

**IWLA**  
**Legislative & Regulatory Tracker – November 2020**

Issue	Legislation	Sponsor	Summary	Status
Government Funding	<a href="#">H.R.8337</a> Continuing Appropriations Act 2021	Rep. Nita Lowey	The measure funds the government through 12/11/20 and contains a one-year extension of funding for surface transportation.	Signed into law on 10/1/20
COVID Response	<a href="#">H.R.6201</a> Families First Coronavirus Response Act	Rep. Nita Lowey (6 cosponsors)	Covered employers must provide two weeks of paid sick leave and up to ten weeks of paid family and medical leave to employees for COVID-19-related reasons. 100% of the expanded paid leave costs will be reimbursable to employers via tax credits.	Signed into law on 3/18/20
COVID Response	<a href="#">H.R.748</a> Coronavirus Aid, Relief, and Economic Security (CARES) Act	Rep. Joe Courtney (369 cosponsors)	\$500 billion in loans and other assistance for major companies, as well as cities and states struggling with virus-related financial burdens. \$350 billion in aid for small businesses through SBA loan programs. \$1,200 direct payments to middle- and low-income American adults, plus \$500 for each child. \$600 per week increase in unemployment insurance, on top of existing state benefits. \$25 billion through the FTA for transit providers, including states and local governments across the country, for operating and capital expenses. Suspends payments and interest on federal student loans.	Signed into law on 3/27/20
COVID Response	<a href="#">H.R.266</a> Paycheck Protection Program & Health Care Advancement Act	Rep. Betty McCollum	\$310 billion for the Paycheck Protection Program (PPP) Loans, with \$60 billion set aside for smaller lenders, \$50 billion for the Economic Injury Disaster Loans (EIDL), \$10 billion for the EIDL Advance Grants, \$75 billion for hospitals, \$25 billion for COVID-19 testing.	Signed into law on 4/24/20

COVID Response	<a href="#">H.R.6800</a> HEROES Act	Rep. Nita Lowey (11 cosponsors)	Provides supplemental appropriations to federal agencies; Provides assistance to state and local governments; Provides additional direct stimulus payments, Expands paid sick days, FMLA, unemployment comp, Modifies and expands the Paycheck Protection Program, Establishes grants for employers to provide pandemic premium pay for essential workers; expands several tax credits and deductions; provides funding and establishes requirements for COVID-19 testing and contact tracing; requires employers to develop and implement infectious disease exposure control plans.	Passed by the House on 5/16/20. Pending in the Senate.
COVID Response	<a href="#">S.4317</a> , <a href="#">S.4318</a> , <a href="#">S.4319</a> , <a href="#">S.4320</a> , <a href="#">S.4321</a> , <a href="#">S.4322</a> , <a href="#">S.4323</a> , <a href="#">S.4324</a> Health, Economic Assistance, Liability protection and Schools (HEALS) Act	Various Sen. GOP Leadership	\$1 trillion COVID-19 package, which consists of eight individual bills with elements of the relief bundle. Includes: Liability protections; Unemployment insurance, direct payments, health, and tax credits; Business meals deduction; Emergency appropriations; Small business aid programs; Childcare and health program; Trust fund solvency; Supply chain, intellectual property, and stockpiles	Pending in the Senate.
COVID Response	<a href="#">H.R.7010</a> Paycheck Protection Program Flexibility Act	Rep. Dean Phillips (86 cosponsors)	The legislation is intended to provide PPP loan borrowers with more flexibility with how they use their loans by: Extending the expense forgiveness period from 8 weeks to 24 weeks, Reducing the 75% payroll ratio requirement to 60%, Eliminating 2-year loan repayment restrictions for future borrowers, Allowing payroll tax deferment for PPP recipients, Extending the June 30 rehiring deadline to December 31, 2020 (with certain exceptions)	Signed into law on 6/5/20.

COVID Response	<a href="#">S.4116</a> PPP Application Extension Act	Sen. Ben Cardin (5 cosponsors)	The bill extends through August 8, 2020, the application period for the Paycheck Protection Program.	Signed into law on 7/04/20.
COVID Response	<a href="#">H.R.8265</a> To Amend the Small Business Act and the CARES Act to Establish a Program for Second Draw Loans and Make Other Modifications to the Paycheck Protection Program	Rep. Steve Chabot (66 cosponsors)	The bill would extend the Paycheck Protection Program (PPP) and Offer qualifying businesses with 300 or fewer employees per location and a 25% revenue reduction a second draw at PPP loans from the remaining \$130 billion in PPP funds. It would require that second draw loans must be used on at least 60% payroll. The bill would also provide streamlined forgiveness of PPP loans of \$150,000 or less and enable 501(c)(6) organizations to access PPP loans.	The bill is pending for consideration in the House Small Business and Judiciary Committees. Rep. Jaime Herrera Beutler (R-WA) filed a <a href="#">discharge petition</a> on 9/25/20 to attempt to compel a vote on the bill in the House.  IWLA is supporting the discharge petition effort.
COVID Response	<a href="#">H.R.7011</a> Pandemic Risk Insurance Act (PRIA)	Rep. Carolyn Maloney (25 cosponsors)	Creates a Pandemic Risk Reinsurance Program that would establish a system of shared public and private compensation for business interruption losses resulting from future pandemics or public health emergencies. Insurers would voluntarily be able to participate in the program	Pending in the House Financial Services Committee
COVID Response	<a href="#">S.3915</a> Protecting Reopening Businesses Recovering from COVID-19 Act	Sen. Kelly Loeffler	Protect businesses and health care providers who take appropriate health measures from being held liable for customers or employees who contract COVID-19.	Pending in the Senate Judiciary Committee
COVID Response	<a href="#">S.3677/H.R.6559</a> COVID-19 Every Worker Protection Act	Sen. Tammy Baldwin/Rep. Bobby Scott (37 Senate & 120 House cosponsors)	Requires DOL to promulgate both an emergency temporary occupational safety or health standard and a permanent standard to protect certain employees from occupational exposure to the COVID-19.	Pending in the Sen. Health, Ed, Labor, & Pensions Committee and pending in the House Education & Labor and Energy & Commerce Committees.

COVID Response	<a href="#">H.R.6776</a> Jumpstarting Our Businesses' Success (JOBS) Credit Act	Rep. Stephanie Murphy (25 cosponsors)	Expands the employee retention tax credit created under the CARES Act. Currently, the law grants businesses a tax credit of up to \$5,000/employee for the rest of the year. The bill would increase the credit percentage from 50% to 80% and the limit from \$10,000 for all quarters to \$15,000 per quarter and allow state and local gov employers to claim the credit if they retain employees.	Pending in the House Ways & Means and Small Business Committees.
COVID Response	<a href="#">S.3728</a> Critical Infrastructure Employee Protection Act of 2020	Sen. Roger Wicker (4 cosponsors)	Requires the DOT to support jurisdictions in providing (1) priority COVID-19 testing for essential critical infrastructure employees; and (2) priority access to personal protective equipment, sanitizers, face coverings, and health-related or protective supplies necessary to safely perform essential critical infrastructure work. (Essential critical infrastructure employees include, but are not limited to, transportation and logistics)	Pending in the Sen. Commerce, Science, and Transportation Committee.
<b>Chemicals and Dangerous Goods</b>	<a href="#">S.4148</a> A bill to extend the Chemical Facility Anti-Terrorism Standards Program of the DHS	Sen. Ron Johnson (5 cosponsors)	Extends the reauthorization of the CFATS program for 3 years until July 27, 2023.	Signed into law on 7/22/20.
Labor	<a href="#">S.270/H.R.7</a> Paycheck Fairness Act	Sen. Patty Murray/Rep. Rosa DeLauro (46 Senate and 239 House cosponsors)	Amends the Equal Pay Act of 1963 to require employers to demonstrate that wage differences are based on factors other than sex, prohibits retaliation against workers who inquire about their employers' wage practices or disclose their own wages, allows comparisons between employees within clearly defined geographical areas to determine fair wages, strengthens penalties for equal pay violations, and directs the DOL to collect wage-related data.	Pending in the Sen. Health, Ed, Labor, & Pensions Committee and passed by the House 242 – 187.

Labor	<a href="#">S.150/H.R.582</a> Raise the Wage Act	Sen. Bernie Sanders/Rep. Bobby Scott (32 Senate & 205 House cosponsors)	Increases the minimum wage to \$8.55/hour with set yearly increases of approximately \$1.30/hour to reach \$15/hour five years after the Act's effective date. After that, the minimum wage would increase based on an annual percentage increase, if any, in the median hourly wage of all employees as determined by the Bureau of Labor Statistics.	Pending in the Sen. Health, Ed, Labor, & Pensions Committee and passed by the House 231 – 199.
Labor	<a href="#">H.R.122</a> Original Living Wage Act	Rep. Al Green	Amends the Fair Labor Standards minimum wage requirements to set the \$/hour rate to not be lower than an amount determined by the DOL to be sufficient for a person working 40 hours/week, 52 weeks/year, to earn an annual income that is 25.5 percent higher than the federal poverty threshold for a family of four.	Pending in the House Education & Labor Committee
Labor	<a href="#">S.840/H.R.1784</a> Healthy Families Act	Sen. Patty Murray/Rep. Rosa DeLauro (33 Senate & 161 House cosponsors)	Would allow workers at businesses with at least 15 employees to earn up to 56 hours, or seven days, of paid sick leave each year. This leave could be used when workers are ill, to care for a sick family member, seek preventive medical care, or seek assistance related to domestic violence, stalking, or sexual assault.	Pending in the Sen. Health, Ed, Labor, & Pensions Committee and pending in the House Education & Labor, Administration, and Oversight & Government Reform Committees.

<p>Labor</p>	<p><a href="#">S.4738/H.R.8375</a> Worker Flexibility and Small Business Protection Act</p>	<p>Sen. Patty Murray/Rep. Rosa DeLauro (1 Senate cosponsor)</p>	<p>The legislation would:</p> <ul style="list-style-type: none"> <li>- Codify California’s “ABC test” for contractors federally</li> <li>- Expand joint-employer tests federally and extend liability to certain owners/officers;</li> <li>- Create a “standalone violation” for incorrectly classifying a worker as an independent contractor;</li> <li>- Require temps to be paid the same as “direct” employees and that temps be converted to “direct” employees after 1 year;</li> <li>- Amend the FLSA to include a “private attorneys general” provision;</li> <li>- Require an employer with 100+ employees to file with the DOL a “supply chain responsibility plan” describing its processes for ensuring that its suppliers and vendors do not violate labor laws in U.S. and abroad;</li> <li>- Require an employer to publicly post on its website and main entryways its labor and employment law compliance record and “rating” over the last three years.</li> </ul>	<p>Pending in the Sen. Health, Ed, Labor, &amp; Pensions Committee and pending in the House Education &amp; Labor, Administration, and Oversight &amp; Government Reform Committees.</p>
<p>Labor</p>	<p><a href="#">S.1306/H.R.2474</a> Protecting the Right to Organize (PRO) Act of 2019</p>	<p>Sen. Patty Murray/Rep. Bobby Scott (41 Senate &amp; 218 House cosponsors)</p>	<p>Codifies the Obama-era joint-employer standard into law, bans right-to-work laws, forces union representation without an election, and undermines independent contractor status.</p>	<p>Pending in the Sen. Health, Ed, Labor, &amp; Pensions Committee and passed by the House 224 – 194.</p>
<p>Labor</p>	<p><a href="#">S.485/H.R.1230</a> Protecting Older Workers Against Discrimination Act</p>	<p>Sen. Bob Casey/Rep. Bobby Scott (3 Senate &amp; 91 House cosponsors)</p>	<p>Amends the Age Discrimination in Employment Act to allow for “mixed-motive” claims of an unlawful employment practice, where it can be established that age was a motivating factor for any unlawful practice.</p>	<p>Pending in the Sen. Health, Ed, Labor, &amp; Pensions Committee and passed by the House 261 – 155.</p>

Labor	<a href="#">H.R.1443</a> Ending Forced Arbitration of Sexual Harassment Act of 2019	Rep. Cheri Bustos (15 cosponsors)	Prohibits a pre-dispute arbitration agreement from being valid or enforceable if it requires arbitration of a sex discrimination dispute.	Pending in the House Judiciary Committee
Labor	<a href="#">S.610/H.R.1423</a> Forced Arbitration Injustice Repeal (FAIR) Act	Sen. Richard Blumenthal/Rep. Hank Johnson (38 Senate & 222 House cosponsors)	Prohibits pre-dispute, forced arbitration agreements from being valid or enforceable if it requires forced arbitration of an employment, consumer, or civil rights claim against a corporation.	Pending in the Senate Judiciary Committee and passed by the House 225 – 186.
Labor	<a href="#">S.1491/H.R.2749</a> Restoring Justice for Workers Act	Sen. Patty Murray/Rep. Jerry Nadler (19 Senate & 58 House cosponsors)	Overrules the 2018 Supreme Court decision in Epic Systems v. Lewis by prohibiting forced arbitration clauses in employment contracts and prohibiting employers from requiring employees to waive their right to engage in joint, class, or collective legal action.	Pending in the Sen. Health, Ed, Labor, & Pensions Committee and pending in the House Education & Labor, and Judiciary Committees.
Workforce	<a href="#">H.R.654</a> Investing in Tomorrow's Workforce Act of 2019	Rep. Anthony Brown (4 cosponsors)	Creates an employer tax credit for qualified training expenses for non-highly compensated employees. The credit would be for 40% of high-demand occupation training expenses and 20% for low-demand occupation training expenses.	Pending in the House Ways & Means Committee
Workforce	<a href="#">S.839/H.R.3497</a> JOBS Act	Sen. Tim Kaine/Rep Cedric Richmond (25 Senate & 74 House cosponsors)	Expands Pell Grant eligibility to cover short-term job training programs. Current law only allows Pell Grants to be applied toward programs that are over 600 clock hours or at least 15 weeks in length.	Pending in the Sen. Health, Ed, Labor, and Pensions Committee and pending in the House Education & Labor Committee
Workforce	<a href="#">H.R. 625</a> PROPEL Act	Rep. Rob Wittman (3 cosponsors)	Expands Pell Grant eligibility to short term programs of education at trade schools that consist of on-job/vocational/apprenticeship training and does not require the program to lead to an educational credential.	Pending in the House Education & Labor Committee

Workforce	<a href="#">S. 3303/</a> <a href="#">H.R. 5118</a> Promoting Service in Transportation Act	Sen. Gary Peters/ Rep. Rick Larsen (4 Senate & 17 House cosponsors)	The bill authorizes funding for the DOT to create and carry out a 5-year public awareness campaign to highlight career opportunities in the transportation sector.	Approved by the Sen. Commerce, Science, and Transportation Committee and Pending in the House Transportation & Infrastructure Committee
Infrastructure	<a href="#">S.2302</a> America's Transportation Infrastructure Act of 2019	Sen. John Barrasso (4 cosponsors)	Authorizes \$287 billion from the Highway Trust Fund over five years to maintain and repair the U.S. surface transportation network.	Voted favorably out of the Senate Environment and Public Works Committee
Infrastructure	<a href="#">H.R. 2</a> Moving Forward Act	Rep. Peter DeFazio (129 cosponsors)	Authorizes a broad \$1.5 trillion infrastructure package. Includes around \$500 billion in funding for highways and highway safety. Includes many House Democratic priorities.	Passed by the House and pending in the Senate
Infrastructure	<a href="#">H.R.2864</a> The Rebuild America Act of 2019	Rep. Earl Blumenauer	Would increase the federal motor fuels tax for the first time since 1993 by 5 cents a year starting in 2020. In 2023 the federal gas tax would rise to 43.3 cents/gallon and the federal diesel tax would increase to 49.3 cents/gallon. After 2024, the tax would increase based on inflation.	Pending in the House Ways & Means Committee
Infrastructure	<a href="#">S. 146/H.R. 1508</a> Move America Act of 2019	Sen. John Hoeven/ Rep. Earl Blumenauer (1 Senate & 5 House cosponsors)	Would create America Bonds to expand tax-exempt financing for public-private partnerships (P3) and Move America Credits to leverage additional private equity investment at a lower cost for states. Qualifying projects eligible for a tax exemption include airports, ports, transit, freight and passenger rail, roads, bridges, and facilities for the transfer of freight from truck to rail or rail to truck (including any temporary storage facilities directly related to such transfers) which is eligible for Federal assistance under either title 23 or title 49, of the U.S. Code.	Pending in the Senate Finance Committee and Pending in the House Ways & Means Committee



Infrastructure	<a href="#">H.R. 180</a> Build America Act of 2019	Rep. Alcee Hastings (12 cosponsors)	Provides for investment in various infrastructure projects, creates a National Infrastructure Investment Trust Fund, and would raise the federal gas and diesel taxes to 53.3 cents and 59.3 cents, respectively.	Pending in the House Transportation & Infrastructure and Ways & Means Committees
Transportation	<a href="#">S.569/H.R.1374</a> DRIVE Safe Act	Sen. Todd Young/Rep. Trey Hollingsworth (35 Senate & 144 House cosponsors)	Creates a path for drivers under 21 to obtain an interstate commercial driver's license. The bill requires driver apprentices to complete two probationary periods.	Pending in the Senate Commerce, Science, & Transportation Committee and pending in the House Transportation & Infrastructure Committee.
Transportation	<a href="#">S.2894</a> Federal Maritime Commission National Shipper Advisory Committee Act	Sen. Roger Wicker	Establishes a committee to advise the Federal Maritime Commission (FMC) on policies related to the competitiveness, reliability, integrity, and fairness of the international ocean freight delivery system.	Passed by the Senate Commerce, Science, & Transportation Committee and pending before the full Senate.
Multi-Employer Pension Reform	<a href="#">H.R.397</a> Rehabilitation for Multiemployer Pensions Act of 2019	Rep. Richard Neal (209 cosponsors)	Would establish the Pension Rehabilitation Administration within the Dept. of the Treasury and a related trust fund to make loans to certain multiemployer defined benefit pension plans.	Passed by the House 264 – 169, and pending in the Senate.
Multi-Employer Pension Reform	<a href="#">S.2254</a> Butch Lewis Act of 2019	Sen. Sherrod Brown (39 cosponsors)	Would establish the Pension Rehabilitation Administration within the Dept. of the Treasury and a related trust fund to make loans to certain multiemployer defined benefit pension plans.	Pending in the Senate Finance Committee
Multi-Employer Pension Reform	Legislation Pending		The Joint Select Committee on the Solvency of Multiemployer Pension Plans is charged with proposing a legislative solution to address the underfunding of multiemployer pension plans.  The Committee failed to propose a solution by their Nov. 30, 2018 deadline but continues to work on the issue.	Pending. The Joint Select Committee on the Solvency of Multiemployer Pension Plans has held five hearings on the subject since its formation.

Tariffs	<a href="#">S.2409/H.R.764</a> U.S. Reciprocal Trade Act	Sen. Lindsey Graham/Rep. Sean Duffy (1 Senate & 27 House cosponsors)	Would extend the executive branch's authority to unilaterally increase tariffs as a response to other countries' tariff and non-tariff policies. The executive branch would be able to alter tariffs levels on specific products it sees as being unbalanced, instead of broad classifications (e.g., car or truck tariffs vs. automobile tariffs).	Pending in the Senate Finance Committee and Pending in the House Ways & Means and Rules Committees.
Tariffs	<a href="#">S.287/H.R.940</a> Bicameral Congressional Trade Authority Act of 2019	Sen. Pat Toomey/Rep. Mike Gallagher (19 Senate & 32 House cosponsors)	Would require Congressional approval of tariffs imposed on national security grounds under Section 232 of the Trade Expansion Act of 1962. The approval requirement would apply to all future 232 actions, as well as those taken within the last four years.	Pending in the Sen. Finance Committee and Pending in the House Ways & Means and Rules Committees
Tariffs	<a href="#">S.365/H.R.1008</a> Trade Security Act	Sen. Rob Portman/Rep. Ron Kind (9 Senate & 18 House cosponsors)	Reforms the use of Section 232 national security tariffs. The DOD would lead the investigation phase and justify the national security basis for new Section 232 tariffs, with the Commerce Department leading the remedy phase. Would allow Congress to pass a joint resolution of disapproval for all future Section 232 actions.	Pending in the Sen. Finance Committee and Pending in the House Ways & Means and Rules Committees
Trade	<a href="#">H.R. 5430</a> United States-Mexico-Canada Agreement Implementation Act	Rep. Steny Hoyer (1 cosponsor)	Legislation implementing the <a href="#">United States-Mexico-Canada Agreement (USMCA)</a> , a renegotiation of the North American Free Trade Agreement (NAFTA).	Signed into law 1/31/20
Tax	<a href="#">S. 1149/H.R. 216</a> Main Street Tax Certainty Act	Sen. Steve Daines/Rep. Jason Smith (3 Senate & 55 House cosponsors)	Makes permanent the tax deduction for qualified business income. Under current law, the deduction expires after December 31, 2025.	Pending in the Senate Finance Committee and pending in the House Ways & Means Committee

Issue	Regulation	Agency	Summary	Status
COVID Response – Transportation Safety	Hours of Service of Drivers Expanded Emergency Declaration	FMCSA	The expanded national emergency declaration provides hours-of-service regulatory relief to commercial vehicle drivers transporting emergency relief in response to the COVID-19 outbreak.	The expanded national emergency declaration <a href="#">extended</a> on September 11, 2020, and lasts through December 31, 2020.
COVID Response – Workforce	Guidance on the Essential Critical Infrastructure Workforce	DHS	The DHS Cybersecurity and Infrastructure Security Agency (CISA) list identifies industries, such as transportation and logistics, that are essential to the viability of critical infrastructure. The list is intended to guide jurisdictions considering COVID-19-related restrictions. The list is advisory, not a federal directive or standard.	<a href="#">Updated Guidance</a> Published on April 17, 2020
COVID Response – Workforce	CDL Waiver in Response to the COVID-19 Emergency	FMCSA	Waives certain regulations applicable to interstate and intrastate commercial driver's license (CDL) and commercial learner's permit (CLP) holders and to other interstate drivers operating commercial motor vehicles (CMVs). The action was taken in response to COVID-19.	FMCSA <a href="#">issued the waiver</a> on March 24, 2020.
Labor Management	Ambush Elections <a href="#">Docket ID: NLRB-2019-0001-0001</a>	NLRB	Changes the union election rules to require at least 14 days from the time of petition to the pre-election hearing. Elections could not take place fewer than 20 business days after the NLRB regional director issues his or her direction of election.	<a href="#">Final Rule</a> . Issued on 4/1/20, to be effective on 6/1/20. Effective date extended to July 31 due to COVID.  U.S. District Court issued a <a href="#">decision</a> on 5/30/20 vacating many of the rules changes, arguing that the NLRB did not follow procedure by not published a NPRM. NLRB is considering next steps. The rule is currently not in effect.

<p>Labor Management</p>	<p>Union Elections: Voter List Contact Info; Absentee Ballots for Employees on Military Leave <a href="#">Docket ID: NLRB-2020-0004</a></p>	<p>NLRB</p>	<p>Would eliminate the requirement that employers provide available personal email addresses and home and personal cellular telephone numbers of all eligible voters to the Regional Director and other parties during a union election campaign.</p>	<p>Notice and Request for Comments on <a href="#">Proposed Rule</a> published on 7/29/20.</p>
<p>Labor Management</p>	<p>Persuader Rule <a href="#">Docket ID: LMSO-FRDOC-0001</a></p>	<p>DOL</p>	<p>If implemented, the DOL's new rule would require employers and consultants to report and disclose direct or indirect communications that have an objective to persuade employees with regard to union organizing – Including what was formerly considered exempt "advice" provided to management by consultants, including lawyers.</p>	<p><a href="#">Final Rule</a>. On 7/18/18, DOL rescinded the 2016 rule, to be effective as of 8/17/18. The DOL clarified that the reporting requirements would revert to those that existed before the new rule.</p>
<p>Labor Management</p>	<p>Overtime Revisions <a href="#">Docket ID: WHD-2019-0001</a></p>	<p>DOL</p>	<p>Raises the salary threshold for overtime eligibility from \$455 per week (which amounts to \$23,660 annually) to \$684 per week (\$35,568 annually), with no automatic adjustments to the salary threshold. Increases the total annual compensation requirement for "highly compensated employees" (HCE) from the \$100,000 to \$147,000 per year.</p>	<p><a href="#">Final Rule</a>. Effective on 1/1/2020. On 8/31/17, a federal judge in TX struck down the federal overtime rule. On 9/27/19 DOL published final revisions to the overtime rule. IWLA signed on to a joint comment letter submitted by the Partnership to Protect Workplace Opportunity.</p>
<p>Labor Management</p>	<p>Joint Employer Status Under the Fair Labor Standards Act <a href="#">Docket ID: WHD-2019-0003</a></p>	<p>DOL</p>	<p>Proposes a four-factor test derived from <i>Bonnette v. California Health &amp; Welfare Agency</i> to determine joint-employer status under the FLSA. The DOL's test would assess whether the potential joint employer:</p> <ul style="list-style-type: none"> <li>- Hires or fires the employee;</li> <li>- Supervises and controls the employee's work schedule or conditions of employment;</li> <li>- Determines the employee's rate and method of payment; and</li> <li>- Maintains the employee's employment records.</li> </ul>	<p><a href="#">Final Rule</a>. Effective on 3/16/20. On 1/16/20, the DOL published final revisions and clarifications on the responsibilities of employers and joint employers to employees in joint employer arrangements. IWLA submitted comments and requested changes, which were incorporated into the final rule.</p> <p>On 9/8/20, the U.S. District Court for the Southern District of New York <a href="#">struck down</a> essential elements of the rule. DOL may now appeal the decision, or attempt to revise the rule.</p>

Labor Management	Regular Rate Under the Fair Labor Standards Act <a href="#">Docket ID: WHD-2019-0002</a>	DOL	Clarifies overtime regulations to confirm that employers may exclude certain benefits from an employee's regular rate of pay. Examples include wellness programs, payments for unused paid leave, reimbursed expenses, discretionary bonuses, benefit plans, and tuition programs.	<a href="#">Final Rule</a> . Effective on 1/15/20. On 12/16/19 the DOL published a final rule to clarify and update regular rate requirements under the FLSA.
Labor Management	Joint Employer <a href="#">Docket ID: NLRB-2018-0001</a>	NLRB	Clarifies that an employer may be found to be a joint-employer of another employer's employees only if it possesses and exercises substantial, direct and immediate control over the essential terms and conditions of employment and has done so in a manner that is not limited and routine. Indirect influence and contractual reservations of authority would no longer be sufficient to establish a joint-employer relationship under the NLRA.	<a href="#">Final Rule</a> . Issued on 2/26/20, the NLRB's final rule is effective as of 4/27/20. IWLA's comments were noted and reflected in the final rule
Labor Management	Specialty Healthcare	NLRB	Allows a labor union to form micro bargaining units within the workplace.	On 12/15/17, the NLRB issued a ruling overturning the <i>Specialty Healthcare</i> decision. The decision reinstated the previous standard that employees have to share an "overwhelming community of interests" to be an appropriate bargaining unit.
Labor Management	Independent Contractor Status Under the Fair Labor Standards Act <a href="#">Docket ID: WHD-2020-0007</a>	DOL	Revises the interpretation of independent contractor status under the FLSA to offer clarity on determining whether a worker is an employee or an independent contractor. Adopts an "economic reality" test and identifies "core factors" to provide legal certainty for employers.	Notice and Request for Comments on <a href="#">Proposed Rule</a> published on 9/25/20.

Workplace Health & Safety	Illness and Injury Reporting <a href="#">Docket ID: OSHA-2013-0023</a>	OSHA	Rescinds the requirement for employers with 250 or more employees to electronically submit information from OSHA Forms 300 and 301. Employers still need to keep on-site records, report severe injuries, and submit information from their Form 300A. Also adds a requirement for employers to submit their Employer Identification Number (EIN) electronically along with their injury and illness data submission.	<a href="#">Final Rule</a> . Effective on February 25, 2019. IWLA signed on to a joint comment letter submitted by the Coalition for Workplace Safety.
Workplace Health & Safety	Electronic Logging Devices (ELDs) <a href="#">Docket ID: FMCSA-2010-0167</a>	FMCSA	The rule mandates the use of ELDs for drivers and carriers that are required to maintain records of duty status data. An ELD synchronizes with a vehicle engine to automatically record driving time, for easier, more accurate hours of service recording.	<a href="#">Final rule</a> . Carriers & drivers who are using paper logs or logging software were required to transition to ELDs no later than 12/18/17. Carriers and drivers who use automatic onboard recording devices before the compliance date must transition to ELDs no later than 12/16/19. Some temporary exemptions have been granted.
Workplace Health & Safety	Meal & Rest Break Requirements <a href="#">Docket ID: FMCSA-2018-0304</a>	FMCSA	The American Trucking Association submitted a petition for determination of preemption of California's meal & rest break provisions, which require employers to provide employees with a 30-minute break every 5 hours and a 10-minute break approximately every 4 hours.	The FMCSA issued a <a href="#">final order</a> granting the petition for determination of preemption of California's meal & rest break provisions. The order prevents states from implementing meal & rest break rules that exceed federal requirements.

<p>Transportation Safety</p>	<p>Hours of Service of Drivers  <a href="#">Docket ID: FMCSA-2018-0248</a></p>	<p>FMCSA</p>	<p>Revises existing Hours of Service (HOS) rules for drivers of CMVs to:</p> <ul style="list-style-type: none"> <li>- expand the short-haul exception to 150 air-miles and allows a 14-hour work shift to take place as part of the exception;</li> <li>- expand the driving window during adverse driving conditions by up to an additional 2 hours;</li> <li>- requires a 30-minute break after 8 hours of driving time (instead of on-duty time) and allows an on-duty/not driving period to qualify as the required break; and</li> <li>- modify the sleeper berth exception to allow a driver to meet the 10-hour min off-duty requirement by spending at least 7, rather than at least 8 hours of that period in the berth and a minimum off-duty period of at least 2 hours spent inside or outside of the berth, provided the two periods total at least 10 hours, and that neither qualifying period counts against the 14-hour driving window.</li> </ul>	<p><a href="#">Final rule</a> issued on 5/14/20, effective 9/29/20.</p>
<p>Transportation Safety</p>	<p>Hours of Service of Drivers; Pilot Program to Allow Drivers to Pause Their 14-Hour Driving Window  <a href="#">Docket ID: FMCSA-2020-0098</a></p>	<p>FMCSA</p>	<p>Would allow additional hours of service (HOS) regulatory relief by allowing participants to pause their on-duty driving period with one off-duty period up to three hours. The off-duty break would need to be for at least 30 minutes, but not more than three hours, and would pause a truck driver's 14-hour driving window, provided the driver takes 10 consecutive hours off-duty at the end of the work shift. The pilot would be limited to a select pool of commercial driver's license (CDL) holders and would be scheduled to operate for three years or less.</p>	<p>Notice and Request for Comments on <a href="#">Proposed Pilot Program</a> published on 9/3/20.</p>

<p><b>Transportation</b></p>	<p>National Freight Strategic Plan  <a href="#">Docket ID: DOT-OST-2019-0184</a></p>	<p>DOT</p>	<p>The Fixing America's Surface Transportation (FAST) Act required DOT to develop a <a href="#">National Freight Strategic Plan</a> (NFSP) that includes eleven statutorily required components to address multimodal freight transportation.</p> <p>The DOT intends for the NFSP to detail how freight infrastructure and operations can be modernized to grow the economy, increase competitiveness, and plan to prepare for the future by supporting the development of data, technologies, and workforce capabilities that improve freight system performance.</p>	<p><a href="#">Request for Information</a> published on 12/27/19. IWLA submitted <a href="#">comments</a>.</p> <p>DOT <a href="#">published</a> the NFSP on 9/3/20.</p>
<p>Transportation</p>	<p>Driver Detention  <a href="#">Docket ID: FMCSA-2019-0054</a></p>	<p>FMCSA</p>	<p>Federal Motor Carrier Safety Administration's (FMCSA) Request for Information on existing or potential sources of data to better understand driver detention times during the loading and unloading of commercial motor vehicles.</p>	<p>Request for information published on June 10, 2019. IWLA submitted <a href="#">comments</a>.</p>
<p><b>Counterfeit Goods</b></p>	<p><a href="#">Combating Trafficking in Counterfeit and Pirated Goods</a></p>	<p>DHS</p>	<p>DHS is pursuing new regulations enabling Customs and Border Protection (CBP) to treat domestic warehouses and fulfillment centers as the ultimate consignee for any good that has not been sold to a specific consumer at the time of its importation. Facilities owners would be responsible for proactively notifying CBP, complying with CBP orders and destroying such goods, if found. Noncompliance could trigger legal action.</p>	<p>DHS issued a <a href="#">report</a> to the president on 1/27/20. This was in part based on responses to a <a href="#">comment request</a> issued on 7/10/19 on curbing counterfeit goods trafficking.</p> <p>IWLA is in active discussions with DHS and CBP officials to provide guidance in policy change implementation and in ongoing enforcement actions. IWLA met with U.S. CBP officials in September 2020 to review the report and explain the unique role of 3PL warehouses in the eCommerce marketplace.</p> <p>Regulatory actions are expected to be forthcoming, but CBP is still in the early phases of implementation.</p>



<p>Trade Enforcement</p>	<p>Section 321, "De Minimis," Imports <a href="#">CROSS: H290219</a></p>	<p>CBP</p>	<p>Under Section 321, imported articles with a value of \$800 or less imported by one "person" on one day, "de minimis" imports, can be entered into the US with very little formality and no duty-payment.</p> <p>According to the ruling, When de minimis imported merchandise is made by a non-resident importer and the product has not been sold to a US consumer, CBP will consider the consignee (likely the US warehouse or fulfillment center) to be the "person" for purposes of determining CBP eligibility. To the extent the warehouse is the consignee of multiple low value imported shipments in one day, those shipments are not eligible to enter the US under the Section 321 procedures, and a formal Customs entry would need to be filed by the importer.</p> <p>To avoid having the warehouse be considered the Section 321 "person," the name of the foreign seller or US purchaser to be provided as the consignee "in care of" the domestic warehouse.</p>	<p>The administrative ruling went into effect on 7/28/20 and was published in the Customs Rulings Online Search System (CROSS) on 7/31/20.</p>
<p>Drug Supply Chain</p>	<p><a href="#">Federal Licensure Standards for 3PLs</a></p>	<p>FDA</p>	<p>The DSCSA requires FDA to set national licensing standards for 3PLs.</p>	<p>The IWLA is working with FDA to restore some level of uniformity to state licensing. IWLA sent a letter to the FDA on 9/28/18, reiterating the need for federal licensure standards and requesting interim guidance. A notice of proposed rulemaking was expected in January 2020 based on the Fall 2019 HHS regulatory agenda but has yet to be issued.</p>

Workforce	Pilot Program to Allow Drivers Under 21 to Operate CMVs in Interstate Commerce <a href="#">Docket ID: FMCSA-2018-0346-0001</a>	FMCSA	Initially requested comments on the training, qualifications, driving limitations, and vehicle safety systems that FMCSA should consider in developing options or approaches for a pilot program for under 21 CMV interstate drivers.  On 9/10/20 a request for comments was issued on a <a href="#">proposed pilot</a> FMCSA developed in part based on responses to initial RFC.	Request for Comments (RFC) issued 5/15/2019. On 7/17/19 the comments submission deadline was extended to 8/14/19. IWLA submitted <a href="#">comments</a> .  <a href="#">RFC on proposed pilot</a> issued 9/10/20 with comments due 11/9/20.
Workforce	Pilot Program to Allow Drivers Under 21 with Military Driving Experience to Operate CMVs in Interstate Commerce <a href="#">Docket ID: FMCSA-2016-0069</a>	FMCSA	Would broaden the <a href="#">pilot program</a> that allows under-21 year-olds with military driving experience to operate CMV's in interstate commerce. The proposal would expand the military occupational specialties (MOS) eligible to participate in the program beyond the current scope.	<a href="#">RFC on proposed pilot</a> issued 10/9/20 with comments due 11/9/20.
Environment	Management Standards for Hazardous Waste Pharmaceuticals <a href="#">Docket ID: EPA-HQ-RCRA-2007-0932</a>	EPA	Establishes a sector-specific regulatory framework for managing hazardous waste pharmaceuticals at healthcare facilities and reverse distributors of pharmaceuticals. Addresses concerns about the sewerage of hazardous waste pharmaceuticals and the need for safe disposal of pharmaceutical waste.	<a href="#">Final Rule</a> . Effective on 8/21/19. IWLA submitted comments to EPA expressing concerns re: the proposed rule's unintended effect of redefining and reconfiguring the relationships between various participants in the pharmaceutical supply chain in a way that is counterproductive to EPA's public health goals and potentially disruptive to a very secure drug supply chain.
Environment	Control of Air Pollution from New Motor Vehicles: Heavy-Duty Engine Standards <a href="#">Docket ID: EPA-HQ-OAR-2019-0055</a>	EPA	This action will potentially evaluate data on current NOx emissions from heavy-duty vehicles and engines, and options available to improve control of all criteria pollutant emissions through revised emissions standards. Additionally, this action may evaluate ways to streamline existing requirements.	<a href="#">Advanced Notice of Proposed Rulemaking</a> published 1/21/2020, Notice of Proposed Rulemaking expected 6/2020

Chemicals and Dangerous Goods	Process Safety Management (PSM) Standard	OSHA	Under President Obama’s Executive Order 13650, “Improving Chemical Facility Safety and Security,” OSHA was charged with “identifying issues related to the modernization of the PSM Standard and related standards necessary to meet the goal of preventing major chemical accidents.”	OSHA issued a <a href="#">PSM guidance document</a> for storage facilities in April 2017.
Chemicals and Dangerous Goods	Risk Management Program (RMP) <a href="#">Docket ID: EPA-FRDOC-0001-21614</a>	EPA	EPA modeled RMP regulation after OSHA’s PSM Standard. EPA will consider modifications to the current RMP regulations to reduce the likelihood of accidental releases at chemical facilities and improve emergency response activities when those releases occur.	<p>On 8/17/18, D.C., the U.S. Circuit Court of Appeals issued a decision vacating the EPA’s June 2017 rule that delayed the effective date of the final RMP Amendments until 2/19/19. On 9/21/18, D.C. U.S. Circuit Court of Appeals issued its mandate, which makes the 2017 RMP Amendments rule now effective.</p> <p>EPA’s <a href="#">Final Rule</a> in December 2018 upholds the U.S. Circuit Court’s decision to make the RMP Amendments effective.</p> <p>EPA is awaiting White House approval for a new rule for the RMP program.</p>

Food Safety Modernization Act	Preventive Controls for Human & Animal Food <a href="#">Docket ID: FDA-2011-N-0920</a>	FDA	The rule adds new preventive controls provisions as required by FSMA; and updates and revises specific requirements in the existing CGMP.	<a href="#">Final Rule</a> : 500+ employees: compliance by 9/19/16. Less than 500 employees: compliance by 9/19/17. Less than \$1 million annually: compliance by 9/17/18.  To assist industry with compliance, the FDA published <a href="#">draft guidance</a> on 10/22/18, with comments due 4/22/19. FDA has announced it is also developing further guidance on the animal food preventative controls provision.
Food Safety Modernization Act	Foreign Supplier Verification Programs for Importers of Food for Humans and Animals <a href="#">Docket ID: FDA-2011-N-0143</a>	FDA	The final rule requires that importers perform certain risk-based activities to verify that food imported into the U.S. has been produced in a manner that meets applicable U.S. safety standards.	<a href="#">Final Rule</a> : Compliance began 5/30/17. FDA published <a href="#">a list of records</a> required by the FSVP regulation.
Food Safety Modernization Act	Sanitary Food Transportation <a href="#">Docket ID: FDA-2013-N-0013</a>	FDA	The FDA's rule requires those who transport food to use sanitary transportation practices to ensure the safety of food.	<a href="#">Final Rule</a> : Compliance began 4/6/17.
Food Safety Modernization Act	Requirements for Additional Traceability Records for Certain Foods <a href="#">Docket ID: FDA-2014-N-0053</a>	FDA	Establishes additional traceability recordkeeping requirements for persons who manufacture, process, pack, or hold foods the FDA has designated for inclusion on the <a href="#">Food Traceability List</a> . Supply participants would be required to establish and maintain records containing Key Data Elements (KDEs) associated with different Critical Tracking Events (CTEs). The proposed requirements only apply to foods on the FTL but are suitable for all FDA-regulated products.	<a href="#">Proposed rule</a> published on 9/23/20 with comments due by 1/21/20.

<p>Food Safety Modernization Act</p>	<p>Mitigation Strategies to Protect Food Against Intentional Adulteration <a href="#">Docket ID: FDA-2013-N-1425</a></p>	<p>FDA</p>	<p>The FSMA IA rule is designed to address hazards that may be intentionally introduced to foods, including acts of terrorism, with the intent to cause wide-scale public health harm. Food facilities covered by the rule are required to develop and implement a food defense plan that identifies vulnerabilities and puts in place mitigation strategies to address those vulnerabilities.</p>	<p><a href="#">Final Rule</a>: Compliance dates are being phased in depending on business size. The <a href="#">compliance date</a> for small businesses (those with fewer than 500 employees) is 7/27/20.</p> <p>FDA <a href="#">announced</a> on 7/15/20 that routine inspections of small businesses to verify compliance with the IA would begin in March 2021, in large part due to the COVID-19 situation.</p>
<p>Organic Product Supply Chain</p>	<p>Strengthening Organic Enforcement <a href="#">Docket ID: AMS-NOP-17-0065</a></p>	<p>USDA</p>	<p>Amends the USDA organic regulations to strengthen oversight and enforcement of the production, handling, and sale of such products. Defines Organic Importer of Record to be “the operation responsible for accepting imported organic products within the U.S.,” but proposes exemptions for “an operation that only stores, receives, and/or loads agricultural products, but does not process or alter such agricultural products.”</p>	<p>Proposed rule issued on 8/5/20 with comments due 10/5/20. IWLA submitted <a href="#">comments</a>.</p>

<p>Rail Demurrage</p>	<p>Demurrage Billing Requirements <a href="#">Docket No. EP 759</a></p>	<p>STB</p>	<p>The STB revised the Board’s regulations governing demurrage liability to require that Class I railroads to include information to help verify and determine who is responsible for delays on invoices and require that invoices go directly to shippers instead of the warehouse when that is already agreed upon.</p>	<p>STB issued a notice of proposed rulemaking on 10/15/19 in response to the findings of the <a href="#">Oversight Hearing on Demurrage and Accessorial Charges</a>. IWLA submitted comments through the oversight hearing process.</p> <p>The board published a <a href="#">Final Rule</a> on 5/6/20, effective 6/20/20.</p> <p>The Board issued a <a href="#">supplemental notice of proposed rulemaking</a> (SNPRM) inviting parties to comment on certain modifications and additions to the proposed requirements for minimum information to be included on or with Class I carriers’ demurrage invoices. IWLA offered comments for this SNPRM as well.</p>
<p>Rail Demurrage</p>	<p>Policy Statement on Demurrage and Accessorial Rules and Charges <a href="#">Docket No. EP 757</a></p>	<p>STB</p>	<p>Outlines principles the STB would consider in evaluating the reasonableness of demurrage charges. The policy statement deals with items such as free time, bunching, overlapping charges, invoicing and dispute resolution, credits, notice of major tariff changes, and warehouseman liability.</p>	<p>STB issued a notice of proposed statement of board policy on 10/10/19 in response to the findings of the <a href="#">Oversight Hearing on Demurrage and Accessorial Charges</a>. IWLA submitted comments through the oversight hearing process.</p> <p>The board published a <a href="#">final policy statement</a> on 5/6/20, effective 5/30/20.</p>

<p>Rail Demurrage</p>	<p>Exclusion of Demurrage Regulation From Certain Class Exemptions <a href="#">Docket No. EP 760</a></p>	<p>STB</p>	<p>Clarifies STB regulations governing exemptions for certain miscellaneous commodities and boxcar transportation to guarantee that they reflect longstanding court and agency rulings that these exemptions do not apply to the regulation of demurrage. Also partially revokes the class exemption covering certain agricultural products.</p>	<p>STB issued a notice of proposed rulemaking on 10/15/19 in response to the findings of the <a href="#">Oversight Hearing on Demurrage and Accessorial Charges</a>. IWLA submitted comments through the oversight hearing process.</p> <p>The STB published a <a href="#">final rule</a> on 3/4/20, effective 4/3/20</p>
<p>Maritime Container Detention and Demurrage</p>	<p>Interpretive Rule on Container Detention and Demurrage <a href="#">Docket No. 19-05</a></p>	<p>FMC</p>	<p>The final rule provides guidance on when marine terminal and ocean carrier demurrage and detention rules and practices for containerized cargo may be found to be unlawful.</p>	<p><a href="#">Final Rule</a>. Issued 5/18/20, effective 5/18/20.</p> <p>FMC issued the proposed interpretive rule on September 19, 2019, as a result of a nationwide fact-finding investigation initiated by the FMC in response to an industry petition filed by the Coalition for Fair Port Practices.</p>