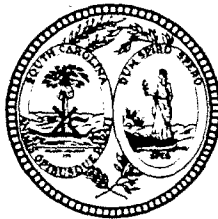


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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

May 25, 1999

John R. Gentry, Esquire
Clemson University
214 Barre Hall
Clemson, SC 29634

Re: Proposed Unusable Pesticides Collection Legislation

Dear John:

This is a follow-up to John Kelly's letter to this Office and telephone conversations that we have had concerning Clemson University's Board of Trustees' reservations as to potential long term liabilities assumed with the implementation of the collection and disposal of agriculture pesticides addressed in proposed unusable pesticide collection legislation.

Our review of statutes and case law as to the Universal Waste Rule, Comprehensive Environmental Restoration, Compensation and Liability Act (CERCLA), Resource Conservation and Recovery Act (RCRA) and tort liability under South Carolina law leads us to the same conclusion as addressed in a letter to John Kelly dated March 22, 1999, from Hartsill W. Truesdale, P.E., Bureau Chief, SC Department of Health and Environmental Control. In that letter, Mr. Truesdale stated that complete avoidance of "residual liability" would be difficult if not impossible as a matter of federal law.

In addition, in correspondence to me dated April 21, 1999, you addressed various procedures that you are proposing to implement with the new legislation to minimize liability and that you will be working very closely with DHEC and other appropriate agencies with these proposals. It is suggested that you accept DHEC's offer and call upon their experience and assistance in drafting appropriate contract language in order that potential liability for Clemson University could be minimized.

This is informal advice that has been written by me, a Senior Assistant Attorney General, and represents my conclusions as to the specific questions asked. It has not, however, been personally reviewed by the Attorney General nor has it been officially published in the manner of a formal opinion.