

1980 WL 121218 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 12, 1980

***1 Re: The Safe Drinking Water Act (Section 44-55-10 et seq. of the 1976 Code of Laws of South Carolina, as amended)**

R. Lewis Shaw
Director
Water Supply Division
S.C. Department of Health and Environmental Control
2600 Bull Street
Columbia, S.C. 29201

Dear Mr. Shaw:

You have requested an opinion from this Office regarding the requirements of the State Safe Drinking Water Act ([Section 44-55-10 et seq.](#) of the 1976 Code of Laws of South Carolina, as amended) and the State Engineers and Land Surveyors Act ([Section 40-21-10 et seq.](#) of the 1976 Code, as amended). Specifically, you have asked whether engineers working for the United States Forestry Service must register as engineers in this State in order to comply with the provisions of Section 44-55-40(b).

Section 44-55-40(b) provides, in pertinent part, that:

[a]ll applications for a permit to construct shall include such engineering, chemical, physical, radiological or bacteriological data as may be required by the Department and shall be accompanied by engineering plans, drawings and specifications prepared by an engineer registered in this State, which shall carry his official signature and seal. (Emphasis added)

[Section 40-21-10 et seq.](#) of the 1976 Code generally provides the means by which engineers may become registered in this State. Section 40-21-410(5) specifically exempts from the general registration requirement 'the practice of officers and employees of the government of the United States while engaged within this State in the practice of engineering or land surveying for said government.'

Section 44-55-40(b) merely requires that applications for construction permits be accompanied by engineering plans, drawings and specifications prepared by an engineer registered in this State, which shall carry his official signature and seal. It does not prohibit federal applications being made by a properly registered engineer who is hired for such purposes or by a federal employee who is so registered. However, it does not necessarily require that federal employees be registered with the State and, therefore, presents no apparent conflict with the general registration exemption provided by Section 40-21-410(5). Accordingly, federal employees may continue to practice engineering pursuant to the State Engineers and Land Surveyors Act, but applications for construction permits under the State Safe Drinking Water Act must comply fully with the specific provisions of that Act.

This conclusion is also supported by Section 1447 of the Federal Safe Drinking Water Act (PL 93-523, as amended; [42 USC Section 300j-6\(a\)](#)), which requires compliance with State requirements respecting the provision of safe drinking water in the same manner, and to the same extent, as any non-governmental entity whether substantive or procedural. Therefore, federal public water supply projects clearly must comply with all permits and other requirements of State law.

*2 Therefore, it is the opinion of this Office that applications for federal public water supply projects submitted under the State Safe Drinking Water Act must be prepared by an engineer registered in this State as required by [Section 44-55-40\(b\) of the 1976 Code](#).

I trust the preceding discussion adequately answers your question, however, if any further explanation or assistance is required, please do not hesitate to contact me.

Very truly yours,

Richard P. Wilson
Assistant Attorney General

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