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*Opinion No 87-40*

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Office of the Attorney General

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April 27, 1987

Representative T. Moffatt Burriss  
Labor, Commerce and Industry Commission  
House of Representatives  
407 Blatt Building  
Post Office Box 11867  
Columbia, South Carolina 29211

Dear Representative Burriss:

You have requested an opinion as to whether the licensing requirements of the Fire Protection Sprinkler Systems Act, Act No. 188 of 1985 (hereinafter "the Act"), codified at §23-45-10, et seq., S.C. CODE, 1976 (as amended), would apply to a registered professional engineer who designs fire protection sprinkler systems. Although the matter is not entirely free from doubt, it is our opinion that the Act probably would not apply to a registered professional engineer.

It is a well-accepted maximum of statutory construction that a statute should be interpreted in such a way as to make it "a consistent and harmonious whole." 73 AM JUR 2d, "Statutes," §254, citing Creech v. South Carolina Public Service Authority, 200 S.C. 127, 20 S.E. 2d 645 (1942). Looking at the Act, it refers to the license holder in numerous sections as a "fire protection sprinkler contractor." In setting out the purpose of the Act, the General Assembly made a finding that it was "necessary to assure the people of South Carolina that fire protection sprinkler systems are being installed and maintained by persons or organizations that are duly licensed ...." (emphasis added) §2, Act. No. 188 of 1985. This does not appear to contemplate that professional engineers are covered by the Act insofar as they are engaged in designing such a system, and not in sales, installation, construction, or maintenance.

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It should further be pointed out that the Act appears to recognize that professional engineers already possess at least certain qualifications in the area of fire protection sprinkler system planning and installation. Section 6 of the Act exempts a license applicant from certain specific requirements of the Act if the applicant provides an affidavit from "three professional engineers currently registered in the State to the effect that the applicant has satisfactorily supervised the sale, planning, and installation of at least one fire protection sprinkler system ... for each engineer ...." If an engineer's statement as to an applicant's experience and ability is sufficient to exempt that applicant from certain licensing requirements of the Act that would suggest that professional engineers were not intended to be covered by the licensing requirements of the Act.<sup>1</sup>

As indicated above this matter is not entirely free from doubt. However, for the foregoing reasons, it is our opinion that the Act, as currently written, probably would not apply to a registered professional engineer. If engineers are to be clearly covered by the Act, we would suggest that legislative clarification may be advisable.

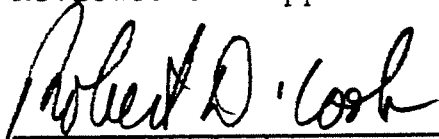
Sincerely yours,



David C. Eckstrom  
Assistant Attorney General

DCE:tgc

Reviewed and Approved By:



Robert D. Cook  
Executive Assistant for Opinions

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<sup>1</sup> It should be pointed out that the Act does define a fire protection sprinkler contractor, among other things, as "a person engaged in the planning ... of fire protection sprinkler systems." §23-45-30, S.C. CODE, 1976 (as amended); see also §23-45-50, supra. Arguably, this would bring a registered professional engineer within the licensing requirements of the Act. However an engineer most probably would do more than simply "planning" such a system. By statute, an engineer's work would more accurately be described as analysis and design of the system. §40-21-10(2), supra; but see §40-21-10(4), supra.