

Proposed Rule

TITLE 3 TAXATION
CHAPTER 3 PERSONAL INCOME TAXES
PART 37 CLEAN CAR CHARGING UNIT PERSONAL INCOME TAX CREDIT

3.3.37.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Energy, Conservation and Management Division.

[3.3.37.1 NMAC - N, x/xx/2024]

3.3.37.2 SCOPE: 3.3.37 NMAC applies to the application and certification procedures for administration of the clean car charging unit personal income tax credit.

[3.3.37.2 NMAC - N, x/xx/2024]

3.3.37.3 STATUTORY AUTHORITY: 3.3.37 NMAC is established under the authority of Section 7-2-18.37 NMSA 1978.

[3.3.37.3 NMAC - N, x/xx/2024]

3.3.37.4 DURATION: Permanent.

[3.3.37.4 NMAC - N, x/xx/2024]

3.3.37.5 EFFECTIVE DATE: July 01, 2024, unless a later date is cited at the end of a section.

[3.3.37.5 NMAC - N, x/xx/2024]

3.3.37.6 OBJECTIVE: 3.3.37 NMAC's objective is to establish procedures for administering the certification program for the clean car charging unit personal income tax credit.

[3.3.37.6 NMAC - N, x/xx/2024]

3.3.37.7 DEFINITIONS: For additional definitions see Section 7-2-18-37 NMSA 1978.

A. "Applicant" means a New Mexico taxpayer that has purchased and installed an electric vehicle charging unit or fuel cell charging unit in New Mexico.

B. "Application package" means the application documents an applicant submits to the department for certification to receive a state tax credit.

C. "Certified" or "certification" means department approval of an electric vehicle charging unit or fuel cell charging unit, which makes the applicant owning the system eligible for a state tax credit.

D. "Department" means the energy, minerals and natural resources department.

E. "Division" means the department's energy conservation and management division.

F. "National Electrical Code" (NEC), or NFPA 70, is a regionally adoptable standard for the safe installation of electrical wiring and equipment in the United States.

G. "NRTL" means nationally recognized testing laboratory which is an independent third-party organization recognized by the occupational safety & health administration (OSHA) that provides evaluation, testing and certification of products to ensure they meet the requirements of both the construction and general industry OSHA electrical standards.

H. "OpenADR" means open automated demand response, a highly secure, and two-way information exchange model and smart grid standard.

I. "Open charge point protocol" (OCPP) is an open-source communication standard for electric vehicle charging stations and network software companies.

J. "Wi-Fi" is a wireless networking technology that uses radio waves to provide wireless high-speed internet access.

[3.3.37.7 NMAC - N, x/xx/2024]

3.3.37.8 GENERAL PROVISIONS:

A. The state tax credit may be claimed for taxable years after January 1, 2024, and prior to January 1, 2030.

B. The tax credit provided by this section may be referred to as the clean car charging unit personal income tax credit.

C. One tax credit shall be certified per taxpayer per taxable year for a direct current fast charger or a fuel cell charging unit.

D. A taxpayer who claimed the 2021 sustainable building tax credit for expenses of purchasing or installing an electric vehicle charging unit or fuel cell charging unit shall not be eligible to claim the tax credit.

E. A taxpayer who is not a dependent of another individual and who, beginning on May 15, 2024, and prior to January 1, 2030, purchases and installs an electric vehicle charging unit or fuel cell charging unit in New Mexico may be eligible to claim a clean car charging unit personal income tax credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act.

F. A taxpayer may be allocated the right to claim the tax credit in proportion to the taxpayer's ownership.

G. If a New Mexico taxpayer owns an interest in a business entity that is taxed for federal income tax purposes as a partnership or limited liability company and that business entity has met all requirements to be eligible for the credit, that taxpayer may be allocated the right to claim the tax credit in proportion to the taxpayer ownership interest.

H. The total credit claimed by all members of the partnership or limited liability company shall not exceed the allowable credit the department has certified.

I. In the event of a discrepancy between a requirement of 3.3.37 NMAC and an existing New Mexico regulation and licensing department or New Mexico taxation and revenue department rule promulgated prior to the adoption of 3.3.37 NMAC's, the existing rule shall govern.
[3.3.37.8 NMAC - N, x/xx/2024]

3.3.37.9 TAX CREDIT ADMINISTRATION:

A. A taxpayer may apply for a clean car income tax credit from the energy, minerals, and natural resources department on an electronic form and in the manner prescribed by that department. The department will not accept paper applications or applications submitted by e-mail unless specifically authorized by the division.

B. An application package for a clean car charging unit shall include a completed clean car charging unit personal income tax credit electronic application and all required documents attachments.

(1) Partial applications will not be accepted.

(2) After the department has certified an application, applicants may not amend the certified application package to seek additional credits for that charging unit.

(3) If there are multiple owners of a clean car motor vehicle charging unit, they must submit a joint application.

C. If the energy, minerals, and natural resources department determines that the taxpayer meets the requirements for a clean car charging unit tax credit, the department shall issue a certificate of eligibility to the taxpayer providing the amount of tax credit for which the taxpayer is eligible and the taxable year in which the credit may be claimed.

(1) If an inspection is required for the charger, the final passing inspection date will determine tax year eligibility.

(2) If an inspection is not required for the charger, the date of purchase or installation will determine tax year eligibility, whichever comes later.

[3.3.37.9 NMAC - N, x/xx/2024]

3.3.37.10 APPLICATION REQUIREMENTS

A. The state tax credit is available for purchase and installation of a clean car charging unit designed for charging electric vehicles, plug-in hybrid electric vehicles or fuel cell vehicles purchased and installed between May 15, 2024, and January 1, 2030.

B. Applications for the state tax credit shall be made no later than one year from the date the charging unit is purchased or, if the unit is installed, the installation date.

C. The application package shall meet 3.3.37 requirements. If an application package fails to meet a requirement, the department shall disapprove the application.

[3.3.37.10 NMAC - N, x/xx/2024]

3.3.37.11 APPLICATION:

A. An applicant may apply for a New Mexico clean car charging unit personal income tax credit by submitting an application for a certificate of eligibility to the division using a department-developed application or an approved electronic application system.

B. To be considered complete, an application must include the state tax credit application and any required attachments.

C. Married individuals filing separate returns for a taxable year for which they could have filed a joint return may each claim only one-half of the tax credit that would have been claimed on a joint return.

D. The completed application shall consist of the following:

(1) The applicant's name, mailing address, e-mail address, county of installation, telephone number and last four of applicant's social security number or employer identification number (EIN) provided by a business applicant.

(2) The address where the clean car charging unit is located.

(3) Name of the electric utility service provider for that address.

(4) Whether the clean car charging unit is for private or public use.

(5) Total purchase price and price of any labor to install the operating clean car charging unit.

(6) If applicable, the date the charging unit received a successful electrical inspection.

(7) The charging unit specification sheet and description.

(a) A charging unit specification sheet must specify the connector type(s), plug type(s), manufacturer, model, serial number, voltage, and amperage, of the electric vehicle charging unit, and whether the current is alternating or direct.

(b) For a fuel cell charging unit, technical specifications on the fuel dispensing unit and fuel storage system, including information about operational pressures of the fuel cell charging unit.

(8) A statement the applicant signed and dated, which may be a form of electronic signature if approved by the department, agreeing:

(a) all information provided in the application package is true and correct to the best of the applicant's knowledge;

(b) the applicant has read the certification requirements contained in 3.3.37;

(c) the applicant understands that the department must certify the clean car charging unit documents in the application package before the applicant becomes eligible for a state tax credit;

(d) a taxpayer who received the 2021 sustainable building tax credit for expenses of purchasing or installing an electric vehicle charging unit or fuel cell charging unit shall not be eligible to claim the tax credit, and;

(e) the clean car charging unit was installed in full compliance with all applicable federal, state, and local government statutes, ordinances, rules, regulations, codes and standards that were in effect at the time of installation.

[3.3.37.11 NMAC - N, x/xx/2024]

3.3.37.12 APPLICATION ATTACHMENTS:

A. An application for a clean car charging unit personal income tax credit shall contain the following information as attachments:

(1) proof of clean car charging unit purchase;

(3) post-installation digital photo of operating clean car charging unit;

(4) clean car charging unit specification sheet;

(a) a charging unit data sheet must specify the connector type(s), plug type(s), manufacturer, model, serial number, voltage, and amperage of the electric vehicle charging unit, and whether the electrical current is alternating or direct;

(b) a fuel cell charging unit must specify technical specifications on the fuel dispensing unit and fuel storage system, including information about operational pressures of the fuel cell charging unit' and;

(c) the specification sheet must match the charging unit submitted for the tax credit;

(5) A copy of any applicable building code authority inspections, including permit number, issuance date, and date of inspection, noted on a physical form, or a photo of inspection sticker or a web-based report approved by the applicable building code authority, or similar document if applicable;

(6) Any additional information the energy, minerals and natural resources department may require to determine tax credit eligibility.

[3.3.37.12 NMAC - N, x/xx/2024]

3.3.37.13 APPLICATION REVIEW PROCESS:

A. The department shall consider complete applications in the order received.

B. The department shall review the application package to check the accuracy of the applicant's documentation, determine whether the department shall certify the clean car charging unit and calculate the amount of the state tax credit.

(1) The department shall disapprove an application that is not complete, correct, or does not meet the approval criteria.

(2) Duplicate applications or multiple submissions for the same project will be rejected.

C. If the department finds the application package meets the requirements of 3.3.37, and a state tax credit is available, the department shall certify the applicant's claim for clean car charging unit.

D. If applicable, the department's disapproval notification shall state the reasons why the department disapproved the application. The applicant may resubmit a corrected electronic application package for a disapproved project, and it shall be placed at the beginning of the queue and reviewed as if it were a new application.

[3.3.37.13 NMAC - N, x/xx/2024]

3.3.37.14 CLEAN CAR CHARGING UNIT REQUIREMENTS:

A. A direct current fast charger must provide at least 50 kilowatts of direct current electrical power for charging an electric vehicle through a connector based on fast charging equipment standards and is approved for installation for that purpose under the National Electrical Code through an underwriter's laboratories certification or an equivalent certifying organization.

B. An electrical vehicle charger used to provide electricity to an electric vehicle or plug-in hybrid electric vehicle must be designed to create a connection between an electricity source and the electric vehicle or plug-in hybrid vehicle; and uses the electric vehicles or plug-in hybrid electric vehicle's control system to ensure that electricity flows at an appropriate voltage and current level.

C. A fuel cell charging unit is a facility or unit that dispenses liquefied or compressed hydrogen for fuel cell vehicle refueling and is approved for installation for that purpose under applicable codes and compliant with the requirements of applicable certifying organizations.

D. The clean car charging unit must be made of new equipment, components, and materials to be eligible for a tax credit.

E. Charging unit equipment must be able to be networked installed and able to meet the following requirements:

(1) Charging software is able to connect to OpenADR or OCPP.

(2) Charging unit can connect to wire or wireless networking technology.

(3) Applicant must consent to share electrical vehicle charging data with electric utility

provider.

(4) The clean car charging unit manufacturer is listed as an OSHA nationally recognized testing laboratory program.

[3.3.37.14 NMAC - N, x/xx/2024]

3.3.37.15 CALCULATING THE STATE TAX CREDIT:

A. The tax credit is limited to the purchase and the installation labor cost for the clean car charging unit, whichever is less.

B. The amount of tax credit shall be:

(1) for a direct current fast charger or fuel cell charging unit, \$25,000 or the cost to purchase and install the direct current fast charger or fuel cell charging unit, whichever is less;

(2) for all other electric vehicle charging units, \$400 or the cost to purchase and install the electric vehicle charging unit, whichever is less.

[3.3.37.15 NMAC - N, x/xx/2024]

3.3.37.16 CERTIFICATION:

A. The energy, minerals and natural resources department shall provide the applicant with the certificate of eligibility in an electronic format.

B. The department provides certification through electronic notification to the applicant. The notification shall include the applicant's contact information, last four digits of the social security number or EIN, clean car charging unit certification number and the state tax credit amount.

C. If, after the department has issued a certification, any of the requirements are found to be insufficient, the department may rescind the certification.

[3.3.37.16 NMAC - N, x/xx/2024]

3.3.37.17 CLAIMING THE STATE TAX CREDIT:

A taxpayer who has received certificate of eligibility to claim the tax credit must apply to the taxation and revenue department and shall provide the taxation and revenue department with a copy of the certification of eligibility in manner and within a timeframe prescribed by the taxation and revenue department.

[3.3.37.17 NMAC - N, x/xx/2024]

HISTORY OF 3.3.37 NMAC:

Pre-NMAC History: None

History of Repealed Material: [RESERVED]