

Is rule necessary because of a:

Federal Law? Yes No

Federal Court Decision? Yes No

State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None.

Name of proponent: (person or organization) Mike Kreidler, Insurance Commissioner
Type of proponent: Private. Public. Governmental.

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting	Tyler Langford	302 Sid Snyder Ave. Olympia, WA 98501	360-725-7173
Implementation	John Haworth	5000 Capitol Blvd SE Tumwater, WA 98501	360-725-7000
Enforcement	Charles Malone	5000 Capitol Blvd SE Tumwater, WA 98501	360-725-7000

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name
Address
Phone
Fax
TTY
Email
Other

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name
Address
Phone
Fax
TTY
Email
Other

No: Please explain: Under RCW 34.05.328(5)(b)(iii), this rule will be exempt from the requirements of the cost-benefit analysis. This section indicates that exemptions apply to “[r]ules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.” This rulemaking is attempting to adopt or incorporate by reference without material change, national consensus codes that generally establish industry standards with [NAIC Model Regulation #450](#), Insurance Holding Company System Model Regulation With Reporting Forms and Instructions, and the regulations being promulgated will regulate the same subject matter and conduct as the adopting or incorporating rule, and the regulations being promulgated will regulate the same subject matter and conduct as the adopting or incorporating rule.

Regulatory Fairness Act and Small Business Economic Impact Statement
Note: The [Governor’s Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:
This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:

[RCW 34.05.310](#) (4)(b)
(Internal government operations)

[RCW 34.05.310](#) (4)(e)
(Dictated by statute)

[RCW 34.05.310](#) (4)(c)
(Incorporation by reference)

[RCW 34.05.310](#) (4)(f)
(Set or adjust fees)

[RCW 34.05.310](#) (4)(d)
(Correct or clarify language)

[RCW 34.05.310](#) (4)(g)
(i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#). (Does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of how the above exemption(s) applies to the proposed rule: Under [RCW 19.85.025\(3\)](#), the RFA does not apply to the adoption of a rule as described in [RCW 34.05.310\(4\)](#). The rules referenced in this law include “[r]ules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.” (see [RCW 34.05.310\(4\)\(C\)](#)). This rulemaking is attempting to adopt or incorporate by reference without material change national consensus codes that generally establish industry standards with [NAIC Model Regulation #450](#), Insurance Holding Company System Model Regulation With Reporting Forms and Instructions, and the regulations being promulgated will regulate the same subject matter and conduct as the adopting or incorporating rule.

(2) Scope of exemptions: Check one.

The rule proposal: Is fully exempt. (Skip section 3.) Exemptions identified above apply to all portions of the rule proposal.

The rule proposal: Is partially exempt. (Complete section 3.) The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):

The rule proposal: Is not exempt. (Complete section 3.) No exemptions were identified above.

(3) Small business economic impact statement: Complete this section if any portion is not exempt.

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency’s minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

- Name
- Address
- Phone
- Fax
- TTY
- Email
- Other

Date: August 5, 2024

Name: Mike Kreidler

Title: Insurance Commissioner

Signature:

A handwritten signature in black ink that reads "Mike Kreidler". The signature is written in a cursive style with a long horizontal stroke at the end.

NEW SECTION

WAC 284-18-447 Group capital calculation. (1) Group capital calculation. Where an insurance holding company system has previously filed the annual group capital calculation at least once, the lead state commissioner has the discretion to exempt the ultimate controlling person from filing the annual group capital calculation if the lead state commissioner makes a determination based upon that filing that the insurance holding company system meets all of the following criteria:

(a) Has annual direct written and unaffiliated assumed premium (including international direct and assumed premium), but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of less than \$1,000,000,000;

(b) Has no insurers within its holding company structure that are domiciled outside of the United States or one of its territories;

(c) Has no banking, depository, or other financial entity that is subject to an identified regulatory capital framework within its holding company structure;

(d) The holding company system attests that there are no material changes in the transactions between insurers and noninsurers in the group that have occurred since the last filing of the annual group capital; and

(e) The noninsurers within the holding company system do not pose a material financial risk to the insurer's ability to honor policyholder obligations.

(2) Where an insurance holding company system has previously filed the annual group capital calculation at least once, the lead state commissioner has the discretion to accept in lieu of the group capital calculation a limited group capital filing if: The insurance holding company system has annual direct written and unaffiliated assumed premium (including international direct and assumed premium), but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of less than \$1,000,000,000; and all of the following additional criteria are met:

(a) Has no insurers within its holding company structure that are domiciled outside of the United States or one of its territories;

(b) Does not include a banking, depository, or other financial entity that is subject to an identified regulatory capital framework; and

(c) The holding company system attests that there are no material changes in transactions between insurers and noninsurers in the group that have occurred since the last filing of the report to the lead state commissioner and the noninsurers within the holding company system do not pose a material financial risk to the insurers ability to honor policyholder obligations.

(3) For an insurance holding company that has previously met an exemption with respect to the group capital calculation pursuant to subsection (1) or (2) of this regulation, the lead state commissioner may require at any time the ultimate controlling person to file an annual group capital calculation, completed in accordance with the NAIC Group Capital Calculation Instructions, if any of the following criteria are met:

(a) Any insurer within the insurance holding company system is in a Risk-Based Capital action level event as set forth in RCW 48.05.430

through 48.05.455, or 48.43.300 through 48.43.325 or a similar standard for a non-U.S. insurer; or

(b) Any insurer within the insurance holding company system meets one or more of the standards of an insurer deemed to be in hazardous financial condition as defined in WAC 284-16-300 through 284-16-320; or

(c) Any insurer within the insurance holding company system otherwise exhibits qualities of a troubled insurer as determined by the lead state commissioner based on unique circumstances including, but not limited to, the type and volume of business written, ownership and organizational structure, federal agency requests, and international supervisor requests.

(4) A non-U.S. jurisdiction is considered to recognize and accept the group capital calculation if it satisfies the following criteria:

(a) With respect to RCW 48.31B.025 (13) (a) (iv):

(i) The non-U.S. jurisdiction recognizes the U.S. state regulatory approach to group supervision and group capital, by providing confirmation by a competent regulatory authority, in such jurisdiction, that insurers and insurance groups whose lead state is accredited by the NAIC under the NAIC Accreditation Program shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the lead state and will not be subject to group supervision, including worldwide group governance, solvency and capital, and reporting, at the level of the worldwide parent undertaking of the insurance or reinsurance group by the non-U.S. jurisdiction; or

(ii) Where no U.S. insurance groups operate in the non-U.S. jurisdiction, that non-U.S. jurisdiction indicates formally in writing to the lead state with a copy to the International Association of Insurance Supervisors that the group capital calculation is an acceptable international capital standard. This will serve as the documentation otherwise required in subsection (4) (a) (i) of this regulation.

(b) The non-U.S. jurisdiction provides confirmation by a competent regulatory authority in such jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the lead state commissioner in accordance with a memorandum of understanding or similar document between the commissioner and such jurisdiction including, but not limited to, the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC. The commissioner shall determine, in consultation with the NAIC Committee Process, if the requirements of the information sharing agreements are in force.

(5) A list of non-U.S. jurisdictions that recognize and accept the group capital calculation will be published through the NAIC Committee Process:

(a) A list of jurisdictions that recognize and accept the group capital calculation pursuant to RCW 48.31B.025 (13) (a) (iv), is published through the NAIC Committee Process to assist the lead state commissioner in determining which insurers shall file an annual group capital calculation. The list will clarify those situations in which a jurisdiction is exempted from filing under RCW 48.31B.025 (13) (a) (iv). To assist with a determination under RCW 48.31B.025 (13) (b), the list will also identify whether a jurisdiction that is exempted under either RCW 48.31B.025 (13) (a) (iii) or (iv) requires a group capital filing for any U.S. based insurance group's operations in that non-U.S. jurisdiction.

(b) For a non-U.S. jurisdiction where no U.S. insurance groups operate, the confirmation provided to meet the requirement of subsection (4)(a)(ii) of this regulation will serve as support for recommendation to be published as a jurisdiction that recognizes and accepts the group capital calculation through the NAIC Committee Process.

(c) If the lead state commissioner makes a determination pursuant to RCW 48.31B.025 (13)(a)(iv) that differs from the NAIC List, the lead state commissioner shall provide thoroughly documented justification to the NAIC and other states.

(d) Upon determination by the lead state commissioner that a non-U.S. jurisdiction no longer meets one or more of the requirements to recognize and accept the group capital calculation, the lead state commissioner may provide a recommendation to the NAIC that the non-U.S. jurisdiction be removed from the list of jurisdictions that recognizes and accepts the group capital calculation.