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(5) Shall determine that the State, or the political subdivision thereof, where the project is to be located, or any agency or instrumentality of such State or political subdivision, has the authority and capability of constructing, maintaining, and operating the facility.

(6) Shall receive assurance from the State that the facility will remain in public ownership as long as the facility is needed and that any change in ownership shall have prior FHWA approval; and

(7) Shall enter into an agreement with the State, political subdivision, agency, or instrumentality governing the financing, maintenance, and operation of the parking facility; and

(8) Shall approve design standards for constructing the facility as developed in cooperation with the State highway agency.

(b) A State political subdivision, agency, or instrumentality thereof may contract with any person to operate any parking facility constructed under this section.

(c) In authorizing projects involving fringe and transportation corridor parking facilities, the class of Federal-aid funds (primary, secondary, or urban system) used for projects under this subpart may be either funds designated for the Federal-aid system on which the facility is located or the Federal-aid system substantially benefited. For Interstate funds to be used for such eligible projects the Federal-aid Interstate system must be the system which substantially benefits. The benefiting system is that system which would have otherwise carried the high occupancy vehicle or rail passengers to their destination. Interstate construction funds may be used only where the parking facility was approved in the 1981 Interstate Cost Estimate and is constructed in conjunction with a high occupancy vehicle lane approved in the 1981 Interstate Cost Estimate.

§ 810.200 Purpose.

The purpose of this subpart is to implement 23 U.S.C. 142(g), which permits the Federal Highway Administrator to authorize a State to make available to a publicly-owned mass transit authority existing highway rights-of-way for rail or other non-highway public mass transit facilities.

§ 810.202 Applicability.

(a) The provisions of this subpart are applicable to the rights-of-way of all Federal-aid highways in which Federal-aid highway funds have participated or will participate in any part of the cost of the highway.

(b) The provisions of this subpart do not preclude acquisition of rights-of-way for use involving mass transit facilities under the provisions of subparts B and D of this part. Rights-of-way made available under this subpart