



## **The IWLA Government Affairs Update**

**May 21, 2024**

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### **Immediate Warehouse Issues**

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#### **IWLA Takes Advocacy Message to Capitol Hill During 2024 Legislative Fly-In**

On May 7 & 8, IWLA members gathered in Washington, DC, for the 2024 Legislative Fly-In. The Fly-In is an opportunity to meet with elected leaders in the House and Senate and bring attention to our legislative priorities in the 118th Congress. This year participants focused on three main priorities: ensuring a stable workforce, particularly new rules on Independent Contractor status, Joint Employer status, OSHA's Worker Walkaround rule, and the new Overtime Revision; issues related to improving and securing the supply chain, such as support for the CTPAT Pilot Program and the reauthorization of the CFATS program; and support for pro-business legislation such as the Death Tax Repeal Act.

The event also featured several insightful roundtable discussions. STB Board members Patrick Fuchs and Robert Primus discussed rail issues, including the new reciprocal switching rule. Ed Egee, VP of Government Relations for the National Retail Federation, and Sean Redmon, VP Labor Policy for the U.S. Chamber of Commerce, provided an outlook on labor management issues. Additionally, members from the National Republican Senatorial Campaign (NRSC) updated attendees on the 2024 election outlook.

A highlight of the event was a Tuesday evening reception at the UPS Townhouse, where a dozen members of the House Energy & Commerce Committee attended to meet with IWLA members. This was followed by a fun night at Nationals Ballpark for the Nationals-Orioles baseball game. Looking ahead, mark your calendars for next year's IWLA Legislative Fly-In scheduled for April 1 & 2, 2025. Join us as we advocate for the 3PL warehouse industry and continue to make a difference in shaping policies that impact our industry.

#### **STB Finalizes Reciprocal Switching Rule**

The Surface Transportation Board (STB) on April 30 reported adopting Reciprocal Switching for Inadequate Service, STB Docket No. EP 711 (Sub-No. 2), by unanimous vote, implementing new regulations at 49 CFR part 1145, which it said "sets forth a path for shippers and receivers to petition the Board for the prescription of a reciprocal switching agreement." The final rule "is designed to promote adequate rail service," according to the STB. Board Member Robert Primus concurred with a separate expression, noting, "I am voting for the final rule because something is better than nothing." Under the new regulations, STB reported that "eligibility for prescription of a reciprocal switching agreement will be determined in part using objective performance standards that address reliability in time of arrival, consistency in transit time, and reliability in providing first-mile and last-mile service." To help implement the new regulations, the STB said it will require "all Class I railroads to submit certain service data on an ongoing and standardized basis, which will be generalized and publicly accessible." [Read More](#) [Read Even More](#)

#### **Canada's Labor Board Delays Start of Potential CN, CPKC Rail Strike**

The Canada Industrial Relations Board (CIRB) is reviewing whether a strike by railworkers at CN and CPKC would jeopardize Canadians' health and safety. The review delays a possible strike by operating crews with CN and CPKC that could have begun as early as May 22 and could halt the shipment of \$1 billion worth of goods per day in Canada, according to RailState, a company that monitors freight trends across the country. Canadian Minister of Labor Seamus O'Regan Jr. announced Thursday that he asked CIRB to "look into maintenance of activities agreements" between the union representing the workers and the two railroads, saying "serious concerns have been raised about

potential impacts to the health and safety of Canadians” if a work stoppage occurs. The CIRB plans to review whether any critical shipments must continue in the event of a strike or lockout, according to CIRB spokesman Jean-Daniel Tardif. “It is unlikely a decision will come down by May 22,” Tardif told The Canadian Press. “Written submissions alone will likely take longer.” On May 1, some 9,300 CN and CPKC rail workers voted to authorize a strike as soon as May 22 if they are unable to reach new agreements. The workers are negotiating for higher wages and better scheduling, among other benefits. [Read More](#) [Read Even More](#)

## **USPS Plans 25 Percent Average Price Hike for Parcel Select Shippers**

The U.S. Postal Service is proposing a sharp price increase for its Parcel Select offering — the target of controversial changes that would impact key shipping partners and their customers. The agency wants rates for Parcel Select to increase by 25 percent on average on July 14, according to a notice filed with the Postal Regulatory Commission on May 10. The low-cost ground delivery product is used by consolidators like DHL eCommerce and Pitney Bowes, which handle and send customers’ parcels to Postal Service facilities for final-mile delivery. The specific price hikes that Parcel Select users will see depends on where they enter volume in the agency’s network. Parcel Select shipments entered at delivery units, the last stop in the agency’s network before a package reaches the end customer, will see the highest increases at 43.4 percent on average. Parcels injected further upstream will see less pronounced increases. However, the proposal also calls for nixing ounce-based rates for packages under 1 pound, placing extra pricing pressure on lightweight volume. It is not proposing any price increases for its Priority Mail, Priority Mail Express or Ground Advantage offerings. The Postal Regulatory Commission will review the changes before they are slated to take effect, according to a press release. [Read More](#) [Read USPS Press Release](#)

## **Biden Hikes Tariffs on China-Made EVs, Batteries, Semiconductors**

The Biden administration announced a slate of tariff increases on key goods made in China on Tuesday, taking aim at electric vehicles, batteries, critical minerals, semiconductors, solar cells and more. United States Trade Representative Katherine Tai said the USTR would keep existing Section 301 tariffs on China and also increase the import tax in strategic sectors. The White House touted the tariff modifications as a tool to better protect U.S. manufacturers against China’s trade practices. The tariffs will cover \$18 billion worth of imports in clean energy and technology sectors. The move goes after hotly contested sectors in which the U.S. is sprinting to get ahead of China’s manufacturing prowess — and ones that the Biden administration has poured billions of dollars in federal funding into to bolster factory plans and talent development. The Biden administration has pushed for companies to onshore not only EV and battery manufacturing, but to bring supply chains for lithium, graphite and other critical minerals closer to home and out of China. [Read More](#) [Read Even More](#)

## **East and Gulf Coast Port Labor Negotiations to Start Soon**

Labor contract negotiations covering port workers on the East and Gulf coasts are expected to begin soon with local-level bargaining slated to wrap up Friday, according to a joint announcement from union and employer representatives. The current six-year contract covering workers at ports from Maine to Texas will expire on Sept. 30. Both the International Longshoremen’s Association — with 85,000 members in its ranks — and the United States Maritime Alliance (USMX) say they are committed to reaching a new agreement prior to that date. “The ILA and USMX expect to continue the success of our 2012 and 2018 Master Contract negotiations where two landmark six-year agreements were achieved without any disruption or delays in shipment of cargo,” ILA President Harold J. Daggett and USMX Chairman and CEO David F. Adam said in a joint statement. Although both sides want to reach a deal without any disruption, Daggett warned ILA locals last year to prepare for a strike if an agreement isn’t achieved by Sept. 30, adding that the union won’t extend the current pact as it pursues a landmark deal. A strike would add to the labor unrest shippers have had to account for in recent years, sparking heavy disruptions for U.S. supply chains reliant on East Coast and Gulf Coast imports. [Read More](#) [Read Press Release](#)

## **U.S. Department of Labor to Offer Webinars on Overtime Final Rule**

On April 26, 2024, the U.S. Department of Labor published a final rule, *Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees*, which will take effect on July 1, 2024. The final rule updates and revises the regulations issued under section 13(a)(1) of the Fair Labor Standards Act (FLSA) implementing an exemption from minimum wage and overtime pay requirements for executive, administrative, and professional employees. The department’s Wage and Hour Division will offer online seminars to provide a general overview of requirements under section 13(a)(1) of the FLSA, and will discuss the final rule’s revisions, including scheduled increases to certain earnings thresholds required for exemption. There will be two opportunities to attend these online seminars; Thursday, May 30 at 2-3pm Eastern and Monday, June 3 at 2-3pm Eastern. [Read More](#) [Register for May 30](#) [Register for June 3](#)

## High Port Volumes Expected for 2024's Peak Season

The nation's top seaports should continue to expect elevated import levels this year as strong levels of consumer spending persist, the National Retail Federation and Hackett Associates said in a forecast this week. The organizations forecasted that loaded import volumes at the top 12 container ports will remain above 2 million TEUs through October 2024, marking the highest sustained volumes in years. The groups credited continued consumer spending on goods as the cause of continued freight demand. "We haven't seen numbers this high for this many months in almost two years," NRF Vice President for Supply Chain and Customs Policy Jonathan Gold said. "Regardless of what headlines about the economy might say, consumers are shopping and retailers are making sure they have merchandise on hand to meet demand." [Read More](#) [Read NRF Press Release](#)

## FY25 Transportation Bill on House Agenda

Legislation that would fund operations at the U.S. Department of Transportation in fiscal 2025 will be considered by a House committee next month. The leadership of the Appropriations panel scheduled the transportation funding measure's subcommittee consideration for June 27. The bill's full committee markup will be held July 10. "We are moving forward on our Article I [constitutional] obligations. In the face of an aggressive schedule and fiscal constraints, we will demonstrate responsible governance and safeguard hard-earned tax dollars," Appropriations Committee Chairman Tom Cole (R-Okla.) said May 16. "The bills written by this committee will adhere to law set by the Fiscal Responsibility Act — with no side deals — and focus resources where they are needed most. Specific to the top line for transportation agencies, the panel is proposing \$90.8 billion for nondefense programs. On the other side of the Capitol, senators have yet to schedule consideration of their fiscal 2025 appropriations measures. This month, the Senate panels have hosted hearings with high-level administration officials, such as Secretary Pete Buttigieg. [Read More](#)

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## Updated Warehouse Issues

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### 17 States Sue to Block California's Advanced Clean Fleets Rule

A group of states that loosely parallels those that filed suit last year to stop California's Advanced Clean Trucks (ACT) rule have taken similar action against the state's Advanced Clean Fleets (ACF) rule, seeking to stop the ACF while it awaits a waiver from the Environmental Protection Agency. A key difference between the suits is the defendant. The action filed Monday in U.S. District Court for the Eastern District of California is against Steven Cliff, the executive officer of the California Air Resources Board. The suit against ACT filed last June was against the EPA, which already had granted California a waiver to implement the Clean Trucks rule. ACT targets manufacturers of trucks; ACF targets companies that buy and drive them. In tandem, the rules aim to achieve a fully zero-emission-vehicle (ZEV) fleet in California by the mid-2040s. The latest suit comes as the implementation of the ACF is already on hold, following a lawsuit filed by the California Trucking Association (CTA) last year. That suit argues that the rule needs the same sort of EPA waiver CARB had been granted to implement the rule allowing the state to impose vehicle and emissions requirements that are stricter than those imposed at the federal level. [Read More](#)

### STB Chairman Martin J. Oberman Retires

The Surface Transportation Board on Friday announced the retirement of Chairman Martin J. Oberman. Chairman Oberman joined the STB on January 22, 2019, following his Senate confirmation. He has served as Chairman since January 21, 2021, as designated by President Joseph R. Biden, Jr. Under Chairman Oberman's leadership, the agency held several public hearings on important topics, including serious rail service issues, the CPKC merger, and the Amtrak Gulf Coast matter. In those hearings and in other public meetings, Chairman Oberman was known for asking the hard, direct, and incisive questions necessary to get from parties the information the agency needed to get to the bottom of the issues presented. Within the agency, Chairman Oberman has been known as a consensus builder, always interested in hearing opposing viewpoints and identifying a path forward on which all can agree. Upon Chairman Oberman's departure, President Biden intends to designate Board Member Robert Primus as STB Chairman. [Read More](#)

### House Republicans Tell Julie Su to Step Down

A group of House Republicans claimed acting Labor Secretary Julie Su is "illegitimate" as leader of the Department of Labor. During a May 1 hearing of the Education and the Workforce Committee, a cadre of lawmakers questioned Su's capacity to serve in her role and criticized department rules specific to the status of independent contractors. "Today marks the 417th consecutive day in which you have led the Department of Labor as acting secretary without

the constitutionally required advice and consent of the Senate. In effectively abrogating the Senate nomination process, the Biden administration has treated the constitution as but a footnote. That is unacceptable,” said committee Chairwoman Virginia Foxx (R-N.C.). “In fact, Ms. Su, you are now the longest serving acting secretary since before the U.S. Civil War — a record that was best left unbroken.” Rep. Kevin Kiley (R-Calif.), chairman of the Workforce Protections Subcommittee added: “It’s time for you to step down. Let’s do the right thing. It’s time for you to resign...” Kiley is among the congressional Republicans seeking to advance a measure to prevent a Labor Department acting head from serving in that role indefinitely. At the hearing, Kiley also pressed the acting secretary about the Biden administration’s relatively recent rule that reclassifies certain independent contractors as company employees. Congressional Republicans are actively pursuing to pause the rule, citing a potential impact on the freight sector. [Read More](#)

## **Army Corps: Full Port of Baltimore Access Coming This Month**

The Port of Baltimore’s waterways are on track to being fully accessible by the end of this month, the U.S. Army Corps of Engineers told members of Congress on May 15. Tasked with clearing the wreckage from the Francis Scott Key Bridge collapse in March, the Corps’ leadership expressed confidence about soon expanding navigable access at the once-bustling port. “As of the date of this testimony, the Corps is on track to complete the removal of section four by mid-May and to restore two-way traffic to the federal channel by the end of May,” Major Gen. William Graham told the House transportation committee. Graham is deputy chief of engineers and deputy commanding general, and deputy commanding general for Civil Works and Emergency Operations. The panel’s leadership acknowledged the rapid response from the Corps and other agencies assigned to assist with restoring access to the commercial port, including the Coast Guard and the Federal Highway Administration. Committee Chairman Sam Graves (R-Mo.) pointed to a need for collecting and analyzing pertinent facts about the bridge collapse before detailing a road map for meaningful legislative action. [Read More](#)

## **Coalition Urges Biden, Obrador to Address Border Security**

A broad coalition of almost 30 U.S. and Mexican trade stakeholders is urging Presidents Joe Biden and Andres Manuel Lopez Obrador to address migrant issues they said are impacting cross-border trade. Led by the Washington-based Border Trade Alliance, the Texas Association of Business and the Confederation of Industrial Chambers of Mexico (CONCAMIN), the coalition on Wednesday sent a letter to Biden and Lopez Obrador asking them to work swiftly to improve the security situation along the border. “The U.S.-Mexico border is a region of tremendous economic promise, but that’s all at risk if our governments fail to ensure that cross-border trade and travel is conducted in a secure, well-managed, properly resourced environment,” Border Trade Alliance President Britton Clarke said in the letter. The cross-border business community has been forced to navigate significant shipping delays at the border as the Department of Homeland Security and state governments have responded to spikes in asylum-seeking migrants with closures of ports of entry and new inspection protocols, the letter states. The letter arrives about a week after the Texas Department of Public Safety (DPS) renewed controversial state-run safety inspections at the Ysleta-Zaragoza International Bridge in El Paso. [Read More](#) [Read Letter](#)

## **Ryder: Switching to a Class 8 EV May Double Vehicle Costs**

Ryder System Inc. may have plans to introduce thousands of electric vehicles to its fleet, but a new analysis by the leasing and logistics specialist indicates the business case for swapping a diesel or gasoline van or truck for an EV is shaky for much of the trucking industry. Worse still, mandates to introduce EVs before enough infrastructure is in place and vehicle costs decrease considerably could hurt U.S. supply chains and the trucking sector, Ryder warned. Using data from the Miami-based company’s dedicated fleet operations, Ryder calculated that the annual total cost to transport (TCT) using an EV rather than a vehicle with an internal combustion engine could double, costing as much as \$330,000 more to operate. The cost of running an EV rather than retaining a gasoline or diesel van or truck is likely to rise by as much as 114%, Ryder calculations focused on California and Georgia show. [Read More](#) [Read Ryder Study](#)

## **Investors Vote Down Plan to Unseat Norfolk Southern CEO**

Norfolk Southern shareholders have voted down a bid from activist investors to take control of the freight railroad's board. According to *The New York Times*, Cleveland-based firm Ancora had initially sought to remove Norfolk Southern's CEO Alan Shaw, and seize control of the company, in order to slash costs and boost profits. Ancora reportedly sought to switch Norfolk Southern to a leaner operating model that would have cut back on the number of workers, locomotives, and railcars at the railroad. Shaw had pushed back against Ancora's plan in the lead-up to the May 7 shareholder vote, arguing that it would threaten safety improvements made by the railroad following a controversial derailment in East Palestine in February 2023. “Norfolk Southern has persevered through several challenges over the last year. We have met every challenge and never lost sight of where we are taking our powerful



franchise,” Shaw said during the shareholder meeting leading up the vote. “We are keeping our promises, and delivering tangible results, and there is more to do.” While shareholders ultimately struck down the activist firm's attempt to wrest control from Shaw, they still voted to install three directors from Ancora on Norfolk Southern's board. [Read More](#)

## **Union Pacific Launches Premium Service Between Southern California and Chicago**

Union Pacific's new intermodal service between Southern California and Metro Chicago promises a three-day transit time, the railroad announced Friday. The train runs daily between City of Industry, California, and the railroad's Global 2 terminal in Northlake, Illinois as of April 28. “We are delivering the service we sold to our customers – and we're now able to do it faster,” Union Pacific CEO Jim Vena said in a press release. “Our railroad offers 70-mph service, allowing us to compete for business while reducing greenhouse gas emissions up to 75% for our customers.” The railroad's faster offering is part of its ongoing strategy to capture more over-the-road shipments, said Kenny Rocker, the railroad's EVP of marketing and sales. The new service also includes faster freight interchanges with other railroads for trains bound for the Ohio Valley and Northeast destinations, according to Union Pacific. Union Pacific's newest offering is the second daily service the railroad operates between Los Angeles and Chicago. In early April the railroad launched a route connecting Fontana, California, to its yard in Northlake, Illinois. [Read More](#)  
[Read UP Press Release](#)

## **Inside the Port of Virginia's \$450 Million Plan to Lead in Era of Super-Sized Ocean Containerships**

The Port of Virginia is on track to become the functionally widest and deepest port on the U.S. East Coast by early 2025, as massive ocean containerships upend the economics of port terminals. Norfolk Harbor will be the only waterway channel on the East Coast with Congressional authorization for 55-foot depth from end to end and side to side. A \$450 million dredging project at the Port of Virginia, which began in 2019, completed its widening measures in March, allowing two ultra-large container vessels (ULCVs) to pass each other at the same time. The dredging project is expected to be completed in Fall 2025, making the Port of Virginia the deepest and widest harbor on the East Coast. Once completed, Virginia will have unrestricted vessel size access, with two of these super-sized containerships able to move through the channel at once. The wider shipping channel is reducing the time vessels stay at the port by up to 15 percent. It's also cutting emissions from ships idling while waiting for the channel to clear. [Read More](#)

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**Questions?** Contact [Bruce Linderman](#) or call 847.813.4698

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*The IWLA 3PL Matters Update is designed to inform you on legislative and regulatory issues that directly impact and affect your warehouse and how you conduct business. The 3PL Matters Update is disseminated every three weeks and provides a look at recent developments and activities from the prior three weeks, as well as a look at what to expect in the upcoming weeks.*

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