

Module 3

Administering a VSMP: Local Ordinances and Documentation Requirements for Non-Localities

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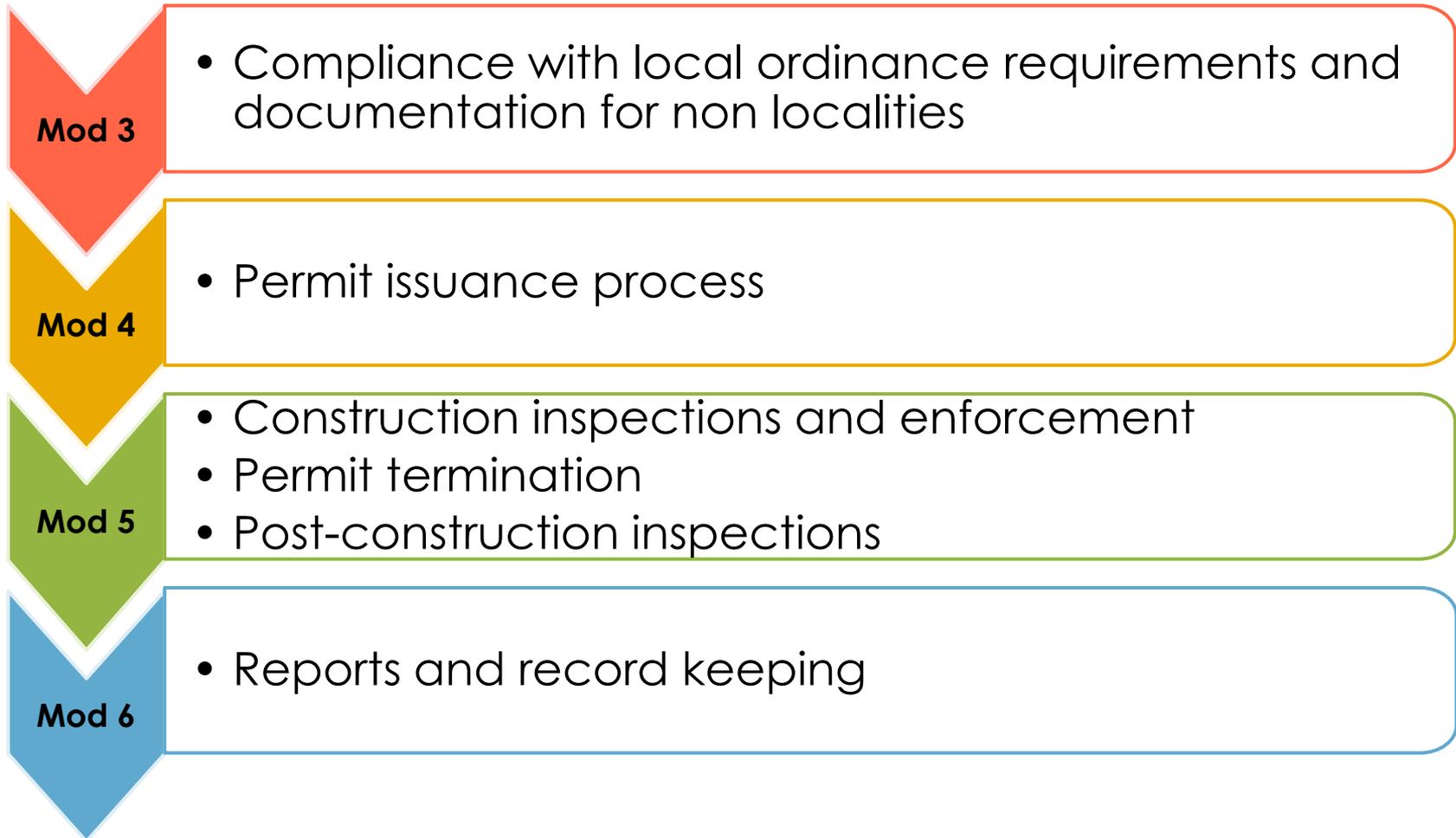
3d. Annual standards and specifications

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Module 3a.

Overview

Overview



Module 3b.

Ordinances

Local Ordinance Requirements

- VSMP administered in conjunction with:
 - MS4 program (if applicable)
 - ESC program (if applicable)



Local Ordinance Requirements

- VSMP must:
 - Consistent with Regulations
 - Compatible with MS4 permit (if applicable)
 - At least as stringent as Construction GP
 - Provide requirements for long-term maintenance of stormwater management facilities

Local Ordinance Requirements

- VSMP must:
 - Integrate with ESC, flood plain management, and other programs
 - Provide for the collection, distribution to the state if required, and expenditure of fees
 - Require policies and procedures to obtain and release bonds (if applicable)
 - Procedures for complying with reporting and record keeping requirements

Local Ordinance Requirements

- The **ordinance** must:
 - Identify who accepts registration statements and conducts plan review, plan approval, inspection, and enforcement
 - Require submission and approval of ESC and SWM plans
 - Include requirements to ensure compliance with the SWPPP, SWM plan, and P2 plan

Local Ordinance Requirements

- The **ordinance** must include:
 - Requirements for inspections and monitoring of construction activities by the operator
 - Requirements for long-term inspection and maintenance of stormwater management facilities
 - Enforcement procedures and civil penalties

Enforcement

- Informal and formal admin procedures
 - Ordinance must include components of:
 - Verbal warnings and inspection reports
 - Notice of corrective action
 - Consent orders including civil charges
 - Notices to comply



Enforcement

- Civil and criminal judicial enforcement
 - Ordinance must include:
 - Enforcement authority
 - Schedule of civil penalties

Max penalty = \$32,500/violation/day

- Criminal, misdemeanor, felony charges, and injunctions are also an option

Enforcement

- Civil penalties may be imposed for:

No Construction
GP registration

No SWPPP,
incomplete
SWPPP, SWPPP
not available

No approved
ESC and SWM
plan

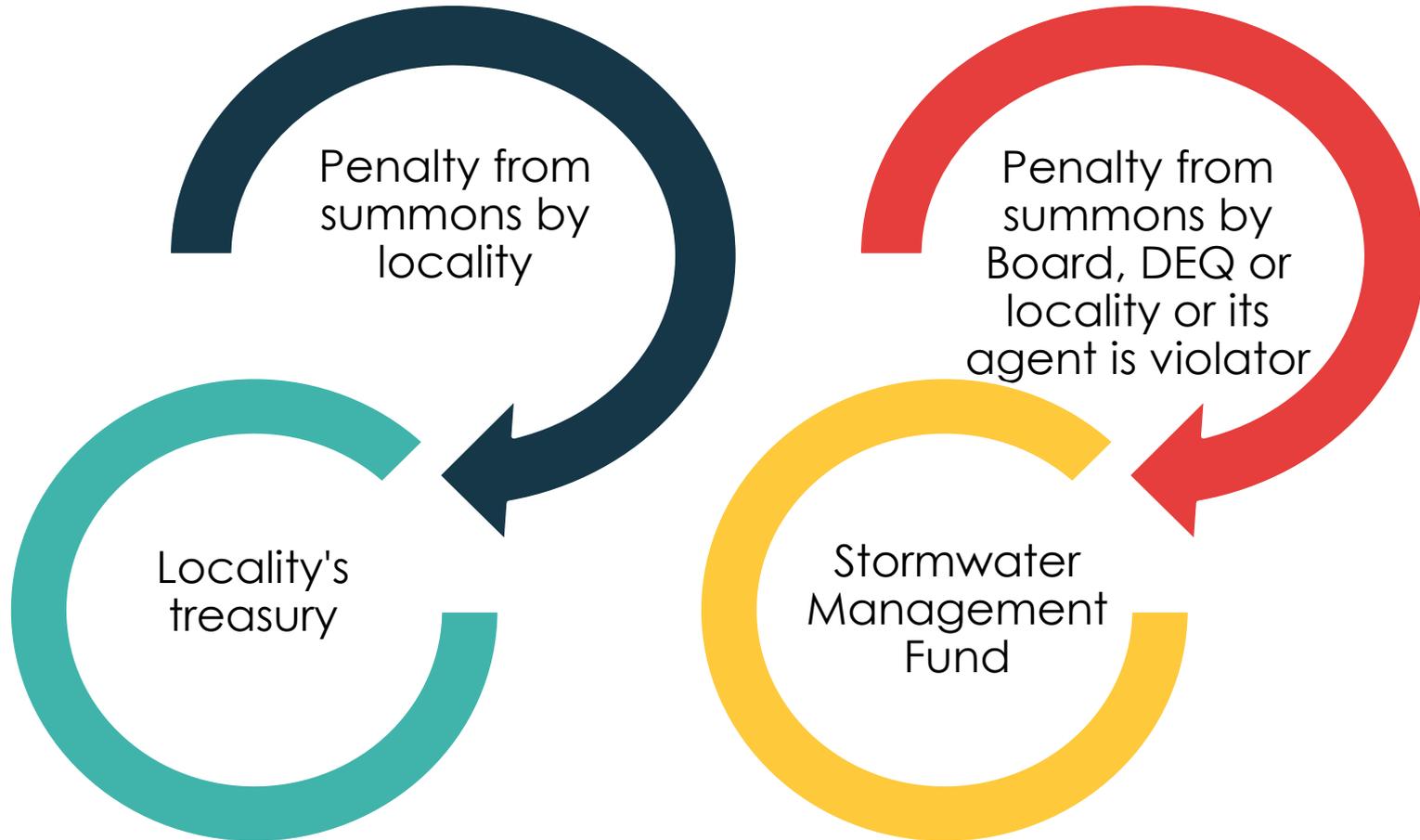
Failure to install
BMPs or ESCs

Operational
deficiencies

Failure to
conduct
required
inspections

Incomplete,
improper, or
missing
inspections

Enforcement



Enforcement

- Notice to comply
 - Served upon permittee if locality VSMP authority or DEQ determines failure to comply with permit conditions

Enforcement

- Notice to comply

Measures
needed to
comply with
permit
conditions

Time within
which measures
must be
completed

Enforcement

- Notice to comply
 - Upon failure to comply within the time specified, the following actions may be taken:



VSMP authority
permit



Construction
GP



Enforcement

- Stop work order
 - Land-disturbing activities must stop until:
 - Violation of the permit has ceased
 - Approved plan and required permits are obtained
 - Specified corrective measures have been completed



Enforcement

- Stop work order
 - Orders must be issued:
 - In accordance with local procedures if issued by locality VSMP authority
 - After hearing if issued by DEQ

Enforcement

- Stop work order
 - Order is effective:
 - Upon mailing with confirmation of delivery
 - Personal delivery

Enforcement

- Emergency stop work order
 - Violation:
 - Grossly affects, or
 - Presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth or otherwise substantially impacts water quality

Enforcement

- Emergency stop work order
 - May be issued:
 - Without advance notice or hearing
 - Requiring the activity to stop immediately
 - Opportunity for a hearing must be provided
 - Affirms, modifies, amends, or cancels the emergency order

Enforcement

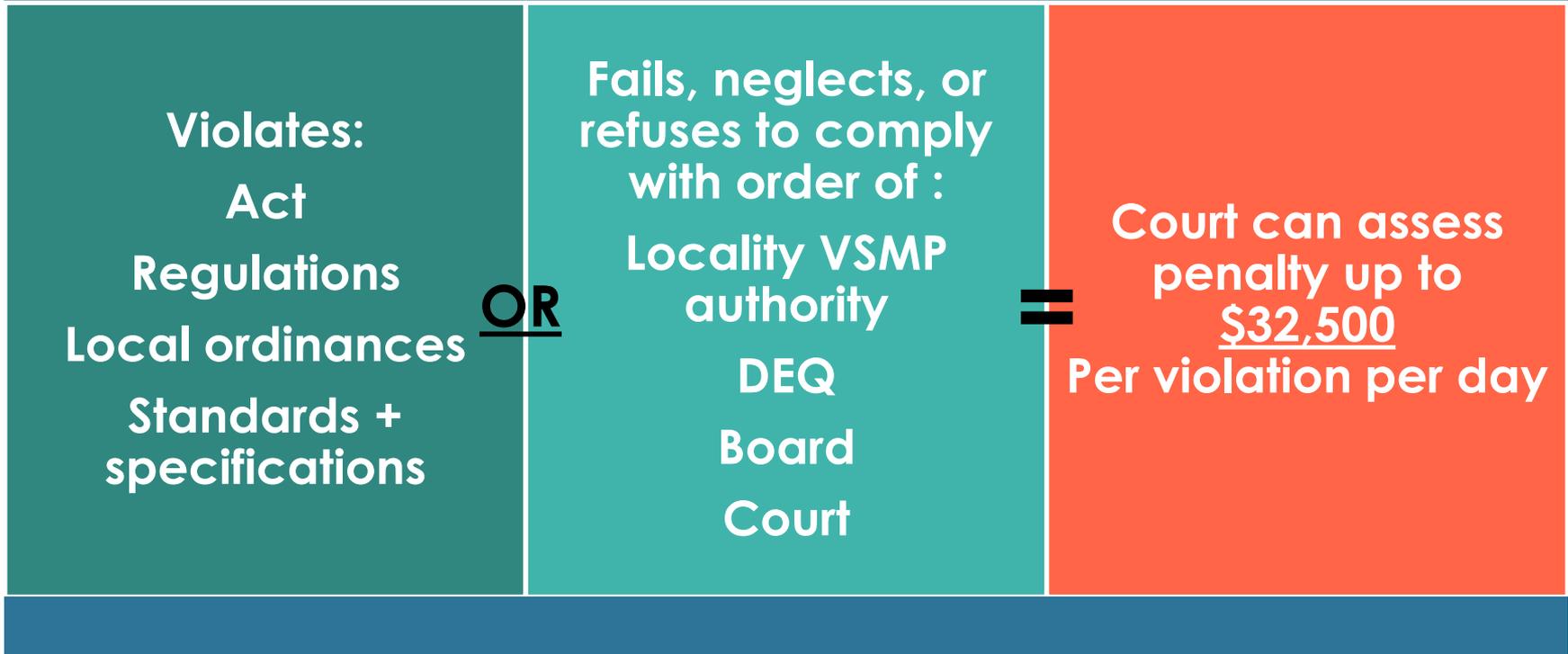
- Injunctive relief
 - Board, DEQ, or local VSMP authority may request the court to compel compliance with:
 - Act
 - Rule
 - Regulation
 - Ordinance
 - Approved standard and specification
 - Order
 - Permit condition

Enforcement

- Hearings
 - Permit applicant, permittee, or person subject to the Construction GP requirements that was aggrieved by any action of the VSMP authority taken without a formal hearing, or by inaction of the VSMP authority, has the right to a hearing

Enforcement

Civil action



Enforcement

Consent order

Violated or failed,
neglected, or refused to
obey: Act, local
ordinance, permit
condition, Regulation,
order

May include civil
charges up to \$32,500
for each violation

Enforcement

- Criminal actions

Misdemeanor

Behavior	Punishment Individuals	Punishment Non individuals
<p>Willfully or negligently violates:</p> <ul style="list-style-type: none">• VSMA• Regulations• Order• Permit• Ordinance	<p>Jail for up to 12 months and/or fine between \$2,500 and \$32,500</p>	<p>Fine \geq \$10,000</p>

Felony

Behavior	Punishment Individuals	Punishment Non individuals		
Knowingly violates: <ul style="list-style-type: none">• VSMA• Regulations• Order• Permit• Ordinance	Imprisonment 1-3 years and \$5,000 - \$50,000 fine	Fine ≥ \$10,000		
Knowingly makes a false statement in required form				
Knowingly renders inaccurate a monitoring device or method				

Felony

Behavior	Punishment Individuals	Punishment Non individuals
Knowingly violates provision of VSMA and knows at the time they are placing another person in imminent danger or death or serious bodily harm	Imprisonment 2-15 years and/or fine up to \$250,000 Maximum fine and imprisonment doubled for subsequent convictions of same person	Fine up to the greater of \$1 million or 3x economic benefit as a result of the offense Maximum fine and imprisonment doubled for subsequent convictions of same non individual

More Stringent Ordinances



Prohibiting BMPs and More Stringent BMP Requirements

Specific land-disturbing project

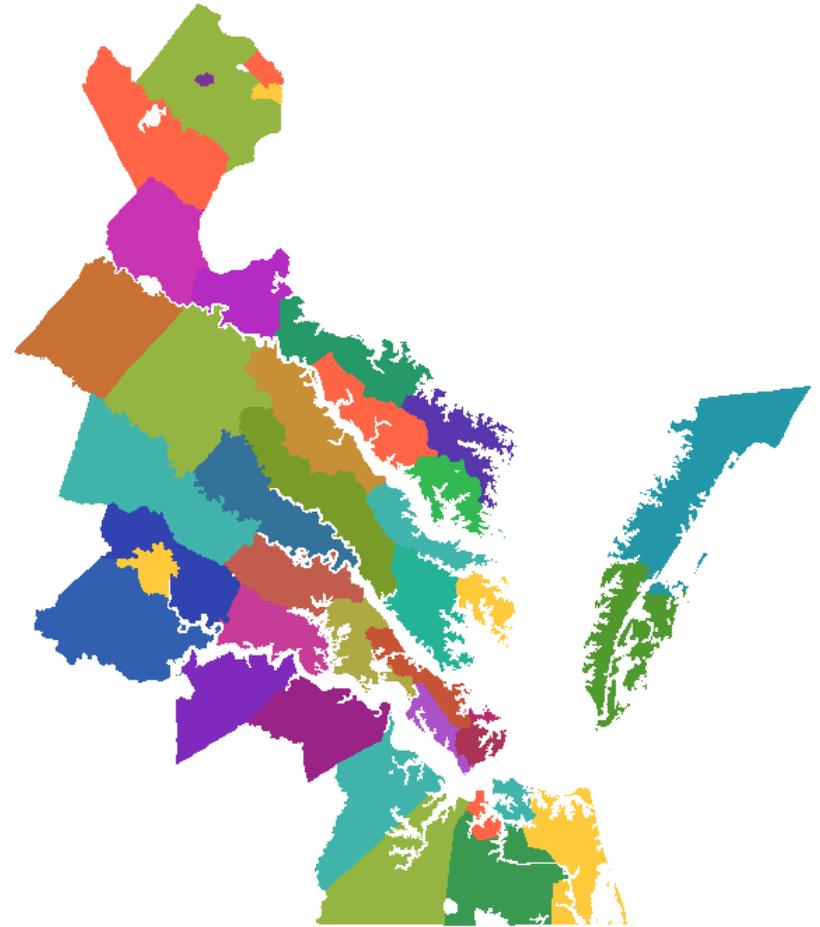
- Based on review of SWM plan and project site conditions
- Can be appealed to DEQ

Jurisdiction wide or specific geographical area

- Affected landowner or agent has 90 days from adoption to ask DEAQ to review locality's determination

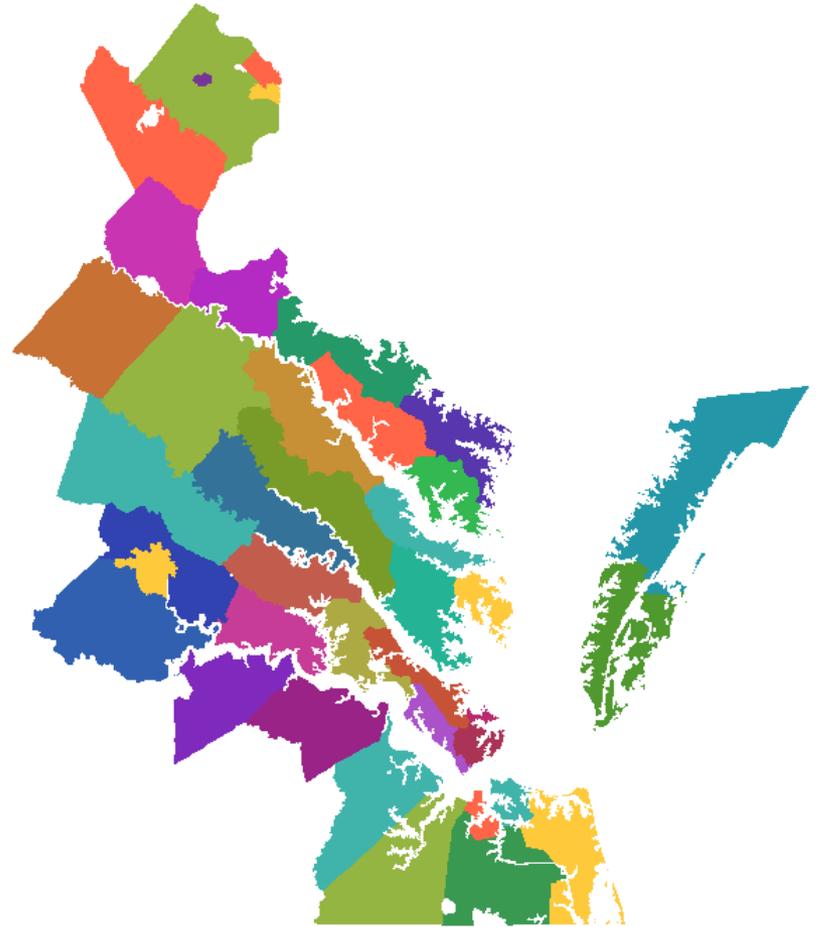
Ordinance Requirements for CBPA LDAs

- Regulate runoff from
CBPA LDAs
 - $\geq 2,500 \text{ ft.}^2$ and less than
1 acre in Chesapeake Bay
Preservation Areas



Ordinance Requirements for CBPA LDAs

- Localities may regulate single-family residences $\geq 2,500$ ft.² and less than 1 acre in Chesapeake Bay Preservation Areas



Ordinance Requirements for CBPA LDAs

- Ordinance or program documentation requiring:
 - Locality VSMP authority permit (where applicable)
 - Program and administrative requirements
 - Plan review
 - Long-term maintenance
 - Inspections
 - Enforcement
 - Hearings
 - Exceptions
 - Reporting + record keeping

Module 3c.

Documentation Requirements for Non-Locality VSMP Authorities

Documentation

- Non-locality VSMP authorities must have program documentation that's at least as stringent as the Construction GP



Documentation

1 Who

2 ESC and SWM plan submission and approval

3 SWPPP compliance

4 Inspections and monitoring of construction site by operator

5 Long-term inspection and maintenance

Module 3d.

Annual Standards and Specifications

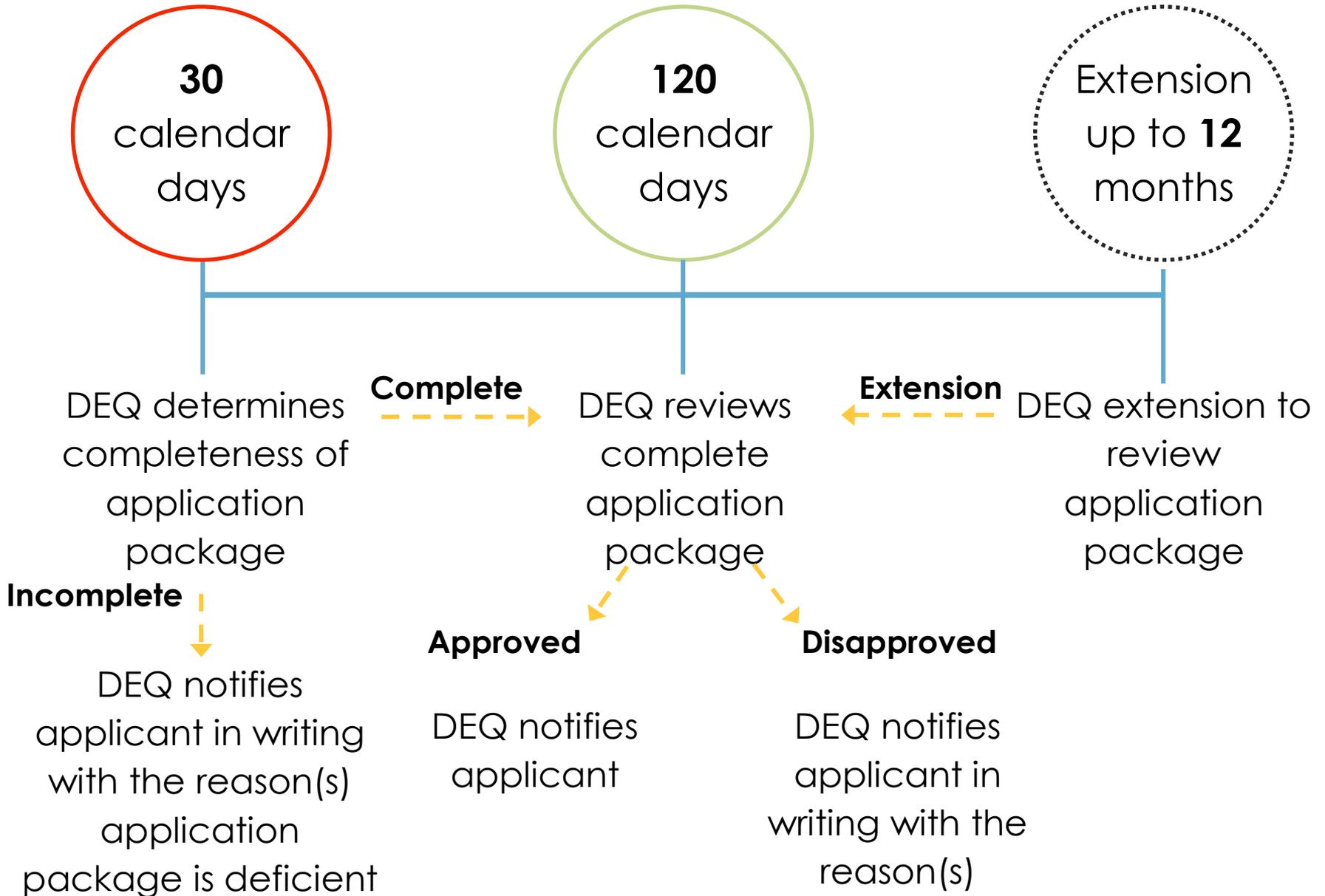
Standards and specifications

What	Who Must	Who May	Permit
Set of standards & specifications approved by DEQ describing how LDA must be conducted	<ul style="list-style-type: none">• State entities• Linear projects:<ul style="list-style-type: none">• Electric• Natural gas• Telephone• Railroad	Federal entities	Obtained before the start of LDA

Module 3e.

State Water Control Board Review of VSMP Application Package

Board/DEQ review of VSMP application package



Questions?