

1972 WL 25200 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 7, 1972

***1 Re: Proposed Solid Waste Regulations**

Mr. John A. Andrea, P. E.
President
Spartanburg Chapter
South Carolina Society of Professional Engineers
Spartanburg, South Carolina

Dear Mr. Andrea:

On January 27, 1972, you addressed an inquiry to the Attorney General of South Carolina in regard to the above-captioned matter which has subsequently been referred to this writer for response. Due to the time element involved in this situation, the matter was discussed personally with Mr. James Polk of your organization at a workshop concerning water quality, and essentially the same information furnished him as is contained herein.

Your specific inquiry was concerned primarily with a proposed regulation of the South Carolina Pollution Control Authority dealing with engineering criteria for solid waste disposal. In particular, you were concerned with that segment which states: The disposal facility shall be designed by a professional engineer, except that a graduate engineer, employed by an industry, may provide the engineering for a land disposal facility for his employer only.

Due to the extreme breadth of the term 'practice of engineering' contained in Section 56-701 of the 1962 South Carolina Code, in conjunction with the requirements of Section 56-703, this writer, by copy of this letter and verbal agreements hereto, has instructed the Pollution Control Authority to refer only to 'registered professional' engineers as those engineers allowed to accomplish this task.

Please be advised that this opinion is only as to those facts contained in the requesting material and should not be liberally construed to meet all occurrences.

Also please be advised of Section 56-740, which serves as an amendment to the original act and very precisely states that:

This chapter shall not be construed to prevent or to affect:

(1) The practice of any other legally recognized profession or trade.

For this reason, I do not at this time believe in to be improper or a violation of the previously recited Code sections for the Pollution Control Authority to adopt a regulation that might possibly read:

The disposal facility shall be designed by a geologist, soil scientist, etc., or professional engineer.

In summation, let me reiterate the position of this writer. If the requirement of the regulation calls for an engineer, then it shall read registered professional engineer, but, in the alternative, should the Pollution Control Authority decide that there are other

professional services that can quite capably provide the information, then it is their prerogative to so designate, and these cannot be excluded by reference to the above-quoted Code sections.

If you have any further questions, please do not hesitate to contact this writer at your convenience.

Very truly yours,

James H. Quackenbush, Jr.
Assistant Attorney General

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