



**THE WORKERS' COMPENSATION  
RATING AND INSPECTION BUREAU OF MASSACHUSETTS**

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May 19, 1994

**CIRCULAR LETTER NO. 1679**

To All Members and Subscribers of the Bureau:

**DEPARTMENT OF INDUSTRIAL ACCIDENTS  
ASSESSMENT**

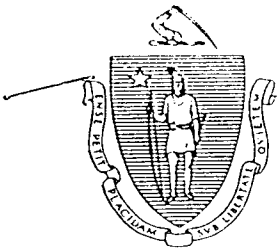
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Attached is a letter from Deputy Commissioner of Insurance Mastrangelo. Based on this letter, assessments for the Department of Industrial Accidents (DIA) should be based on Standard Premium excluding any ARAP (All Risk Adjustment Program) amounts. Also attached is the regulation 211 CMR 115 referred to in the letter.

The current DIA assessment rates were shown in *Circular Letter No. 1643*.

**HOWARD C. MAHLER**  
Vice President and Actuary

*HCM/pw/526-1679*  
*Attachment*



THE COMMONWEALTH OF MASSACHUSETTS

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DIVISION OF INSURANCE

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LINDA RUTHARDT

COMMISSIONER

May 2, 1994

The Honorable James Campbell  
Commissioner  
Department of Industrial Accidents  
600 Washington Street, 7th Floor  
Boston, MA 02111

Dear Commissioner:

During recent discussions at the Division of Insurance concerning 211 CMR 115.00, Requirements Applicable to Workers' Compensation Deductible Policies, the Division's staff has identified a provision which appears to be at variance with certain statutory language contained in G.L. c. 152, s. 65.

Specifically, 211 CMR 115.04(2) provides, that, for the purposes of the Department of Industrial Accidents Trust and Special Fund, assessments be "based upon standard premium plus any All Risk Adjustment Program amounts associated with such policies." This letter seeks to clarify that, consistent with the provisions of G.L. c. 152, s. 65(5), DIA Fund assessments should be based solely on standard premium and should exclude any ARAP amounts.

Please let me know if you have any questions on this important matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Richard E. Mastrangelo".

Richard E. Mastrangelo

Deputy Commissioner and General Counsel

cc: Roy Stewart, WCRB ✓

211 CMR: DIVISION OF INSURANCE

211 CMR 115.00: REQUIREMENTS APPLICABLE TO WORKERS' COMPENSATION DEDUCTIBLE POLICIES

Section

- 115.01: Purpose and Scope
- 115.02: Authority
- 115.03: Definitions
- 115.04: Premium Determinations
- 115.05: Minimum Requirements for Deductible Policies
- 115.06: Failure to Comply
- 115.07: Effective Date
- 115.08: Severability

115.01: Purpose and Scope

The purpose of 211 CMR 115.00 is to specify the manners of determining the net written premium associated with all workers' compensation deductible policies for various purposes, to regulate the conditions under which insurers may provide workers' compensation insurance coverage to employers in Massachusetts under large deductible policies, and to provide for the administration and implementation of such regulation. All workers' compensation deductible policies shall conform to the conditions and limitations set forth below and to the conditions and limitations set forth in 211 CMR 113.00.

115.02: Authority

211 CMR 115.00 is promulgated in accordance with the authority granted by M.G.L. c. 152, §§ 25A, 53A, 55, 55A, 65A, and 65C, and by M.G.L. c. 175, §§ 3A, 4, 5 and 6, and by the authority granted generally by M.G.L. c. 152, c. 175, and c. 176D.

115.03: Definitions

As used in 211 CMR 115.00 the following words shall have the meanings indicated.

Commissioner means the Commissioner of Insurance or his or her designee.

Insureds means employers who have contracted with a licensed insurance company, reciprocal or interinsurance exchange for the payment of the compensation required under the provisions of M.G.L. c. 152.

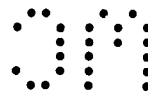
Pool means the residual market pool identified in M.G.L. c. 152, § 65C.

115.04: Premium Determinations

(1) Except as specifically set forth below, any deductible payments or reimbursements made by insureds with respect to policies written or renewed on or after January 1, 1994, and to all policies in effect on or after January 1, 1995, shall be considered to be premium for all purposes, including, but not limited to the following:

- (a) determining assessments by the Massachusetts Insurers Insolvency Fund;
- (b) determining the amount owed by any insurer for workers' compensation premium taxes;
- (c) compliance with all statutory and other reporting purposes; and
- (d) compliance with all insurer surplus requirements.

(2) For all deductible policies written or renewed on or after January 1, 1994, or in effect on or after January 1, 1995, assessments by the Massachusetts Department of Industrial Accidents Trust Fund and Special Fund shall be based on the standard premium plus any All Risk Adjustment Program amounts associated with such policies.



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115.04: continued

(3) The manner of determining the amount of Pool assessments owed by members of the Pool for the deductible policies written by such members shall be set forth in the Assigned Risk Pool Plan of Operation.

115.05: Minimum Requirements for Deductible Policies

(1) The first dollar loss and expense experience resulting from all deductible policies shall be reported by the insurer for all statistical purposes.

(2) The following features must be included in all large deductible policies:

(a) Only those risks whose workers' compensation full coverage standard premium plus ARAP would otherwise exceed \$500,000 of Massachusetts premium, or \$50,000 in Massachusetts premium for risks with greater than \$1,000,000 in countrywide premium (not including self-insurance "premium") are eligible.

(b) The policies may not provide cancellation provisions that differ in any respect from those contained in the standard Massachusetts workers' compensation policy.

(c) An aggregate deductible limit must be included.

(d) The per claim deductible shall be at least \$100,000.

(e) Policy forms and deductible endorsements must be filed with and approved by the Division of Insurance.

115.06: Failure to Comply

Failure to comply with 211 CMR 115.000 is a violation of Massachusetts law and, in addition to any other applicable penalties, may result in the withdrawal of permission to write any new or renewal deductible policies. Companies or company groups which have forfeited the right to write deductible policies may apply to the Commissioner for eligibility to write such policies no sooner than two years from the date of withdrawal of permission.

115.07: Effective Date

The provisions 211 CMR 115.00 shall be effective as of January 1, 1994.

115.08: Severability

If any section or portion of a section of 211 CMR 115.00 or the applicability thereof to any person, entity or circumstance is held invalid by a court, the remainder of 211 CMR 115.00 or the applicability of such provision to other persons, entities or circumstances, shall not be affected thereby.

REGULATORY AUTHORITY

211 CMR 115.00: M.G.L. c. 152, §§ 25A, 53A, 55, 55A, 65A and 65C; c. 175, §§ 3A, 4, 5 and 6.

