

HISTORICAL AND REVISION NOTES—CONTINUED

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
	45:43a.	June 22, 1988, Pub. L. 100-342, § 24, 102 Stat. 639.
	49 App.:1655(e)(1)(K).	Oct. 15, 1966, Pub. L. 89-670, § 6(e)(1)(K), 80 Stat. 939.
20901(b)	45:38 (note).	Sept. 3, 1992, Pub. L. 102-365, § 15, 106 Stat. 981.

In this section, the words “accident” and “incident” are used, and the words “collision” and “derailment” are omitted, for consistency in this part. The words “the general manager, superintendent, or other proper officer of” in 45:38 are omitted as surplus because any duty of a railroad carrier must necessarily be carried out through its proper officers and agents. The text of 45:38 (1st sentence proviso) is omitted as executed.

In subsection (b), the words “or incident” are added for consistency. The text of section 15(c) of the Rail Safety Enforcement and Review Act (Pub. L. 102-365, 106 Stat. 981) is omitted as executed.

ACCIDENT AND INCIDENT REPORTING

Pub. L. 110-432, div. A, title II, § 209, Oct. 16, 2008, 122 Stat. 4876, provided that: “The Federal Railroad Administration shall conduct an audit of each Class I railroad at least once every 2 years and conduct an audit of each non-Class I railroad at least once every 5 years to ensure that all grade crossing collisions and fatalities are reported to any Federal national accident database.”

[For definitions of “railroad” and “crossing”, as used in section 209 of Pub. L. 110-432, set out above, see section 2(a) of Pub. L. 110-432, set out as a note under section 20102 of this title.]

§ 20902. Investigations

(a) GENERAL AUTHORITY.—The Secretary of Transportation, or an impartial investigator authorized by the Secretary, may investigate—

(1) an accident or incident resulting in serious injury to an individual or to railroad property, occurring on the railroad line of a railroad carrier; and

(2) an accident or incident reported under section 20505 of this title.

(b) OTHER DUTIES AND POWERS.—In carrying out an investigation, the Secretary or authorized investigator may subpoena witnesses, require the production of records, exhibits, and other evidence, administer oaths, and take testimony. If the accident or incident is investigated by a commission of the State in which it occurred, the Secretary, if convenient, shall carry out the investigation at the same time as, and in coordination with, the commission’s investigation. The railroad carrier on whose railroad line the accident or incident occurred shall provide reasonable facilities to the Secretary for the investigation.

(c) REPORTS.—When in the public interest, the Secretary shall make a report of the investigation, stating the cause of the accident or incident and making recommendations the Secretary considers appropriate. The Secretary shall publish the report in a way the Secretary considers appropriate.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 887.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
20902(a)	45:40 (1st sentence, 2d sentence words between 1st and 2d commas). 49 App.:26(f) (words after last semicolon).	May 6, 1910, ch. 208, § 3, 36 Stat. 351; June 22, 1988, Pub. L. 100-342, § 15(3), 102 Stat. 634. Feb. 4, 1887, ch. 104, 24 Stat. 379, § 25(f) (words after last semicolon); added Feb. 28, 1920, ch. 91, § 441, 41 Stat. 498; restated Aug. 26, 1937, ch. 818, 50 Stat. 836; Sept. 18, 1940, ch. 722, § 14(b), 54 Stat. 919.
20902(b)	49 App.:1655(e)(1)(K).	Oct. 15, 1966, Pub. L. 89-670, § 6(e)(1)(K), 80 Stat. 939.
20902(c)	45:40 (2d sentence less words between 1st and 2d commas).	
	45:40 (3d, last sentences).	

In this section, the words “accident” and “incident” are used, and the words “collision” and “derailment” are omitted, for consistency in this part.

Subsection (a)(2) is substituted for the text of 49 App.:26(f) (words after last semicolon) for clarity.

In subsection (b), the words “In carrying out an investigation” are substituted for “shall have authority to investigate such collisions, derailments, or other accidents aforesaid, and all the attending facts, conditions, and circumstances, and for that purpose” to eliminate unnecessary words. The words “books, papers, orders, memoranda” are omitted as being included in “papers”. The words “in coordination with” are substituted for “in connection with” for clarity. The words “The railroad carrier on whose railroad line the accident or incident occurred” are added for clarity.

In subsection (c), the words “When in the public interest” are substituted for “when he deems it to the public interest” to eliminate unnecessary words.

§ 20903. Reports not evidence in civil actions for damages

No part of an accident or incident report filed by a railroad carrier under section 20901 of this title or made by the Secretary of Transportation under section 20902 of this title may be used in a civil action for damages resulting from a matter mentioned in the report.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 887.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
20903	45:41.	May 6, 1910, ch. 208, § 4, 36 Stat. 351.

The words “civil action” are substituted for “suit or action” for consistency in the revised title and with other titles of the United States Code.

CHAPTER 211—HOURS OF SERVICE

Sec.	Definitions.
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.
21107.	Maximum duty hours and subjects of collective bargaining.
21108.	Pilot projects.

Sec.
21109. Regulatory authority.

AMENDMENTS

2008—Pub. L. 110-432, div. A, title I, §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, §203(b), Nov. 2, 1994, 108 Stat. 4620, added item 21108.

§ 21101. Definitions

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.

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

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, §1(b)(4) (1st sentence); added Nov. 2, 1978, Pub. L. 95-574, §6, 92 Stat. 2461.
21101(2)-(4) 21101(5)	(no source). 45:61(b)(2).	Mar. 4, 1907, ch. 2939, §1(b)(2), 34 Stat. 1415; re-stated Dec. 26, 1969, Pub. L. 91-169, §1, 83 Stat. 463; July 8, 1976, Pub. L. 94-348, §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, §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, §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.”

§ 21102. Nonapplication, exemption, and alternate hours of service regime

(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