

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 81—Automobile Liability Insurance Premium Discount and Insurer Premium Tax Credit (LAC 37:XIII.Chapter 95)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend Regulation 81—Automobile Liability Insurance Premium Discount and Insurer Premium Tax Credit. The purpose of the amendment to Regulation 81 is to clarify the applicability and calculation of the discount offered through the insurance premium discount program for active military personnel based in Louisiana and to update statutory references that have changed due to recodification.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 95. Regulation Number 81—Automobile Liability Insurance Premium Discount and Insurer Premium Tax Credit

§9501. Authority

A. This regulation is adopted pursuant to R.S. 22:11 and 22:1482.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 2005), amended LR

§9503. Purpose

A. The purpose of this regulation is to implement the provisions of Acts 2004, No. 770 of the Louisiana Legislature, Regular Session, as well as to implement the amendment thereto as set forth in Acts 2005, No. 408 of the Louisiana Legislature, Regular Session. The original law created an insurance premium discount program for active military personnel based in Louisiana. The amendment creates a program whereby an insurer is entitled to a tax credit against the premium taxes imposed under R.S. 22:838 and R.S. 22:831 for the amount of the military discount provided to qualified active military personnel for the liability portion of their personal automobile liability policy. Both laws require the commissioner to adopt a regulation to implement the military discount program and to develop procedures for an insurer to follow to claim a tax credit and for other related matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 20, 2005), amended LR 32:94 (January 2006), LR

§9509. Definitions

A. For the purposes of this regulation the following terms shall have the meaning ascribed herein unless the context clearly indicates otherwise.

1. *Active Military Personnel*—

a. a single or married person who is based in this state and serving on full time active duty status in the military as a member of:

- i. the Army, Navy, Marine Corps or Air Force; or
- ii. the Reserve or National Guard; or
- iii. the Coast Guard.

b. *Active military personnel* who are deployed out-of-state or overseas whose spouse and dependents remain in this state shall be considered as based in this state for purposes of receiving the discount provided by R.S. 22:1482 and §9515 of this regulation.

AMP—active military personnel.

Authorized Insurer—shall have the meaning found in R.S. 22:46(3), hereinafter “insurer.”

Automobile Liability Insurance Policy—a policy of insurance acquired in this state, insuring personal motor vehicles of the types described in R.S. 22:1266(A)(1)(a)-(b), and motorcycles of the types described in R.S. 32:1252(30), which provides coverage for bodily injury and property damage liability, medical payments and uninsured motorists coverage as provided in R.S. 22:1266(A)(2). Golf carts, go-carts, off-road vehicles, all-terrain

vehicles and other similar motorized vehicles are not motor vehicles for the purposes of R.S. 22:1266(A)(1)(a)-(b) and are not motorcycles for the purposes of R.S. 32:1252(30).

Commissioner—the Commissioner of Insurance for the state of Louisiana.

Direct Written Premium—the premium charged by an insurer as consideration for an automobile liability insurance policy.

Insured—the individual who qualifies as *active military personnel*. The spouse and/or any dependents who are under the age of 18 or unmarried full-time students under the age of 24 who are insured under the same policy as the *active military personnel* are also included in this definition.

LDI—the Louisiana Department of Insurance.

Named Insured—the person identified as such on the policy.

State—the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 2005), amended LR 32:94 (January 2006), LR

§9511. Calculation of the Premium Discount; Proof of Eligibility

A. All insurers shall grant a discount equal to 25 percent of the premium charged for an automobile liability insurance policy. The discount shall apply to new and renewal business if the named insured retains the status of active military personnel as defined in Regulation 81. For calculation purposes the discount shall only be applied to the premium charged for bodily injury and property damage liability, medical payments and uninsured motorists coverage as per R.S. 22:1266(A)(2) and shall include, but shall not be limited to, all fixed expenses, variable expenses, and policy fees. For interim policy changes, the discount mandated by this Subsection shall be applied on a pro-rata basis in the same manner as similar discount programs, such as good-student discounts, are applied by an insurer.

B. The initial obligation to demonstrate eligibility for the premium discount rests with the AMP. Thus, prior to an insurer applying the premium discount mandated by R.S. 22:1482(A), the AMP shall provide to the insurer a properly executed Louisiana Application for Military Discount on the current form approved by the LDI.

C. An insurer who obtains from an AMP a properly executed Louisiana Application for Military Discount shall be eligible for a rebuttable presumption that the insurer is entitled to claim a tax credit against the premium taxes levied pursuant to R.S. 22:838 and 831.

D. An insurer shall be barred from claiming the benefit of the rebuttable presumption if the insurer knew or should have known that the AMP provided false or fraudulent information on the Louisiana Application for Military Discount and/or the insurer fails, neglects or refuses to report said false or fraudulent information regarding the AMP to the LDI.

E. The initial Louisiana Application for Military Discount shall be properly executed by the AMP and delivered to the insurer. The insurer is required to maintain the original and all subsequent renewals on file for inspection, verification and audit by the LDI to ensure that the AMP is entitled to the premium discount mandated by R.S. 22:1482(A).

F. Active military personnel who is deployed out-of-state or overseas and who is:

1. single, shall be considered as based in this state for purposes of receiving the discount provided by R.S. 22:1482 and §9515 of this regulation; or

2. married, and has a spouse and dependents who remain in this state, shall be considered as based in this state for purposes of receiving the discount provided by R.S. 22:1482 and §9515 of this regulation; or

3. is single, and who has dependents who remain in this state, shall be considered as based in this state for purposes of receiving the discount provided by R.S. 22:1482 and §9515 of this regulation.

G. . . .

H. Although it is the obligation of the AMP to demonstrate eligibility for the premium discount, an insurer has the obligation to act with due diligence with regard to the premium discount program. In furtherance of this due diligence obligation, the insurer may request additional documentation or proof from an AMP to determine initial or continuing eligibility for the discount if the insurer has a legitimate concern with regard to the authenticity or accuracy of any of the information provided by the AMP.

I. . . .

J. The Louisiana Application for Military Discount that must be properly executed by the AMP is set forth in §9519, Louisiana Application for Military Discount—Appendix, of this regulation and is incorporated herein as if set forth herein *in extenso*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 2005), amended LR 32:94 (January 2006), LR 33:1661 (August 2007), LR

§9513. Requests for Tax Credit; Documentation; Dispute Resolution

A. The tax credit authorized by R.S. 22:1482(B), as amended, will be requested by an insurer on an annual calendar year basis. The tax credit will be calculated based upon direct written premium. An insurer is eligible to receive a tax credit against the premium tax levied pursuant to R.S. 22:838 and R.S. 22:831 if it is an authorized insurer and the insurer makes a timely request for the tax credit.

B. Insurers seeking a tax credit shall submit a request for premium tax credit to the LDI in accordance with the reporting schedule for premium taxes levied pursuant to R.S. 22:838 and 831 as set forth in the reporting form(s)

designed by the commissioner. Insurers shall submit the information required to be maintained by §9515.B of this regulation. A premium tax filing with the tax credit authorized hereunder that does not include the proof required by this regulation will be considered untimely.

C. If the commissioner approves the premium tax filing as being both timely filed and containing all proof required by this regulation, there shall be a rebuttable presumption in favor of the insurer that the insurer is entitled to the tax credit against the premium taxes levied pursuant to R.S. 22:838 and R.S. 22:831.

D.1. – D.3 . . .

E. As explained above, if the commissioner disapproves, in whole or in part, a tax credit filed by an insurer, he shall give written notice to the insurer, stating the grounds for disapproval. The notice shall be sent to the address shown on the records of the LDI. An insurer shall have 30 days from the date of the notice to dispute the disapproval by the commissioner. If, within this initial 30-day period the insurer can demonstrate, in writing to the commissioner, good cause for not being able to provide the required documents to dispute the disapproval, the commissioner may grant one 60-day extension to dispute the disapproval by the commissioner. No other extensions shall be granted. Any documents submitted by the insurer in rebuttal to the commissioner's disapproval notice shall be verified as true and accurate by an officer of the insurer.

F. Within 30 days of submission of the verified rebuttal, the commissioner shall enter an order either approving or disapproving, in whole or in part, the request by the insurer for a tax credit against the premium taxes levied pursuant to R.S. 22:838 and R.S. 22:831.

1. . . .

2. If the tax credit is disapproved in its entirety, the commissioner shall enter an order denying the entirety of the requested tax credit. The commissioner's order of disapproval shall be given, in writing, to the insurer by certified mail, return receipt requested. Any demand for a hearing shall be filed by an insurer with the commissioner within 30 days after mailing of notice of the order of disapproval to the insurer's last known address or within 30 days after the delivery of notice of the order of disapproval to the insurer, as provided for by R.S. 22:2191.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:674 (March 2005), amended LR 32:95 (January 2006), LR

§9515. Recordkeeping; Annual Report

A. An insurer issuing an automobile liability insurance policy to an individual who qualifies for the military discount program shall maintain the following records:

1. the items obtained in compliance with §9511 of this regulation;
2. a copy of the declarations page for each policy for which a tax credit is sought.

B. The request for the tax credit shall be made on a form(s) designed by the commissioner. The request for the tax credit form shall require, among other things, that the insurer provide the following information to the LDI with regard to the personal automobile liability insurance coverage issued to an AMP and that this information be provided to the LDI in either an electronic format as per R.S. 22:42 or written format.

1. A detailed listing of all policies for which the tax credit is sought. The listing shall include, at a minimum:

B.1.a. – B.1.d. . . .

- e. the net direct written premium for the liability coverages of the automobile liability insurance policy prior to application of the military discount; and
- f. the dollar value of the applicable military discount as applied to the amount set forth in Section 9515.B.1.e above.

B.2. – B.5. . . .

C. The insurer shall keep the records required by this section in either electronic or written form and the records shall be maintained by the insurer for a period of five years from the date of issuance of the insurance policy to which the military discount has been applied. Upon request, the insurer shall produce such records for examination or audit by the commissioner or any person acting on behalf of the commissioner. The records required by this section shall be considered confidential pursuant to R.S. 22:1983 and R.S. 22:1984 and are exempt from the Public Records Act found at R.S. 44:4.

D. The tax credit filed by an insurer shall cover the calendar year ending December 31 and shall be filed on or before March 1 of each year thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:674 (March 20, 2005), amended LR 32:96 (January 2006), LR

§9517. Overpayments; Collection Proceedings; Fines and Hearings

A. – B. . . .

C. An insurer's failure or refusal to refund a tax credit overpayment shall constitute grounds for the commissioner to suspend the insurer's certificate of authority, or to impose a fine not to exceed 10 percent of the tax credit overpayment or \$2,500, whichever is more, or both. Any demand for a hearing shall be filed by an insurer with the commissioner within 30 days after mailing of notice of the order of disapproval to the insurer's last known address or within 30 days after the delivery of notice of the order of disapproval to the insurer, as provided for by R.S. 22:2191.

D. – E. . . .

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:675 (March 20, 2005), amended LR 32:96 (January 2006), LR.

§9521. Effective Date; Implementation

A. This regulation, as amended, shall take effect on January 1, 2021. Insurers shall take steps to timely implement the military discount program so that it is available for all new and renewal business effective January 1, 2021.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:675 (March 20, 2005), amended LR 32:98 (January 2006), LR

FAMILY IMPACT STATEMENT

Attachment to Amendment of Regulation 81

AUTOMOBILE LIABILITY INSURANCE PREMIUM DISCOUNT AND INSURER PREMIUM TAX CREDIT

I. Describe the effect of the proposed regulation on the stability of the family.

The proposed amended regulation should have no measurable impact upon the stability of the family.

II. Describe the effect of the proposed regulation on the authority and rights of parents regarding the education and supervision of their children

The proposed amended regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

III. Describe the effect of the proposed regulation on the functioning of the family.

The proposed amended regulation should have no direct impact upon the functioning of the family.

IV. Describe the effect of the proposed regulation on family earnings and budget.

The proposed amended regulation should have no direct impact upon family earnings and budget.

V. Describe the effect of the proposed regulation on the behavior and personal responsibility of children.

The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

VI. Describe the effect of the proposed regulation on the ability of the family or a local government to perform the function as contained in the rule.

The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

POVERTY IMPACT STATEMENT

Attachment to Amendment of Regulation 81

AUTOMOBILE LIABILITY INSURANCE PREMIUM DISCOUNT AND INSURER PREMIUM TAX CREDIT

I. Describe the effect on household income, assets, and financial security.

The proposed amended regulation should have no effect on household income assets and financial security.

II. Describe the effect on early childhood development and preschool through postsecondary education development.

The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

III. Describe the effect on employment and workforce development.

The proposed amended regulation should have no effect on employment and workforce development.

IV. Describe the effect on taxes and tax credits.

The proposed amended regulation should have no effect on taxes and tax credits.

V. Describe the effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

PROVIDER IMPACT STATEMENT

Attachment to Amendment of Regulation 81

**AUTOMOBILE LIABILITY INSURANCE PREMIUM DISCOUNT
AND INSURER PREMIUM TAX CREDIT**

I. Describe the effect on the staffing level requirements or qualifications required to provide the same level of service.

The proposed amended regulation will have no effect.

II. The total direct and indirect effect on the cost to the provider to provide the same level of service.

The proposed amended regulation will have no effect.

III. The overall effect on the ability of the provider to provide the same level of service.

The proposed amended regulation will have no effect.

SMALL BUSINESS STATEMENT

Attachment to Amendment of Regulation 81

AUTOMOBILE LIABILITY INSURANCE PREMIUM DISCOUNT AND INSURER PREMIUM TAX CREDIT

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

I. Identification and estimate of the number of the small businesses subject to the proposed rule.

The proposed amended regulation should have no measurable impact upon small businesses.

II. The projected reporting, record keeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

The proposed amended regulation should have no measurable impact upon small businesses.

III. A statement of the probable effect on impacted small businesses.

The proposed amended regulation should have no measurable impact upon small businesses.

IV. Describe any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule.

The proposed amended regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Public Comments

Interested persons who wish to make comments may do so by writing to Lisa Henson, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, or by faxing comments to (225) 342-1632. Comments will be accepted through the close of business, 4:30 p.m., September 21, 2020.

James J. Donelon
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

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Department: Louisiana Department of
Insurance
Office: Property & Casualty
Rule Title: Automobile Liability
Insurance Premium
Discount and Insurer
Premium Tax Credit
Effective Date: Upon Publication

**SUMMARY
(Use Complete Sentences)**

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS. (Summary)

The proposed rule will not result in additional costs or savings for state or local governmental units. The proposed rule clarifies the applicability and calculation of the discount offered through the insurance premium discount program for active military personnel based in Louisiana and updates statutory references that have changed due to recodification.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS. (Summary)

The proposed rules will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS. (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups. The proposed rule clarifies the applicability and calculation of the discount offered through the insurance premium discount program for active military personnel based in Louisiana and updates statutory references that have changed due to recodification.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT. (Summary)

The proposed rules will not affect competition or employment.

Lance Herrin, Assistant Commissioner
Office of Management and Finance
La. Department of Insurance

Legislative Fiscal Officer or Designee

Date of Signature

Date of Signature

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriated legislative oversight subcommittee in its deliberations on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the Notice of Intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of the current and proposed rules with amended portions indicated).**

The proposed rule clarifies the applicability and calculation of the discount offered through the insurance premium discount program for active military personnel based in Louisiana and updates statutory references that have changed due to recodification. The proposed rule will provide clarity to persons and entities regulated by the LA Dept. of Insurance by ensuring that citations are to current law and by providing guidance as to the calculation of the active military discount for automobile insurance.

- B. Summarize the circumstances which require this action. If the action is required by federal regulations, attach a copy of the applicable regulation.**

The Department of Insurance is tasked with administering the Insurance Code, which regulates the business of insurance in all of its phases. The proposed rule clarifies the applicability and calculation of the discount offered through the insurance premium discount program for active military personnel based in Louisiana and updates statutory references that have changed due to recodification.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session:**

(1) Will the proposed rule change result in any increase in expenditure of funds? If so, specify the amount and the source.

No increase in expenditure of funds is anticipated as a result of the proposed regulation.

(2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

_____ Yes. If yes, provide documentation.

_____ No. If no, provide justification as to why this rule change should be published at this time.

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM ACTION PROPOSED.

- 1. What is the anticipated increase (decrease) in costs to implement the proposed action?**

LDI does not anticipate any implementation costs (savings) as a result of the proposed regulation.

COSTS	FY 18/19	FY 19/20	FY 20/21
OPERATING EXPENSES	0	0	0
PROFESSIONAL SERVICES	0	0	0
OTHER CHARGES	0	0	0
EQUIPMENT	0	0	0
TOTAL	0	0	0
1.1.1.1 MAJOR REPAIR/CONS TR	0	0	0
POSITIONS (Number)	0	0	0

- 2. Provide a narrative explanation of the costs or savings shown in "A.1" above, including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.**

- 3. Sources of funding for implementing the proposed rule or rule change.**

SOURCE	FY 18/19	FY 19/20	FY 20/21
STATE GENERAL FUND	0	0	0

AGENCY SELF-GENERATED	0	0	0
DEDICATED	0	0	0
FEDERAL FUNDS	0	0	0
OTHER (SPECIFY)	0	0	0
TOTAL	0	0	0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

No additional funding is necessary to implement the proposed regulation.

B. COSTS OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

The proposed regulation will have no impact on local governmental revenues.

2. Indicate the sources of funding of local governmental unit(s) which will be affected by these cost or savings.

No source of funding is necessary; there is no impact on local governmental units as a result of the proposed regulation.

**FISCAL AND ECONOMIC IMPACT STATEMENT WORKSHEET
(Continued)**

I. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

The proposed regulation will not affect revenue collections for state or local governmental units.

SOURCE	FY 18/19	FY 19/20	FY 20/21
STATE GENERAL FUND	0	0	0
AGENCY SELF-GENERATED	0	0	0
DEDICATED	0	0	0
FEDERAL FUNDS	0	0	0
OTHER (SPECIFY)	0	0	0
TOTAL	0	0	0

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A". Describe all data, assumptions and other methods used in calculating these increases or decreases.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS.

A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.) they may have to incur as a result of the proposed action.

B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT.

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

The proposed rules will not affect competition or employment.