

261—114.2(15E) Certification of qualifying businesses.

114.2(1) *Eligibility for certification as a qualifying business.* A business shall meet all of the criteria in Iowa Code section 15E.28 to be eligible for certification as a qualifying business.

114.2(2) *Length of business operations.* For the purposes of determining whether a business has been in operation for five years or less as required by Iowa Code section 15E.28(2)“b,” the authority will consider the following factors:

- a. The date of incorporation or organization;
- b. The date on which the business began the sale of goods or services;
- c. The date on which the business first hired employees;
- d. The date of execution of business contracts; and
- e. Any other information that indicates the date on which the business began materially engaging in commercial activity.

114.2(3) *Application for certification.* A qualifying business shall apply to the authority for certification as a qualifying business as prescribed by the authority. The application for certification will include the following information:

- a. A description of the general nature of the business’s operations.
- b. The location of the principal business operations, any other business locations, and the number of employees at each of the business’s locations.
- c. The date on which the business was formed and the date on which the business commenced operations based on the factors identified in subrule 114.2(2).
- d. Verification that the business has at least one full-time equivalent employee.
- e. Evidence that the business’s primary operations are in a qualifying industry pursuant to Iowa Code section 15E.28(2)“d.” Such evidence may include but is not limited to whether the business has a North American industry classification system (NAICS) number aligned with the relevant industries as determined by the authority. Businesses with other NAICS numbers will be required to document to the authority’s satisfaction that the business is primarily engaged in an applicable industry identified in Iowa Code section 15E.28(2)“d” based on factors including but not limited to sources of revenue and customer base. For the purposes of determining whether the business is primarily engaged in the provision of services that require a professional license, “services requiring a professional license” includes but is not limited to the professions listed in Iowa Code section 496C.2.
- f. Documentation of the ownership, affiliates, and principals of the business sufficient to demonstrate the business is an independent organization that is not part of, or an affiliate of, a business that is not a qualifying business and to demonstrate that the business has at least two investors for the purposes of establishing its eligibility pursuant to Iowa Code section 15E.28(2)“h”(2).
- g. A description of the manner in which the business satisfies the business experience requirements set forth in Iowa Code section 15E.28(2)“f.”
- h. A balance sheet that reflects the qualifying business’s assets, liabilities, and owners’ equity as of the close of the most recent month or quarter.
- i. The names, addresses, shares or equity interests issued; consideration paid for the shares or equity interests; and estimated amounts of tax credits through the program of all shareholders or equity holders and the date on which the investment was made, as well as documentation of any binding investment commitments made prior to application for certification. An agreement for convertible debt may be considered a binding investment commitment for the purposes of this paragraph.
- j. A signed statement from an officer, director, manager, member, or general partner of the qualifying business certifying the accuracy of the information provided.
- k. Any other information the authority may reasonably require to determine the business’s eligibility for certification as a qualifying business and its investors’ eligibility to receive tax credits or to allow the authority to estimate demand for tax credits.

114.2(4) *Authority review and notice of certification.*

a. Upon the authority’s receipt of the information and documentation necessary to demonstrate satisfaction of the criteria set forth in Iowa Code section 15E.28, the authority shall, within a reasonable period of time, determine whether a business shall be certified as a qualifying business and, if applicable,

issue written notification to the qualifying business that such business has been certified with the authority for the purpose of issuing investment tax credits. The authority will indicate in its written notice the first date investments are eligible for a tax credit based on the date of application for certification and the date the authority expects the certification to expire based on the date the business began operations. If the authority determines a business should not be certified, the authority shall issue written notification to the business of the denial of certification and provide the reasons why the business was not certified.

b. Prior to issuance of the written notification pursuant to paragraph 114.2(4)“*a.*,” a qualifying business shall pay a nonrefundable application fee of \$200 to the authority.

c. Following written notification of certification, a certified qualifying business shall enter into an agreement with the authority reflecting the terms of certification.

114.2(5) *Revocation and expiration of certification.*

a. A certified qualifying business shall provide any information the authority may reasonably request to confirm the business’s continued eligibility for certification as a qualifying business and the eligibility of its investors to receive tax credits or to allow the authority to estimate demand for tax credits.

b. If a qualifying business fails to meet or maintain any requirement set forth in this chapter and in Iowa Code chapter 15E, subchapter IV, the authority shall revoke the business’s certification as a qualifying business by issuing written notice of revocation to the business. The notice will identify the last date on which the business was eligible to be certified as a qualifying business. Investments made after the identified date will not be eligible for a tax credit.

c. If a business continues to satisfy all eligibility requirements until it has been in operation for more than five years, the business’s certification will expire on the date identified as the expected date of expiration pursuant to paragraph 114.2(4)“*a.*” Investments made after the identified date will not be eligible for a tax credit.

d. The authority shall rescind any tax credit certificates issued to taxpayers for investments made after the date on which the business’s certification was revoked or expired and shall notify the department of revenue that it has done so. A tax credit certificate that has been rescinded by the authority shall be null and void, and the department of revenue will not accept the tax credit certificate.

114.2(6) *Reporting.*

a. A certified qualifying business shall report new equity interests or transfers in equity among current equity holders or as any other information on the list of investors provided to the authority as part of the application for certification may change.

b. The authority may at any time request additional information and documentation from a qualifying business regarding the operations, job creation, and economic impact of such qualifying business, and the authority may use such information in preparing and publishing any reports to be provided to the governor and the general assembly to the extent such information is not confidential pursuant to Iowa Code section 15E.29.

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