

[United State Code](#)  
[TITLE 49 - TRANSPORTATION](#)  
[SUBTITLE V - RAIL PROGRAMS](#)  
[PART A - SAFETY](#)  
[CHAPTER 201 - GENERAL](#)  
[SUBCHAPTER I - GENERAL](#)

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U.S. Code as of: 01/26/1998

## Sec. 20105. State participation

(a) Investigative and Surveillance Activities. - The Secretary of Transportation may prescribe investigative and surveillance activities necessary to enforce the safety regulations prescribed and orders issued by the Secretary that apply to railroad equipment, facilities, rolling stock, and operations in a State. The State may participate in those activities when the safety practices for railroad equipment, facilities, rolling stock, and operations in the State are regulated by a State authority and the authority submits to the Secretary an annual certification as provided in subsection (b) of this section.

(b) Annual Certification. - (1) A State authority's annual certification must include -

A) a certification that the authority -

(i) has regulatory jurisdiction over the safety practices for railroad equipment, facilities, rolling stock, and operations in the State;

(ii) was given a copy of each safety regulation prescribed and order issued by the Secretary, that applies to the equipment, facilities, rolling stock, or operations, as of the date of certification; and

(iii) is conducting the investigative and surveillance activities prescribed by the Secretary under subsection (a) of this section; and

(B) a report, in the form the Secretary prescribes by regulation, that includes -

(i) the name and address of each railroad carrier subject to the safety jurisdiction of the authority;

(ii) each accident or incident reported during the prior 12 months by a railroad carrier involving a fatality, personal injury requiring hospitalization, or property damage of more than \$750 (or a higher amount prescribed by the Secretary), and a summary of the authority's investigation of the cause and circumstances surrounding the accident or incident;

(iii) the record maintenance, reporting, and inspection practices conducted by the authority to aid the Secretary in enforcing railroad safety regulations prescribed and orders issued by the Secretary, including the number of inspections made of railroad equipment, facilities, rolling stock, and operations by the authority during the prior 12 months; and

(iv) other information the Secretary requires.

(2) An annual certification applies to a safety regulation prescribed or order issued after the date of the certification only

if the State authority submits an appropriate certification to provide the necessary investigative and surveillance activities.

(3) If, after receipt of an annual certification, the Secretary decides the State authority is not complying satisfactorily with the investigative and surveillance activities prescribed under subsection (a) of this section, the Secretary may reject any part of the certification or take other appropriate action to achieve adequate enforcement. The Secretary must give the authority notice and an opportunity for a hearing before taking action under this paragraph. When the Secretary gives notice, the burden of proof is on the authority to show that it is complying satisfactorily with the investigative and surveillance activities prescribed by the Secretary.

(c) Agreement When Certification Not Received. - (1) If the Secretary does not receive an annual certification under subsection (a) of this section related to any railroad equipment, facility, rolling stock, or operation, the Secretary may make an agreement with a State authority for the authority to provide any part of the investigative and surveillance activities prescribed by the Secretary as necessary to enforce the safety regulations and orders applicable to the equipment, facility, rolling stock, or operation.

(2) The Secretary may terminate any part of an agreement made under this subsection on finding that the authority has not provided every part of the investigative and surveillance activities to which the agreement relates. The Secretary must give the authority notice and an opportunity for a hearing before making such a finding. The finding and termination shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication.

(d) Agreement for Investigative and Surveillance Activities. - In addition to providing for State participation under this section, the Secretary may make an agreement with a State to provide investigative and surveillance activities related to the Secretary's duties under chapters 203-213 of this title.

(e) Payment. - On application by a State authority that has submitted a certification under subsections (a) and (b) of this section or made an agreement under subsection (c) or (d) of this section, the Secretary shall pay not more than 50 percent of the cost of the personnel, equipment, and activities of the authority needed, during the next fiscal year, to carry out a safety program under the certification or agreement. However, the Secretary may pay an authority only when the authority assures the Secretary that it will provide the remaining cost of the safety program and that the total State money expended for the safety program, excluding grants of the United States Government, will be at least as much as the average amount expended for the fiscal years that ended June 30, 1969, and June 30, 1970.

(f) Monitoring. - The Secretary may monitor State investigative and surveillance practices and carry out other inspections and investigations necessary to help enforce this chapter.

**Source**

(Pub. L. 103-272, Sec. 1(e), July 5, 1994, 108 Stat. 864.)

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Revised Section	Source (U.S. Code)	Source (Statutes at Large)
20105(a)	45:435(a) (1st sentence related to authority for State participation).	Oct. 16, 1970, Pub. L. 91-458, Sec. 206(a) (1st sentence), (b), (f), 84 Stat. 972, 973, 974; Nov. 16, 1990, Pub. L. 101-615, Sec. 28(a)(1)-(3), (b), (c), 104 Stat. 3276, 3277.
20105(b) (1)(A)	45:435(a) (1st sentence related to contents of certification).	
20105(b) (1)(B)	45:435(b) (1st sentence).	
20105(b)(2)	45:435(f).	
20105(b)(3)	45:435(b) (2d-last sentences).	
20105(c)	45:435(c).	Oct. 16, 1970, Pub. L. 91-458, Sec. 206(c), (e), 84 Stat. 973, 974.
20105(d)	45:435(g).	Oct. 16, 1970, Pub. L. 91-458, 84 Stat. 971, Sec. 206(g); added Oct. 10, 1980, Pub. L. 96-423, Sec. 4(a), 94 Stat. 1812.
20105(e)	45:435(d).	Oct. 16, 1970, Pub. L. 91-458, Sec. 206(d), 84 Stat. 974; Oct. 10, 1980, Pub. L. 96-423, Sec. 4(b), 94 Stat. 1812.
20105(f)	45:435(e).	

In subsection (a), the first sentence is added for clarity.

In subsection (b)(1)(A)(iii), the words "as necessary for the enforcement by him of each rule, regulation, order, and standard referred to in paragraph (2) of this subsection, as interpreted by the Secretary" are omitted as surplus.

In subsection (b)(1)(B)(i) and (ii), the words "railroad carrier" are substituted for "railroad" because of the definition of "railroad carrier" in section 20102 of the revised title.

In subsection (b)(1)(B)(iii), the words "a detail of" are omitted as surplus.

In subsection (b)(3), the text of 45:435(b) (2d sentence) and the words "as he deems", "reasonable", and "with respect to such safety rules, regulations, orders, and standards" are omitted as

surplus.

In subsection (c)(1), the word "enforce" is substituted for "obtain compliance with" for clarity and consistency in this section.

In subsection (e), the words "out of funds appropriated pursuant to this subchapter or otherwise made available", "reasonably", and "satisfactory" are omitted as surplus. The words "will be at least as much as the average amount expended" are substituted for "will be maintained at a level which does not fall below the average level of such expenditures" for clarity and to eliminate unnecessary words.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 20108, 20113, 20117 of this title; title 45 section 54a.