

tion 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.

**Editorial Notes**

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-432, §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, §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, §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, §108(c)(4), added subsecs. (d) and (e).

**Statutory Notes and Related Subsidiaries**

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.

**§ 21105. Limitations on duty hours of dispatching service employees**

(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.

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

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
21105(b) .....	45:63(a).	Mar. 4, 1907, ch. 2939, §3, 34 Stat. 1416; May 4, 1916, ch. 109, §1, 39 Stat. 61; Aug. 14, 1957, Pub. L. 85-135, §2, 71 Stat. 352; restated Dec. 26, 1969, Pub. L. 91-169, §1, 83 Stat. 464; June 22, 1988, Pub. L. 100-342, §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.

**§ 21106. Limitations on employee sleeping quarters**

(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).

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
21105(a) .....	45:62(d).	Mar. 4, 1907, ch. 2939, §2(d), 34 Stat. 1416; restated Dec. 26, 1969, Pub. L. 91-169, §1, 83 Stat. 464.
	45:63a(e).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §3A(e); added July 8, 1976, Pub. L. 94-348, §4(d), 90 Stat. 819.

(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.

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

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
21106 .....	45:62(a)(3), (4).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §2(a)(3), (4); added July 8, 1976, Pub. L. 94–348, §4(a)(3), 90 Stat. 818; June 22, 1988, Pub. L. 100–342, §16(2), 102 Stat. 634.
	45:62(e).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §2(e); added June 22, 1988, Pub. L. 100–342, §19(b)(1), 102 Stat. 638.
	45:63a(d) (related to 45:62(a)(3)).	Mar. 4, 1907, ch. 2939, 34 Stat. 1415, §3A(d) (related to §2(a)(3)); added July 8, 1976, Pub. L. 94–348, §4(d), 90 Stat. 819; June 22, 1988, Pub. L. 100–342, §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.

**Editorial Notes**

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).

**§ 21107. Maximum duty hours and subjects of collective bargaining**

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.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 891.)

HISTORICAL AND REVISION NOTES

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

**§ 21108. Pilot projects**

(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 non-profit 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.