

National Rail Strike Looms

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Negotiations continue following votes by four of the 12 rail workers' unions to reject the tentative labor contract approved in September. Unresolved issues around sick time and paid leave appear to be at the heart of the impasse.

With nearly 40% of the nation's freight moving by rail, all sectors of the economy will be adversely affected by a strike, which could come within 2 weeks.

How Will You Be Affected?

Businesses that transport freight by rail will be directly impacted; supply chains that incorporate rail components to get to the end user will be impaired; hazardous chemicals may be in short supply, as railroads do not want to be caught with large quantities in the event of a work stoppage; and perishable food shipments by rail will cease. Retailers have stocked their shelves with Christmas goods by now, but deliveries by FedEx and UPS, both of whom rely heavily on rail, will be disrupted, as will automobile deliveries.

What Can You Do?

If you are affected as a Buyer or as a Seller, it's not too late to consider some steps to mitigate the disruption to your business:

- Contact vendors to see if they have made any contingency plans
- Notify customers that deliveries depending on rail in any portion may be delayed
- Review your supply and sales contracts, particularly force majeure provisions
- Determine whether alternative delivery to you or your customers is possible
- Review your business insurance coverage.

What Happens Next?

In the event of a strike by any one or more of the 12 rail unions, which could come as soon as December 5, a National Rail strike will be underway, by virtue of the fact that all 12 railway unions will honor any other railway union's picket line. Congress has the authority under the Railway Labor Act to order striking workers back to work, and to impose the terms of the tentative September deal, or to order that the status quo remain in place, while rail workers return to work and labor negotiations continue.

With an estimated \$2 billion loss at stake for each day that a strike continues, the ripple effects on the overall economy and inflation, and weakened supply chains, governmental action at the highest levels will very likely be part of the resolution of the strike, if it comes. The last time US railroads went on strike in 1992, the strike lasted two days before Congress intervened.

Our attorneys are prepared to provide advice and assistance in these areas and other affected areas as needed. Feel free to contact [David Confer](#) or any of the members of [Barley's Transportation, Logistics, and Trade practice group](#), or your regular counsel at Barley Snyder.

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