

875—216.33(91D) Employees employed in agriculture pursuant to 875—subrule 215.4(6).

216.33(1) No records, except as required under 216.33(6), need 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.)

216.33(2) If it can be reasonably anticipated that the employer will use more than 500 days of agricultural labor in at least one calendar quarter of the current calendar year, the employer shall maintain and preserve for each employee records containing all the information and data required by 216.2(1) "a" and "b" and the following:

a. Symbols or other identifications separately designating those employees who are

- (1) Members of the employer's immediate family as defined in 875—paragraph 215.4(6) "b,"
- (2) Hand harvest laborers as defined in 875—paragraph 215.4(6) "c" or "d," and
- (3) Employees principally engaged in the range production of livestock as defined in 875—paragraph 215.4(6) "e."

b. For each employee, other than members of the employer's immediate family, the number of days worked each week or each month.

216.33(3) For the entire year following a year in which the employer used more than 500 days of agricultural labor in any calendar quarter, the employer shall maintain, and preserve in accordance with rules 875—216.5(91D) and 875—216.6(91D), for each covered employee (other than members of the employer's immediate family, hand harvest laborers and livestock range employees as defined in 875—paragraphs 215.4(6) "b," "c," "d," and "e," records containing all the information and data required by 216.2(1) except paragraphs "c" and "h."

216.33(4) In addition to other required items, the employer shall keep on file with respect to each hand harvest laborer as defined in 875—paragraph 215.4(6) "c" for whom exemption is taken, a statement from each such employee showing the number of weeks employed in agriculture during the preceding calendar year.

216.33(5) With respect to hand harvest laborers as defined in 875—paragraph 215.4(6) "d" for whom exemption is taken, the employer shall maintain in addition to subrule 216.33(2), the minor's date of birth and name of the minor's parent or person standing in place of the parent.

216.33(6) Every employer (other than parents or guardians standing in the place of parents employing their own child or a child in their custody) who employs in agriculture any minor under 18 years of age on days when school is in session or on any day if the minor is employed in an occupation found to be hazardous by the commissioner shall maintain and preserve records containing the following data with respect to each and every such minor so employed:

a. Name in full,

b. Place where minor lives while employed (if the minor's permanent address is elsewhere, give both addresses), and

c. Date of birth.

216.33(7) Where a farmer and a bona fide independent contractor or crew leader are joint employers of agricultural laborers, each employer is responsible for maintaining and preserving the records required by this rule. Duplicate records of hours and earnings are not required. The requirements will be considered met if the employer who actually pays the employees maintains and preserves the records specified in 216.33(3) and 216.33(6).