



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

**POOL PROCEDURES
for NEW APPLICATIONS
Submitted **T**hrough OAR (Online Assigned Risk)**

**(Updated December 20, 2017)
The most recent updates are highlighted.**

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OVERVIEW

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 OAR, Online Assigned Risk.

These procedures have been prepared by The Workers' Compensation Rating and Inspection Bureau of Massachusetts ("WCRIBMA") in its capacity as the Administrator of the Massachusetts Workers' Compensation Assigned Risk Pool ("MWCARP", or "Pool", or "Assigned Risk Pool"). If additional information is needed, refer to the WCRIBMA's web site, 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* ("MA Manual"), *NCCI's Forms Manual for Workers Compensation and Employers Liability*, and *NCCI's Experience Rating Plan Manual*.

Throughout the OAR process, the **producer** is notified of changes in the application status by email. If an employer's email address is provided on the OAR application, the **employer** is **also** notified by email when the application is submitted and when assigned. However, the emails for any application submitted by the employer, **without the assistance of a producer**, will be sent to the employer in lieu of the producer (as indicated in these procedures).

In addition to the email notification, the producer can also use the **My Applications page** in OAR to review or check the status of his/her current applications; to view any WCRIBMA attachments or letters in the Manage Attachments section of the application; and to access the link to make an electronic payment for applications with a status of "Assigned Pending Payment".

To keep the My Applications page manageable, applications will **be removed** from the My Applications page as follows:

- Applications with a status of "Not Submitted" **will be removed** after 60 days, and
- Applications with a status of "Assigned", "Returned" or "Expired" **will be removed** after 30 days.

Please note:

- Payment through OAR requires use of an electronic check through US Bank. A hard copy check cannot be submitted to the Massachusetts Workers Compensation Assigned Risk Pool. Do not use a money order or cashier's check to make a payment through US Bank.
- It is essential that the producer has access to a scanner in order to attach required documents to the application.
- 'Days' refers to calendar days, unless otherwise specified.

Refer to the OAR - Frequently Asked Questions for more helpful information including **computer** settings that will help enable you to view and add attachments in OAR. The OAR - FAQs page can be accessed from the **blue** menu bar on the OAR home page.

Refer to the OAR User's Guide for detailed instructions on navigating through the OAR screens. The OAR User's Guide can be accessed from the OAR home page.

Additional References:

Circular Letter #2300 dated October 28, 2016 – Revisions to the Assigned Risk Pool Application, New Supplemental Applications & Updated Exclusion of Coverage for Leased Employees Endorsement – WC200305

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.
- **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 **or must show that it will comply substantially** 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.
- **Additional information concerning eligibility can be found in [Section II – Eligibility Requirements](#).**

Binding of Coverage

If, upon review, the employer is eligible for coverage and the application is satisfactorily completed, then the WCRIBMA will issue an *Assigned Pending Payment* letter which will be attached to the application in OAR and emailed to the producer. Provided the producer pays the required deposit premium (as calculated on the *Assigned Pending Payment* letter) within the specified time period using an electronic check through the US Bank interface, the WCRIBMA will issue a *Notice of Assignment* letter which will be attached to the application in OAR, emailed to the producer, and emailed or mailed to the employer.

If the employer has coverage at the time the application is received by the WCRIBMA, the WCRIBMA sets a tentative 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 tentative coverage effective date equal to 12:00 a.m. the day following the WCRIBMA's receipt of the application, unless a later date is requested. **The coverage effective date is tentative until it is determined that the electronic payment is covered by sufficient funds.**

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

- a. **The WCRIBMA can only tentatively bind coverage if the deposit premium is paid electronically through the US Bank interface within the specified time period. Payments can only be made when the status is "Assigned Pending Payment". If the payment is not made in the specified time, the tentative binding date will be lost and no coverage is bound.**
- b. There will be no coverage in place for **Assigned** applications if there are not sufficient funds to cover the deposit premium payment when the electronic ACH payment is processed by US Bank **or if payment is declined for any other reason.** See *Non-Negotiable Checks* in the Pool Procedures for Existing Policies and [Electronic Payment Declined](#) 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. **See [Declination Information](#) for details.**
- d. The WCRIBMA cannot bind coverage for any employer who is in default of premium for Massachusetts workers' compensation insurance. **See [Outstanding Premium](#) for details.**

- 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 [Outstanding Audits or Inspections](#) for details.
- f. The WCRIBMA cannot bind coverage for former self-insurers using the online application. Former self-Insurers, who are subject to the Premium Determination Endorsement - Former Self-Insurers 1, must submit a hard copy application to the MWCARP.
- 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 by the WCRIBMA.

Create and Submit an Application

(OAR Status = "Not Submitted" → "Submitted")

To access **Online Assigned Risk ("OAR")** click on the red 'OAR' link or the red 'Online Assigned Risk' link on the homepage of the WCRIBMA's website. On the Login to OAR page, enter your User Name and Password, then click the 'Login' button.

For instructions on creating and maintaining an OAR account, including resetting passwords, refer to the [OAR User's Guide](#), accessible from both the OAR Login page and the OAR Home page.

From the OAR Home page, click on 'Create Application' in the blue menu bar.

The initial status of an application being created by the producer is "Not Submitted". An application with a "Not Submitted" status can be edited by the producer using the Edit Application icon on the My Applications page in the Select Operation column.

Note: Once an application has been submitted, the application form itself can no longer be edited. Corrections and/or revisions need to be submitted in the form of attachments to the application.

The employer, with or without the assistance of a producer, must accurately enter all the required information and attach all the necessary attachments. See [Completion of the Online Application](#) for details on completing the fields and questions on the application. See [Manage Attachments / Submit](#) for details on adding attachments to the application. If additional space is needed for answering questions, an attachment should be made to the application with the information.

When all information for a given application section has been completed, click the 'Save & Continue' button to move to the next section. Any omissions or errors detected must be completed or corrected before moving on to the next section. Complete all required information in Sections I – IX, then add the required attachments, if any, in the Manage Attachments section. After all necessary attachments have been added and all errors have been corrected, a PDF of the application is available to view by clicking on the 'View and Submit' button on the 'Attachments/Submit' tab and then clicking on the 'View or Download Application' button. After reviewing the PDF of the application, if you find that a correction is required, click on the 'Cancel Submission' button which will put the application back into "edit" mode. When the application is correct and ready to be submitted, print the application; then click on the 'Submit Application' button. If properly submitted, OAR will return you to the My Applications page and display the status of the application as "Submitted".

After submission of the application, an email is sent to the producer advising that the application has been received and that the WCRIBMA will review the application within three (3) business days and respond by email.

NOTE: The producer is responsible for retaining a printed copy of the completed OAR application with the employer's and the producer's original signatures for a period of not less than five (5) years. The WCRIBMA will periodically conduct audits of the producer's files to verify compliance with the signature requirements.

After submission, each application is reviewed by WCRIBMA Staff. Misrepresentations or omissions may result in delaying the binding of coverage or rejection of the application.

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

Delayed Processing of Application

(OAR Status = "Pending")

After submission of the application, if it appears that the employer is eligible for coverage, but either the application is not completed satisfactorily or additional information is necessary, the WCRIBMA will create and attach a *Delayed Processing of Application* letter to the application in OAR and an email will be sent to the producer advising that the application has been pended back to the producer since further information is required. The *Delayed Processing of Application* letter, which indicates the tentative binding date, will advise why WCRIBMA Staff is unable to process the application and what information is needed. In order to retain the tentative binding date, all requested information must be attached to the "Pending" application, and the application with required attachments must be resubmitted to the WCRIBMA by the date indicated in the *Delayed Processing of Application* letter.

All attachments submitted in response to the *Delayed Processing of Application* letter must be attached to the application through the Manage Attachments section in OAR. See [Manage Attachments / Submit](#) for details on adding attachments to the application. **Reminder – once an application has been submitted, the application form itself can no longer be edited or changed.** In order to correct information on the submitted application or to provide additional information, add an attachment with the required information. After all attachments and/or free form text are added to the application, **click on the 'Resubmit Application' button** located under the Manage Attachments section of OAR. Please note: Once you have clicked on the 'Resubmit Application' button, you will no longer be able to add any attachments.

Failure to resubmit the "Pending" application and all requested information on a timely basis will result in the loss of the tentative binding date. The WCRIBMA will create and attach a *Loss of Binding Date* letter to the application in OAR, and an email (with an attached *Loss of Binding Date* letter) will be sent to the producer advising that the application was not resubmitted with the requested information by the due date, and therefore the tentative binding date has been lost. The status of the application will change to "Expired". See [Expired Application](#) for instructions on resubmitting an application after the status has changed to "Expired".

Assigned Pending Payment – Payment of the Application

(OAR Status = “Assigned Pending Payment”)

After the submission of a satisfactorily completed application that the WCRIBMA determines is eligible for Pool coverage, the WCRIBMA will create and attach an *Assigned Pending Payment* letter to the application in OAR, and an email (with an attached *Assigned Pending Payment* letter) will be sent to the producer advising that the application has been approved pending payment.

Coverage will **not** be tentatively bound until an electronic payment is received through US Bank. Payment is due by 11:59 p.m. two (2) business days after the issue date on the *Assigned Pending Payment* letter. To make a payment, use the link provided in the Assigned Risk Application Assigned Pending Payment email or click the ‘\$’ icon on the My Applications page in the select Operation column. On the Make Premium Payment screen, the application’s Installment Basis options will be displayed. **Select the installment option the employer wishes to utilize** to pay, then click the ‘Make Payment’ button to link to the US Bank website. On the US Bank site, enter contact and payment information (**i.e., routing and account numbers**), review the information entered, and then click on the ‘Confirm’ button to complete the payment process. US Bank will provide a confirmation screen to print, and US Bank will email a confirmation to the contact email address provided. Click on the ‘Exit’ link, and US Bank will redirect you back to the My Applications page in OAR where the application’s status will have changed from “Assigned Pending Payment” to “Assigned”. Approximately 15 minutes later, the Notice of Assignment will be emailed and added to the Manage Attachments section of the application.

Do not use a money order or cashier’s check to make a payment through US Bank, since the US Bank electronic payment system works **only** by tying the payment to a checking account.

Payment must be made using information from one checking account. Payment using multiple checking accounts is not **possible**, even for those policies that are to be financed through a Premium Finance Company.

A Payment Reminder email will be sent to the producer, if payment has not been received, when there is one (1) calendar day remaining to submit payment.

If the payment is not received within the specified time period, an email will be sent to the producer advising that the payment was not received by the payment due date, therefore the application for coverage has been denied. The status of the application is changed from “Assigned Pending Payment” to “Returned” and the tentative binding date is lost.

For situations when the payment is declined by the bank, see [Electronic Payment Declined](#).

Notice of Assignment

(OAR Status = “Assigned”)

After payment is received for an “Assigned Pending Payment” application, a *Notice of Assignment* **letter** is attached to the application in OAR and an email (with an attached *Notice of Assignment* **letter**) is sent to the producer advising that payment has been received and coverage has been tentatively bound. A copy of the *Notice of Assignment* **letter** is also emailed to the employer, if an email address was provided on the application, or mailed to the employer if no email address was provided. An electronic file of the application and attachments/letters is created that evening by WCRIBMA and is available for the assigned carrier to retrieve from our website the next morning.

Rejection of Application

(OAR Status = "Returned")

If an application does not meet the eligibility requirements, as stated in [Eligibility Requirements](#) and [Binding of Coverage](#), then the WCRIBMA will not bind coverage. The WCRIBMA will create and attach a *Rejection of Application* letter to the application in OAR and an email (with an attached *Rejection of Application* letter) will be sent to the producer which indicates the reason that coverage could not be bound.

Once the ineligibility issue has been resolved, a copy of the "Returned" application (if it is still listed on the My Applications page) may be created by clicking on the 'Create New Version' icon in the Select Operation column on the My Applications page. OAR will create a new version of the application and copy all information on the previous version with the exception of Section II – Eligibility Requirements, Section VIII – Applicant's Agreement, Section IX – Agency Information & Producer's Statement, and the attachments. The new version will receive a new submission date, and a new tentative binding date will be set according to the [Binding of Coverage](#) rules, provided the employer is eligible.

Expired Application

(OAR Status = "Expired")

When a "Pending" application is not resubmitted by the due date, the status of the application is changed to "Expired" and the tentative binding date is lost. If the application must be submitted after the status has changed to "Expired", click on the 'Create New Version' icon in the Select Operation column on the My Applications page. OAR will create a new version of the application and copy all information on the previous version with the exception of Section II – Eligibility Requirements, Section VIII – Applicant's Agreement, Section IX – Agency Information & Producer's Statement, and the attachments. The new version will receive a new submission date and a new tentative binding date will be set according to the [Binding of Coverage](#) rules found in these Pool Procedures, provided the employer is eligible.

COMPLETION OF THE ONLINE APPLICATION

Section I. General Information

Requested Effective Date

Enter a future date that you want the coverage to be effective.

If no date is entered, OAR will default to the next **calendar** day's date. If the employer presently has insurance in effect, 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 by the WCRIBMA.

Employer Email

If available, enter the employer's email address. By completing this field, the employer will receive an emailed copy of the Notice of Assignment. If the employer does not have an email address, this field **should** be left blank. When this field is left blank and the application is eligible for assignment, a hard copy of the *Notice of Assignment* **letter** will be **mailed** to the employer.

Do not enter the producer's email address in this field.

1. Name of Employer

Enter the name of the employer. If the employer has a trade name (also known as a DBA name or a 'doing business as' name), the trade name must be listed on that same line after the employer's name. 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 (The sole proprietor must be listed here and in Section III.)
Partnership:	Joe Smith & Mary Smith DBA Smith Electrical (The partners must be listed here and in Section III.)
Corporation:	Smith Inc DBA Smith Electrical (The corporate officers must be listed in Section III.)
Trust:	Smith Electrical Trust (Trustee information must be listed in Section III.)
Limited Partnership:	Smith Electrical LP, Joe Smith General Partner (The general partner must be listed here and in Section III.)
Limited Liability Co.:	Smith Electrical LLC (The member(s) must be listed in Section III.)
Limited Liability Partnership:	Smith Electrical LLP, Joe Smith & Mary Smith Partners (The partners must be listed here and in Section III.)
Joint Venture	ABC Joint Venture, Smith Inc., Joint Venturer and Smith Electrical LP, Joint Venturer

If more than one legal entity is being listed on a single application, enter the primary name on Line 1, Name of Employer, **and** click on the 'Add Additional Name' link. For the second legal entity, enter the additional name along with that entity's federal employer identification number and legal status in the Additional Employer fields provided. For each additional name, click on the 'Add Additional Name' link, and enter the additional name along with that entity's federal employer identification number and legal status in the Additional Employer fields provided. An ERM Ownership Form must be attached to the application when more than one legal entity is entered to justify the combination of legal entities for experience rating purposes.

2. Federal Employer Identification Number

Enter the federal employer identification number (FEIN).

IN NO EVENT SHOULD A SOCIAL SECURITY NUMBER BE SUBMITTED IN LIEU OF A FEIN.

Note that on the [IRS's site](#), a FEIN can be applied for and received within minutes free of charge.

Sole proprietors with no employees and no FEIN number should select 'Sole Proprietors with No Employees' from the drop down menu **in lieu of entering a FEIN.**

Single member LLCs with no employees and no FEIN number that file their taxes under the member's SSN should select 'Single member LLC with no employees' from the drop down menu **in lieu of entering a FEIN.**

If the employer is not a sole proprietor or single member LLC who does not have a FEIN, but they contend that IRS's rules do not require a business in their situation to obtain one, then select 'No

FEIN required by IRS' from the dropdown menu. This will create a requirement for a 'No FEIN' attachment in OAR. This 'No FEIN' attachment cannot be freeform text; rather, the employer needs to provide clear evidence that the IRS will not require them to obtain a FEIN. If satisfactory evidence cannot be provided, a FEIN will be required.

3. Mailing Address

Enter the employer's mailing address and phone number. Policies, bills, cancellations, reinstatements, non-renewals, and correspondence will be sent by the assigned carrier to the address provided in this field. 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 attached to the application, when applicable.

If the Mailing Address is a foreign address, check the Foreign Address check box and complete the required address fields.

4. Principal MA Location

Enter the employer's principal MA location and phone number. A street address is required; a **post office box is not acceptable**. If the Principal MA Location is the same as the Mailing Address (but not a post office box), check the 'Same as mailing' check box in lieu of entering the address again.

5. Total Number of MA Locations

Enter the total number of the employer's MA locations.

6. Other Massachusetts Locations

Enter another MA location and phone number. To enter an additional location, click the 'Add New' link and complete the required fields. Street addresses are required; **post office boxes are not acceptable**. If the employer has numerous Massachusetts locations, a list of street addresses and phone numbers may be attached to the application in lieu of entering them in this section.

7a. Employer's Website

Check the appropriate Yes/No box to indicate whether the employer has a website.

If 'Yes', provide the website address.

7b. Years in Business

Use the drop-down box to select a range to indicate how long the employer has been in business.

8. Location of Records

Enter the location and phone number of the employer's payroll, business, and financial 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 by adding an attachment to the application.

9. Legal Status

Select the exact legal status of the applicant by clicking the appropriate button on the application. If 'Other', you must identify the legal status, (e.g., joint venture, LLP, unincorporated association, etc.). 'Non-profit' is not a legal status. A husband and wife submitting a joint application for coverage will be treated as a partnership by WCRI/BMA Staff. For joint ventures, a copy of the joint venture agreement must be submitted.

Section II. 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 or not accepted within five (5) days by two (2) insurers licensed to write workers' compensation insurance in Massachusetts;
- 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 or must show that it will comply substantially 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.

1. Declination Information

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

List the names, representatives, dates 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.

Check the appropriate (1a.) Yes/No box to indicate whether the employer's coverage was recently expired or terminated. If coverage was recently terminated or expired in either the voluntary or residual 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, the cancellation or nonrenewal notice will serve as one of the two required voluntary declinations. An assigned risk cancellation or nonrenewal notice will not serve as a voluntary declination.

If voluntary coverage was cancelled or non-renewed at the employer's request, the employer is not eligible for assignment through the Pool; the insured or producer 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 attached and available information, including the terms of that voluntary offer, when determining if the employer is eligible for Pool coverage.

2. Offers of Voluntary Coverage

Check the appropriate Yes/No box to indicate whether the employer has received any offers of voluntary coverage.

If 'Yes' to question 2, check the appropriate box for question 2a. to indicate whether the voluntary offer included multi-line, deductible, or retrospective rating terms.

If 'Yes' to both questions (2. and 2a.), attach 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 attached and available information, including the terms of that voluntary offer (multi-line, deductible, or retrospective rating terms), when determining if the employer is eligible for Pool coverage.

If 'Yes' to question 2. and 'No' to question 2a., the employer is not eligible for Pool coverage since the employer has received an offer of voluntary coverage that does not include multi-line, deductible or retrospective rating terms. Coverage must be obtained in the voluntary market. Processing of the OAR application is stopped at this point, and therefore, the OAR application cannot be submitted.

3. Outstanding Premium

Massachusetts **General Laws** provide that if the employer is in default of **payment of** premium, that employer is not eligible for coverage in the Pool. If there are any outstanding obligations, complete details must be provided. If outstanding premium is in dispute at the time of application, documentation must be attached to the application to substantiate the employer's dispute. The WCRIBMA will consider all attached and available information in determining whether the employer is eligible for Pool coverage.

Check the appropriate Yes/No box to indicate whether the employer or any commonly owned enterprise has any unpaid workers' compensation premium.

If 'Yes' to question 3, select the most appropriate option:

- If **Unpaid Premium** is selected, provide the Entity Name, Balance and Policy Number(s) of the entity with the outstanding balance.
- If **Premium Dispute** is selected, a copy of the letter sent by the employer to the carrier disputing the premium with full explanation must be attached to this application for WCRIBMA consideration.
- If **Payment Plan** is selected, a copy of the signed payment plan agreement between the employer and the carrier must be attached to this application.

4. Outstanding Audits or Inspections

With the exception of a final audit on a recently **terminated** policy, the employer must advise if it has an audit or inspection on a prior workers' compensation policy that remains incomplete. **All Pool policies contain the Massachusetts Assigned Risk Pool Eligibility Endorsement, which states that the employer's compliance with each eligibility condition, including allowing the carrier to audit and inspect, is material to the continuation of Assigned Risk Pool coverage. Therefore, if an employer has refused to permit a carrier to audit their payroll records or inspect its premises, that employer is not eligible for assigned risk coverage, and its 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, 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.

Check the appropriate Yes/No box to indicate whether the employer or any commonly owned enterprise has any outstanding audits or inspections on a prior workers' compensation policy.

If 'Yes' to question 4, provide the name of the Insurance Company and the Policy Number(s) that has the outstanding audit or inspection and answer question 4a **to indicate whether an audit has been scheduled.**

If 'Yes' to question 4a, provide the Insurance Company Contact Name and Contact Phone Number.

Section III. Corporate Officers, Sole Proprietors, Partners & Members

If the employer is a corporation, list the current corporate officers named on the corporate Articles of Organization, as amended, and as filed with and approved by the Massachusetts Secretary of the Commonwealth, or with another state's comparable office. For each officer provide their full name, title, ownership percentage, Elect/Exempt indicator, a detailed description of their duties in Massachusetts, and their actual annual salary. Corporate officers of Massachusetts corporations will be covered unless they are approved to be exempt from coverage by the Department of Industrial Accidents ("DIA").

To exempt a corporate officer or director from coverage: According to M.G.L. c. 152, Section 1(4), 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 DIA in accordance with 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/her title, duties, salary and percentage of ownership. The word 'EXEMPT' must be selected under 'Elect/Exempt' on the application. The payroll of an exempt officer/director 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 exemption will be effective the day after receipt of the approved Form 153 by the WCRIBMA.

Corporate officers of a corporation based in another state who do not and will not come to Massachusetts are not Massachusetts employees; therefore, their payroll will not be included on the assignment. In Section III under Duties, type 'Inactive in MA' and under Elect/Exempt, select Exempt. This election will create a requirement in OAR for a Form 153 to be attached. **Do not attach an unapproved Form 153;** rather, attach a letter signed by the corporate officer(s) on corporate letterhead that provides the out-of-state address(es) where their corporate officers work. This letter should also state that the corporate officers do not and will not come to Massachusetts and are therefore not seeking Massachusetts coverage for themselves. When attaching the letter, call it a Form 153 to satisfy OAR's requirements.

If the employer is a sole proprietorship, partnership, LLC or LLP, provide the full name, title, percentage of ownership, Elect/Exempt indicator, duties of each sole proprietor, partner, LLC member or LLP partner named in the employer's current organizational filing, and their actual annual salary. 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), 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 signed written request on the employer's company letterhead must be attached to the 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 selected under 'Elect/Exempt' on the application. Once coverage has been elected on 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 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.

If the employer is a trust, provide the name, title, percentage of ownership, duties and salary of each trustee. In Massachusetts, trustees are considered employers and are therefore not covered by workers’ compensation insurance. Furthermore, trustees cannot elect to be insured as sole proprietors and partners can; therefore, enter ‘EXEMPT’ must be entered under ‘Elect/Exempt’ on the application, and the trustees’ payrolls must not be included in Section VI.

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 Massachusetts Workers Compensation and Employers Liability Insurance Manual and Massachusetts 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

Section IV. Insurance Record

1. Previous Workers’ Compensation Insurance

Check the appropriate Yes/No box to indicate whether the employer has had prior Massachusetts workers’ compensation coverage.

2. Insurance Record for Most Recent Three Years

If ‘Yes’ to question 1., provide information for the three most recent years of coverage.

3. Reason for No Prior Coverage

If ‘No’ to question 1., select the reason the employer did not have prior Massachusetts workers’ compensation coverage. If ‘Other’ is selected, provide an explanation.

4. Former Self-Insurers

Check the appropriate Yes/No box to indicate whether the employer was self-insured within the twelve months immediately preceding the date of the application or whether the employer’s prior policy was subject to the Premium Determination Endorsement – Former Self Insurers 1.

Bona fide former self-insurers, who are subject to the Premium Determination Endorsement - Former Self-Insurers 1, may not apply for MWCARP coverage through this online application. A hard copy application must be submitted to the MWCARP.

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. 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.

The Premium Determination Endorsement - Former Self-Insurers-1 (WC000409) is not applicable to former members of Self Insurance Groups.

5. Stop Work Order

Check the appropriate Yes/No box to indicate whether the employer has recently received a Stop Work Order from the DIA. Note that priority is given to the applications of employers who have received Stop Work Orders.

If 'Yes', a copy of the Stop Work Order must be attached to the application with the attachment type Stop Work Order.

6. Bankruptcy

Check the appropriate Yes/No box to indicate whether the employer is in bankruptcy.

If 'Yes', copies of all filings approved and orders issued by the Bankruptcy Court must be attached to the application.

7. Out of State Operations

Check the appropriate Yes/No box to indicate whether this entity or any commonly owned entity has 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 attached to 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 **Benefit** Endorsement is mandatory for all Assigned Risk Pool policies.

Additional References:

Special Bulletin #06-13 dated March 26, 2013 – Massachusetts Limited Other States Benefit Endorsement WC200306B.

Circular Letter #1983 dated April 7, 2005 – Approved Revisions to the Massachusetts Limited Other States Insurance Endorsement WC200306A.

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

8.-12. Ownership

Check the appropriate Yes/No boxes to indicate whether there has been:

- 8) a name change within the last five years,
- 9) a merger or consolidation within the last five years,
- 10) a sale, transfer or conveyance of ownership interest within the last five years,
- 11) a purchase or acquisition of assets from another entity whose operations the employer took over within the past five years, or

12) whether the owners or officers of the applicant have ever had ownership in any other entity, either currently or previously existing.

If 'Yes' is answered to any question from 8 through 12, an ERM Form (Confidential Request for Information) must be completed by the employer and attached to the application. In lieu of completing an ERM Form, **detailed** ownership information may be submitted on the letterhead of the insured signed by **an** owner, partner, corporate officer, or LLC member and attached to the application.

Section V. Business of Employer

1. Description of Employer's Operations

Explain the nature of the business completely. **For** each separate legal entity and/or location, **describe** 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, add an attachment 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."

2. Subcontracted Labor

Check the appropriate Yes/No box **to indicate whether the employer anticipates using subcontract labor during the policy term.**

Massachusetts General Law, Chapter 152, Section 18, provides that an employer is liable for the injury of employees of a subcontractor. At the time of audit, premium will be charged in the absence of a certificate of insurance from a subcontractor, in accordance with the Audit Guidelines for Sole Proprietors and Partnership Certificates of Insurance.

If 'Yes' **to question 2**, the employer must estimate the amount of payroll paid to subcontractors who cannot provide a certificate of insurance. The indicated payroll amount must be included in the payroll estimates in Section VI.

Refer to the Pool Procedures for Existing Policies for additional information.

Additional References:

Circular Letter 2199 dated July 3, 2012 – Updated Audit Guidelines for Sole Proprietor and Partnership Certificates of Insurance

Circular Letter 2071 dated October 24, 2007 – Audit Guidelines for Sole Proprietor and Partnership Certificates of Insurance

Circular Letter 2057 dated June 22, 2007 – Follow-up to Circular Letter 2045

Circular Letter 2045 dated February 14, 2007 – Procedures for Issuing Certificates of Insurance for Sole Proprietors and Partnerships

3. Independent Contractors

Check the appropriate Yes/No box **to indicate whether the employer uses independent contractors.**

If 'Yes' to question 3, the employer must maintain documentation which supports that they are independent contractors **in accordance with Massachusetts General Law, Chapter 149, Section 148B**. If such documentation is not available, or if the assigned carrier finds evidence of an employment relationship, premium will be charged as if the individuals were employees.

Additional References:

Circular Letter 2199 dated July 3, 2012 – Updated Audit Guidelines for Sole Proprietor and Partnership Certificates of Insurance

Circular Letter 2071 dated October 24, 2007 – Audit Guidelines for Sole Proprietor and Partnership Certificates of Insurance

Circular Letter 2057 dated June 22, 2007 – Follow-up to Circular Letter 2045

Circular Letter 2045 dated February 14, 2007 – Procedures for Issuing Certificates of Insurance for Sole Proprietors and Partnerships

4. Employer Leases Employees to Other Businesses

Check the appropriate Yes/No box to indicate whether the employer leases employees to another business.

If 'Yes' to question 4, check the appropriate box in question 4a. to indicate whether this application is seeking coverage for the employer's own employees who are not subject to an employee leasing arrangement or for employees leased to a client company.

Applications for Non-Leased Employees of an Employee Leasing Company:

If an employee leasing company has Massachusetts employees that are not leased to a client company (i.e., non-leased employees), the employee leasing company is required to obtain a separate policy for these employees.

To obtain an Assigned Risk Pool policy to cover the non-leased employees of an employee leasing company, a Pool application must be submitted in the name of and by the employee leasing company. The application is subject to the [Eligibility Requirements](#) and [Binding of Coverage](#) sections in these procedures.

If the application is eligible for assignment, a Notice of Assignment (and the subsequently issued policy) will be issued in the name of the employee leasing company and will have the **Massachusetts Exclusion of Coverage for Leased Employees Endorsement, WC200305A**, attached which restricts coverage to the employee leasing company's non-leased employees, including any temporary employees it may provide. The experience rating factors of the employee leasing company shall be applied to the Notice of Assignment and to the policy.

Refer to *Employee Leasing Arrangements* under Program Overviews on the home page of the WCRIBMA's website, www.wcribma.org, for more details.

Applications for Employees Leased to a Client Company:

If an employee leasing company is seeking coverage for employees it leases to a client company, click the 'employees leased to a client company' button and provide the required client information in the client fields under question 4a.

The manner in which an employee leasing company (also known as a Professional Employment Organization or PEO) obtains and maintains its Massachusetts workers' compensation insurance is contemplated by 211 CMR 111.00. The Regulation provides as follows, where the entity

providing employee leasing services is referred to as an 'employee leasing company' and 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 the **client's experience ratings**. The experience **rating factors** shall be applied to the client company's policy and all policies maintained for it by a leasing company or leasing companies.

Selecting the 'employees leased to a client company' button will create a requirement for an Employee Leasing Supplemental Application. The Employee Leasing Supplemental Application, which provides specific information about the client, requires that a copy of the signed lease agreement and a list of all leased employees be provided. The application is subject to the [Eligibility Requirements](#) and [Binding of Coverage](#) sections in these procedures.

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:
 - Questions 1 and 2 (declinations and offers of voluntary coverage) should be completed by the leasing company specifically with regard to the employees it leases 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, **or if the employee leasing company named on line 1 of the Pool application owes its current or prior insurer any premium for workers' compensation insurance for employees it leased to this client**, 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. Indicate that the officers are 'EXEMPT'.
 - **Selecting 'EXEMPT' will create a requirement for a Form 153 in OAR. However, since this policy cannot insure the leasing company's officers (because they are not leased to the client), in lieu of submitting a Form 153 to exclude the leasing company's offers, submit a letter of explanation and call it a Form 153 when attaching it. The letter should explain**

that a Form 153 is not appropriate because the application is only for employees leased to the client.

- Furthermore, submission of Form 153 to exclude the client company's corporate officers is not appropriate because they are not corporate officers of the insured employer.
- 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.1. 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, Payroll 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 Employee Leasing Supplemental Application. Note that:
 - The experience rating factors 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.
 - If the client is a sole proprietorship, and the 'sole proprietor' is a paid employee of the employee leasing company, that individual will also be included on the policy at the level of their actual payroll as paid by the employee leasing company. The same holds true for partners of partnerships and members of LLCs.
- Section VIII, Applicant's Agreement, must be signed by an officer or partner of the employee leasing company.

If the application is eligible for assignment, a Notice of Assignment (and the subsequently issued 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 rating factors of the client company shall be applied to the Notice of Assignment and to the policy.

Refer to *Employee Leasing Arrangements* under Program Overviews on the home page of the WCRIBMA's website, www.wcribma.org, for more details.

Additional References:

Circular Letter #2300 dated October 28, 2016 – Revisions to the Assigned Risk Pool Application, New Supplemental Applications & Updated Exclusion of Coverage for Leased Employees Endorsement – WC200305

5. Labor Contractors

Check the appropriate Yes/No box to indicate whether the employer 'provides employees to other businesses but does not consider their arrangements to be employee leasing arrangements in accordance with 211 CME 111.00'. Businesses that fall under this category are considered labor contractors and might be called temporary employment agencies, staffing firms, employment agencies or placement agencies.

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

To obtain an Assigned Risk Pool policy that covers **the employees of labor contractors**, a Pool application must be submitted in the name of and by the labor contractor. The application is subject to the [Eligibility Requirements](#) and [Binding of Coverage](#) sections in these procedures.

The employer must **also complete**, sign and attach the **Labor Contractor Supplemental Application to provide additional information about the size and scope of their business and the services it provides**. The employer must make an attachment to the application providing the following information to verify that the arrangements are temporary and to determine proper classifications and exposures:

- i. **Any sample contracts, brochures or promotional materials utilized by the labor contractor.**
- ii. The name and address of each Massachusetts business to whom the **labor contractor** provided employees over the past 6 months,
- iii. The nature of the client's business and a description of the duties of the employees that were supplied,
- iv. The number of employees provided and how often/frequently they were provided;
- v. The start and end dates of the arrangement, and
- vi. **A description of the circumstances under which employees were provided. Examples include:**
 - **Temporary to permanent hire by the client,**
 - **Providing employees to cover the absence of permanent employees,**
 - **Providing employees to fill a need during a temporary skill shortage,**
 - **Providing employees during a seasonal increase in business,**
 - **Staffing for a special temporary assignment or project, or**
 - **Meeting daily staffing needs.**

Note that if the labor contractor is a new business, then it must attach a list of prospective clients, including their names, addresses and business descriptions, along with a description of what services it expects to provide to each of those clients.

If the application is eligible for assignment, the Notice of Assignment (and the subsequently issued policy) will be issued in the name of the **labor contractor**. The policy will have the **Massachusetts Exclusion of Coverage for Leased Employees (Labor Contractors) Endorsement WC200305A** attached which restricts coverage to the labor contractor's non-leased employees, including any temporary employees it may provide. Therefore, if the labor contractor obtains any **leasing clients**, it will need to obtain separate policies to cover those leased employees.

Additional References:

Circular Letter #2300 dated October 28, 2016 – Revisions to the Assigned Risk Pool Application, New Supplemental Applications & Updated Exclusion of Coverage for Leased Employees Endorsement – WC200305

6. Employer **Obtains Employees from Another Business**

Check the appropriate Yes/No box to indicate whether the employer leases employees from or regularly obtains temporary employees from another business.

If 'Yes' to question **6**, check the appropriate box for question **6a**. to indicate whether this application is seeking coverage for the employer's own employees who are not subject to an employee leasing arrangement or a temporary help arrangement. Note that by answering 'No' to **6a**, the employer is stating that it is seeking to insure the employees it obtains from the leasing company or labor contractor. Since the client cannot cover those employees in Massachusetts, the employer will not be able to move beyond this Section of the application. It must change their answer to **6a**. to 'Yes' to continue.

Applications for the Direct Employees of a Client Company:

Massachusetts Regulation 211 CMR 111.05 states "nothing in 211 CMR 111.00 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". Therefore, if the client company has its own employees that it pays directly, the client company must have a separate policy providing workers' compensation and employers' liability for those employees.

To obtain Assigned Risk Pool policy that covers the directly paid employees of a client company that are not obtained from another business, a Pool application must be submitted in the name of and by the client company. The application is subject to the [Eligibility Requirements](#) and [Binding of Coverage](#) sections in these procedures.

An employer who is applying for Assigned Risk Pool coverage for their own employees and who is leasing all or a portion of their workers from an employee leasing company, staffing firm or temporary employment agency, must attach a completed Client of Labor Contractor Supplemental Application. The Client of Labor Contractor Supplemental Application requires the attachment of the employer's contract with their labor contractor and evidence of insurance for the leased employees.

If the employer applying for coverage leases its employees from an employee leasing company, the corporate officers must be treated as follows:

- If the corporate officers are leased from the employee leasing company, 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, 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, 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, he/she can exempt himself/herself 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/she is not an officer of the employee leasing company.

If the application is eligible for assignment, the Notice of Assignment (and the subsequently issued policy) will be issued in the name of the client company.

Refer to *Employee Leasing Arrangements* under Program Overviews on the home page of the WCRIBMA's website, www.wcribma.org, for more details.

Additional References:

[Circular Letter #2300 dated October 28, 2016 – Revisions to the Assigned Risk Pool Application, New Supplemental Applications & Updated Exclusion of Coverage for Leased Employees Endorsement – WC200305](#)

7. Trucking / Delivery Businesses

Check the appropriate Yes/No box to indicate whether the employer primarily operates a trucking or delivery business.

A 'Yes' response to question 7. will create a requirement for a Trucking/Delivery Supplemental Application, as will the inclusion of certain classification codes in Section VI of the application.

Note that an employer who incidentally provides delivery services for its primary business (i.e., restaurant, furniture store, dry cleaner, etc.), should respond 'No' to question 7.

Additional References:

Circular Letter #2300 dated October 28, 2016 – Revisions to the Assigned Risk Pool Application, New Supplemental Applications & Updated Exclusion of Coverage for Leased Employees Endorsement – WC200305

8. Construction Operations

Check the appropriate Yes/No box to indicate whether the employer operates as a general or subcontractor in commercial or residential construction operations.

A 'Yes' response to question 8. will create a requirement for a Construction Contractor Supplemental Application, as will the inclusion of certain classification codes in Section VI of the application.

Additional References:

Circular Letter #2300 dated October 28, 2016 – Revisions to the Assigned Risk Pool Application, New Supplemental Applications & Updated Exclusion of Coverage for Leased Employees Endorsement – WC200305

9. Employer's Revenue

Provide the employer's Massachusetts revenue for its last fiscal year and the fiscal year-end date. 'Revenue' is the business's income, excluding interest income, prior to deductions made for expenses. **A new business now in its first fiscal year should leave both the revenue and date fields blank.**

Revenue is included on tax returns as follows:

Legal Status	Tax Form/Schedule	Line Item
Sole Proprietorship	Schedule C	1 – Gross receipts or sales
Partnership	Form 1065	1 – Gross receipts or sales
Corporation	Form 1120	1 – Gross receipts or sales
LLC	<u>Varies *</u>	1 – Gross receipts or sales

* The tax forms filed by LLCs vary depending on the number of LLC members and the elections the LLC has made to the IRS.

Section VI. MA Classifications, Payroll, and Premium Calculations

Classifications, Payroll and Premium Calculation:

Both OAR and the Residual Market/Producer and Employer Resources sections of the WCRIBMA's website contain an Assigned Risk Application Calculator to assist producers and employers in the calculation of workers' compensation insurance assigned risk premium.

Refer to the *MA Manual*, Appendix F – Residual Market Premium Algorithm, in the Tools and Services section of the WCRIBMA's website for a complete explanation of the premium calculation process.

1. Enter the **Location # and Shift #:**

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:

Loc #	Shift #	Class Code	Classification Phraseology	USLH	# of Emps	Actual Payroll for Past 12 Months	Estimated Payroll for Next 12 Months	Rate	Premium = Estimated Payroll /100 * Rate
1	1	3685	Instrument Mfg NOC	<input type="checkbox"/>	10	350,000	400,000	.77	3,080
1	1	8810	Clerical Emp NOC	<input type="checkbox"/>	3	100,000	120,000	.12	144
2	1	3685	Instrument Mfg NOC	<input type="checkbox"/>	15	700,000	600,000	.77	4,620
2	1	8810	Clerical Emp NOC	<input type="checkbox"/>	1	75,000	50,000	.12	60
2	2	3685	Instrument Mfg NOC	<input type="checkbox"/>	5	225,000	225,000	.77	1,733

- Enter the **Class Code**, and OAR will provide the **Classification Phraseology**:
For assistance in finding the class code, Section VI of the OAR application has a Class Lookup link. This Class Lookup, which allows the user to search for applicable class codes based on the entered criteria describing the employer’s business operations, is also available in the Tools and Services section of WCRIBMA’s website. Otherwise, the classification code may be taken directly from the existing policy or from Part Two – Classifications of the *MA Manual*. Payrolls and classifications are subject to review by WCRIBMA Staff and may be changed.
If **USL&HW** (United States Longshore & Harbor Workers’ Compensation Act) coverage is allowed and required, check the box following the class code and phraseology.

- Enter the **number of employees** by **location, shift and** classification:
For both payroll based and per capita class codes, enter the number of employees.

- Enter the **Actual Payroll for the Past 12 Months**:
Enter actual, historical payrolls/exposure for the past twelve months immediately preceding the application. For per capita class codes, this field is left blank.

- Enter the **Estimated Payroll for the Next 12 Months**:
Enter realistic estimates of expected payrolls/exposure **for the next twelve months**. For per capita class codes, **this field is left blank**. If the **estimated** 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 attached to 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. **In lieu of submitting 941s, employers with operations in other states must submit copies of forms submitted to the Massachusetts Department of Unemployment Insurance (“DUA”) for the four most recent quarters to verify Massachusetts payroll.** Employers in existence for less than four months do not need to submit these payroll verification forms. The 941 Form or its equivalent should include gross payroll. Applications should also include an attachment explaining any significant differences between the annualized payrolls on the 941s or DUA forms and the payroll 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: ALL SOCIAL SECURITY NUMBERS MUST BE REDACTED SO THEY CANNOT BE READ. SOCIAL SECURITY NUMBERS SHOULD NOT BE VISIBLE ON ANY DOCUMENT SUBMITTED TO WCRIBMA.

- OAR will provide the appropriate **Rate** after entry of a valid class code and will calculate the class **Premium** after entry of the estimated payroll for the next twelve (12) months.

7. Premium Elements:

If the **Waiver of Our Right to Recover From Others Endorsement** is required by contract, select 'Yes' from the drop down menu and enter the whole dollar premium charge, equal to 2% of the Manual Premium Subject to Waiver of Subrogation for the specific job for which the endorsement is issued. The Waiver of Our Right to Recover From Others Endorsement, WC000313, is available in the MWCARP only to employers who require the endorsement by contract. When making application for coverage, a copy of the contract must be provided. The payroll and class code(s) allocated to that contract must be provided on an attachment to the application.

If increased limits for **Employers Liability** are desired, select the desired limit from the drop down menu. 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:

Limits (\$)	Percentage	Minimum	Class Code
100,000/100,000/1,000,000	.50%	\$75.00	9803
500,000/500,000/500,000	1.00%	\$50.00	9807
500,000/500,000/1,000,000	1.25%	\$75.00	9808
1,000,000/1,000,000/1,000,000	2.00%	\$75.00	9812

If an admiralty class code is entered, select the **Admiralty Employers Liability Limits**. Refer to Rule XIII in the *MA Manual* for additional information.

Code	Limit	Program I	Program II
9849	Standard: 10,000	1.00	1.00
9817	50,000	1.18	1.13
9818	100,000	1.32	1.26

If a **Deductible** is desired, select the amount from the drop down menu. 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 Program Overviews on the home page of the WCRIBMA's website for details of the programs.

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

If the employer qualifies for **Experience / Merit Rating**, enter the experience modification or merit rating factor in effect as of the requested effective date, e.g., 1.10 or .95. For assistance in finding the experience rating factor, Section VI of the OAR application has a Mod Lookup link. An employer's experience rating history can also be accessed through the Experience Rating History page found in the Tools and Services section or on the home page in the Tools box on the

WCRIBMA's website. Instructions for obtaining physical copies of experience ratings can be found in the Helpful Information/FAQs/Experience Rating FAQs section on the WCRIBMA's website. 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 *Experience Rating Plan* or *Merit Rating Program* under Program Overviews on the home page of the WCRIBMA's website for details of these programs.

If the employer has a **Massachusetts Construction Classification Premium Adjustment Program ("MCCPAP") Credit** in effect as of the requested effective date, select the percentage from the drop down menu. The MCCPAP credit for a **qualified** employer is applied to Modified Premium and is included in Standard Premium. Refer to the Special Programs pages of the *MA Manual* or *Massachusetts Construction Classification Premium Adjustment Program (MCCPAP)* under Program Overviews on the home page of the WCRIBMA's website for the details of this program.

If the employer has qualified for an **ARAP** (All Risk Adjustment Program) factor, enter the ARAP factor in effect as of the requested effective date, e.g., 1.10. The ARAP factor from the applicable experience modification rating sheet is applied to the Standard Premium. Refer to the *Experience Rating Plan Manual* or *All Risk Adjustment Program (ARAP)* under Program Overviews on the home page of the WCRIBMA's website for the details of this program.

The **Loss Constant** will be calculated by OAR, if applicable. 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 of the *MA Manual* for the Loss Constant amount(s).

The **Expense Constant** will be calculated by OAR. Refer to Rule VI E. in the *MA Manual* for an explanation of the Expense Constant. Refer to the Miscellaneous Values page of the *MA Manual* for the Expense Constant amount(s). The full Expense Constant must be included in the Deposit Premium.

The **Terrorism Premium** will be calculated by OAR, if applicable. Terrorism Premium is calculated by dividing the total amount of payroll (excluding per capita counts, or exposures included only for supplemental rate charges) by 100 and multiplying the result by the terrorism rate. Refer to the Miscellaneous Values page of the *MA Manual* for the terrorism rate.

The **Premium Subject to Total Policy Minimum Premium** and the **Total Policy Minimum Premium** are calculated by OAR. The Total Policy Minimum Premium is the sum of the Employers' Liability Increased Limits Minimum Premium, the Admiralty Employers' Liability Limits Minimum Premium, and the Classification Minimum Premium. It is the lowest total policy premium for a policy period not longer than one year.

The **Total Estimated Premium** is calculated by OAR. Refer to the *MA Manual*, Appendix F – Residual Market Premium Algorithm, in the Tools and Services section of the WCRIBMA's website for a complete explanation of the premium calculation process.

The **DIA Assessment** will be calculated by OAR, if applicable. The DIA Assessment rate should be applied to the DIA Standard Premium, which is Standard Premium calculated at WCRIBMA-issued manual rates, prior to the effects of any approved rate deviation or scheduled rating adjustment. The DIA assessment does not apply to premium developed from Admiralty classes, classes whose rate has been adjusted to reflect USL&HW exposure, supplemental non-ratable classes, or supplemental rate - atomic energy exposure.

M.G.L. Chapter 152, Section 65 established the DIA **Workers' Compensation Special Fund and the Workers' Compensation Trust Fund**. On behalf of the DIA, all carriers are required to bill and collect the DIA 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 Program Overviews on the home page of the WCRIBMA's website for details on the calculation of DIA Assessment and the definition of DIA Standard Premium.

The **Total Estimated Premium plus DIA Assessment** is calculated by OAR. The DIA Assessment charge is added to the Total Estimated Premium.

Section VII. Deposit Required

1. Installment Options

The employer can choose, depending on premium size, to have either one annual payment or an installment plan. An employer can choose any installment plan that is based on a premium level that is less than their current Total Estimated Premium. The installment basis chosen determines the minimum deposit premium to be collected according to the following table:

Total Premium	Installment Basis	Deposit Factor	Additional Payments
Under \$5,000	Annual	100%	None
At least \$5,000	Semi-annual	75%	One
At least \$10,000	Quarterly	50%	Three
At least \$25,000	Monthly	25%	Nine

The required Deposit Premium is calculated, as follows, because the assigned carrier is entitled to 100% of the Expense Constant at the time of policy issuance.

- The Expense Constant is subtracted from the Total **Estimated** Premium plus DIA Assessment.
- The appropriate deposit factor is applied to the amount calculated in previous step. (The Monthly factor is .25, the Quarterly factor is .50 and the Semi-Annual factor is .75).
- The full Expense Constant is added to the amount calculated in **the** previous step.

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 always included in the Deposit Premium**. All additional payments shall be equal payments, the sum of which, when added to the Deposit Premium, shall equal 100% of Total **Estimated** Premium plus DIA Assessment.

Refer to *Reinstatement of Policy* in the 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.

2. Premium Financing

Check the appropriate Yes/No box to indicate whether the premium is being financed.

If the premium is being financed, a copy of the legal finance agreement, signed by the employer and the producer, must be attached to the application, 'Annual' must be selected from the Deposit Premium drop down menu, and an online payment must be made in accordance with [Assigned Pending Payment – Payment of the Application](#).

3. Electronic Payment Declined

Any binding of coverage is conditional until the payment has cleared. If the electronic payment is declined and the policy has not yet been issued, the assigned carrier will advise the insured that it has ten (10) days to provide the carrier with a bank check or money order for the full amount of the required deposit. Only if sufficient funds are received by the carrier prior to or on the due date, will coverage be effective as of the tentative binding date on the Notice of Assignment issued by the WCRIBMA.

Refer to *Non-Negotiable Checks* in Pool Procedures for Existing Policies regarding the declination of payments on both new and renewal policies.

Section VIII. Applicant's Agreement

Enter the Business Name of the Employer, the Employer's (electronic) Signature, the Title of the individual signing the application, his/her Email Address, and the Date on which the application was signed.

By signing this application, the signer certifies under the pains and penalties of perjury that:

- i. He/she is the employer or has been authorized by the employer to complete this application and any necessary Supplemental Applications on its behalf;
- ii. All information provided in this application and on its attachments is true;
- iii. He/she understands that the WCRIBMA and the assigned carrier rely on the information provided on the application when providing coverage;
- iv. He/she understands the employer has a continuing obligation to promptly notify the assigned carrier of changes in the type of work conducted, the amount of payroll, the business name, the legal status or ownership, or a change in the mailing address or business location; and
- v. He/she has read and understands the following statements to which he/she agrees by signing this application.

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. It made a good faith effort, but failed to obtain voluntary coverage through the MA voluntary workers' compensation insurance market;
2. It is not knowingly in default of premium on any MA workers' compensation insurance policy;
3. It 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 its 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 **its** understanding that compliance with each of these certifications is material to the issuance of Assigned Risk Pool coverage. **A producer** cannot sign the application on behalf of the employer.

Section IX. Agency Information and Producer's Statement

Enter the Agency Name, Agency Federal Identification Number, Agency License Number, Agency Mailing Address, Agency Phone Number, Producer Name, Producer (electronic) Signature, and the Date. Information in some of these fields may be prefilled with agency information reported by the agency on their Group Membership Application. Prefilled information may be corrected, as needed.

The producer must check the following three boxes to certify that:

- He/she is the producer of record;
- He/she has reviewed Section VIII of the application with the applicant prior to his/her signing; and
- He/she acknowledges the signature to the application are original signatures. He/she requests, on behalf of the applicant, the designation of an insurance company to provide insurance in accordance with the provisions of the Massachusetts Workers' Compensation Assigned Risk Pool and he/she certifies that **he/she has** reviewed the applicant's responsibilities with the applicant and will retain a copy of the completed application with the applicant's and the producer's original signatures for a period of not less than five (5) years.

Note: The application copy that the producer is required to retain for at least five **(5)** years must be of the OAR application that was actually submitted to the WCRIBMA. WCRIBMA staff will randomly request copies of the applications being retained by producers. Copies of completed hard-copy or **ACORD** applications will not be considered acceptable.

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 **producer** or **broker** to assist in dealing with the insurer to which **it** is assigned or with the WCRIBMA. Although the producer provides an important service to the employer, the producer is not a contract **producer** 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 a producer 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.

* **Note:** Producers can request certificates of insurance from WCRIBMA using the Certificate of Insurance Tool **on the WCRIBMA's website** but are not permitted to issue certificates of insurance on their own.

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.

MANAGE ATTACHMENTS / SUBMIT

If OAR has determined that **attachments are** required based on the information entered on the application, OAR will list the Required Attachments under the Manage Attachments section. Add one type of attachment at a time. The only type of documents that will be accepted as attachments are PDFs, TIFs, and the Free Form Text option in OAR.

To add a required attachment in the Required Attachments section, click on the name of the required attachment. From the Manage Attachments window, click on the top 'Browse' button and another window will open that will allow you to locate the file on your **computer** that you wish to attach. Locate and select the file on your **computer**, and click 'Open'. Once the name of the document appears in the window to the left of the Browse button, click 'Save'. Follow this same procedure until all required attachments are attached.

Note: If you do not attach a required attachment under the correct name (Attachment Type), OAR cannot determine that the required attachment is attached. For example, the attachment type should show as Nonrenewal or Cancellation if a nonrenewal or cancellation is required.

To add a document that is not required, click on the 'Add New Attachment' link. From the Manage Attachments window, select the appropriate Attachment Type from the Attachment Type drop down menu. Some Attachment Types allow either the attachment of a File or Free Form Text.

- To add a file, click on the top 'Browse' button. Another window will open that will allow you to locate the file on your **computer** that you wish to attach. Locate and select the file on your **computer**, then click 'Open'. Once the name of the document appears in the window to the left of the Browse button, click 'Save'.
- To add Free Form Text, select the Free Form Text option. Another window will open that will allow you to enter the free form text message, then click the 'Save' button.

If the employer has a **Stop Work Order** issued by the Department of Industrial Accidents, attach a copy of the Stop Work Order to the application before submitting. From the Attachment Type drop down menu, **select 'Stop Work Order' as the Attachment Type when attaching a Stop Work Order.**

For joint ventures, a copy of the joint venture agreement must be attached to the application.

When finished adding attachments, from the Manage Attachments screen, view the list of attachments. Open all attachments, one at a time, to be certain all documents are correctly named and can be opened. If any attachments cannot be opened or are incorrectly named, delete them from OAR using the 'X' icon to the right of the document name. As needed, go back and attach the file again or rescan the document to create a readable PDF and attach again. When finished with attachments, submit the application **as follows.**

After all necessary attachments have been added and all errors have been corrected, a PDF of the application is available to view by clicking on the 'View and Submit' button on the 'Attachments/Submit' tab and then clicking on the 'View or Download Application' button. After reviewing the PDF of the application, if you find that a correction is required, click on the 'Cancel Submission' button which will put the application back into "edit" mode. When the application is correct and ready to be submitted, print the application; then click on the 'Submit Application' button. If properly submitted, OAR will return you to the My Applications page and display the status of the application as "Submitted".