



# RULE-MAKING ORDER

## CR-103 (June 2004) (Implements RCW 34.05.360)

Agency: Community, Trade & Economic Development (CTED)

- Permanent Rule  
 Emergency Rule

Effective date of rule:

**Permanent Rules**

- 31 days after filing.  
 Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

**Emergency Rules**

- Immediately upon filing.  
 Later (specify) \_\_\_\_\_

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes  No If Yes, explain:

**Purpose:** The department of community, trade and economic development is charged with developing criteria to be used by a motion picture competitiveness program in determining funding assistance to productions that use Washington State as a location for Washington State film and video production.

Citation of existing rules affected by this order:

Repealed:

Amended:

Suspended:

Statutory authority for adoption: RCW 43.365.020

Other authority :

[06-20-051]

**PERMANENT RULE ONLY (Including Expedited Rule Making)**

Adopted under notice filed as WSR 06-12-107 on September 27, 2006.

Describe any changes other than editing from proposed to adopted version: Defined employment terms, clarified sections to make sure language was consistent, and added requirement for production to negotiate the acknowledgement with the motion picture competitiveness program board.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: \_\_\_\_\_ phone \_\_\_\_\_  
 Address: \_\_\_\_\_ fax \_\_\_\_\_  
 e-mail \_\_\_\_\_

**EMERGENCY RULE ONLY**

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.  
 That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

Date adopted:

NAME (TYPE OR PRINT)

Juli Wilkerson

SIGNATURE

*Juli Wilkerson*

TITLE

Director

CODE REVISER USE ONLY

COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT  
STATE COMMISSION  
FILED

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(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	Amended	_____	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	_____	Repealed	_____

## Chapter 130-20 WAC

### WASHINGTON MOTION PICTURE COMPETITIVENESS PROGRAM

#### NEW SECTION

**WAC 130-20-001 Purpose and authority.** The department of community, trade, and economic development is charged with developing criteria to be used by a motion picture competitiveness program in determining funding assistance to productions that use Washington state as a location for film and video production.

#### NEW SECTION

**WAC 130-20-010 Definitions.** The following definitions apply to this chapter, unless the context clearly requires otherwise:

(1) "Applicant" means a television, film or commercial production company intending to produce a qualified production in Washington state.

(2) "Motion picture competitiveness program" means an approved program that is a 501(c)(6) nonprofit organization with the sole purpose of revitalizing the state's standing in the film production marketplace through recommending and awarding financial assistance to qualified productions.

(3) "Costs" mean actual expenses of preproduction, production and postproduction expended in Washington state for the production of motion pictures, including but not limited to payments made for salaries, wages, and health insurance and retirement benefits, the rental/lease costs of machinery, equipment and facilities, and the purchase of food, property, lodging, and permits for work conducted in Washington state.

(4) "Department" means the department of community, trade, and economic development.

(5) "State film office" means a program within the department with the responsibility of promoting Washington state as a premier location for film and video production and assisting production needs within the state.

(6) "Motion picture" means a recorded audio-visual production intended for distribution to theaters, DVD, video, or the internet,

or television, or one or more episodes of a single television series, television pilot or television commercials. Motion picture does not mean production of a television commercial that spends less than two hundred fifty thousand dollars in the state of Washington or one or more segments of a newscast or sporting event.

(7) "Funding assistance" means financial assistance from a motion picture competitiveness program.

(8) "Person" means the same as defined in RCW 82.04.030.

(9) "Qualified production" is a production that has been certified by the motion picture competitiveness program as fully meeting the requirements for funding assistance.

(10) "Qualified expenditures" include production costs for wages and benefits provided to residents of Washington state for services performed in Washington state, goods and services purchased, leased or employed from a legal resident of this state, or a vendor or supplier who is located and doing business in this state for one year. Qualified expenditures do not include wages, salaries or other compensation for services of nonresident production personnel.

(11) "Motion picture competitiveness board" means a board appointed by the governor that administers the motion picture competitiveness program. The board evaluates and awards funding assistance to motion picture projects pursuant to the guidelines of this chapter.

#### NEW SECTION

**WAC 130-20-020 Eligibility criteria and guidelines.** (1) To qualify for funding assistance, the applicant must:

(a) Certify that it is not engaged, to any extent, in the production of erotic material, as defined in RCW 9.68.050.

(b) The end credits of a film production must acknowledge that the production was filmed in Washington state. The type and style of acknowledgment shall be negotiated between the motion picture competitiveness board and the production company.

(c) Agree to pay all obligations the film production company incurs in Washington state.

(d) Complete a survey as required in WAC 130-20-060 and file it with the state film office following the completion of the part of the project covered by the contract with the competitiveness board and before distribution of the funding assistance.

(e) Make every effort to maximize the hiring of local cast, crew and support services.

(f) Make industry standard payments for health insurance and a retirement plan for those positions typically covered by a collective bargaining agreement; and

(g) Enter into a contract with the motion picture competitiveness program accepting the terms above.

(2) The following activities are considered, but not limited to, qualified expenditures, provided the expenditure occurs in Washington state:

(a) Production costs include costs for preproduction, production and postproduction.

(b) Salaries of Washington state residents who are cast and crew, not to exceed two hundred fifty thousand dollars for any one employee, including wages and payments for health insurance and retirement plans, or fees of Washington state residents to include talent, management and labor.

(c) Cost of set construction and operations, wardrobe, make-up, accessories, location fees and related services.

(d) Costs associated with photography, sound synchronization, lighting and related services and materials.

(e) Renting or leasing vehicles, equipment or facilities.

(f) In-state food and lodging or a per diem for in-state employees, not to exceed the IRS rate or rate negotiated with the production company.

(g) Agency fees for insurance coverage and bonding if purchased from Washington state-based insurance agent.

(h) Postproduction expenditures directly attributable to the production of a motion picture or commercial for services including, but not limited to: Editing and related services, film processing, transfers of film to tape or digital format, sound mixing, computer graphics services, special effects, animation services, and music.

(i) Legal and accounting fees and expenses related to the production's activities in Washington state, provided such services are performed by Washington state licensed attorneys or accountants.

(j) "Preproduction" means costs for standard activities directly related to the production, which are incurred prior to the first day of principal photography for a motion picture.

(k) Other direct or indirect costs of producing a film in accordance with the generally accepted entertainment industry practices if expenditures occurred in the state of Washington.

(l) Other costs the competitiveness program believes add economic benefit to the state of Washington.

(3) The board is encouraged to consider the following when considering certifying a production for funding assistance:

(a) The additional income and tax revenue to be retained in the state for general purposes.

(b) Creation and retention of family wage jobs that provide health insurance and payments into a retirement plan.

(c) The impact of projects to maximize in-state labor and use of in-state film production and film postproduction companies.

(d) The impact on the local economy and the state economy as a whole.

NEW SECTION

**WAC 130-20-030 Funding assistance limits.** (1) Maximum funding assistance from a motion picture competitiveness program is capped at one million dollars per production and subject to the following limitations:

(a) No more than twenty percent of a total actual expenditure in the state of at least five hundred thousand dollars for a single feature film produced in Washington state.

(b) No more than twenty percent of a total actual expenditure in the state of at least three hundred thousand dollars per television episode produced in Washington state (e.g., television series, pilot, movie of the week).

(c) No more than twenty percent of a total actual expenditure in the state of at least two hundred fifty thousand dollars for an infomercial or television commercial produced in Washington state.

(2) Funding assistance is subject to the amount available in the account managed by the motion picture competitiveness program.

NEW SECTION

**WAC 130-20-040 Disqualification from the program.** A production will be disqualified for funding assistance if the motion picture competitiveness program determines the qualified production does not meet requirements in WAC 130-20-020.

NEW SECTION

**WAC 130-20-050 Sales and use tax exemptions.** Unless otherwise prohibited, production companies may use both existing sales and use tax exemptions and the funding assistance provided by the motion picture competitiveness program while filming qualified productions in Washington state.

NEW SECTION

**WAC 130-20-060 Survey requirement.** In order to recognize the accountability and effectiveness of tax policy, the legislature requires that each production receiving funding assistance from the motion picture competitiveness program shall report information to

the state film office through a survey.

(1) The motion picture competitiveness program shall ensure that no funds are disbursed until an applicant submits answers to a survey developed by the state film office.

(2) The state film office will make available on its web site a survey template.

(3) The motion picture competitiveness program may extend the due date for timely filing of the survey if failure to file was the result of circumstances beyond the control of the motion picture production receiving the funding assistance.

(4) Surveys shall include the following information:

(a) The amount of funding assistance requested.

(b) The amount of preproduction, production and postproduction spending made in the state.

(c) The number of total employment positions.

(d) The number of full-time and part-time/temporary employment positions as a percent of total employment.

(i) Full-time employment is sixty hours or more per week, or positions held for the full shooting schedule;

(ii) Part-time/temporary employment is for positions held for less than the full shooting schedule.

(e) The number of jobs at the wage bands of less than thirty thousand dollars, thirty thousand to sixty thousand dollars, and sixty thousand dollars and greater per production.

(f) The number of jobs that have employer-provided health insurance and payments into a retirement plan by each wage band.

(g) Additional information as requested by the department or state film office.

(5) The state film office will continue to track total production spending of projects, monitor the state's competitiveness in the national marketplace, and continue to build partnerships that streamline the delivery of production services statewide.

(6) The department shall submit a summary of descriptive statistics based on information from the survey each year by September 1.

(7) The department shall provide the complete surveys to the joint legislative audit and review committee each year by September 1.