Government Matters

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In This Issue

Burning Our Bridges

by Scott Klinger and Sarah Anderson

All businesses – large and small – rely on our nation's infrastructure for their success.

They need modern ports, stronger bridges, faster trains, and the fastest Internet.

To modernize our infrastructure, the American Society of Civil Engineers estimated it would cost $3.6 trillion by 2020. They warned that if we fail to make these investments, American citizens and businesses will face costs of $1.8 trillion a year in travel delays, water leaks, and power failures.

How has Congress responded? It's slashed infrastructure spending to the lowest levels since the post-WWII era.

The cut-backs are in part the result of an abundance of tax credits and loopholes won by high-priced corporate lobbyists. One particularly costly loophole allows large corporations to shift their U.S. profits to jurisdictions where corporate taxes are low or non-existent. Offshore corporate tax abuse costs the U.S. Treasury as much as $90 billion a year.

To generate funds to pay for our nation's crumbling infrastructure, Congress is considering giving corporations a "tax holiday." Under current law, corporations can defer U.S. tax payments on overseas earnings until they bring the profits to the United States. **The proposed "tax holidays" would allow**

corporations to bring these profits back now, but they would be taxed at a much lower tax rate than normal.

Each of these proposals rewards the very companies that have worked the hardest to game the tax system. These policies would also shortchange our future by generating just a small fraction of the $3.6 trillion we need to invest in our aging infrastructure by 2020 and wouldn't address the longer-term problem of legalized tax dodging.

When we tried this over ten years ago, it failed miserably. Corporations that participated shaved nearly $100 billion off their long-term IRS bills. And instead of boosting investment, they used the windfalls to buy back their stock and boost dividends while laying off more workers than they hired. Once the holiday was over, they began rebuilding their overseas profit stashes.

Burning Our Bridges found that if just 26 American corporations paid the U.S. taxes they owe, we could use the revenue to repair our nation's crumbling bridges, dams, water treatment systems, and much more.

Key Findings

- Just 26 firms account for more than half of the $2.1 trillion in untaxed profits U.S. corporations are currently holding offshore. Each of these firms has accumulated more than $20 billion in overseas earnings. Together, they operate 1,086 subsidiaries in tax haven nations.

- These 26 firms' offshore profits have exploded more than five-fold since the last tax holiday on overseas earnings. **Microsoft, Google, Apple, and Qualcomm each grew their offshore stashes by more than twenty-fold between 2005 and 2014.**

- If these companies were to pay the taxes they owe on their overseas profits, the government could gain about $364 billion, enough to cover the cost of repairing all of the country's wastewater and stormwater systems and repair or replace all of the country's deficient dams and restore all the nation's local, state, and national parks.

- **Closing the offshore tax dodging loophole for ALL corporations could raise at least $590 billion over the next decade, and $90 billion more every year thereafter.** This would represent a significant down payment on the nation's overall infrastructure investment needs.

Read the full report now.

Six Charts Explain How Workers' Compensation Is Deteriorating

by Jessica Schieder

Workers' compensation is a state-based government program that has protected American workers for close to a century. Throughout the early part of U.S. history, injured workers were taken care of by the communities they were a part of: churches, worker's benevolence associations, neighbors, or extended family. But when workplace deaths and injuries soared during the industrial revolution, government stepped in to help.

Today, workers who are injured on the job or become ill after long-term exposure to workplace hazards are able to collect workers' compensation. This financial support helps them pay medical bills, offers compensation for lost wages, and provides income to help pay for their living expenses while they are out of work. This mandatory insurance system is designed to provide a safety net for people who suffer harm on the job.

To pay for this program, employers contribute to a state program for the benefit of their employees. Each state sets the rate it charges employers, based on the risk level of a workplace. This rewards and encourages employers with safer workplaces since they pay a lower rate for their employees than workplaces with worse injury rates. States also set the benefit levels paid to injured workers, which vary dramatically across states. Additionally, there is no federal minimum level of benefits that a worker can count on in the event of an accident.

Recent reports paint a picture of a workers' compensation system that is failing to adequately protect workers.

Employers are paying less into the workers' compensation system than in years past, and the families of injured workers in many states are receiving less support.

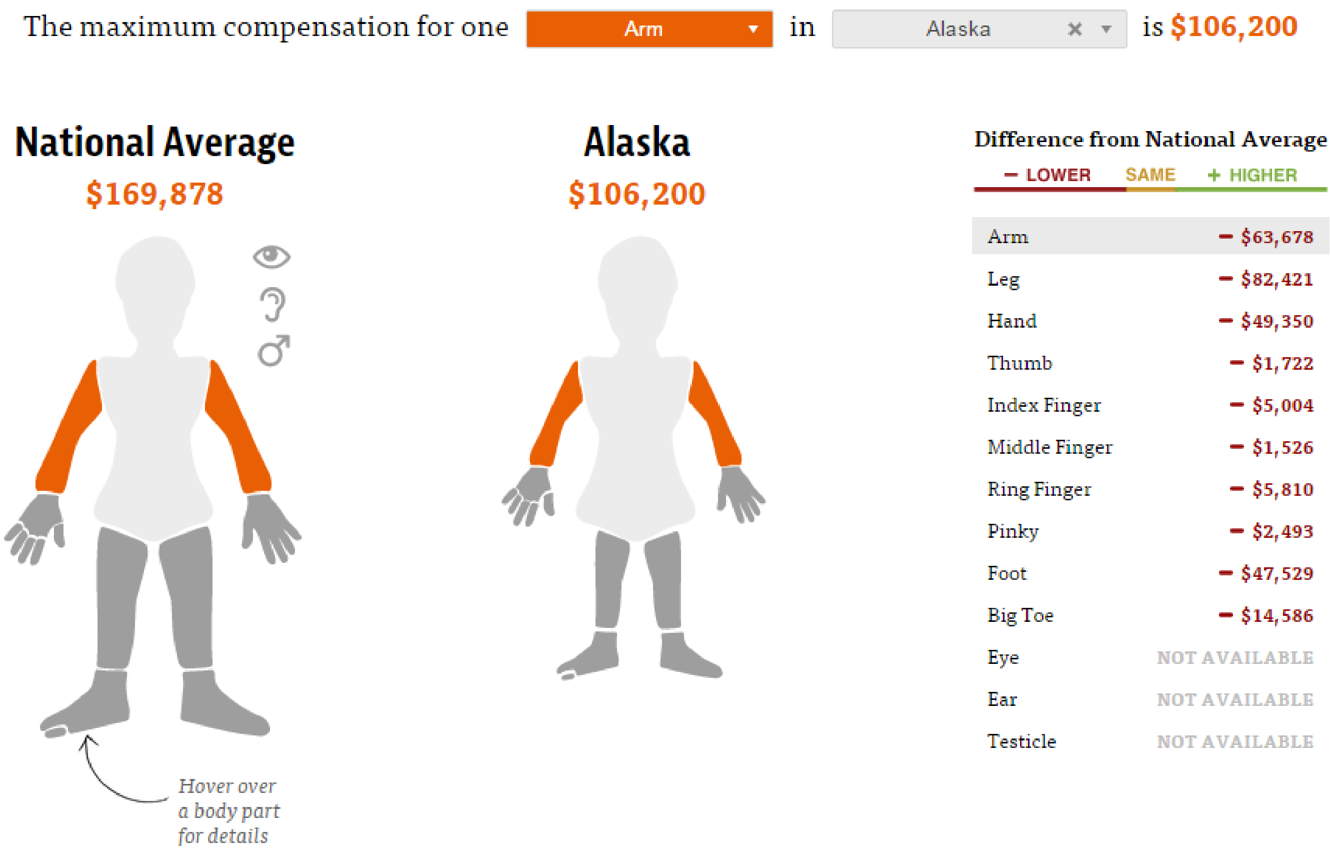
For example, North Dakota employers were paying $2.39 into workers' comp for every $100 in wages in 1988. By 2014, this amount had fallen to $0.88 – meaning employer contributions to workers' comp had dropped by more than 60 percent. Over the same period of time, North Dakota increased the standards it requires for workers to qualify for workers' comp benefits; as a result, the percentage of workers' claims that were denied increased by 25 percent. North Dakota has been increasingly relying on out-of-state doctors to resolve claim disputes—these doctors rule against the judgment of a patient's personal doctor most of the time, further reducing benefits.

These six charts explain how workers' compensation is being eroded today and why the system is increasingly unequal and inadequate.

1. Workers' compensation is surprisingly unequal between states.

There are dramatic disparities between the workers' compensation benefits injured and ill workers are able to receive in different states, leaving many workers with unequal and inadequate compensation. In investigating the arm amputations of two men on either side of the Alabama-Georgia state line, NPR and ProPublica found a stark difference in the amount of workers' compensation each worker was eligible to receive over their lifetime. One worker who lived and worked in Alabama received just $45,000 for the loss of his arm, slightly less than the $48,840 maximum lifetime benefit allowed under Alabama law. Less than 75 miles away in Georgia, another worker was awarded benefits that would last his lifetime, potentially totaling more than $740,000 after losing his arm in a similar industrial accident.

To see how a worker in your state would be compensated for the loss of a limb, try out this interactive tool from ProPublica.

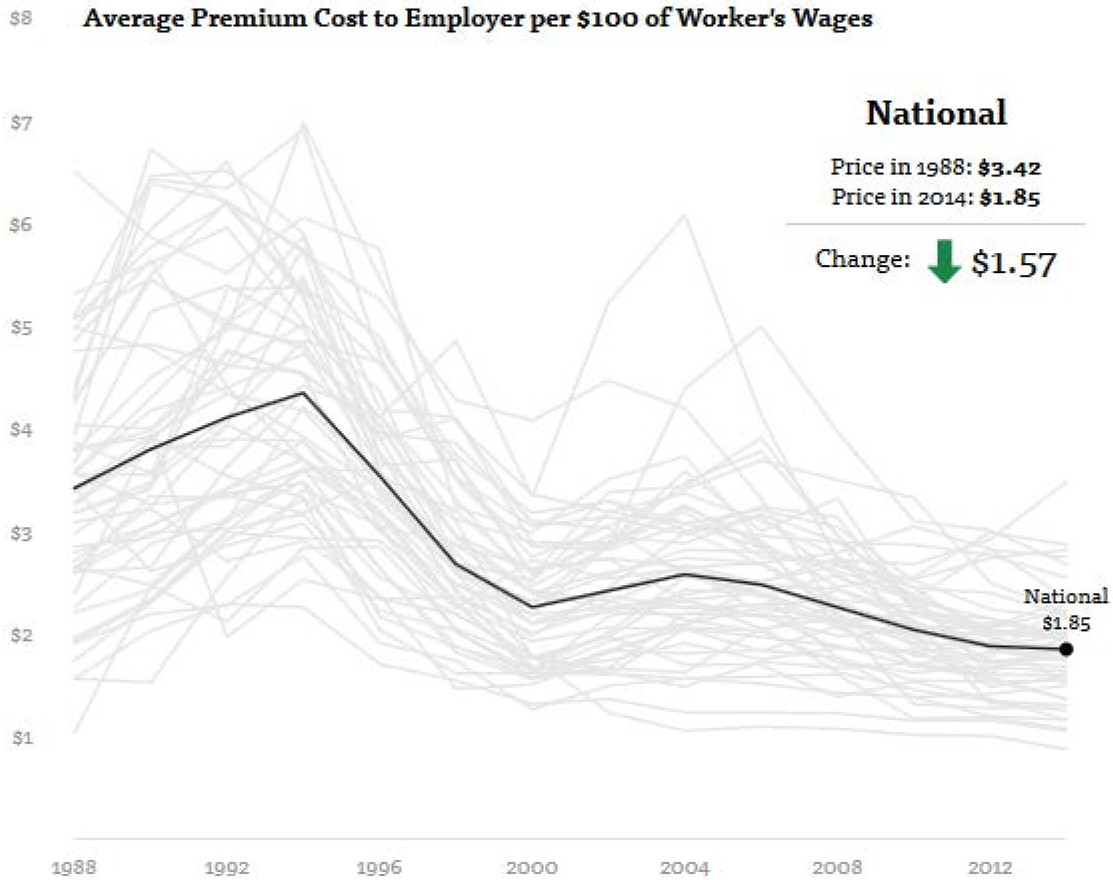


Source: ProPublica

2. The amount employers pay into workers' compensation programs is at historic lows.

Businesses are quick to complain that the cost of contributing to workers' compensation programs are eating into their profits. But the premiums are at historic lows, despite increases in health care costs. In turn, states with stingier worker compensation programs have in recent years marketed themselves as business-friendly to companies looking to cut costs.

See what employers in your state are paying in premiums to support workers' comp.

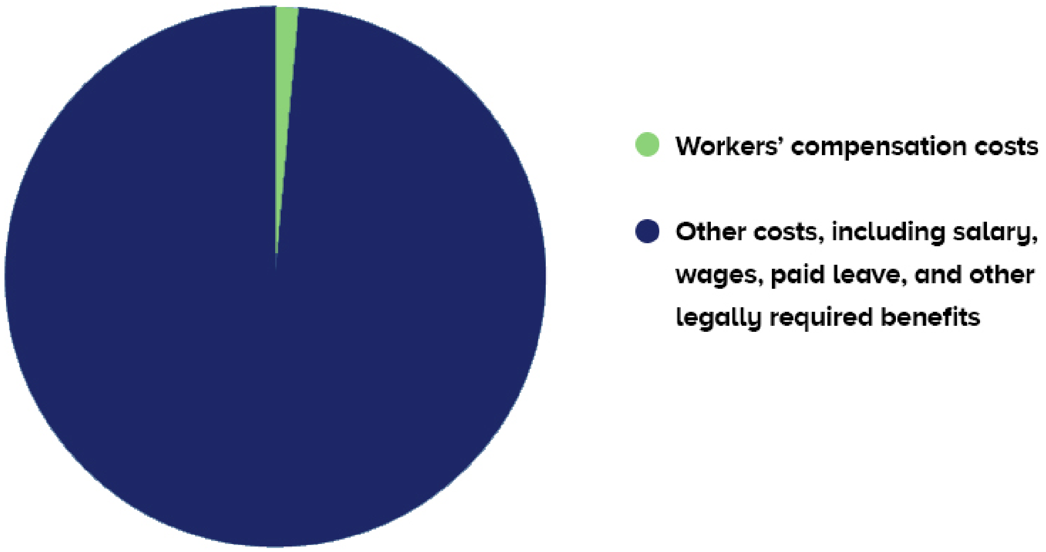


Source: ProPublica

3. Workers' comp is not burdening business.

Nationally, workers' comp only accounts for 44 cents of the average $31.32 that private employers spend on each worker per hour. This means that the program makes up roughly 1.4 percent of the cost of compensating employees.

Employer Costs for Employee Compensation



Source: Bureau of Labor Statistics

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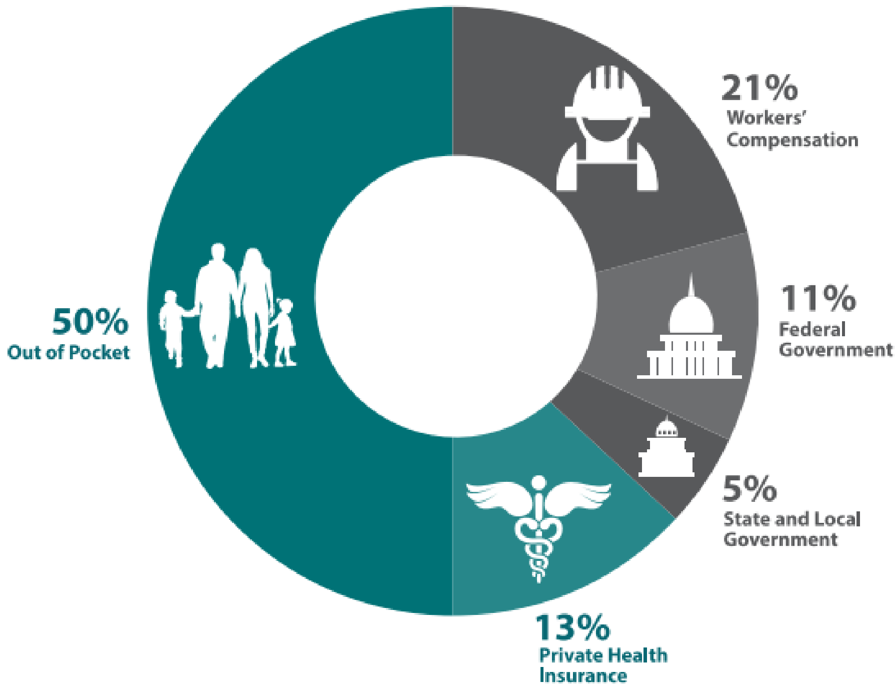
4. The costs of workplace injuries and illness have shifted to workers.

Recent changes in workers' comp at the state level have made it more difficult for injured or ill workers to receive the full benefits they would otherwise be entitled to. In turn, workers' comp now makes up only about 20 percent of the cost of reported injuries or illnesses. Workers and their families bear at least half of the cost of their injuries, although the real number is likely higher as many injuries go unreported.

Failing to cover the full cost of injuries or illness on the job disproportionately hurts low-income workers. Lower-wage workers are also the least able to absorb the costs of an injury. Because families are unable to shoulder these costs, taxpayers are being asked to take on a greater share of the costs of workplace injuries and illness through public assistance programs like Social Security Disability Insurance.

Who bears the cost of worker injuries?[14]



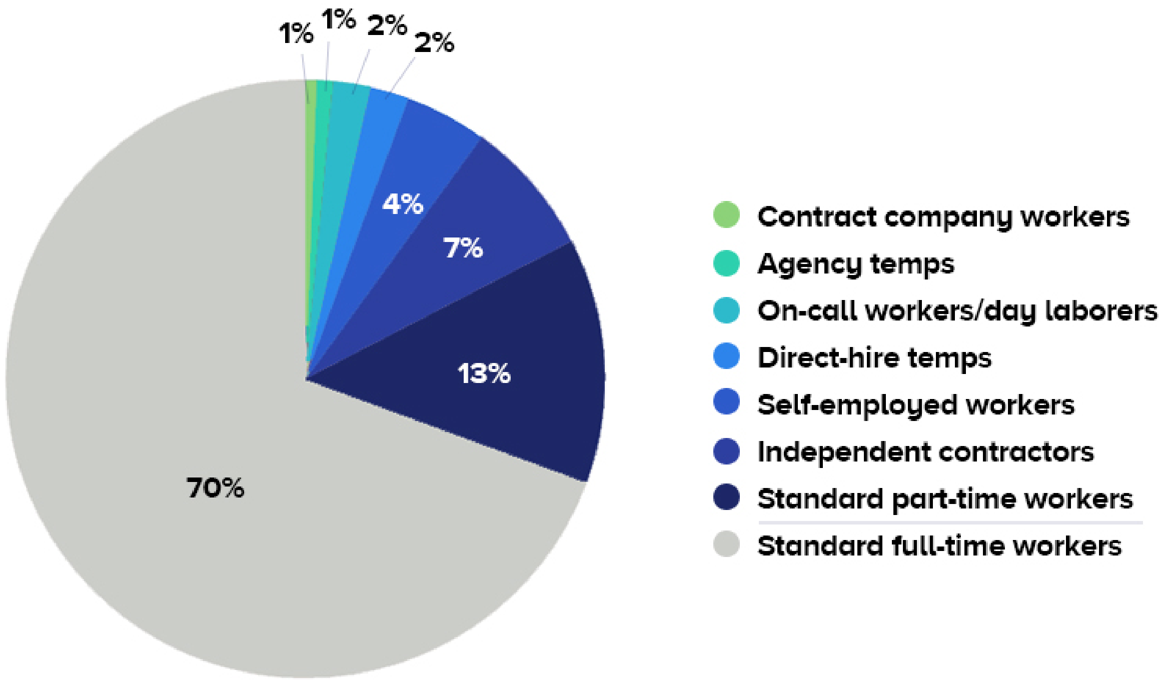
Source: Occupational Safety and Health Administration

5. Not all workers are covered by workers' compensation.

Regulations vary by state, but generally contract workers, temps, and self-employed workers do not qualify for workers' compensation. Thirteen states also exempt businesses with very small numbers of employees from having to provide workers' comp benefits. This means these individuals are largely unprotected in the event they are injured or fall ill on the job.

At last count, independent contractors or contingent workers made up 30 percent of the workforce, equal to 42.6 million people. The portion of Americans characterized as freelancers is expected to surpass 40 percent of the workforce by 2020, leaving tens of millions of American workers without access to workers' comp. Many workers are mischaracterized as independent contractors by their employers in order to reduce labor costs. This practice deprives workers of benefits and puts them outside of many legal protections in order to increase profit margins.

Independent Workers as a Percent of the U.S. Workforce



Source: Government Accountability Office

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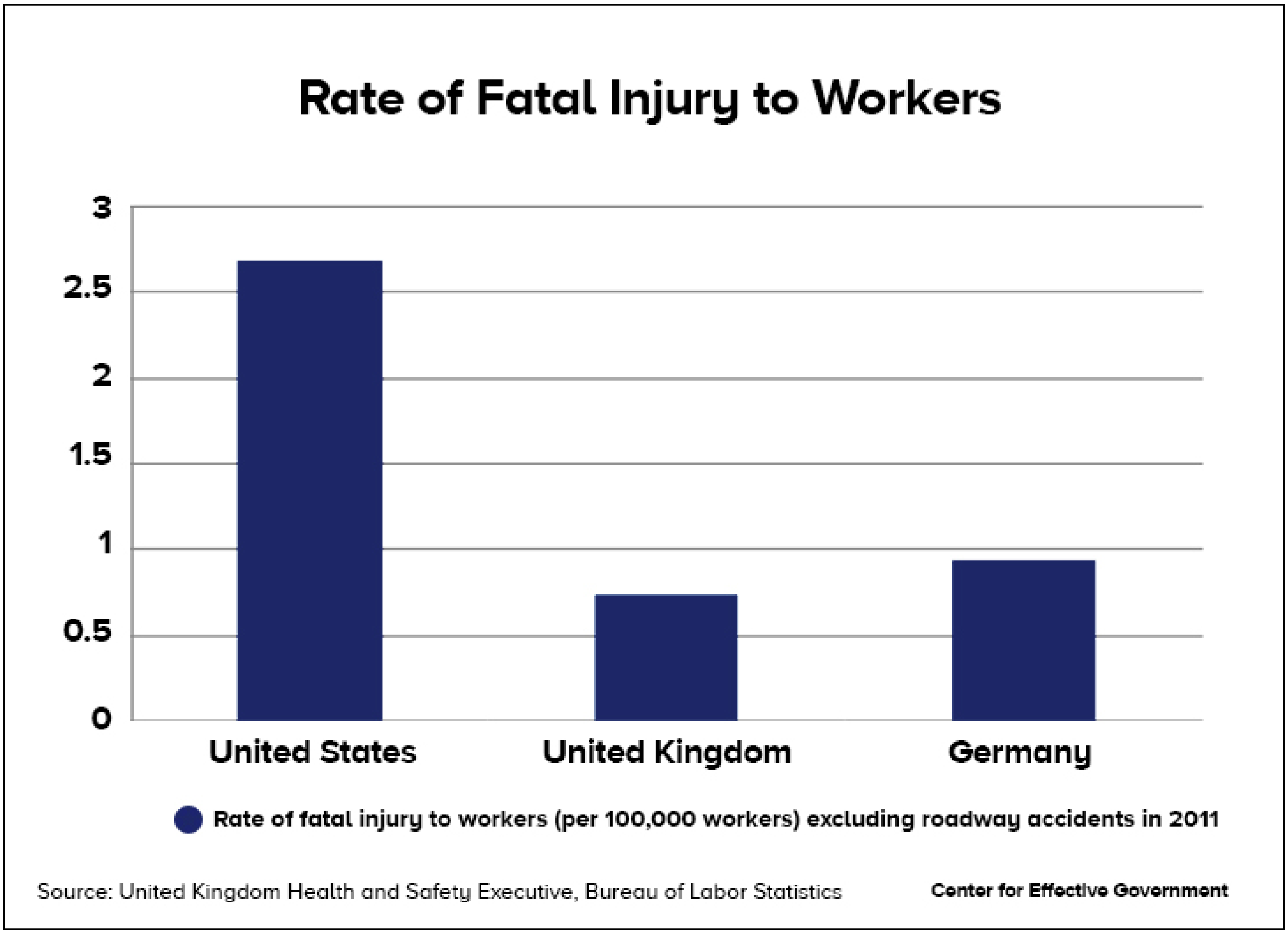
6. The U.S. can do a better job of protecting workers.

The United States has fallen behind other industrialized countries in its efforts to reduce workplace deaths and injury. While the United States has historically been a global leader in workplace safety, budget cuts for the agencies regulating workplace safety, coupled with relaxed standards and more industry self-regulation, have led to U.S. workers facing greater risks than their counterparts in other nations. Countries like the United Kingdom have prioritized workplace safety and worker fatality rates have fallen at a faster rate than in the United States, where fatalities have fallen but less quickly.

The chart below compares the frequency in which workers were killed on the job in the United States, the United Kingdom, and Germany in 2011, the most recent year for which standard European data is available.



Note: The most recent standardized data for European countries is available for 2011 through Eurostat. Road traffic accidents are not included in these rates. The 2011 total rate of fatal injury to workers in the United States is utilized (which is 3.5 per 100,000 workers). However, because 23.5 percent of total 2011 fatal accidents were roadway accidents in the United States, we estimate a rate consistent with the Eurostat calculations to be 2.68.

To improve, we need a minimum federal standard for workers' comp benefits.

It is time for Congress to step in and impose a national floor to support workers' comp benefits. Regardless of where a worker lives, pressure from big industry, and the political tides of the day, every worker who is injured or becomes ill on the job should be guaranteed a basic minimum level of compensation. Only strong federal standards will stop competition between the states to lower employer premiums in ways that undermine workers comp's mission of providing for injured and ill workers.

We should restore federal monitoring of states' workers' comp programs.

Even before discussions of establishing a federal minimum, decision makers and the public deserve a clearer picture of workers' comp policies in the states. In response to budget cuts, the Department of Labor stopped monitoring state workers' comp programs in 2004, abruptly halting decades of data collection that kept tabs on the benefits injured and ill workers could receive. Cancelling this data collection was an unfortunate decision. Just over a decade later, workers' comp laws at the state level have dramatically worsened as a result of spending cuts and pressure from industry.

Options to standardize the patchwork collection of workers' comp policies across the country should address the new challenges presented by the increasing reliance of firms on part-time and contract workers. All workers – not just traditionally-defined, full-time employees – should be protected in the event of a workplace injury or illness.

Prioritize prevention by restoring Occupational Safety and Health Administration (OSHA) funding to create safer workplaces.

Ultimately, reducing workplace accidents, injuries, and illnesses will require additional investment. To do this, both federal OSHA and state OSHAs must be given the resources to do their jobs. Adequately funding OSHA could alleviate the demand for workers' comp by preventing workplace injuries and illnesses more effectively.

FDA's Insufficient Response to Antibiotics in Food Animals

by Ronald White

UPDATE (March 30, 2015): The Obama administration released the National Action Plan for Combating Antibiotic-Resistant Bacteria on March 27. The plan comes in response to the president's 2014 Executive Order 13676, "Combating Antibiotic-Resistant Bacteria."

Unfortunately, the plan essentially maintains the status quo with respect to the use of antibiotics in food animal production. It relies on the Food and Drug Administration's (FDA) 2014 guidance documents that encourage manufacturers of antibiotic drugs used in food animals to voluntarily relabel their "medically important" antibiotics as approved only for "assuring animal health," rather than for speeding up animal growth. But as I noted previously, this still allows animal production facilities to use these drugs to help animals survive crowded, stressful, and unsanitary confinement conditions, which are commonly found on factory farms. The requirement that veterinarians oversee the use of these antibiotics isn't likely to significantly reduce their use, especially since the FDA wants to eliminate the requirement that a veterinarian have a direct connection to the animals receiving the drugs.

UPDATE (March 4, 2015): McDonald's announced that chicken meat served in its approximately 14,000 U.S. restaurants will be sourced from chickens raised without antibiotics important to human medicine. This policy, which the company announced in conjunction with its "Global Vision for Antimicrobial Stewardship in Food Animals", will be implemented within the next two years. While McDonald's will only source chicken raised without antibiotics important to human medicine, the farmers who supply chicken for its menu will continue to use ionophores, a type of antibiotic not used for human health that helps keep chickens healthy. McDonald's believes that the continued use of these antibiotics will result in fewer chicken illnesses and therefore reduced use of antibiotics important to human medicine to treat sick chickens.

UPDATE (Sept. 30, 2014): President Obama issued Executive Order 13676, Combating Antibiotic-Resistant Bacteria, on Sept. 18, 2014. The executive order establishes a federal Task Force for Combating Antibiotic-Resistant Bacteria (Task Force), to be co-chaired by the Secretaries of Defense, Agriculture, and Health and Human Services (HHS), with membership from 11 other federal agencies and departments. The executive order requires the Task Force to submit a five-year action plan outlining specific actions that the various agencies will undertake to implement the National Strategy for Combating Antibiotic-Resistant

Bacteria, which was released simultaneously with the executive order. The order also calls for the establishment of a Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria that will provide advice and recommendations to the HHS Secretary on a broad range of issues related to addressing antibiotic-resistant bacteria concerns.

The National Strategy calls for the Food and Drug Administration (FDA) to “take further action as appropriate” after assessing the effectiveness of the December 2013 agency guidance discussed below on eliminating medically important antibiotics for growth promotion in animals. The National Strategy also promotes educational efforts aimed at veterinarians and animal producers to foster antibiotic stewardship and “judicious use” of antibiotics in agricultural settings.

While the executive order and the National Strategy include a number of important steps forward in addressing the rapidly growing threat of antibiotic-resistant bacteria, the executive order as well as the National Strategy and FDA guidance still allow for the use of medically important antibiotics for *prevention* of disease in food animals. Not surprisingly, the food animal producers spin on the executive order, exemplified by the National Pork Producers Council response, focused on the need more epidemiological research to “understand the key drivers of increased antibiotic resistance” while noting that “all antibiotics used in pork production are approved by FDA.”

Given the economic incentives for pharmaceutical companies to continue sale of antibiotics for disease prevention under the guise of being necessary to “assure animal health” by veterinarians pressured to approve such uses, and large-scale animal food producers’ practice of raising animals in crowded conditions that often lead to disease, there is reason to be skeptical that even the best intentioned efforts to combat the increase in antibiotic-resistant bacteria will succeed.

UPDATE (July 30, 2014):On July 24, the U.S. Court of Appeals for the Second Circuit ruled in a split decision that the FDA does not have to consider banning the practice of feeding antibiotics to healthy, food-producing livestock. The ruling was in response to a lawsuit brought by the Natural Resources Defense Council (NRDC) and several other public interest organizations against the FDA’s decision not to hold hearings regarding whether to withdraw their approval of the use of penicillin and tetracycline in animal feed for healthy livestock. NRDC and other groups had submitted petitions to FDA in 1999 and 2005 requesting that FDA hold required hearings and withdraw approval for the use of several antibiotics, including penicillin and tetracycline, in animal feed for healthy livestock.

UPDATE (March 27, 2014): On March 26, the FDA announced that 25 of 26 companies that manufacture antibiotics used in food animal production had agreed to withdraw their drug approvals for use in animal production (i.e., growth promotion) and to relabel their drugs to require veterinary prescription for their use. These 25 companies represent more than 99 percent of the market for antibiotics used in food animal production.

While a potentially significant step in reducing the massive use of antibiotics in food animal production, the companies have up to three years to relabel their drugs and, more significantly, these drugs will still be allowed for preventing (rather than limited to treating) disease in the often overcrowded and unsanitary conditions found in some large-scale animal production facilities. Whether the FDA's voluntary "judicious use" approach will result in a significant reduction in the use of medically important antibiotics in food animal production remains to be seen.

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Originally published on Dec. 13, 2013

The Food and Drug Administration (FDA) released guidance on Dec. 11 that encourages manufacturers of antibiotic drugs used in food-producing animals (e.g., chickens, pigs, cattle) to voluntarily withdraw "medically important" antibiotics from the market by relabeling the products to indicate that their use is approved only for "assuring animal health" rather than for speeding up animal growth as is now often the case. As I've noted previously, there is general scientific consensus that the extensive use of antibiotics in the food animal industry has contributed to the increase in antibiotic-resistant diseases in humans. A decade ago, a report from the National Academies of Sciences Institute of Medicine on microbial threats to human health recommended that "the FDA should ban the use of antimicrobials for growth promotion in animals if those classes of antimicrobials are also used in humans" [emphasis added].

If past performance is any indication, the FDA's voluntary approach to this important public health concern isn't likely to make a substantial impact on the use of antibiotics in food-producing animals. In 2012 FDA issued a final guidance document as well as a draft version of the current guidance document that included the same two major recommendations as is highlighted in the current document – namely "The use of medically important antimicrobial drugs in food-producing animals should be limited to those uses that are considered necessary for assuring animal health" and "The use of medically important antimicrobial drugs in food-producing animals should be limited to those uses that include veterinary oversight or consultation".

There was no rush by pharmaceutical companies to change their animal drug approvals in response to those guidance documents. However, as noted in the recent report by the Johns Hopkins Center for a Livable Future, for many of these antibiotics the doses and durations of antimicrobial use for disease prevention are similar or even identical to the doses and durations utilized for production purposes. Given the crowded and often unsanitary conditions found in these large-scale food animal facilities that can lead to disease outbreaks, it's not surprising that these facilities use these drugs to prevent loss of animals. And the requirement for veterinary oversight is weakened by proposed changes to the FDA's veterinary feed directive rule issued simultaneously with the new guidance which eliminates the current requirement under the federal code of veterinary professional conduct that would previously have required that the veterinarian providing the prescription for use of antibiotics in animal feed (which is the usual way it's administered) have a direct connection to the animals being cared for.

FDA touts their voluntary approach as the quickest and most efficient way to change current practice. The final guidance document gives pharmaceutical companies 90 days to let FDA know if they intend to withdraw their current drug label and revise their drug label language through a process known as a supplemental new animal drug application, and then three years to actually make the changes. However, given past history, time will tell whether the shift in usage hoped for by these voluntary guidelines will actually be achieved, or whether companies will simply re-label current antibiotics or market new antibiotics also used for human health as "necessary for assuring animal health". Unfortunately, for the increasing number of people who are dying or are critically ill from antibiotic-resistant diseases, time is the one thing they don't have.

Can We Get Serious about Train Safety? Technology Could Reduce 40 Percent of Rail Accidents

by Amanda Frank

Last month, we wrote about the rise in crude oil train accidents and the need to approve federal crude-by-rail safeguards as quickly as possible. These rules, currently under review by the Office of Information and Regulatory Affairs, would require thicker walls on oil tankards and impose speed limits on oil trains.

These are vital safeguards that will improve oil train safety. But they don't address a factor contributing to 40 percent of rail accidents: human error.

Just as distracted driving can cause road collisions, trains can collide or derail when engineers fail to respond to signals. In 2008, a commuter train collided with a freight train in Chatworth, California, killing 25 people, injuring 102 more, and causing over $12 million in damage. The cause? The commuter train's engineer was texting on his phone and failed to notice a stop signal at a control point.

We can't completely eliminate human error, but we can use technology that responds when signals are missed. Positive Train Control (PTC) systems track the movement of trains using GPS. They sense when a train does not respond to speed limits or other signals and reacts by slowing or stopping the train.

PTC can't replace a skilled engineer who can respond quickly to changing situations. But it can intervene when an engineer nods off or otherwise fails to react. PTC is already being used in the Northeast Corridor and on some European rail lines.

After the 2008 Chatsworth collision, Congress passed the Rail Safety Improvement Act of 2008, which required that PTC be adopted for all rail lines with passenger service or freight trains carrying hazardous materials and gave rail companies until the end of 2015 to implement the technology.

Just nine months from the deadline, the railroad industry is begging for more time.

The Association of American Railroads (the railroad industry's lobbying arm) says that the industry has already spent $5 billion dollars to invest in PTC. They claim they need an additional $10 billion in order to meet the 2008 bill's requirements – and that they cannot accomplish this before the year's end. Congress has responded with a bill that would extend the deadline for adopting PTC to 2020.

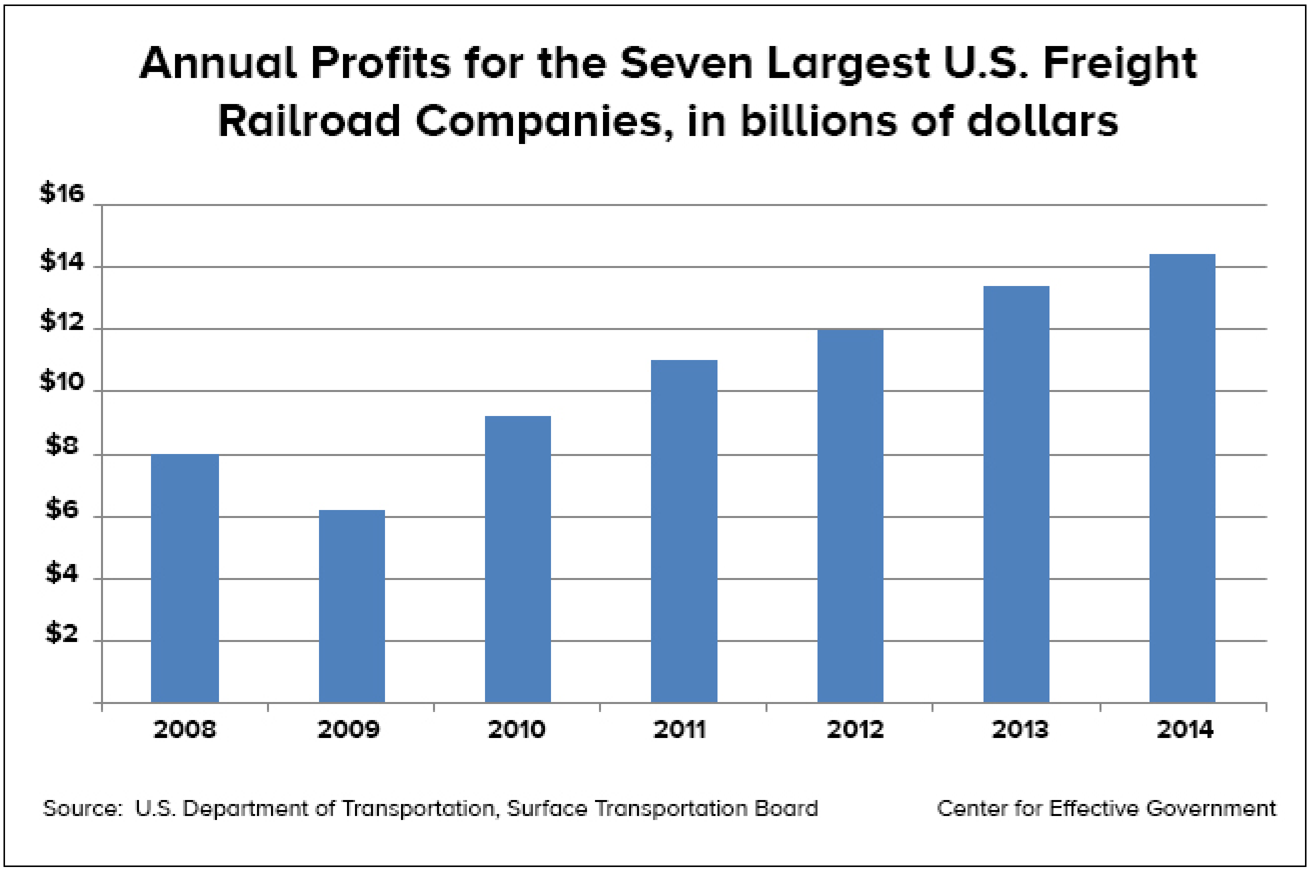
But each year of delay increases the number of preventable train fatalities.

The National Transportation Safety Board investigated 25 accidents since 2004 that could have been prevented with PTC. These accidents claimed 65 lives and over 1,100 injuries and cost millions of dollars in damages. The National Transportation Safety Board is opposed to offering any extensions. (They have, after all, been advocating for PTC since 1970.)

Adopting PTC systems will do more than simply reduce engineer error; it can speed other improvements in rail safety. PTC systems can trigger automatic warning devices at railroad crossings, making this technology available to more communities. Currently, only one-half of all at-grade railroad crossings in the U.S. have automatic warning devices, and only a third have gates and flashing lights. More warning devices can lead to fewer cars and pedestrians being struck by trains. In 2014 alone, 267 people were killed at railroad crossings.

We cannot afford to delay the implementation of PTC and other safeguards.

Railroad companies have the resources, thanks to their profits from the fracking boom. Crude-by-rail transport has increased 4,100 percent since 2008. Trains also haul sand and other materials used in fracking. In fact, the top seven companies alone reported earning over 66 billion dollars in profits in the six years since the new safety standards were passed. It seems there are plenty of resources for that extra $10 billion the American Association of Railroads says is needed to fully install PTC systems.



Since railroads are moving increasing amounts of more hazardous materials through highly populated American communities, it's essential that they expedite their investment in PTC and other safety technologies. The industry will spend $29 billion dollars this year on capital expansion, but only a portion of this is earmarked for PTC. BNSF Railway only committed three percent of its total investment expenditures to PTC, by way of example.

PTC and other safeguards should be a top priority for rail companies – not an afterthought.

Railroad companies have the means to invest in PTC. The American people cannot afford to wait another five years for life-saving technology. Instead of allowing further delays, let's start fining rail companies that fail to follow the law. That would send a strong message that in America, we put people before profits.

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