

**Federal Highway Administration, DOT**

**§ 810.302**

may be used in combination with rights-of-way acquired under subparts B and D of this part.

**§ 810.204 Application by mass transit authority.**

A publicly-owned mass transit authority desiring to utilize land existing within the publicly acquired right-of-way of any Federal-aid highway for a rail or other nonhighway public mass transit facility may submit an application therefor to the State highway agency.

**§ 810.206 Review by the State Highway Agency.**

The State highway agency, after reviewing the application, may request the Federal Highway Administrator to authorize the State to make available to the publicly-owned mass transit authority the land needed for the proposed facility. A request shall be accompanied by evidence that utilization of the land for the proposed purposes will not impair future highway improvements or the safety of highway users.

**§ 810.208 Action by the Federal Highway Administrator.**

The Federal Highway Administrator may authorize the State to make available to the publicly-owned mass transit authority the land needed for the proposed facility, if it is determined that:

- (a) The evidence submitted by the State highway agency under § 810.206 is satisfactory;
- (b) The public interest will be served thereby; and
- (c) The proposed action in urbanized areas is based on a continuing, comprehensive transportation planning process carried on in accordance with 23 U.S.C. 134 as described under 23 CFR part 450, subpart A.

**§ 810.210 Authorization for use and occupancy by mass transit.**

(a) Upon being authorized by the Federal Highway Administrator, the State shall enter into a written agreement with the publicly-owned mass transit authority relating to the use and occupancy of highway right-of-way subject to the following conditions:

(1) That any significant revision in the design, construction, or use of the facility for which the land was made available shall receive prior review and approval by the State highway agency.

(2) The use of the lands made available to the publicly-owned mass transit authority shall not be transferred to another party without the prior approval of the State highway agency.

(3) That, if the publicly-owned mass transit authority fails within a reasonable or agreed time to use the land for the purpose for which it was made available, or if it abandons the land or the facility developed, such use shall terminate. Any abandoned facility developed or under development by the publicly-owned mass transit authority which was financed all or in part with Federal funds shall be disposed of in a manner prescribed by OMB Circular A-102, Attachment N. The land shall revert to the State for its original intended highway purpose.

(b) A copy of the use and occupancy agreement and any modification under paragraphs (a) (1), (2), and (3) of this section shall be forwarded to the Federal Highway Administrator.

**§ 810.212 Use to be without charge.**

The use and occupancy of the lands made available by the State to the publicly-owned transit authority shall be without charge. Costs incidental to making the lands available for mass transit shall be borne by the publicly-owned mass transit authority.

**Subpart D—Federal-Aid Urban System Nonhighway Public Mass Transit Projects**

**§ 810.300 Purpose.**

The purpose of this subpart is to implement 23 U.S.C. 142(a)(2), which allows the Urban Mass Transportation Administrator, by delegation of the Secretary, to approve nonhighway public mass transit projects as Federal-aid urban system projects.

**§ 810.302 Eligible projects.**

(a) Eligible projects are those defined as nonhighway public mass transit projects in § 810.4 of this part subject to