

Secretary of State  
Certificate and Order for Filing  
**TEMPORARY ADMINISTRATIVE RULES**  
A Statement of Need and Justification accompanies this form

I certify that the attached copies\* are true, full and correct copies of the  
TEMPORARY Rule(s) adopted on

January 14, 2003 by the  
Date prior to or same as filing date.

Department of Consumer and Business Services,  
Workers' Compensation Division

OAR 436-035

Agency and Division

Administrative Rules Chapter No.

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to become effective January 15, 2003 through July 13, 2003  
Date upon filing or later

A maximum of 180 days including the effective date.

**RULEMAKING ACTION**

List each rule number separately, 000-000-0000.

**AMEND:** 436-035-0500

ORS 656.726(4)  
Statutory Authority:

ORS 183.335; OAR 137  
Other Authority:

ORS 656.268(6); ORS 656.726(4)(f)(C)  
Statutes being Implemented

**RULE SUMMARY**

Promulgation of temporary disability standards to address the impairment of an individual injured worker in  
WCD files BAD-0991, DAC-2018, EAE-0535, FAA-9983, G93-5860 and IAC-5199.

/s/ John L. Shilts

1/14/03

Authorized Signer

Date

John L. Shilts, Administrator, Workers' Compensation Division  
Printed name

\*Copies include a photocopy of this certificate with paper and electronic copies of each rule listed in the Rulemaking Action.

## EXHIBIT "A"

### CHAPTER 436 DEPARTMENT OF CONSUMER AND BUSINESS SERVICES WORKERS' COMPENSATION DIVISION DIVISION 035

#### DISABILITY RATING STANDARDS

#### TEMPORARY RULE PROMULGATION FOR INDIVIDUAL CLAIMS

**436-035-0500** (1) This rule applies to the rating of permanent disability under Chapter 656 in individual cases pursuant to ORS 656.726(4)(f)(C) which requires the director to stay the reconsideration proceeding and adopt temporary rules in cases where the director finds that the worker's impairment is not adequately addressed in the disability standards.

(2) Temporary rules promulgated pursuant to ORS 656.726(4)(f)(C) will be incorporated by reference to the Workers' Compensation Division claim file number and will be applicable solely to the rating of that claim. The temporary rule will be effective upon filing with the Secretary of State and elapse 180 days thereafter in accordance with ORS 183.335(6)(a).

(3) Notice of adoption of temporary rules will be given by mailing a copy of the temporary rule to the affected parties and to others as provided in OAR 436-001-0000(3).

A94-9455 As a result of the accepted left thumb laceration and reflex sympathetic dystrophy, the worker experiences a loss of function due to mild hypersensitivity and cold intolerance. The Director finds the loss of function, due to the cold intolerance in the left hand, similar to the loss associated with a Class 2 vascular impairment and assigns an impairment value of 15% of the left hand. See OAR 436-035-0110(6). The Director finds the loss of function, due to hypersensitivity in the left hand/forearm, similar to the loss of function experienced with less than normal sensation and assigns an impairment value of 19% of the left hand/forearm. See OAR 436-035-0110(1)(c). These values shall be combined with any other applicable impairment values for the involved left hand/forearm. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. A94-9455.

A98-1082 The worker suffered a transverse fracture of the left little finger which healed with shortening similar in length to an amputation at the DIP joint. The Director finds the loss of function, due to shortening in the left little finger, similar to an amputation resulting in a proportional loss of length and assigns a value of 50% for loss of length in the left little finger. This value shall be combined with any other applicable impairment values for the involved left little finger. The Director finds the loss of function, due to effective loss of opposition in the left thumb, similar to the loss of function in the thumb experienced with an amputation resulting in a proportional loss of length in the opposing digit and assigns an impairment value of 5% of the left thumb. This value shall be combined with any other applicable impairment values for the left thumb. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. A98-1082.

BAA-4505 Following a crush injury resulting in a fracture which healed with deformity, laceration and scarring of the right ring finger, the worker experiences severe hypersensitivity. The Director assigns a value of 50% for hypersensitivity for the right ring finger. This value shall be combined with any other applicable impairment values for the involved right ring finger. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. [BAA-5736] **BAA-4505**.

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EAA-6555 The worker experiences a loss of function from cold intolerance resulting from the abrasion/contusion. The Director finds the loss of use and function of the hands due to cold intolerance similar to the loss associated with a Class 3 vascular impairment and assigns an impairment value of 35% of the left hand and 35% of the right hand. See OAR 436-035-0110(6). These values shall be combined with any other applicable impairment values for each hand. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. EAA-6555.

G97-5865 This worker has an accepted diastasis of the sacroiliac joint which is not addressed by the Standards. The Director adopts a value of 10% for the accepted diastasis of the sacroiliac joint. This value shall be combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. G97-5865.

H98-7207 The worker sustained an open left tibia fibular fracture resulting in multiple surgeries and the inability to reach neutral or zero subtalar position. This results in a reduction in subtalar inversion, equal to 26 degrees of retained inversion. The Director assigns an impairment value of 0.8% for inversion of the left subtalar joint. See OAR 436-035-0190(8). This value shall be added to any other ankle or subtalar range of motion loss and combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003 this rule applies only to WCD file no. H98-7207.

I92-7557 The worker sustained an osteochondral lesion of the left talus resulting in multiple surgeries and the inability to reach neutral or zero ankle position. This results in a reduction in plantar flexion, equal to 33 degrees of retained plantar flexion. The Director assigns an impairment value of 2.8% for plantar flexion of the left ankle. See OAR 436-035-0190(8). This value shall be added to any other ankle or subtalar range of motion loss and combined with any other applicable impairment values. Notwithstanding OAR 436-035-0003 this rule applies only to WCD file no. I92-7557.

I95-6917 As a result of the accepted right long finger fracture/laceration, the worker developed right long finger sensation loss in the middle phalanx between the DIP joint and the PIP joint and cold intolerance. The Director finds the loss of function in the long finger, due to the sensation loss in the middle phalanx, to be similar to the loss of function experienced with less than normal sensation in the distal phalanx and assigns an impairment value of 13% of the right long finger. See OAR 436-035-0110(1)(c) The Director finds the loss of function, due to the cold intolerance, to be similar to the loss of function experienced with Raynaud's syndrome and assigns an impairment value of 35% of the right long finger. See OAR 436-035-0110(6). These values shall be combined with any other applicable impairment values for the right long finger. Notwithstanding OAR 436-035-0003 this rule applies only to WCD file no. I95-6917.

**BAD-0991 Prior to becoming medically stationary in regards to his accepted conditions, this worker's claim qualified for closure. The worker was not medically stationary at the time of the medical arbiter examination. No major contributing cause denial had been issued and the parties did not consent to postpone the reconsideration proceeding. Similar to OAR 436-035-0007(5)(e), the Director assigns a value of zero for the unscheduled permanent partial disability award of 0% for the accepted low back strain. Notwithstanding OAR 436-035-0003 this rule applies only to WCD file no. BAD-0991.**

**DAC-2018 As a result of the accepted amputation of the distal phalanx of the right index finger, the worker experiences a loss of function due to mild hypersensitivity. The Director finds the loss of function, due to hypersensitivity in half the distal phalanx of the right index finger, similar to the loss of function experienced with less than normal sensation and assigns an impairment value of 8% of the right index finger. See OAR 436-035-0110(1). This value shall be combined with any other applicable impairment values for the involved right index finger. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. DAC-2018.**

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**EAE-0535 This worker has residual moderate instability of the metacarpal phalangeal joint of the left thumb due to a fracture and ulnar collateral ligament dysfunction. This impairment is not addressed by the Standards. The Director assigns a total value of 4.0% for moderate metacarpal phalangeal joint instability of the left thumb. This value shall be combined with any other applicable impairment values for the left thumb. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. EAE-0535.**

**FAA-9983 The worker sustained a significant right ankle sprain resulting in the inability to reach neutral or zero ankle position. This results in a reduction in plantar flexion, equal to 25 degrees of retained plantar flexion. The Director assigns an impairment value of 5.5% for plantar flexion of the right ankle. See OAR 436-035-0190(8). This value shall be added to any other ankle or subtalar range of motion loss, then combined and apportioned with any other applicable impairment values, as appropriate. Notwithstanding OAR 436-035-0003 this rule applies only to WCD file no. FAA-9983.**

**G93-5860 The worker experiences a loss of function from temperature sensitivity, particularly cold intolerance resulting from burns and full thickness skin grafting on the dorsum of the fingers. The Director finds the loss of use and function of the fingers due to temperature sensitivity similar to the loss associated with a Class 3 vascular impairment and assigns an impairment value of 35% of the right index finger, 35% of the right middle finger, 35% of the right ring finger and 35% of the right little finger. See OAR 436-035-0110(6). These values shall be combined with any other applicable impairment values for each finger. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. G93-5860.**

**IAC-5199 The worker experiences a loss of function from cold intolerance due to the fracture and laceration resulting in a near amputation of the left little finger. The Director finds the loss of use and function of the left little finger due to cold intolerance similar to the loss associated with a Class 3 vascular impairment and assigns an impairment value of 35% of the left little finger. See OAR 436-035-0110(6). These values shall be combined with any other applicable impairment values for the left little finger. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. IAC-5199.**

Stat Auth: ORS656.726(4)

Stat Impltd: ORS656.268(6); ORS656.726(4)(f)(C)

Hist: Filed 12/31/92 as Admin. Order 18-1992, eff. 12/31/92 (Temp) (A58-7576) (D60-5352)  
Amended 4/28/93 as WCD Admin. Order 93-051, eff. 4/28/93 (Temp) (A58-2159) (B59-4533) (E61-4228) (I59-2031)  
Filed 6/29/93 as Admin. Order 93-053, eff. 6/29/93  
Amended 9/2/93 as WCD Admin. Order 93-054, eff. 9/2/93 (Temp) (I64-3064)  
Amended 10/22/93 as WCD Admin. Order 93-055, eff. 10/22/93 (Temp) (A61-7196) (F60-7468)  
Amended 5/26/94 as WCD Admin. Order 94-053, eff. 5/26/94 (Temp) (A64-0903) (B33-4465) (B52-7039) (B63-9980) (C64-7847) (D50-0623) (D60-2551) (G45-4281) (I59-4285)  
Amended 7/15/94 as WCD Admin. Order 94-056, eff. 7/15/94 (Temp) (C43-2644) (C50-4886) (D61-6586) (E38-6617) (E51-8953) (G37-3015)  
Amended 8/31/94 as WCD Admin. Order 94-057, eff. 8/31/94 (Temp) (A66-7148) (C66-9882) (F67-9790) (G37-9847) (G66-0945) (G68-2891) (I66-9214) (I67-8572)  
Amended 11/14/94 as WCD Admin. Order 94-061, eff. 11/14/94 (Temp) (A56-6922) (A68-8532) (B67-0517) (B69-2864) (C66-4016) (D69-1873) (D71-7397) (G68-3895)  
Amended 01/26/95 as WCD Admin. Order 95-050, eff. 01/26/95 (Temp) (C51-2235) (C51-9086) (D59-9600) (D69-3198) (E74-0161) (F68-5951) (G55-5440) (G69-3682) (I75-8738)  
Amended 03/02/95 as WCD Admin. Order 95-051, eff. 03/02/95 (Temp) (A69-9328) (I73-9896)  
Amended 04/13/95 as WCD Admin. Order 95-052, eff. 04/13/95 (Temp) (A32-5947) (C54-7329) (F62-2845)  
Amended 05/31/95 as WCD Admin. Order 95-053, eff. 05/31/95 (Temp) (A66-7308) (H69-9099)  
Amended 07/11/95 as WCD Admin. Order 95-055, eff. 07/11/95 (Temp) (A55-1299) (A68-5802) (B75-0788) (C72-7919) (E47-5755) (F72-6107) (G52-8324)  
Amended 10/05/95 as WCD Admin. Order 95-064, eff. 10/05/95 (Temp) (A72-7487) (B67-2012) (B75-5795) (G55-8472) (H77-3065)  
Amended 11/02/95 as WCD Admin. Order 95-067, eff. 11/02/95 (Temp) (C77-9244) (F74-8492) (G72-5640) (I59-0763)  
Amended 12/07/95 as WCD Admin. Order 95-072, eff. 12/07/95 (Temp) (A79-2845) (B78-6344) (D67-0149) (D75-7661) (F72-4844) (H75-1172)

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Amended 02/01/96 as WCD Admin. Order 96-054, eff. 02/01/96 (Temp) (A74-3939) (A79-7277) (C76-4285) (E71-9980) (E74-3188) (F54-7926) (F69-1607) (F70-0225) (F77-9704) (I75-7201)

Amended 03/20/96 as WCD Admin. Order 96-058, eff. 03/20/96 (Temp) (A76-0401) (B74-7423) (B76-5803) (E73-6324) (F72-3750) (G41-0094) (G71-9125)

Amended 07/03/96 as WCD Admin. Order 96-063, eff. 07/03/96 (Temp) (B72-2366) (C69-5254) (C75-2485) (C75-4352) (D58-5410) (E60-2070) (E67-3492) (E75-7774) (E76-8051) (E78-0741) (F41-3719) (F71-5463) (G79-8212) (H66-7437) (H67-5437) (H74-6802) (I58-7732)

Amended 08/07/96 as WCD Admin. Order 96-067, eff. 08/07/96 (Temp) (B81-6992) (E73-5763) (F77-1642) (F78-3857) (F79-7581) (G77-2943) (I77-7807)

Amended 10/31/96 as WCD Admin. Order 96-071, eff. 10/31/96 (Temp) (A75-6135) (A81-4630) (B70-9869) (C78-2717) (D75-4912) (D79-9425) (E76-7631) (E80-1282) (F74-8492) (G72-8281) (I61-2741) (I79-2365) (I80-9262)

Amended 01/15/97 as WCD Admin. Order 97-050, eff. 01/15/97 (Temp) (A82-2866) (B77-8377) (D81-7448) (I82-0858)

Amended 01/08/97 as WCD Admin. Order 96-072, eff. 02/15/97

Amended 03/12/97 as WCD Admin. Order 97-052, eff. 03/13/97 (Temp) (C84-3004) (D82-9639) (G83-6389)

Amended 05/14/97 as WCD Admin. Order 97-054, eff. 05/14/97 (Temp) (D29-9140)

Amended 09/09/97 as WCD Admin. Order 97-060, eff. 09/09/97 (Temp) (B85-1508) (E84-8454) (H78-6911) (I43-6347) (I82-6879)

Amended 03/31/98 as WCD Admin. Order 98-054, eff. 03/31/98 (Temp) (A83-5359) (A85-2018) (C81-9952) (E55-9496) (E72-7758) (F61-8155) (F83-7544) (F86-6621) (G32-9876) (G60-2516) (G74-2871) (G81-2430) (G83-2249) (G85-5641) (H81-4914) (I86-3008) (I86-9133)

Amended 7/13/98 as WCD Admin. Order 98-056, eff. 7/15/98 (Temp) (A83-5562) (A86-1481) (B86-5204) (E84-8500) (E85-7684) (F79-5346) (G69-1876) (G86-8605) (G87-7426) (G88-7067) (H87-5177) (I82-2391)

Amended 10/15/98 as WCD Admin. Order 98-058, eff. 10/15/98 (Temp) (A83-2469) (A83-2921) (A85-8493) (A86-6157) (A86-7591) (A86-7963) (A87-9961) (B89-7196) (D75-3984) (D83-4235) (F87-2368) (I86-0887)

Amended 01/11/99 as WCD Admin. Order 99-050, eff. 01/15/99 (Temp) (A81-8005) (A84-0262) (A85-3518) (A86-8939) (B88-3694) (D88-4287) (D89-0679) (F83-8609) (F85-3096) (H91-0152) (I84-4190)

Amended 04/13/99 as WCD Admin. Order 99-053, eff. 04/15/99 (Temp) (B82-5920) (B83-1332) (D87-5966) (D90-9018) (D91-3299) (E89-7114) (F45-1513) (H86-4536) (H91-8266) (I86-3678) (I86-6219)

Amended 07/15/99 as WCD Admin. Order 99-058, eff. 07/15/99 (Temp) (A88-7382) (A89-0780) (A91-0674) (C91-0512) (D81-0814) (D87-3420) (E90-7599) (F87-8389) (G76-8267) (G81-2920) (G89-0989) (I87-8203) (I90-5353) (I90-9959)

Amended 10/15/99 as WCD Admin. Order 99-060, eff. 10/15/99 (Temp) (A84-7550) (A89-0685) (A89-6055) (B61-4705) (C87-7555) (C92-3595) (F77-3561) (G84-8924) (G90-0827)

Amended 01/14/00 as WCD Admin. Order 00-050, eff. 01/14/00 (Temp) (A92-9513) (B92-8683) (G91-7494) (G91-9214) (H86-8025)

Amended 04/13/00 as WCD Admin. Order 00-054, eff. 04/14/00 (Temp) (A92-0994) (B84-4216) (D54-6838) (D84-6587) (D87-4580) (E91-0653) (F89-4935) (G85-3029) (G87-5149) (G93-3700) (H88-4596) (H93-6091)

Amended 07/13/00 as WCD Admin. Order 00-056, eff. 7/14/00 (Temp) (A87-9693) (A91-6214) (A94-0992) (B87-3845) (B94-3184) (D87-6070) (D91-9673) (F91-6225) (H87-1056) (H93-2234) (H93-3196) (I41-4835) (I95-6917)

Amended 10/13/00 as WCD Admin. Order 00-057, eff. 10/13/00 (Temp) (A95-0778) (A95-1645) (C92-4439) (C93-6258) (E91-8135) (E94-2036) (F93-6308) (H75-6914) (H92-7893) (H95-0015) (H95-3028)

Amended 01/12/01 as WCD Admin. Order 01-050, eff. 01/12/01 (Temp) (A51-3646) (A94-8686) (A96-7137) (E38-6617) (E91-1129) (E97-6899) (F95-1474) (G89-1516) (G91-0652) (H83-2574) (H96-0745) (H97-8463) (I94-6278) (I95-9534)

Amended 04/13/01 as WCD Admin. Order 01-052, eff. 04/13/01 (Temp) (A89-1510) (D98-5601) (E91-8215) (H94-8094) (I82-8270) (I95-4862)

Amended 07/13/01 as WCD Admin. Order 01-055, eff. 07/13/01 (Temp) (A95-9779) (A97-6962) (A99-7375) (C82-7198) (D78-1251) (D92-8385) (E94-4832) (E95-3421) (G95-9549) (G98-5992) (I94-6363) (I95-4150)

Amended 10/12/01 as WCD Admin. Order 01-059, eff. 10/12/01 (Temp) (A88-3505) (A94-7875) (D96-5976) (H27-1040)

Amended 1/14/02 as WCD Admin. Order 02-050, eff. 1/15/02 (Temp) (A86-5186) (A92-1955) (B92-5284) (B94-5965) (B99-2810) (C94-4437) (C94-6417) (D99-4441) (F91-6956) (F99-6321) (G88-7374) (G90-8668) (G98-7613) (H99-2218) (I90-2482)

Amended 4/12/02 as WCD Admin. Order 02-055, eff. 4/15/02 (Temp) (B98-4396) (C94-4084) (GAB-8958) (H99-4180) (H99-7843) (I95-8643)

Amended 7/12/02 as WCD Admin. Order 02-058, eff. 7/15/02 (Temp) (A98-3699) (A99-4990) (AAA-3578) (BAA-5736) (C98-7653) (CAB-4735) (D95-5595) (FAA-6263) (F98-7538) (HAA-2339) (I98-6486) (IAA-3456)

Amended 10/11/02 as WCD Admin. Order 02-062, eff. 10/15/02 (Temp) (A94-9455) (A98-1082) (BAA-4505) (EAA-6555) (G97-5865) (H98-7207) (I92-7557) (I95-6917)

**Amended 1/14/03 as WCD Admin. Order 03-51, eff. 1/15/03 (Temp) (BAD-0991) (DAC-2018) (EAE-0535) (FAA-9983) (G93-5860) (IAC-5199)**

Secretary of State  
**STATEMENT OF NEED AND JUSTIFICATION**  
A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Dept. of Consumer and Business Services, Workers' Compensation Division  
Agency and Division

OAR CHAPTER 436  
Administrative Rules Chapter Number

In the Matter of	)	Statutory Authority,
	)	Statutes Implemented,
	)	Statement of Need,
	)	Principal Documents Relied Upon
	)	
<b>OAR 436-035-0500, subsections</b>	)	
BAD-0991, DAC-2018, EAE-0535,	)	
FAA-9983, G93-5860, and IAC-5199	)	
	)	
	)	
Disability Rating Standards	)	
Temporary Rule Promulgation	)	
For Individual Claims	)	

Statutory Authority: ORS 656.726(4)

Other Authority: Oregon Administrative Rules, Chapter 137

Statutes Implemented: ORS 656.268(6); ORS 656.726(4)(f)(C)

Need for the Temporary Rule(s): The amendment is being adopted by temporary rule as provided by ORS 183.335(5) and (6). ORS 656.726(4)(f)(C) provides for the adoption of temporary rules to rate a worker's disability that is not addressed by the Standards. This rule is required to allow a worker's disability to be rated and thus provide the appropriate level of benefits.

In Workers' Compensation Division Claim (WCD) No. BAD-0991, the Standards in effect at the time of claim closure do not provide a way to rate disability when a major contributing cause denial has not been issued and the worker is not medically stationary. OAR 436-035-0500, as adopted in this Order of Adoption of Temporary Rules, addresses the worker's disability found in this case and provides benefits for permanent disability resulting from the accepted condition.

In WCD No. DAC-2018, the Standards in effect at the time of claim closure do not provide a rating for hypersensitivity in the right index finger. OAR 436-035-0500, as adopted in this Order of Adoption of Temporary Rules, addresses the worker's disability found in this case and provides benefits for permanent disability resulting from the accepted condition.

In WCD No. EAE-0535, the Standards in effect at the time of claim closure do not provide a rating for instability in the left thumb. OAR 436-035-0500, as adopted in this Order of Adoption of Temporary Rules, addresses the worker's disability found in this case and provides benefits for permanent disability resulting from the accepted condition.

In WCD No. FAA-9983, the Standards in effect at the time of claim closure do not provide a rating for loss of motion when the injured joint is unable to reach neutral or zero position. OAR 436-035-0500, as adopted in this Order of Adoption of Temporary Rules, addresses the worker's disability found in this case and provides benefits for permanent disability resulting from the accepted condition.

In WCD No. G93-5860, the Standards in effect at the time of claim closure do not provide for a rating for cold intolerance not caused by Raynaud's phenomenon. OAR 436-035-0500, as adopted in this Order of Adoption of Temporary Rules, addresses the worker's disability found in this case and provides benefits for permanent disability resulting from the accepted condition.

In WCD No. IAC-5199, the Standards in effect at the time of claim closure do not provide a rating for cold intolerance not caused by Raynaud's phenomenon. OAR 436-035-0500, as adopted in this Order of Adoption of Temporary Rules, addresses the worker's disability found in this case and provides benefits for permanent disability resulting from the accepted condition.

Documents Relied Upon: ORS Chapter 656; OAR Chapter 436, Division 035, Disability Rating Standards; ORS Chapter 183; and Oregon Administrative Rules, chapter 137;

In WCD No. BAD-0991, the request to Promulgate Temporary Rule to Standards Review Committee memo dated July 9, 2002, Standards Review Committee recommendation dated January 8, 2003;

In WCD No. DAC-2018, the request to Promulgate Temporary Rule to Standards Review Committee memo dated October 29, 2002, Standards Review Committee recommendation dated January 8, 2003;

In WCD No. EAE-0535, the request to Promulgate Temporary Rule to Standards Review Committee memo dated November 5, 2002, Standards Review Committee recommendation dated January 9, 2003;

In WCD No. FAA-9983, the request to Promulgate Temporary Rule to Standards Review Committee memo dated November 8, 2002, Standards Review Committee recommendation dated January 9, 2003;

In WCD No. G93-5860, the request to Promulgate Temporary Rule to Standards Review Committee memo dated October 30, 2002, Standards Review Committee recommendation dated January 9, 2003; and

In WCD No. IAC-5199, the request to Promulgate Temporary Rule to Standards Review Committee memo dated September 16, 2002, Standards Review Committee recommendation dated January 9, 2003.

These documents are available for public review from the Administrator's Office, Department of Consumer and Business Services, Workers' Compensation Division, Labor and Industries Building, 350 Winter Street N.E., Salem, Oregon 97301-3879, during regular business hours, between 8:00 am and 5:00 pm, Monday through Friday.

Justification of Temporary Rule(s): This temporary rule is necessary due to the provisions of the statute, ORS 656.726(4)(f)(C), which require the Director to promulgate a rule when the worker's disability is not addressed by the standards. The rating of a worker's disability is an immediate problem which cannot await the adoption of a permanent rule. Substantial research and time is required to draft standards that would address all workers' disability. The Legislature determined that in order to address a worker's disability in a timely manner when the disability is not covered by the standards, a temporary rule would be promulgated. Failure to promulgate this temporary rule would prevent the Director from awarding benefits commensurate with each worker's disability.

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/s/ John L. Shilts 1/14/03

Authorized Signer and Date

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John L. Shilts, Administrator, Workers' Compensation Division

Printed name

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