

**§ 646.208 Funding.**

(a) Railroad/highway crossing projects may be funded through the Federal-aid funding source appropriate for the involved project.

(b) Projects for the elimination of hazards at railroad/highway crossings may, at the option of the State, be funded with the funds provided by 23 U.S.C. 133(d)(1).

[62 FR 45328, Aug. 27, 1997]

**§ 646.210 Classification of projects and railroad share of the cost.**

(a) State laws requiring railroads to share in the cost of work for the elimination of hazards at railroad-highway crossings shall not apply to Federal-aid projects.

(b) Pursuant to 23 U.S.C. 130(b), and 49 CFR 1.48:

(1) Projects for grade crossing improvements are deemed to be of no ascertainable net benefit to the railroads and there shall be no required railroad share of the costs.

(2) Projects for the reconstruction of existing grade separations are deemed to generally be of no ascertainable net benefit to the railroad and there shall be no required railroad share of the costs, unless the railroad has a specific contractual obligation with the State or its political subdivision to share in the costs.

(3) On projects for the elimination of existing grade crossings at which active warning devices are in place or ordered to be installed by a State regulatory agency, the railroad share of the project costs shall be 5 percent.

(4) On projects for the elimination of existing grade crossings at which active warning devices are not in place and have not been ordered installed by a State regulatory agency, or on projects which do not eliminate an existing crossing, there shall be no required railroad share of the project cost.

(c) The required railroad share of the cost under § 646.210(b) (3) shall be based on the costs for preliminary engineering, right-of-way and construction within the limits described below:

(1) Where a grade crossing is eliminated by grade separation, the structure and approaches required to transi-

tion to a theoretical highway profile which would have been constructed if there were no railroad present, for the number of lanes on the existing highway and in accordance with the current design standards of the State highway agency.

(2) Where another facility, such as a highway or waterway, requiring a bridge structure is located within the limits of a grade separation project, the estimated cost of a theoretical structure and approaches as described in § 646.210(c) (1) to eliminate the railroad-highway grade crossing without considering the presence of the waterway or other highway.

(3) Where a grade crossing is eliminated by railroad or highway relocation, the actual cost of the relocation project, the estimated cost of the relocation project, or the estimated cost of a structure and approaches as described in § 646.210(c)(1), whichever is less.

(d) Railroads may voluntarily contribute a greater share of project costs than is required. Also, other parties may voluntarily assume the railroad's share.

**§ 646.212 Federal share.**

(a) *General.* (1) Federal funds are not eligible to participate in costs incurred solely for the benefit of the railroad.

(2) At grade separations Federal funds are eligible to participate in costs to provide space for more tracks than are in place when the railroad establishes to the satisfaction of the State highway agency and FHWA that it has a definite demand and plans for installation of the additional tracks within a reasonable time.

(3) The Federal share of the cost of a grade separation project shall be based on the cost to provide horizontal and/or vertical clearances used by the railroad in its normal practice subject to limitations as shown in the appendix or as required by a State regulatory agency.

(b) The Federal share of railroad/highway crossing projects may be:

(1) Regular pro rata sharing as provided by 23 U.S.C. 120(a) and 120(b).

(2) One hundred percent Federal share, as provided by 23 U.S.C. 120(c).