

1982 WL 189518 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 30, 1982

*1 Mr. Charles A. Shaw

Director

South Carolina Dairy Commission

1026 Sumter Street

Columbia, South Carolina 29201

Dear Mr. Shaw:

You have requested an opinion from this Office regarding the withdrawal by the Dairy Commission of regulations which it promulgated and filed with the General Assembly on April 5, 1982. You have informed me by letter dated December 29, 1982, that the Commission received a request from the Carolina Milk Producers Association, Inc., on November 23, 1982, to withdraw the regulations and subject them to the public hearing process. You have further stated in your request letter that the regulations as filed with the General Assembly were promulgated in accordance with the Administrative Procedures Act after a three-day public hearing at which they were considered.

The Commission may elect to withdraw from consideration by the General Assembly regulations which the Agency has submitted for review, provided such withdrawal is undertaken prior to expiration of the review period and/or prior to the time that the General Assembly approves or disapproves the regulations by joint resolution. See Op. Atty. Gen. 1979 No. 79-82, pg. 111, a copy of which is enclosed herewith. Also, of course members of a Legislative Committee may recommend withdrawals of regulations and changes in regulations, as provided in [Section 1-23-125, Code of Laws of South Carolina](#), 1976, as amended. However, recommendations by a Legislative Committee appear to be the only indication in the Administrative Procedures Act as adopted by the South Carolina Code of Laws of any instance where the Commission may be advised to withdraw the regulations or make alterations in the regulations once they were filed in the Legislature. Accordingly, the Dairy Commission is not required to accede to a request by the Carolina Milk Producers' Association, Inc., to withdraw the regulations now filed.

You have forwarded to me a copy of the letter to the Dairy Commission from Carolina Milk Producers' Association, Inc., which requested the withdrawal of the regulations. Apparently, this request was made under the impression of Carolina Milk Producers' Association, Inc., that the provisions to which they object were not subjected to the public hearing process. From the statements in your request letter to me dated December 29, 1982, the Milk Producers' Association's request was based on an inaccurate premise.

I trust this answers your question. Please contact me if I can be of further assistance to you.

Very truly yours,

Amy S. Gibson

Staff Attorney

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