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U.S. Department  
of Transportation  
Federal Highway  
Administration  
Montana Division

301 South Park Street  
Room 448  
Helena, Montana 59626

June 23, 1992

HRW-MT

John Rothwell, Director  
Montana Department of Transportation  
Helena, Montana 59620

~~ROTHWELL~~  
ROTHWELL

Dear Mr. Rothwell:

Subject: Control of Outdoor Advertising

Public Law 102-302, relating to Dire Emergency Supplemental Appropriations, signed into law June 22, 1992, amends 23 U.S.C. 131(n) making the expenditure of section 104 funds for the purpose of acquiring and removing nonconforming signs entirely discretionary with respect to the State. Text follows:

Sec. 104 Control of Outdoor Advertising

Section 131(n) of Title 23, United States Code, is amended by adding at the end the following new sentence: "Funds apportioned to a State under section 104 of this title shall not be treated for purposes of the preceding sentence as being available to the State for making such a payment except to the extent that the State, in its discretion, expends such funds for such a payment."

We interpret this to mean a State may use Federal-aid funds to acquire nonconforming signs but if it chooses not to do so, there is no risk of penalty.

Additional guidance related to the March 6 and May 8 Notices in the Federal Register involving the acquisition and removal of nonconforming signs is expected in the near future.

Sincerely,

Merlin J. Voegele  
Division Right-of-Way Officer