

## DNREC Sediment & Stormwater Listserve Update: November 2023

### This month's topics:

1. Program Change – Program Manager II
  2. Updated DAPE Law
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#### 1. Program Change – Program Manager II

The Sediment and Stormwater Program would like to welcome Ashley Barnett as the new Program Manager II. Ashley will oversee the National Pollutant Discharge Elimination System (NPDES) Construction General Permit (CGP) and the Sediment and Stormwater Regulations, enforcement of and compliance with approved Sediment and Stormwater Management Plans, state and federal laws, rules, and regulations. Welcome, Ashley!

#### 2. Updated DAPE Law

On August 9, 2023, the Governor signed House Bill 129 into law with immediate effect. This bill adds definitions for incompetence, misconduct, and negligence (included below) into the Engineer's Law, and modifies the section outlining the grounds for discipline to include "Any negligence, gross negligence, pattern of negligence, incompetence, or misconduct in the practice of engineering".

Previously the grounds for discipline only applied to "Any gross negligence, incompetence or misconduct in the practice of engineering" without defining those terms.

This change in the law bolsters disciplinary actions for submissions which deviate from accepted standards of care. Designers and engineers are highly encouraged to diligently review documents prior to submission, as even initial submissions may be subject to enforcement.

§2803.(19) "Incompetence" shall mean the failure to exercise appropriate professional judgment or the failure to utilize skill to a degree which shows a lack of general competence.

§2803.(24) "Misconduct" shall mean that conduct which is recognized to be unsafe or improper by the ethical and competent members of the profession. The term also includes general conduct that is dishonorable or unprofessional.

§2803.(25) "Negligence" shall mean an act or omission that deviates from accepted standards of practice or standard of care in the engineering community.

For more information, please visit <https://legis.delaware.gov/BillDetail/130239> or <https://dape.org/files/2023-08-09DPEA.pdf>.