

TITLE 3 TAXATION
CHAPTER 3 PERSONAL INCOME TAXES
PART 14 NEW SOLAR MARKET DEVELOPMENT INCOME TAX CREDIT

3.3.14.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department, Energy, Conservation and Management Division.
[3.3.14.1 NMAC – Rp, 3.3.14.1 NMAC, 7/16/2024]

3.3.14.2 SCOPE: 3.3.14 NMAC applies to the application and certification procedures for administration of the new solar market development income tax credit.
[3.3.14.2 NMAC - Rp, 3.3.14.2 NMAC, 7/16/2024]

3.3.14.3 STATUTORY AUTHORITY: 3.3.14 NMAC is established under the authority of Section 7-2-18-31 and Subsection 9-1-5 NMSA 1978.
[3.3.14.3 NMAC - Rp, 3.3.14.3 NMAC, 7/16/2024]

3.3.14.4 DURATION: Permanent.
[3.3.14.4 NMAC - Rp, 3.3.14.4 NMAC, 7/16/2024]

3.3.14.5 EFFECTIVE DATE: July 16, 2024, unless a later date is cited at the end of a section.
[3.3.14.5 NMAC - Rp, 3.3.14.5 NMAC, 7/16/2024]

3.3.14.6 OBJECTIVE: 3.3.14 NMAC's objective is to establish procedures for administering the certification program for the new solar market development income tax credit.
[3.3.14.6 NMAC - Rp, 3.3.14.6 NMAC, 7/16/2024]

3.3.14.7 DEFINITIONS:

A. "Applicant" means a New Mexico taxpayer that has installed a solar energy system at a residence, business or agricultural enterprise that the taxpayer owns or a New Mexico taxpayer who has installed a solar energy system at a residence, business, or agricultural enterprise held in leasehold and located on a federally recognized Indian nation, tribe or pueblo that is located in whole or in part within New Mexico and who requests that the department certify the solar energy system pursuant to 3.3.14 NMAC so that the taxpayer may receive a state tax credit.

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

C. "Array" means the collectors of a solar thermal system or the modules of a photovoltaic system.

D. "Building code authority" means the New Mexico regulation and licensing department, construction industries department or the local government agency having jurisdiction for building, electrical and mechanical codes.

E. "Certified" or "certification" means department approval of a solar energy system, which makes the applicant owning the system eligible for a state tax credit.

F. "Collector" means the solar thermal system component that absorbs solar energy for conversion into heat or electricity.

G. "Collector aperture" means the area of a solar thermal collector that absorbs solar energy for conversion into usable heat.

H. "Component" means a solar energy system's equipment and materials.

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

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

K. "Energy system" means an engineered system that delivers solar energy to an end use by flow of fluid or electricity caused by energized components such as pumps, fans, inverters, or controllers.

L. "Installed", or "installation" means the direct work of placing a solar energy system into service to operate and produce energy at the expected level for a system of its size, which shall include completion of any required final inspections, unless the installation is on tribal or pueblo land in which case contractor certification of installation shall suffice for the system to meet this definition.

M. "Mobile" means not permanently connected to a residence, business or agricultural enterprise or connected to a mobile vehicle that is a part of a residence, business, or agricultural enterprise.

- N. **“Module”** means the photovoltaic system component that absorbs sunlight for conversion into electricity.
- O. **“New”** means the condition of being recently manufactured and not used previously in any installation.
- P. **“New solar market development income tax credit”** means the personal income tax credit the state of New Mexico issues to a taxpayer for a solar energy system the department has certified pursuant to 3.3.14 NMAC.
- Q. **“Non-residential”** means a business or agricultural enterprise.
- R. **“OG”** means operating guidelines that the solar rating and certification corporation has or will establish including system performance or component characteristics as defined in the applicable SRCC directory. Operating guidelines shall be from SRCC directory in effect on March 1, 2006, or any applicable successive revisions.
- S. **“Solar collector”** means a solar thermal collector or photovoltaic module.
- T. **“Solar energy system”** means a solar thermal system or photovoltaic system.
- U. **“Solar storage tank”** means a tank provided as a component in a solar thermal system that is not heated by electricity or a heating fuel.
- V. **“SRCC”** means the solar rating and certification corporation.
- W. **“Standard test conditions”** means the environmental conditions under which a manufacturer tests a photovoltaic module for power output, which are a photovoltaic cell temperature of 25 degrees Celsius and solar insolation of 1000 watts per square meter on the photovoltaic cell surface.
- X. **“State tax credit”** means the new solar market development income tax credit.
- Y. **“Substantially Complete”** means a system that produces energy to the benefit of the residence, business or agricultural enterprise and has been inspected by the applicable authorities. A system that is substantially complete shall be eligible for the tax credit even if the original installation contractor is no longer in business.
- Z. **“Supplemental state tax credit”** means the new solar market development income tax credit awarded for eligible solar energy systems installed in calendar years 2020-2023 when certification was not previously awarded due to exhaustion of credit certification limits.
[3.3.14.7 NMAC - Rp, 3.3.14.7 NMAC, 7/16/2024]

3.3.14.8 GENERAL PROVISIONS:

- A. The state tax credit may be claimed for taxable years prior to January 1, 2032.
- B. Only a New Mexico individual taxpayer, corporation or agricultural enterprise who has purchased and installed, on property that he, she, or the corporation owns, or, in the case of a federally recognized Indian nation, tribe or pueblo, holds in leasehold, an operating or substantially complete solar energy system that the department has certified pursuant to this part is eligible for a state tax credit for the tax year in which the system is installed, unless the system is eligible for a supplemental state tax credit.
- C. An applicant must own the residence, business, or agriculture enterprise on which the solar energy system is located to qualify for the tax credit, unless the applicant has installed a solar energy system at a residence, business, or agricultural enterprise located on a federally recognized Indian nation, tribe or pueblo located in whole or in part within New Mexico, in which case the applicant must hold the property in leasehold from the applicable Indian nation, tribe or pueblo. The applicant may rent the residence, business, or agricultural enterprise that the applicant owns to another entity, however, the renter does not qualify for the tax credit.
- D. Multiple different systems located at the same address are all eligible for the credit, provided the total amount awarded for all systems at the same address does not exceed the allocation limit in 3.3.14.15 NMAC; systems must meet eligibility requirements. The restriction in this paragraph applies even if the solar energy systems are separately metered.
- E. A taxpayer who is not a dependent of another individual and who, on or after March 1, 2020, purchases and installs a solar thermal system or a photovoltaic system on a residence, business or agricultural enterprise in New Mexico owned by that taxpayer or on land held by a federally recognized Indian nation, tribe or pueblo and held in leasehold by that taxpayer, may apply for, and the department may allow, a credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act. The tax credit provided by this section may be referred to as the "new solar market development income tax credit."
- F. A taxpayer may apply for a new solar market development income tax credit certificate for the taxable year in which the taxpayer purchases and installs a solar thermal or photovoltaic system. To receive a new solar market development income tax credit certificate, a taxpayer shall apply to the department on forms and in the

manner prescribed by the department within twelve months following the calendar year in which the system was installed.

G. The annual aggregate amount of credits that may be certified by the department as eligible is:

(1) in the calendar year 2024 and any subsequent year thereafter, thirty million dollars (\$30,000,000); and

(2) For calendar years 2020 through 2023, where the calendar year limitation has previously been met in any one of those years, a total of twenty million dollars (\$20,000,000). Such supplemental state tax credits shall be claimed in taxable year 2023 regardless of whether the system was purchased and installed in calendar years 2020 through 2023. Applications for supplemental state tax credits certificates must be submitted on or before 12/31/2025.

H. When the aggregate amount of certificates issued reaches the cap in the foregoing paragraph, the department will no longer certify systems for that year. Applications received after the aggregate limit is reached shall not be approved and will be returned to applicant. The department shall keep a record of the order of receipt of all application packages to ensure the annual aggregate amount is not exceeded in any given year.

I. In the event of a discrepancy between a requirement of 3.3.14 NMAC and an existing New Mexico regulation and licensing department or New Mexico taxation and revenue department rule promulgated prior to 3.3.14 NMAC's adoption, the existing rule shall govern.
[3.3.14.8 NMAC - Rp, 3.3.14.8 NMAC, 7/16/2024]

3.3.14.9 APPLICATION:

A. To apply for a state tax credit an applicant shall submit an application for a certificate of eligibility to the division using either a department-developed application or an approved electronic application system as directed by the division director. The department will not accept paper applications or applications submitted by e-mail unless specifically authorized by the division. An applicant may obtain a state tax credit application form and system installation form from the division.

B. An application package shall include a completed state tax credit application form and written attachments for a solar thermal system or photovoltaic system. To be considered complete, an application must include the state tax credit application form and any required attachments; partial applications will not be accepted. An applicant shall submit one application package for each eligible solar energy system. After the department has certified a solar energy system, applicants may not amend the certified application package to seek additional credits for that system. If there are multiple owners of the property where the solar energy system is installed, a joint application must be submitted.

C. The application package shall meet the requirements of 3.3.14 NMAC. If an application package fails to meet a requirement, the department shall disapprove the application.

D. The completed application form shall consist of the following information:

(1) the applicant's name, mailing address, e-mail address, telephone number and the last four digits of the applicant's social security number or employer identification number (EIN) provided by a business or agricultural enterprise;

(2) the address where the solar energy system is located, if located at a residence, business or agricultural enterprise, or a location description if located at an agricultural enterprise;

(3) the solar energy system's type and description;

(4) the date the solar energy system was installed;

(5) if a contractor installed the solar energy system, the contractor's name, address, telephone number, e-mail address, license category and license number;

(6) acknowledgement the applicant installed the solar energy system, if applicable;

(7) the separately itemized net cost of equipment, materials, and labor of installing the solar energy system, excluding the expenses and income listed in 3.3.14 NMAC; and

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

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

(b) applicant understands that there is annual aggregate cap on available state tax credits in place for solar energy systems and that they are eligible for a credit only in the year the system was installed, or, in the case of systems installed in 2020, 2021, 2022 and 2023, tax year 2023;

(c) applicant understands that the department must certify the solar energy system documented in the application package before becoming eligible for a state tax credit;

(d) applicant agrees to make any changes the department requires to the solar energy system for compliance with 3.3.14 NMAC; and

(e) to ensure compliance with 3.3.14 NMAC, applicant agrees to allow the department or its authorized representative to inspect the solar energy system described in the application package at any time after the date of submittal of the application package until three years after the department has certified the solar energy system, upon the department providing a minimum of five days' notice to the applicant.

E. An application package must contain the following information as attachments (the requirements in the subparagraph below depend on solar energy system location and whether application is seeking a state tax credit or a supplemental state tax credit):

(1) A completed application package for solar energy systems installed in years 2024 and after on private land shall remit the following attachments:

(a) A current property tax bill or other equivalent proof of ownership in the applicant's name for the residence, business, or agricultural enterprise where the solar energy system is installed. All names, partnerships and titles listed as property owners shall be listed on application;

(b) A Building Code Inspection report including the name of the building code authority, the permit number, and the date of successful inspection, either noted on a physical form, photo of inspection sticker, or a web-based report. The department prefers the permit for electrical inspection over the general building permit.

(c) An itemized invoice documenting the equipment, materials, and labor costs of the solar energy system, including but not limited to itemized accounting of permits, design, equipment, material, categorized fees, and installation labor of the solar energy system. For categorized fees please see Subsection C. of 3.3.14.14 NMAC; and

(d) The solar energy system's design schematic and technical specifications.

(2) The application package remitted for solar energy systems installed in years 2024 and after on lands of a federally recognized Indian nation, tribe or pueblo and held in leasehold by that taxpayer shall consist of the following information provided as attachments:

(a) A leasehold agreement, trust, allotment of property or other equivalent proof that the property where the solar system is installed is held on behalf of the individuals applying. All names, partnerships and titles listed as leaseholders shall be listed on application;

(b) For projects in areas subject to a building code authority's inspection: the permit number and issuance date, and date of successful inspection, if applicable, noted on a physical form, photo of inspection sticker, or a web-based report the applicable building code authority approves. For projects in areas not subject to a building code authority's inspection, a certification from a licensed New Mexico electrician that the solar energy system was properly integrated into the applicable structure's electrical system;

(c) An itemized invoice documenting the equipment, materials, and labor costs of the solar energy system, including but not limited to itemized accounting of permits, design, equipment, material, categorized fees, and installation labor of a solar energy system. For categorized fees please see Subsection C. of 3.3.14.14 NMAC; and

(d) The solar energy system's design schematic and technical specifications.

(3) The application package for a supplemental state tax credit for a project purchased and installed in years 2020 through 2023 shall consist of the following information provided as attachments:

(a) a current property tax bill or other equivalent proof of ownership in the applicant's name for the residence, business, or agricultural enterprise where the solar energy system is installed. All names, partnerships and titles listed as property owners shall be listed on application;

(b) for projects on tribal lands: a leasehold agreement, trust, allotment of property or other equivalent proof that the property where the solar system is installed is held on behalf of the individuals applying. All names, partnerships and titles listed as leaseholders shall be listed on application;

(c) the equipment, materials, and labor costs of a solar energy system the department certifies, documented in an itemized invoice. The invoice shall itemize the following costs including but not limited to permits, design, equipment, material, categorized fees, and installation labor of a solar energy system. The department may accept a purchase/installment agreement. For categorized fees please see Subsection C. of 3.3.14.14 NMAC. If an applicant cannot obtain an itemized invoice for a project installed in years 2020 through 2023, due to their contractor no longer being in business, the department may accept at its sole discretion evidence of project costs, such as evidence of total payments made and a certification that such payments did not include otherwise excluded costs under categorized fees please see Subsection C. of 3.3.14.14 NMAC; and

(d) for projects in areas subject to a building code authority's inspection: the permit number and issuance date, and date of successful inspection, if applicable, noted on a physical form, photo of inspection sticker, or a web-based report the applicable building code authority approves; and

(e) for projects in areas not subject to a building code authority's inspection, a certification from a licensed New Mexico electrician that the solar energy system was properly integrated into the applicable structure's electrical system.

(f) the solar energy system's design schematic and technical specifications.

(4) In addition to the requirements in the preceding paragraphs, if the application is for a solar thermal system, a completed solar thermal list form that includes the:

(a) manufacturer or supplier of system components and their model numbers;

(b) number of collectors;

(c) collector aperture dimensions;

(d) orientation of collectors by providing the azimuth angle from true south and tilt angle from horizontal;

(e) SRCC solar collector certification identification number; and

(f) manufacturer's specifications for collectors if collectors are unglazed;

(5) In addition to the requirements in the preceding paragraphs, if the application is for a photovoltaic system, a completed solar photovoltaic list form that includes the:

(a) manufacturer or supplier of major system components and their model numbers;

(b) number of modules;

(c) module rated direct current power output in watts under manufacturer's standard test conditions;

(d) collectors' orientation by providing the azimuth angle from true south and tilt angle from horizontal;

(e) total inverter capacity in kilowatts if an inverter is a part of the system;

(f) battery storage size and capacity in kilowatts and kilowatt-hours, if battery storage is a part of the system; and

(g) the building code authority's permit number and issuance date, and date of successful inspection, if applicable, noted on a physical form, photo of inspection sticker or a web-based report the applicable building code authority approves.

(6) Other information the department needs to evaluate the specific system type for certification.

[3.3.14.9 NMAC - Rp, 3.3.14.9 NMAC, 7/16/2024]

3.3.14.10 APPLICATION REVIEW PROCESS:

A. The department shall consider complete applications in the order received. If the department receives multiple applications on the same day that would cumulatively exceed the overall limit of state tax credit or supplemental state tax credit availability, the department shall certify the first application received for the last remaining tax credit.

B. The department shall review the application package to calculate the state tax credit or supplemental state tax credit; check the accuracy of the applicant's documentation; and determine whether the department shall certify the solar energy system. The department shall disapprove an application that is not complete, correct, or does not meet the approval criteria.

C. If the department finds the application package meets 3.3.14 NMAC's requirements and a state tax credit or supplemental state tax credit is available, the department shall certify the applicant's solar energy system and document the applicant as eligible for a state tax credit or supplemental state tax credit, as appropriate. A certificate issue for a system shall include the applicant's contact information, the last four digits of their social security number or EIN, system certification and the state tax credit amount. If a state tax credit or supplemental state tax credit is not available in the calendar year when the application was submitted, the department will notify the applicant that the program has reached the applicable aggregate tax credit certification cap and their application is not certified. The department provides notification of credit unavailability through written notification to the applicant.

D. The department shall report to the taxation and revenue department the information required to verify, process, and distribute each state tax credit or supplemental state tax credit by providing a copy of the department's certification notification.

E. The applicant may submit a revised application package to the department; however, the division shall place the resubmitted application in the review schedule as if it were a new application unless the application is disapproved because the annual cap has been reached.

F. If applicable, the department's disapproval letter shall state the reasons why the department disapproved the application. The applicant may resubmit the application package for a disapproved project, but it shall be reviewed as if it were a new application.

[3.3.14.10 NMAC - Rp, 3.3.14.10 NMAC, 7/16/2024]

3.3.14.11 SAFETY, CODES AND STANDARDS:

A. Solar energy systems that the department may certify shall meet the following requirements:

(1) compliance with the latest adopted version of all applicable federal, state, and local government statutes or ordinances, rules or regulations and codes and standards that are in effect at the time that the applicant submits the application package.

B. Solar thermal systems that the department may certify shall meet the following requirements:

(1) design, permitting and installation in full compliance with all applicable provisions of the latest New Mexico Plumbing Code 14.8.2 NMAC, the New Mexico Mechanical Codes 14.9.2 NMAC, Solar Energy Code 14.9.6 NMAC, the New Mexico General Construction Building Codes, 14.7.2 to 14.7.7 NMAC and any amendments to these codes adopted by a political subdivision that has validly exercised its planning and permitting authority under Sections 3-17-6 and 3-18-6 NMSA 1978.

C. Photovoltaic systems that the department may certify shall meet the following requirement for design, permitting and installation in full compliance with all applicable provisions of the latest New Mexico Electrical Code 14.10.4 NMAC and any amendments to these codes adopted by a political subdivision that has validly exercised its planning and permitting authority under Sections 3-17-6 and 3-18-6 NMSA 1978.

[3.3.14.11 NMAC - Rp, 3.3.14.11 NMAC, 7/16/2024]

3.3.14.12 MINIMUM SYSTEM SIZES, SYSTEM APPLICATIONS AND LISTS OF ELIGIBLE COMPONENTS:

A. Solar energy systems or their portions that the department may certify shall meet the following requirements:

(1) be primarily constituted by new equipment, components, and materials; except that the department may certify a system with recycled or reused components if the use of a used component would not adversely impact generation efficiency or overall system longevity and so long as it is not otherwise ineligible for certification;

(a) a system that is on a recreational vehicle, is mobile, does not serve a permanent end use energy load or is not permanently located in New Mexico;

(b) a system that is not connected to a structure or foundation and does not serve a permanent end use energy load or is not permanently located in New Mexico;

(c) a system or portion of a system having one or more components not manufactured on a regular basis by a business enterprise; and

(d) a system or portion of a system that replaces a system or portion of a system the department has certified in a previous application for a state tax credit.

B. The department may disapprove a system type, solar thermal collector type, photovoltaic module type or a solar energy system component if not listed in 3.3.14 NMAC for certification.

C. Solar thermal systems that the department may certify include:

(1) the system applications of solar domestic hot water, solar space heating, solar air heating, solar process heating, solar space cooling or combinations of solar thermal system applications listed in 3.3.14 NMAC;

(2) the collector types of flat plate, parabolic trough, and evacuated tube; and

(3) the listed component categories of collectors, pumps, fans, solar storage tanks, expansion tanks, valves, controllers, and heat exchangers.

D. A solar thermal system component that the department may certify is a photovoltaic system providing power for a solar thermal system component's incidental electricity needs. The department shall not certify such a photovoltaic system as a separate solar energy system eligible for a separate state tax credit.

E. Solar thermal systems or their components that the department shall not certify are as follows:

(1) a heating system or heating system components necessary for a swimming pool or a hot tub;

- (2) equipment sheds, wall preparation, cabinetry, site-built enclosures, distribution piping and associated installation costs;
- (3) a building design element used for passive solar space heating, space cooling, daylighting, or other environmental comfort attribute;
- (4) a water quality distillation or processing system;
- (5) in a combined system, the portions of the system not allowed to receive a state tax credit or for which the department shall not certify the system;
- (6) A system that does not comply with the latest version of the New Mexico Solar Code.
- F.** Solar thermal systems that the department may certify shall meet the following requirements:
 - (1) minimum system size of 15 square feet of solar collector aperture area;
 - (2) a collector that is listed as certified by the SRCC by OG-100 collector certification or OG-300 system certification processes; and
 - (3) all components approved by an agency accredited by the American national standards institute, if available for that specific component category.
- G.** Photovoltaic systems that the department may certify include:
 - (1) the system applications of direct power without battery storage, utility grid interconnected without battery storage, utility grid interconnected with without battery storage, stand-alone with battery storage, stand-alone with utility backup capability and water pumping;
 - (2) the flat plate module types of crystalline, poly-crystalline or thin-film amorphous silicon;
 - (3) the listed component categories of modules, inverters, batteries, manufactured battery enclosures, charge controllers, power point trackers, well pumps, racks, sun tracking mechanisms, performance monitoring equipment, communications, datalogging or lightning protection; and
 - (4) disconnect components, safety components, standard electrical materials, and standard electrical hardware necessary for the assembly of the listed component categories into a complete, safe, and fully operational system.
- H.** Photovoltaic systems that the department may certify shall meet the following requirements:
 - (1) a minimum total array power output of 100 watts direct current at manufacturer's standard test conditions;
 - (2) all components listed and labeled by a nationally recognized testing laboratory, if such listing is available for that specific component category; and
 - (3) an agricultural enterprise photovoltaic system on a farm or ranch that is not connected to an electric utility transmission or distribution system.
- I.** Photovoltaic systems or their portions that the department shall not certify are as follows:
 - (1) a commercial or industrial photovoltaic system that is not connected to an electric utility transmission or distribution system;
 - (2) power equipment sheds, wall preparation, cabinetry, site-built battery enclosures, distribution wiring and associated installation costs;
 - (3) the drilling, well casing, storage tanks, distribution piping, distribution controls and associated installation costs of a water pumping system; and
 - (4) a packaged product powered by photovoltaic cells that an applicant purchased directly from a retail business enterprise, is not custom designed, and does not require a permit from the building code authority for installation, including gate or door openers, watches, calculators, walkway lights, and toys.

[3.3.14.12 NMAC – Rp, 3.3.14.13 NMAC, 7/16/2024]

3.3.14.13 CERTIFICATION:

- A.** The purpose of the department's certification program is to evaluate certification of complete solar energy systems for state tax credit or supplemental state tax credit eligibility that are composed of components and materials that are tested, certified, approved or listed, as applicable, by other organizations identified or referenced in 3.3.14 NMAC.
- B.** If an applicant has received a state tax credit or a supplemental state tax credit for a solar energy system under this part, the solar energy system may not be used to meet the requirements for other tax credits available under state law:
 - (1) If the 2021 sustainable building tax credit application uses a solar energy system to achieve the energy reduction performance rating, and that solar energy system was previously certified for the state tax credit or the supplemental state tax credit, the department shall disapprove the application for that portion of a 2021 sustainable building tax credit;

(2) if an onsite solar system is used to meet the 2021 sustainable building tax credit requirements of either the rating system certification level or the energy reduction requirement, the applicant may not claim a state tax credit or supplemental state tax credit under this part;

(3) a solar energy system may receive a state tax credit or supplemental state tax credit new installation certification only once; and

(4) in the case of an expansion to an existing solar energy system that previously received certification as a new installation, the department may approve a subsequent certification, but any credit issued shall cover only the costs of the expansion portion of the solar energy system.

C. If, after the department has issued a certification, any of these requirements are found to be insufficient, the department may rescind the certification.
[3.3.14.13 NMAC - Rp, 3.3.14.14 NMAC, 7/16/2024]

3.3.14.14 CALCULATING THE SOLAR ENERGY SYSTEM COST:

A. A state tax credit or supplemental state tax credit shall be based on the equipment, materials, labor, design fees, permitting inspection fees, design review stamp and interconnections costs of a solar energy system the department has certified. Self-installed systems shall be eligible for these costs, except that self-installers may not claim their own labor but may claim labor they hire.

B. The equipment, materials, and labor costs of a solar energy system the department certifies shall be documented in an itemized invoice. An invoice shall itemize the following costs which include but are not limited to: permits, design, equipment, material, categorized fees, and installation labor of a solar energy system.

C. The cost of a solar energy system the department certifies shall be the net cost of acquiring the system and shall not include the following:

- (1) expenses, including but not limited to:
 - (a) unpaid labor or the applicant's labor;
 - (b) unpaid equipment or materials;
 - (c) land costs or property taxes;
 - (d) costs of structural, surface protection and other functions in building elements that would be included in building construction if a solar energy system were not installed;
 - (e) mortgage, lease or rental costs of the residence, business or agricultural enterprise;
 - (f) legal and court costs;
 - (g) research fees or patent search fees;
 - (h) membership fees;
 - (i) financing costs or loan interest;
 - (j) marketing, promotional or advertising costs;
 - (k) repair, operating or maintenance costs;
 - (l) warranty or extended warranty costs;
 - (m) system resale costs;
 - (n) system visual barrier costs;
 - (o) adjacent structure modification costs for building structures such as portals, garages, or pergolas to hold solar panels, or costs for modification or roof repair to hold solar panels;
 - (p) vegetation maintenance costs including tree trimming;
 - (q) contractor or inspector travel, mileage, or overnight hotel stays;
 - (r) recreational vehicle or hot tub ports;
 - (s) trenching exceeding 50 feet;
 - (t) donations to food banks on the applicant's behalf;
 - (u) system critter guard;
 - (v) non-descriptive miscellaneous items; and
 - (w) excess battery storage that is not consistent with industry standards;
- (2) income, including:
 - (a) payments the solar energy system contractor or other parties provide or receive that reduce the system cost, including rebates, discounts, grants and refunds, except for federal tax credits;
 - (b) services, benefits, or material goods the solar energy system contractor or other parties provide by the same or separate contract, whether written or verbal.

D. The department shall make the final determination of the net cost of a solar energy system the department certifies pursuant to 3.3.14 NMAC.

[3.3.14.14 NMAC - Rp, 3.3.14.15 NMAC, 7/16/2024]

3.3.14.15 CALCULATING THE STATE TAX CREDIT OR SUPPLEMENTAL STATE TAX CREDIT:

- A.** A state tax credit or supplemental state tax credit to an applicant for a solar energy system the department has certified shall not exceed:
- (1) up to ten percent of the purchase and installation costs of a solar thermal or photovoltaic system as provided in 3.3.14.14 NMAC; and
 - (2) six thousand dollars (\$6,000) per taxpayer per taxable year.
- B.** The taxation and revenue department shall make the final determination of the amount of a state tax credit.
- [3.3.14.15 NMAC – N, 7/16/2024]

3.3.14.16 CLAIMING THE STATE TAX CREDIT OR SUPPLEMENTAL STATE TAX CREDIT:

- A.** An applicant shall apply for the state tax credit or supplemental state tax credit with the taxation and revenue department and provide the department certification and any other information the taxation and revenue department requires within 12 months following the calendar year in which the system was installed.
- B.** An applicant claiming a state tax credit or supplemental state tax credit shall not claim a state tax credit pursuant to another law for costs related to the same solar energy system costs.
- [3.3.14.16 NMAC – 7/16/2024]

3.3.14.17 INSPECTION OF SOLAR ENERGY SYSTEMS:

- A.** The only inspection required through this application process for certification of an applicant's solar energy system are an inspection by the applicable building code authority for building, electrical, or mechanical code compliance, as applicable to the solar energy system type, if applicable. An applicant should be aware that their electric utility company may require additional inspections for photovoltaic systems that are interconnected to the distribution grid of that electric utility company. The applicant is solely responsible for compliance with such requirements.
- B.** For purposes of monitoring compliance with 3.3.14 NMC, the department or its authorized representative shall have the authority to inspect a solar system owned by an applicant who has submitted an application for certification, upon the department providing five days' notice to the applicant."
- [3.3.14.17 NMAC - Rp, 3.3.14.19 NMAC, 7/16/2024]

3.3.14.18 [RESERVED]

[3.3.14.18 NMAC - N, 8/25/2020; Repealed, 7/16/2024]

3.3.14.19 [RESERVED]

[3.3.14.19 NMAC - N, 8/25/2020; A, 12/13/2022; Repealed, 7/16/2024.]

HISTORY OF 3.3.14 NMAC:

Pre-NMAC History: None.

History of Repealed Material:

3.3.14 NMAC - New Solar Market Development Income Tax Credit, filed 8/25/2020 was repealed and replaced with 3.3.14 NMAC - New Solar Market Development Income Tax Credit, effective 7/16/2024.