

COMPENSATION INSURANCE RATING BOARD

Pershing Square Building
125 PARK AVENUE
NEW YORK

LEON S. SENIOR
GENERAL MANAGER

TWENTY-SECOND ANNUAL REPORT

submitted to the

MEMBERS OF THE COMPENSATION INSURANCE RATING BOARD

on Thursday, January 30, 1936.

Nineteen hundred and thirty five has proven to be the most strenuous year in the history of Workmen's Compensation in this State. There was not a single dull moment in the entire period. Difficulties arising from new legislation have created problems which have been only partially solved thus far. The final answer is still in the distant future. The security funds to protect claimants in cases of insolvency; the rule for deposits of commuted values in the Aggregate Trust Fund; the all-inclusive occupational disease Act; and the new procedure for medical care and treatment of injured workers, all bristle with questions that will require extensive consideration.

In this Annual Report to our members, I shall attempt to review briefly the efforts made during the past year towards reaching correct solutions.

OCCUPATIONAL DISEASE ACT

On September 1, 1935 Paragraph 28 was added to Section 3, Subdivision 2 of the Workmen's Compensation Law providing cover for any and all occupational diseases in any and all employments enumerated in the Law. A separate bill dealing only with silicosis and similar dust diseases was passed by both Houses of the Legislature. A great deal of time and study was devoted to this bill by the Staff and the several committees of the Board during the early months of the year on the assumption that it might become law.

Subway Construction:- A symbol (a) rating plan was substituted for the original weight of 15 assigned to Codes 6254 and 6259, the rate for each contract to be determined by extending the estimated labor cost for rock excavation at a rate corresponding to an O. D. weight of 45, the labor cost for earth excavation at a rate corresponding to a weight of 10 and dividing the total estimated premium so obtained by the total estimated labor cost excluding supervision and similar general payrolls.

Rate Credits for the Use of Approved Dust Control Apparatus:- A credit of 25% from the occupational disease rates and per capita charges for classifications 1605 "Rock Excavation" and 5508 "Street or Road Construction - Rock Excavation" was approved for the use of certain dust control equipment and a similar credit was allowed in connection with the symbol (a) plans for Code 6705 "Railroad Grade Crossing Elimination - all operations" and 6010 "Water Works - construction of pumping stations", etc. where rock excavation enters into the calculation of the average rate.

Incidental Foundry Operations:- This term was defined with greater preciseness.

Incidental Sand Blasting:- A rule was incorporated in the occupational disease section requiring the entire payroll of all employees engaged in sand blasting operations where any sand or quartz is used as well as the entire payroll of all employees not physically separated from such operations to be assigned to Code 1741 "Silica Grinding".

CLASSIFICATION AND RATING COMMITTEE

This Committee afforded forty statutory hearings to employers, many of them involving appeals from decisions of the Staff Committee. In half of these cases the action of the Staff was confirmed; in the remaining half the applications of the petitioners were either granted, or partial relief was afforded, or a different form of treatment was authorized by the Committee. Nine of the hearings involved applications for complete or partial relief from occupational disease charges.

The Gypsum Association set forth its views on the dust conditions in its industry in a fifty-nine page brief and supplemented its printed statement by the oral testimony of experienced men in the industry and such silicosis experts as Doctors L. U. Gardner and Homer M. Sampson of the Saranac Laboratory. The Association succeeded in convincing the Committee that the amount of free silica dust present

in the mining and processing of gypsum was negligible and that the specific O. D. rate for this industry should be eliminated except for the making of sanded wall plaster.

The Marble and Limestone Industries were represented before the Committee by Mr. Henry D. Sayer, former Industrial Commissioner and by Dr. Anthony J. Lanza, Assistant Medical Director of the Metropolitan Life Insurance Company and one of the country's foremost experts on silicosis. On the basis of the evidence presented, the Committee set up a new classification for these risks and reduced the O. D. weight from 90 to 10.

The Radiator and Heater Industry of New York was represented by its principal members and succeeded in convincing the Committee that certain departments in plants of this character are not exposed to dust hazard, justifying the Committee in reducing the occupational disease weight from 35 to 30.

Another hearing involved an application to restore the former rule which permitted the combination of experience, under a single compensation policy, of contractors performing construction work for common carriers. The decision of the Staff denying this application was confirmed on the ground that such procedure is inconsistent with the general practice of rating each contractor on the basis of his own experience.

In another case a subterfuge practiced by a group of laundry operators designed to avoid the proper premium charges by the issuance of a single compensation policy in the name of the promoter of the project was exposed by the Committee. The carrier was ordered to cancel its policy and the Committee directed that each laundry must be covered under a separate compensation policy.

Appeals were taken from decisions of the Committee to the Insurance Department in the following cases, with the results indicated:

.4% Increase Due to Law Amendments.

The appellant contended that the .4% rate increase effective July 1,