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49 USC CHAPTER 211 - HOURS OF SERVICE 02/01/2010

-EXPCITE-
TITLE 49 - TRANSPORTATION
SUBTITLE V - RAIL PROGRAMS
PART A - SAFETY
CHAPTER 211 - HOURS OF SERVICE

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CHAPTER 211 - HOURS OF SERVICE

-MISC1-
Sec.

21101. Definitions.
21102. Nonapplication, exemption, and alternate hours of service regime.
21103. Limitations on duty hours of train employees.
21104. Limitations on duty hours of signal employees.
21105. Limitations on duty hours of dispatching service employees.
21106. Limitations on employee sleeping quarters.
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AMENDMENTS

2008 - Pub. L. 110-432, div. A, title I, Sec. 108(d)(2), (e)(2)(A), Oct. 16, 2008, 122 Stat. 4864, 4865, substituted item 21102 for former item 21102 "Nonapplication and exemption" and added item 21109.

1994 - Pub. L. 103-440, title II, Sec. 203(b), Nov. 2, 1994, 108 Stat. 4620, added item 21108.

-End-

-CITE-
49 USC Sec. 21101 02/01/2010

-EXPCITE-
TITLE 49 - TRANSPORTATION
SUBTITLE V - RAIL PROGRAMS
PART A - SAFETY
CHAPTER 211 - HOURS OF SERVICE

-HEAD-
Sec. 21101. Definitions

-STATUTE-
In this chapter -

(1) "designated terminal" means the home or away-from-home terminal for the assignment of a particular crew.

(2) "dispatching service employee" means an operator, train dispatcher, or other train employee who by the use of an electrical or mechanical device dispatches, reports, transmits, receives, or delivers orders related to or affecting train movements.

(3) "employee" means a dispatching service employee, a signal employee, or a train employee.

(4) "signal employee" means an individual who is engaged in installing, repairing, or maintaining signal systems.

(5) "train employee" means an individual engaged in or connected with the movement of a train, including a hostler.

-SOURCE-

(Pub. L. 103-272, Sec. 1(e), July 5, 1994, 108 Stat. 888; Pub. L. 110-432, div. A, title I, Sec. 108(a), Oct. 16, 2008, 122 Stat. 4860.)

-MISC1-

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
21101(1)	45:61(b)(4) (1st sentence).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, Sec. 1(b)(4) (1st sentence); added Nov. 2, 1978, Pub. L. 95-574, Sec. 6, 92 Stat. 2461.
21101(2)-(4)	(no source).	
21101(5)	45:61(b)(2).	Mar. 4, 1907, ch. 2939, Sec. 1(b)(2), 34 Stat. 1415; restated Dec. 26, 1969, Pub. L. 91-169, Sec. 1, 83 Stat. 463; July 8, 1976, Pub. L. 94-348, Sec. 4(c), 90 Stat. 818.

Clause (2) is added to avoid the necessity of repeating the substance of the definition every time a "dispatching service employee" is referred to in this chapter. The language in clause (2) is derived from 45:63.

Clause (3) is added to provide a definition of "employee" when the source provisions apply to all types of employees covered by this chapter.

Clause (4) is added to avoid the necessity of repeating the substance of the definition every time a "signal employee" is referred to in this chapter. The language in clause (4) is derived from 45:63a.

In clause (5), the words "train employee" are substituted for "employee" to distinguish the term from the terms "dispatching

service employee" and "signal employee". The word "actually" is omitted as surplus.

AMENDMENTS

2008 - Par. (4). Pub. L. 110-432 struck out "employed by a railroad carrier" after "individual".

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-432, div. A, title I, Sec. 108(g), Oct. 16, 2008, 122 Stat. 4866, provided that: "The amendments made by subsections (a), (b), and (c) [amending this section and sections 21103 and 21104 of this title] shall take effect 9 months after the date of enactment of this Act [Oct. 16, 2008]."

RECORD KEEPING AND REPORTING

Pub. L. 110-432, div. A, title I, Sec. 108(f), Oct. 16, 2008, 122 Stat. 4866, provided that:

"(1) Regulations. - Not later than 180 days after the date of enactment of this Act [Oct. 16, 2008], the Secretary [of Transportation] shall prescribe a regulation revising the requirements for recordkeeping and reporting for Hours of Service of Railroad Employees contained in part 228 of title 49, Code of Federal Regulations -

"(A) to adjust record keeping and reporting requirements to support compliance with chapter 211 of title 49, United States Code, as amended by this Act;

"(B) to authorize electronic record keeping, and reporting of excess service, consistent with appropriate considerations for user interface; and

"(C) to require training of affected employees and supervisors, including training of employees in the entry of hours of service data.

"(2) Procedure. - In lieu of issuing a notice of proposed rulemaking as contemplated by section 553 of title 5, United States Code, the Secretary may utilize the Railroad Safety Advisory Committee to assist in development of the regulation. The Secretary may propose and adopt amendments to the revised regulations thereafter as may be necessary in light of experience under the revised requirements."

-End-

-CITE-
49 USC Sec. 21102 02/01/2010

-EXPCITE-
TITLE 49 - TRANSPORTATION
SUBTITLE V - RAIL PROGRAMS
PART A - SAFETY
CHAPTER 211 - HOURS OF SERVICE

-HEAD-
Sec. 21102. Nonapplication, exemption, and alternate hours of

service regime

-STATUTE-
(a) General. - This chapter does not apply to a situation involving any of the following:
(1) a casualty.
(2) an unavoidable accident.
(3) an act of God.
(4) a delay resulting from a cause unknown and unforeseeable to a railroad carrier or its officer or agent in charge of the employee when the employee left a terminal.

(b) Exemption. - The Secretary of Transportation may exempt a railroad carrier having not more than 15 employees covered by this chapter from the limitations imposed by this chapter. The Secretary may allow the exemption after a full hearing, for good cause shown, and on deciding that the exemption is in the public interest and will not affect safety adversely. The exemption shall be for a specific period of time and is subject to review at least annually. The exemption may not authorize a carrier to require or allow its employees to be on duty more than a total of 16 hours in a 24-hour period.
(c) Application of Hours of Service Regime to Commuter and Intercity Passenger Railroad Train Employees. -
(1) When providing commuter rail passenger transportation or intercity rail passenger transportation, the limitations on duty hours for train employees of railroad carriers, including public authorities operating passenger service, shall be solely governed by old section 21103 until the earlier of -
(A) the effective date of regulations prescribed by the Secretary under section 21109(b) of this chapter; or
(B) the date that is 3 years following the date of enactment of the Rail Safety Improvement Act of 2008.

(2) After the date on which old section 21103 ceases to apply, pursuant to paragraph (1), to the limitations on duty hours for train employees of railroad carriers with respect to the provision of commuter rail passenger transportation or intercity rail passenger transportation, the limitations on duty hours for train employees of such railroad carriers shall be governed by new section 21103, except as provided in paragraph (3).
(3) After the effective date of the regulations prescribed by the Secretary under section 21109(b) of this title, such carriers shall -
(A) comply with the limitations on duty hours for train employees with respect to the provision of commuter rail passenger transportation or intercity rail passenger transportation as prescribed by such regulations; and
(B) be exempt from complying with the provisions of old section 21103 and new section 21103 for such employees.

(4) In this subsection:
(A) The terms "commuter rail passenger transportation" and "intercity rail passenger transportation" have the meaning given those terms in section 24102 of this title.

(C) (!1) The term "new section 21103" means section 21103 of this chapter as amended by the Rail Safety Improvement Act of 2008.

(D) The term "old section 21103" means section 21103 of this chapter as it was in effect on the day before the enactment of that Act.

-SOURCE-

(Pub. L. 103-272, Sec. 1(e), July 5, 1994, 108 Stat. 888; Pub. L. 110-432, div. A, title I, Sec. 108(d)(1), Oct. 16, 2008, 122 Stat. 4863.)

-MISC1-

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
21102(a)	45:63a(d) (related to 45:64a).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, Sec. 3A(d) (related to Sec. 5); added July 8, 1976, Pub. L. 94-348, Sec. 4(d), 90 Stat. 819; June 22, 1988, Pub. L. 100-342, Sec. 16(4), 102 Stat. 635.
	45:64a(d).	Mar. 4, 1907, ch. 2939, Sec. 5(d), 34 Stat. 1417; restated Dec. 26, 1969, Pub. L. 91-169, Sec. 1, 83 Stat. 464; June 22, 1988, Pub. L. 100-342, Sec. 16(6)(D), 102 Stat. 635.
21102(b)	45:63a(d) (related to 45:64a).	
	45:64a(e).	Mar. 4, 1907, ch. 2939, Sec. 5(e), 34 Stat. 1417; restated Dec. 26, 1969, Pub. L. 91-169, Sec. 1, 83 Stat. 464.

In subsection (b), the words "with respect to one or more of its employees" are omitted as surplus because the authority to exempt a railroad carrier includes the authority to exempt only some of the employees of the carrier. The words "carrier to require or allow its employees to be on duty" are substituted for "any railroad described in this section to work its employees" for clarity and consistency in this chapter.

-REFTEXT-

REFERENCES IN TEXT

The Rail Safety Improvement Act of 2008, referred to in subsec. (c)(1)(B), (4)(C), (D), is div. A of Pub. L. 110-432, Oct. 16, 2008, 122 Stat. 4848. For complete classification of this Act to the Code, see Short Title of 2008 Amendment note set out under section 20101 of this title and Tables.

-MISC2-

AMENDMENTS

2008 - Pub. L. 110-432, Sec. 108(d)(1)(A), substituted "Nonapplication, exemption, and alternate hours of service regime" for "Nonapplication and exemption" in section catchline.

Subsec. (c). Pub. L. 110-432, Sec. 108(d)(1)(B), added subsec. (c).

-FOOTNOTE-

(!1) So in original. No subpar. (B) has been enacted.

-End-

-CITE-

49 USC Sec. 21103 02/01/2010

-EXPCITE-

TITLE 49 - TRANSPORTATION
SUBTITLE V - RAIL PROGRAMS
PART A - SAFETY
CHAPTER 211 - HOURS OF SERVICE

-HEAD-

Sec. 21103. Limitations on duty hours of train employees

-STATUTE-

(a) In General. - Except as provided in subsection (d) of this section, a railroad carrier and its officers and agents may not require or allow a train employee to -

(1) remain on duty, go on duty, wait for deadhead transportation, be in deadhead transportation from a duty assignment to the place of final release, or be in any other mandatory service for the carrier in any calendar month where the employee has spent a total of 276 hours -

(A) on duty;

(B) waiting for deadhead transportation, or in deadhead transportation from a duty assignment to the place of final release; or

(C) in any other mandatory service for the carrier;

(2) remain or go on duty for a period in excess of 12 consecutive hours;

(3) remain or go on duty unless that employee has had at least 10 consecutive hours off duty during the prior 24 hours; or

(4) remain or go on duty after that employee has initiated an on-duty period each day for -

(A) 6 consecutive days, unless that employee has had at least 48 consecutive hours off duty at the employee's home terminal during which time the employee is unavailable for any service for any railroad carrier except that -

(i) an employee may work a seventh consecutive day if that employee completed his or her final period of on-duty time on his or her sixth consecutive day at a terminal other than his or her home terminal; and

(ii) any employee who works a seventh consecutive day pursuant to subparagraph (i) shall have at least 72 consecutive hours off duty at the employee's home terminal during which time the employee is unavailable for any service for any railroad carrier; or

(B) except as provided in subparagraph (A), 7 consecutive days, unless that employee has had at least 72 consecutive hours off duty at the employee's home terminal during which time the employee is unavailable for any service for any railroad carrier, if -

(i) for a period of 18 months following the date of enactment of the Rail Safety Improvement Act of 2008, an existing collective bargaining agreement expressly provides for such a schedule or, following the expiration of 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, collective bargaining agreements entered into during such period expressly provide for such a schedule;

(ii) such a schedule is provided for by a pilot program authorized by a collective bargaining agreement; or

(iii) such a schedule is provided for by a pilot program under section 21108 of this chapter related to employees' work and rest cycles.

The Secretary may waive paragraph (4), consistent with the procedural requirements of section 20103, if a collective bargaining agreement provides a different arrangement and such an arrangement is in the public interest and consistent with railroad safety.

(b) Determining Time on Duty. - In determining under subsection (a) of this section the time a train employee is on or off duty, the following rules apply:

(1) Time on duty begins when the employee reports for duty and ends when the employee is finally released from duty.

(2) Time the employee is engaged in or connected with the movement of a train is time on duty.

(3) Time spent performing any other service for the railroad carrier during a 24-hour period in which the employee is engaged in or connected with the movement of a train is time on duty.

(4) Time spent in deadhead transportation to a duty assignment is time on duty, but time spent in deadhead transportation from a duty assignment to the place of final release is neither time on duty nor time off duty.

(5) An interim period available for rest at a place other than a designated terminal is time on duty.

(6) An interim period available for less than 4 hours rest at a designated terminal is time on duty.

(7) An interim period available for at least 4 hours rest at a place with suitable facilities for food and lodging is not time on duty when the employee is prevented from getting to the employee's designated terminal by any of the following:

(A) a casualty.

(B) a track obstruction.

(C) an act of God.

(D) a derailment or major equipment failure resulting from a cause that was unknown and unforeseeable to the railroad carrier or its officer or agent in charge of that employee when that employee left the designated terminal.

(c) Limbo Time Limitation and Additional Rest Requirement. -

(1) A railroad carrier may not require or allow an employee -

(A) to exceed a total of 40 hours per calendar month spent -

(i) waiting for deadhead transportation; or

(ii) in deadhead transportation from a duty assignment to the place of final release,

following a period of 12 consecutive hours on duty that is neither time on duty nor time off duty, not including interim rest periods, during the period from the date of enactment of the Rail Safety Improvement Act of 2008 to one year after such date of enactment; and

(B) to exceed a total of 30 hours per calendar month spent -

(i) waiting for deadhead transportation; or

(ii) in deadhead transportation from a duty assignment to the place of final release,

following a period of 12 consecutive hours on duty that is neither time on duty nor time off duty, not including interim rest periods, during the period beginning one year after the date of enactment of the Rail Safety Improvement Act of 2008 except that the Secretary may further limit the monthly limitation pursuant to regulations prescribed under section 21109.

(2) The limitations in paragraph (1) shall apply unless the train carrying the employee is directly delayed by -

(A) a casualty;

(B) an accident;

(C) an act of God;

(D) a derailment;

(E) a major equipment failure that prevents the train from advancing; or

(F) a delay resulting from a cause unknown and unforeseeable to a railroad carrier or its officer or agent in charge of the employee when the employee left a terminal.

(3) Each railroad carrier shall report to the Secretary, in accordance with procedures established by the Secretary, each instance where an employee subject to this section spends time waiting for deadhead transportation or in deadhead transportation

from a duty assignment to the place of final release in excess of the requirements of paragraph (1).

(4) If -

(A) the time spent waiting for deadhead transportation or in deadhead transportation from a duty assignment to the place of final release that is not time on duty, plus

(B) the time on duty,

exceeds 12 consecutive hours, the railroad carrier and its officers and agents shall provide the employee with additional time off duty equal to the number of hours by which such sum exceeds 12 hours.

(d) Emergencies. - A train employee on the crew of a wreck or relief train may be allowed to remain or go on duty for not more than 4 additional hours in any period of 24 consecutive hours when an emergency exists and the work of the crew is related to the emergency. In this subsection, an emergency ends when the track is cleared and the railroad line is open for traffic.

(e) Communication During Time Off Duty. - During a train employee's minimum off-duty period of 10 consecutive hours, as provided under subsection (a) or during an interim period of at least 4 consecutive hours available for rest under subsection (b)(7) or during additional off-duty hours under subsection (c)(4), a railroad carrier, and its officers and agents, shall not communicate with the train employee by telephone, by pager, or in any other manner that could reasonably be expected to disrupt the employee's rest. Nothing in this subsection shall prohibit communication necessary to notify an employee of an emergency situation, as defined by the Secretary. The Secretary may waive the requirements of this paragraph for commuter or intercity passenger railroads if the Secretary determines that such a waiver will not reduce safety and is necessary to maintain such railroads' efficient operations and on-time performance of its trains.

-SOURCE-

(Pub. L. 103-272, Sec. 1(e), July 5, 1994, 108 Stat. 888; Pub. L. 110-432, div. A, title I, Sec. 108(b), Oct. 16, 2008, 122 Stat. 4860.)

-MISC1-

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
21103(a)	45:62(a)(1), (2).	Mar. 4, 1907, ch. 2939, Sec. 2(a)(1), (2), 34 Stat. 1416; restated Dec. 26, 1969, Pub. L. 91-169, Sec. 1, 83 Stat. 463; July 8, 1976, Pub. L. 94-348, Sec. 4(a)(1), (2),

		90 Stat. 818; June 22, 1988, Pub. L. 100-342, Sec. 16(2), 102 Stat. 634.
21103(b)	45:61(b)(3).	Mar. 4, 1907, ch. 2939, Secs. 1(b)(3), 2(b), 34 Stat. 1415, 1416; restated Dec. 26, 1969, Pub. L. 91-169, Sec. 1, 83 Stat. 463.
	45:61(b)(4) (last sentence).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, Sec. 1(b)(4) (last sentence); added Nov. 2, 1978, Pub. L. 95-574, Sec. 6, 92 Stat. 2461; June 22, 1988, Pub. L. 100-342, Sec. 16(1)(C), 102 Stat. 634.
	45:62(b).	
21103(c)	45:62(c).	Mar. 4, 1907, ch. 2939, Sec. 2(c), 34 Stat. 1416; Dec. 26, 1969, Pub. L. 91-169, Sec. 1, 83 Stat. 464; restated July 8, 1976, Pub. L. 94-348, Sec. 4(b), 90 Stat. 818.

In subsection (a), before clause (1), the words "Except as provided in subsection (c) of this section" are added to alert the reader to the exception restated in subsection (c). The words "train employee" are substituted for "employee" because of the definition of "train employee" in section 21101 of the revised title. In clause (2), the words "12 consecutive hours" are substituted for "continuously . . . fourteen hours" and "except that, effective upon the expiration of the two-year period beginning on the effective date of this paragraph, such fourteen-hour duty period shall be reduced to twelve hours" because the 2-year period has ended.

In subsection (b), the words before paragraph (1) are added as related to 45:61(b)(3) and (4) (last sentence) and substituted for "In determining, for the purposes of subsection (a), the number of hours an employee is on duty" in 45:62(b) for clarity. In paragraphs (2) and (3), the word "actually" is omitted as surplus. In paragraph (4), the words "neither time on duty nor time off duty" are substituted for "time off duty" for clarity and consistency with the source provisions restated in 21104(b)(3) and (4) of the revised title. In paragraph (7), before clause (A), the words "between designated terminals" are omitted as surplus. The text of 45:61(b)(3)(E) is omitted as surplus because of the restatement.

In subsection (c), the words "A train employee on" are added for consistency in this section. The word "actual" is omitted as surplus.

-REFTEXT-

REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008,

referred to in subsecs. (a)(4)(B)(i) and (c)(1), is the date of enactment of div. A of Pub. L. 110-432, which was approved Oct. 16, 2008.

-MISC2-

AMENDMENTS

2008 - Subsec. (a). Pub. L. 110-432, Sec. 108(b)(1), added subsec. (a) and struck out former subsec. (a). Prior to amendment, text read as follows: "Except as provided in subsection (c) of this section, a railroad carrier and its officers and agents may not require or allow a train employee to remain or go on duty -

"(1) unless that employee has had at least 8 consecutive hours off duty during the prior 24 hours; or

"(2) after that employee has been on duty for 12 consecutive hours, until that employee has had at least 10 consecutive hours off duty."

Subsecs. (c), (d). Pub. L. 110-432, Sec. 108(b)(2), added subsec. (c) and redesignated former subsec. (c) as (d).

Subsec. (e). Pub. L. 110-432, Sec. 108(b)(3), added subsec. (e).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-432 effective 9 months after Oct. 16, 2008, see section 108(g) of Pub. L. 110-432, set out as a note under section 21101 of this title.

-End-

-CITE-

49 USC Sec. 21104 02/01/2010

-EXPCITE-

TITLE 49 - TRANSPORTATION
SUBTITLE V - RAIL PROGRAMS
PART A - SAFETY
CHAPTER 211 - HOURS OF SERVICE

-HEAD-

Sec. 21104. Limitations on duty hours of signal employees

-STATUTE-

(a) In General. - Except as provided in subsection (c) of this section, a railroad carrier and its officers and agents may not require or allow its signal employees to remain or go on duty and a contractor or subcontractor to a railroad carrier and its officers and agents may not require or allow its signal employees to remain or go on duty -

(1) for a period in excess of 12 consecutive hours; or

(2) unless that employee has had at least 10 consecutive hours off duty during the prior 24 hours.

(b) Determining Time on Duty. - In determining under subsection (a) of this section the time a signal employee is on duty or off

duty, the following rules apply:

(1) Time on duty begins when the employee reports for duty and ends when the employee is finally released from duty.

(2) Time spent performing any other service for the railroad carrier during a 24-hour period in which the employee is engaged in installing, repairing, or maintaining signal systems is time on duty.

(3) Time spent returning from a trouble call, whether the employee goes directly to the employee's residence or by way of the employee's headquarters, is neither time on duty nor time off duty.

(4) If, at the end of scheduled duty hours, an employee has not completed the trip from the final outlying worksite of the duty period to the employee's headquarters or directly to the employee's residence, the time after the scheduled duty hours necessarily spent in completing the trip to the residence or headquarters is neither time on duty nor time off duty.

(5) If an employee is released from duty at an outlying worksite before the end of the employee's scheduled duty hours to comply with this section, the time necessary for the trip from the worksite to the employee's headquarters or directly to the employee's residence is neither time on duty nor time off duty.

(6) Time spent in transportation on an ontrack vehicle, including time referred to in paragraphs (3)-(5) of this subsection, is time on duty.

(7) A regularly scheduled meal period or another release period of at least 30 minutes but not more than one hour is time off duty and does not break the continuity of service of the employee under this section, but a release period of more than one hour is time off duty and does break the continuity of service.

(c) Emergencies. - A signal employee may be allowed to remain or go on duty for not more than 4 additional hours in any period of 24 consecutive hours when an emergency exists and the work of that employee is related to the emergency. In this subsection, an emergency ends when the signal system is restored to service. A signal employee may not be allowed to remain or go on duty under the emergency authority provided under this subsection to conduct routine repairs, routine maintenance, or routine inspection of signal systems.

(d) Communication During Time Off Duty. - During a signal employee's minimum off-duty period of 10 consecutive hours, as provided under subsection (a), a railroad carrier or a contractor or subcontractor to a railroad carrier, and its officers and agents, shall not communicate with the signal employee by telephone, by pager, or in any other manner that could reasonably be expected to disrupt the employee's rest. Nothing in this subsection shall prohibit communication necessary to notify an employee of an emergency situation, as defined by the Secretary.

(e) Exclusivity. - The hours of service, duty hours, and rest periods of signal employees shall be governed exclusively by this chapter. Signal employees operating motor vehicles shall not be subject to any hours of service rules, duty hours or rest period rules promulgated by any Federal authority, including the Federal Motor Carrier Safety Administration, other than the Federal

Railroad Administration.

-SOURCE-
(Pub. L. 103-272, Sec. 1(e), July 5, 1994, 108 Stat. 889; Pub. L. 110-432, div. A, title I, Sec. 108(c), Oct. 16, 2008, 122 Stat. 4862.)

-MISC1-

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
21104(a)	45:63a(a) (1st sentence).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, Sec. 3A(a) (1st sentence), (b); added July 8, 1976, Pub. L. 94-348, Sec. 4(d), 90 Stat. 819; June 22, 1988, Pub. L. 100-342, Sec. 16(4), 102 Stat. 635.
	45:63a(a) (2d-last sentences).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, Sec. 3A(a) (2d-last sentences); added Nov. 2, 1978, Pub. L. 95-574, Sec. 4(a), 92 Stat. 2459.
21104(b)	45:63a(b).	
	45:63a(c).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415; Sec. 3A(c); added July 8, 1976, Pub. L. 94-348, Sec. 4(d), 90 Stat. 819; restated Nov. 2, 1978, Pub. L. 95-574, Sec. 4(b), 92 Stat. 2460.
21104(c)	45:63a(f).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, Sec. 3A(f); added July 8, 1976, Pub. L. 94-348, Sec. 4(d), 90 Stat. 819.

In this section, the words "signal employee" are substituted for "an individual employed by the railroad who is engaged in installing, repairing or maintaining signal systems" and "an individual described in paragraph (1)" in 45:63a(a), "individual" in 45:63a(b) and (c), and "individual engaged in installing, repairing, or maintaining signal systems" in 45:63a(f) because of the definition of "signal employee" in section 21101 of the revised title.

Subsection (a)(1) is substituted for 45:63a(a) (last sentence) for clarity and because of the restatement.

In subsection (a)(2), before clause (A), the words "Except as provided in subsection (c) of this section" are added to alert the reader to the exception restated in subsection (c). The text of 45:63a(a) (2d sentence) is omitted as surplus.

In subsection (b), the words before paragraph (1) are added as related to 45:63a(c) and substituted for "In determining for the purposes of subsection (a) of this section the number of hours an individual is on duty" for clarity. In paragraph (2), the word "actually" is omitted as surplus.

In subsection (c), the word "actual" is omitted as surplus.

AMENDMENTS

2008 - Subsec. (a). Pub. L. 110-432, Sec. 108(c)(1), added subsec. (a) and struck out former subsec. (a) which limited the amount of time spent on duty by signal employees.

Subsec. (b)(3). Pub. L. 110-432, Sec. 108(c)(2), substituted "duty." for "duty, except that up to one hour of that time spent returning from the final trouble call of a period of continuous or broken service is time off duty."

Subsec. (c). Pub. L. 110-432, Sec. 108(c)(3), inserted at end "A signal employee may not be allowed to remain or go on duty under the emergency authority provided under this subsection to conduct routine repairs, routine maintenance, or routine inspection of signal systems."

Subsecs. (d), (e). Pub. L. 110-432, Sec. 108(c)(4), added subsecs. (d) and (e).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-432 effective 9 months after Oct. 16, 2008, see section 108(g) of Pub. L. 110-432, set out as a note under section 21101 of this title.

-End-

-CITE-
49 USC Sec. 21105 02/01/2010

-EXPCITE-
TITLE 49 - TRANSPORTATION
SUBTITLE V - RAIL PROGRAMS
PART A - SAFETY
CHAPTER 211 - HOURS OF SERVICE

-HEAD-
Sec. 21105. Limitations on duty hours of dispatching service employees

-STATUTE-
(a) Application. - This section applies, rather than section 21103 or 21104 of this title, to a train employee or signal employee during any period of time the employee is performing duties of a dispatching service employee.

(b) General. - Except as provided in subsection (d) of this

section, a dispatching service employee may not be required or allowed to remain or go on duty for more than -

(1) a total of 9 hours during a 24-hour period in a tower, office, station, or place at which at least 2 shifts are employed; or

(2) a total of 12 hours during a 24-hour period in a tower, office, station, or place at which only one shift is employed.

(c) Determining Time on Duty. - Under subsection (b) of this section, time spent performing any other service for the railroad carrier during a 24-hour period in which the employee is on duty in a tower, office, station, or other place is time on duty in that tower, office, station, or place.

(d) Emergencies. - When an emergency exists, a dispatching service employee may be allowed to remain or go on duty for not more than 4 additional hours during a period of 24 consecutive hours for not more than 3 days during a period of 7 consecutive days.

-SOURCE-

(Pub. L. 103-272, Sec. 1(e), July 5, 1994, 108 Stat. 890.)

-MISC1-

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
21105(a)	45:62(d).	Mar. 4, 1907, ch. 2939, Sec. 2(d), 34 Stat. 1416; restated Dec. 26, 1969, Pub. L. 91-169, Sec. 1, 83 Stat. 464.
	45:63a(e).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, Sec. 3A(e); added July 8, 1976, Pub. L. 94-348, Sec. 4(d), 90 Stat. 819.
21105(b)	45:63(a).	Mar. 4, 1907, ch. 2939, Sec. 3, 34 Stat. 1416; May 4, 1916, ch. 109, Sec. 1, 39 Stat. 61; Aug. 14, 1957, Pub. L. 85-135, Sec. 2, 71 Stat. 352; restated Dec. 26, 1969, Pub. L. 91-169, Sec. 1, 83 Stat. 464; June 22, 1988, Pub. L. 100-342, Sec. 16(3), 102 Stat. 635.
21105(c)	45:63(b).	
21105(d)	45:63(c).	

In this section, the words "dispatching service employee" are substituted for "operator, train dispatcher, or other employee who by the use of the telegraph, telephone, radio, or any other electrical or mechanical device dispatches, reports, transmits, receives, or delivers orders pertaining to or affecting train movements" in 45:63(a), "employee . . . on duty in a class of service . . . described in paragraph (1) or (2) of such subsection" in 45:63(b), and "employees named in such subsection" in 45:63(c) because of the definition of "dispatching service employee" in section 21101 of the revised title.

In subsection (a), the words "This section applies, rather than section 21103 or 21104 of this title" are substituted for "The provisions of this section shall not apply" because of the restatement. The words "train employee" are substituted for "employee" in 45:62(d), and the words "signal employee" are substituted for "individual" in 45:63a(e), for consistency in this chapter and because of the definitions of "signal employee" and "train employee" in section 21101 of the revised title. The words "during any period of time the employee is performing duties of a dispatching service employee" are substituted for "during such period of time as the provisions of section 63 of this title apply to his duty and off-duty periods" in 45:62(d) and 63a(e) for clarity.

In subsection (b), before clause (1), the words "a total of" are substituted for "whether consecutive or in the aggregate" to eliminate unnecessary words.

In subsection (c), the words "a tower, office, station, or other place" are substituted for "a place, described in paragraph (1) or (2) of such subsection" for clarity.

In subsection (d), the words "When an emergency exists" are substituted for "in case of emergency" for consistency in this chapter.

-End-

-CITE-
49 USC Sec. 21106 02/01/2010

-EXPCITE-
TITLE 49 - TRANSPORTATION
SUBTITLE V - RAIL PROGRAMS
PART A - SAFETY
CHAPTER 211 - HOURS OF SERVICE

-HEAD-
Sec. 21106. Limitations on employee sleeping quarters

-STATUTE-
(a) In General. - A railroad carrier and its officers and agents -

(1) may provide sleeping quarters (including crew quarters, camp or bunk cars, and trailers) for employees, and any individuals employed to maintain the right of way of a railroad

carrier, only if the sleeping quarters are clean, safe, and sanitary, give those employees and individuals an opportunity for rest free from the interruptions caused by noise under the control of the carrier, and provide indoor toilet facilities, potable water, and other features to protect the health of employees; and

(2) may not begin, after July 7, 1976, construction or reconstruction of sleeping quarters referred to in clause (1) of this section in an area or in the immediate vicinity of an area, as determined under regulations prescribed by the Secretary of Transportation, in which railroad switching or humping operations are performed.

(b) Camp Cars. - Not later than December 31, 2009, any railroad carrier that uses camp cars shall fully retrofit or replace such cars in compliance with subsection (a).

(c) Regulations. - Not later than April 1, 2010, the Secretary of Transportation, in coordination with the Secretary of Labor, shall prescribe regulations to implement subsection (a)(1) to protect the safety and health of any employees and individuals employed to maintain the right of way of a railroad carrier that uses camp cars, which shall require that all camp cars comply with those regulations by December 31, 2010. In prescribing the regulations, the Secretary shall assess the action taken by any railroad carrier to fully retrofit or replace its camp cars pursuant to this section.

(d) Compliance and Enforcement. - The Secretary shall determine whether a railroad carrier has fully retrofitted or replaced a camp car pursuant to subsection (b) and shall prohibit the use of any non-compliant camp car. The Secretary may assess civil penalties pursuant to chapter 213 for violations of this section.

-SOURCE-

(Pub. L. 103-272, Sec. 1(e), July 5, 1994, 108 Stat. 891; Pub. L. 110-432, div. A, title IV, Sec. 420, Oct. 16, 2008, 122 Stat. 4893.)

-MISC1-

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
21106	45:62(a)(3), (4).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, Sec. 2(a)(3), (4); added July 8, 1976, Pub. L. 94-348, Sec. 4(a)(3), 90 Stat. 818; June 22, 1988, Pub. L. 100-342, Sec. 16(2), 102 Stat. 634.
	45:62(e).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, Sec. 2(e); added

	June 22, 1988, Pub. L. 100-342, Sec. 19(b)(1), 102 Stat. 638.
45:63a(d) (related to 45:62(a)(3)).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, Sec. 3A(d) (related to Sec. 2(a)(3)); added July 8, 1976, Pub. L. 94-348, Sec. 4(d), 90 Stat. 819; June 22, 1988, Pub. L. 100-342, Sec. 16(4), 102 Stat. 635.

In this section, before clause (1), the words "and any individuals employed to maintain the right of way of a railroad carrier" are substituted for 45:62(e) because of the restatement.

AMENDMENTS

2008 - Pub. L. 110-432 designated existing provisions as subsec. (a), inserted heading, in par. (1), substituted "sanitary, give those employees and individuals an opportunity for rest free from the interruptions caused by noise under the control of the carrier, and provide indoor toilet facilities, potable water, and other features to protect the health of employees;" for "sanitary and give those employees and individuals an opportunity for rest free from the interruptions caused by noise under the control of the carrier;", and added subsecs. (b) to (d).

-End-

-CITE-
49 USC Sec. 21107 02/01/2010

-EXPCITE-
TITLE 49 - TRANSPORTATION
SUBTITLE V - RAIL PROGRAMS
PART A - SAFETY
CHAPTER 211 - HOURS OF SERVICE

-HEAD-
Sec. 21107. Maximum duty hours and subjects of collective bargaining

-STATUTE-
The number of hours established by this chapter that an employee may be required or allowed to be on duty is the maximum number of hours consistent with safety. Shorter hours of service and time on duty of an employee are proper subjects for collective bargaining between a railroad carrier and its employees.

-SOURCE-
(Pub. L. 103-272, Sec. 1(e), July 5, 1994, 108 Stat. 891.)

-MISC1-

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
21107	45:63a(d) (related to 45:64).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, Sec. 3A(d) (related to Sec. 4); added July 8, 1976, Pub. L. 94-348, Sec. 4(d), 90 Stat. 819; June 22, 1988, Pub. L. 100-342, Sec. 16(4), 102 Stat. 635.
	45:64.	Mar. 4, 1907, ch. 2939, Sec. 4, 34 Stat. 1417; restated Dec. 26, 1969, Pub. L. 91-169, Sec. 1, 83 Stat. 464; June 22, 1988, Pub. L. 100-342, Sec. 16(5), 102 Stat. 635.

-End-

-CITE-
49 USC Sec. 21108 02/01/2010

-EXPCITE-
TITLE 49 - TRANSPORTATION
SUBTITLE V - RAIL PROGRAMS
PART A - SAFETY
CHAPTER 211 - HOURS OF SERVICE

-HEAD-
Sec. 21108. Pilot projects

-STATUTE-
(a) In General. - As of the date of enactment of the Rail Safety Improvement Act of 2008, a railroad carrier or railroad carriers and all nonprofit employee labor organizations representing any class or craft of directly affected covered service employees of the railroad carrier or railroad carriers, may jointly petition the Secretary of Transportation for approval of -

(1) a waiver of compliance with this chapter as in effect on the date of enactment of the Rail Safety Improvement Act of 2008; or

(2) a waiver of compliance with this chapter as it will be effective 9 months after the enactment of the Rail Safety

Improvement Act of 2008,

to enable the establishment of one or more pilot projects to demonstrate the possible benefits of implementing alternatives to the strict application of the requirements of this chapter, including requirements concerning maximum on-duty and minimum off-duty periods.

(b) Granting of Waivers. - The Secretary may, after notice and opportunity for comment, approve such waivers described in subsection (a) for a period not to exceed two years, if the Secretary determines that such a waiver of compliance is in the public interest and is consistent with railroad safety.

(c) Extensions. - Any such waiver, based on a new petition, may be extended for additional periods of up to two years, after notice and opportunity for comment. An explanation of any waiver granted under this section shall be published in the Federal Register.

(d) Report. - The Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, no later than December 31, 2012, or, if no projects are completed prior to December 31, 2012, no later than 6 months after the completion of a pilot project, a report that -

(1) explains and analyzes the effectiveness of any pilot project established pursuant to a waiver granted under subsection (a);

(2) describes the status of all other waivers granted under subsection (a) and their related pilot projects, if any; and

(3) recommends any appropriate legislative changes to this chapter.

(e) Definition. - For purposes of this section, the term "directly affected covered service employees" means covered service employees to whose hours of service the terms of the waiver petitioned for specifically apply.

-SOURCE-

(Added Pub. L. 103-440, title II, Sec. 203(a), Nov. 2, 1994, 108 Stat. 4619; amended Pub. L. 110-432, div. A, title I, Sec. 110, Oct. 16, 2008, 122 Stat. 4867.)

-REFTEXT-

REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in subsec. (a), is the date of enactment of div. A of Pub. L. 110-432, which was approved Oct. 16, 2008.

-MISC1-

AMENDMENTS

2008 - Pub. L. 110-432 amended section generally, revising and restating provisions of former subsec. (a) relating to waivers as subsecs. (a) to (c), provisions of former subsec. (b) relating to requirement of a report to Congress as subsec. (d), and provisions of former subsec. (c) defining "directly affected covered service employees" as subsec. (e).

-End-

-CITE-
49 USC Sec. 21109 02/01/2010

-EXPCITE-
TITLE 49 - TRANSPORTATION
SUBTITLE V - RAIL PROGRAMS
PART A - SAFETY
CHAPTER 211 - HOURS OF SERVICE

-HEAD-
Sec. 21109. Regulatory authority

-STATUTE-
(a) In General. - In order to improve safety and reduce employee fatigue, the Secretary may prescribe regulations -

(1) to reduce the maximum hours an employee may be required or allowed to go or remain on duty to a level less than the level established under this chapter;

(2) to increase the minimum hours an employee may be required or allowed to rest to a level greater than the level established under this chapter;

(3) to limit or eliminate the amount of time an employee spends waiting for deadhead transportation or in deadhead transportation from a duty assignment to the place of final release that is considered neither on duty nor off duty under this chapter;

(4) for signal employees -

(A) to limit or eliminate the amount of time that is considered to be neither on duty nor off duty under this chapter that an employee spends returning from an outlying worksite after scheduled duty hours or returning from a trouble call to the employee's headquarters or directly to the employee's residence; and

(B) to increase the amount of time that constitutes a release period, that does not break the continuity of service and is considered time off duty; and

(5) to require other changes to railroad operating and scheduling practices, including unscheduled duty calls, that could affect employee fatigue and railroad safety.

(b) Regulations Governing the Hours of Service of Train Employees of Commuter and Intercity Passenger Railroad Carriers. - Within 3 years after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary shall prescribe regulations and issue orders to establish hours of service requirements for train employees engaged in commuter rail passenger transportation and intercity rail passenger transportation (as defined in section 24102 of this title) that may differ from the requirements of this chapter. Such regulations and orders may address railroad operating and scheduling practices, including unscheduled duty calls,

communications during time off duty, and time spent waiting for deadhead transportation or in deadhead transportation from a duty assignment to the place of final release, that could affect employee fatigue and railroad safety.

(c) Considerations. - In issuing regulations under subsection (a) the Secretary shall consider scientific and medical research related to fatigue and fatigue abatement, railroad scheduling and operating practices that improve safety or reduce employee fatigue, a railroad's use of new or novel technology intended to reduce or eliminate human error, the variations in freight and passenger railroad scheduling practices and operating conditions, the variations in duties and operating conditions for employees subject to this chapter, a railroad's required or voluntary use of fatigue management plans covering employees subject to this chapter, and any other relevant factors.

(d) Time Limits. -

(1) If the Secretary determines that regulations are necessary under subsection (a), the Secretary shall first request that the Railroad Safety Advisory Committee develop proposed regulations and, if the Committee accepts the task, provide the Committee with a reasonable time period in which to complete the task.

(2) If the Secretary requests that the Railroad Safety Advisory Committee accept the task of developing regulations under subsection (b) and the Committee accepts the task, the Committee shall reach consensus on the rulemaking within 18 months after accepting the task. If the Committee does not reach consensus within 18 months after the Secretary makes the request, the Secretary shall prescribe appropriate regulations within 18 months.

(3) If the Secretary does not request that the Railroad Safety Advisory Committee accept the task of developing regulations under subsection (b), the Secretary shall prescribe regulations within 3 years after the date of enactment of the Rail Safety Improvement Act of 2008.

(e) Pilot Projects. -

(1) In general. - Not later than 2 years after the date of enactment of the Rail Safety Improvement Act of 2008, the Secretary shall conduct at least 2 pilot projects of sufficient size and scope to analyze specific practices which may be used to reduce fatigue for train and engine and other railroad employees as follows:

(A) A pilot project at a railroad or railroad facility to evaluate the efficacy of communicating to employees notice of their assigned shift time 10 hours prior to the beginning of their assigned shift as a method for reducing employee fatigue.

(B) A pilot project at a railroad or railroad facility to evaluate the efficacy of requiring railroads who use employee scheduling practices that subject employees to periods of unscheduled duty calls to assign employees to defined or specific unscheduled call shifts that are followed by shifts not subject to call, as a method for reducing employee fatigue.

(2) Waiver. - The Secretary may temporarily waive the requirements of this section, if necessary, to complete a pilot

project under this subsection.

(f) Duty Call Defined. - In this section the term "duty call" means a telephone call that a railroad places to an employee to notify the employee of his or her assigned shift time.

-SOURCE-
(Added Pub. L. 110-432, div. A, title I, Sec. 108(e)(1), Oct. 16, 2008, 122 Stat. 4864.)

-REFTEXT-
REFERENCES IN TEXT

The date of enactment of the Rail Safety Improvement Act of 2008, referred to in subsecs. (b), (d)(3), and (e)(1), is the date of enactment of div. A of Pub. L. 110-432, which was approved Oct. 16, 2008.

-End-