

1979 WL 43454 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 10, 1979

***1 RE: Request for Opinion on Definition of 'Professional Soil Conservationist.'**

Mr. Cary D. Chamblee
Deputy Director
Land Resources Conservation Commission
2221 Devine Street, Suite 222
Columbia, South Carolina 29205

Dear Mr. Chamblee:

You have contacted this office in order to obtain an answer to the question of how the term 'professional soil conservationist' as used in Section 48-13-40, S. C. Code of Laws (1976) is to be defined?

The statute in question is a part of Chapter 13 of Title 48, S. C. Code of Laws (1976) which is the County Sediment Control Programs enabling legislation. A review of this chapter and others in this title pertaining to conservation practices reveals that they contain no stated definition of the term in question here. Webster's Third New International Dictionary defines 'professional' as one 'engaged in one of the learned professions or in an occupation requiring a high level of training and proficiency.' The inclusion of the word 'registered' signifies that a practitioner, such as an engineer, has attained such a high level of competence and expertise that he has become qualified for licensure by a state authority such as the State Board of Engineering Examiners. (See Section 40-21-40, 180 et seq.)

Section 48-13-40 sets forth the requirements that a certificate be included as a part of each erosion and siltation control plan. Such a certificate must be issued ' . . . by a registered professional engineer or a professional soil conservationist . . . (emphasis added.)' It is apparent that from its use as a substitute or alternative for 'registered professional engineer' that the type of soil conservationist contemplated by the legislature is a conservator of natural resources of similarly high levels of education, training, and practical experience which would make the professional soil conservationist capable of rendering judgment on erosion and siltation that would be on a par with those of an engineer licensed to engage in the practice of engineering in this state.

Section 48-13-20 provides an indication as to the professional soil conservationist's need for high competence in the field of natural resources conservation as it contains the requirements for (1) a county grading permit which is based on a plan to be approved by the professional conservationist and (2) an indemnification agreement providing for possible damage from siltation should the applicant fail to adhere to an approved plan. It is implicit in the statutory recognition of the existence of the danger of siltation damage to contiguous and down-stream tracts that the professional soil conservationist must be possessed of such high qualifications as to be able to develop and approve plans as will guard against such a result.

[Section 40-21-180 of the Code](#) in setting forth the minimum education and experience required of those seeking the designation 'registered professional engineer' also gives an indication of the high levels of formal education and experience envisioned for those acting under Section 48-13-40. Those qualifications are '(1) Graduation in an approved engineering curriculum of four or more years from a school or college . . . and a specific record of an additional four years or more of experience in engineering work . . .'

*2 In construing a statute or group of statutes, the primary guide is the intent of the legislature, [Helfrich v. Brasington Sand & Gravel Company](#), 268 S. C. 236, 233, S.E. 2d 291 (1977). However, where, as in the instant case, there is no stated definition of the term in question and there is no history of cases on which to base a definition, it is the opinion of this office that there is no definition of the term of 'professional soil conservationist' under S. C. law. Consequently, it is recommended that the Land Resources Conservation Commission utilize its authority to promulgate rules and regulations, which is granted to the Commission under Section 48-9-270, to bring about an official definition of that term. The Commission could use its regulation-making power to execute the function set out under Section 48-9-290(11) which is '(11) To coordinate and assist local conservation districts, counties, and municipalities in developing policies and procedures for an adequate erosion and sediment control program; . . .'

Should the Commission choose to follow this recommendation it is also suggested that the Commission consider for use in its promulgation of a regulation defining the term 'professional soil conservationist' the following:

(1) Successful completion of a 4-year course of study in an accredited college or university leading to a bachelor's degree with major study in soil conservation or a closely related natural resource or agricultural field such as agronomy, wildlife biology, agricultural education, or agricultural engineering (since there is no board or other authority to review the various curricula it is suggested that the course of study include thirty (30) semester hours in natural resources or agricultural fields including the equivalent of three (3) semester hours in soils);¹ and

(2) three (3) years of experience in the planning and application of erosion and sediment control practices. Such experience should have been obtained under the supervision of another professional soil conservationist.

Sincerely,

Reddick A. Bowman, Jr.
Assistant Attorney General

Footnotes

¹ [Life Science Announcement No. 421](#), U. S. Civil Service Commission, (Rev. Aug., 1978).
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