



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

**Administrator of the
Massachusetts Workers' Compensation Assigned Risk Pool**

POOL PROCEDURES for NEW APPLICATIONS

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Introduction

The following procedures are intended for use by employers and their representatives who are making application for coverage in the Massachusetts Workers' Compensation Assigned Risk Pool.

These procedures are only applicable to applicants using the hard-copy application.

These procedures have been prepared by the Workers' Compensation Rating and Inspection Bureau of Massachusetts ('WCRIBMA' or 'Bureau') in its capacity as the Administrator of the Assigned Risk Pool. If additional information is needed, refer to the WCRIBMA's website, www.wcribma.org, or contact the WCRIBMA's Customer Service Department at (617) 439-9030.

These procedures are to be used in conjunction with the manuals approved for use in Massachusetts, such as the *Massachusetts Workers Compensation and Employers Liability Insurance Manual*, the *Forms Manual for Workers Compensation and Employers Liability*, and the *Experience Rating Plan Manual*.

Eligibility Requirements

To be eligible to obtain assigned risk coverage, an employer must meet all of the following eligibility requirements:

- The employer's application for voluntary Massachusetts workers' compensation insurance coverage must have been rejected by two (2) insurers licensed to write workers' compensation insurance in Massachusetts;
- Generally, the employer may not have any outstanding offers for voluntary Massachusetts workers' compensation coverage.
(**Note:** If the employer has received and rejected an offer of voluntary coverage, the WCRIBMA will consider all submitted and available information, including the terms of that voluntary offer, when determining if the employer is eligible for Pool coverage.);
- The employer must not be in default of payment of premium for Massachusetts workers' compensation insurance;
- The employer must have complied with all laws, orders, rules and regulations in force and effect relating to the welfare, health and safety of employees;
- The employer must not have an audit or inspection on a prior workers' compensation insurance policy that remains incomplete due to the employer's failure to cooperate with the insurer.

Binding of Coverage

If the application is accompanied by the proper deposit premium and, upon review, the employer is eligible for coverage and the application is satisfactorily completed, then the WCRIBMA will issue a Notice of Assignment that indicates a coverage effective date.

If the employer has coverage at the time the application is received in the office of the WCRIBMA, the WCRIBMA sets a coverage effective date that coincides with the expiration date of that present coverage. If the employer is without coverage at the time the application is received by the WCRIBMA, the WCRIBMA sets a coverage effective equal to 12:01 a.m. the day following the WCRIBMA's receipt of the application and proper deposit premium, unless a later date is requested.

In all instances, the WCRIBMA is limited in its binding authority as follows:

- a. The WCRIBMA can only bind coverage if a check for the proper deposit premium is received with the application. Applications submitted without a check will be automatically rejected without a binding date.
- b. There will be no coverage in place if there are not sufficient funds to cover the deposit premium check when it is cashed by the assigned carrier. See *Non-Negotiable Checks in Pool Procedures for Existing Policies* for details.
- c. The WCRIBMA cannot bind coverage if the declination requirements are not met or if the employer has received an offer of voluntary coverage.
(**Note:** If the employer has received and rejected an offer of voluntary coverage, the WCRIBMA will consider all submitted and available information, including the terms of that voluntary offer, when determining if the employer is eligible for Pool coverage.)
- d. The WCRIBMA cannot bind coverage for any employer who is in default of premium for Massachusetts workers' compensation insurance.
- e. The WCRIBMA cannot bind coverage for any employer who has an audit or inspection on a prior workers' compensation policy that remains incomplete due to the employer's failure to cooperate with the insurer. See *Uncooperative Audits* for details.
- f. The WCRIBMA cannot bind coverage for former self-insurers until an audit is performed and a rating plan deposit is established and received.
- g. The WCRIBMA cannot bind coverage if there is evidence that the employer has not complied with all laws, orders, rules or regulations in force and effect relating to the welfare, health and safety of employees.
- h. The WCRIBMA cannot bind coverage if the employer has a Massachusetts workers' compensation insurance policy in place.
- i. The WCRIBMA can only bind coverage for Massachusetts employees.
- j. The WCRIBMA cannot bind coverage to be effective at a time other than 12:01 a.m.
- k. In no event will coverage be made effective earlier than 12:01 a.m. the day following receipt of the application and required deposit premium check by the WCRIBMA office.

Rejection of Application

If an application does not meet the eligibility requirements, as stated in the *Eligibility Requirements* and *Binding of Coverage* sections, then the WCRIBMA will not bind coverage. The application, all material submitted and a Rejection Letter will be returned to the agent (to the employer if there is no agent) with no coverage provided.

Delayed Processing of Application

If it appears that the employer is eligible for coverage, but either the application is not completed satisfactorily, additional information is necessary, or the deposit premium check is insufficient, then the application and all material submitted will be returned to the agent (to the employer if there is no agent) with a tentative binding date. The cover letter, called a Delayed Processing Letter, will advise why WCRIBMA Staff is unable to process the application. In order to retain the tentative binding date, all requested information and the original submission must be received by the office of the WCRIBMA within ten (10) business days. Failure to return the original submission and all requested information on a timely basis will result in the loss of the tentative binding date, and a Loss of Binding Date Letter will be mailed to the agent (to the employer if there is no agent) advising that the submission was not received on time and that no coverage has been provided.

Notices of Assignment

After the submission of a satisfactorily completed application and a sufficient deposit premium check by an eligible employer, the WCRIBMA's computer system designates a particular servicing carrier or VDAC carrier. (Refer to the *Pool Plan of Operation*, or the *Servicing Carrier* or *VDAC Carrier* sections of the WCRIBMA's website for further information about the carriers.) The WCRIBMA then issues a Notice of Assignment. Copies are sent to the agent, the insured and the assigned carrier.

The deposit premium check received with the application is endorsed over to the assigned carrier by WCRIBMA Staff. The Notice of Assignment, application, endorsed check, and any other pertinent material is then sent to the assigned carrier.

Completion of the Application

The employer, with or without the assistance of a producer, completes an application and computes the estimated deposit premium. The application must be completed fully and accurately.

If additional space is needed for answering questions, a separate sheet should be used and attached to the application. All such attachments must be signed by the employer (e.g., the sole proprietor, general partner, corporate officer, LLC member or trustee).

An employer who has received a Stop Work Order from the Department of Industrial Accidents must attach a copy of the Stop Work Order to the application.

Each application is reviewed by WCRIBMA Staff. Misrepresentations or omissions may result in delaying the binding of coverage or rejection of the application by WCRIBMA Staff.

Note: Submitted applications are maintained in the files of the WCRIBMA and the assigned carrier. If, in the future, the carrier determines that material misrepresentations or omissions were made on the application, the carrier may, to the extent allowed by law, initiate cancellation of coverage.

Application forms can be obtained from the WCRIBMA's website:

- A blank application form can be printed from the website, completed by hand and mailed or submitted to the WCRIBMA; or
- An application in Word format, available on the WCRIBMA's website, can be saved to your PC, completed, printed and mailed or submitted to the WCRIBMA.

Submission of the Application

Applications submitted by FAX will not be accepted by the WCRIBMA.

Submissions that are delivered by either a courier, agent, or special mailing service must be delivered to the physical address (101 Arch Street, 5th Floor, Boston, MA 02110), and not to the post office box. The effective date of coverage is determined by the receipt of the application and the required deposit premium **by the WCRIBMA**, and not by producers, the post office, courier services, property managers or other such entities.

Information concerning the status of an application and binding of coverage can be found in the *Producer Community* section of the WCRIBMA's website. Refer to the MWCARP Application Status Search page.

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Requested Effective Date

If the employer presently has insurance in effect, then the effective date of the requested coverage should be the same as the expiration date of the present policy.

In no event will coverage be made effective earlier than 12:01 a.m. on the day following receipt of the application and required deposit premium check by the WCRIBMA.

Name of Employer

Only one employer may be named on each application. If it is your intent to have more than one employer listed on a single Assigned Risk Pool policy, then that intention must be clearly specified in a cover letter, and all material must be submitted as a single package. A separate application must be submitted for each entity, and an ERM Form (Confidential Request for Information) must be completed and submitted to show combinability.

The name of the employing entity must be provided on the Name of Employer line. If the employer has a trade name (also known as a DBA name or a 'doing business as' name), then the trade name must be listed on that line as well. The correct manner in which to complete this item will depend on the legal status of the applicant. See the examples listed below:

Sole Proprietorship:	Joe Smith DBA Smith Electrical
Partnership:	Joe Smith & Mary Smith DBA Smith Electrical
Corporation:	Smith, Inc. DBA Smith Electrical
Trust:	Smith Electrical Trust (Trustee information should be listed in Section III.)
Limited Partnership:	Smith Electrical LP, Joe Smith General Partner
Limited Liability Co.:	Smith Electrical LLC (Membership information should be listed in Section III)
Limited Liability Partnership:	Smith Electrical LLP, Joe Smith & Mary Smith Partners
Joint Venture:	ABC Joint Venture, Smith Inc., Joint Venturer and Smith Electrical LP, Joint Venturer

Federal Employer Identification Number

The Federal Employer Identification Number (FEIN) must be provided, except when the employer is a sole proprietor with no employees.

Do **not** submit a social security number in lieu of a FEIN number.

The box marked "Pending" must be checked if the employer has requested a FEIN from the IRS but has not yet received a number at the time of making application to the Pool. A copy of the request submitted to the IRS must be attached to the Pool application. Additionally, the FEIN must be submitted to the assigned carrier and to the WCRIBMA as soon as it becomes available.

Mailing Address

Notices of Assignment, policies, bills, cancellations and correspondence will be sent to the mailing address provided on the application. The mailing address must be that of the employer or some other party who has been given power of attorney by the employer. Power of attorney documentation must be provided. The telephone number of the employer must be provided.

Principal Massachusetts Location

The principal Massachusetts location and telephone number must be provided. A street address is required; a post office box is not acceptable.

Total Number of MA Locations

Provide the total number of Massachusetts locations.

1st Additional MA Location

Provide a second Massachusetts location and telephone number. Street addresses are required; post office boxes are not acceptable. If the employer has more than one additional Massachusetts location, attach a list of street addresses and telephone numbers.

Location of Records

Providing this information permits the assigned carrier to locate the employer's records and schedule audits. If records are not kept at an address of the employer, identify the addressee. The telephone number must be provided.

Legal Status

The exact legal status of the applicant must be indicated by checking the appropriate box on the application. If "Other", you must identify the legal status, (i.e., joint venture, unincorporated association, municipality, etc.). "Non-profit" is not a legal status. The legal status of a husband and wife will be treated as a partnership by WCRIBMA Staff. For joint ventures, a copy of the joint venture agreement must be submitted.

Declination Requirements

Each employer must be rejected by two (2) insurance companies who are **licensed** to write workers' compensation insurance in Massachusetts. The two (2) companies rejecting coverage should not be part of the same company group.

List the names, representatives, date(s) of declination, and phone numbers of two insurance companies who have refused to write voluntary coverage for this risk in the past sixty (60) days. Each representative named must be an employee who has authority to bind coverage on behalf of the insurance company. A failure to reach such a representative cannot be construed as a refusal to write coverage.

If coverage was recently terminated or expired in either the voluntary or assigned risk market, a copy of the cancellation or non-renewal notice that prompted the employer to make application to the Pool must be attached to the application. If voluntary coverage was cancelled or non-renewed

within the past sixty (60) days, then the cancellation or nonrenewal notice will serve as one of the two required voluntary declinations, while an assigned risk cancellation or nonrenewal notice will **not** serve as a voluntary declination.

Generally, if voluntary coverage was cancelled or non-renewed at the **employer's** request, the WCRIBMA Staff will **not** make an assignment through the Pool; the insured or agent must replace coverage in the voluntary market.

Note: If the employer has received and rejected a renewal offer for voluntary coverage, the WCRIBMA will consider all submitted and available information, including the terms of that voluntary offer, when determining if the employer is eligible for Pool coverage.

Offers of Voluntary Coverage

Check the appropriate box, and if 'YES', provide the details of any offer(s) of voluntary coverage made to the employer within the past sixty (60) days (i.e., offering carrier, date and terms of offer). Also, provide the employer's reason for not wanting to accept the offer. If the employer has received and rejected an offer of voluntary coverage, the WCRIBMA will consider all submitted and available information, including the terms of that voluntary offer, when determining if the employer is eligible for Pool coverage.

Outstanding Premium

The employer must answer Question 3 fully, since Massachusetts Statute provides that if the employer is in default of premium, that employer is not eligible for coverage in the Pool. If there are any outstanding obligations, complete details must be furnished. If outstanding premium is in dispute at the time of application, documentation must be presented with the application to substantiate the employer's dispute. The WCRIBMA will consider all submitted and available information in determining whether the employer is eligible for Pool coverage.

Uncooperative Audits

With the exception of a final audit on a recently expired policy, the employer must advise if he has an audit or inspection on a prior workers' compensation policy that remains incomplete. An employer is only eligible for assigned risk coverage if he has complied with all laws, orders, rules and regulations in force and effect relating to the welfare, health and safety of his employees. If an employer has refused to permit a carrier to audit their payroll records or inspect their premises, that employer is not eligible for assigned risk coverage, and his application will be rejected. If an employer has an outstanding audit or inspection due to their failure to cooperate, but has recently scheduled an audit or inspection, then the name and telephone number of a carrier representative should be provided on the application. The WCRIBMA will consider all submitted and available information in determining whether the employer is eligible for Pool coverage.

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Corporate Officers, Sole Proprietors, Partners and Members

If the employer is a corporation, list the corporate officers named on the corporate Articles of Organization as filed and approved by the Secretary of State. For each officer, provide their title, a

detailed description of their duties in Massachusetts, their ownership percentage, and their actual annual Massachusetts salary. Corporate officers will be included unless they are approved to be exempt from coverage by the Department of Industrial Accidents ('DIA').

To exempt a corporate officer from coverage: According to M.G.L. c. 152, Section 1(4) as amended by Chapter 169 of the Acts of 2002, workers' compensation coverage is elective for an officer or director of a corporation who owns at least 25% of the issued and outstanding stock of the corporation. In order to become exempt, a **Form 153** must be filed with and approved by the Department of Industrial Accidents in accordance with Regulation 452 CMR 8.06. A copy of Form 153, **stamped and approved by the DIA**, must be attached to the Pool application. Each corporate officer or director who is exempt from coverage as indicated on the **approved** Form must be named on the Pool application along with his title, duties, salary and percentage of ownership. The word "EXEMPT" must be written under "Elect/Exempt" on the application. The payroll of an exempt officer should not be used in the premium calculation. **If an application has a tentative binding date earlier than the approval date on the submitted and approved Form 153, the corporate officer exemption will be effective the day after the receipt of the approved Form 153 by the WCRIBMA.**

If the employer is a sole proprietorship, partnership, LLC or LLP, provide the name, title, percentage of ownership and duties of each sole proprietor, partner, LLC member or LLP partner named in the employer's organizational filing. Sole proprietors, partners and members will not be covered unless they elect coverage. Therefore, their salaries should only be included in Section VI of the application if the election for coverage has been made.

To elect coverage for a sole proprietor, partner or member: According to M.G.L. c. 152, Section 1(4) as amended by Chapter 169 of the Acts of 2002, sole proprietors and partners of a legal partnership may elect to be treated as employees and obtain coverage for themselves under a workers' compensation insurance policy. (**Note:** All regulations, rules and procedures applicable to sole proprietors and partners with regards to the election of workers' compensation insurance coverage are also applicable to members of LLCs and partners of LLPs.) For a sole proprietor, partner or member to elect Pool coverage in accordance with Regulation 452 CMR 8.07, a written request on the **employer's** company letterhead must be submitted along with the Pool application. The letter must specify the name and duties of each sole proprietor, partner or member who is electing to be covered under this policy. The word "ELECT" must be written under "Elect/Exempt" on the application. **Once electing to be covered under a workers' compensation insurance policy, no sole proprietor, partner or member may opt out of said coverage until the completion of the current policy term.**

Refer to the Department of Industrial Accidents' Regulation 452 CMR 8.00 for additional information. Refer to the Miscellaneous Values page in the MA Manual for the basis of premium to be included in the premium calculation for the sole proprietor or each partner or member who has elected to be covered by the policy. Refer to Rule IX in the MA Manual for premium determination information.

Additional References:

Circular Letter #2062 dated July 13, 2007 – Revised Methodology for Determining Payroll for Sole Proprietors, Partners of Legal Partnerships and Members of an LLC

Circular Letter #2028 dated July 18, 2006 - LLC Members and LLP Partners Elections For Coverage - Revisions To The MA Workers Compensation and Employers Liability Insurance Manual and MA Explanatory Notes To National Endorsement WC000310

Circular Letter #1942 dated February 2, 2004 - Circular Letters from the Department of Industrial Accidents on Optional Coverage for Members of an LLC and Partners of an LLP

Circular Letter #1906 dated January 7, 2003 – Coverage for Sole Proprietors and Partners of Legal Partnerships and Exemption from Coverage of Corporate Officers or Directors – Revisions to the MA Manual & Addition of Massachusetts Explanatory Notes to National Endorsements WC000308 and WC000310

Circular Letter #1902 dated October 30, 2002 - Coverage for Sole Proprietors and Partners of Legal Partnerships and Exemption from Coverage of Corporate Officers or Directors

Former Self-Insurers

The Premium Determination Endorsement - Former Self-Insurers-1 (WC000409) must be attached to the workers' compensation policies of former self-insurers that obtain coverage through the Assigned Risk Pool. It is not applicable to former members of Self Insurance Groups. This endorsement must be used when insuring employers for exposures:

- i. which have been self-insured within twelve (12) months immediately preceding the date of the application for initial coverage, or
- ii. which were subject to this endorsement on the employer's expiring policy.

An audit must be completed and a rating plan deposit must be established and received prior to binding coverage.

A non-refundable Insurance Charge equaling 10% of Standard Premium must be included in the Deposit Premium. The 10% charge is calculated on the basis of the higher of either the average of the last three years' audited payrolls or the last complete year's payroll.

Bankruptcy

If the employer is in bankruptcy, copies of all filings approved by the Bankruptcy Court must be provided.

Out of State Operations

If the employer, or a commonly owned entity, has operations in other states, a list of employer names, states of operation, insurance carriers and interstate or intrastate identification numbers must be submitted along with the application.

The Pool is **not able** to provide insurance for an employer's operations in any state other than Massachusetts. The Massachusetts Limited Other States Insurance Endorsement is mandatory for all Assigned Risk Pool policies.

Additional References:

Special Bulletin #12-04 dated November 3, 2004 – Massachusetts Limited Other States Insurance Endorsement WC200306A

Special Bulletin #9-02 dated July 29, 2002 – Massachusetts Limited Other States Insurance Endorsement WC200306A

Ownership

Depending on the responses provided in questions 7 through 11, the completion of an ERM Form (Confidential Request for Information) may be required. In lieu of completing an ERM Form, detailed ownership information may be submitted on the letterhead of the insured signed by the owner, partner, corporate officer, or LLC member.

Employee Leasing Regulations

In Massachusetts, the manner in which an employee leasing company obtains and maintains its workers' compensation insurance is contemplated by Massachusetts Regulation 211 CMR 111.00.

The Regulations provide as follows, where the entity providing employee leasing services (who may be known as a Professional Employment Organization or PEO) is referred to as an "employee leasing company". The entity receiving the services is referred to as a "client company".

- The employee leasing company shall obtain and maintain a separate policy providing standard workers' compensation and employers' liability insurance for each client company.
- Each policy written to cover leased employees shall be issued with the employee leasing company as the named insured. Coverage under the policy shall be limited to the named insured's employees leased to the client company. The client company shall be identified on the policy by attaching the Massachusetts Employee Leasing Endorsement, WC200304B, which names the client.
- The experience of all of the employees leased to a client company shall be combined with the experience of the employees of the client company for purposes of calculating an experience modification. The experience modification, so calculated, shall be applied to the client company's policy and all policies maintained for it by a leasing company or leasing companies.
- The employee leasing company shall purchase and maintain a separate policy providing standard workers' compensation and employers' liability insurance for its own non-leased employees. This policy, restricting coverage to the employee leasing company's own non-leased employees, shall have attached the Massachusetts Exclusion of Coverage for Leased Employees Endorsement, WC200305.
- If the client company has its own non-leased employees, the client company must have a separate policy providing workers' compensation and employers' liability for these employees, with the name of the client company as the named insured.

Applications for Leased Employees

To obtain an Assigned Risk Pool policy that covers workers leased from an employee leasing company to one client company, the employee leasing company must complete a Massachusetts Workers' Compensation Assigned Risk Pool Application for Workers' Compensation Insurance form and a Supplemental Application, Side A. The Pool application form must be completed as follows:

- Section I, General Information, must be completed to provide the information of the employee leasing company. The address of the client company could either be shown in #4, Principal MA Location, for out-of-state leasing companies with no other Massachusetts clients, or in #6, 1st Additional MA Location, for leasing companies with a Massachusetts location.

- Section II, Eligibility Requirements, is a hybrid:
 - Questions 1 and 2 (declinations and offers of voluntary coverage) should be completed by the leasing company specifically with regard to the employees they lease to the client.
 - Questions 3 and 4 (unpaid premium and outstanding audits) is applicable to both i) coverage of the leasing company for this specific client and ii) coverage in the client's own name. According to 211 CMR 111.06(2), "A client company shall not be eligible for coverage pursuant to a workers' compensation policy issued to the employee leasing company if the client company owes its current or prior insurer any premium for workers' compensation insurance." Therefore, if the client company named on the supplemental application owes premium to any of its current or prior insurers, the application submitted by the employee leasing company to cover employees leased to the client company will be rejected.
- Section III, Corporate Officers, Sole Proprietors, Partners & Members, must be completed to reflect the corporate officers of the employee leasing company, not those of the client. Since the policy will only provide coverage for employees leased from the leasing company to the client, the payroll of the leasing company's officers should not be included.
- Sections IV and V, Insurance Record and Business of Employer, must be completed to reflect the information of the employee leasing company, except that V.5., description of operations, must be completed to also include a description of the client's operations. (e.g., ABC Corp, an employee leasing company, leases employees to XYZ Corp, a printing company.)
- Section VI, Massachusetts Classifications, Estimated Exposure and Premium Calculations, must be completed to only include the exposure and premium of the employees leased from the employee leasing company to the one client named on the supplemental application. Note that:
 - The experience modification of the client must be used in the premium calculation.
 - The leased corporate officers of a corporate client are not subject to corporate officer minimum and maximum payroll restrictions because they are not corporate officers of the named insured on the policy. Rather, they will be included on the policy at the level of their actual payroll as paid by the employee leasing company.
- Section VIII, Applicant's Agreement, must be signed by an officer or partner of the employee leasing company.

A Supplemental Application, Side A must be completed by the employee leasing company and attached to provide specific information about the client. The Supplemental Application requires that a copy of the signed lease agreement and a listing of all leased employees be provided.

After the application is successfully processed, a Notice of Assignment and policy will be issued. The policy will be issued in the name of the employee leasing company and will have endorsement *WC200304B* attached, which restricts coverage to the employees leased to the client company named on the endorsement. The experience modification of the client company shall be applied to the Notice of Assignment and the policy.

Refer to *Employee Leasing Arrangements* under the Helpful Information / Program Overviews section of the WCRIBMA's website, www.wcribma.org, for more details.

Applications for Non-Leased Employees

If the employee leasing company has Massachusetts employees that are not leased to a client company (i.e., non-leased employees), then the employee leasing company needs to obtain a separate policy for those employees.

To obtain an Assigned Risk Pool policy to cover an employee leasing company's non-leased employees, a Pool application must be submitted in the name of and by the employee leasing company. The information provided in Section V, number 5, must indicate that coverage is being requested for non-leased employees. The application is subject to the approved *Eligibility Requirements* and *Binding of Coverage* sections in these procedures.

After the application is successfully processed, a Notice of Assignment and policy will be issued. The policy will be issued in the name of the employee leasing company and will have endorsement *WC200305* attached, which restricts coverage to the employee leasing company's non-leased employees. The experience modification of the employee leasing company shall be applied to the Notice of Assignment and the policy.

Refer to *Employee Leasing Arrangements* under the Helpful Information / Program Overviews section of the WCRIBMA's website, www.wcribma.org, for more details.

Applications Submitted by Clients of Employee Leasing Companies

According to Regulation, 211 CMR 111.00, "nothing in (the Regulation) shall have an effect on the statutory obligation of a client company to secure workers' compensation coverage for employees not provided, supplied or maintained by an employee leasing company pursuant to an employee leasing arrangement."

An employer who is applying for Assigned Risk Pool coverage for their own, non-leased employees and who is leasing all or a portion of their workers from an employee leasing company, must attach a completed Supplemental Application, Side B. Supplemental Application, Side B, requires the attachment of a copy of the signed lease agreement and evidence of insurance for the leased employees.

The corporate officers of a client company must be treated as follows:

- If the corporate officers are leased from the employee leasing company, then they must be covered as employees on the employee leasing company's policy.
- If the client company obtains a policy in its own name for employees it employs directly, then the corporate officers of the client company must be covered on that policy, even though they may be leased and covered on the employee leasing company's policy. The corporate officers have a fiduciary responsibility to their corporation and are considered employees thereof. If the corporate officers are not paid by their corporation, then they should be included at the corporate officer minimum payroll in the classification that corresponds to their actual duties.
- If a leased corporate officer exempts himself from coverage by submitting a Form 153 to the DIA, then he can exempt himself from a policy written in the corporate client's name. That exempt officer would not, however, be excluded from the employee leasing company's policy because he is not an officer of the employee leasing company.

Refer to *Employee Leasing Arrangements* under the Helpful Information / Program Overviews section of the WCRIBMA's website, www.wcribma.org, for more details.

Applications for Temporary Employees

The Massachusetts Regulation, 211 CMR 111.00, states that "temporary help services during seasonal or unusual conditions such as temporary skill shortages or temporary special assignments and projects" are not subject to the Regulation. Rather, employers who provide temporary employees to other businesses are able to cover all of their employees on a single workers' compensation policy.

To obtain an Assigned Risk Pool policy that covers temporary employees, a Pool application must be submitted in the name of and by the temporary employment agency. The employer must sign and attach the *Temporary Employment Affidavit* in which the employer affirms they are not operating as an employee leasing company. The employer must also provide the following information to determine proper classifications and exposures:

- i. the name and address of each Massachusetts business to whom the temporary employment agency provided employees over the past 12 months, and
- ii. a description of the duties of the employees that were supplied.

The application is subject to the approved *Eligibility Requirements* and *Binding of Coverage* sections in these procedures.

After the application is successfully processed, a Notice of Assignment and policy will be issued in the name of the temporary employment agency.

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Description of Operations

Explain the nature of the business completely. Describe for each separate location, the business in which the employer is engaged. Do not rely on manual phraseology for this description.

Also completely describe any changes that have taken place in the past three (3) years that might affect the classification of the operation.

If the allocated space on the application is not sufficient for a **complete** description of the nature of the business or changes to the business, attach a separate sheet to the application for this purpose.

According to Rule IV. D. of the MA Manual, "The object of the classification procedure is to assign the one basic classification which best describes the business of the employer within a state."

Classifications, Payroll and Premium Calculation

The Products and Services section of the WCRIBMA's website, www.wcribma.org, contains an Assigned Risk Application Calculator to assist producers and employers in the calculation of workers' compensation insurance assigned risk premium. A copy of the Premium Calculation page may be printed and attached to the submission; however, you may not substitute the Premium Calculation page for page 3 of the application.

Refer to the MA Manual, Appendix F – Residual Market Premium Algorithm, for a complete explanation of the premium calculation process.

In Section VI, classification information must be provided separately for each location and shift. For example, the following instrument manufacturer has two locations with two shifts at one of the locations:

Location #	Shift #	Duties	Class Code	# of Employees	Estimated Exposure	Rate	Premium
1	1	Machine Operator	3685	10	400,000	.77	3,080
1	1	Clerical	8810	3	120,000	.12	144
2	1	Machine Operator	3685	15	600,000	.77	4,620
2	1	Clerical	8810	1	50,000	.12	60
2	2	Machine Operator	3685	5	225,000	.77	1,733

The **classification code** and wording may be taken directly from the existing policy or from Part Two - Classifications of the MA Manual. The Products and Services section of WCRIBMA’s website, www.wcribma.org, has a Class Code Lookup function in which the user can enter either the four digit class code or the phraseology to look up class codes. Payrolls and classifications are subject to review by WCRIBMA Staff and may be changed.

The **number of employees**, by classification, must be shown.

Realistic estimates of expected **payrolls/exposure** are required. If the payrolls shown on the application are lower than those reflected in the most recent audit, WCRIBMA Staff may change the payrolls to the audited amounts. A letter of explanation from the employer may be submitted with the application, for consideration by the WCRIBMA Staff, to justify the lower payroll amounts.

In order to verify payroll information, copies of Form 941 (Employer’s Quarterly Federal Tax Return) filed with the Internal Revenue Service for the four most recent quarters must accompany all applications. Employers in existence for less than four months need not submit these payroll verification forms. Employers with operations in other states must submit copies of Form WR-1 (Employer’s Quarterly Report of Wages Paid) filed with the Massachusetts Department of Revenue for the four most recent quarters to verify Massachusetts payrolls. The 941 Form or its equivalent should include gross payroll. Applications should also include an explanation of any significant differences between the annualized payrolls on the 941s or WR-1s and the payrolls on the application. In the event of any unexplained variance, the WCRIBMA or the assigned carrier will determine whether additional data or a preliminary audit is appropriate.

Note: Before submitting any form that contains a social security number to the WCRIBMA, you must cross out or delete the social security number so that it cannot be read.

For appropriate **rates** refer to the Massachusetts Rates pages in the MA Manual.

The **Waiver of Our Right to Recover From Others Endorsement**, WC000313, is available only to employers who require the endorsement by contract. When making application for coverage, a copy of the contract must be provided. The payroll allocated to that contract must be so indicated on the application. The premium charge is 2% of the Manual Premium Subject to Waiver of Subrogation for the specific job for which the endorsement is issued.

The **standard limits for Part Two – Employers Liability Insurance**, code 9845, which are provided at no additional cost, are:

- \$100,000 per Accident – each Accident
- \$100,000 per Disease – each Employee
- \$500,000 per Disease – each Policy

The **increased limits for Part Two – Employers Liability Insurance** available in the Pool are (with 000's omitted):

(\$)	100/100/1,000	.50%	with	\$75.00 minimum	code 9803
	500/500/500	1.00%	with	\$50.00 minimum	code 9807
	500/500/1,000	1.25%	with	\$75.00 minimum	code 9808
	1,000/1,000/1,000	2.00%	with	\$75.00 minimum	code 9812

The **Massachusetts Benefits Deductible Program** and the **Massachusetts Benefits Claim and Aggregate Deductible Program** are available on Assigned Risk Pool policies, excluding those policies subject to the Premium Determination Endorsement - Former Self-Insurers 1. The premium credit for deductible coverage is obtained by applying the appropriate premium reduction percentage to the Manual Premium. Refer to *Deductible Programs* under the Helpful Information / Program Overviews section of the WCRIBMA's website, www.wcribma.org, for details of the program.

Note: Employers selecting the \$5,000 deductible are required to provide collateral deemed adequate by the insurer.

Apply the **experience rating** (experience modification or merit rating) in effect as of the requested effective date. An employer's experience rating history can be found in the Products and Services section of www.wcribma.org. Instructions for obtaining physical copies of experience ratings can be found in the FAQ page under the Helpful Information section of www.wcribma.org. Experience rating factors are not available over the telephone. For experience rating eligibility levels refer to the Miscellaneous Values page of the MA Manual. Refer to the *Experience Rating Plan* or *Merit Rating Program* pages under the Helpful Information / Program Overviews section of the WCRIBMA's website, www.wcribma.org, for details of these programs.

The **Construction Classification Premium Adjustment Program** credit for a **qualified** employer is applied to Modified Premium and is included in Standard Premium. Refer to the Special Pages of the MA Manual or *Massachusetts Construction Classification Premium Adjustment Program (MCCPAP)* under the Helpful Information / Program Overviews section of the WCRIBMA's website, www.wcribma.org, for details of this program.

Apply the appropriate **ARAP** factor from the applicable experience modification rating sheet to the Standard Premium. Refer to the *Experience Rating Plan Manual* or *All Risk Adjustment Program (ARAP)* under the Helpful Information / Program Overviews section of the WCRIBMA's website, www.wcribma.org, for details of this program.

The **Qualified Loss Management Program (QLMP)** credit for a **qualified** employer is applied to Premium Subject to QLMP. Refer to the Special Pages of the MA Manual or *Qualified Loss Management Program (QLMP)* under the Helpful Information / Program Overviews section of the WCRIBMA's website, www.wcribma.org, for the details of this program.

Balance to Admiralty/FELA Minimum Premium is applicable only when there are Admiralty or FELA payrolls on the application, and the Admiralty or FELA premium is less than the minimum premium. The amount entered into this field is the difference between the minimum premium and the developed Admiralty or FELA premium.

If the Premium Subject to Loss Constant is less than \$500, a **Loss Constant** may be applicable. Refer to Rule VI D. of the MA Manual for details of when a Loss Constant is applicable and to the Massachusetts Rates pages for the Loss Constant factors.

Refer to Rule VI in the MA Manual for an explanation of the **Expense Constant**, and refer to the Miscellaneous Values page of the MA Manual for the amount(s). The full expense constant must be included in the Deposit Premium.

To calculate the **Terrorism Premium**, divide the total amount of payroll (excluding per capita counts, seat counts for the aircraft seat surcharge, or exposures included only for supplemental rate charges) by 100 and multiply the result by the terrorism rate. Refer to the Miscellaneous Values page of the MA Manual for the terrorism rate.

The Total Policy Minimum Premium is the sum of the Employers' Liability Increased Limits Minimum Premium, the Admiralty/FELA Minimum Premium, and the Classification Premium. It is the lowest total policy premium for a policy period not longer than one year. The **Balance to Total Policy Minimum Premium** field should contain the difference between the Classification Minimum Premium and developed classification premium. The Balance to Employers' Liability Increased Limits Minimum Premium and the Balance to Admiralty/FELA Minimum Premium should each be reported in their own respective fields.

Former self-insurers are subject to the Premium Determination Endorsement - Former Self-Insurers 1, which calls for an **Insurance Charge**. Refer to *Former Self-Insurers* for details.

M.G.L. Chapter 152, Section 65 established the Massachusetts Department of Industrial Accidents (DIA) special fund and assessment charge. On behalf of the DIA, all carriers are required to bill and collect the assessment charge and to remit the amounts collected to the State Treasury. The Massachusetts **DIA Assessment** is a charge that is added to the Total Estimated Premium. DIA Assessment charges are not to be considered premium. Refer to *Department of Industrial Accidents (DIA) Assessment* under the Helpful Information / Program Overviews section of the WCRIBMA's website, www.wcribma.org, for details.

To calculate the required **Deposit Premium**:

- Subtract the Expense Constant and Insurance Charge (if applicable) from the Estimated Premium plus DIA Assessment.
- Apply the appropriate deposit factor to the amount calculated in previous step. (The Monthly factor is .25, the Quarterly factor is .50 and the Semi-Annual factor is .75)
- Add the full Expense Constant and Insurance Charge (if applicable) to the amount calculated in previous step.

The required Deposit Premium is calculated in this manner because the assigned carrier is entitled to 100% of the Expense Constant and the Insurance Charge at the time of policy issuance.

Installment Options

The deposit premium is required at the time of application.

During the application process, the applicant can choose, depending on premium size, to have either one annual payment or an installment plan. An employer may opt to pay more than the minimum deposit premium required at inception and can choose any installment plan that would be available if their premium was lower. The installment basis chosen determines the minimum deposit premium to be collected according to the following table:

Total Estimated Premium	Installment Basis	Deposit Factor	Payment Basis
Less than \$5,000	Annual	100% of Annual	Deposit + 0
\$5,000 or more	Semi-annual	75% of Annual	Deposit + 1
\$10,000 or more	Quarterly	50% of Annual	Deposit + 3
\$25,000 or more	Monthly	25% of Annual	Deposit + 9

The assigned carrier on its own initiative, at the direction of the WCRIBMA, or at the request of the insured, may conduct interim audits to ensure the adequacy of the estimated annual premium. All payments, premiums and payment plans are subject to adjustment at interim or final audit.

There will be no finance or billing charges associated with installment plans. The DIA Assessment is not premium and should not be used in determining eligibility for installment plans. One hundred percent (100%) of the expense constant is required at the time of application, in addition to the deposit premium. All additional payments shall be equal payments, the sum of which, when added to the deposit premium, shall equal 100% of estimated annual premium, plus the Department of Industrial Accidents Assessment.

Refer to *Reinstatement of Policy* in Pool Procedures for Existing Policies for information about the loss of the installment option when a policy has been cancelled more than once by the assigned carrier for nonpayment of premium.

Premium Payment

Enter the check number and amount in the space allotted on the application. The check must be made out to The Massachusetts Workers' Compensation Assigned Risk Pool (or 'MWCARP'). The Pool will not accept third-party or pre-endorsed checks. The WCRIBMA Staff will endorse the check over to the assigned carrier receiving the assignment. An employer's check, an agent's check, a bank check, a cashier's check, or a money order is acceptable.

Refer to *Non-Negotiable Checks* in Pool Procedures for Existing Policies for the handling of checks not backed by sufficient funds on both new and renewal policies.

Premium Financing

If the premium is being financed, a copy of the legal finance agreement, signed by the employer, must be submitted along with the application and a single check for the **full estimated annual premium plus the DIA Assessment**.

Applicant's Agreement

By signing this application, the employer certifies that:

- i. He is the employer or has been authorized by the employer to complete this application on its behalf;
- ii. He has read and understands the following statements to which he agrees by signing this application; and
- iii. All information provided in this application and on its attachments is true.

In consideration of the issuance of a Notice of Assignment and subsequent policy of insurance, the employer certifies, under the pains and penalties of perjury, that:

1. He made a good faith effort, but failed to obtain voluntary coverage through the MA voluntary workers' compensation insurance market;
2. He is not knowingly in default of premium on any MA workers' compensation insurance policy;
3. He has complied and will continue to comply with all laws, orders, rules and regulations in force and effect relating to the welfare, health and safety of employees, including but not limited to:
 - a. Allowing the carrier to make a careful inspection of his operation(s) for the purpose of measuring the hazards, making recommendations for the health and safety of employees, and determining the rate or rates which are adequate and reasonable;
 - b. Complying with the carriers' reasonable recommendations aimed at controlling or reducing the hazard(s) insured against;
 - c. Keeping records of information needed to compute premium and providing the carrier with copies of those records when asked for them;
 - d. Fully cooperating with the carriers' attempts to conduct premium audits or inspections of the premises for loss control purposes.

By signing, the employer affirms his understanding that compliance with each of these certifications is material to the issuance of Assigned Risk Pool coverage. An agent or producer cannot sign the application on behalf of the employer.

Agency and Producer

Pursuant to M.G.L. Chapter 152, Section 65O, any employer who obtains insurance through the Assigned Risk Pool is entitled to designate any licensed insurance agent or insurance broker to assist him in dealing with the insurer to which he is assigned or with the WCRIBMA. Although the producer provides an important service to the employer, the producer is not a contract agent or agency of the assigned carrier, and has no authority to bind or cancel Pool coverage, to issue certificates of insurance, or to otherwise act as an agent of the WCRIBMA or the assigned carrier. Unless a legal finance agreement exists that assigns cancellation or premium refund collection rights to a third party, all premium transactions are strictly between the assigned carrier and the employer; the producer is not a party to the policy contract. If there is still a question about the producer's authority, the WCRIBMA or assigned carrier should be contacted.

If a producer's services are used, the agency name, address, telephone number, and Federal Employer Identification Number must be provided. Also, the name and signature of the producer

who actually assisted in completing the application must be included. The producer must also date the application at his/her signing.

Producers not licensed in Massachusetts will not receive a producer fee.

By signing the application, the producer is certifying, under the pains and penalties of perjury, that all information provided is true to the best of his/her knowledge and belief and that he/she has made a good faith effort to place the coverage in the voluntary market as required by M.G.L. Chapter 152, Section 65A.