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Highlights of an Analysis of Workmen's Compensation Insurance Rates Paid by Oregon Employers



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HIGHLIGHTS OF
AN ANALYSIS OF WORKMEN'S COMPENSATION INSURANCE RATES
PAID BY OREGON EMPLOYERS

by

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This research was initiated in response to concern expressed by Oregon farm organizations over the high workmen's compensation insurance rates paid by Oregon farmers. Their concern was well founded. Oregon's workmen's compensation insurance rates appear to be the highest in the nation. This includes both agricultural and non-agricultural industrial classifications. Moreover, factors affecting the rates were found to be common to all industries. Therefore, this research involves an examination of Oregon's workmen's compensation system as it affects all industrial classifications including agriculture.

This presentation includes summary statements of the problem, the purpose of the study, the conclusions and a discussion of the evidence forming the basis for the conclusions. Additional information is available in the complete study report.

The Problem

Oregon's workmen's compensation insurance rates for agriculture appear to be the highest in the nation. Agricultural rates for 43 states were compared for 1972-73 (Table 1). State special classifications were included within one or more of the eight general classifications for agriculture. This means some states may have more than one rate for any one classification. Oregon's rates ranked among the top three states for seven of these eight general classifications. Washington was among the top three states twice. Texas, Florida and Louisiana held this distinction for two of the eight classifications.

Another study revealed that Oregon's workmen's compensation insurance rates are high for all industrial classifications. The Report of the National

Table 1. Manual Workmen's Compensation Insurance Rates for Agricultural Employers--Oregon Compared to Other U.S. States, 1972-73

Agricultural Industrial Classification ^{a/}								
Manual Rate/\$100 Payroll	"Nurserymen" 0005	"General Farm" 0006	"Gardening" 0008	"Poultry" 0034	"Florists" 0035	"Landscape Gardening" 0042	"Machinery Operation--Contracting" 0050	"Tree Pruning & Spraying--Contracting" 0106
Ranged from:	\$1.04	\$ 0.86	\$0.86	\$1.21	\$0.80	\$ 1.45	\$ 2.35	\$ 3.83
to:	\$8.00	\$16.35	\$5.71	\$6.03	\$8.00	\$10.17	\$12.26	\$20.63
Median rate	\$2.22	\$ 4.56	\$2.23	\$2.74	\$1.53	\$ 3.02	\$ 5.94	\$ 7.31
Oregon's rate	\$6.68	\$16.35	\$5.71	\$5.42	\$5.44	\$ 8.12	\$12.08	\$12.25
Composite rate		\$11.82			\$3.96			
Oregon's rate ranked	2nd	1st	1st	2nd	3rd	2nd	2nd	8th
Composite rate		1st			3rd			
Number of states ^{b/}	41	43	42	43	43	41	41	43
Oregon's rate as a percentage of the median rate	302%	359%	256%	198%	356%	269%	203%	168%
Composite rate		259%			259%			

^{a/} These agricultural industrial classifications are defined in The Classifications Code [7].

^{b/} Not all 50 states are included because some states do not have these classifications and data was not readily available for other states. See the final study report.

SOURCE: National Council on Compensation Insurance and selected state rating authorities. The final report of the study contains the actual rates on which this table is based.

Commission on State Workmen's Compensation Laws indicates that as a group, Oregon employers pay a higher percentage of payroll for workmen's compensation insurance coverage than paid by employers in any of the other 40 states included in the analysis [18]. The conclusion is broadened to include non-agricultural as well as agricultural employers.

High rates create serious problems. This is not to argue that high rates cannot create significant benefits to injured workmen. They can. However, the need to understand the reasons behind the high rates is demonstrated by the problems which those rates create. The most obvious problem is the effect on employers. High rates either reduce the farmer's profit or add to his losses. Employees are affected as well. Employment opportunities are reduced. The trend toward increasing mechanization and declining employment in agriculture is common knowledge. Additions to labor costs accentuate this trend. Usually the less skilled workers are idled first. This means many workers displaced from agriculture and other industries will have difficulty finding employment elsewhere. Unemployed workers may find themselves on welfare. Such a result is not in the best interest of the employer or society, and certainly not in the interest of the employee.

The Purpose of the Study

Since Oregon's workmen's compensation insurance rates are high and create serious consequences, this research is designed to analyze the reasons for the high rates paid by Oregon employers.

To indicate that Oregon's rates are high and cause serious problems is not to argue for lower rates. This research does not address the question, should rates be lowered? The purpose is limited to determining the reasons behind the high rates. Questions about whether to change Oregon's workmen's compensation system or not must find another forum.

Major Findings and Conclusions

Major Conclusion

OREGON'S WORKMEN'S COMPENSATION INSURANCE RATES WERE HIGH BECAUSE OF THE

STATUTES PERTAINING TO DETERMINATION OF PPD AND PTD CLAIMS AND INTERPRETATIONS OF THOSE STATUTES.

The findings which led to this conclusion are presented below. Highlights of the evidence supporting these findings are presented in the next section.

1. Oregon's high workmen's compensation insurance rates were not due to differences in rating formulas between states.

2. Oregon's high workmen's compensation insurance rates were due to high losses per payroll dollar.

3. Oregon's high workmen's compensation losses were due, almost exclusively, to two types of claims--permanent partial disability claims (PPD) and permanent total disability claims (PTD).

4. The average cost per claim for PPD and PTD claims contributed little to Oregon's high workmen's compensation losses.

5. Oregon's high workmen's compensation losses were primarily due to the high frequency per dollar of payroll of PPD and PTD claims. The frequencies of all types of claims summed together contributed little to the high losses.

Several factors could potentially affect the frequencies of PPD and PTD claims per dollar of payroll: (a) hourly wage rates, (b) hazardousness of Oregon industries, and (c) statutory rules pertaining to PPD and PTD claims and subsequent interpretations of those rules.

6. Wage rates in Oregon were relatively high. Thus, wage rates were not the reason for the high frequencies of PPD and PTD claims per dollar of payroll.

7. Hazardousness of Oregon's industries was not the reason for the high frequencies of PPD and PTD claims per dollar of payroll.

8. The high frequencies of PPD and PTD claims per dollar of payroll in

Oregon were due to the statutory rules pertaining to determination of PPD and PTD claims and subsequent interpretation of those rules. The rules are interpreted by several divisions of the Workmen's Compensation Board and the Oregon court system.

Summary of Findings

This section includes a summary of the methodology and evidence resulting in the findings and conclusions listed above. Supporting material is presented with each finding.

In order to examine the reasons for Oregon's high workmen's compensation insurance rates, a set of 16 states was chosen. This set of states, referred to as Group A, was chosen on the basis of workmen's compensation coverage similar to Oregon's. Group A includes Colorado, Connecticut, Hawaii, Idaho, Illinois, Indiana, Iowa, Maryland, Minnesota, Montana, Nebraska, New Hampshire, New York, Oregon, South Dakota and Utah. Subsequent findings are supported with data from all industrial classifications of states from Group A for policy years between 1968 and 1970.

Not the Rating Formula

Oregon's high rates suggested the rating formula as a starting point for our inquiry. Rates for each state are estimated using that state's past loss and payroll experience, adjusting that experience to present conditions and adding certain overhead expenses and profit. The expenses and profit are added as percentages of the loss experience, not as actual dollar costs.

According to data obtained from the National Council on Compensation Insurance^{1/} (NCCI) for 1971, the percentages in the rating formula for paying claim costs varied by 3.1 percentage points for states from Group A.

^{1/} The National Council on Compensation Insurance (NCCI) is a non-profit organization funded by insurance carriers to estimate workmen's compensation insurance rates. In 1972 the NCCI filed rates in 24 states and prepared the basic data for or testified about the rates in 10 additional states.

For all U.S. states except those with monopoly state funds^{2/} and excluding California and Kentucky, the percentages varied by 3.6 percentage points. Including California and Kentucky increased this range to 16.8 percentage points. Thus, for states other than the states of California and Kentucky, the percentage of the rate provided for paying claims varies little. Differences in the rating formulas between states are not responsible for Oregon's high workmen's compensation insurance rates.

High Workmen's Compensation Insurance Losses per Payroll Dollar

This implies that variations in rates between states are due to variations in losses. In fact, Oregon's losses per \$100,000 payroll ranked the first of fifteen states from Group A (Figure 1). Oregon's losses were 185% of the median losses.

The losses presented here are incurred losses including both paid out losses and reserves established by insurance companies against open claims. For reasons presented below, incurred losses were assumed to be as conservative a picture of actual losses in Oregon as in other states.

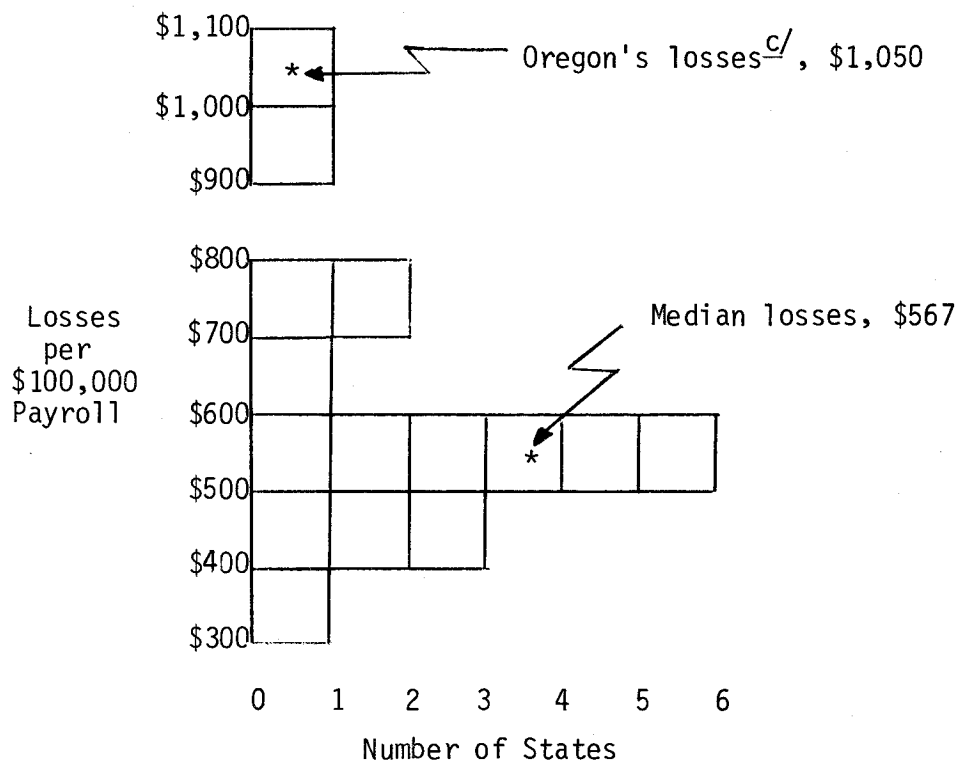
Several audits of the State Accident Insurance Fund (SAIF) indicate that reserves for this company were "reasonable and conservative" as of June 30, 1968, 1969 and 1970 [2, 14, 15]. SAIF sells over 60% of the workmen's compensation insurance in Oregon. Also, data on changes in losses from one year to the next from the NCCI indicates that historically incurred losses have understated actual losses in Oregon. From this information, it is assumed that actual losses in other states are not understated more than in Oregon.

High Workmen's Compensation Insurance Losses Were Due to PPD and PTD Claims

Oregon's high losses were due almost exclusively to permanent partial

^{2/} In 1971 monopoly state funds were used in six states--Nevada, North Dakota, Ohio, Washington, West Virginia and Wyoming. In these states, insurance cannot be purchased through private insurance carriers but can be purchased through a state-owned insurance company.

Figure 1. Distribution of States from Group A^{a/} by Losses per \$100,000 Payroll for All Claims: 1968-70^{b/}



^{a/} States from Group A: Colorado, Connecticut, Hawaii, Idaho, Illinois, Indiana, Iowa, Maryland, Minnesota, Montana, Nebraska, New Hampshire, Oregon, South Dakota, Utah. New York is omitted for lack of payroll data.

^{b/} Data is from policy years falling in the time period 1968-70. See Table 4, pp. 10-11 of the main report for policy year for each state.

^{c/} Oregon's losses are the highest of the fifteen states from Group A and are 185% of the median losses.

SOURCES: "Countrywide Workmen's Compensation Experience Including Certain Competitive State Funds", March 1973, National Council on Compensation Insurance (a statistical table).

Payroll was taken from 1972-3 "State Supplementary Memos", published by the National Council on Compensation Insurance.

disability (PPD) and permanent total disability (PTD) claims (Figure 2). PPD claims accounted for 73.6% of the difference between Oregon's losses and the median losses, and PTD claims accounted for 18.5% of that difference. Death and temporary total disability (TTD) claims accounted for 7.3% of that difference and medical only (MO) claims, .6%.

PPD and PTD claims together accounted for 92.1% of the difference between Oregon's losses and the median losses.

Average Cost of PPD and PTD Claims Added Little to Oregon's High Losses

For Group A the median average cost of a PPD claim was \$5,020. Oregon's average PPD claim cost was \$4,995--below the median. Thus, average cost per PPD claim had no effect on 73.6% of Oregon's losses in excess of the median losses (Figure 2).

For Group A the median average cost of a PTD claim was \$49,522. Oregon's average PTD claim cost was \$60,898--123% of the median. Oregon's losses for PTD claims were 1,190% of the median losses. Thus, average cost of PTD claims had a small effect on 18.5% of Oregon's losses in excess of the median losses (Figure 2).

Death, TTD and MO claims accounted for 7.9% of Oregon's losses in excess of the median losses. Thus, average costs of these three types of claims could have had little effect on Oregon's high losses.

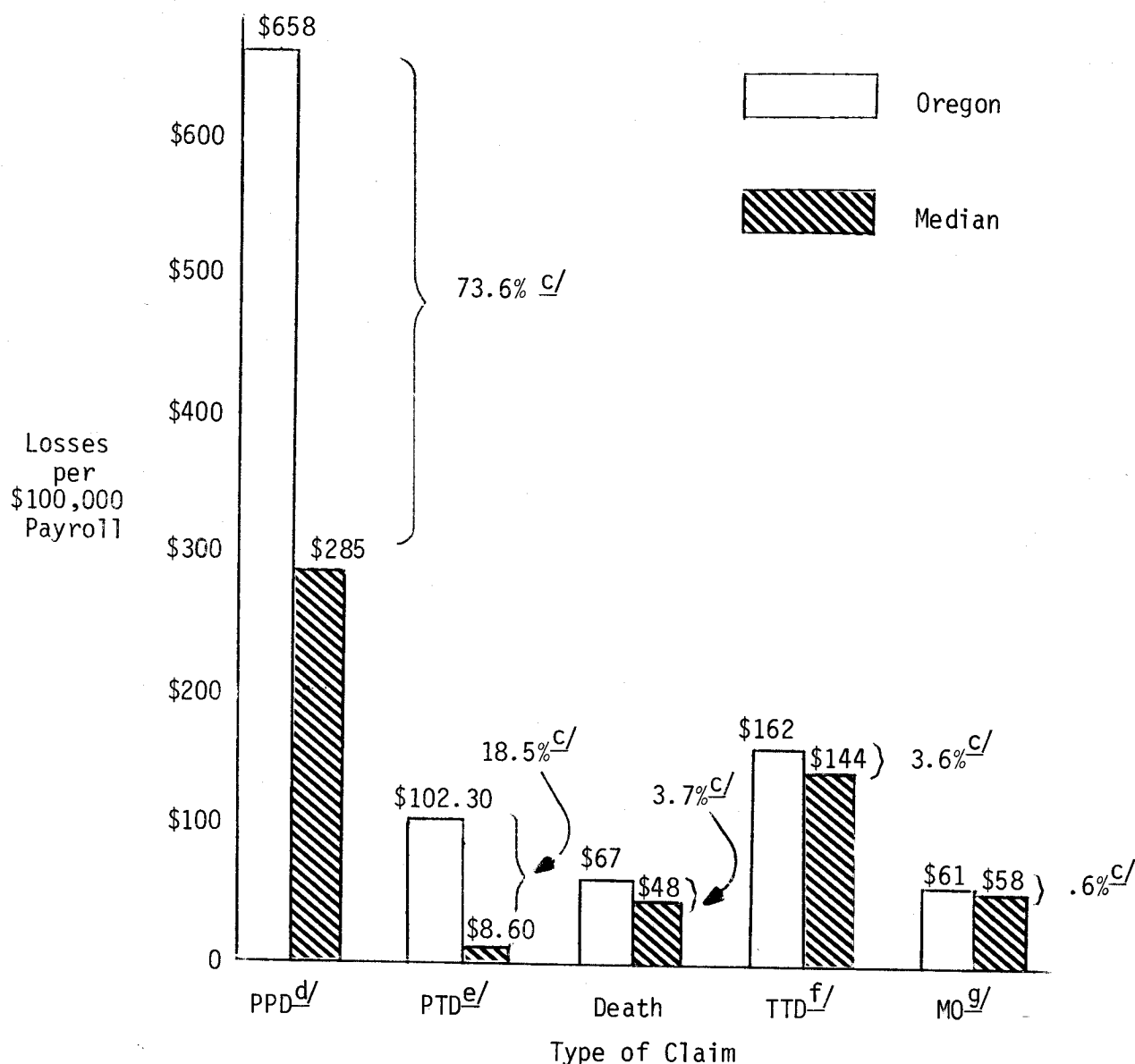
If high losses are not due to average costs of PPD and PTD claims, then the frequency of these types of claims must be responsible.

Oregon's High Losses Were Due to the Frequency of PPD and PTD Claims

Oregon's frequency of PPD claims per \$100,000,000 payroll ranked second among the states from Group A (Figure 3). This was 240% of the median number of PPD claims for Group A.

Oregon's frequency of PTD claims (1.7) ranked first and was 567% of the

Figure 2. Losses per \$100,000 Payroll--Oregon Compared to the Medians for Group A^{a/}: 1968-70^{b/}



^{a/} States from Group A: Colorado, Connecticut, Hawaii, Idaho, Illinois, Indiana, Iowa, Maryland, Minnesota, Montana, Nebraska, New Hampshire, Oregon, South Dakota, Utah.

^{b/} Data is from policy years falling in the time period 1968-70. See Table 4, pp. 10-11 of the main report for policy year for each state.

^{c/} Percentage of the total difference between Oregon's losses and the median losses.

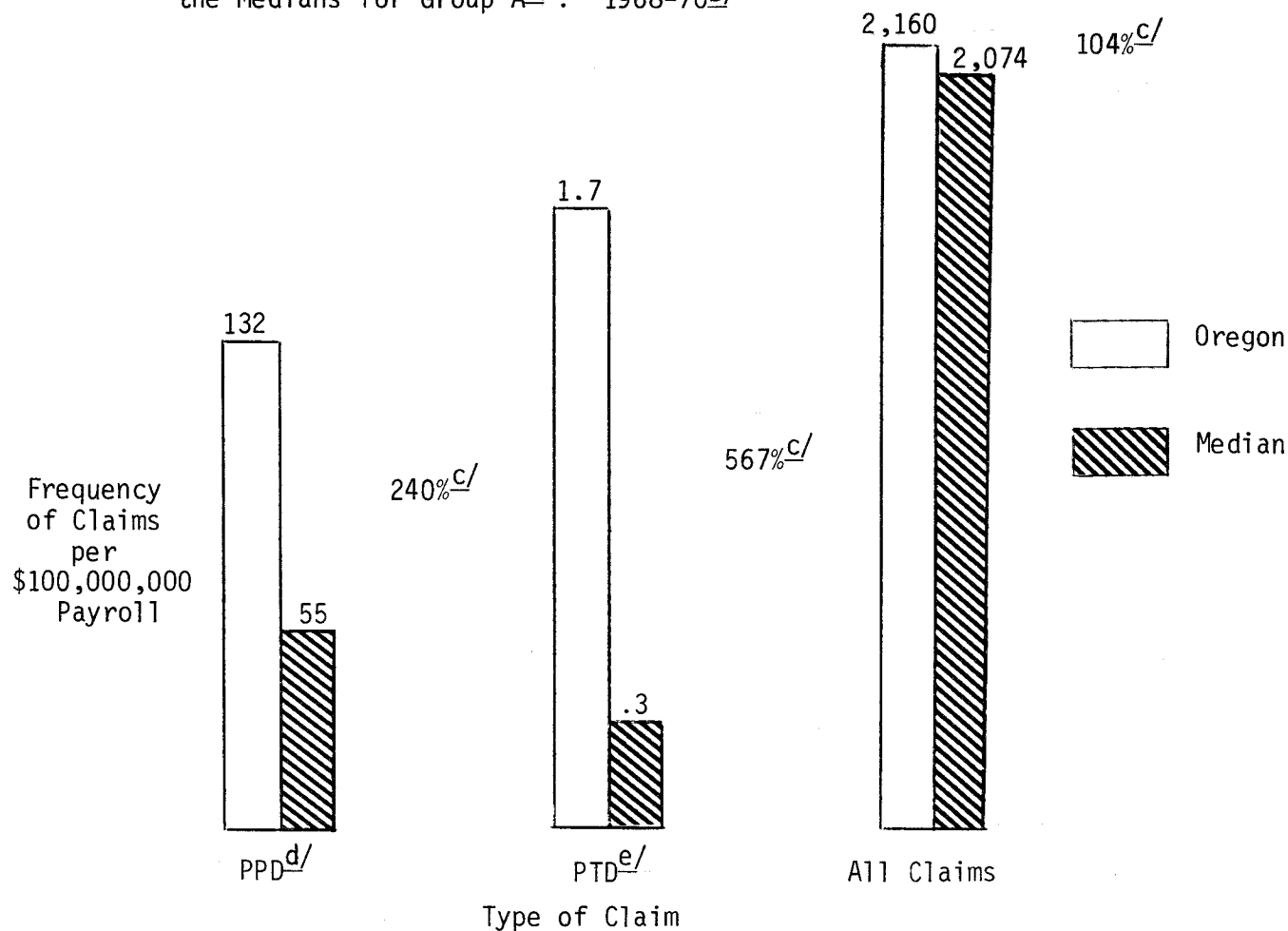
^{d/} Permanent partial disability. ^{e/} Permanent total disability.

^{f/} Temporary total disability. ^{g/} Medical only.

SOURCES: "Countrywide Workmen's Compensation Experience Including Certain Competitive State Funds", March 1973, National Council on Compensation Insurance (a statistical table).

Payroll was taken from 1972-3 "State Supplementary Memos", published by the National Council on Compensation Insurance.

Figure 3. Frequency of Claims per \$100,000,000 Payroll--Oregon Compared to the Medians for Group A^{a/}: 1968-70^{b/}



^{a/} States from Group A: Colorado, Connecticut, Hawaii, Idaho, Illinois, Indiana, Iowa, Maryland, Minnesota, Montana, Nebraska, New Hampshire, Oregon, South Dakota, Utah.

^{b/} Data is from policy years falling in the time period 1968-70. See Table 4, pp. 10-11 of the main report for policy year for each state.

^{c/} This figure is Oregon's frequency of claims as a percentage of the median frequencies.

^{d/} Permanent partial disability. ^{e/} Permanent total disability.

SOURCES: "Countrywide Workmen's Compensation Experience Including Certain Competitive State Funds", March 1973, National Council on Compensation Insurance (a statistical table).

Payroll was taken from 1972-3 "State Supplementary Memos", published by the National Council on Compensation Insurance.

median. Oregon's relatively high frequencies of PPD and PTD claims is clearly demonstrated.

The median frequency of all claims per \$100,000,000 payroll for Group A was 2,074 (Figure 3). Oregon's frequency of all claims per \$100,000,000 payroll was 2,160--4% above the median. Oregon's losses for all claims were 185% above the median losses (Figure 2). Thus, the frequency of all claims contributes little to Oregon's losses in excess of the median losses.

Findings Were Not Affected by Including Additional States in the Analysis

These findings concerning losses, average costs and frequency of claims are based on analysis including states from Group A. Additional analysis was performed to examine the effect of states with workmen's compensation coverage dissimilar in payroll limitations and numerical exemptions to Oregon's coverage. Average costs by type of claim for forty-four states were compared. Data was not available from the six states with monopoly state funds--Nevada, North Dakota, Ohio, Washington, West Virginia and Wyoming. Due to missing payroll data, ten additional states were omitted from the comparisons of losses per \$100,000 payroll and number of claims per \$100,000,000 payroll by type of claim--Alabama, Arizona, California, Delaware, Louisiana, Massachusetts, New Jersey, New York, Pennsylvania and Texas.

Including states with numerical exemptions and payroll limitations affected the analysis but did not change the basic findings.

1. Oregon's workmen's compensation losses were high.
2. The high losses were due to PPD and PTD claims.
3. The high losses were not due to high average costs for PPD and PTD claims.
4. The high losses were due to the high frequencies of PPD and PTD claims per payroll dollar and were not due to the high frequency of all claims.

Although the medians for the comparisons changed, the findings were confirmed.

After determining that the findings were not affected by selecting states

from Group A, the reasons for Oregon's high number of PPD and PTD claims were examined.

Three factors were examined as the major potential causes of Oregon's high number of PPD and PTD claims per \$100,000,000 payroll: a) hourly wage rates, b) the hazardousness of Oregon's industrial mix, and/or c) the statutes relating to determination of PPD and PTD claims and interpretations of those statutes. Again, the states from Group A were used to examine these potential causes. Due to some data problems, Montana was omitted from Group A. New York was included.

Wage Rates Were Not the Reason

How would wage rates affect the number of PPD and PTD claims? The frequency of claims per payroll is inversely proportional to the wage rate. Consider the example of two states with identical workmen's compensation systems, identical accident rates and one state has twice the wage rate of the other state. The state with twice the wage rate will have one-half the frequency of claims per payroll dollar that the other state has. If Oregon's wage rates were low, this could explain Oregon's high number of PPD and PTD claims per payroll dollar. Of course, this would not explain Oregon's relative mix of the five types of claims.

Three sets of wage data corresponding to workmen's compensation data used in this study were used to examine this hypothesis: 1) average hourly wages for hired farm workers (1968-70), 2) average weekly wage for injured workmen filing workmen's compensation claims (1968-70), and 3) average hourly earnings in 1969 for some selected standard industrial classifications. Oregon's wage rates were compared with the maximum wage rates to set a lower bound on how low Oregon's wage rates could be relative to the states from Group A.

The results (see Table 2) indicate that Oregon's wage rate was 90% or more of the maximum wage rate for all three sets of data. Oregon's wage rate being the maximum in several cases (i.e., 100%) indicates that other states' frequencies of PPD and PTD claims are inflated relative to Oregon's. Wage

Table 2. Oregon Wage Rates as a Percentage of the Maximum Wage Rates for Group Aa/

	Calendar year		
	1968	1969	1970
Average hourly wage for hired farm workersb/	90%	90%	91%
Average weekly wage of injured workmen filing workmen's compensation insurance claimsc/	100%	97%	95%
Average hourly earnings for selected standard industrial classificationsd/			
Contract Construction		97%	
Manufacturing		100%	
Durable Goods		100%	
Nondurable Goods		93%	

a/ States from Group A: Colorado, Connecticut, Hawaii, Idaho, Illinois, Indiana, Iowa, Maryland, Minnesota, Montana, Nebraska, New Hampshire, New York, Oregon, South Dakota, Utah.

b/ SOURCE: Farm Labor, U.S. Department of Agriculture, Statistical Reporting Service, Crop Reporting Board, January 1970, 1972, 1973.

c/ SOURCE: "State Supplementary Memos", 1972-73, published by the National Council on Compensation Insurance.

d/ SOURCE: Employment and Earnings--States and Areas, 1939-71, Bureau of Labor Statistics, U.S. Department of Labor.

rates in Oregon are not low relative to other states from Group A and therefore do not contribute to Oregon's high frequencies of PPD and PTD claims.

How low would Oregon's wage rates have needed to be to explain Oregon's frequencies of PPD and PTD claims per \$100,000,000 payroll being 240% and 567% of the states with the median frequencies? Using the states with the median frequencies as a base, Oregon's wage rates would need to be 42% and 18% of these states' wage rates respectively.

This finding is based on the fact that the frequency of claims per payroll

is inversely proportional to the wage rate. It should also be noted that losses per payroll and workmen's compensation rates per payroll are inversely proportional to wage rates. Therefore, the conclusion may be expanded. Oregon's high losses and rates are not due to low wage rates.

Hazardousness of Oregon's Industrial Mix Was Not the Reason

Oregon's industrial mix, if more hazardous than in other states, could explain the high frequency of PPD and PTD claims per \$100,000,000 of payroll. However, this would not explain why the frequency of each type of claim and all claims are not high relative to other states.

The effects of differences in hazardousness were removed by using data from a selected set of industrial classifications covering two policy years within the time period 1965-69 (see Table 3). Logging and agriculture, two hazardous industries, were purposely avoided. The classifications chosen are assumed to have a similar degree of hazardousness between states.

The data for each state was altered to match the industry mix that existed in Oregon. That is, if 5% of Oregon's payroll for the 12 classifications was in Bakeries (2003), then the payroll for each state was adjusted so 5% was in Bakeries (2003). The same factor used to adjust payroll for each state was used to adjust losses and number of claims data.

If there are differences in hazardousness between states, then removal of these differences should result in several changes in Oregon's frequencies of the various types of claims relative to other states. One would expect the frequency of PPD and PTD claims per \$100,000,000 and the frequencies of all other types of claims to decline relative to other states.

Figure 4 reveals that Oregon's frequency of PPD and PTD claims were 167% and 1,300% of the medians respectively. Oregon's frequency of Death and PPD claims decreased relative to other states while the frequencies of PTD, TTD, MO and all claims increased. Oregon's frequencies of PPD and PTD claims ranked third and first respectively. The analysis indicates that hazardousness

Table 3. Selected Industrial Classifications

Code	Common name
2003	Bakeries
2070	Creameries
4299	Printing
4304	Newspaper Publishing
7219	Truckmen ^{a/}
8017	Store Risks, Retail
8033	Meat, Grocery and Provision Stores
8232	Lumber Yards
8387	Automobile Accessories Service Stations
8391	Automobile Garages or Repair Shops
8810	Clerical Office Employees
9079	Restaurants

^{a/} Log truck drivers are not included in this classification.

SOURCE: Classifications Code: Workmen's Compensation and Employers' Liability Insurance Manual, National Council on Compensation Insurance [7].

of Oregon's industrial mix was not a major contributing factor to Oregon's high frequency of PPD and PTD claims per \$100,000,000 payroll.

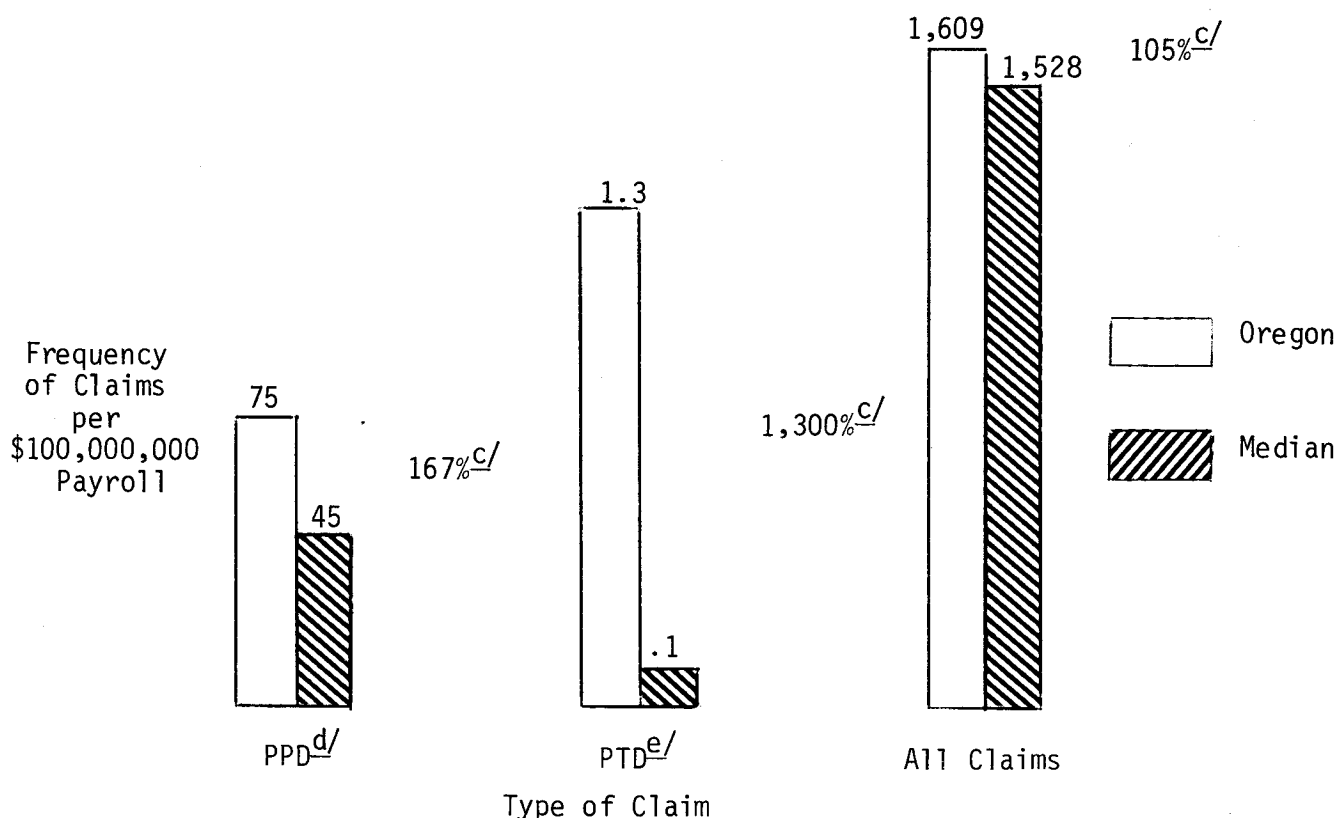
This data from different policy years provides opportunity to examine previous findings:

1. Oregon's losses per \$100,000 payroll were again high. Oregon's losses ranked first of the states from Group A and were 163% of the median.

2. PPD claims accounted for 73.3% of the difference between Oregon's losses and the medians. PTD claims accounted for 26.3% of that difference (Figure 5).

3. Average costs accounted for a small portion of Oregon high losses. Oregon's average costs for PPD and PTD claims were 112% and 128% of the medians

Figure 4. Frequency of Claims per \$100,000,000 Payroll for Selected Industrial Classifications--Oregon Compared to the Medians for Group A^{a/}: 1965-69^{b/}



^{a/} States from Group A: Colorado, Connecticut, Hawaii, Idaho, Illinois, Indiana, Iowa, Maryland, Minnesota, Nebraska, New Hampshire, New York, Oregon, South Dakota, Utah.

^{b/} Data is from policy years falling in the time period 1965-69. See Table 18 of the main report for policy year for each state.

^{c/} This figure is Oregon's frequency of claims as a percentage of the median frequencies.

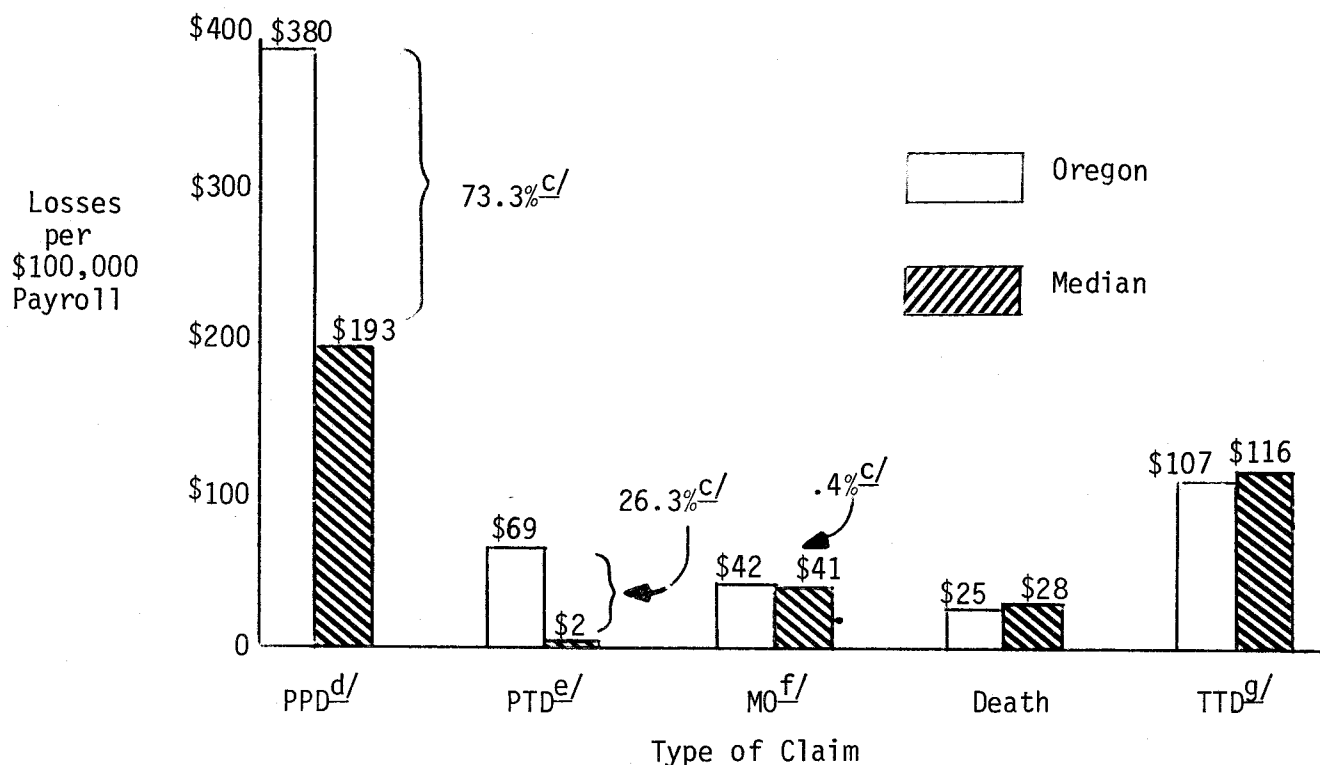
^{d/} Permanent partial disability. ^{e/} Permanent total disability.

SOURCE: Unpublished data furnished by the National Council on Compensation Insurance.

respectively.

4. Oregon's high losses were primarily due to the frequency of PPD and PTD claims. Oregon's frequencies of PPD and PTD claims were 167% and 1,300% of the medians respectively. Oregon's high losses were not due to the frequency

Figure 5. Losses per \$100,000 Payroll for Selected Industrial Classifications-- Oregon Compared to the Medians for Group A^{a/}: 1965-69^{b/}



^{a/} States from Group A: Colorado, Connecticut, Hawaii, Idaho, Illinois, Indiana, Iowa, Maryland, Minnesota, Nebraska, New Hampshire, New York, Oregon, South Dakota, Utah.

^{b/} Data is from policy years falling in the time period 1965-69. See Table 18 of the main report for policy year for each state.

^{c/} This is the percentage of the total difference between Oregon's losses and the median losses.

^{d/} Permanent partial disability. ^{e/} Permanent total disability.

^{f/} Medical only. ^{g/} Temporary total disability.

SOURCE: Unpublished data furnished by the National Council on Compensation Insurance.

of all claims. Oregon's frequency of all claims is 105% of the median (Figure 4).

Analysis of this data from selected industrial classifications illustrates that hazardousness was not the reason for Oregon's frequency of PPD and PTD

claims in excess of the medians for states from Group A. By process of elimination, this leads to the last causal factor.

Oregon's Frequency of PPD and PTD Claims per \$100,000,000 Payroll Were High Because of the Statutes Pertaining to Determination of PPD and PTD Claims and Interpretations of Those Statutes

A state by state comparison of the statutes and their interpretations would provide the most powerful test of this suspected cause. However, such an effort would be time consuming and beyond the scope of this research. Instead, the effects of these statutes are examined indirectly. The average distribution of 1,000 claims by type of claims is compared for the states from Group A. The data used is from the selected industrial classifications and includes two policy years for each state falling in the time period 1965-69.

At this point it is important to distinguish between two types of statutory rules. The one has to do with compensability. The other has to do with level or type of award. For all practical purposes, the rules regarding compensability are the only ones used to determine if a filed claim is a compensable death claim. For PTD, PPD, TTD and MO claims, both types of rules are used. For these types of claims, the compensability of the claim is determined and the level of award or type of claim is determined. A PPD or a PTD claim could have been a TTD or MO claim or no claim at all.

The data in the previous section illustrated the effect of the statutory rules regarding compensability of all types of claims. Figure 4 indicates that Oregon's frequency of all claims per \$100,000,000 payroll was 105% of the median frequency for Group A. This section includes an examination of the statutory rules pertaining to level of award, i.e., type of claim, between MO, TTD, PPD and PTD claims.

The data presented in Table 4 indicates that a higher proportion of Oregon's claims were PTD claims than occurred in any of the other states from Group A. Oregon's distribution of PTD claims ranked first and was 1,367% of the median distribution. Oregon's relative distribution of PPD claims was also above the median. For this type of claim, Oregon ranked fifth and was 171% of

Table 4. Distribution of 1,000 Claims by Type of Claim for Selected Industrial Classifications--Oregon Compared to Fifteen Other States from Group A^{a/}: 1965-69^{b/}

Distribution of 1,000 Claims	Type of Claim			
	PTD ^{c/}	PPD ^{d/}	TTD ^{e/}	MO ^{f/}
Ranged from:	0 ^{g/}	12.6	73.8	562.5
to:	.82	68.1	369.4	900.0
Median	.06	27.2	113.9	852.8
Oregon's distribution of 1,000 claims	.82	46.4	177.8	775.0
Of the sixteen states, Oregon's distribution of 1,000 claims ranked	1st	5th	4th	13th
Oregon's distribution as a percentage of the median distribution	1,367%	171%	156%	91%

^{a/} States from Group A: Colorado, Connecticut, Hawaii, Idaho, Illinois, Indiana, Iowa, Maryland, Minnesota, Montana, Nebraska, New Hampshire, New York, Oregon, South Dakota, Utah.

^{b/} Data is from two policy years falling in the time period 1965-69. See Table 18 of the main report for the policy years for each state.

^{c/} Permanent total disability. ^{d/} Permanent partial disability.

^{e/} Temporary total disability. ^{f/} Medical only.

^{g/} Seven states had no PTD claims within the selected industrial classifications.

SOURCE: Unpublished data furnished by the National Council on Compensation Insurance.

the median. Oregon's relative distribution of TTD claims ranked fourth and was 156% of the median.

Oregon's claims were distributed toward PTD, PPD and TTD claims and away from MO claims. Oregon's relative distribution of MO claims ranked thirteenth

and was 91% of the median.

This data indicates that Oregon's claims fall disproportionately into PTD, PPD and TTD claims. This data and the analytical process pursued in this section lead to the conclusion that Oregon's high frequencies of PPD and PTD claims per \$100,000,000 payroll were due to the statutes pertaining to determination of these two types of claims and interpretation and application of the statutes.

Summary and Implications

In summary, Oregon's rates were high because Oregon's losses due to PPD and PTD claims were high. This situation exists because of the high frequencies of these two types of claims. These frequencies were high relative to other states due to the statutes pertaining to determination of PPD and PTD claims and interpretations of those statutes. Interpretations are made by the Closing and Evaluations Division and the Hearings Division of the Workmen's Compensation Board and the Board itself. Interpretations also come from the Circuit Court, the Court of Appeals and the Oregon Supreme Court.

A detailed examination of the statutes pertaining to PPD and PTD claims and interpretations of those statutes is beyond the scope of this study. However, several areas for possible examination are listed here with an accompanying court case:

1. Compensability of heart cases; Fagaly vs. SAIF, June 1970.
2. Loss of earnings capacity; Surratt vs. Gunderson Bros. Engineering Corporation, August 1970.
3. "Odd lot" doctrine; Swanson vs. Westport Lumber Company, January 1971.

This last area, the "odd lot" doctrine, provides an example of a court interpretation which may ultimately be one of the most costly for agriculture. This doctrine allows for finding that a worker is totally disabled when not physically totally disabled. This occurs when he is judged unemployable

because of his physical problem coupled with a lack of work skills and training, low educational level, low mental capacity and/or advanced age. Advanced age was 47 in the Jenness vs. SAIF case, January 1972. In Deaton vs. SAIF, May 1973, the rules concerning the "odd lot" doctrine became more explicit and were subsequently included and passed in Senate Bill 233. Once a claimant is judged in the "odd lot", the burden of proof shifts. The employer must demonstrate that there is suitable employment regularly and continuously available for that particular workman.

A high percentage of agricultural workers are potential "odd lot" doctrine cases if injured. Consider the proportion of agricultural workers who are middle aged or older, have limited job skills and have a low educational level.

This doctrine, established by the Swanson vs. Westport Lumber Company case in January 1971, is partially reflected in the data used in this study. The Workmen's Compensation Board indicates that a significant percentage of the reasons given for PTD determinations are those listed for the "odd lot" doctrine for 1970-72. These percentages are 20.8% in 1970, 13.0% in 1971 and 17.3%, 23.3% and 18.7% for the first three quarters of 1972. Only time will reveal the full impact of this court decision.

Oregon's workmen's compensation system has several other peculiarities which affect interpretations of statutes relating to the determination of PPD and PTD claims. The NCCI and the Workmen's Compensation Board have indicated that court decisions have been rapidly changing Oregon's interpretations of workmen's compensation statutes in recent years. The changed interpretations affect past claims as well as future claims. Oregon's workmen's compensation system includes a five year aggravation period. This means new interpretations are potentially retroactive over a five year period.

Several factors could be responsible for the climate of change which exists within Oregon's workmen's compensation system. These factors are listed below.

1. The appeals system is "de novo" through all of its steps except the

Supreme Court. "De novo" refers to the fact that each case is reviewed on the evidence. Little weight may be placed on the decision from the previous review.

2. Appeals are initiated at the request of the employee or employer. No "substantial evidence" rule is employed.

3. There has been a high incidence of decision changes between the Closing and Evaluations Division and the Hearings Division of the Workmen's Compensation Board. A major proportion of the appeals to the Hearings Division from the Closing and Evaluations Division result in increased settlements--66% in 1968, 74% in 1969, 75% in 1970 and 76% in 1971.

This study was designed to determine the reasons for Oregon's high workmen's compensation insurance rates relative to other states. This has been accomplished. Oregon's rates are high because of the statutes pertaining to determination of PPD and PTD claims and interpretation of the statutes. This summary has also included some discussion of interpretations of statutes relating to the determination of PPD and PTD claims and some peculiarities of Oregon's workmen's compensation system. This information should be useful to those who would examine Oregon's system.

BIBLIOGRAPHY

1. "Analysis of Workmen's Compensation Laws", prepared and published annually by the Chamber of Commerce of the United States, Washington, D. C., 1972 edition.
2. "Audit Report, State of Oregon", State Compensation Department (currently State Accident Insurance Fund), Industrial Accident Fund, year ended June 30, 1969, Touche Ross and Company, Certified Public Accountants.
3. The Basic Manual of Rules, Classifications and Rates for Workmen's Compensation and Employers' Liability Insurance, issued by the National Council on Compensation Insurance, New York.
4. Burton, John F., Jr., LL.B., Interstate Variations in Employers' Costs of Workmen's Compensation: Effect on Plant Location Exemplified in Michigan, Kalamazoo, Michigan, W. E. Upjohn Institute for Employment Research, May 1966.
5. Burton, John F., Jr., LL.B., The Significance and Causes of the Interstate Variations in Employers' Costs of Workmen's Compensation, Ph.D. dissertation, University of Michigan, 1965.
6. Casualty Insurance Audit Reference Book, issued by the National Council on Compensation Insurance, New York.
7. Classifications Code: Workmen's Compensation and Employer's Liability Insurance Manual, issued by the National Council on Compensation Insurance, New York.
8. Cristman, Scott, "A Study of Workmen's Compensation for Agricultural Employers in Michigan", master's thesis, Michigan State University, 1971.
9. "Five Year Study: Workmen's Compensation Insurance in Oregon", State Accident Insurance Fund, 1971.
10. Fratello, Barney, "Workmen's Compensation Injury Table and Standard Wage Distribution Table", reprinted from Proceedings of the Casualty Actuarial Society, Vol. XLII, pp. 110-201.
11. Heitzmann, Robert D., LL.B., "Workmen's Compensation Manual Rate-Making", CPCU Annals, Fall 1964, pp. 197-212.
12. Jaqua, John E., "Oregon Court Decisions in Workmen's Compensation", a report delivered to the Oregon Self-Insurers Association, Sun River Lodge, June 23, 1972.

13. "National Council on Compensation Insurance Annual Report, March 1, 1973", New York.
14. "Oregon State Accident Insurance Fund: Actuarial Analysis, June 1, 1968 to June 30, 1970", Woodward and Fondiller, Division of Martin E. Segal Co., Inc., New York, April 30, 1971.
15. "Oregon State Accident Insurance Fund: Supplement to Analysis of Reserves as of June 30, 1968", Woodward and Fondiller, Division of Martin E. Segal Co., Inc., New York, January 22, 1970.
16. "Premium Level and Classification Experience Exhibits", filed with the Oregon Insurance Commissioner, July 21, 1972, by the National Council on Compensation Insurance.
17. "Premium Level and Classification Experience Exhibits", filed with the Oregon Insurance Commissioner, May 22, 1973, by the National Council on Compensation Insurance.
18. The Report of the National Commission on State Workmen's Compensation Laws, Washington, D. C., July 1972.
19. Skelton, Keith D., "Workmen's Compensation in Oregon: The Report to the National Council on State Workmen's Compensation Laws", 1972.
20. State Workmen's Compensation Laws: A Comparison of the Major Provisions with Recommended Standards, U. S. Department of Labor, Employment Standards Administration, Bulletin No. 212, revised 1971.
21. Unpublished material provided October 20, 1972, by M. Keith Wilson, Chairman, Oregon Workmen's Compensation Board.