

# DEQ Certification Class Presentations

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**July 2024**

# Module 3

## Administering an Erosion Program *Online Course*

# Module 3 Contents

- 3a. Regulating Land-Disturbing Activities
- 3b. Local Ordinances for Chesapeake Bay Preservation Act LDAs
- 3c. Plan Review, Submission, and Approval
- 3d. Standards and Specifications
- 3e. Inspections
- 3f. Enforcement
- 3g. DEQ Compliance Review

# Module 3a.

## Regulating LDAs



# Program Comparisons

<p>Administer VESCP:</p> <ul style="list-style-type: none"><li>• § 62.1-44.15:51 - 66 Erosion and Sediment Control Law (ESCL)</li><li>• 9VAC25-875 Virginia Erosion and Stormwater Management Regulation (VESMR)</li></ul>	<p>Administer VESMP:</p> <ul style="list-style-type: none"><li>• § 62.1-44.15:24 - 50 Virginia Erosion and Stormwater Management Act (VESMA)</li><li>• 9VAC25-875 Virginia Erosion and Stormwater Management Regulation (VESMR)</li></ul>
<b>Part III VESMR:</b>	<b>Part II VESMR:</b>

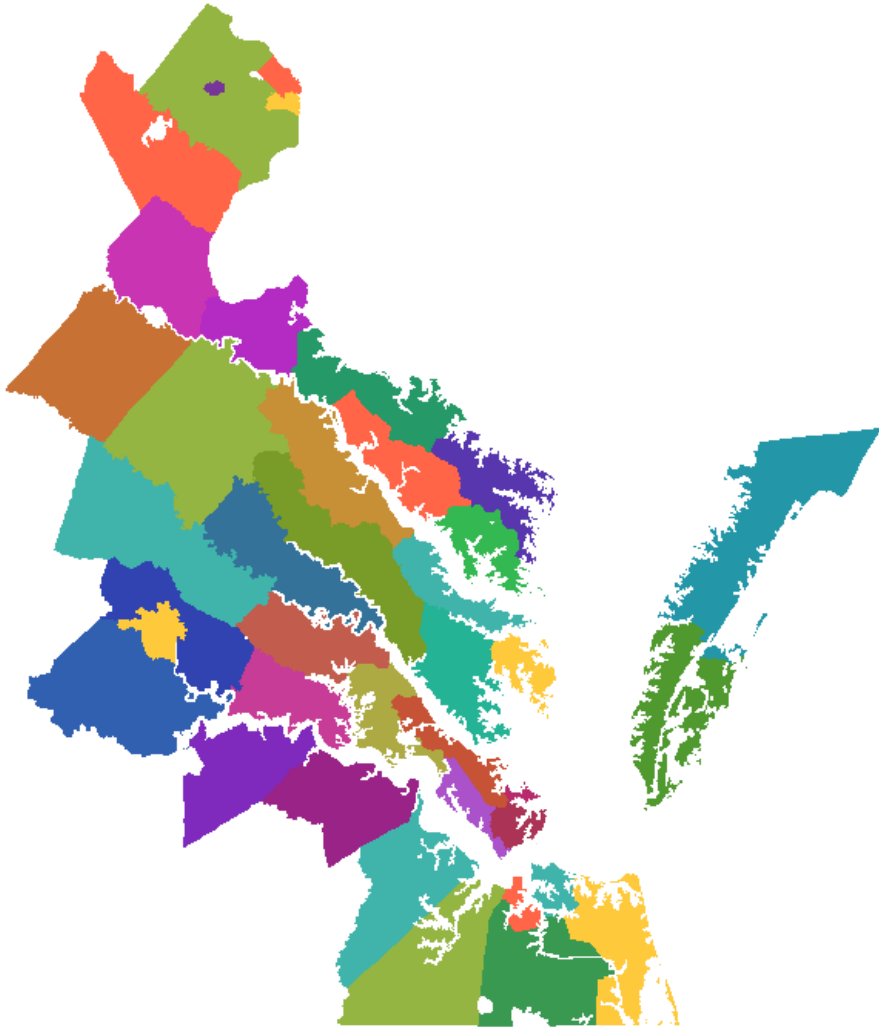
# Program Comparisons

- Exemptions: VESMPs have additional exemptions
- Plan Review: Timelines differ slightly
- Inspections: VESMPs have additional inspection requirements around P-BMPs and SWPPPs
- Enforcement: VESMPs issuing SWOs differ (Immediate SWO only with immediate danger to human or environment)
- Variances: Exceptions allowed and detailed in the VESM Reg for a VESMP authority

# Module 3b.

## Local Ordinances for Chesapeake Bay Preservation Act LDAs

# Local Ordinances for CBPA LDAs

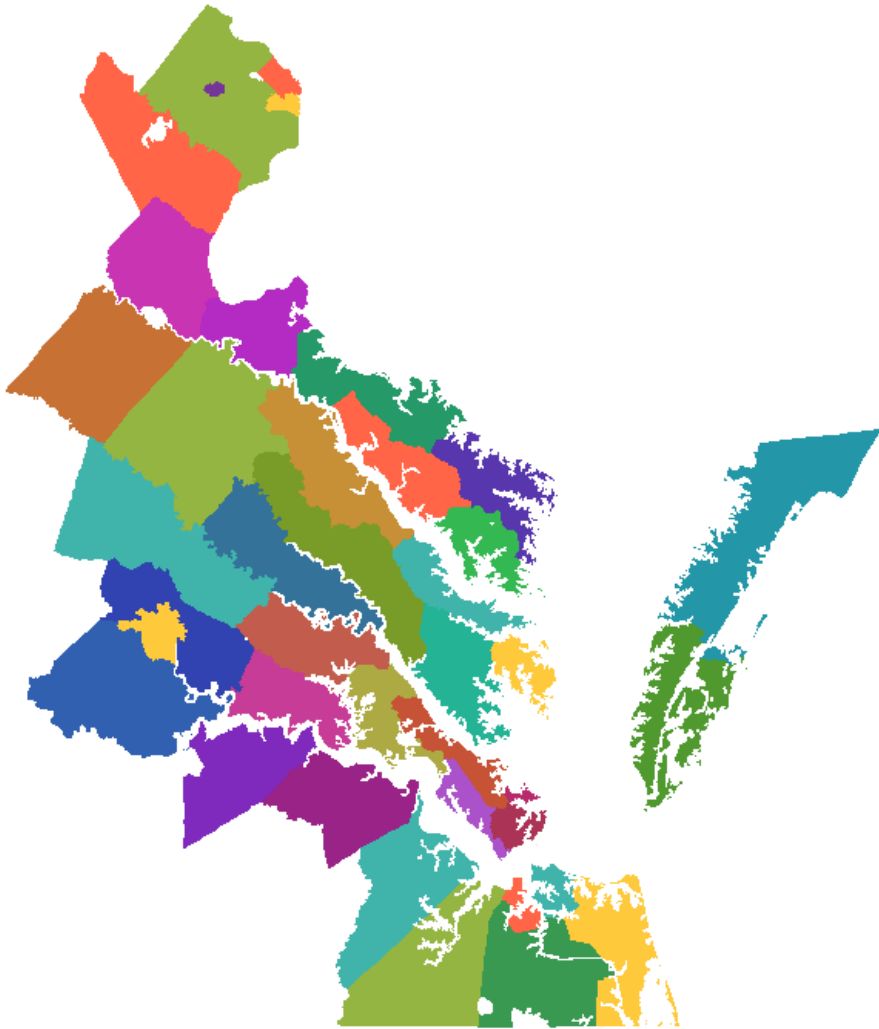


Chesapeake Bay  
Preservation Areas (CBPA)  
are delineated by local gov't  
within Tidewater VA

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

# Q&A



3a. Regulated LDAs



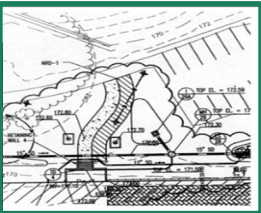
3d. Standards and Specifications



3b. Local Ord. for CBPA



3e. Inspections



3c. Plan Submission Review & Approval



3f. Enforcement



3g. DEQ Compliance Review

# ***ESC PA G.O.A.T.***

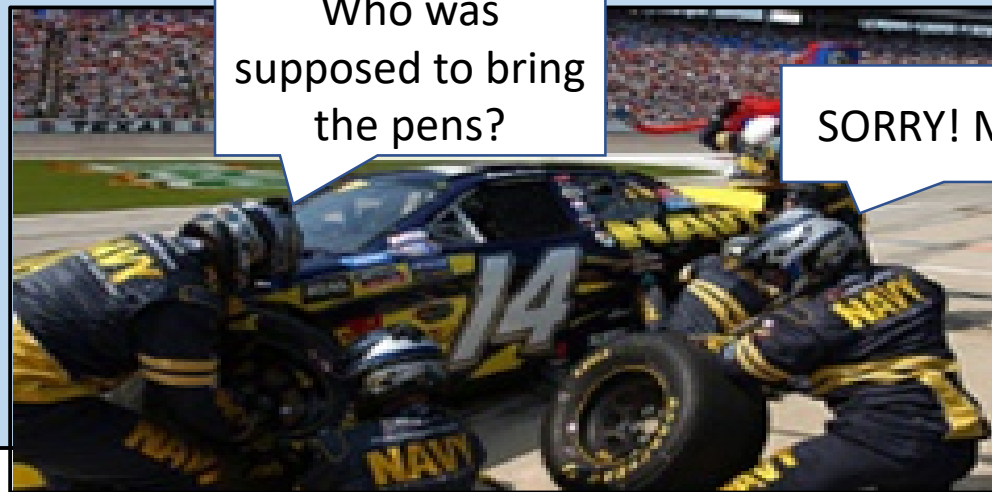
**Greatest of all time!**



**You are 10 questions away from  
determining if YOU are one of the elite, and  
stake your claim to the title ESC PA G.O.A.T.**

# G.O.A.T. What you need

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





# G.O.A.T. How to play



1. Number your paper 1-10
2. For each multi-choice question given, select, and jot down the letter(s) for the correct answer or answers. You will have 30 seconds -2 minutes.
3. For each question you answer correctly, award yourself **1 point**. You must answer the entire question correctly. If you miss part of a multi-answer question, you receive **NO POINT** for that question.

# G.O.A.T. How to play

4. Answers will be reviewed following each question.
5. Once all questions are answered and reviewed, we will see if we have a GOAT (maybe more than one), M.V.Ps, Gold, Silver, or Bronze medalists, or Rookies.

**REMEMBER** - If you miss **any part** of a multi-answer question, you receive **NO POINT** for that question.



# G.O.A.T. Rankings

## SET YOUR GOAL!

- G.O.A.T. - 10 points
- M.V.P. – 9 points
- Gold medalist – 7-8
- Silver medalist – 5-6
- Bronze medalist – 3-4
- Rookie – 0-2



# G.O.A.T.

Let's get ready to...

**RUMMMM-BLE!**

# G.O.A.T. 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



# G.O.A.T. Answer 1

The answer is found in section 3a – Regulated Land Disturbing Activities.

The correct answer is E -  
All of the above.

If you selected all of the  
answers A, B, C, & D  
for this question **ONLY**,  
It is allowed.

#### 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:

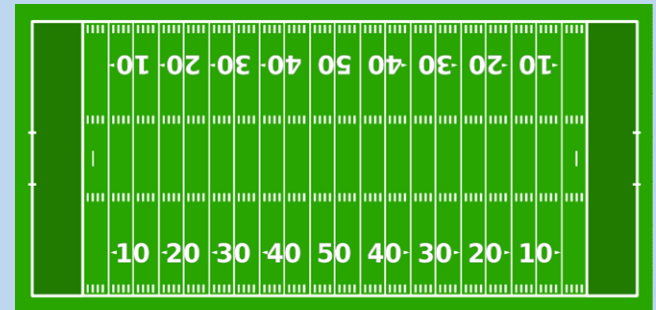
May enter into agreements or contracts with DEQ, soil and water conservation districts, adjacent localities, planning district commissions, or other public or private entities to carry out or assist with plan review and inspections.

Stormwater Management by Locality

# G.O.A.T. Question 2

Fill in the blank – Under statewide law and regulations, the minimum area threshold for a Regulated Land Disturbing Activity is \_\_\_\_\_.

- A. There is no size requirement
- B. 43,560 sq. ft. or less
- C. 1 acre or more
- D. Equal to or greater than 10,000 sq. ft.
- E. 0.25 acre



# G.O.A.T. Answer 2

The answer is found in section 3a – Regulated Land Disturbing Activities.

The correct answer is D – 10,000 sq. ft.

LDAs equal to or greater than **10,000 square feet** are subject to the laws and regulation of the VESCP or VESMP.



# G.O.A.T. Question 3

Exemptions to VESMA, ESC law and regulations **do not** apply to:

- A. Minor land disturbing activities
- B. Title 45.2 projects
- C. Construction of a home on agricultural property
- D. Railroad company activities
- E. Installation of fence and sign post



# G.O.A.T. Answer 3

The answer is found in 3a – Exemptions.

The correct answer is C - Construction of a home on agricultural properties.

**Exemptions** - Tilling, planting, or harvesting of agricultural, horticultural, or forest crops; livestock feedlot operations; or as additionally set forth by the Board in regulation, including agricultural engineering operations, such as the construction of terraces, terrace outlets, check dams, de-silting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act ([§ 10.1-604 et seq.](#)), ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation.

# G.O.A.T. Question 4

True or False – A VESCP or VESMP authority may adopt stricter ordinances than the overall state laws and regulations?

- A. True
- B. False



# G.O.A.T. Answer 4

The answer is found in section 3a - More Stringent Regulations or Ordinances.

The correct answer is A – True.

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



# G.O.A.T. Question 5

Under what conditions may a VESCP or VESMP authority adopt more stringent local ordinances?

- A. Factual finding of a local watershed management studies
- B. Simple majority vote of the local governing body (Town Council or BOS)
- C. Findings developed through the implementation of a MS4 permit
- D. A and B
- E. A and C



# G.O.A.T. Answer 5

The correct answer is found in section 3a - More Stringent Regulations or Ordinances.

The correct answer is E – Both A and C.

- ...provided the more stringent ordinances are based upon factual findings of local or regional comprehensive watershed management studies or findings developed through the implementation of a Municipal Separate Storm Sewer System (MS4) permit or a locally adopted watershed management study.

# G.O.A.T. Question 6

Which of the following statements are true  
For a Chesapeake Bay Preservation Act LDAs?

- A. Includes a Resource Protection Area
- B. Requires plan approval for all LDAs
- C. May result in substantial damage if improperly developed
- D. Includes a Resource Management Area



# G.O.A.T. Answer 6

The correct answer is found in 3b Chesapeake Bay Act Land-Disturbing Activities

The correct answers are A, C, and D – See the Blue Box, page 11.

**CBPAs** are delineated by a local government within Tidewater Virginia that if improperly developed may result in substantial damage to the water quality of the Chesapeake Bay and its tributaries. A CBPA includes a Resource Protection Area and a Resource Management Area ([§62.1-44.15:68](#), [9VAC25-830-40](#)).



# G.O.A.T. Question 7

Under the VESC or VESM program, the owner of a project is responsible for:

- A. Financial viability of the project only
- B. Preparation, submission, and obtaining approval of the ESC plan
- A. Onsite operational oversight only
- B. Preparing onsite qualified person inspection reports
- C. The owner has no responsibility under the VESMA or ESC law and regulations



# G.O.A.T. Answer 7

The correct answer is found in 3c Agreement in lieu of a plan.

The correct answer is B.

...the responsibility for plan preparation, submission, and obtaining approval belongs to the owner of the project ([§ 62.1-44.15:34.A](#), [§ 62.1-44.15:55.E](#)).

# G.O.A.T. Question 8

Which statement regarding the ESC Plan approval timeline is **false**.

- A. VESCP has 45 days to review and provide written notification for inadequate plans
- B. VESCP has 15 days to determine completeness and notify applicant in writing
- C. VESCP has 60 days to perform plan review and approve adequate plans
- D. If VESCP does not act in specified time, the ESC plan is deemed approved



# G.O.A.T. - Answer 8

The answer is found in 3c ESC Plan Submission, Review, and Approval & the Comparison of VESMP and VESCP Plan Approval Timeline Table.

The false answer is B. VESCP has 15 days to determine completeness and notify applicant in writing – This statement is true for **VESMPs**, but is not true for VESCPs.

**Let's look at portions of the Comparison of VESMP and VESCP Plan Approval Timeline Table on the next slide.**

# G.O.A.T. Answer 8

## **VESMP (9VAC25-875-110)**

**15 days** to determine completeness  
and notify applicant in writing



## **VESCP**

**(§ 62.1-44.15:55, 9VAC25-875-300)**

**45 days** to review and provide written notice & explanation when plan is inadequate

**60 days** to review and approve plans

If no action is taken within time specified above, ESC plan is deemed approved

# G.O.A.T. Question 9

Under the VESCP law and regulations, which of the following condition(s) apply to VESCP authority staff right of entry to sites:

- A. Reasonable times
- B. Probable cause
- C. Owner's permission
- D. Reasonable circumstances
- E. RLD must be present



# G.O.A.T. Answer 9

The answers are found in 3e Inspections - Right of Entry.

The correct answers are A - Reasonable times and D – Reasonable circumstances

DEQ, the VESCP, or the VESMP authority, or any authorized agent of DEQ, the VESCP, or the VESMP authority has the right to enter any property to conduct inspections of the regulated LDA at reasonable times and under reasonable circumstances.

# G.O.A.T. Question 10

An inspector calls you from a half acre site, regulated under the VESCP only, explaining a large portion of slope has slid off into a stream. The slope was constructed of fill material placed during the project. Which of the following actions is the most appropriate immediate response?

- A. Issue a Notice to Comply letter
- B. Assume the owner has taken all necessary actions
- C. Issue an immediate Stop Work Order
- D. Suggest a modification to the ESC plan
- E. Common occurrence – What's the problem?





# G.O.A.T. Answer 10

The answer is found in 3f Enforcement – Stop Work Order.

The correct answer is C – Issue an immediate SWO.

A stop work order may be issued by the VESCP authority, the VESMP authority, or DEQ in the following three scenarios after an inspection report denotes a violation of [§ 62.1-44.15:34](#), [:55](#), or [:58](#):

**Scenario 3:** Alleged noncompliance is causing, or is in imminent danger of causing, harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth.

# G.O.A.T. Question 11

The owner of the site where the slope failure occurred agreed to a Consent Order with the local VESCP. If the authority assesses the maximum per day penalty allowed, and it is determined the slide occurred 4 days before it was reported, what is the total dollar amount of the civil penalty for this one violation?

- A. \$0.00 – Localities may not collect penalties under VESCP law and regulations.
- B. \$32,500
- C. \$12,500
- D. \$4,000
- E. \$10,000



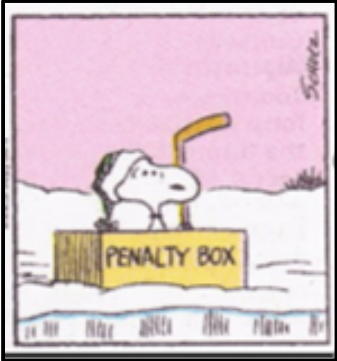
# G.O.A.T. Answer 11



The correct answer can be determined by using information in 3f. Enforcement – Adopting Civil Penalties - Let's discuss...

- Civil penalty for one violation must be **between \$100 and \$1,000**;
- Each **day** of violation is a separate offense;
- Total for a series of specified violations arising from the same operative set of facts **cannot exceed \$10,000**.

# G.O.A.T. Answer 11



**Let's do the math!**

Maximum penalty allowed - \$1,000

Occurrences - 4 days

$$\$1,000 \times 4 = \$4,000$$

**The correct answer is D - \$4,000**

# G.O.A.T. OVERTIME!

So close to leveling up that only 1 more point would do it?

One final question – answer it correctly,  
and you get that point.

Miss any part of it, and you have to deduct 2 points from your score.

It's optional. If you like where you are

now, keep your score.

Opportunity is knocking...



# G.O.A.T. OVERTIME!

DEQ contacts your VESCP authority office to set up a Compliance Review. Which of the following are subject to review under statewide ESC law and regulations?

- A. Local ordinance(s) and other applicable documents
- B. Approved plans for all completed regulated activities or projects since the previous Compliance Review
- C. Inspection reports of all completed regulated projects since the previous Compliance Review
- D. Consultation with the program administrator or designee
- E. All completed enforcement actions of regulated activities since the previous Compliance Review

# G.O.A.T. Answer OT

Answer – 3g. DEQ Compliance Review of a VESCP Authority - A & D.

The review will consist of the following:

- Consultation with the VESCP administrator or designee
- Review of the local ordinance(s) and other applicable documents
- Review of a subset of the plans approved by the VESCP authority for consistency of application, including variances granted
- Review of inspections of regulated activities
- Review of enforcement actions

# G.O.A.T. Answer OT

Answer – 3g. DEQ Compliance Review of a VESCP Authority - A & D.

As a program administrator...

It is important to know that the VESCP authority must maintain a copy of the approved plan, a record of inspections, and a record of enforcement actions for **each active land-disturbing activity**.

Some erosion program authorities may retain documents for longer. Stormwater program authorities must abide by a specific record retention timeline for their regulated LDAs.



# G.O.A.T. Rankings



How did you do?

G.O.A.T. - 10 points

M.V.P. – 9 points

Gold medalist – 7-8

Silver medalist – 5-6

Bronze medalist – 3-4

Rookie – 0-2

