



The IWLA Government Affairs Update

June 11, 2024

Immediate Warehouse Issues

IWLA Joins U.S. Chamber to Sue the Occupational Safety and Health Administration Over Walkaround Rule

Last Tuesday, the U.S. Chamber of Commerce and a coalition of business groups filed a lawsuit in the Western District of Texas, Waco Division against the Occupational Safety and Health Administration (OSHA). The lawsuit challenges OSHA's new walkaround rule, which gives union organizers, activists, plaintiffs' attorneys, and even competitors access to workplaces under the guise of "assisting" OSHA inspectors during routine inspections. OSHA upended over 50 years of precedent by dramatically expanding the type of third parties allowed to accompany inspectors during walkarounds. The OSH Act permits employee representatives to accompany the inspectors, which was generally limited to employees themselves, with very limited exceptions. The presence of these third parties can expose companies to excessive lawsuits and unionization efforts, cause disturbances, reveal confidential business information, and raise safety concerns. "OSHA's new walkaround rule is the Administration's latest regulation to take a 'whole-of-government' approach to promoting unionization at all costs," said Marc Freedman, vice president of the U.S. Chamber of Commerce's Employment Policy Division. "OSHA claims this rule is about workplace safety, but as some union organizers have publicly admitted this rule is about gaining access to nonunionized workplaces to advance their organizing campaigns." The Chamber is joined by co-plaintiffs, including the Greater Waco Chamber of Commerce, Longview Chamber of Commerce, Associated Builders and Contractors, Alliance for Chemical Distribution, Associated General Contractors, International Franchise Association, International Warehouse Logistics Association, National Association of Manufacturers, National Association of Wholesaler-Distributors, National Federation of Independent Business, and National Retail Federation. The full complaint can be viewed [here](#).

OSHA Releases Long-Awaited Updates to Hazard Communication Standard

On May 20, the U.S. Department of Labor Occupational Safety and Health Administration (OSHA) issued its final rule updating the Hazard Communication Standard (HCS). The HCS ensures chemical safety in the workplace by requiring manufacturers to provide information about hazardous chemicals through labels, safety data sheets, and training to employees. The final rule becomes effective July 19, 2024. The updated standard will require labels on small packaging to be more comprehensive and readable and makes changes to help ensure trade secrets no longer prevent workers and first responders from receiving critical hazard information on safety data sheets. Other changes in the updated standard include a clearer hazard classification process to provide more complete and accurate hazard information on labels and safety data sheets; updated physical hazard classes to better inform users on safe handling of explosives, aerosols, and chemicals under pressure; and updated precautionary statements on how to safely handle, store, and dispose of hazardous chemicals. The final rule also addresses issues that arose since the implementation of the 2012 standard and improves alignment with other federal agencies and Canada. [Read OSHA Press Release](#) [Read Final Rule](#)

CPKC Says Possible Canada Rail Strike Unlikely Before Mid-July

Canadian Pacific Kansas City (CPKC) said talks with the Teamsters Rail Conference Union have hit a deadlock, predicting that a legal strike or a lockout would not likely occur before mid-July. In a statement posted on the company's website late on Wednesday, CPKC said the two sides had met from May 15 to 21 with the aid of federal mediators. "Regrettably, and despite our best efforts, no progress was made. Additional bargaining dates have not been scheduled at this time," it said. This month, workers at CPKC and Canadian National Railway Co who are represented by the Teamsters voted overwhelmingly to strike as early as May 22. But Ottawa asked the Canadian Industrial Relations Board (CIRB) to rule whether a strike would have safety implications, pushing back the potential start date for a stoppage. A legal strike or lockout cannot occur until the CIRB renders a decision. "While it remains unclear how long it will take for the CIRB to issue a decision, based on precedent, it is unlikely the parties will be in a position to initiate a legal strike or lockout before mid-July or later," it said. A work stoppage could be a major dent to Canada's supply chain and negatively impact major exports, including wheat, canola, potash and coal. [Read More](#)

New York Trucking Group Sues to Stop Manhattan Congestion Fee

The Trucking Association of New York has filed a federal lawsuit against the Metropolitan Transportation Authority in hopes of halting the congestion fee for those driving into Manhattan. The suit, filed Thursday in the Southern District of New York, hopes to prevent the first-of-its-kind toll from going into effect June 30. New York City officials have touted the program as a way to reduce traffic and emissions, but TANY argues that truck drivers will bear the brunt of the fees. Heavy-duty trucks will pay \$24 to \$36 during peak hours to travel below 60th Street, while taxis and for-hire vehicles, like Uber, will pay \$1.25 to \$2.50 per trip, paid for by the passenger. The trucking association argues that taxis and for-hire vehicles make up half of traffic in the area, but those drivers will be exempt from fees, instead pushing the cost onto the customer. Commuters and some lawmakers have opposed the measure, which will increase the cost of commuting into the city for passenger vehicles by \$15 per day, on top of the cost of parking. The trucking association argues that the plan is unconstitutional. Small business owners and the state of New Jersey have filed lawsuits against the plan, which was approved by New York lawmakers in 2019. [Read More](#)

Canada Border Agents Threaten to Strike in June

The union representing Canadian border agents said over 90 percent of its members voted to go on strike as soon as June. The Wall Street Journal reported May 24 that America's second-largest trading partner could face a possible simultaneous strike at the country's two main railroads, Canadian National Railway and Canadian Pacific Kansas City, sometime in July. Both could disrupt billions of dollars in daily cross-border commercial trade between the U.S. and Canada. The U.S. Department of Agriculture warned the border agent strike could have "significant impacts" for agriculture trade, producers and consumers. The Public Service Alliance of Canada said its 9,000 members who work at the Canada Border Services Agency would be legally allowed to strike once a federal labor-board committee delivers a report recommending how the employer, the Canadian government, and the union can settle differences on a new agreement. [Read More](#)

A strike looms for more than 9,000 workers at the Canada Border Services Agency (CBSA), which could disrupt supply chains across North America. The work stoppage for customs and immigration agents could occur as early as Thursday after the recent release of a federal Public Interest Commission report, which set guidelines for a new collective agreement and gave the workers the legal right to strike. CBSA personnel are represented by Public Service Alliance of Canada (PSAC) and the Customs and Immigration Union (CIU). "The clock is ticking," Sharon DeSousa, PSAC national president-elect, said in a [news release](#). "At every opportunity, Trudeau's Liberal government has refused to put the needs of workers first, and time is running out to avoid sweeping job action." Workers have been without a contract for over two years, union officials said. For cross-border operators, the potential CBSA strike is another headache on top of a potential strike by railway workers at [CPKC](#), who recently voted for a work stoppage action. The Canada Industrial Relations Board is reviewing whether a CPKC worker strike could have a negative public safety impact on the country and has pushed back the potential start date.

[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](#)

Nearshoring to Continue Boosting Cross-Border Trucking in 2024

With ongoing economic tensions between the United States and China, companies looking to relocate parts or all of their supply chains continue to look to Mexico, according to data compiled by Uber Freight. The managed transportation and freight technology provider recently released its "Q2 Market Update & Outlook Report," which discusses the biggest economic trends impacting supply chains. The report sees continued resilience in cross-border trade between the U.S. and Mexico, boosted by nearshoring. "The nearshoring continues to bring new companies to Mexico," said Ben Enriquez, Uber Freight's head of Mexico logistics and customs. "What we're seeing right now is that there are a lot of companies that are still being established in Mexico. Many companies that last year confirmed that they were going to come to Mexico and establish themselves are settling in, and they are building factories, they are building warehouses." According to Mexico's secretary of the economy, there were 378 foreign direct investment (FDI) announcements last year, totaling over \$6.4 billion. Last year, Mexico replaced China as the top U.S. trading partner. Trade between the U.S. and Mexico totaled \$798 billion in 2023. In the first quarter of 2024, trade between Mexico and the U.S. totaled \$200.1 billion, a 1.7 percent year-over-year increase. [Read More](#) [Read Full Uber Freight Report](#)

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](#)

Updated Warehouse Issues

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](#)

Hundreds Warn EPA: Don't Back CARB Ban on Diesel Locomotives

Scores of government officials, public agencies and business interests are warning the U.S. Environmental Protection Agency that approving California's rule to outlaw diesel locomotives will harm the nation's interconnected rail system. Such a move, they assert, would disrupt the supply chain, close businesses, and force prices to skyrocket. At issue is the "In-Use Locomotive Regulation" by California Air Resources Board to outlaw diesel emission locomotives. The law, applying to operators of freight linehaul, switch, industrial, passenger, and historic locomotives, has several components such as an idling requirement for locomotive shutdowns after idling for 30 minutes. It also says in six years no locomotives older than 23 years can operate in California except zero-emission ones. Locomotive operators must create annual "spending accounts" starting July 1, 2026, to pay into a restricted trust estimating health costs attributable to their locomotive emissions released the previous year. Joanne Casey, the Intermodal Association of North America's president and CEO, pointed out unrealistic phaseout dates for current diesel locomotive configurations in ports and yards. "BNSF estimates that this will affect 65 percent of the locomotive fleet, which would be prohibited from operating in California should EPA grant the waiver and CARB fully implement its rule," Casey said. "The spending provision, freezing roughly \$1.6 billion in capital from BNSF and Union Pacific alone each year, is misapplied and will limit the railroads' ability to invest in critical capacity enhancements." A coalition of 66 trade groups and chambers of commerce cited numerous concerns from such organizations as American Trucking Associations, Transportation Intermediaries Association, International Warehouse Logistics Association, and Natso, Representing America's Travel Centers and Truck Stops. [Read More](#)
[Read Background on Rule](#)

Cargo Thefts Remained Unusually High in First Quarter

The trucking industry struggled through an unusually high number of cargo thefts during the first quarter of 2024. Verisk Analytics' CargoNet reported that criminal activities impacting the logistics and transportation industry increased 46 percent year-over-year to 925 incidents and 10 percent from the fourth quarter of 2023. The report estimates that \$154.6 million worth of goods was stolen during that period. "What we're seeing is a new type of crime," said Keith Lewis, vice president of operations at CargoNet. Lewis said a new type of crime — document forgery — has emerged. He explained this tactic involves criminals assuming the role of a professional driver to fraudulently secure a load. They then drive the load to its intended destination and partially unload it, and alter the bill of lading to show the complete load was delivered. Lewis noted it's a much easier type of crime to commit and get away with. CargoNet also found that reported incidents increased in most states during Q1. The most significant spikes were observed in California (72 percent year-over-year increase), Illinois (126 percent) and Texas (22 percent). Small appliances, liquor, energy drinks and copper were the most targeted, with much of the threat coming from complex fraud schemes. [Read More](#)

South Accounts for Lion's Share of Factory Construction Boom

States in the U.S. South are at the forefront of a massive renaissance in construction projects aimed at enhancing manufacturing capacity and supply chain resiliency. U.S. construction put in place for manufacturing facilities has more than doubled in the two-year span that ended in April, to \$18.4 billion, according to regional data released June 3 by the Commerce Department. States in the South accounted for nearly two-thirds of the increase. These projects, pushed by the Biden administration, span various sectors that include semiconductor fabrication, battery production and electric vehicle manufacturing. States in the West South Central region, which includes Arkansas, Louisiana, Oklahoma and Texas, rose \$3 billion over the two-year period to almost \$5 billion in April. That increase accounted for nearly a third of the \$9.7 billion overall gain in manufacturing construction. The South Atlantic region, which spans from Delaware to Florida, saw the second-sharpest gain. Private manufacturing construction in that region has climbed \$2.4 billion since April 2022, accounting for more than 24 percent of the national increase. [Read More](#)

Texas Ports Brace for Predicted Above-Average 2024 Hurricane Season

This year's hurricane season is poised to be more active than normal, with up to 25 named storms predicted by experts. And, the Texas coast is forecasted to be seriously at risk. AccuWeather Lead Hurricane Forecaster Alex DaSilva said that the weather forecasting agency is predicting 20 to 25 named storms this hurricane season, which begins June 1. Of those, eight to 12 are forecasted to be hurricanes. Texas, which had a below-average risk of storms

last year, is forecasted to be battered by severe weather this year, DaSilva said. Despite the forecast, it's business as usual at Texas ports as they prepare to embark on the 2024 hurricane season. That's because, storm or not, port leaders say they stay in "a state of readiness for whatever happens." "We approach every season as a busy season," said Port of Corpus Christi's Director of Emergency Management Danielle Hale. "It's all about perspective — one storm, and if it's the one that hits you, it's the one that messes up your entire summer." Texas last saw a hurricane in 2021 when Hurricane Nicholas made landfall as a slow-moving Category 1. Hurricane Harvey in 2017, which rapidly grew into a Category 4, smashed into the Texas coast, severely impacting the region and leaving a trail of devastation in its wake. Harvey closed ports along the Gulf Coast, including Houston, Galveston, Texas City, Freeport and Corpus Christi, some of which were shuttered for nearly a week. [Read More](#) [Read Letter](#)

Amazon Planning for 16M Square Feet of New Warehouse Spaces in 2024

Amazon has been ramping up its delivery infrastructure in 2024, having already leased over 16 million square feet of new warehouse space so far this year. According to *The Wall Street Journal*, the company has spent much of the year investing in industrial properties in a bid to expand its distribution network. That includes new warehouse facilities ranging between 100,000 and one million square feet. In total, supply chain consulting firm MWPVL International estimates that Amazon is planning for at least 170 new distribution facilities in the U.S. alone, including 103 package delivery stations and 21 small fulfillment centers. This comes amid a bid from Amazon to regionalize its delivery network. In July of 2023, the e-commerce giant detailed its plans to use [machine learning](#) to predict where customers will want specific items, and then store those products in those areas. [Read More](#) [Read Ryder Study](#)

Norfolk Southern to Pay Additional \$310M Settlement for Derailment

The U.S. Environmental Protection Agency and the Department of Justice announced a \$310 million settlement with Norfolk Southern Railway Company on Thursday, holding the company accountable for addressing and paying for the damage caused by the Feb. 3, 2023 train derailment in East Palestine, Ohio. According to a press release from the EPA, the settlement must first be approved by the U.S. District Court for the Northern District of Ohio. If approved, Norfolk Southern will be required to take measures to improve rail safety, pay for health monitoring and mental health services for the surrounding communities, fund long-term environmental monitoring, pay a \$15 million civil penalty and take other actions to protect nearby waterways and drinking water resources. The press release states that together with other response costs and rail safety enhancements, Norfolk Southern estimates that it will spend more than \$1 billion to address the contamination and other harms caused by the East Palestine derailment and improve rail safety and operations. [Read More](#) [Read Press Release](#)

Kroger Fulfillment Center Workers Vote to Join Teamsters

Workers at a Kroger automated warehouse near Detroit have voted to join the International Brotherhood of Teamsters, making the facility the first fulfillment center run by the grocer to unionize, the labor organization announced May 20. The 289 drivers at the e-commerce center who participated in the election voted by a 3-to-1 margin to join Teamsters Local 337. The workers are seeking "higher wages, better health and welfare benefits, a pension, and fair and consistent work rules," the union said. The Teamsters said they plan to begin bargaining with Kroger over the terms of a contract after the vote receives certification from the National Labor Relations Board. The election took place May 17 and 18. The fulfillment center, which is located in Romulus, Michigan, and opened in October 2022, provides grocery delivery service to customers in the greater Detroit area. The center is part of the network of e-commerce warehouses Kroger has developed in partnership with automation specialist Ocado. [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](#)

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.
