

**ORDER NO. 03-059**

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
DISABILITY RATING STANDARDS, TEMPORARY RULE**

---

**EXHIBIT "A"  
OREGON ADMINISTRATIVE RULES  
CHAPTER 436, DIVISION 035, RULE 0500**

**436-035-0500 Temporary Rule Promulgation for Individual Claims**

(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).

AAB-9871 This worker has an accepted diastasis of the sacroiliac joint which is not addressed by the former Standards. The Director adopts the current value and assigns an impairment 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. AAB-9871.

BAD-2834 As a result of pain and atrophy of the right testis the worker underwent removal of the testicle. At the time of closure, the former rules did not address removal of the testicle without an absence or abnormally high level of hormones. The current Standards address the loss of the right testis (gonad) with an alteration in the ability to produce hormones. See OAR 436-035-0430(7). In this case, the Director assigns an impairment value of 3% for this worker's loss of a gonad and resulting sexual dysfunction, including altered hormone production. This impairment value is combined with any other ratable impairment under the former Standards. Notwithstanding OAR 436-035-0003, this rule applies to only WCD file no. BAD-2834.

BAD-5597 This worker sustained a puncture injury of his right foot resulting in an inability to reach neutral or zero toe position at the MTP joint of the right 3rd and 4th toes. At the time of claim closure, the former Standards did not provide a value for the worker's loss of dorsiflexion. See former OAR 436-035-0160(5). The current Standards address this loss, therefore, the Director adopts the current value and assigns an impairment value of 10.5% for dorsiflexion of the right 3rd toe and 25% for dorsiflexion of the right 4th toe. Each toe value shall be added to any other loss of motion in the corresponding MTP joint of the 3rd and 4th toes. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. BAD-5597.

E82-3081 The worker sustained bilateral calcaneal fractures that went on to develop extensive arthritis associated with decreased strength. The worker has extensive arthritis in the both the left and right feet. At the time of closure, the former rules did not address extensive arthritis in the foot. Therefore, in this case, the Director adopts the criteria as set forth in the current Standards pursuant to OAR 436-035-0200(5) and assigns a value of 5% for the right foot and 5% for the left foot. This value shall be combined with any other applicable impairment

**ORDER NO. 03-059**

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
DISABILITY RATING STANDARDS, TEMPORARY RULE**

---

values. Notwithstanding OAR 436-035-0003 this rule applies only to WCD file no. E82-3081.

EAB-6007 This worker has sexual dysfunction as a direct medical sequelae of the accepted L1 burst fracture and resulting surgery. At the time of closure, the former Standards did not address sexual dysfunction. The current Standards address sexual dysfunction. See OAR 436-035-0420(10). The Director adopts the current impairment and assigns a value of 14% unscheduled disability for the sexual dysfunction. This value shall be combined with any other applicable unscheduled impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. EAB-6007.

EAD-0843 As a result of the accepted mallet avulsion fracture and subsequent surgery, the worker experiences a loss of function due to mild hypersensitivity and cold intolerance. At the time of closure, the former rules did not address cold intolerance due to vascular dysfunction that was not attributed to Raynaud's phenomenon. See former OAR 436-035-0110(6). The Director finds the loss of function, due to the cold intolerance in the left index finger, similar to the loss associated with a Class 3 vascular impairment under the current Standards and assigns an impairment value of 35% of the left index finger. The current rules address hypersensitivity but the former rules did not. The Director finds the loss of function, due to hypersensitivity in the left index finger, is equivalent to the loss of function experienced with less than normal sensation and assigns an impairment value of 20% of the left index finger, from the PIP joint to the tip. These values shall be combined with any other applicable impairment values for the involved left index finger. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. EAD-0843.

F98-7114 The worker sustained multiple comminuted fractures and a residual chronic infection, resulting in the inability to reach neutral or zero ankle position. This results in a reduction in plantar flexion, equal to 18 degrees of retained plantar flexion. At the time of claim closure, the former standards did not address the inability to reach neutral or zero ankle position. See former OAR 436-035-0190(8). The Director assigns an impairment value of 7.8% for plantar flexion of the left ankle. This value shall be added to any other ankle or subtalar range of motion loss, then combined with any other applicable impairment values, as appropriate. Notwithstanding OAR 436-035-0003 this rule applies only to WCD file no. F98-7114.

FAA-9841 As a result of the accepted C5-6, the worker experiences a loss of function due to moderate to severe hypersensitivity. At the time of closure, the former Standards did not address hypersensitivity. The Director finds the loss of function due to hypersensitivity in the right thumb, index and middle fingers, similar to a 44% impairment value which is in between the value for loss of "protective sensation" and "total loss of sensation". See OAR 436-035-0110(1)(c). The Director assigns an impairment value for hypersensitivity of 44% for loss in the right thumb, 44% for loss in the right index finger and 44% for loss in the right middle finger. These values shall be combined with any other applicable impairment values for the involved fingers and converted to a hand value, where appropriate. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. FAA-9841.

G92-9449 Following a comminuted distal left femur fracture and traumatic occlusion of the popliteal artery resulting in multiple surgeries and extensive scarring, the worker experiences hypersensitivity in the left leg. The Director assigns a value of 5% for the hypersensitivity in the left leg. This value shall be combined with any other applicable scheduled impairment values. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. G92-9449.

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
DISABILITY RATING STANDARDS, TEMPORARY RULE**

---

G94-9409 The worker sustained a right lower leg fracture with reflex sympathetic dystrophy resulting in 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. At the time of claim closure, the former standards did not address the inability to reach neutral or zero ankle position. See former OAR 436-035-0190(8). The Director assigns an impairment value of 2.8% for plantar flexion of the right ankle. 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. G94-9409

HAC-1026 As a result of the accepted crush injuries to the fingers causing vasospasm and reflex sympathetic dystrophy, the worker experiences a loss of function due to cold intolerance. At the time of closure, the former rules did not address cold intolerance due to vascular dysfunction that was not attributed to Raynaud's phenomenon. See former OAR 436-035-0110(6). The Director finds the loss of function, due to the cold intolerance in the left thumb and hand, attributable to vascular dysfunction associated with a Class 5 impairment under the current Standards and assigns an impairment value of 88% of the left hand. This value shall be combined with any other applicable impairment values for the involved left hand. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file no. HAC-1026.

HAD-6042 Following a left little finger fracture and laceration, the worker experiences a loss of use due to moderate hypersensitivity. Hypersensitivity in the fingers was not addressed by the former Standards under which this claim was closed, but is addressed by the current rules. The worker has a moderate level of hypersensitivity, which equates to a "protective sensation loss" under the current rules. The Director adopts the current rule wording and assigns an impairment value of 19% for hypersensitivity in the distal phalanx of the left little finger. This value shall be combined with any other applicable impairment values for the involved left little finger. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. HAD-6042.

**D90-4836 As a result of the accepted conditions and reparative surgery, the worker is unable to adduct his right shoulder to the neutral position resulting in a loss of abduction. Abduction measured from -5 degrees to 90 degrees equaling 85 degrees of abduction yields a 2.5% impairment value. See former OAR 436-035-0330(5). The Director adopts the value of 2.5% for loss of abduction of the right shoulder. This value shall be added to any other right shoulder loss of ranges of motion values and then combined with any other applicable shoulder findings. Notwithstanding OAR 436-035-0003 this rule applies only to WCD file no. D90-4836.**

**FAC-3333 As a result of the accepted bilateral carpal tunnel syndrome, the worker has developed cold intolerance of the right and left hands due to nerve injury. The standards do not address this disability. The Director finds this loss of function similar to the loss of function experienced with Raynaud's syndrome and assigns an impairment value of 35% of the right hand and 35% of the left hand. See OAR 436-035-0110(6). These values shall be combined with any other applicable impairment values for the right and left hands, respectively. Notwithstanding OAR 436-035-0003, this rule applies only to WCD file No. FAC-3333.**

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
WORKERS' COMPENSATION DIVISION  
DISABILITY RATING STANDARDS, TEMPORARY RULE**

Stat Auth: ORS 656.726(4)  
 Stat Impltd: ORS 656.268(6); ORS 656.726(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)  
 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 03-051, eff. 1/15/03 (Temp)  
 (BAD-0991) (DAC-2018) (EAE-0535) (FAA-9983) (G93-5860) (IAC-5199)  
 Amended 4/11/03 as WCD Admin. Order 03-054, eff. 4/15/03 (Temp)  
 (AAB-9871) (BAD-2834) (BAD-5597) (E82-3081) (EAB-6007) (EAD-0843)  
 (F98-7114) (FAA-9841) (G92-9449) (G94-9409) (HAC-1026)  
 (HAD-6042)  
**Amended 7/14/03 as WCD Admin. Order 03-059, eff. 7/15/03 (Temp) (D90-4836) (FAC-3333)**

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 July 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.

Fred Bruyns (503) 947-7717  
Rules Coordinator Telephone

350 Winter Street NE, Rm 27; Salem, Oregon 97301-3879  
Address

to become effective July 15, 2003 through January 10, 2004  
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:** OAR 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 D90-4836 and FAC-3333.

/s/ John L. Shilts July 14, 2003  
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.

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	)	
<b>OAR 436-035-0500,</b>	)	
<b>Subsections D90-4836 and FAC-3333</b>	)	Statutory Authority,
Disability Rating Standards	)	Statutes Implemented,
Temporary Rule Promulgation	)	Statement of Need,
For Individual Claims	)	Principal Documents Relied Upon
	)	

Statutory Authority: ORS 656.726(4)

Other Authority: ORS 183.335; OAR 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 Disability Rating Standards (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 (WCD) Claim No. D90-4836, 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 Claim No. FAC-3333, the Standards do not provide a rating for cold intolerance not caused by vascular dysfunction. 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 Claim No. D90-4836, the request to Promulgate Temporary Rule to Standards Review Committee memo dated April 11, 2003, Standards Review Committee recommendation dated July 10, 2003;

In WCD Claim No. FAC-3333, the request to Promulgate Temporary Rule to Standards Review Committee memo dated April 2, 2003, Standards Review Committee recommendation dated July 10, 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.

/s/ John L. Shilts     July 14, 2003

Authorized Signer and Date

John L. Shilts, Administrator, Workers' Compensation Division

Printed name

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.