

**871—23.26(96) Definition of a farm—agricultural labor.**

**23.26(1)** “Farm” as used in Iowa Code section 96.1A(16) “g”(3) and in these rules means one or more plots of land not necessarily contiguous, including structures and buildings, used either primarily for raising or harvesting any agricultural or horticultural commodity, including caring for and the raising, shearing, feeding, training, and management of livestock, bees, poultry and furbearing animals and wildlife or both such uses, if the activities conducted have an agricultural purpose.

**23.26(2)** The definition of farm in subrule 23.26(1) includes but is not limited to nurseries, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities. A plot of land used primarily for the raising of nursery stock from seeds, cuttings or transplanted stock is a farm. If any plot of land is used both for the raising of nursery stock and for display of nursery stock or allied products for sale, the parcel or portion is not a farm if the raising is not the primary operation. A parcel of real property or a portion of a parcel of real property that is used primarily to display nursery stock for sale or to display an allied product for sale, or both, is not a farm. Allied product, as used in this rule, includes but is not limited to garden supplies, lawn supplies, tools, equipment, fertilizers, sprays, insecticides or pottery.

**23.26(3)** If other than incidental sales of an allied product are made in connection with a nursery, the operations in connection with the sales area are commercial operations as distinguished from ordinary farm operations and services performed with respect to the sales areas are not agricultural labor.

**23.26(4)** A plot of land used primarily for the raising of Christmas trees is a farm.

**23.26(5)** The following shall be used to determine whether services are defined as agricultural labor.

*a.* Services performed by an individual on a farm, employed by the owner, tenant or operator, in connection with the operation constitutes agricultural labor if:

(1) The services are on the farm on which the materials in their raw or natural state were produced, and

(2) Processing, packing, packaging, transportation, or marketing is carried on as incidental to ordinary farming operation.

*b.* If the service performed is incidental to industrial, manufacturing or commercial operation, it does not constitute agricultural labor. **EXAMPLE:** Services performed for an insurance company in repair and construction of farm buildings do not constitute agricultural labor.

**23.26(6)** Services performed on nonfarm property by an employee of one who is not the owner, tenant or operator of the farm to which the operation relates or any service rendered in connection with the maintenance and repair of equipment, used in operation on the farm, as well as related collection, clerical and bookkeeping services, are not agricultural labor.

**23.26(7)** Services performed in the handling or processing of any agricultural or horticultural commodity are agricultural employment if performed by an employee of the owner, tenant, or other farm operator, only if the commodity is in a nonmanufactured state and only if the operator produced more than half of the commodity with respect to which the service was performed.

**23.26(8)** Aerial seeding, fertilizing, spraying, dusting, custom planting, cultivating or combining of farm acres by an employee of any agricultural enterprise is agricultural labor. This includes mixing or loading into an airplane the spraying or dusting material, as well as the measuring of the swaths and the marking and flagging of the fields, and is considered agricultural as long as it is performed on a farm. If any of these services are performed on property other than a farm, they are not agricultural labor and are covered by other provisions of the Iowa employment security law.

**23.26(9)** If the employer does not own or operate the farm that is being sprayed or dusted, any service related to employees in connection with maintenance and repair of the aircraft, trucks, or other equipment used in those operations, as well as related collection, clerical and bookkeeping services, are not agricultural labor and are not exempt under the Iowa employment security law.

**23.26(10)** Services performed on a farm by an employee of any person in connection with hatching poultry are agricultural labor. A plot of land together with the structures and buildings located off the farm, devoted to the hatching of poultry, is not considered to be a farm. Any service, under any contract of hire, performed off the farm in connection with the hatching of poultry is not considered agricultural labor.

**23.26(11)** Executive, supervisory, administrative, clerical, stenographic, and office work are not agricultural labor even if performed on a farm and in relation to a farm.

**23.26(12)** Services performed on a farm incidental to the overall commercial activities that are not incidental to ordinary farming operation or directly related to the farming operation are not agricultural labor.

**23.26(13)** Services performed in connection with the processing of agricultural commodities performed on a farm, for a farm operation, are not agricultural labor unless one-half or more of the commodities processed are produced by the farm operator.

**23.26(14)** Services performed in agricultural employment as defined in Iowa Code section 96.1A(16) “g”(3) or rule 871—23.26(96) by an agricultural employee for one-half or more of any calendar month are considered agricultural employment the whole of that calendar month.

This rule is intended to implement Iowa Code section 96.1A(16) “g”(3).

[ARC 8848C, IAB 1/22/25, effective 2/26/25]