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## Proposed Regulation Agency Background Document

<b>Agency name</b>	Housing and Community Development
<b>Virginia Administrative Code (VAC) citation</b>	13 VAC 5 -111
<b>Regulation title</b>	Virginia Enterprise Zone Program Regulations
<b>Action title</b>	Amending the Virginia Enterprise Zone Program Regulations
<b>Document preparation date</b>	Enter date this form is uploaded on the Town Hall

This information is required for executive review ([www.townhall.state.va.us/dpbpages/apaintro.htm#execreview](http://www.townhall.state.va.us/dpbpages/apaintro.htm#execreview)) and the Virginia Registrar of Regulations ([legis.state.va.us/codecomm/register/regindex.htm](http://legis.state.va.us/codecomm/register/regindex.htm)), pursuant to the Virginia Administrative Process Act ([www.townhall.state.va.us/dpbpages/dpb\\_apa.htm](http://www.townhall.state.va.us/dpbpages/dpb_apa.htm)), Executive Orders 21 (2002) and 58 (1999) ([www.governor.state.va.us/Press\\_Policy/Executive\\_Orders/EOHome.html](http://www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html)), and the *Virginia Register Form, Style and Procedure Manual* ([http://legis.state.va.us/codecomm/register/download/styl8\\_95.rtf](http://legis.state.va.us/codecomm/register/download/styl8_95.rtf)).

### Brief summary

*In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.*

Language will be added to reflect amendments made to the Code of Virginia through Chapter 763 of the 2003 Acts of the Assembly (effective date July 1, 2003) to: adjust state Enterprise Zones to conform to the federal Empowerment Zones' expiration date; and to specify how high investment/low employment firms may qualify for General Income Tax Credits.

In addition, other changes are proposed for the purpose of:

- 1) Further clarifying the intent of the program and insuring that it is being met;
- 2) Providing additional guidance to program constituents;
- 3) Formalizing what has been common practice; and
- 4) Updating references to specific statutes; dates.

**Basis**

*Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

Legal authority is provided by the Code of Virginia, Sections 36-137 and 59.1-273. (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+36-137>) and (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+59.1-273>) :

**§ 36-137.** Powers and duties of Board; appointment of Building Code Academy Advisory Committee.

5. Make such rules and regulations as may be necessary to carry out its responsibilities and repeal or amend such rules when necessary.

**§ 59.1-273.** (Expires July 1, 2005) Administration.

The Department shall administer this chapter and shall have the following powers and duties:

6. To administer and enforce the regulations promulgated by the Board of Housing and Community Development.

**Purpose**

*Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.*

The purpose of the proposed regulation amendment is to address legislative changes adopted by the 2003 General Assembly as well as to clarify certain aspects of the regulations for more effective implementation and ease of use. The proposed changes will ensure consistent and uniform program implementation through the formal mechanism provided by the Regulations.

**Substance**

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)*

The proposed regulations will:

- ❑ Define commonly used terms and add language to reflect program practice; clarify requirements; and enhance ease of use by clients
- ❑ Reduce the administrative burden of and allow more flexibility in administration by participating local governments through clarification of:
  - zone size limits and non-contiguous areas
  - public hearing process
  - rights and responsibilities of participants in joint designation applications
  - zone amendment process
  - responsibilities of localities with enterprise zones and those of the local zone administrators
  - expiration date of state Enterprise Zones in relation to the federal Empowerment Zones (based on the amendment of Chapter 763 of the 2003 Acts of the Assembly; effective date July 1, 2003)
- ❑ Add provisions related to the termination of zones or zones whose 20-year designation period is ending to:
  - specify the process for zone designation in such cases
  - clarify the business qualification periods in such cases
- ❑ Clarify the responsibilities of firms with negotiated tax credits, including the addition of a section and definitions to specify how high investment/low employment firms may qualify for General Income Tax Credits (based on the amendment of Chapter 763 of the 2003 Acts of the Assembly; effective date July 1, 2003).
- ❑ Make date corrections throughout and remove outdated references

At this time, it is not apparent that there will be issues that may need to be addressed as the regulations are amended.

## Issues

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

*If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.*

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There are no disadvantages to the Commonwealth. The primary advantage to the Commonwealth will be increased efficiency in program implementation by clarifying the rights and responsibilities of the program clients - businesses and participating localities.

The changes support the intent of the program to encourage job creation and private investment that spurs additional development and revitalization in distressed areas of the Commonwealth through an increased demand for goods and services.

In general, there are no disadvantages to businesses. Businesses that are located within a zone, but the majority of whose employees work outside the zone may qualify for fewer job grants.

The definition of *wholly-owned pass through entity* and *conduct of business* may reduce the number of businesses that create a *wholly-owned pass through entity* in order to qualify for the real property tax credit.

There are no disadvantages to participating localities. The proposed Regulations will ease administrative requirements and provide localities more flexibility in how they administer the program.

**Economic impact**

*Please identify the anticipated economic impact of the proposed regulation.*

<b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</b>	It is anticipated that the proposed regulations will not increase the state's cost to administer the program.
<b>Projected cost of the regulation on localities</b>	It is anticipated that the proposed regulations will not increase the designated localities' costs to administer the program. The proposed changes provide localities more flexibility in how they administer the program and removes several administrative requirements.
<b>Description of the individuals, businesses or other entities likely to be affected by the regulation</b>	Individuals and other entities are not eligible for Enterprise Zone incentives. In general, there are no adverse impacts on businesses. Changes to the definition of <i>report to work</i> may mean that those businesses that are located within the zone, but the majority of whose employees work outside the zone may qualify for fewer job grants. The definition of <i>wholly-owned pass through entity</i> and <i>conduct of business</i> may reduce the number of businesses that create a <i>wholly-owned pass through entity</i> in order to qualify for the real property tax credit.
<b>Agency's best estimate of the number of such entities that will be affected</b>	Based on activity codes of qualified businesses in 2002, it is anticipated that less than 25 percent of the businesses applying for job grants will be affected. Of the 108 firms that have qualified for real property tax credits in 2002, less than 10 percent qualified using the <i>wholly-owned pass through entity</i>
<b>Projected cost of the regulation for affected individuals, businesses, or other entities</b>	The cost to businesses would be forgone incentive benefits.

**Alternatives**

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.*

There is no alternative to amending the regulations related to the changes in the Code of Virginia. The additional amendments will ensure consistent and uniform program implementation through the formal mechanism provided by the Regulations.

**Public comment**

*Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.*

Commenter	Comment	Agency response

No comments were received.

**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability.*

There is an indirect positive impact on the family in that the purpose of the program is to create net new jobs in distressed areas of the Commonwealth. Businesses are required to hire zone residents and/or low-income individuals in order to qualify for the general income tax credit benefit. This can encourage economic self-sufficiency and increase disposable family income.

Enter statement here

**Detail of changes**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.*

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale

<p>13 VAC 5-111-10</p>		<p>“Assumption or acquisition of trade or business” is not currently defined in the Regulations.</p>	<p>Define “assumption or acquisition of trade or business” to reflect program practice and for ease of use of Regulations by clients.</p> <p><u>“Assumption or acquisition of a trade or business” means that the inventory; accounts receivable; liabilities; customer list and good will of an existing Virginia company has been assumed or acquired by another taxpayer, regardless of a change in federal identification number or employees.</u></p>
<p>13 VAC 5-111-10</p>		<p>“Conduct of business” is not currently defined in the Regulations.</p>	<p>Define “conduct of business” to reflect program practice and for ease of use of Regulations by clients.</p> <p><u>“Conduct of business” means the active pursuit of economic profit by an on-going concern by providing goods and services to others as evidenced by a preponderance of the following: payment of wages and salaries; social security taxes; unemployment taxes; workers compensation taxes; self-employment taxes; local business taxes; maintenance of business records such as those related to sales, shipments, personnel, or payroll.</u></p>
<p>13 VAC 5-111-10</p>		<p>“Expansion” is not currently defined in the Regulations.</p>	<p>Define “expansion” to reflect program practice and for ease of use of Regulations by clients.</p> <p><u>“Expansion” means an increase in square footage, the footprint, or height of an existing building via a shared wall or enlargement of an existing room or floor plan.</u></p>
<p>13 VAC 5-111-10</p>		<p><u>“Family” means (i) one or more persons living in a single residence who are related by blood, marriage or adoption. A stepchild or stepparent shall be considered to be related by marriage; (ii) one or more persons living in the same residence but who were claimed as a dependent on another person’s federal Income Tax Return for the previous year shall be presumed, unless otherwise</u></p>	<p>Delete this definition. Proposed Regulations will instead use the term “household” for the purpose of replacing family income limit requirements with household income limit requirements for General Income Tax credit qualification purposes. The intent is to be more reflective of societal trends in living arrangements.</p> <p><u>“Household” means all the persons who occupy a single housing unit. Occupants may be a single family, one person living alone, two or more families living together, or any group of related or unrelated persons who share living arrangements.</u></p>

		demonstrated, part of the other person’s family; or (iii) an individual 18 years or older who receives less than 50% of his support from the family, and who is not the principal earner nor the spouse of the principal earner, shall not be considered a member of the family. Such an individual shall be considered a family of one.	
13 VAC 5-111-10		<p>“<u>Family</u> income” means all income actually received by all <u>family</u> members over 16 from one of the following sources:</p> <ul style="list-style-type: none"> <li>Gross wages and salaries (before deductions);</li> <li>Net self-employment income (gross receipts minus operating expenses);</li> <li>Interest and dividend earnings; and</li> <li>Other money income received from net rents, Old Age and Survivors Insurance (OASI), social security benefits, pensions, alimony, child support, and periodic income from insurance policy annuities and other sources.</li> </ul> <p>The following types on income are excluded from the definition of <u>family</u> income:</p> <ul style="list-style-type: none"> <li>Non-cash benefits such as food stamps and housing assistance;</li> <li>Public assistance payments;</li> <li>Disability payments;</li> <li>Unemployment and employment training benefits;</li> <li>Capital gains and losses; and</li> <li>One-time earned income</li> </ul>	<p>Delete this definition. Proposed Regulations will instead use the term “household income” for the purpose of replacing family income limit requirements with household income limit requirements for General Income Tax credit qualification purposes. The intent is to be more reflective of societal trends in living arrangements.</p> <p>“<u>Household</u> income” means all income actually received by all <u>household</u> members over 16 from the following sources:</p> <ul style="list-style-type: none"> <li>Gross wages, salaries, tips, commissions, etc. (before deductions);</li> <li>Net self-employment income (gross receipts minus operating expenses);</li> <li>Interest and dividend earnings; and</li> <li>Other money income received from net rents, Old Age and Survivors Insurance (OASI), social security benefits, pensions, alimony, child support, and periodic income from insurance policy annuities and other sources.</li> </ul> <p>The following types on income are excluded from the definition of <u>household</u> income:</p> <ul style="list-style-type: none"> <li>Non-cash benefits such as food stamps and housing assistance;</li> <li>Public assistance payments;</li> <li>Disability payments;</li> <li>Unemployment and employment training benefits;</li> <li>Capital gains and losses; and</li> <li>One-time earned income</li> </ul> <p>When computing household income, income of a household member shall be counted for the portion of the income determination period that the person was actually a part of the household.</p>
13 VAC 5-		“ <u>Family</u> size” means the	Delete this definition. Proposed Regulations

111-10		largest number of <u>family</u> members during the income determination period.	will instead use the term “household size” for the purpose of replacing family income limit requirements with household income limit requirements for General Income Tax credit qualification purposes. The intent is to be more reflective of societal trends in living arrangements.  “ <u>Household</u> size” means the largest number of <u>household</u> members during the income determination period.
13 VAC 5-111-10		“Full month” is not currently defined in the Regulations.	Define for “full month” to reflect program practice and for ease of use of Regulations by clients.  “ <u>Full month</u> ” means the number of days that a permanent full-time position must be filled in order to count in the calculation of the job grant amount. A full month is calculated by taking the total number of days in a calendar year (365) and dividing that number by 12. Therefore, a full month for the purpose of calculating job grants is equivalent to <u>30.416666</u> .
13 VAC 5-111-10		“High investment/limited job creation qualified business firm” is not currently defined in the Regulations.	Define “high investment/limited job creation qualified business firm” based on amendments made to the Code of Virginia through Chapter 763 of the 2003 Acts of the Assembly (effective date July 1, 2003).  “ <u>High investment/limited job creation qualified business firm</u> ” means a qualified business firm making qualified zone investments of \$50 million or more when such qualified zone investments result in the creation of fewer than 50 permanent full-time positions.
13 VAC 5-111-10		“Housing unit” is not currently defined in the Regulations.	Define “housing unit” to clarify the new definition of household.  “ <u>Housing unit</u> ” means a house, apartment, group of rooms, or single room that is occupied or intended for occupancy as separate living quarters.
13 VAC 5-111-10		“Low-income person” means a person who is employed in a permanent full-time position with a business firm in an enterprise zone that is	Replace references to “family” in this definition with the term “household” for the purpose of replacing family income limit requirements with household income limit requirements for General Income Tax credit qualification purposes. The intent is to be



		seeking qualification for enterprise zone incentives and whose <u>family</u> income was less than or equal to 80% of area median family income during the income determination period. . . .	more reflective of societal trends in living arrangements.  “Low-income person” means a person who is employed in a permanent full-time position with a business firm in an enterprise zone that is seeking qualification for enterprise zone incentives and whose <u>household</u> income was less than or equal to 80% of area median <u>household</u> income during the income determination period. . . .
13 VAC 5-111-10		“Median <u>family</u> income” means the dollar amount, adjusted for <u>family</u> size, as determined annually by the department for the city or county in which the zone is located.	Replace references to “family” in this definition with the term “household” for the purpose of replacing family income limit requirements with household income limit requirements for General Income Tax credit qualification purposes. The intent is to be more reflective of societal trends in living arrangements.  “Median <u>household</u> income” means the dollar amount, adjusted for <u>household</u> size, as determined annually by the department for the city or county in which the zone is located.
13 VAC 5-111-10		“Metropolitan Central City” means a city so designated by the U.S. Office of Management and Budget.	Localities are currently classified as either a “Metropolitan Central City”; “towns and cities other than Metropolitan Central cities”; and counties in determining the zone size limits. Delete the definition of “metropolitan central city” to reflect that the proposed Regulations will classify localities as cities, towns or counties.  This removes a source of confusion for localities applying for Enterprise Zone designation.
13 VAC 5-111-10		“New construction” is not currently defined in the Regulations.	Define “new construction” to reflect program practice and for ease of use of Regulations by clients.  <u>“New construction” means a single, nonresidential facility built on previously undeveloped land or a structure built on the site/parcel of a previously razed structure with no remnants of the prior structure or physical connection to existing structures/outbuildings on the property.</u>

<p>13 VAC 5-111-10</p>		<p>“Rehabilitation” is not currently defined in the Regulations.</p>	<p>Define “rehabilitation” to reflect program practice and for ease of use of Regulations by clients.</p> <p><u>“Rehabilitation” means the alteration or renovation of all or part of an existing nonresidential building without an increase in square footage.</u></p>
<p>13 VAC 5-111-10</p>		<p>“Report for work” means majority of a permanent full-time position a scheduled workweek, the employee filling that position works at a single physical location within an enterprise zone.</p>	<p>Add clarity to the definition to reflect the program purpose of creating jobs that generate additional economic activity with in the zones, and therefore generate further revitalization of the zones.</p> <p>“Report for work” means that for the majority of a permanent full-time position’s scheduled workweek, the employee filling that position works <u>at a qualified business’ enterprise zone establishment.</u></p>
<p>13 VAC 5-111-10</p>		<p>“Small qualified business firm” means any qualified business firm other than a large qualified business firm.</p>	<p>Modify the definition of “small, qualified business firm” to indicate that it is a firm other than high investment/limited job creation qualified firm based on amendments made to the Code of Virginia through Chapter 763 of the 2003 Acts of the Assembly (effective date July 1, 2003).</p> <p>“Small qualified business firm” means any qualified business firm other than a large qualified business firm <u>or a high investment/limited job creation qualified firm.</u></p>
<p>13 VAC 5-111-10</p>		<p>"Surplus public land" means land within a zone, <u>which is owned by the Commonwealth or a unit of local government</u> and which meets the following standards.          1. In the case of land owned by a unit of local government, (i) the land is not being used for a public purpose nor designated or targeted for a specific public use in an adopted land use plan, facilities plan, capital improvements plan or other official public document; (ii) no tangible</p>	<p>Revise the definition of “surplus public land” to reduce the administrative burden on the Commonwealth. It is common government practice to identify and sell surplus land in an expedient manner. Additional regulations to that effect are redundant.</p> <p>“Surplus public land” means land within a zone which is owned by a unit of local government and which meets standards:          The land is not being used for a public purpose nor designated or targeted for a specific public use in an adopted land use plan, facilities plan, capital improvement plan or other official public document;          No tangible harm would be incurred by the unit of local government if the land were eliminated from its holdings;</p>

		<p>harm would be incurred by the unit of local government if the land were eliminated from its holdings; and (iii) sale of the land would not violate any restriction stated in the deed.</p> <p><u>2. In the case of land owned by agencies of the Commonwealth, except land acquired by the Virginia Department of Transportation for the construction of highways, the land has been determined to be surplus to the Commonwealth in accordance with criteria and procedures established pursuant to §§ 2.1-504 through 2.1-512, of the Code of Virginia.</u></p> <p><u>3. In the case of land acquired by the Virginia Department of Transportation for the construction of highways, the land has been determined to be surplus to the needs of the State Highway Commission and the Commonwealth in accordance with criteria and procedures established pursuant to §§ 33.1-93, 33.1-149 and 33.1-154, of the Code of Virginia. The State Transportation Commission, prior to determining that land surplus to its needs is also surplus to the Commonwealth, may make such land available to other State agencies in accordance with procedures established pursuant to §§ 2.1-504 through 2.1-512, of the Code of Virginia.</u></p>	<p>The sale of the land would not violate any restriction stated in the deed. See also, 13 VAC 5-111-370B and C, for change in requirement for the sale of surplus public land.</p>
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<p>13 VAC 5-111-10</p>		<p>“Taxable event” is not currently defined in the Regulations.</p>	<p>Define “taxable event” to reflect program practice and for ease of use of Regulations by clients.</p> <p><u>“Taxable event” means any act or failure to act that results in a tax liability for a business firm. The following should not constitute a taxable event: any exchange, merger, consolidation, disposition of assets or other corporate reorganization that occurs under the federal non-recognition rules.</u></p>
<p>13 VAC 5-111-10</p>		<p>“Wholly-owned pass through entity” is not currently defined in the Regulations.</p>	<p>Define “wholly owned pass through entity” to clarify how businesses can meet the occupancy requirement of the Real Property Improvement Tax Credit.</p> <p><u>“Wholly owned pass through entity” means an entity that is owned entirely by an operating company and is not itself subject to income tax, and passes items of income, deductions, and other tax attributes through to the operating company. See also, 13 VAC 5-111-180B and C, for change from “wholly owned conduit entity” to “wholly owned pass through entity.”</u></p>
<p>13 VAC 5-111-80D</p>	<p>Replaces current 13 VAC 5-111-80D, which has been changed to 13 VAC 5-111-80E.</p>	<p>There is no qualification process for high investment/limited job creation qualified business firms currently in the Regulations.</p>	<p>Define the qualification process for “high investment/limited job creation qualified business firms” based on amendments made to the Code of Virginia through Chapter 763 of the 2003 Acts of the Assembly (effective date July 1, 2003).</p> <p><u>For high investment/limited job creation qualified business firms, the percentage amounts of business tax credit available to such firms under 13 VAC 5-111-70 shall be determined by agreement between the department and the high investment/limited job creation qualified business firm, provided that (i) the amounts shall not exceed the percentages provided for small qualified business firms as set forth in subsection C and (ii) it can be demonstrated that the amount of the business tax credits shall not exceed the amount that will be recovered by the Commonwealth through the revenues generated from new state income taxes resulting from the new permanent full-time positions within a five-year period. The demonstration required by clause (ii) shall be</u></p>

			<p><u>based on an analysis conducted by the department or its designee using information provided by the high investment/limited job creation qualified business firm. The negotiated percentage amount shall not exceed the percentages specified in 13 VAC 5-111-70.</u></p>
13 VAC 5-111-90, #5		<p>A business firm located within a locality's enterprise zone or zones that moves to another location within that locality's enterprise zone or zones must meet the requirements for qualification described in subdivisions 1, 2, <u>and 3</u> of this section, 13 VAC 5-111-100, and 13 VAC 5-111-120.</p>	<p>To clarify that a firm that move locations within an enterprise needs only to meet one qualification requirement not three. This is for ease of use by clients.</p> <p>A business firm located within a locality's enterprise zone or zones that moves to another location within that locality's enterprise zone or zones must meet the requirements for qualification described in subdivisions 1, <u>or 2</u>, or 3 of this section, 13 VAC 5-111-100, and 13 VAC 5-111-120.</p>
13 VAC 5-111-90	<p>Replaces current 13 VAC 5-111-90, #8, which is now 13 VAC 5-111-90, #9.</p>	<p>No requirement is currently stipulated in the Regulations.</p>	<p>Add language to clarify responsibility of large qualified business to reflect program practice and to ensure that qualification is performance based as it is for other Enterprise Zone incentives.</p> <p>3 VAC 5-111-90, #8. <u>Large qualified business firms must meet the terms of their documented negotiation agreement with the department pursuant to 13 VAC 5-111-80 C prior to seeking initial qualification under this section.</u></p>
	13 VAC 5-111-95	<p>Subsection specifying General Income Tax Credit qualification in zones whose designation period is not currently included in the Regulations.</p>	<p>Specify the incentive qualification process for firms located in zones whose designation is ending in response to the expiration of the state's first enterprise zones' designations.</p> <p><u>13 VAC 5-111-95 Qualifying for General Income Tax Credits in zones whose designation period is ending.</u></p> <p><u>A. Small qualified business firms located in a zone whose designation period is ending must begin their ten consecutive year incentive period prior to the zone termination date by qualifying under 13 VAC 5-111-90 for a tax year that ends prior to the zone termination date. Small qualified businesses that have qualified under 13 VAC 5-111-90 by or before that date may receive the</u></p>

			<p><u>remainder of their incentive period provided they continue to qualify under 13 VAC 5-111-90.</u></p> <p><u>B. Large qualified business firms and high investment/low employment qualified business firms with a documented negotiated agreement with the department that are located in a zone whose designation period is ending may begin their incentive period after zone termination. Large qualified businesses that have qualified under 13 VAC 5-111-90 before the zone termination date may receive the remainder of their incentive period provided they continue to qualify under 13 VAC 5-111-90. In both cases, the incentive period shall be for ten consecutive years or until the negotiated credit amount is reached, which ever is sooner.</u></p>
<p>13-VAC 5-111-100</p>		<p><u>A. Any business firm who qualifies for general tax credits on or after July 1, 1995, and whose taxable year ends on or before December 31, 1995, shall submit an application requesting a general tax credit to the department by no later than May 1, 1996.</u></p> <p><u>B. For taxable years ending after December 31, 1995, and on or before January 1, 1997, applications requesting a general tax credit shall be submitted to the department by no later than May 1, 1997.</u></p> <p><u>C. For taxable years thereafter, for any tax year that ends on or after January 1 and on or before December 31, or for businesses with tax years in accordance with §441(f) of the Internal Revenue Code on or before January 7 of the subsequent year, applications requesting a general tax credit shall be submitted to the department</u></p>	<p>Sections A. and B. are outdated submittal date references. Delete for ease of use by clients. Revise and renumber Sections C. and D. to A. and B. respectively to provide more generic date references for ease of use by clients.</p> <p><u>A. For tax years that end on or after January 1 and on or before December 31, or for businesses with tax years in accordance with §441(f) of the Internal Revenue Code on or before January 7 of the subsequent year, applications requesting a general tax credit shall be submitted to the department by no later than May 1 of the subsequent calendar year.</u></p> <p><u>B. Any business firm which is interested in amending past tax returns in order to qualify for and receive general tax credits shall submit an application requesting general tax credits to the department by no later than May 1 of any of three subsequent calendar years immediately following the year the business firm is requesting the credit provided that there is an outstanding credit balance remaining for that particular tax year. These requests will be handled on a first-come, first-serve basis.</u></p>

		<p>by no later than May 1 of the subsequent calendar year.</p> <p><u>D.</u> Any business firm which is interested in amending past tax returns in order to qualify for and receive general tax credits shall submit an application requesting general tax credits to the department by no later than May 1 of any of three subsequent calendar years immediately following the year the business firm is requesting the credit provided that there is an outstanding credit balance remaining for that particular tax year. These requests will be handled on a first-come, first-serve basis. Because this credit was not available prior to July 1, 1995, business firms cannot request or amend returns for tax years prior to 1995.</p>	
<p>13 VAC 5-111-160A(1)</p>		<p>A multi-tenant proration process is not currently provided in the Regulations.</p>	<p>Specify a pro-ration process for the Real Property Improvement Tax Credit for cases involving multiple tenants to reflect program practice.</p> <p>The total amount of the rehabilitation or expansion of depreciable nonresidential real property placed in service during the taxable year within the enterprise zone equals or exceeds \$50,000 and the assessed value of the original facility immediately prior to rehabilitation or expansion. <u>In the case of real property where more than one tenant conducts business in the building, a tenant seeking to qualify for the real property improvement tax credit shall use a proration based on the amount of square footage they occupy of the total building square footage to determine their portion of the assessed value of the building.</u></p>

<p>13 VAC 5-111-160</p>	<p>Replaces 13 VAC 5-111-160B, which is now 13 VAC 5-111-160C</p>	<p>A mixed-use proration process is not currently specified in the Regulations.</p>	<p>Specify a pro-ration process for the Real Property Improvement Tax Credit for buildings involving a mix of nonresidential and residential uses to reflect program practice.</p> <p><u>B. In cases of real property with mixed residential and nonresidential use, only the square footage related to the nonresidential use shall be eligible for the real property improvement tax credit. A proration based on the amount of square footage the nonresidential use occupies of the total building square footage must be used in determining qualification as it relates to A 1 or 2 of this section.</u></p>
<p>13 VAC 5-111-162</p>	<p>13 VAC 5-111-162</p>	<p>Subsection that specifies business eligibility for Real Property Improvement Tax Credit in zones whose designation period is ending is not currently included in the Regulations.</p>	<p>Specify the qualification process of businesses in zones whose designation period is ending in response to the expiration of the state’s first enterprise zones designations.</p> <p><u>Business firms located in a zone whose designation period is ending must qualify under 13 VAC 5-111-160 for a tax year ending prior to the zone termination date. Firms may not qualify for any additional tax credits under this section after the zone termination date.</u></p>
<p>13 VAC 5-111-172</p>	<p>13 VAC 5-111-172</p>	<p>Subsection that specifies Investment Tax Credit qualification in expiring zones in zones whose designation period is ending is not currently included in the Regulations.</p>	<p>Specify the business qualification process for firms with negotiated agreements located in zones whose designation is ending in response to the expiration of the state’s first enterprise zones’ designations.</p> <p><u>Business firms that have a documented negotiation agreement with the department that are located in a zone whose designation period is ending may begin their incentive period after zone termination upon qualifying under 13 VAC 5-111-170. Business firms that have a documented negotiation agreement with the Department of Housing and Community Development who qualify by or before that date may receive the tax credits until the negotiated tax credit amount is reached, provided they continue to qualify under 13 VAC 5-111-170.</u></p>



	<p>13 VAC 5-111-175</p>	<p>Anti-churning provision is not included for the Investment Tax Credit in the current Regulations.</p>	<p>Add an anti-churning provision to the Investment Tax Credit requirements to be consistent with this practice for employment-based Enterprise Zone incentives (i.e., General Income Tax Credit and Job Grant)</p> <p><u>A. The following shall not be included in the calculation of permanent full-time positions:</u></p> <p><u>1. For which a credit under this chapter was previously earned by a related party, as defined by the Internal Revenue Code § 267 (b) or a trade or business under common control;</u></p> <p><u>2. Where an employee filling that position was previously employed in the same job function in Virginia by a related party, or a trade or business under common control;</u></p> <p><u>3. Which was previously performed at a different location in Virginia by an employee of the taxpayer, a related party, or a trade or business under common control;</u></p> <p><u>4. Which previously qualified for a credit in connection with a different enterprise zone location on behalf of the taxpayer, a related party, or a trade or business under common control; or</u></p> <p><u>5. That was filled in the Commonwealth of Virginia and the trade or business where that position was located was purchased by another taxpayer.</u></p>
<p>13 VAC 5-111-180B and C</p>		<p>B. In situations where an operating company forms a wholly-owned conduit entity, such as a limited liability company (LLC), to rehabilitate or construct a building that is to be leased to the operating company, the conduit entity can qualify for the real property improvement tax credit provided the qualified expenses are paid by the conduit entity and the operating company occupies the building. Any credit earned by the conduit entity would pass through to the operating company.</p>	<p>Replace the term “conduit” with the term “pass through” at the request of the Virginia Department of Taxation to be consistent with common business and tax terminology.</p> <p>B. In situations where an operating company forms a wholly-owned <u>pass through</u> entity, such as a limited liability company (LLC), to rehabilitate or construct a building that is to be leased to the operating company, the <u>pass through</u> entity can qualify for the real property improvement tax credit provided the qualified expenses are paid by the <u>pass through</u> entity and the operating company occupies the building. Any credit earned by the <u>pass through</u> entity would pass through to the operating company.</p> <p>C. In instances where a <u>pass through</u> entity is formed by an operating company and a</p>

		<p>C. In instances where a conduit entity is formed by an operating company and a development firm to rehabilitate or construct a building that is to be leased to the operating company, the conduit entity would qualify for the real property improvement tax credit provided the qualified expenses are paid by the conduit entity and the operating company occupies the building. However, the actual credit allowed would be limited to the qualified expenses attributable to the operating company limited to its investment in the conduit entity. The development firm would be ineligible to receive the tax credit.</p>	<p>development firm to rehabilitate or construct a building that is to be leased to the operating company, the <u>pass through</u> entity would qualify for the real property improvement tax credit provided the qualified expenses are paid by the <u>pass through</u> entity and the operating company occupies the building. However, the actual credit allowed would be limited to the qualified expenses attributable to the operating company limited to its investment in the <u>pass through</u> entity. The development firm would be ineligible to receive the tax credit.</p>
<p>13 VAC 5-111-190</p>		<p><u>A. Any business firm whose taxable year begins on or after July 1, 1995, and ends on or before December 31, 1995, shall submit an application for real property improvements tax credit (13 VAC 5-111-150) and zone investment tax credits (13 VAC 5-111-170) to the department by no later than May 1, 1996.</u>  <u>B. For taxable years ending after December 31, 1995, and before January 1, 1997, applications requesting a real property improvements tax credit and zone investment tax credits shall be submitted to the department by no later than May 1, 1997.</u>  <u>C. For taxable years thereafter, for any tax year that ends on or after January 1 and on or before December 31, or for</u></p>	<p>Sections A. and B. are outdated submittal date references. Delete for ease of use by clients. Revise and renumber Sections C. and D. to A. and B. respectively to provide more generic date references for ease of use by clients.</p> <p><u>A. For tax years that end on or after January 1 and on or before December 31, or for businesses with tax years in accordance with §441(f) of the Internal Revenue Code on or before January 7 of the subsequent year, applications requesting a real property improvements tax credit or zone investment tax credits shall be submitted to the department by no later than May 1 of the subsequent calendar year.</u></p> <p><u>B. Any business firm which is interested in amending past tax returns in order to qualify for and receive real property improvement tax credits shall submit an application requesting real property improvement tax credits to the department by no later than May 1 of any of three subsequent calendar years immediately following the year the business firm is requesting the credit</u></p>

		<p>businesses with tax years in accordance with §441(f) of the Internal Revenue Code on or before January 7 of the subsequent year, applications requesting a real property improvements tax credit and zone investment tax credits shall be submitted to the department by no later than May 1 of the subsequent calendar year.</p> <p><u>D.</u> Any business firm which is interested in amending past tax returns in order to qualify for and receive real property improvement tax credits shall submit an application requesting real property improvement tax credits to the department by no later than May 1 of any of three subsequent calendar years immediately following the year the business firm is requesting the credit provided that there is an outstanding credit balance remaining for that particular tax year. These requests will be handled on a first-come, first-serve basis. <u>Because this credit was not available prior to July 1, 1995, business firms cannot amend returns for tax years beginning prior to July 1, 1995.</u></p>	<p>provided that there is an outstanding credit balance remaining for that particular tax year. These requests will be handled on a first-come, first-serve basis.</p>
	<p>13 VAC 5-111-245</p>	<p>Subsection that specifies Job Grant qualification in expiring zones is not currently included in the Regulations.</p>	<p>Specify the business qualification process for businesses located in zones whose designation is ending or being terminated in preparation for the expiration of the state's first enterprise zones designations.</p> <p><u>A. Business firms located in a zone whose designation period is ending must begin their three consecutive year incentive period prior</u></p>

			<p><u>to the zone termination date by qualifying for the calendar year ending prior to the zone termination date. Business firms that qualify by or before that date may receive the balance of their three consecutive year incentive period provided they continue to qualify under 13 VAC 5-111-240. Business firms may not begin additional three-year incentive period after the zone termination date.</u></p>
<p>13 VAC 5-111-290B</p>		<p>For counties, cities and towns the proposed zone must consist of an area made up of contiguous United States Census tracts or block groups or any part thereof. However, one enterprise zone in any county, city, or town may consist of two noncontiguous zone areas. The size of the enterprise zone shall consist of the total of the two noncontiguous zone areas. The two noncontiguous zone areas shall not be considered as separate zones for the purpose of calculating the maximum number of zone designations. The maximum combined land area cannot exceed maximum size guidelines set forth in subdivisions D 1, 2, 3 and 4 of this section.</p>	<p>Revise the non-contiguous zone language revised to clarify sub-zone allowance for ease of use by clients.</p> <p>For counties, cities and towns the proposed zone must consist of an area made up of contiguous United States Census tracts or block groups or any part thereof. However, one enterprise zone in any county, city, or town may consist of <u>one primary zone area and one noncontiguous sub zone area.</u> The size of the enterprise zone shall consist of the total of the-primary zone area and sub zone area. The <u>sub zone area</u> shall not be considered a separate zone for the purpose of calculating the maximum number of zone designations. The maximum combined land area cannot exceed maximum size guidelines set forth in subdivisions D 1, 2, 3 and 4 of this section.</p>
<p>13 VAC 5-111-290D</p>		<p>All proposed zones shall conform to the following size guidelines:  <u>1. Metropolitan Central Cities - Minimum: ½ square mile (320 acres); Maximum: 1 square mile (640 acres) or 7% of the jurisdiction's land area or population, whichever is largest.</u></p>	<p>Delete the classification of localities as Metropolitan Central Cities. The proposed Regulations will classify localities as cities, towns or counties.</p> <p>City and town categories are combined for ease of use by clients and in response to need of towns/non-metro cities for larger zones to increase effectiveness.</p> <p>All proposed zones shall conform to the following size guidelines:</p>

		<p>2. <u>Towns and cities other than Metropolitan Central Cities</u> - Minimum: ¼ square mile (160 acres); Maximum: ½ square mile (320 acres) or 7% of the jurisdiction's land area or population, whichever is largest.</p>	<p>1. <u>Towns and cities</u> - Minimum: ¼ square mile (160 acres); Maximum: 1 square mile (640 acres) or 7% of the jurisdiction's land area or population, whichever is largest.                  2. <u>Unincorporated areas of counties</u> - Minimum: ½ square mile (320 acres); Maximum: 6 square miles (3,840 acres). only of a site for a single business firm.</p>
<p>13 VAC 5-111-300</p>		<p>A Up to 60 enterprise zones may be designated by the Governor in accordance with the procedures and requirements set out in this section. <u>Five of the areas designated as enterprise zones on or after July 1, 1999, shall be located in localities that (i) have annual average unemployment rates for the most recent calendar year that are fifty percent higher than the final statewide average unemployment rate for the most recent calendar year or (ii) are within planning districts that have annual average unemployment rates for the most recent calendar year that are at least one percent greater than the final annual statewide average for the most recent calendar year.</u> <u>Five of the areas designated as enterprise zones on or after July 1, 2000, shall be located in localities that have annual average unemployment rates for the most recent calendar year that are fifty percent higher than the final statewide average unemployment rate for the most recent calendar year.</u> No area shall be designated as an enterprise zone pursuant to this subsection unless it also</p>	<p>Delete references to the 1995 and 2000 designation rounds.</p> <p>A. Up to 60 enterprise zones may be designated by the Governor in accordance with the procedures and requirements set out in this section. No area shall be designated as an enterprise zone pursuant to this subsection unless it also meets all the other eligibility criteria established pursuant to 13 VAC 5-111-290.</p>

		<p>meets all the other eligibility criteria established pursuant to 13 VAC 5-111-290.</p>	
<p>13 VAC 5-111-300B</p>		<p>2.The local governing body must hold at least one public hearing on the application for zone designation prior to its submission to the department. Notification of the public hearing is to be in accordance with § 15.2-2204 of the Code of Virginia relating to advertising of public hearings. An actual copy of the advertisement must be included in the application as Attachment A.</p> <p>3.In order to be considered in the competitive zone designation process an application from a jurisdiction must include all the requested information, be accompanied by a resolution of the local governing body and be signed by the chief administrator or the clerk to the town council or county board of supervisors where there is no chief administrator. The chief administrator or clerk, in signing the application, must certify that the local governing body held the public hearing required in subdivision 2 of this subsection.</p>	<p>Replace the “local governing body” with “applicant jurisdiction” as an allowable entity to hold certain public hearings for ease of use by clients.</p> <p>2. The <u>applicant jurisdiction</u> must hold at least one public hearing on the application for zone designation prior to its submission to the department. Notification of the public hearing is to be in accordance with § 15.2-2204 of the Code of Virginia relating to advertising of public hearings. An actual copy of the advertisement must be included in the application as Attachment A.</p> <p>3. In order to be considered in the competitive zone designation process an application from a jurisdiction must include all the requested information, be accompanied by a resolution of the local governing body and be signed by the chief administrator or the clerk to the town council or county board of supervisors where there is no chief administrator. The chief administrator or clerk, in signing the application, must certify that the <u>applicant jurisdiction</u> held the public hearing required in subdivision 2 of this subsection.</p>

<p>13 VAC 5-111-310</p>	<p>Replace 13 VAC 5-111-310C, which is now 13 VAC 5-111-310D</p>		<p>Specify that each applicant in a joint zone to have the maximum acreage for its type of locality. This reflects program practice and is for ease of use by clients.</p> <p><u>C. Each jurisdiction comprising the proposed joint enterprise zone may have the maximum acreage as specified by the size guidelines in 13 VAC 5-111-290 D.</u></p>
<p>13 VAC 5-111-310D</p>		<p><u>C.</u> The applicants must designate one jurisdiction to act as program administrator. The jurisdiction so designated shall be responsible for filing <u>a survey of zone business conditions</u> and annual reports as provided for in 13 VAC 5-111-380 and 13 VAC 5-111-390.</p>	<p>Delete the specific requirement for completing a survey of zone business conditions to reduce the administrative burden on participating localities. This information will be collected through the locality’s first annual report.</p> <p><u>D.</u> The applicants must designate one jurisdiction to act as program administrator. The jurisdiction so designated shall be responsible for filing annual reports as provided for in 13 VAC 5-111-380 and 13 VAC 5-111-390.</p>
	<p>13 VAC 5-111-315</p>	<p>The process for designation resulting from zone termination or expiration is not currently specified in the Regulations.</p>	<p>Specify the process for designation resulting from the termination or expiration of an enterprise zone to reflect program practice.</p> <p><u>Periodically, zone designations become available as a result of zones that have completed their 20-year designation period or as a result of zone termination as provided for in 13 VAC 5-111-340 and 13 VAC 5-111-350. Applications for such enterprise zone designations will be solicited in accordance with the procedures and requirements set forth in 13 VAC 5-111-300 B-F and 13 VAC 5-111-310.</u></p>
	<p>13 VAC 5-111-320C</p>	<p>Enterprise Zone and Empowerment Zone expiration policy is not currently specified in the Regulations.</p>	<p>Add the following language due to changes in Enterprise Zone Act that will extend the state designation period to coincide with the Federal Empowerment Zone designation period.</p> <p><u>C. Unless earlier terminated as provided in this chapter, an area's designation as a state enterprise zone shall be for a period of 20 years; however, if the area is designated by an agency of the federal government as a federal enterprise zone at the time of the</u></p>

			<p><u>scheduled expiration of its state enterprise zone designation, the area's state enterprise zone designation shall continue until the expiration of the area's federal enterprise zone designation.</u></p>
13 VAC 5-111-330A		<p>A local governing body will be permitted to request amendments to approved applications for zone designation in accordance with the procedures and requirements set out in this section</p>	<p>Specify that each applicant in a joint zone may amend their portion of the application independently of the other localities. This reflects program practice and is for ease of use by clients.</p> <p>A local governing body will be permitted to request amendments to approved applications for zone designation in accordance with the procedures and requirements set out in this section. <u>Each jurisdiction participating in a joint zone may amend their portion of the application, including boundaries and incentives, independently of the other participating jurisdictions.</u></p>
13 VAC 5-111-330	<p>Replace 13 VAC 5-111-330B, which is now 13 VAC 5-111-330C</p>	<p>The requirement to be up-to-date on annual reports in order to submit an application amendment is not currently specified in the Regulations.</p>	<p>Specify that the applicant jurisdiction must be current on the submission of annual reports as set forth in VAC 5-11-390 in order to amend an approved application. The language was added to reflect program practice and to ensure that DHCD receives program performance data in a timely fashion.</p> <p><u>The applicant jurisdiction must be current on the submission of annual reports as set forth in VAC 5-111-390 in order to amend an approved application.</u></p>
13 VAC 5-111-330 C		<p>B. The local governing body must hold at least one public hearing on the requested amendment prior to its submission to the department. In the case of a boundary amendment that involves the elimination of area or areas, the local governing body must separately notify each property owner and business located within the affected area of the proposed amendment prior to holding the public</p>	<p>Replace the “local governing body” with “applicant jurisdiction” as an allowable entity to hold certain public hearings for ease of use by clients.</p> <p>C. The <u>applicant jurisdiction</u> must hold at least one public hearing on the requested amendment prior to its submission to the department. In the case of a boundary amendment that involves the elimination of area or areas, the <u>applicant jurisdiction</u> must separately notify each property owner and business located within the affected area of the proposed amendment prior to holding the public hearing.</p> <p>D. A request for an amendment must be</p>



		<p>hearing.                  C. A request for an amendment must be submitted to the department on Form EZ-2. This form must be accompanied by a resolution of the local governing body and must certify that the local governing body held the public hearing required in subsection B of this section prior to the adoption of the resolution. In the case of a joint application, a request for an amendment must be completed by the jurisdiction serving as program administrator and must be accompanied by Form EZ-2-JA. This form certifies that the other participating jurisdictions are in agreement in filing the request for amendment.</p>	<p>submitted to the department on Form EZ-2. This form must be accompanied by a resolution of the local governing body and must certify that the <u>applicant jurisdiction</u> held the public hearing required in subsection B of this section prior to the adoption of the resolution. In the case of a joint application, Form EZ-2 must be completed by the jurisdiction requesting the amendment and must be accompanied by Form EZ-2-JA. This form certifies that the other participating jurisdictions are in agreement in filing the request for amendment.</p>
<p>13 VAC 5-111-330E</p>		<p><u>D. Beginning on and after July 1, 1995, enterprise zone jurisdictions will be required to thoroughly examine their previously approved applications every five years. The jurisdiction shall review all aspects of the application boundaries, goals, objectives, strategies, actions and incentives, as well as barriers to development, and include as part of their annual report an explanation of why the application or sections of the application need or do not need to be amended to improve enterprise zone performance. Application amendments relating to these requirements will be required every five years if:</u>                  1. The jurisdiction has not yet developed goals,</p>	<p>Delete the provision to require enterprise zone jurisdictions to review their applications every five years and make needed amendments. This guidance is given to the jurisdiction on an annual basis through the assessment visit and does not need to be specified in the Regulations.</p>

		<p><u>objectives, strategies and actions to overcome barriers to development within the zone.</u></p> <p><u>2.The jurisdiction has incentives that have not been utilized during the five year period.</u></p>	
13 VAC 5-111-330F	Will replace 13 VAC 5-111-330E	An enterprise zone application may be amended annually by the jurisdiction. Amendments may be to the entire application or individual sections such as the boundary, goals, objectives, strategies and actions, or incentives.	<p>Specify that the term annually means, for the purpose of application amendments, at least 12 months from the last amendment. This reflects program practice and provides more specific guidance to clients. Delete the reference to GOSAs (Goals, Objectives, Strategies, and Actions), which will no longer be required. Localities submit an implementation plan as part of their designation application and this will be reviewed as part of the annual assessment visit.</p> <p>An enterprise zone application may be amended annually, <u>12 months from the last amendment application by the jurisdiction.</u> Amendments may be to the entire application or individual sections such as the boundary or incentives.</p>
13 VAC 5-111-330H	Will now be 13 VAC 5-111-330I	H. The department will approve an amendment to local incentives only if the proposed local incentives are equal or superior to those in the application prior to the proposed amendment or if the proposed cumulative local incentive package is equal to or greater than those in the application prior to the proposed amendment. The department will approve an amendment to expand zone boundaries <u>or the goals, objectives, strategies and actions</u> only if the proposed amendment is deemed to be consistent with the	<p>Delete the reference to GOSAs (Goals, Objectives, Strategies, and Actions), which will no longer be required. Localities submit an implementation plan as part of their designation application and this will be reviewed as part of the annual assessment visit.</p> <p>I. The department will approve an amendment to local incentives only if the proposed local incentives are equal or superior to those in the application prior to the proposed amendment or if the proposed cumulative local incentive package is equal to or greater than those in the application prior to the proposed amendment. The department will approve an amendment of zone boundaries only if the proposed amendment is deemed to be consistent with</p>

		purposes of the program as determined by the department.	the purposes of the program as determined by the department.
	13 VAC 5-111-330J	There currently is no provision in the Regulations for counties to amend zone boundaries to add in a town.	Specify that counties may amend their boundaries to include acreage in towns.  Section was added based on significant requests of participating localities. Currently, a town must participate with the county as part of joint designation application submitted during a competitive round. This provision allows counties to include acreage within a town though an administrative rather than competitive process without creating a joint zone or providing the town with the ability to provide local incentives, make any zone amendments, create a sub-zone, or give the town its own zone acreage allocation.  <u>J. A county may amend its zone boundaries to include as part of the county’s total acreage acreage in any town located within the county boundaries provided it meets sections A-H above. This shall not constitute a joint zone and does not provide the town with the ability to provide local incentives, make any zone amendments, create a sub zone or give the town its own zone acreage allocation.</u>
13 VAC 5-111-330K		I. A local governing body that is denied either a boundary, goals, objectives, strategies and actions, or local incentive amendment shall be provided with the reasons for denial.	Use the phrase “an application,” which refers to any kind of application amendment.  K. A local governing body that is denied an <u>application</u> amendment shall be provided with the reasons for denial.
13 VAC 5-111-350A		If no business firms have qualified for state incentives within a five-year period <u>beginning on July 1, 1995</u> , the department shall terminate the enterprise zone designation.	Delete outdated reference.  If no business firms have qualified for state incentives within a five-year period, the department shall terminate the enterprise zone designation

<p>13 VAC 5-111-360B</p>		<p>Qualified business firms located in a terminated zone may continue to request state tax incentives provided under §§ 59.1-280 and 59.1-282 for any remaining taxable years in the qualification period for which they are eligible.</p>	<p>Add a reference to job grants so that all Enterprise Zone incentives are covered under this section. Replace code citations with Regulations references for ease of use by clients.</p> <p>Qualified business firms located in a terminated zone may continue to request state tax <u>and job grant</u> incentives for any remaining years in the qualification period for which they are eligible <u>as provided for in 13 VAC 5-111-95, 13 VAC 5-111-162, 13 VAC 5-111-172 and 13 VAC 5-111-240.</u></p>
<p>13 VAC 5-111-360C</p>		<p>After the date of zone termination, no additional business firms may become qualified to receive state tax incentives provided under this program.</p>	<p>Add references to newly developed sections pertaining to business qualifications in zones whose designation period is ending.</p> <p>After the date of zone termination, no additional business firms may become qualified to receive state tax incentives provided under this program <u>except as provided for in 13 VAC 5-111-95 B and 13 VAC 5-111-240.</u></p>
<p>13 VAC 5-111-370</p>		<p><u>A. The Commonwealth and any unit of local government that owns land within the zone shall: (i) upon designation of a zone, identify any surplus land and within six months make such land available for sale; and (ii) update annually its list of surplus land and make available for sale within six months any newly identified surplus parcels. The department may waive this requirement only if the owner can demonstrate to the department's satisfaction that the land cannot be developed due to its size, configuration, topography, location or other relevant factors.</u> <u>B. The Commonwealth or any unit of local government that sells</u></p>	<p>Specify that localities will certify through the designation application that they will address surplus land. The Department has seen that localities are diligent in dealing with surplus land and do not need any additional administrative burden in this regard.</p> <p>A. The local governing body will certify through the designation application that it will identify any public surplus land and make this land available for sale upon designation as an enterprise zone and throughout the life of the zone.</p>

	<p><u>surplus land within a zone shall require the buyer to develop the land within a period not to exceed five years. This requirement of the buyer must be enforceable by the seller. The Commonwealth or any unit of local government that sells surplus land within a zone may set any additional conditions on the sale which it considers to be necessary to assure that the land is developed in a manner consistent with the purpose of the program and the local development objectives outlined in the application for zone designation. If the land is not sold within five years, such conditions shall be revised as necessary to make the land marketable.</u></p> <p><u>C. In order to monitor compliance with the requirements of this section, the department will request annually from local governing bodies and state agencies with responsibility for overseeing the disposition of surplus state land, information concerning the identification and sale of surplus land. A local governing body shall document compliance with this section in its annual report to the department (see § 13 VAC 5-111-390). The department shall request annually from the Division of Engineering and Buildings of the Virginia Department of General Services and from the Virginia Department of Transportation, lists of</u></p>	
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<p>13 VAC 5-111-380</p>		<p><u>Within 90 days following the date of zone designation, a local governing body shall conduct a survey of existing business conditions to serve as a basis for program evaluation. Survey data shall be submitted to the department on Form EZ-3-S. The survey shall include information on business and employment conditions in the zone as requested on Form EZ-3-S.</u></p>	<p>Delete the Survey of Zone Business Condition requirement specified in this section to reduce the administrative burden on clients. This information will be collected in the first Annual Report of newly designated zones rather than through an additional report.</p>
<p>13 VAC 5-111-390</p>		<p>A. A local governing body shall submit annual reports to the department for the purpose of program monitoring and evaluation. Annual reports shall be submitted to the department on Form EZ-3-AR, within 90 days of the anniversary date of zone designation. Annual reports shall include information documenting the local governing body's compliance with 13 VAC 5-111-370 and data for the purpose of program evaluation as requested on Form EZ-3-AR. Annual reports shall also include an evaluation of the program's <u>success in achieving identified local development objectives.</u></p>	<p>Specify the date of April 1 as the due date for annual reports of all enterprise zone. A standardized date reflects program practice and ensures that DHCD receives the performance data in a timely fashion. Replace general evaluation language to specify that localities will report on progress on its Implementation Plan.</p> <p>A. A local governing body shall submit annual reports to the department for the purpose of program monitoring and evaluation. Annual reports shall be submitted to the department on Form EZ-3-AR-no later than <u>April 1</u> of the following year. Annual reports shall include information and data for the purpose of program evaluation as requested on Form EZ-3-AR. Annual reports shall also include an evaluation of the program's <u>progress completing its Implementation Plan</u> as provided in the designation application.</p>

Enter any other statement here