

DEQ Certification Class Presentations

Class presentations are provided for study/review purposes only. Printouts of these PowerPoint slides will not be allowed into the exam testing centers.

July 2024

Module 3

Erosion Law for Plan Reviewers

Online Course

Module 3 Contents

3a. Regulating Land-Disturbing Activities

3b. Local Ordinances for Chesapeake Bay
Preservation Act LDAs

3c. Plan Submission, Review, and Approval

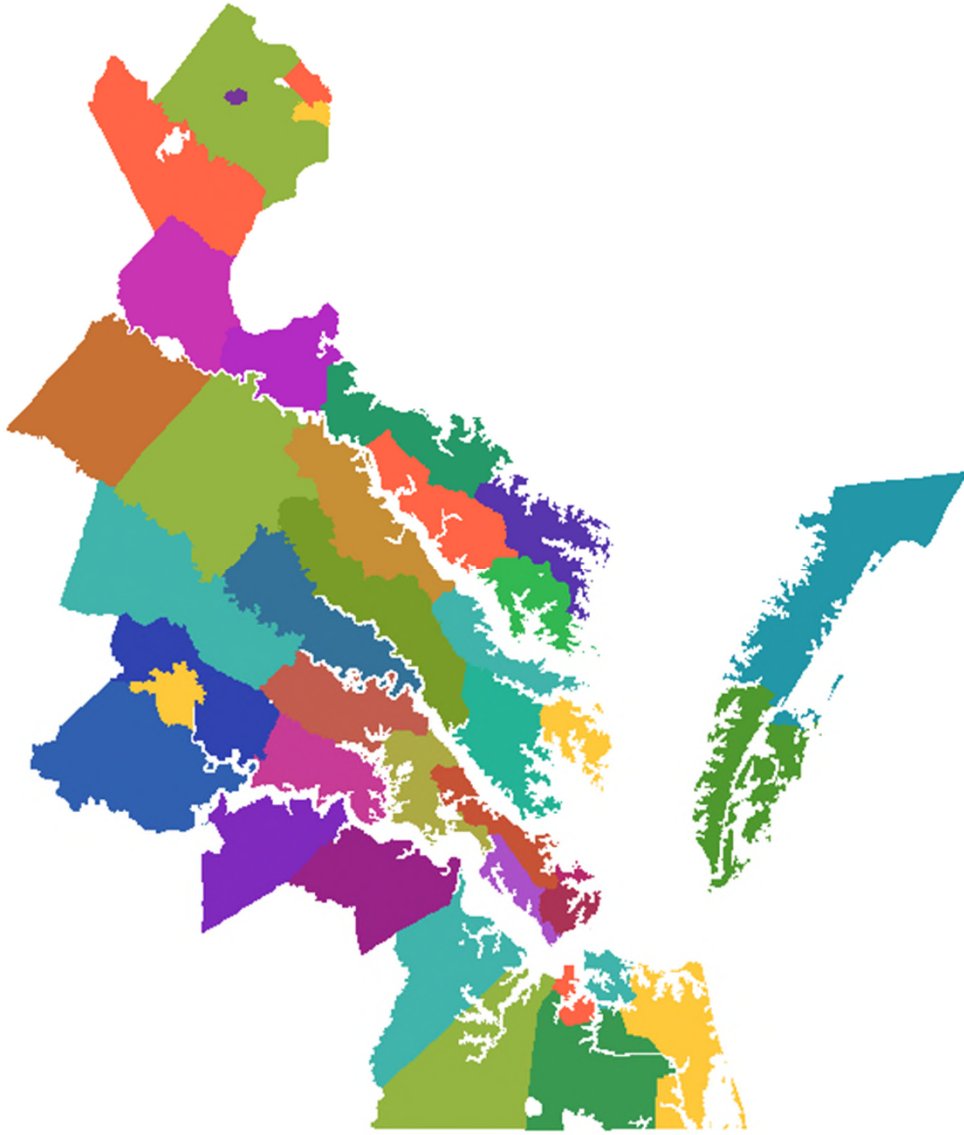
3d. Standards and Specifications

3e. DEQ Compliance Review

Module 3b.

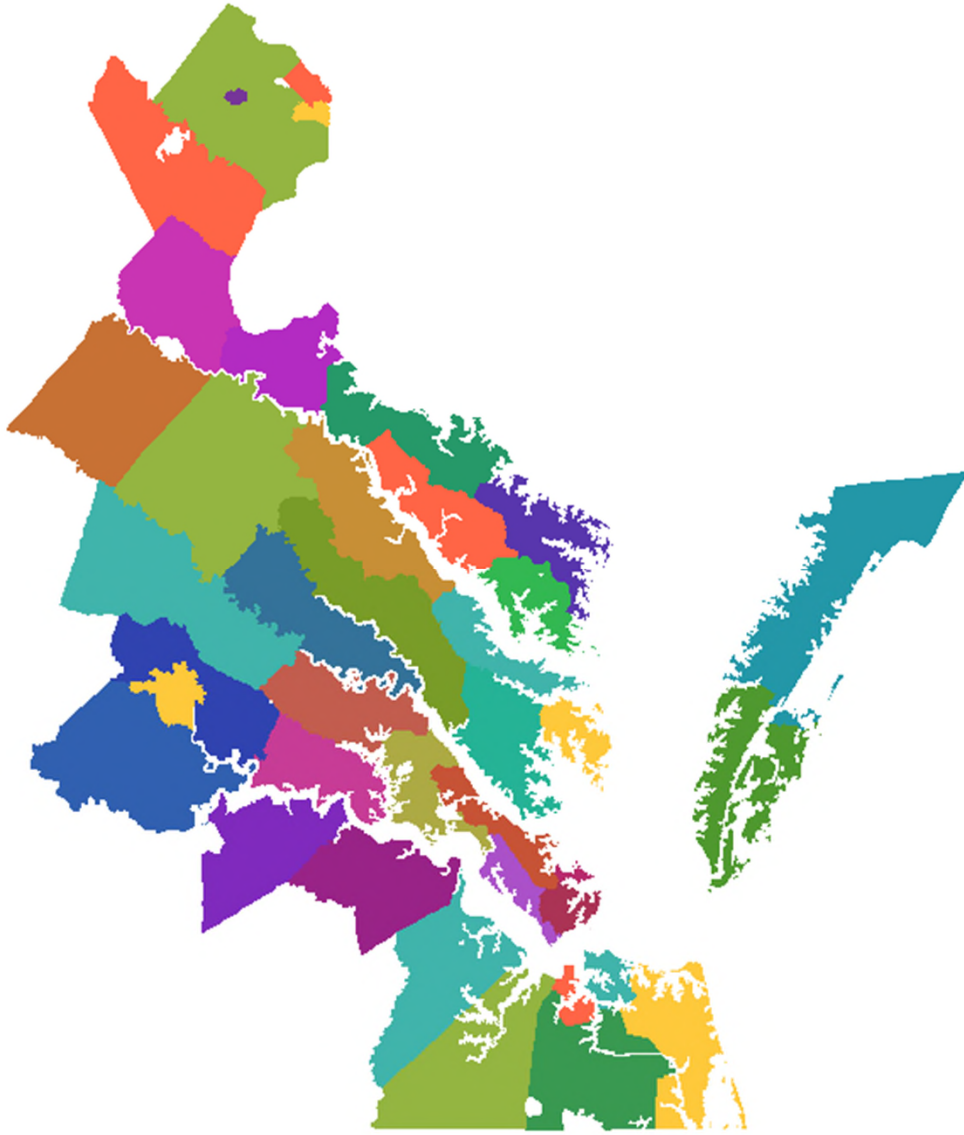
Local Ordinances for Chesapeake Bay Preservation Act LDAs

Local Ordinances for CBPA LDAs



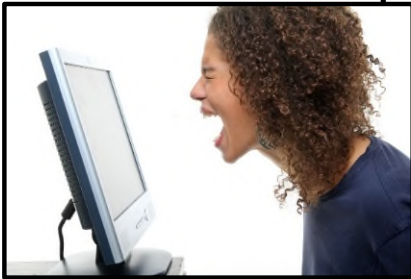
- Chesapeake Bay Preservation Areas (CBPA) are delineated by local gov't within Tidewater VA
- Regulated LDA requirements similar to VESMP
- CBPAs includes Resource Protection Areas (RPAs) and Resource Management Areas (RMAs)

Local Ordinances for CBPA LDAs



- CBPA LDAs are defined as $\geq 2,500 \text{ ft.}^2$ and < 1 acre in these areas
- Localities must regulate single-family residences $\geq 2,500 \text{ ft.}^2$ and < 1 acre in CBPAs
- But may require water quality compliance with VESMA

Inbox mayhem



Module 3 - ESC Plan Review

Vacation! Nothing like a little time away...



Until you come back and open your email...



Wow! I've got
how many emails?
That's a lot isn't it
officer?



Yes sir. Most
I've seen in
quite awhile.

Inbox Mayhem - What you need

ANOTHER VACATION!



Inbox Mayhem- What you need

- ESC PR Participant Guide Module 3
- Paper to record your answers and keep score
- Pen or pencil
- That's all



Inbox Mayhem - How to play



The Goal – Score the most points possible by answering the questions in your Inbox Mayhem Inbox.

Inbox Mayhem - How to play



1. Number your paper 1-8
2. For each multi-choice inbox question, select, and jot down the letter(s) for the correct answer(s). You will have 1-2 minutes.

Inbox Mayhem - How to play



3. For each question you answer correctly, award yourself **1 point**.
No point, if you miss **any part** of a multi-answer question.
4. Answers will be reviewed following each question.

Inbox Mayhem - Question 1

A locality VESCP or VESMP authority may enter into an agreement with which of the following to carry out or assist with plan review, inspections, and enforcement?

- A. Soil and water conservation districts
- B. Other private entities
- C. Other public entities
- D. Adjacent localities
- E. All of the above

TEAMWORK



Inbox Mayhem - Question 1

The correct answer is E - All of the above.

Regulated Land Disturbing
Activities (3a. p.4)

If you selected **ALL** of the
answers A, B, C, & D
for this question **ONLY**,
you may have 1 point.

Administer VESCP:

- Counties and cities must
- Towns may

Locality VESCP authority:

May enter into agreements or contracts with soil and water conservation districts, adjacent localities, or other public or private entities to carry out or assist with plan review, inspections, and enforcement.

Stormwater Management by DEQ

Administer VESMP:

- MS4 permit localities must
- Counties, cities, and towns may

Locality VESMP authority:

May enter into agreements or contracts with DEQ, soil and water conservation districts, adjacent localities, planning district commissions, or other public or private entities to carry out or assist with plan review and inspections.

Stormwater Management by Locality

Inbox Mayhem – Question 2

True or false – All Regulated Land Disturbing Activities throughout Virginia must reach 10,000 sq. ft. before they are required to have an approved ESC Plan.

- A. True
- B. False

APPROVED

Inbox Mayhem – Question 2

The answer is **B** - False – Two sections in 3a. provide scenarios where projects may be regulated under 10,000 sq. ft.

1. Regulated land-disturbing activities (3a. p.6)

In a portion designated as a Chesapeake Bay Preservation Area according to the Chesapeake Bay Preservation Act, the regulated land disturbance threshold drops to 2,500 square feet.

APPROVED

Inbox Mayhem – Question 2

The answer is **B** - False – Two sections in 3a. provide scenarios where projects may be regulated under 10,000 sq. ft.

2. More Stringent Regulations or Ordinances (3a. p.9)

Localities are authorized to adopt ordinances that are more stringent than the minimum state requirements...

APPROVED

Inbox Mayhem – Question 3

A severe flash flood occurs in your Virginia locality washing out a bridge that is the sole access route to part of the community. How long do you have to review an ESC plan for approval before repairs to the bridge can begin?

- A. 45 days for initial review
- B. 60 days to review and approve
- C. Work may begin immediately in response to a public emergency
- D. FEMA will immediately assume direct management of the site



Inbox Mayhem – Question 3

The answer is C – Work may begin immediately in response to a public emergency.

Exemptions (3a. p.7)

LDAs in response to a public emergency where the related work required immediate authorization to avoid imminent endangerment to human health or the environment. The VESMP or VESCP authority shall be advised within seven days of commencing the LDA, and compliance with the administrative requirements is required within 30 days.

Inbox Mayhem – Question 4

A developer delayed submission of an ESC plan for a golf course clubhouse along the Chesapeake Bay saying he read on the Internet (somewhere) that he is exempt from local ESC program requirements. The clubhouse is several hundred feet from the shoreline and outside tidal influence. Who determines if the developer's claim is valid?

- A. You, as the local authority plan reviewer
- B. The Internet
- C. The locality's Town Council
- D. The local authority's program administrator
- E. The Army Corp. of Engineers



Inbox Mayhem – Question 4

The answer is D – The local authority's program administrator.

Blue Box (3a. p. 8)

As a plan reviewer...



It is important to note that the program administrator for a VESCP shall determine the validity of a claim of exempt status by a property owner ([9VAC25-875-240](#)).

Inbox Mayhem – Question 4

Keep in mind, under the Exemptions -

Shoreline erosion control projects on tidal waters when all of the LDAs are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission, or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to the law and regulation. (3a., page 7)

Inbox Mayhem – Question 5

True or false - Land disturbance may begin on a project prior to timely review and approval of the ESC plan as long as all other building permits and local requirements are met.

- A. True
- B. False



Inbox Mayhem – Question 5

The answer is **B** – False - Land disturbance may not begin on a project prior to timely review and approval of the ESC plan as long as all other building permits and local requirements are met.

Approval (3c. page 21) (§ 62.1-44.15:34.A, § 62.1-44.15:55.A)

For LDAs in a VESCP authority locality: Before any activities involving LDAs regulated under the ESC law can commence, the applicant must have submitted an ESC plan that has been reviewed and approved, as well as certification that the plan will be followed. If the LDA is subject to VESMA, the applicant must also have a SWM plan approved by DEQ and CGP coverage, if required, before LDAs can begin.

Inbox Mayhem – Question 5

HOWEVER!



Plan Review (3c. p.19) ([§ 62.1-44.15:55](#))

If no action is taken by the VESCP authority within the times specified (60 days), the ESC plan is deemed approved, and the applicant is authorized to proceed with the proposed activity.

Inbox Mayhem – Question 6

Yes or no - Following the initial 45 day ESC plan review, a local authority found the plan to be deficient. A brief email was sent to the engineering consultant who drew up the plan. The email simply identified the project and stated. “Insufficient. Try again”. Is this a sufficient response?

A. Yes

B. No



Inbox Mayhem – Question 6

The answer is **B** – No.

Inadequate ESC plans (3b. p.18) ([§ 62.1-44.15:55](#))



The VESCP authority must review an inadequate ESC plan within **45 days** and provide written notice of disapproval, stating the specific reason(s) for disapproval, including the modifications, terms, and conditions that will allow approval of the plan.

Inbox Mayhem – Question 7

Which of the following statements are true in regard to VESCP timelines for plan review? (*Choose all that apply*)

- A. 45 days to review and provide written notice and explanation when plan is inadequate
- B. 60 days from the time of notification to review the SWM plan and notify the applicant in writing
- C. If no action is taken within the specified time, the ESC plan is deemed approved.
- D. Name of the Responsible Land Disturber (RLD) must be provided to the VESCP authority.
- E. All statement apply to the VESCP



Inbox Mayhem – Question 7

The answers – **A, C, & D** are true. Statement **B** is false for ESC – It is true for the stormwater program, not the ESC program.

**Comparison of VESMP and VESCP plan approval timelines
chart (3c. p. 19)**



Inbox Mayhem – Question 8

During a DEQ Compliance Review of a local authority, what might DEQ staff be interested in viewing from the plan review section?
(Choose all that apply)

- A. A portion of plans of active projects
- B. Draft documents for all completed projects
- C. Variances granted
- D. Nothing – DEQ compliance reviews only address the programs' administration



Inbox Mayhem – Question 8

The answer is – **A & C** - **A** - A portion of plans of active projects and **C** - Variances granted.

DEQ Compliance Review of a VESCP Authority (3e. p.26)

Review of a subset of the plans approved by the VESCP authority for consistency of application, including variances granted

Inbox Mayhem Rankings

How did you do?

- **VIP** – 1st Class Traveler - 8 pts.
- **World Traveler** – 7 pts.
- **Frequently Flier** – 5-6 pts.
- **Day Tripper** – 3-4 pts.
- **Stay** with your guide – 0-2 pts.



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End of Activity

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Extra Questions

Update for post July 1,

2024 – PG 5.0

Inbox Mayhem – Question Extra 1

Which of the following is **NOT** a requirement for an ESC or ESM plan to be considered adequate?

- A. Meet the requirement of the VESMA, ESC law, and regulations
- B. Comply with more stringent locality standards
- C. Include applicable C-BMPs from the VSWHB, Chapter 7
- D. Include a Pollution Prevention Plan

Inbox Mayhem – Question Extra 1

The answer is D – Include a Pollution Prevention Plan

Adequate ESC plans (3c. p. 17) ([§ 62.1-44.15:55](#))

P2 plans are not required by DEQ for a complete plan submission. Localities may have stricter requirements.

Inbox Mayhem – Question Extra 2

A project plan calls for use of a C-BMP not listed in the Virginia Stormwater Management Handbook (VSWHB). Is this allowed?

- A. No. Only practices listed in the VSWHB are allowed. No Exceptions.
- B. Yes. New ESC practices must be considered. While the VSWHB was updated in 2024, regulations should not stifle creative design.
- C. Maybe. The local authority may decide case by case appropriate C-BMPs practices based on past experiences with an owner.
- D. Yes. New practices are allowed but must be described to the satisfaction of the plan approving authority.

Inbox Mayhem – Question Extra 2

The answer is D – Yes. New practices are allowed but must be described to the satisfaction of the plan approving authority.

Blue Box (3c. page 17)

New and/or proprietary practices may also be used; however, these practices need to be thoroughly described to the satisfaction of the plan-approving authority.

Inbox Mayhem – Question Extra 4

True or false - The VESCP authority is authorized to waive or modify inappropriate or overly restrictive requirements by granting a variance when reasonable and supported by site specific rationale.

- A. True
- B. False

Inbox Mayhem – Question Extra 4

The answer is – A -True; however, as stated variances should only be approved when they are reasonable and supported by site specific rationale.

- **Variances (3c. p.20)** ([9VAC25-875-170](#), [9VAC25-875-350](#))