



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

400 Seventh Street, S.W.
Washington, D.C. 20590

APR 10 1998

BY FACSIMILE

Mr. Manuel Zamorano
Southern California Edison
1201 K Street
Suite 1810
Sacramento, CA 95814

Dear Mr. Zamorano:

I am responding to your request for an informal evaluation of a proposed State law concerning the transportation of high-level radioactive waste or spent nuclear fuel.

As I believe you already understand, the Research and Special Programs Administration (RSPA) does not have adequate resources to conduct thorough reviews of State and local requirements outside of the preemption determination process set forth in 49 C.F.R. § 107.201 et seq. Moreover, informal reviews are hindered by the absence of the public input that occurs in the formal preemption determination process under 49 U.S.C. § 5125(d)(1).

Nonetheless, at your request, I have briefly reviewed Assembly Bill (AB) No. 2192 as provided by you, and I am providing you with my personal, informal, and unofficial comments on the proposal in Section 3 that would add a requirement (in new Health and Safety Code § 114821(f)) for a shipper of high-level radioactive waste or spent nuclear fuel to provide the Department of Health Services with proof and results of full-scale physical testing of casks used to be used to transport these materials.

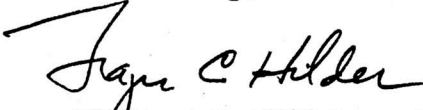
The criteria for preemption of non-Federal requirements concerning the transportation of hazardous materials are set forth in 49 U.S.C. §§ 5125. In summary, a non-Federal requirement is preempted (unless it is otherwise authorized by Federal law) when:

- (a) it is not possible to comply with both the non-Federal requirement and the Federal hazardous material transportation law or RSPA's requirements in the Hazardous Materials Regulations (HMR), 49 C.F.R. Parts 171-180;

Law," prepared and maintained by RSPA. A copy of the most recent edition of this index is enclosed with the mailed original of this letter. It is also available on the homepage of RSPA's Office of the Chief Counsel: "<http://rspa-atty.dot.gov>."

I hope these comments are helpful. If you have additional questions or wish to discuss this matter further, please feel free to contact me at 202-366-4400.

Sincerely,

A handwritten signature in cursive script that reads "Frazer C. Hilder". The signature is written in black ink and is positioned above the typed name.

Frazer C. Hilder
Attorney

Enclosure