

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).

(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. 819; 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.

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

Editorial Notes

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.

AMENDMENTS

2008—Pub. L. 110–432 amended section generally, revising and restating provisions of former subsec. (a) relating to waivers as subssecs. (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).

§ 21109. Regulatory authority

(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