

**State of California
Office of Administrative Law**

In re:
California Film Commission

Regulatory Action:

Title 10, California Code of Regulations

Adopt sections:

Amend sections: 5520, 5521, 5522, 5524,
5525

Repeal sections:

**NOTICE OF APPROVAL OF CERTIFICATE OF
COMPLIANCE**

**Government Code Sections 11349.1 and
11349.6(d)**

OAL Matter Number: 2021-1229-01

**OAL Matter Type: Certificate of Compliance
(C)**

This certificate of compliance rulemaking action by the California Film Commission adopts, with amendments, changes to the California Film and Television Tax Credit Program 3.0 emergency regulations originally made in emergency action 2020-0806-02E and readopted in 2021-0602-01EE and makes other amendments to this program.

OAL approves this regulatory action pursuant to section 11349.6(d) of the Government Code.

Date: February 10, 2022



Kevin D. Hull
Senior Attorney

For: Kenneth J. Pogue
Director

Original: Colleen Bell, Executive Director
Copy: Nancy Rae Stone

REGULAR

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER Z- 2021-1026-05	REGULATORY ACTION NUMBER 2021-1229-015	EMERGENCY NUMBER
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OFFICE OF ADMINISTRATIVE LAW

Electronic Submission

RECEIVED DATE 10/26/2021	PUBLICATION DATE 11/5/2021
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NOTICE

OFFICE OF ADMIN. LAW
2021 DEC 29 AM 8:24

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

FEB 10 2022

1:41 PM

AGENCY WITH RULEMAKING AUTHORITY California Film Commission	AGENCY FILE NUMBER (If any)
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A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE California Film & Television Tax Credit Program	TITLE(S) 10	FIRST SECTION AFFECTED 5520	2. REQUESTED PUBLICATION DATE November 5, 2021
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON Nancy Rae Stone	TELEPHONE NUMBER 323-817-4109	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) <i>per agency request</i> California Film & Television Tax Credit Program 3.0	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2020-0806-02E, 2021-0602-01EE
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 5520, 5521, 5522, 5524, 5525
TITLE(S) <i>per agency request</i> 10	AMEND 5520, 5521, 5522, 5524, 5525
	REPEAL

3. TYPE OF FILING <input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input checked="" type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify)	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only
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4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)
July 30, 2020 - August 6, 2020; May 17-24, 2021; November 5, 2021 to Dec. 21, 2021

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100) <input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify)		

7. CONTACT PERSON Nancy Rae Stone	TELEPHONE NUMBER 323-817-4109	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) Nancy.Stone@film.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Colleen Bell</i>	DATE Dec 28, 2021
TYPED NAME AND TITLE OF SIGNATORY Colleen Bell, Executive Director	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

FEB 10 2022

Office of Administrative Law

Title 10

Chapter 7.75

CALIFORNIA FILM COMMISSION

Article 3

CALIFORNIA FILM AND TELEVISION TAX CREDIT PROGRAM 3.0

Section 5520. Definitions.

(a) through (z) remain unchanged

~~(aa) "Visual effects" (VFX) means the creation, alteration or enhancement of images that cannot be captured on a set, or location during live action photography and therefore is primarily accomplished in post-production. Visual effects research, development, creation, alteration, or enhancement of images may also occur in pre-production or principal photography. Visual effects includes, but is not limited to, matte paintings, animation, set extensions, computer generated objects, characters and environments, compositing (combining two or more elements in a final image), and wire removals. "Visual effects" does not include fully animated projects, whether created by traditional or digital means.~~

(aa) "Television series that relocated to California" means a television series without regard to episode length or initial media exhibition, with a minimum production budget of one million dollars (\$1,000,000) per episode, that filmed at least 75 percent of principal photography days in its most recent season outside of California or has filmed all seasons outside of California and for which the taxpayer certifies that the credit is the primary reason for relocating to California; also known as a Relocating TV series.

(bb) "Television series that relocated to California" in fiscal years 2021-22 and 2022-23 means a television series without regard to episode length or initial media exhibition, with a minimum production budget of one million dollars (\$1,000,000) per episode that both filmed at least 75 percent of principal photography days for at least one episode outside of California and has not filmed more than 25 percent of principal photography days for any episode inside of California; also known as a Relocating TV series.

~~(aa) (cc) "Visual effects" (VFX) means the creation, alteration or enhancement of images that cannot be captured on a set, or location during live action photography and therefore is primarily accomplished in post-production. Visual effects research, development, creation, alteration, or enhancement of images may also occur in pre-production or principal photography. Visual effects includes, but is not limited to, matte paintings, animation, set extensions, computer generated objects, characters and environments, compositing (combining two or more elements in a final image), and wire removals. "Visual effects" does not include fully animated projects, whether created by traditional or digital means.~~

Note: Authority cited: Sections 17053.98(b), 17053.98(e), 17053.98(i), 23698(b) and 23698(e), and 23698(i), Revenue and Taxation Code; and Section 11152, Government Code. Reference:

Strike through = deletion

Underline = addition

Sections 6902.5, 17053.98 and 23698, Revenue and Taxation Code; and Section 14998.1, Government Code.

Section 5521. Application Process For Tax Credit Allocation.

(a) through (g) remain unchanged

...(h)(1) Section 1: Applicant information.

(A) Production title, date submitted, production category, principal photography start date, post production end date, estimated tax credit, Application Jobs Ratio, applicant entity and taxpayer ID number; Identify if the applicant is a corporation, limited liability company, individual proprietorship, subchapter S corporation, partnership, or other. If Relocating TV Series is selected under production category dropdown menu, for fiscal years 2021-22 and 2022-23, by checking the box, Applicant attests that the television series (without regard to episode length or initial media exhibition) that wishes to relocate to California has a minimum budget of at least \$1 million per episode, filmed at least 75% of principal photography days for at least one episode outside of California, and has not filmed more than 25% of principal photography days for any episode inside of California. (A definition of the applicant that will receive the tax credit is included as per section 5520(b)).

(h) Section (2) through Section 3 remains unchanged

(4) Section 4: Proposed project.

(A) If it is a new television series indicate if TV Pilot was initially accepted in the program, number of episodes, and confirm over forty (40) minutes of running time exclusive of commercials. If it is a relocating television series indicate previous location, number of episodes previously shot and number of episodes included in this season. Indicate if the previous season was filmed in California and if so, the number of principal photography days inside California and outside California. (The previous question is disabled if the applicant attests in Section (1)(A) that their relocating television series falls under the definition in Section 5520 (bb) for fiscal years 2021-22 and 2022-23.) If it is a mini-series, indicate the number of episodes and confirm over forty (40) minutes of running time exclusive of commercials.

(h)(4)(B) through (k)(7) remain unchanged

(8) Relocating statement. Applicant certifies that the credit provided is the primary reason for relocation to California (if applicable). The Applicant must state either that (1) at least 75 percent of principal photography days of its most recent season was filmed outside of California; or (2) For fiscal years 2021-22 and 2022-23, the television series (without regard to episode length or initial media exhibition) that wishes to relocate to California has a minimum budget of at least \$1 million per episode, filmed at least 75% of principal photography days for at least one episode outside of California, and has not filmed more than 25% of principal photography days for any episode inside of California. If submitting a relocating statement, the detailed narrative statement as per Revenue and Tax code sections 17053.98 (g)(2)(A)(x) and 23698(g)(2)(A)(x) is not required. The certification shall be submitted in PDF or equivalent format.

(k)(9) remains unchanged

Strike through = deletion

Underline = addition

(10) A summary of the applicant's voluntary programs to increase the representation of women and minorities including a description of what the program is designed to accomplish and information about how the programs are publicized to interested parties as set forth in sections 17053.98(g)(2)(A)(xiii) and 23698(g)(2)(A)(xiii). ~~This requirement is waived for independent films with qualified expenditures of ten million dollars (\$10,000,000) or less.~~

(k)(11) through (m) remain unchanged

... (n)(1) Each recurring television series shall submit a new application and pick-up order, if available, for each season during any open television project application period as specified by the CFC in its written notification. The application should reflect the estimated qualified expenditures but the allocation will not exceed the amount approved in the previous season's credit allocation letter(s). The allocation amount requested shall be submitted in the manner prescribed in section 5521(k)(1)(C), and the amount shall not exceed the amount, as calculated by the CFC, approved in the previous season's credit allocation letter or letters. The narrative statement requirement as set forth in sections 17053.98(g)(A)(x) and 23698(g)(A)(x) of the Revenue and Taxation code for all projects shall be deemed as met for recurring television series with the statement submitted by that series when it was accepted into the program as a pilot, new or relocating television series.

~~(2) Recurring television series will be prioritized in subsequent years based upon the fiscal year of original credit allocation, with oldest television series applications entitled to first priority. In the event that further prioritization is necessary, the jobs ratio from the most current application for the series shall be used.~~

(2) The allocation amount requested by a relocating TV series applying for tax credits in subsequent fiscal years as a recurring TV series shall not exceed the amount approved in the previous season's credit allocation letter(s).

(o) remains unchanged

Note: Authority cited: Sections 17053.98(e), 17053.98(g), 17053.98(i), 17053.98(j), 23698(e), 23698(g), 23698(i), and 23698(j), Revenue and Taxation Code; and Section 11152, Government Code.

Reference: Sections 6902.5, 17053.98(g) and 23698(g), Revenue and Taxation Code; and Section 14998.1, Government Code."

Section 5522. Eligibility Determination.

(a) and (b) remain unchanged

... (c)(4) For fiscal years 2021-22 and 2022-23, produced episodes of any length with a minimum budget of at least \$1 million per episode, filmed at least 75% of principal photography days for at least one episode outside of California, and has not filmed more than 25% of principal photography days for any episode inside of California.

(d) and (e) remain unchanged

Strike through = deletion

Underline = addition

(f) Tax credits for a "feature film", "television series", "television series that relocated to California", "pilot" or "mini-series" shall be applied to a maximum of one hundred million dollars (\$100,000,000.00) of the qualified expenditure budget. There shall be no maximum on the production budget...

(g) and (h) remain unchanged

Note: Authority cited: Sections 17053.98(e), 17053.98(i), ~~and~~ 23698(e), and 23698(i), Revenue and Taxation Code; and Section 11152, Government Code. Reference: Sections 17053.98 and 23698, Revenue and Taxation Code; and Section 14998.1, Government Code.

Section 5524. Tax Credit Allocation.

(a) remains unchanged

~~(b)(1) One hundred percent (100%) of the unused credits as provided in Revenue and Taxation Code 17053.85, 17053.95, 23685, and 23695 shall be allocated in fiscal year 2020-21. This amount shall be added to the amounts specified in sections 17053.98(i)(A) (D) and 23698(i)(1)(A) (D) to determine the aggregate amount of credits available for allocation for fiscal year 2020-21.~~

(b) (1) For fiscal years 2021-22 and 2022-23, an additional fifteen million dollars (\$15,000,000) in credits will be granted exclusively to a television series that relocated to California and seventy-five million dollars (\$75,000,000) in credits will be granted exclusively to recurring television series.

(b)(2) through (g) remain unchanged

Note: Authority cited: Sections 17053.98(a), 17053.98(e), 17053.98(i), 17053.98(j), 23698(a), 23698(e), 23698(i) and 23698(j), Revenue and Taxation Code; and Section 11152, Government Code. Reference: Sections 17053.98 and 23698, Revenue and Taxation Code; and Section 14998.1, Government Code.

Section 5525. Approved Applicant Responsibility - Phase III.

(a)(1) through (a)(5)(A) remain unchanged

(5)(B) The contribution shall be submitted to the CFC no later than ~~ten (10)~~ thirty (30) business days after the CAL date; failure to submit the contribution within this time frame may result in revocation of the CAL.

(C) remains unchanged

Note: Authority cited: Sections 17053.98(e) and 23698(e), Revenue and Taxation Code; and Section 11152, Government Code. Reference: Sections 17053.98 and 23698, Revenue and Taxation Code; and Section 14998.1, Government Code.