

NOTICE OF RULE HEARING AND REGULAR MEETING

MONDAY, JANUARY 9, 2023, 9:00 A.M.
NEW MEXICO REGULATION AND LICENSING DEPARTMENT OFFICES
5500 SAN ANTONIO DRIVE NE ALBUQUERQUE, NEW MEXICO 87109

The New Mexico Home Inspectors Board will convene a rule hearing and regular meeting on Monday, January 9, 2023, at the New Mexico Regulation and Licensing Department offices at 5500 San Antonio Drive NE in Albuquerque, New Mexico.

The Board will convene a regular meeting immediately following the rule hearing for the purpose of adopting the rules discussed at the rule hearing.

The rule hearing and meeting will also be held via Cisco Webex Meetings for those wishing to attend virtually by using the following link:

<https://nmrld.webex.com/nmrld/j.php?MTID=m17c14a90007a95e5a4860e75df292e84>

Join by meeting number

Meeting number (access code): 2483 112 0826

Meeting password: GmTVA8ZmM33 (46882896 from video systems)

Purpose of Proposed Rules

The purpose of the proposed rules is to:

- Address and act on the State Court of Appeals action on a joint stipulation by the New Mexico Home Inspectors Board and the Examination Board of Professional Home Inspectors (EBPHI) dba the National Home Inspector Examination (NHIE) for a stay of enforcement of the rules adopted by the board on November 9, 2021.
- Fulfill legislative mandates in House Bill 120 enacted by the 2021 state legislature providing for expedited licensing for military members, their family members, and veterans.
- Fulfill legislative mandates in Senate Bill 2 enacted by the 2021 state legislature establishing a list of criminal convictions which could potentially disqualify an applicant from being issued a home inspector's license.
- Create new definitions in Part 1, General Provisions and Definitions, of the board rules for ancillary services, business relationships, electronic signatures, pre-inspections agreements, and other definitions that may require amendments as a result of the foregoing new definitions.
- Amend pre-licensing examination requirements in Part 3, Applications and Licenses, of the board rules, to accept passage of the proctored examination offered by the International Association of Certified Home Inspectors (Inter-NACHI) from candidates applying for licensure under the training and examination category of licensure.
- Amend and create new definitions in Part 7, Standards of Practice, of the board rules related to privacy walls, outbuildings, attached structures, load-bearing components, roof covering materials, surge protection devices, and domestic potable water heating equipment and distribution systems.

Statutory Authority

The Board is granted rule making authority in Subsections F and G of Section 61-24D-3 NMSA 1978 of the Home Inspectors Licensing Act which state that the board is to possess all powers and perform all duties prescribed by the Home Inspectors Licensing Act and otherwise provided by law and may make and enforce rules to carry out the provisions of the Act.

The full text of the proposed changes is included in this notice and may also be obtained by contacting Wayne W. Ciddio, administrator of the Home Inspectors Board at 5500 San Antonio Drive NE, Albuquerque, New Mexico 87109, by telephone at (505) 785-3937, or by email at wayne.ciddio@state.nm.us.

The full text of the proposed changes is also posted on the Home Inspectors Board web site at <https://www.rld.nm.gov/boards-and-commissions>. <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/home-inspectors/rs> - NM RLD.

Persons wishing to participate in the rule hearing may do so in person at the Commission office or virtually via Cisco WebEx Meetings.

Persons wishing to comment on the proposed rules may do so in person at the hearing, virtually via WebEx Meetings, or by submitting written comments to Board Administrator Wayne W. Ciddio by no later than Friday, January 6, 2023.

If you are an individual with a disability who is in need of a reader, amplifier, qualified signed language interpreter or any other form of auxiliary aid or service to attend or participate in the meeting, please contact Board Administrator Wayne W. Ciddio at least one week before the meeting and hearing.

Public documents, including the agenda, minutes, and proposed rules can be provided in various accessible formats.

The full text of the proposed rules follows. Words, sentences and paragraphs ~~stricken through~~ are proposed to be deleted. Proposed new words, sentences, and paragraphs are underlined. Words, sentences, and paragraphs that are neither ~~stricken through~~ nor underlined represent existing language that is not proposed to be amended.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 66 HOME INSPECTOR LICENSING
PART 1 GENERAL PROVISIONS

16.66.1.1 ISSUING AGENCY: New Mexico home inspectors board.
[16.66.1.1 NMAC – N, 1/15/2021]

16.66.1.2 SCOPE: All licensed home inspectors, license applicants, other agencies, professional associations, and any member of the general public affected by or interested in home inspectors.
[16.66.1.2 NMAC – N, 1/15/2021]

16.66.1.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Home Inspector Licensing Act, Sections 61-24D-1 through 16 NMSA 1978 (2019).
[16.66.1.3 NMAC – N, 1/15/2021]

16.66.1.4 DURATION: Permanent.
[16.66.1.4 NMAC – N, 1/15/2021]

16.66.1.5 EFFECTIVE DATE: January 15, 2021, unless a later date is cited at the end of a section.
[16.66.1.5 NMAC – N, 1/15/2021]

16.66.1.6 OBJECTIVE: The objective of Part 1 of Chapter 66 is to set forth the provisions which apply to all of Chapter 66 of Title 16 and to define the terms and terminology related to home inspectors used through Chapter 66 of Title 16.
[16.66.1.6 NMAC – N, 1/15/2021]

16.66.1.7 DEFINITIONS: These rules adopt, as if stated herein, all of the definitions contained in Section 61-24D-2 NMSA 1978.

A. Definitions beginning with the letter “A”:

(1) “Access panel” means a panel provided for homeowner inspection and maintenance that has removable or operable fasteners or latch devices in order to be lifted off, swung open, or otherwise removed by one person. Its edges and fasteners are not painted in place. Access panels are limited to those panels within normal reach at human height or from a stepladder, and those which are not blocked by stored items, furniture, or building components.

~~[(2) “Activate” means the act of turning on, supplying power, or otherwise enabling systems, equipment, or devices to become active by normal operating controls]~~

~~[(3)]~~ (2) **“Adverse condition”** means a condition which is producing, or which has the potential to produce, a detrimental effect on a system or component that either impairs the system or component’s normally intended function or operation or which is inconsistent with generally established practice(s) regarding the historically or conventionally applied and acknowledged methods of installation, assembly, and operation or use.

~~[(4)]~~ (3) **“Alarm”** means a warning device that is either permanently installed or freestanding, including but not limited to smoke detectors and alarms, carbon-monoxide detectors, flue gas and other spillage detectors, security equipment, ejector pumps, and smoke alarms.

~~(4) **“Ancillary services”** means a service or inspection provided by a licensee or other provider but beyond the scope of the Standards of Practice for Home Inspection provided in 16.66.7 NMAC including but not limited to Mold Inspection, Lead Paint Assessment, Commercial Building Inspection, Pool and Spa Inspection, Termite Inspection, and other Ancillary Services.~~

(5) **“Appliance”** means a permanently installed household device powered by electricity or gas, but not including central heating, central cooling, or plumbing components.

(6) **“Architectural service”** means any practice involving the art and science of building design for construction of any structure or grouping of structures, and the use of space within and surrounding the structures or the design, design development, preparation of construction contract documents, and administration of the construction contract.

(7) **“Automatic safety controls”** means devices designed and installed to protect systems and components.

B. Definitions beginning with the letter “B”:

(1) **“Board”** means the New Mexico Home Inspectors Board.

(2) **“Business relationship”** means a former, current or prospective relationship between a person or a person’s licensed agent, a home inspection company and its clients, a home inspection company and the company providing ancillary services, and between a client and a company providing ancillary services. The business relationship is based upon a financial contract between a person and a consumer which is in force including those relationships in which the individual benefits by receiving a salary, royalty, intellectual property rights, consulting fee, honoraria, ownership interest (e.g., stocks, stock options or other ownership interest, excluding diversified mutual funds), or other financial benefit. A former relationship if it occurred within a twelve-month time period of the contract, a current or prospective relationship shall be disclosed in writing to the client and the client must acknowledge in writing receipt and acceptance of the disclosure. The receipt and acceptance of the disclosure may be by electronic signature.

C. Definitions beginning with the letter “C”:

~~[(1)] **“Central air conditioning”** means a system which uses ducts to distribute either or both cooled or dehumidified air to more than one room or uses pipes to distribute chilled water to heat exchangers in more than one room. This definition does not include systems or appliances that are plugged into an electrical convenience outlet;~~

~~[(2)]~~ (1) **“Component”** means a constituent element or part of a system.

~~[(3)]~~ (2) **“Concealed, latent, or intermittent condition”** means any condition affecting any system or component which occurs after the inspection or is intermittent or otherwise not reasonably detectable by a competent and professional home inspector for any reason during the inspection.

~~[(4)]~~ (3) **“Condition”** means the visible and conspicuous state of being of an object regarding its appearance, quality, or working order.

~~(4) **“Cooling and air conditioning”** means:~~

~~(a) designed to be permanently installed for central cooling and or heating (ducted) or modular (non-ducted) systems. Systems may include evaporator coil(s), condenser unit(s), heat pump(s), air handler(s) and furnace(s) or~~

~~(b) permanently installed evaporative cooling ducted systems. This definition does not include cooling units or appliances that are designed and intended to be portable, non-permanent and are designed for installation at windows.~~

(5) **“Cosmetic imperfection”** means an irregularity or imperfection which does not affect a component’s normally intended function or operation, and which could but is not required to be repaired.

(6) **“Crawlspace”** or **“underfloor crawlspace”** means the area within the confines of the foundation and between the ground and the underside of the lowest floor's structural components.

D. Definitions beginning with the letter “D”:

(1) **“Describe”** means to document in writing.

(2) **“Dismantle”** means the act of taking apart or removing any component, device, or piece of equipment that is bolted, screwed, or fastened by other means and which would not otherwise be taken apart or removed by a homeowner in the course of normal household maintenance.

E. Definitions beginning with the letter “E”:

(1) **“Electronic signature”** means an electronic sound, signal, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

~~(4)~~ (2) **“Engineering”** means the application of scientific knowledge for the design, control, or use of building structures, equipment, or apparatus.

~~(2)~~ (3) **“Engineering service”** means any professional service or creative work requiring engineering education, training and experience, and the application of special knowledge of the mathematical, physical and engineering sciences to such professional service or creative work as consultation, investigation, evaluation, planning, design and supervision of construction for the purpose of assuring compliance with the specifications and design, in conjunction with structures, buildings, machines, equipment, works or processes.

F. Definitions beginning with the letter “F”:

(1) **“Foundation”** means the base upon which a structure or wall rests, typically constituted by masonry, concrete, or stone, and typically located at least partially underground.

(2) **“Fuel burning appliance”** means any natural gas, LP gas, wood, coal, or other similar organic fuel burning device or appliance, including but not limited to fireplaces, whether masonry or factory built; fireplace inserts and stoves, woodstoves (room heaters), central furnaces, and combinations of said devices or appliances.

~~(2)~~ (3) **“Function”** means the action for which an item, component, or system is specially fitted or used, or for which an item, component, or system exists.

~~(3)~~ (4) **“Functional”** means the ability of an item, component, or system to perform its function.

~~(4)~~ (5) **“Functional drainage”** means the act or ability of a drain to empty in a reasonable amount of time without overflowing when another fixture is drained simultaneously.

~~(5)~~ (6) **“Functional flow”** means a reasonable flow at the highest fixture in a dwelling when another fixture is operated simultaneously.

~~(6)~~ (7) **“Further evaluation”** means examination and analysis by a qualified professional, tradesman, or service technician beyond that provided by a home inspection. Further evaluation may provide additional clarification, provide needed repairs, or discover additional adverse conditions that need modifications or repairs for the component or system to perform its normally intended function or operation provided by an appropriately licensed or qualified individual.

G. Definitions beginning with the letter “G”: **“Generally established practice”** means a practice of or pertaining to one or more of the following: the historically or conventionally applied and acknowledged methods of installation, assembly, and operation or use of residential systems and their related materials and components. Generally established practices may vary based on whether they were applicable at the time of construction or whether modifications to the property were made after the original construction.

H. Definitions beginning with the letter “H”:

(1) **“Home inspection”**, as defined by Subsection E of Section 61-24D-2 NMSA 1978, means a noninvasive, nondestructive examination by a person of the interior and exterior components of a residential real property, including the property's structural components, heating, foundation and roof, for the purposes of providing a professional written opinion regarding the site aspects and condition of the property and its attached or detached carports, garages and reasonably accessible installed components. “Home inspection” includes the examination of the property's heating, cooling, plumbing and electrical systems, including the operational condition of the systems' controls that are normally operated by a property owner.

(2) **“Home inspector”**, as defined by Subsection F of Section 61-24D-2 NMSA 1978, means a person who performs home inspections for compensation.

I. Definitions beginning with the letter “I”:

(1) **“Identify”** means to describe a specific system or component by its type and to distinguish it by characteristics such as general or specific materials, energy sources, etc., which differentiate that system of components from other similar systems and components.

(2) **“Inspected Property”** means the readily accessible areas of the buildings, site, items, components and systems included in the Home Inspection.

(3) **“Inter-NACHI examination”** means the examination offered, conducted, and proctored by the International Association of Certified Home Inspectors (Inter-NACHI).

J. Definitions beginning with the letter “J”: [RESERVED]

K. Definitions beginning with the letter “K”: [RESERVED]

L. Definitions beginning with the letter “L”:

(1) **“Licensure by ~~[credentials]~~ credentials”** means the process by which an individual applicant applies for a license as a home inspector in New Mexico on the basis of the applicant’s pre-existing license in another jurisdiction.

(2) **“Licensure by training and examination”** means the process by which an individual applicant applies for a license in New Mexico as a home inspector on the basis of the applicant’s education, training, and passage of the ~~[national home inspector examination]~~ National Home Inspector Examination (NHIE) or the proctored Inter-NACHI examination.

(3) **“Licensure by experience and examination”** means the process by which an individual applicant applies for a license in New Mexico as a home inspector on the basis of the applicant’s previous work in New Mexico as a home inspector in each of the 24 months immediately preceding January 1, 2020, the applicant’s performance of at least 100 home inspections for compensation in the 24 months immediately preceding January 1, 2020, and the applicant’s passage of a ~~[national home inspector examination, whether the NHIE or the proctored Inter-NACHI examination]~~ of a board-approved home inspector examination.

M. Definitions beginning with the letter “M”: [RESERVED]

N. Definitions beginning with the letter “N”:

(1) ~~“[national home inspector examination] National Home Inspector Examination National”~~ or “**NHIE**” means the examination offered, conducted, and proctored by the ~~[examination board of professional home inspectors]~~ Examination Board of Professional Home Inspectors (EBPHI).

(2) **“Normal operating controls”** means thermostats, switches, valves, and other devices intended by design and manufacture to be used by homeowners or occupants in the normal and regular day-to-day operation of systems or components.

(3) **“Normally intended function or operation”** means the customary or conventional purpose or use for which a system or component is installed and for which it is designed or intended by its manufacturer.

O. Definitions beginning with the letter “O”:

(1) **“On-site water supply quality”** means water quality based on the bacterial, chemical, mineral, and solids content of the water.

(2) **“On-site water supply quantity”** means the rate of flow of water.

P. Definitions beginning with the letter “P”:

(1) **“Permanently installed”** means an item, system, or component designed or intended to remain where originally placed, not easily moved, and which is attached, connected, or set in place for use so as to render moving or removing the item, system, or component impossible without the use of tools or equipment.

(2) **“Pre-inspection agreement”** means a signed agreement between the home inspector and their client executed prior to the commencement of the inspection detailing the services that the home inspector will provide.

~~[(2)]~~ (3) **“Proctored examination”** means a test taken under the supervision of testing staff. The proctor’s function is to ensure procedural integrity and security of the examination in a secure environment. Examination passage must be in writing and written by the organization or entity that administered the examination.

~~[(3)]~~ (4) **“Professional liability insurance”** means ~~[general liability insurance;]~~ errors and omissions insurance.

Q. Definitions beginning with the letter “Q”: “Qualified” means having the training, skills, knowledge, expertise, competence and any special tools or equipment necessary to address adverse conditions and routine maintenance conditions and, where applicable, holding all required licenses and meeting all applicable industry standards and all governmental and statutory requirements.

R. Definitions beginning with the letter “R”:

(1) **“Reactivation”** means the process and board act of reactivating an inactive or expired license, thereby permitting the licensee to engage in the practice of home inspection.

(2) **“Readily accessible”** means visually observable and able to be examined without requiring destructive measures; without risk to the inspector or others; without risk of damage to any item of personal or real property; without requiring the inspector to move, remove, damage, or disturb any wall, floor, ceiling, or window coverings; or any interior or exterior claddings or finish treatments; to move, remove, damage, disturb, climb upon, climb over, or straddle any item of personal property; to move, remove, damage, or disturb any

landscape elements; or to interrupt the business of occupants, and not requiring disassembly or the use of any special protective clothing or special tools or equipment.

(3) **“Readily openable access panel”** means a panel located within normal reach or from a four-foot stepladder, and which is not blocked by stored items, furniture, or building components, provided for homeowner inspection and maintenance that has removable or operable fasteners or latch devices in order to be lifted off, swung open, or otherwise removed by one person, and its edges and fasteners are not painted in place, but not including electrical panel board enclosure dead front covers.

(4) **“Residential recreational facilities”** means residential spas, saunas, steam baths, swimming pools, exercise, entertainment, athletic, playground and other similar equipment, and associated accessories that are installed at the inspected property.

(5) **“Reinstatement”** means the process and board act of reinstating a suspended or revoked license, thereby permitting the licensee to engage in the practice of home inspection either with or without future conditions.

(6) **“Representative number”** means all readily accessible identical components such as windows, electric switches and electric receptacles that serve as a typical or characteristic example of the items or components inspected. When one or a number of components or systems has identified “adverse conditions,” the report should indicate further evaluation of all identical components by qualified personnel.

(7) **“Roof drainage systems”** means gutters, downspouts, leaders, splash blocks, and similar components used to carry water off a roof and away from a building.

(8) **“Routine maintenance”** means typical, regular, ongoing, and expected maintenance that is part of an ongoing and prudent overall property and building systems upkeep program.

S. Definitions beginning with the letter “S”:

(1) **“Safety glazing”** means tempered glass, laminated glass, or rigid plastic.

(2) **“Shut down”** means a piece of equipment whose safety switch or circuit breaker is in the “off” position, or its fuse is missing or blown, or a system that cannot be operated by the device or control that a homeowner should normally use to operate it.

~~[(3) **“Solid fuel heating device”** means any wood, coal, or other similar organic fuel burning device, including but not limited to fireplaces, whether masonry or factory build, fireplace inserts and stoves, woodstoves (room heaters), central furnaces, and combinations of these devices;]~~

~~[(4)]~~ (3) **“Structural component”** means a component that supports non-variable forces or weights (dead loads) and variable forces or weights (live loads). For purposes of this definition, a dead load is the fixed weight of a structure or piece of equipment, such as a roof structure on bearing walls, and a live load is a moving variable weight added to the dead load or intrinsic weight of a structure.

~~[(5)]~~ (4) **“System”** means a permanently installed group of interacting, interrelated, or interdependent components historically and conventionally designed and intended to perform one or more specific functions.

T. Definitions beginning with the letter “T”: **“Technically exhaustive”** means a comprehensive and detailed examination beyond the scope of a real estate home inspection that would involve or include, but would not be limited to: dismantling, specialized knowledge or training, special equipment, measurements, calculations, testing, research, analysis, or other means.

U. Definitions beginning with the letter “U”: [RESERVED]

V. Definitions beginning with the letter “V”: [RESERVED]

W. Definitions beginning with the letter “W”:

(1) **“Wall cladding”** means a protective or insulating layer fixed to the outside of a building such as aluminum, brick, EIFS, stone, stucco, vinyl, or wood.

(2) **“Wiring method”** means the identification of electrical conductors or wires by their general type, such as nonmetallic sheathed cable, armored cable, and knob and tube.

[16.66.1.7 NMAC – N, 1/15/2021; A, XX/XX/2023]

16.66.1.8 OFFICES: The office of the New Mexico home inspectors board will be located in Albuquerque, New Mexico.

[16.66.1.8 NMAC – N, 1/15/2021]

16.66.1.9 TELEPHONIC MEETING ATTENDANCE: A board member may participate in a board meeting by means of a conference telephone or similar communications equipment only when it is difficult or impossible for the board member to physically attend the meeting. A board member attending by means of

conference telephone or similar communications equipment must attest in open session during the meeting that his or her in-person attendance was difficult or impossible.
[16.66.1.9 NMAC – N, 1/15/2021]

16.66.1.10 ADVISORY COMMITTEES: To assist and advise the board in its functions and mission, the board may, at its discretion, utilize advisory committees consisting of board members, volunteers, or both. Any committee serving the board shall have a purely advisory role and shall not have any policymaking authority of any kind. The board has absolute discretion with respect to the number of individuals who may serve on a committee, provided that in no case shall a quorum of the members of the board serve on a committee. The committees the board may create and utilize include, but are not necessarily limited to, the following:

A. Rules committee: The board may utilize a rules committee to study the board’s rules and provide nonbinding recommendations as to future changes and improvements.

B. Complaint committee: The board may utilize a complaint committee to review disciplinary complaints against licensees and unlicensed practitioners and provide recommendations as to the final disposition of those complaints.

C. Application committee: The board may utilize an application committee to review applications for licensure and provide recommendations as to whether the board should grant or deny those applications.

D. Continuing Education Committee: The board may utilize a continuing education committee for the purpose of providing nonbinding recommendations as to whether to accept a proposed continuing education course towards licensees’ continuing education requirements.

[16.66.1.10 NMAC – N, 1/15/2021]

16.66.1.11 LISTS AND STATEMENTS:

A. The board staff shall maintain a list of the names and addresses of all licensees.

B. The board staff shall maintain a list of all persons whose licenses have been suspended or revoked in that particular calendar year.

C. The board staff shall maintain a statement of all funds received and a statement of all disbursements.

[16.66.1.11 NMAC – N, 1/15/2021]

16.66.1.12 SIGNATURES: A record, contract, or other document requiring a signature from an authorized person on behalf of the board may be signed by the Chair, Vice-Chair, or Board Administrator.

[16.66.1.12 NMAC – N, 1/15/2021]

16.66.1.13 RULE IMPLEMENTATION PERIOD:

A. Within six months of the effective date of these rules, any individual engaged in the practice of home inspection in New Mexico shall be required to obtain a license issued by the board as a condition of engaging in the future practice of home inspection in New Mexico.

(1) On the date falling six months after the effective date of these rules or on the date declared by the Board in the event of a state of emergency as provided in subsection (2) of this rule, whichever is later, any individual engaged in the unlicensed practice of home inspection in New Mexico shall be subject to disciplinary action by the board. The board may also, as it deems appropriate, request the attorney general or district attorney of the judicial district in which the person resides or in which the violation is occurring or has occurred to maintain an action in the name of the state to prosecute the unlicensed practitioner or to enjoin the act or practice.

(2) Extension of Implementation Period due to State of Emergency: In the event that the Governor declares a state of emergency due to the spread of an infectious disease that extends beyond the six months provided for in this rule, the Board may vote at an open meeting to extend the rule implementation period beyond those initial six months if, in the opinion of the Board, the state of emergency hinders prospective applicants from completing the necessary prerequisites to licensure. Any extension of the rule implementation period shall last no longer than 30 days after the expiration of the state of emergency declared by the Governor.

B. Nothing in this rule permits any person engaged in the practice of home inspection, whether licensed or unlicensed, to violate the code of ethics or standards of conduct as adopted by the board, nor does it permit such a person to violate the Home Inspector Licensing Act. Any action in violation of these rules or the Home Inspector Licensing Act may be considered by the board as part of an individual’s application for licensure.

[16.66.1.13 NMAC – N, 1/15/2021]

HISTORY OF 16.66.1 NMAC; [RESERVED]

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 66 HOME INSPECTOR LICENSING
PART 3 APPLICATIONS AND LICENSES**

16.66.3.1 ISSUING AGENCY: New Mexico home inspectors board.
[16.66.3.1 NMAC – N, 1/15/2021]

16.66.3.2 SCOPE: All licensed home inspectors, license applicants, other agencies, professional associations, and any member of the general public affected by or interested in home inspectors.
[16.66.3.2 NMAC – N, 1/15/2021]

16.66.3.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Home Inspector Licensing Act, Sections 61-24D-1 through 16 NMSA 1978 (2019).
[16.66.3.3 NMAC – N, 1/15/2021]

16.66.3.4 DURATION: Permanent.
[16.66.3.4 NMAC – N, 1/15/2021]

16.66.3.5 EFFECTIVE DATE: January 15, 2021, unless a later date is cited at the end of a section.
[16.66.3.5 NMAC – N, 1/15/2021]

16.66.3.6 OBJECTIVE: The objective of Part 3 of Chapter 66 is to set forth provisions governing applications for licensure as a home inspector and examinations.
[16.66.3.6 NMAC – N, 1/15/2021]

16.66.3.7 DEFINITIONS: Refer to Definitions, 16.66.1.7 NMAC.
[16.66.3.7 NMAC – N, 1/15/2021]

16.66.3.8 APPLICATION FOR LICENSURE BY TRAINING AND EXAMINATION:

A. The board shall issue a license to an applicant for licensure by training and examination if the applicant fulfills the following requirements and provides the following information and evidence:

- (1) Completion of the board-issued application form;
- (2) payment of the non-refundable application fee in full as provided in Part 2;
- (3) provision to the board of the applicant's fingerprints and all information necessary for the board to complete a state and national criminal background check;
- (4) provision to the board of sufficient documentation to establish that the applicant is at least 18 years of age ~~and a legal resident of the United States~~;
- (5) completion of at least 80 hours of classroom training:

(a) The cumulative total of 80 hours of classroom training must include all of the following subjects:

- (i) site characteristics and exterior;
- (ii) structural components;
- (iii) roofing;
- (iv) plumbing;
- (v) electrical;
- (vi) heating, cooling, and air conditioning;
- (vii) interiors, appliances, and garages;
- (viii) insulation and ventilation;
- (ix) fireplaces and fuel burning appliances;
- (x) New Mexico standards of practice and code of ethics;
- (xi) business practices, including New Mexico rules and regulations, pre-

inspection agreements, and report writing.

(b) All 80 hours of classroom training must be obtained through an educational course that satisfies one of the following criteria:

- (i) The course is approved or accepted by another governmental state home inspector licensing authority;
- (ii) the course is approved by the United States department of education or the New Mexico department of education; or
- (iii) the course is designated as pre-licensing education and is certified or approved by any society, institute, council, or association of home inspectors;
- (c) all 80 hours of classroom training may be completed online;
- (6) passage of the ~~[national home inspector examination]~~ National Home Inspector Examination (NHIE); or the proctored home inspector examination of the International Association of Certified Home Inspectors (Inter-NACHI);
- (7) completion of a total of at least 80 hours of field training spent conducting a minimum of 30 parallel home inspections, evidenced by documents including, but not necessarily limited to, a completed board-issued inspection log, pre-inspection agreements, notarized affidavits, and other similarly-reliable evidence;
- (8) satisfactory evidence that the applicant has errors and omissions insurance coverage meeting the minimum terms and conditions required by 16.66.8 NMAC; and
- (9) satisfactory evidence that the applicant has professional liability insurance coverage meeting the minimum terms and conditions required by 16.66.8 NMAC.

B. For the purposes of this rule, parallel home inspections mean inspections that are either:

- (1) Conducted in New Mexico prior to the effective date of this rule; or
- (2) those home inspections at which the applicant, for observational, experiential, and educational purposes, accompanied another home inspector who:
 - (a) is legally engaged in the practice and profession of home inspection in the jurisdiction in which the home inspection is conducted;
 - (b) has at least two years of experience in the profession of home inspection; and
 - (c) has previously completed at least 100 home inspections for compensation.

[16.66.3.8 NMAC – N, 1/15/2021; A, XX/XX/2023]

16.66.3.9 APPLICATION FOR LICENSURE BY EXPERIENCE AND EXAMINATION:

A. An individual is eligible for licensure by experience and examination if the individual satisfies both of the following criteria:

- (1) The applicant worked as a home inspector in each of the 24 months immediately preceding January 1, 2020; and
- (2) the applicant performed at least 100 home inspections for compensation in the 24 months immediately preceding January 1, 2020.

B. The board shall issue a home inspector license to applicant for licensure by experience and examination if the applicant fulfills the following requirements and provides the following information and evidence:

- (1) Completion of the board-issued application form;
- (2) payment of the non-refundable application fee in full as provided in Part 2;
- (3) provision to the board of the applicant's fingerprints and all information necessary for the board to complete a state and national criminal background check;
- (4) provision to the board of sufficient documentation to establish that the applicant is at least 18 years of age and a legal resident of the United States;
- (5) passage of a board approved national home inspector examination. For the purposes of this rule, the applicant must either have passed the ~~[national home inspector examination]~~ National Home Inspector Examination (NHIE), ~~[have passed prior to the date falling 6 months after the effective date of these rules Inter-NACHI's Home Inspector Exam]~~ or the proctored home inspector examination of the International Association of Certified Home Inspectors (Inter-NACHI); subject to the following limitations:
 - (a) Evidence of the applicant's examination passage must be in writing and written by the organization or entity that administered the examination; and
 - (b) the examination must have been proctored and the applicant must provide evidence as to this requirement.
- (6) Satisfactory evidence that the applicant has errors and omissions insurance coverage and professional liability insurance coverage meeting the minimum terms and conditions required by 16.66.8 NMAC; and

(7) provision to the board of sufficient documentation and evidence to establish the applicant's home inspector activities in the 24 months immediately preceding January 1, 2020. Such documentation may include, but is not limited to, tax records, notarized affidavits from persons other than the applicant, pre-inspection agreements, and other ~~[similarly reliable]~~ similarly reliable evidence of the applicant's home inspection activities in the 24 months immediately preceding January 1, 2020.

C. For the purposes of this rule, the phrase "worked as a home inspector in each of the 24 months immediately preceding January 1, 2020" means having personally conducted any business activity directly associated with the profession of home inspection but is not limited to having conducted an actual home inspection. To qualify for licensure by experience and examination, an individual does not need to have personally conducted a home inspection in each of the 24 months immediately preceding January 1, 2020, if that individual conducted another business activity directly associated with the profession of home inspection during each of the 24 months. [16.66.3.9 NMAC – N, 1/15/2021; A, XX/XX/2023]

16.66.3.10 APPLICATION FOR LICENSURE BY CREDENTIALS:

A. An applicant who holds a license in good standing to practice as a home inspector in another state may be granted a license by virtue of the applicant's credentials if the applicant's resident state license requirements are the same as or similar to the requirements set forth in the Home Inspector Licensing Act as determined by the board.

B. An applicant applying for licensure on the basis of the applicant's credentials as described in subsection A of this rule shall be required to provide to the board:

- (1) Completion of the board-issued application form;
- (2) payment of the non-refundable application fee in full as provided in Part 2;
- (3) provision to the board of the applicant's fingerprints and all information necessary for the board to complete a state and national criminal background check;
- (4) provision to the board of sufficient documentation to establish that the applicant is at least 18 years of age ~~[and a legal resident of the United States];~~
- (5) a certificate, letter, or other documentation from the licensing authority in the applicant's resident state attesting to the fact that the applicant holds a license in good standing to practice as a home inspector in that state;
- (6) satisfactory evidence that the applicant has errors and omissions insurance coverage meeting the minimum terms and conditions required by 16.66.8 NMAC; and
- (7) satisfactory evidence that the applicant has professional liability insurance coverage meeting the minimum terms and conditions required by 16.66.8 NMAC.

C. Pursuant to the Home Inspector Licensing Act, the board may negotiate agreements with other states or licensing jurisdictions to allow for reciprocity regarding licensure. A license granted pursuant to a reciprocity agreement shall be issued upon:

- (1) completion of the board-issued application form;
- (2) payment of the non-refundable application fee in full as provided in Part 2;
- (3) provision to the board of the applicant's fingerprints and all information necessary for the board to complete a state and national criminal background check;
- (4) provision to the board of sufficient documentation to establish that the applicant is at least 18 years of age ~~[and a legal resident of the United States];~~
- (5) the applicant's provision to the board of a certificate, letter, or other documentation from the licensing authority in the applicant's resident state attesting to the fact that the applicant holds a license in good standing to practice as a home inspector in that state.
- (6) Satisfactory evidence that the applicant has errors and omissions insurance coverage meeting the minimum terms and conditions required by 16.66.8 NMAC; and
- (7) satisfactory evidence that the applicant has professional liability insurance coverage meeting the minimum terms and conditions required by 16.66.8 NMAC.

[16.66.3.10 NMAC – N, 1/15/2021]

16.66.3.11 EXAMINATIONS:

A. Licensure by training and examination: All applicants for licensure by training and examination must either pass the ~~[national home inspector examination]~~ National Home Inspector Examination (NHIE) or the proctored examination of the International Association of Certified Home Inspectors (Inter-NACHI) ~~[following the~~

~~date of application for licensure with the board or have previously passed the national home inspector examination (NHIE)] prior to the date of the applicant's application for licensure.~~

B. Licensure by experience and examination: All applicants for licensure by experience and examination must either:

(1) ~~Pass the [national home inspector examination]~~ National Home Inspector Examination (NHIE); or

(2) ~~[have passed prior to the date falling six months after the effective date of these rules]~~ Pass the proctored home inspector examination of the International Association of certified home inspectors (Inter-NACHI) subject to the following limitations:

(a) Evidence of the applicant's examination passage must be in writing and written by the organization or entity that administered the examination; and

(b) the examination must have been proctored and the applicant must provide evidence as to this requirement.

C. Licensure by credentials: Applicants for licensure by licensure by credentials are not required to provide the Board with evidence as to prior examination passage. However, the board will consider whether the applicant's prior licensing jurisdiction requires the passage of a national examination in determining whether the prior licensing jurisdiction's standards are substantially equivalent to those in New Mexico.

D. It is the applicant's responsibility to make all arrangements with the ~~[examination board of professional home inspectors]~~ Examination Board of Professional Home Inspectors (EBPHI) to take the NHIE or with Inter-NACHI to take the proctored Inter-NACHI home inspectors examination.

E. The applicant shall send the applicant's examination score to the board, provided that the examination score must be in a document originally written by the organization or entity that administered the examination.

F. Any applicant who fails the NHIE may retake the exam at the next available opportunity. [16.66.3.11 NMAC – N, 1/15/2021; A, XX/XX/2023]

16.66.3.12 EXPEDITED LICENSURE FOR MILITARY SERVICE MEMBERS, SPOUSES, CHILDREN, AND VETERANS:

~~[A. Pursuant to Section 61-1-34 of the Uniform Licensing Act, any individual who is a military service member, spouse, or child, or who is a recent veteran having received an honorable discharge or separation from military service within the three years immediately preceding the date of the individual's application, is entitled to expedited licensure as provided herein.~~

~~B. Such an individual eligible for expedited licensure shall submit:~~

~~(1) An application for licensure on a form provided by the Regulation and Licensing Department;~~

~~(2) Satisfactory evidence that the applicant holds a license that is current and in good standing, issued by another jurisdiction, including a branch of an armed forces of the United States, whose licensure standards are substantially equivalent to those set forth in these rules and the Home Inspector Licensing Act;~~

~~(3) Proof of honorable discharge, military identification card, proof of marriage for spousal status, or proof of the individual's parentage so as to qualify for an expedited license pursuant to Section 61-1-34 of the Uniform Licensing Act; and~~

~~(4) Satisfactory evidence that the applicant has errors and omissions insurance coverage and professional liability insurance coverage meeting the minimum terms and conditions required by 16.66.8 NMAC.~~

~~C. An individual eligible for expedited licensure shall not be required to pay an application fee or an initial three year license fee.]~~

~~A. Application requirements:~~

~~(1) Applications for licensure shall be completed on a form provided by the home inspectors board.~~

~~(2) The applicant shall provide a complete application that includes the following information:~~

~~(a) Applicant's full name;~~

~~(b) current mailing address;~~

~~(c) current electronic mail address, if any;~~

~~(d) date of birth;~~

~~(e) background check, if required; and~~

~~(f) proof as described in Subsection C below.~~

(3) The applicant shall provide the following satisfactory evidence as follows:
(a) Applicant is currently licensed and in good standing in another jurisdiction, including a branch of the United States armed forces;
(b) applicant has met the minimal licensing requirements in that jurisdiction and the minimal licensing requirements in that jurisdiction are substantially equivalent to the licensing requirements for New Mexico; and
(c) the following documentation:
(i) For military service member: a copy of military orders;
(ii) for spouse of military service members: copy of military service member's military orders, and copy of marriage license;
(iii) for spouses of deceased military service members: copy of decedent's DD 214 and copy of marriage license;
(iv) for dependent children of military service members: a copy of military service member's orders listing dependent child, or a copy of military orders and one of the following: a copy of birth certificate, military service member's federal tax return or other governmental or judicial documentation establishing dependency;
(v) for veterans (retired or separated): a copy of DD 214 showing proof of honorable discharge.

(4) The license shall be issued by the board as soon as practicable but no later than thirty days after a qualified military service member, spouse, dependent child, or veteran files a complete application and provides a background check if required for a license, and any required fees.

(5) Military service members and veterans shall not pay and the board shall not charge a licensing fee for the first three years for a license issued pursuant to this rule.

(6) A license issued pursuant to this section shall be valid for the time period that is specified in the Home Inspectors Licensing Act.

B. Renewal requirements:

(1) A license issued pursuant to this section shall not be renewed unless the license holder satisfies the requirements for renewal set forth in 16.66.4.8 NMAC pursuant to 61-24D-8 NMSA 1978.

(2) As a courtesy, the board will send via electronic mail license renewal notifications to licensees before the license expiration date to the last known email address on file with the board. Failure to receive the renewal notification shall not relieve the licensee of the responsibility of timely renewal on or before the expiration date.

[16.66.3.12 NMAC – N, 1/15/2021; A, XX/XX/2023]

16.66.3.13 ~~INITIAL LICENSE LENGTH (RULE IN EFFECT UNTIL DECEMBER 31, 2021):~~

~~A. A new license issued pursuant to these rules shall be valid for no more than three years. Until the close of business on December 31, 2021, initial license expiration dates shall be staggered and initial licenses shall be issued for durations of one, two, or three years for the purposes of ensuring an orderly expiration period and the continuity of professional home inspector services in New Mexico. The durations of licenses shall be determined at random by Board staff. Each new license shall expire either after one, two, or three years.~~

~~B. Following the expiration of each initial license, the licensee shall be issued a license for a duration of three years.~~

~~C. This rule shall automatically, without further rulemaking action on the part of the Board, expire as of the close of business on December 31, 2021.] [RESERVED]~~

[16.66.3.13 NMAC – N, 1/15/2021; Repealed, XX/XX/2023]

16.66.3.14 LICENSURE PROCEDURE:

A. Upon receipt of a completed application, including all required documentation and fees, the Board's application committee, should the Board choose in its discretion to utilize such a committee, may provide a non-binding and purely advisory recommendation as to whether the Board should grant or deny the application.

B. No license may be issued until the applicant has paid the non-refundable, but potentially prorated as provided in these rules, initial license fee in full.

[16.66.3.14 NMAC – N, 1/15/2021]

16.66.3.15 CRIMINAL CONVICTIONS:

A. Convictions for any of the following offenses, or their equivalents in any other jurisdiction, are disqualifying criminal convictions that may disqualify an applicant from receiving or retaining a license issued by the board. This includes conviction of an offense which if committed in this state, would be deemed a felony under either state or federal law, without regard to its designation elsewhere. The term “conviction” shall include a finding or verdict of guilt, a plea of guilty, or a plea of nolo contendere in a criminal proceeding, regardless of whether the adjudication of guilt or sentence is withheld or not entered thereon, or an appeal of the conviction has been sought.

- (1) Homicide, voluntary or involuntary manslaughter;
- (2) trafficking in controlled substances, manufacturing of controlled substances or distribution of controlled substances;
- (3) human trafficking, kidnapping, false imprisonment, aggravated assault or aggravated battery;
- (4) rape, criminal sexual penetration, criminal sexual contact, incest, indecent exposure, or other related felony sexual offenses;
- (5) crimes involving adult abuse, neglect, or financial exploitation;
- (6) crimes involving child abuse or neglect;
- (7) crimes involving robbery, larceny, extortion, burglary, possession of burglary tools, destruction of property, criminal damage to property, unlawful or dangerous uses of explosives, breaking and entering, arson, making a bomb scare, tampering with evidence or receiving stolen property;
- (8) financial crimes involving fraud, forgery, embezzlement, credit card fraud,

B. The board shall not consider the fact of a criminal conviction as part of an application for licensure unless the conviction in question is one of the disqualifying criminal convictions listed in Subsection A of this rule.

C. The board shall not deny, suspend or revoke a license on the sole basis of a criminal conviction unless the conviction in question is one of the disqualifying criminal convictions listed in Subsection A of this rule.

D. Nothing in this rule prevents the board from denying an application or disciplining a licensee on the basis of an individual’s conduct to the extent that such conduct violated the Home Inspector Licensing Act, regardless of whether the individual was convicted of a crime for such conduct or whether the crime for which the individual was convicted is listed as one of the disqualifying criminal convictions listed in Subsection A of this rule.

E. In connection with an application for licensure, the board/commission shall not use, distribute, disseminate, or admit into evidence at an adjudicatory proceeding criminal records of any of the following:

- (1) An arrest not followed by a valid conviction;
- (2) a conviction that has been sealed, dismissed, expunged or pardoned;
- (3) a juvenile adjudication; or
- (4) a conviction for any crime other than the disqualifying criminal convictions listed in Subsection A of this rule.

[16.66.3.15 NMAC – N, XX/XX/2023]

HISTORY OF 16.66.3 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 66 HOME INSPECTOR LICENSING PART 7 STANDARDS OF PRACTICE

16.66.7.1 ISSUING AGENCY: New Mexico home inspectors board.
[16.66.7.1 NMAC – N, 1/15/2021]

16.66.7.2 SCOPE: All licensed home inspectors, license applicants, other agencies, professional associations, and any member of the general public affected by or interested in home inspectors.
[16.66.7.2 NMAC – N, 1/15/2021]

16.66.7.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Home Inspector Licensing Act, Sections 61-24D-1 through 16 NMSA 1978 (2019).
[16.66.7.3 NMAC – N, 1/15/2021]

16.66.7.4 DURATION: Permanent.

[16.66.7.4 NMAC – N, 1/15/2021]

16.66.7.5 EFFECTIVE DATE: January 15, 2021, unless a later date is cited at the end of a section.
[16.66.7.5 NMAC – N, 1/15/2021]

16.66.7.6 OBJECTIVE: The objective of Part 7 of Chapter 66 is to set forth minimum and uniform standards of practice governing all home inspector licensees.
[16.66.7.6 NMAC – N, 1/15/2021]

16.66.7.7 DEFINITIONS: Refer to Definitions, 16.66.1.7 NMAC.
[16.66.7.7 NMAC – N, 1/15/2021]

16.66.7.8 STANDARDS OF PRACTICE: This Part sets forth the minimum and uniform standards of practice applicable to all New Mexico home inspector licensees.
[16.66.7.8 NMAC – N, 1/15/2021]

16.66.7.9 HOME INSPECTIONS DO NOT DETERMINE CONFORMITY WITH STATE AND LOCAL BUILDING CODE REQUIREMENTS: A licensee shall not, as part of a home inspection, determine whether the home or components and/or systems of the home that have been inspected conform to local or state building code requirements. A home inspection report shall not contain a determination of whether the home or components and/or systems of the home that have been inspected conform to local or state building code requirements.
[16.66.7.9 NMAC – N, 1/15/2021]

16.66.7.10 PRE-INSPECTION AGREEMENTS: Prior to the commencement of any home inspection, a licensee shall enter into a pre-inspection agreement with the client. Any pre-inspection agreement must contain, at a minimum, all of the following:

- A. The date and time of the inspection;
- B. the name and license number of the licensee home inspector who will be conducting the home inspection;
- C. the compensation fee and terms of payment for services;
- D. a statement that the inspection shall be performed in accordance with the Board’s rules and standards of practice;
- E. a statement summarizing the scope of work to be performed by the licensee, provided that this scope of work may be modified by subsequent written agreement executed by the licensee and client prior to commencement of the home inspection;
- F. the date upon which the licensee shall deliver the home inspection report to the client;
- G. the following statement, in its entirety and in all capital letters: “THE HOME INSPECTOR WILL NOT DETERMINE AND THE REPORT PROVIDED UPON COMPLETION OF THE HOME INSPECTION WILL NOT CONTAIN A DETERMINATION OF WHETHER THE HOME OR COMPONENTS AND/OR SYSTEMS OF THE HOME THAT HAVE BEEN INSPECTED CONFORM TO LOCAL OR STATE BUILDING CODE REQUIREMENTS.”.

[16.66.7.10 NMAC – N, 1/15/2021]

16.66.7.11 HOME INSPECTIONS: The licensee shall, as part of any home inspection, inspect all of the readily accessible and permanently installed systems and components listed in 16.66.7.12 NMAC, 16.66.7.13 NMAC, 16.66.7.14 NMAC, 16.66.7.15 NMAC, 16.66.7.16 NMAC, 16.66.7.17 NMAC, 16.66.7.18 NMAC, 16.66.7.19 NMAC, 16.66.7.20 NMAC, 16.66.7.21 NMAC, 16.66.7.22 NMAC, and 16.66.7.23 NMAC.

A. Home inspections must be conducted by a licensee. A trainee may conduct parallel inspections and write portions of a home inspection report alongside and under the supervision of a licensee, provided that the licensee shall be responsible for compliance with these rules and regulations in all circumstances. Only a licensee may sign a home inspection report. Office staff may conduct scheduling and bookkeeping functions without a license.

B. Recommendations: Any decision to seek repair, further evaluation, or cost estimates for repair of any reported adverse condition observed and described in a home inspection report is reserved to the parties to the contract for sale and purchase of the home. All such repairs, evaluations, and cost estimates must be provided by a

qualified and, if required, licensed contractor and may include tests, measurements, and adjustments outside of the scope of a normal home inspection and may lead to the discovery of additional adverse conditions which may have additional repair costs that may not have been obvious to the home inspector. Any individual engaged in construction, or a trade related to contracting or making code determinations in New Mexico must be licensed by the appropriate state agency, if required.
[16.66.7.11 NMAC – N, 1/15/2021]

16.66.7.12 SITE CHARACTERISTICS AND EXTERIOR:

- A.** The licensee shall inspect:
- (1) Wall cladding materials, flashing, and trim;
 - (2) eaves, soffits, and fascia where accessible and observable from the ground level;
 - (3) exterior doors and windows;
 - (4) attached and adjacent decks, balconies, stairs, steps, stoops, stairways, and porches and the associated railings, guards, and handrails;
 - (5) vegetation, grading, surface drainage, and retaining structures that, as determined by the licensee, adversely affect the building;
 - (6) attached and adjacent walkways and exterior stoops, landings, and patios;
 - (7) adjacent driveways and other paved, masonry, or hardscape areas;
 - (8) attached portals and ramadas;
 - (9) garages and carports.
- B.** In the home inspection report, the licensee shall describe at least the wall cladding.
- C.** The licensee is not required to inspect:
- (1) Storm windows, storm doors, screening, shutters, awnings, and similar seasonal accessories;
 - (2) items that are not visible or readily accessible from the ground, including window and door flashing;
 - (3) fencing, privacy walls, and retaining walls, unless as determined by the licensee to adversely affect the subject building.
 - (4) erosion control and other earth stabilization measures;
 - (5) soil or geological conditions, site engineering, property boundaries, encroachments, or easements;
 - (6) adequacy of retaining walls, sea walls, waterfront bulkhead, docks, and piers;
 - (7) ponds, fountains, or decorative water features;
 - (8) safety glazing;
 - (9) integrity of multiple-pane window glazing or thermal window seals;
 - (10) recreational facilities;
 - (11) ~~[Outbuildings]~~ Additional structures other than attached garages and carports; and one detached garage or carport utilized as the primary vehicle structure in proximity to the subject home;
 - (12) swimming pools and spas.

[16.66.7.12 NMAC – N, 1/15/2021; A, XX/XX/2023]

16.66.7.13 STRUCTURAL COMPONENTS:

- A.** The licensee shall inspect all structural components, including but not limited to foundation and framing.
- B.** In the home inspection report, the licensee shall describe at least the following:
- (1) Methods used to inspect basements, underfloor crawlspaces and attics;
 - (2) foundation;
 - (3) floor structures;
 - (4) wall structures;
 - (5) ceiling structures; and
 - (6) roof structures.
- C.** The licensee is not required to:
- (1) Provide engineering or architectural services or analysis;
 - (2) offer an opinion about the adequacy of structural systems and components;
 - (3) enter underfloor crawlspace areas that have less than 24 inches of vertical clearance between components and the ground or that have an access opening smaller than 16 inches by 24 inches;

(4) enter attics or crawlspaces when access is obstructed or when entry could damage the property;

~~[(5) Enter attics or crawlspaces when the licensee suspects dangerous or adverse situations;]~~
[(6)] (5) traverse attic load-bearing components that are concealed by insulation or by other materials;

~~[(7)]~~ (6) move insulation.

[16.66.7.13 NMAC – N, 1/15/2021; A, XX/XX/2023]

16.66.7.14 ROOFING:

A. The licensee shall inspect:

- (1) ~~[Roofing]~~ covering materials;
- (2) roof drainage systems;
- (3) flashing;
- (4) skylights, chimneys, and roof penetrations.

B. In the home inspection report, the licensee shall describe at least the following:

- (1) roof materials; and
- (2) methods used to examine the roof as well as any general area of the roof that was not examined and the reason the area was not examined.

C. The licensee is not required to:

- (1) Perform a water test;
- (2) warrant or certify the roof or predict the service life expectancy;
- (3) remove snow, ice, debris, or other conditions that prohibit the observation of the roof surfaces;
- (4) inspect antennae, satellite dishes, lightning arresters, de-icing equipment, or similar attachments;
- (5) confirm proper fastening or installation of any roof-covering material.

[16.66.7.14 NMAC – N, 1/15/2021; A, XX/XX/2023]

16.66.7.15 PLUMBING:

A. The licensee shall inspect:

- (1) Interior water supply and distribution systems, including fixtures and fixture trim components (faucets, valves, drain stops, shower arms and showerheads, flush handles, etc.);
- (2) interior drain, waste, and venting systems, including fixtures;
- (3) ~~[water heating equipment and hot water supply systems;]~~ domestic potable water heating equipment and hot water distribution systems;
- (4) vent systems, flues, and chimneys;
- (5) fuel storage and fuel distribution systems;
- (6) sewage ejectors, sump pumps, and related piping; and
- (7) functional flow at each fixture group.

B. In the home inspection report, the licensee shall describe at least the following:

- (1) Interior water supply, drain, waste, and vent piping materials;
- (2) water heating equipment, including energy sources;
- (3) location of main water supply shut-off valve; and
- (4) location of main fuel supply shut-off valve.

C. The licensee is not required to inspect:

- (1) Interiors of vent systems, flues, and chimneys that are not readily accessible;
- (2) sewage drain waste systems;
- (3) on-site (septic) waste disposal systems;
- (4) wells, well pumps, and water storage related equipment;
- (5) on-site (well) water supply quantity and quality;
- (6) water conditioning systems;
- (7) solar, geothermal, and other renewable energy water heating systems;
- (8) manual and automatic fire extinguishing and sprinkler systems;
- (9) landscape irrigation systems;
- (10) clothes-washing machine connections;
- (11) refrigerator or ice maker water connections.

- D.** The licensee is not required to:
- (1) Light or ignite pilot flames;
 - (2) operate any shut-off or manual stop valves, except water closet flush valves and fixture valves;
 - (3) test shower pans, tub, and shower surrounds or enclosures for leakage or functional overflow protection;
 - (4) operate automatic safety controls;
 - (5) inspect or test for gas or fuel leaks or indications thereof.

- E.** The licensee is not required to determine:
- (1) capacity, temperature, life expectancy, or adequacy of the water heater;
 - (2) adequacy of combustion air components;
 - (3) whether water supply and waste disposal systems are public or private;
 - (4) water supply with respect to flow rate, volume, pressure, temperature, quantity, and quality;
 - (5) effectiveness of anti-siphon devices.

[16.66.7.15 NMAC – N, 1/15/2021; A, XX/XX/2023]

16.66.7.16 ELECTRICAL:

- A.** The licensee shall inspect:
- (1) Service drop (overhead) or the readily accessible components of the service lateral (underground);
 - (2) service entrance conductors and cables;
 - (3) service equipment and main disconnects;
 - (4) service and system grounding;
 - (5) interior Components of service distribution panelboards and secondary panelboards by removing the panelboards dead front cover.
 - (a) When, as determined by the licensee, primary electrical distribution panelboards or secondary panelboards and their related dead front covers and fasteners are readily accessible, the inspector will remove the dead front covers of such panelboards in order to examine readily accessible components installed on their interiors.
 - (b) Use of tools to remove dead front covers is specifically excluded when dead front covers or their fasteners are painted or otherwise sealed into place or when they cannot be removed with a standard, non-power-assisted slot head or Phillips head screwdriver or hex head nut driver.
 - (c) Exception for home inspector safety: The home inspector is not required to remove the covers of the service and distribution panels when hazardous conditions are present. The home inspector should use caution whenever removing the covers of service and distribution panels. Before touching the fasteners and cover, the home inspector should use available voltage test tools to verify if the panel assembly, panel dead front, and fasteners have live voltage conditions. Example tools include voltage sniffers, neon bulb testers, three light testers or voltmeters.
 - (6) Conductors (wiring methods);
 - (7) overcurrent protection devices;
 - (8) presence of labeling of overcurrent protection devices;
 - (9) ground fault circuit interrupter (“GFCI”) protection devices;
 - (10) arc fault circuit interrupter (“AFCI”) protection devices;
 - (11) a representative number of installed lighting fixtures, switches, and receptacles; and
 - (12) the polarity and grounding of all readily accessible receptacles within six feet of interior plumbing fixtures, in the garage or carport, and on the exterior of inspected structures.
- B.** In the home inspection report, the licensee shall describe at least the following:
- (1) Service location type: overhead service drop or underground service lateral;
 - (2) amperage and voltage rating of the service;
 - (3) service and system grounding and bonding (i.e., concrete encased, ground rod, equipotential cold-water metal pipe);
 - (4) location of main service entry and distribution panelboards and the associated disconnects;
 - (5) predominant branch circuit wiring methods;
 - (6) presence or absence of smoke detectors and alarms;

- (7) presence or absence of carbon monoxide detectors and alarms;
- (8) presence or absence of ground fault circuit interrupter (“GFCI”) protection devices;
- (9) presence or absence of arc fault circuit interrupter (“AFCI”) protection devices;
- (10) any unused circuit-breaker panel opening that was not filled;
- (11) the presence of solid conductor aluminum branch-circuit wiring;
- (12) any tested receptacle in which power was not present, polarity was incorrect, the cover was not in place, the GFCI devices were not properly installed or did not operate properly, there was evidence of arcing or excessive heat, or where the receptacle was not grounded or was not secured to the wall;
- (13) wiring methods which are not consistent with generally established practices such as terminations, multiple tapping of hot and neutral conductors, insulation, improper color-coding of conductor insulation, over-stripping, securing and protection of conductors, and bonding of components. [~~etc.~~];
- (14) condition of visible conductors and insulation (damaged, scorched, burned, or melted insulation; nicked conductors; cut off strands of multiple strand conductors, anti-oxidant compound on aluminum conductors, etc.);
- (15) corrosion on components; and
- (16) the presence a utility interactive system (i.e., solar, wind turbine, and electric vehicle charging systems).

C. The licensee is not required to inspect:

- (1) Remote control devices;
- (2) Low voltage wiring systems and components;
- (3) Ancillary wiring systems and components not a part of the primary electrical power distribution system;
- (4) Private or emergency electrical supply systems;
- (5) ~~Spark~~ Surge protection devices or lightning arrestors.

D. The licensee is not required to:

- (1) Operate electrical systems that are shut down;
- (2) test or operate overcurrent protection devices except ground fault and arc fault circuit interrupters;
- (3) test or operate any overcurrent device or safety device in the electrical service panel or elsewhere that may adversely affect the personal property or activity of the resident;
- (4) determine the accuracy of the labeling of all overcurrent protection devices;
- (5) calculate or measure amperage, voltage, and impedance;
- (6) determine (present or future) service capacity amperage, voltage, or the capacity, when not readily accessible, of the electrical system or main service equipment;
- (7) determine the age and type of smoke alarms and carbon monoxide alarms;
- (8) test or determine the interconnectivity or effectiveness of smoke alarms and carbon monoxide alarms;
- (9) verify that smoke or carbon monoxide alarms are interconnected or suitable for the hearing-impaired;
- (10) insert any tool, probe, or testing device inside panels or dismantle any electrical device or control other than to remove the primary electrical distribution panelboards or secondary panelboards and their related dead front covers and fasteners when no hazard conditions exist and when readily accessible;
- (11) remove the covers of junction, fixture, receptacle, or switch boxes unless specifically required by this standard; and
- (12) the home inspector is not required to remove electrical device covers when removal would damage or mar any painted surface or covering materials.

[16.66.7.16 NMAC – N, 1/15/2021; A, XX/XX/2023]

16.66.7.17 HEATING:

A. The licensee shall open readily openable access panels provided by the manufacturer or installer for routine homeowner maintenance.

B. The licensee shall inspect:

- (1) Permanently installed heating equipment and distribution systems, using normal operating controls; and
- (2) vent systems, flues, and chimneys.

C. In the home inspection report, the licensee shall describe at least the following:

- (1) Energy sources; and
 - (2) heating systems.
 - D. The licensee is not required to inspect:
 - (1) Interior of vent systems, flues, and chimneys that are not readily accessible;
 - (2) heat exchangers;
 - (3) humidifiers and dehumidifiers;
 - (4) electric air cleaning and sanitizing devices;
 - (5) portable heating equipment;
 - (6) heating systems using ground-source, water-source, solar, and renewable energy technologies;
 - (7) heat-recovery and similar whole-house mechanical ventilation systems;
 - (8) fuel tanks or underground or concealed fuel supply systems.
 - E. The licensee is not required to:
 - (1) Light or ignite pilot flames and burners;
 - (2) operate automatic safety controls.
 - F. The licensee is not required to determine:
 - (1) Uniformity, temperature, flow, balance, distribution, size, capacity, British thermal unit (“BTU”), or supply adequacy of the heating system;
 - (2) adequacy of combustion air components.
- [16.66.7.17 NMAC – N, 1/15/2021]

16.66.7.18 COOLING AND AIR CONDITIONING:

- A. The licensee shall open readily openable access panels provided by the manufacturer or installer for routine homeowner maintenance.
 - B. The licensee shall inspect central and permanently installed cooling equipment and distribution systems, using normal operating controls.
 - C. In the home inspection report, the licensee shall describe at least the following:
 - (1) Energy sources; and
 - (2) cooling systems.
 - D. The licensee is not required to:
 - (1) Operate cooling systems when weather conditions or other circumstances may cause equipment damage;
 - (2) operate automatic safety controls;
 - (3) inspect electric air cleaning and sanitizing devices;
 - (4) inspect cooling units that are not permanently installed or that are installed in windows;
 - (5) inspect cooling systems using ground-source, water-source, solar, and renewable energy technologies;
 - (6) determine the uniformity, temperature, flow, balance, distribution, size, capacity, BTU, or supply adequacy of the cooling system.
- [16.66.7.18 NMAC – N, 1/15/2021]

16.66.7.19 INTERIORS:

- A. The licensee shall inspect:
 - (1) Walls, ceilings, and floors;
 - (2) steps, stairways, balconies, and the associated railings, guards, and handrails;
 - (3) countertops and a representative number of permanently installed cabinets; and
 - (4) a representative number of doors and windows.
- B. In the home inspection report, the licensee shall describe at least the following:
 - (1) Absence of performing emergency escape and rescue openings in all sleeping rooms;
 - (2) observed indications of active water penetration on building components; and
 - (3) observed indications of active or abnormal condensation on building components.
- C. The licensee is not required to inspect:
 - (1) Safety glazing;
 - (2) coatings on and the hermetic seals between panes of window glass;
 - (3) security bar release and opening mechanisms;
 - (4) paint, wallpaper and other finish treatments on the interior walls, ceilings, and floors;

- (5) floor coverings or carpeting;
- (6) draperies, blinds, or other window treatments; and
- (7) recreational equipment or facilities.

D. The licensee is not required to move personal items, furniture, equipment, or plant life that obstructs access or visibility.

[16.66.7.19 NMAC – N, 1/15/2021]

16.66.7.20 GARAGES:

- A. The licensee shall inspect:
- (1) Walls and ceilings adjoining living space;
 - (2) doors entering living space from the garage;
 - (3) presence of burners, burner ignition devices, or heating elements permanently installed in the garage;
 - (4) presence of vehicle barrier when heating or water heating units are in the path of the vehicle;
 - (5) scuttle access to attics, including pull-down stairs inside the garage;
 - (6) garage vehicle door;
 - (7) vehicle door automatic operator and safety features present.

- B. In the home inspection report, the licensee shall describe at least the following:
- (1) Damage, unsealed penetrations, and openings to walls and ceilings adjoining living spaces;
 - (2) presence of heating or cooling supply or return ductwork inside the garage space;
 - (3) burners, burner ignition devices, and other heating elements, switches, and thermostats that may generate a glow, spark, or flame capable of igniting flammable vapors that are installed less than 18 inches above the floor above the garage floor, unless the unit is listed for garage floor installation; and
 - (4) vehicle door operation.

- C. The licensee is not required to:
- (1) Verify or certify automatic operator remote control operation;
 - (2) verify or certify the proper operation of any pressure-activated auto-reverse or related safety feature of a garage door;
 - (3) inspect or operate equipment housed in the garage, except as otherwise noted;
 - (4) move personal items, furniture, or equipment which obstructs access or visibility; and
 - (5) burners, burner ignition devices, or heating elements, switches, and thermostats that are not a minimum of 18 inches above the lowest garage floor elevation, unless the unit is listed for garage floor installation.

[16.66.7.20 NMAC – N, 1/15/2021]

16.66.7.21 INSULATION AND VENTILATION:

- A. The licensee shall inspect:
- (1) Insulation and vapor retarders in unfinished spaces;
 - (2) ventilation of unfinished spaces, including attics, enclosed rafter spaces, crawlspaces, and foundation areas; and
 - (3) kitchen, bathroom, laundry, and similar exhaust systems.

- B. In the home inspection report, the licensee shall describe at least the following:
- (1) Insulation and vapor retarder in unfinished spaces;
 - (2) ventilation of unfinished spaces; and
 - (3) absence of insulation in unfinished spaces at conditioned surfaces.

- C. The licensee is not required to:
- (1) Disturb insulation;
 - (2) determine the adequacy of ventilation;
 - (3) report on concealed insulation, vapor retarders, or venting equipment which is integral with household appliances.

[16.66.7.21 NMAC – N, 1/15/2021]

16.66.7.22 FIREPLACES AND FUEL BURNING APPLIANCES:

- A. The licensee shall inspect:

- (1) Fuel-burning fireplaces, stoves, and fireplace inserts;
- (2) fuel-burning accessories installed in fireplaces; and
- (3) chimneys and vent systems.
- B.** In the home inspection report, the licensee shall describe at least the following:
 - (1) Fuel-burning fireplaces, stoves, and fireplace inserts;
 - (2) fuel-burning accessories installed in fireplaces;
 - (3) presence or lack of a smoke detector in same room of fuel-burning fireplaces, stoves, or fireplace inserts; and
 - (4) presence or lack of a carbon monoxide detector in same room of fuel-burning fireplaces, stoves, and fireplace inserts.
- C.** The licensee is not required to inspect:
 - (1) Interiors of vent systems, flues, and chimneys that are not readily accessible;
 - (2) fire screens and doors;
 - (3) seals and gaskets;
 - (4) mantles and fireplace surrounds;
 - (5) combustion air components;
 - (6) heat distribution assists (gravity feeds and fan assisted);
 - (7) automatic fuel feed devices;
 - (8) fuel-burning fireplaces and appliances located outside the inspected structures.
- D.** The licensee is not required to:
 - (1) Ignite pilot flames;
 - (2) ignite or extinguish fires;
 - (3) determine the adequacy of drafts or draft characteristics;
 - (4) move fireplace inserts, stoves, or firebox contents.

[16.66.7.22 NMAC – N, 1/15/2021]

16.66.7.23 BUILT-IN APPLIANCES:

- A.** The licensee shall inspect:
 - (1) Kitchen, using normal operating controls:
 - (a) Dishwashers through a cycle of the licensee's choosing;
 - (b) ovens, ranges, and surface cooking appliances;
 - (c) trash compactors;
 - (d) food waste grinders;
 - (e) permanently installed kitchen ventilation equipment; and
 - (f) permanently installed microwave oven.
 - (2) Laundry:
 - (a) Dryer hookup energy sources; and
 - (b) dryer ventilation or exhaust system.
- B.** In the home inspection report, the licensee shall describe at least the permanently installed appliances that the licensee did not operate and the reason why the appliance was not operated.
- C.** The licensee is not required to inspect:
 - (1) Installed and free-standing kitchen and laundry appliances that are not listed in Subsection A of this rule;
 - (2) appliances in use or appliances on which personal items are located;
 - (3) appliance thermostats, including their calibration, adequacy of heating elements, self-cleaning oven cycles, indicator lights, door seals, timers, clocks, timed features, and other specialized features of the appliance;
 - (4) microwave oven heating function or microwave leakage;
 - (5) refrigerators, ice makers, or freezers;
 - (6) laundry washers with respect to operation or performance;
 - (7) laundry dryers with respect to operation or performance;
 - (8) central vacuum systems;
 - (9) clocks, timers, self-cleaning oven functions, or thermostats for calibration or automatic characteristics of operation;
 - (10) any system, component, or appliance that does not respond to normal user controls;

- (11) any system, component, or appliance that requires use of special codes, keys, combinations, or devices;
- (12) elevators or stairlifts.
- D. The licensee is not required to:
 - (1) Remove personal items in or on the appliance;
 - (2) operate or confirm the operation of every control and feature of an inspected appliance.

[16.66.7.23 NMAC – N, 1/15/2021]

16.66.7.24 LIMITATIONS AND EXCLUSIONS:

- A. General limitations:
 - (1) The requirements, obligations, and standards in this Part apply to residential buildings with four or fewer dwelling units and their attached and detached garages and carports.
 - (2) As part of a particular home inspection, licensees are not required to perform actions or make determinations or recommendations beyond those identified in this Part.
 - (3) Home inspections performed by licensees are not expected to be technically exhaustive.
 - (4) Home inspections performed by licensees are not required to identify or report on concealed, latent, or intermittent conditions.
- B. In general, the licensee is not required to inspect:
 - (1) Underground items including, but not limited to, lawn irrigation systems or underground storage tanks and other underground indications of their presence, whether abandoned or active;
 - (2) items that are not permanently installed;
 - (3) permanently installed decorative items;
 - (4) items in areas that the licensee does not enter, as provided in this Part;
 - (5) detached structures other than garages and carports;
 - (6) common elements and common areas in multi-unit housing, such as condominium properties and cooperative housing;
 - (7) all occurrence of multiple similar components, provided that the licensee may be required to inspect one such component;
 - (8) outdoor cooking appliances.
- C. In general, the licensee is not required to:
 - (1) Ignite or extinguish fires, pilot lights, burners, and other open flames that require manual ignition;
 - (2) dismantle systems and components, except as required by this Part;
 - (3) operate any system or component which is shut down or otherwise inoperable;
 - (4) operate any system or component which does not respond to normal operating controls;
 - (5) operate shut-off valves and manual stop valves;
 - (6) reset, reprogram, or otherwise adjust devices, systems, and components affected by the home inspection required by this part;
 - (7) probe surfaces that would be damaged or where no deterioration is visible or presumed to exist;
 - (8) use specialized tools;
 - (9) disturb insulation, move personal items, furniture, equipment, plant life, soil, snow, ice, or debris which obstructs access or visibility;
 - (10) enter areas that will, as determined by the licensee, likely be dangerous to the licensee or to other persons or likely to damage the property or its systems and components;
 - (11) enter any area or perform any procedure which may damage the property or its components or be dangerous to the licensee or other persons;
 - (12) enter under-floor crawlspaces and attics that are not readily accessible;
 - (13) identify and report cosmetic imperfections that do not affect a component's normally intended function or operation;
 - (14) describe or report on systems or components that are not included in this Part and that were not inspected;
 - (15) offer warranties or guarantees of any kind;
 - (16) offer or perform any engineering services;
 - (17) offer or perform any trade or professional service other than home inspection.
- D. In general, the licensee is not required to determine:

- (1) Compliance with local codes, ordinances or regulations, the legality of property and its present use, conditions of title, boundaries and easements, and location in earthquake, flood, mining, or any other hazard zones;
- (2) whether any permits were required or obtained for any work performed on the subject property;
- (3) whether grandfathering applies to any condition in a system or component;
- (4) condition of systems and components not readily accessible;
- (5) strength, adequacy, effectiveness, and efficiency of systems and components;
- (6) causes of adverse conditions observed and reported;
- (7) methods, materials, and costs of corrections;
- (8) future conditions, including but not limited to failure of systems and components;
- (9) the age of installation of any system, structure, or component of a building;
- (10) the remaining life expectancy of systems and components;
- (11) whether items, materials, conditions, and components are subject to recall, controversy, litigation, product liability, and other adverse claims and conditions;
- (12) operating costs of systems and components;
- (13) acoustical properties of systems and components;
- (14) presence of plants, animals, and other life forms and substances that may be hazardous or harmful to humans including, but not limited to, wood destroying organisms, molds, and mold-like substances;
- (15) presence of environmental hazards including, but not limited to, allergens, toxins, carcinogens, electromagnetic radiation, noise, radioactive substances, and contaminants in building materials, soil, water, and air;
- (16) effectiveness of permanently installed systems and methods used to control or remove suspected hazardous plants, animals, and environmental hazards;
- (17) soil conditions relating to geotechnical or hydrologic specialties;
- (18) advisability of purchasing of the property being inspected;
- (19) insurability of the property;
- (20) marketability or market value of the property;
- (21) suitability of the property for specialized uses.

[16.66.7.24 NMAC – N, 1/15/2021]

16.66.7.25 INSPECTION REPORTS: Following any home inspection, the licensee shall provide the client with a written inspection report.

A. Inspection reports must state, at a minimum, the following:

- (1) The systems and components of the home that, as determined by the licensee, are not performing their normally intended function or operation or are not consistent with generally established practices regarding the historically or conventionally applied and acknowledged methods of installation, assembly, operation or use;
- (2) recommendations as to the need to correct, observe, or check for further correction the adverse conditions reported pursuant to Subsection A of this rule or any other items requiring further evaluation;
- (3) such reasoning and explanation as necessary to identify and clarify the nature of the adverse conditions reported pursuant to Subsection A of this rule;
- (4) the systems and components of the home designated for inspection under the board’s rules which were present at the time of the home inspection but not inspected, along with the reasons for the lack of inspection;
- (5) the following statement, in its entirety and in all capital letters: “THE HOME INSPECTOR DID NOT DETERMINE AND THIS REPORT DOES NOT CONTAIN A DETERMINATION OF WHETHER THE HOME OR COMPONENTS AND/OR SYSTEMS OF THE HOME THAT HAVE BEEN INSPECTED CONFORM TO LOCAL OR STATE BUILDING CODE REQUIREMENTS.”.

B. Although all pre-inspection agreements must state the date upon which the licensee shall deliver the home inspection report to the client, if the pre-inspection agreement does not set forth such a date, the home inspector shall provide the report to the client no later than five days after the home inspection was performed.

[16.66.7.25 NMAC – N, 1/15/2021]

HISTORY OF 16.66.7 NMAC: [RESERVED]

