental agency, including a state, political subdivision or agency with which the employing state, political subdivision, or agency has a mutual aid agreement.

“Employer” includes any person acting directly or indirectly in the interest of an employer in relation to an employee and includes a public agency but does not include any labor organization (other than when acting as an employer) or anyone acting in the capacity of officer or agent of the labor organization.

“Enterprise” means the related activities performed (either through unified operation or common control) by any person or persons for a common business purpose, and includes all activities whether performed in one or more establishments or by one or more corporate or other organizational units including departments of an establishment operated through leasing arrangements. Any establishment that has as its only regular employees the owner thereof or the parent, spouse, child, or other member of the immediate family of the owner is considered to be an enterprise engaged in commerce or in the production of goods for commerce or a part of an enterprise.

“Industry” means a trade, business, industry, or other activity, or branch or group thereof, in which individuals are gainfully employed.

“Person” means an individual, partnership, association, corporation, business trust, legal representative, or any organized group of persons.

“Person-day” means any day during which an employee performs any agricultural labor for not less than one hour.

“Produced” means produced, manufactured, mined, handled, or in any other manner worked on in any state; and an employee is engaged in the production of goods if the employee is employed in producing, manufacturing, mining, handling, transporting, or in any other manner working on the goods, or in any closely related process or occupation directly essential to the production thereof, in any state.

“Public agency” means the government of the state of Iowa, its various departments and agencies, and any political subdivision of the state.

“Resale” does not include the sale of goods to be used in residential or farm building construction, repair, or maintenance, provided that the sale is recognized as a bona fide retail sale in the industry.

“Sale” or *“sell”* includes any sale, exchange, contract to sell, consignment for sale, shipment for sale, or other disposition.

“Tipped employee” means any employee engaged in an occupation in which the employee customarily received more than \$30 a month in tips.

“Wage” paid to any employee includes the reasonable cost, as determined by the director, to the employer of furnishing the employee with board, lodging, or other facilities. SOURCE: 29 U.S.C. 203.

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875—215.3(91D) Exceptions. The rules contained in 875—Chapters 216 through 220 do not apply with respect to:

215.3(1) Any employee employed by an establishment that is an amusement or recreational establishment, organized camp, or religious or nonprofit education conference center, if:

- a.* It does not operate for more than seven months in any calendar year, or
- b.* During the preceding calendar year, its average receipts for any six months of such year were not more than 33 1/3 percent of its average receipts for the other six months of the year, except that the exemption provided does not apply with respect to any employee of a private entity engaged in providing services or facilities (other than a private entity engaged in providing services and facilities directly related to skiing) in a national park or a national forest or on land in the National Wildlife Refuge System, under a contract with the Secretary of the Interior or the Secretary of Agriculture.

215.3(2) Any employee employed in agriculture:

- a.* If the employee is employed by an employer who did not, during any calendar quarter during the preceding calendar year, use more than 500 person-days of agricultural labor;
- b.* If the employee is the parent, spouse, child, or other member of the employer’s immediate family;
- c.* If the employee:

(1) Is employed as a hand harvest laborer and is paid on a piece-rate basis in an operation that has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment,

(2) Commutes daily from the employee's permanent residence to the farm on which the employee is employed, and

(3) Has been employed in agriculture less than 13 weeks during the preceding calendar year;

d. If the employee (other than an employee described in paragraph 215.3(2) "c"):

(1) Is 16 years of age or under, is employed as a hand harvest laborer, is paid on a piece-rate basis in an operation that has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment,

(2) Is employed on the same farm as the employee's parent or person standing in the place of the employee's parent, and

(3) Is paid at the same piece rate as employees over age 16 are paid on the same farm; or

e. If the employee is principally engaged in the range production of livestock.

215.3(3) Any employee employed on a casual basis in domestic service employment to provide babysitting services or any employee employed in domestic service employment to provide companionship services for individuals who (because of age or infirmity) are unable to care for themselves.

215.3(4) Any employee to the extent that the employee is exempted by a certificate of the Secretary of Labor.

SOURCE: 29 U.S.C. 213.

[ARC 8747C, IAB 1/8/25, effective 2/12/25]

875—215.4(91D) Interpretative guidelines. The rules contained in 875—Chapters 216 through 220 are based on the federal rules indicated at the end of each rule. The federal rules contained illustrative examples of the application of the rule. The examples are not adopted, but the commissioner will be guided in enforcement by the examples provided in the rules. The Secretary of Labor has adopted statements of general policy and interpretations not directly related to regulations at 29 CFR Parts 776, 779, 780, and 785. The commissioner will follow these statements and interpretations in the application and enforcement of Iowa Code chapter 91D.

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

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