

261—82.2(15E) Certification of qualified businesses.

82.2(1) *Eligibility for certification as a qualified business.* A business shall meet all of the criteria in Iowa Code section 15.522 to be eligible for certification as a qualified business. Additionally, a foreign business shall demonstrate that it is not associated with a foreign adversary or foreign adversary entity.

82.2(2) *Additional sectors.* Any individual or business may request in writing that the authority include an additional sector(s) to the list of sectors available for the credit pursuant to Iowa Code section 15.522(2). The authority may initiate the administrative rulemaking process to include an additional sector or sectors in response to such a request or on its own initiative. A business engaged in a sector included by rule pursuant to this subrule shall not apply for certification as a qualified business until after the effective date of the rulemaking to include that sector.

82.2(3) *Application for certification.* A qualified business shall apply to the authority for certification as a qualified business as prescribed by the authority. An applicant shall apply on behalf of all entities in a consolidated group for state or federal tax filing purposes. 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 Iowa business locations, and whether the business conducts research and development at any locations outside Iowa.
- c. Information that demonstrates that the business's primary operations are in a qualified industry and sector pursuant to Iowa Code section 15.522. 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 and sectors 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 and sector identified in Iowa Code section 15.522 based on factors including but not limited to sources of revenue and customer base.
- d. Information that demonstrates that the business is actively engaged in qualified research and development in Iowa.
- e. Information about employment of the qualified business.
- f. The identity of any entities included as part of a controlled group/group of trades or businesses under common control that is required to compute the federal research and development credit as one taxpayer pursuant to Section 41(f)(1) of the Internal Revenue Code.
- g. A signed statement from an officer, director, manager, member, or general partner of the qualified business certifying the accuracy of the information provided.
- h. Any other information or documentation as the authority may reasonably require to determine the business's eligibility for certification as a qualified business and whether research and development conducted by the business is qualified research and development.

82.2(4) *Authority review and notice of certification.*

- a. The authority shall make its best efforts to determine whether a business will be certified as a qualified business within 90 days of receipt of all information and documentation necessary to demonstrate satisfaction of the criteria set forth in Iowa Code section 15.522. The authority may conduct site visits to assess the eligibility of the business and the research conducted by the business.
- b. The authority will determine whether an applicant for certification has a record of violations of the law that over a period of time tends to show a consistent pattern or that establishes intentional, criminal, or reckless conduct in violation of such laws. An applicant that has such a record of violations of the law will be ineligible for certification.
- c. Authority staff will make recommendations for approval or denial of applications for certification. The director may approve, deny, or defer an application for certification.
- d. Approval of certification by the director shall be contingent upon execution of an agreement with the authority within 45 days of transmittal of the agreement. The time limit for execution may be extended by the director for an additional 45 days for good cause shown. Upon expiration of the time limit, including any extension, approval of certification of a qualified business shall be rescinded.
- e. Following execution of an agreement pursuant to paragraph 82.2(4) "d," the authority will issue written notice to the qualified business that such business has been certified with the authority for the

purpose of the program. The authority will indicate in its written notice the first tax year for which eligible expenditures may be eligible for a tax credit.

82.2(5) *Revocation and expiration of certification.*

a. A certified qualified business shall provide any information as the authority may reasonably request to confirm the business's continued eligibility for certification as a qualified business and whether the business continues to be actively engaged in qualified research and development.

b. If a qualified business fails to meet or maintain any requirement set forth in the agreement entered pursuant to Iowa Code section 15.523(3); this chapter; or Iowa Code chapter 15, subchapter II, part 35, the authority may suspend or revoke the business's certification as a qualified business by issuing written notice to the business. The notice will identify the last date on which the business was eligible to be certified as a qualified business. If certification is revoked, the notice will identify the first date on which the business will be eligible to reapply for certification. If certification is suspended, the notice will identify the proposed end date of the suspension. A business cannot apply for a tax credit for eligible expenditures incurred after the effective date of revocation or during the effective period of suspension.

c. The written notice of certification issued pursuant to paragraph 82.2(4)"e" will include the date the authority expects the certification to expire if a business continues to satisfy all eligibility requirements. Certification may expire up to five years from the date of the notice. If a determination cannot be made that the qualified business intends to engage in qualified research and development for five years, the authority may approve certification for less than five years.

d. A business may submit an application for recertification and be approved for recertification by the authority.

e. If a business's certification as a qualified business expires, expenditures made after the expiration date will not be eligible for a tax credit.

82.2(6) *Reporting.* The authority may, at any time, request additional information and documentation from a qualified business to meet the authority's reporting obligations pursuant to Iowa Code section 15.525 or required to prepare any other reports to be provided to the governor and the general assembly.

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