

761—822.8(327H) Eligible and ineligible project costs.

822.8(1) *Eligible costs.* Activities or items eligible for funding include, but are not limited to, the following:

- a.* Modernization, upgrading or reconstruction of existing rail facilities or rail ports.
- b.* Construction of new rail facilities or rail ports.
- c.* Railroad bridge and culvert modernization, replacement or removal.
- d.* Right-of-way acquisition costs.
- e.* Feasibility studies or planning studies for proposed projects that are otherwise eligible.
- f.* Loan development costs that a Class II or III railroad may have in obtaining a loan for a project

that would have otherwise qualified under this chapter.

822.8(2) *Ineligible costs.*

a. The following activities or items are ineligible for funding:

- (1) Contract administration.
 - (2) Freight car or locomotive lease, purchase or repair.
 - (3) Refinancing of a completed project that would have otherwise qualified under this chapter.
 - (4) Facilities solely used for historical or tourist railroad activities.
 - (5) Capital or operating costs associated with passenger rail, commuter rail or public transit.
 - (6) Acquisition or capital costs associated with recreational trails.
- b.* The following costs are ineligible unless the costs are part of a larger construction award under this

program:

- (1) Design and engineering.
- (2) Environmental studies.
- (3) At-grade crossing surface repair or replacement.
- (4) Signals, gates or other crossing protection.

822.8(3) *Advance eligibility exemption.* No part of a project may be under construction prior to a signed and executed agreement. Certain preliminary costs may be eligible for an advance eligibility exemption, if the exemption is requested in writing and granted by the department in writing. If granted, an exemption will permit a specified expenditure by the applicant without jeopardizing the project's eligibility for future funding approval. Granting an exemption shall not imply or guarantee that the department will fund a subsequent application. An advance eligibility exemption must be requested and approved prior to the expenditure; any cost incurred before a written exemption is granted will be ineligible for reimbursement.

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