

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

23.26(1) “Farm” as used in section 96.19(6) “g”(3) and as used 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 the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry and furbearing animals and wildlife or both such uses, if the activities conducted on the plot or plots of land have as their purpose the accomplishment of an objective which is agricultural in nature.

23.26(2) The definition of farm given 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 parcel of real property or a portion of a parcel of real property which is used primarily for the raising of nursery stock from seeds, cuttings or transplanted stock is a farm. If any parcel of real property or a portion of a parcel of real property 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 which 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 or not services are defined as agricultural labor.

a. Services performed by an individual on a farm, in the employ of any 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 an incident to ordinary farming operation.

b. If the service is performed as an incident 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 while in the employ 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 included as agricultural employment if performed in the employ 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 while in the employ of any agricultural enterprise is agricultural labor. These include mixing or loading into the 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 the other provisions of the Iowa employment security law.

23.26(9) If the employer does not own or operate the farm which 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 in the employ 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 shall not be considered agricultural labor.

23.26(11) Executive, supervisory, administrative, clerical, stenographic, and office work are not agricultural labor although they may be rendered on a farm and in relation to a farm.

23.26(12) Services performed on a farm incidental to the overall commercial activities which 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 96.19(18) "g"(3) or rule 23.26(96) by an agricultural employee one-half or more of any calendar month shall be considered agricultural employment the whole of that calendar month.