



DOUGLAS E. OLDMIXON, ADMINISTRATOR

**ADOPTED RULE ACTION FROM
MAY 6, 2013 MEETING OF THE COMMISSION
Chapter 535 General Provisions
Subchapter R. Real Estate Inspectors
§535.227-§535.233. Standards of Practice**

The Texas Real Estate Commission (TREC) adopts new §§535.227 - 535.233, concerning Standards of Practice, without changes to the proposed text as published in the March 1, 2013, issue of the *Texas Register* (38 TexReg 1336). The adoption takes effect January 1, 2014.

The new rules are adopted to update and clarify the current Standards and Practice (Standards) for real estate inspectors. The new rules were previously proposed and published in the November 23, 2012, issue of the *Texas Register* (37 TexReg 9281) but were withdrawn on February 12, 2013. The new rules were re-proposed following revisions made pursuant to comments received after the previous publication. The new rules make several non-substantive changes to the Standards by making them easier to read and providing a clearer understanding of what an inspector is and is not required to inspect and report. In addition, the rules make several substantive changes to the Standards to encourage a more performance-based approach to real estate inspections. The new rules are adopted following a comprehensive review of the Standards by the Texas Real Estate Inspector Committee, an advisory committee of six professional inspectors and three public members appointed by TREC. Both the substantive and non-substantive revisions were recommended by the Committee.

The substantive changes to the Standards are as follows:

New §535.227(a) expands the current definition of "Accessible" to clarify that an item is not accessible if the inspector has to climb over obstacles to gain access to it; adds a definition for "Component;" expands the current definition of "Inspect;" and clarifies that an inspector is required to report deficiencies "as specified by these standards of practice;" expands the definition of "Performance;" adds a definition for "Substantially completed;" and adds a definition for "Technically exhaustive." Subsection (b)(3) clarifies the intent and limitations of the

Standards; specifies that an inspector is not required to: inspect sub-surface drainage systems; determine compatibility, product lawsuits, listing, testing or protocol authority; determine the presence, absence or risk of "Chinese drywall;" determine the cause or source of a condition; verify sizing efficiency or adequacy of a gutter or downspout system; or light a pilot light.

New §535.228(a) amends current rule language relating to crawl space ventilation and drainage to focus on the performance of the item. It also removes and consolidates redundant exemplars found in the current Standards. Subsection (b) amends current rule language relating to grading and draining around the foundation to focus on the performance of the item. Subsection (c) removes the specific requirement that an inspector report as deficient a roof covering that is not appropriate for the slope of the roof. It also specifies that an inspector is not required to exhaustively examine all fasteners and adhesions. Subsection (d) amends current rule language relating to attic space ventilation to focus on the performance of the item. In addition to those items currently required to be inspected relating to exterior walls and windows, subsection (f) requires an inspector to report deficiencies in weather-stripping, gaskets or other air barrier materials. It also specifies that an inspector is not required to provide an exhaustive list of locations of deficiencies and water penetrations. Subsection (j) removes the requirement that an inspector report deficiencies in visible footings, piers, posts, pilings, joists, decking, water proofing at interfaces, flashing, surfaces coverings, and attachment points of porches, decks, balconies and carports.

New §535.229(a) consolidates several redundant ground and bonding items. It also removes the requirement that inspectors report as deficient the absence of arc-fault circuit interrupters. Subsection (b) requires an inspector to inspect installed carbon monoxide alarms. The new rule

updates the ground-fault circuit interruption language and moves the doorbell language from its current location under "appliances" to §535.229(b). It also removes and consolidates redundant exemplars found in the current Standards for switches and receptacles and clarifies that an inspector is not required to remove the covers of junction, fixture, receptacle or switch boxes unless specifically required to do so by the Standards.

New §535.230(a) clarifies the intent of the Standards regarding heating equipment, including expanding the current rule language relating to inadequate access and clearances, gas shut off valves, and gas appliance connectors, to provide more specificity. The new rules require an inspector to report deficiencies in the performance of a heat pump in electrical units. Subsection (b) clarifies the intent of the Standards regarding cooling equipment and other evaporative coolers, including expanding the current rule language relating to inadequate access and clearances to provide more specificity. Subsection (c) removes the requirement to report winterized units that are drained and shut down and consolidates several exemplars found in the current Standards. Subsection (d) removes several items found in the current Standards, deemed to be unrealistic for an inspector to inspect. Subsection (e) clarifies at what outdoor temperature an inspector is required to operate a heat pump and specifies that an inspector is not required to verify the tonnage match of indoor coils and outside coils or condensing units.

New §535.231 amends current rule language relating to static water pressure, fixtures and faucets not connected to appliances and fixture drains to focus on the performance of the item. The rule also removes and consolidates several exemplars found in the current Standards. Subsection (b) clarifies the intent of the Standards regarding water heaters, including expanding the current rule language relating to inadequate access and clearances, gas shut off valves, and gas appliance connectors, to provide more specificity. The rule also removes and consolidates several exemplars found in the current Standards. Subsection (c) clarifies the intent of the Standards regarding hydro-massage therapy equipment, including expanding the current rule language relating to inadequate

access and the performance and condition of components.

New §535.232 amends current rule language relating to several appliances to focus on the performance of the item. The rule changes the titles of several subsections of current §535.232 to bring them in line with industry terminology. The rule also removes and consolidates several exemplars related to various appliances found in the current Standards. Specifically, the rule adds several new requirements for ranges, cooktops, and ovens, including requiring the inspector to report as deficient combustible material within a certain area of cooktop burners, certain limitations regarding gas shutoff valves or connectors, and deficiencies in mounting and performance. The rule removes the requirement that an inspector inspect trash compactors, adds a requirement under "Garage door operators" that inspector report as deficient installed photoelectric sensors located more than six inches above the garage floor, and moves door bells requirements to new §535.229(b).

New §535.233 removes the Outdoor Cooking Equipment section, Gas Supply section, Other Built-In Appliance section and Whole House Vacuum System section. Paragraph (1) changes the titles of several paragraphs of §535.233 to bring them in line with industry terminology. The new rule clarifies the intent of the Standards regarding landscape irrigation (sprinkler) systems, including requiring an inspector to report as deficient: inoperative zone valves, the absence of shut-off valves between the water meter and backflow device, and deficiencies in the performance of the water emission devices, such as sprayer heads, rotary sprinkler heads, bubblers or drip lines. The new rule specifies that an inspector must report static water pressure and is not required to inspect sizing and effectiveness of backflow prevention devices. Paragraph (2) requires an inspector to report as deficient the presence of a single blockable main drain (potential entrapment hazard), the absence of ground-fault circuit interrupter protection devices and deficiencies in lighting fixtures. The rule specifies that an inspector is not required to disassemble filters or determine the effectiveness of entrapment covers. Paragraph (3) requires an inspector to report as deficient the absence of ground-fault circuit interrupter protection devices in grade-level portions of unfinished

accessory buildings used for storage or work areas, boathouses, and boat hoists. Paragraph (5) requires an inspector to report on the location of the distribution field in a private septic system.

The reasoned justification for the new rules is increased clarity for inspectors and consumers alike, as well as standards that more accurately reflect current technology, codes, and practices that form the basis of many of the Standards.

Four licensed inspectors sent comments on the proposed new rules.

One commenter objected to any changes in the Standards believing the Standards were being changed to ASHI standards which he felt were below the current Standards. The Commission respectfully disagrees with this commenter that the new rules are based on ASHI and cite the reasoned justification set out above as the need for the change to the existing Standards.

One commenter did not like the use of the word "performance" in conjunction with the Standards or the report stating that it would allow many items that are not functioning to some degree to not receive comments in the report. The Commission respectfully disagrees with this comment. Although the definition of "performance" was clarified in the new rules, the definition has been a part of the Standards for a long time. A performance-based approach to real estate inspections is what was contemplated by the legislature in Chapter 1102 and is in line with national industry standards.

Another commenter suggested in the areas of the Standards dealing with foundation crawl space, grade and drainage and roof structures and attic that the phrase "appears to be performing" would better serve the Texas consumer than simply reporting whether the item was "performing" or not. The Texas Real Estate Inspector Committee reviewed this comment and determined that the additional phrase was not helpful, adding no value to the information the inspector needs to provide.

This same commenter wanted "motor bonding" to be specifically included in the section on hydro-massage therapy equipment. The Texas Real Estate Inspector Committee reviewed this comment and determined that "motor bonding" was covered in the Standards under electrical systems and to repeat it here would be

unnecessarily redundant. The commenter also wanted the new rules to require inspectors to report the absence of carbon monoxide detectors as a deficiency. The Texas Real Estate Inspector Committee reviewed this comment and determined that the Standards requirement that the inspector note a deficiency if there is a defect with an existing carbon monoxide detection device, but not note the absence of such a device, was sufficient since carbon monoxide detection devices are not required to be in all homes.

Three commenters made suggested changes to insert specific technical requirements in the new rules regarding smoke detector devices, water heaters, dryer exhaust systems, and electrical systems (specifically referring to the National Electric Code standards). The Commission respectfully declines to make these changes. All of these technical change comments were reviewed by the Texas Real Estate Inspector Committee and they determined that these comments were trying to impose building, electrical or plumbing code or manufacturer's installment requirements into the Standards. Under Texas Occupations Code, §1102.001(9), a real estate inspection is defined as an "opinion as to the condition of the improvements to real property, including structural items, electrical items, mechanical systems, plumbing systems, or equipment." Additionally, a real estate inspector is not required by Chapter 1102 to be code-certified for any system. These provisions are evidence that the legislature did not intend for the real estate inspection for home buyers and sellers to be code-based and therefore the Commission declines to make revisions based on those comments.

One commenter was concerned that the new rules would require an inspector to test Arc Fault breakers (AFCI) when the house was occupied. Another commenter wanted inspectors to report the lack of AFCIs. The Texas Real Estate Inspector Committee intentionally removed the necessity to report on the lack of AFCIs, but noted that under the new rules, if AFCIs are present, inspectors have to check their performance unless the house is occupied, in which case, they do not.

One commenter agreed with the removal of the requirement to test the pressure relief valve but felt that other matters related to the pressure

relief valve such as absence of or deficiencies in the temperature and pressure relief valve should not have been deleted. The Texas Real Estate Inspector Committee reviewed this comment and determined that the Standard related to this area was clear and did not need to be expanded. The commenter also was concerned that the new rules no longer required inspectors to check for gas leaks on furnaces. The Texas Real Estate Inspector Committee reviewed this comment and determined that the Standards do still require an inspector to check for gas leaks on furnaces. Finally, this commenter requested a revision to the Standard regarding water heaters (which was not changed from the prior version of the Standards) stating that it was outdated and not applicable to most modern water heaters and tankless heaters which cannot be opened to inspect flame elements. The Texas Real Estate Inspector Committee reviewed this comment and determined that the Standard needed to remain to deal with older water heaters still found in homes. They also stated that the Standards already do not require an inspector to open or inspect a water heater flame where removing the cover would void a manufacturer's warranty or was not constructed to be removed.

The new rules are adopted under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to make and enforce all rules and regulations necessary for the performance of its duties and to establish standards of conduct and ethics for its licensees in keeping with the purpose and intent of the Act to ensure compliance with the provisions of the Act.

The statutes affected by these new rules are Texas Occupations Code, Chapters 1101 and 1102. No other statute, code or article is affected by the new rules.

§535.227. Standards of Practice: General Provisions. (a) Definitions.

(1) Accessible--In the reasonable judgment of the inspector, capable of being approached, entered, or viewed without:

(A) hazard to the inspector;

(B) having to climb over obstacles, moving furnishings or large, heavy, or fragile objects;

(C) using specialized equipment or procedures;

(D) disassembling items other than covers or panels intended to be removed for inspection;

(E) damaging property, permanent construction or building finish; or

(F) using a ladder for portions of the inspection other than the roof or attic space.

(2) Chapter 1102--Texas Occupations Code, Chapter 1102.

(3) Component--A part of a system.

(4) Cosmetic--Related only to appearance or aesthetics, and not related to performance, operability, or water penetration.

(5) Deficiency--In the reasonable judgment of the inspector, a condition that:

(A) adversely and materially affects the performance of a system, or component; or

(B) constitutes a hazard to life, limb, or property as specified by these standards of practice.

(6) Deficient--Reported as having one or more deficiencies.

(7) Inspect--To operate in normal ranges using ordinary controls at typical settings, look at and examine accessible systems or components and report observed deficiencies as specified by these standards of practice.

(8) Performance--Achievement of an operation, function or configuration relative to accepted industry standard practices with consideration of age and normal wear and tear from ordinary use.

(9) Report--To provide the inspector's opinions and findings on the standard inspection report form as required by §535.222 and §535.223 of this title.

(10) Specialized equipment--Equipment such as thermal imaging equipment, moisture meters, gas or carbon monoxide detection equipment, environmental testing equipment and devices, elevation determination devices, and ladders capable of reaching surfaces over one story above ground surfaces.

(11) Specialized procedures--Procedures such as environmental testing, elevation measurement, calculations and any method employing destructive testing that damages otherwise sound materials or finishes.

(12) Standards of practice--§§535.227 - 535.233 of this title.

(13) Substantially completed--The stage of construction when a new building, addition, improvement, or alteration to an existing building is sufficiently complete that the building, addition, improvement or alteration can be occupied or used for its intended purpose.

(14) Technically Exhaustive--A comprehensive investigation beyond the scope of a real estate inspection which would involve determining the cause or effect of deficiencies, exploratory probing or discovery, the use of specialized knowledge, equipment or procedures.

(b) Scope.

(1) These standards of practice define the minimum levels of inspection required for substantially completed residential improvements to real property up to four dwelling units. A real estate inspection is a non-technically exhaustive, limited visual survey and basic performance evaluation of the systems and components of a building using normal controls and does not require the use of specialized equipment or procedures. The purpose of the inspection is to provide the client with information regarding the general condition of the residence at the time of inspection. The inspector may provide a higher level of inspection performance than required by these standards of practice and may inspect components and systems in addition to those described by the standards of practice.

(2) General Requirements. The inspector shall:

(A) operate fixed or installed equipment and appliances listed herein in at least one mode with ordinary controls at typical settings;

(B) visually inspect accessible systems or components from near proximity to the systems and components, and from the interior of the attic and crawl spaces; and

(C) complete the standard inspection report form as required by §535.222 and §535.223 of this title.

(3) General limitations. The inspector is not required to:

(A) inspect:

(i) items other than those listed within these standards of practice;

(ii) elevators;

(iii) detached buildings, decks, docks, fences, or waterfront structures or equipment;

(iv) anything buried, hidden, latent, or concealed;

(v) sub-surface drainage systems;

(vi) automated or programmable control systems, automatic shut-off, photoelectric sensors, timers, clocks, metering devices, signal lights, lightning arrestor system, remote controls, security or data distribution systems, solar panels or smart home automation components; or

(vii) concrete flatwork such as driveways, sidewalks, walkways, paving stones or patios;

(B) report:

(i) past repairs that appear to be effective and workmanlike except as specifically required by these standards;

(ii) cosmetic or aesthetic conditions; or

(iii) wear and tear from ordinary use;

(C) determine:

(i) insurability, warrantability, suitability, adequacy, compatibility, capacity, reliability, marketability, operating costs, recalls, counterfeit products, product lawsuits, life expectancy, age, energy efficiency, vapor barriers, thermostatic performance, compliance with any code, listing, testing or protocol authority, utility sources, or manufacturer or regulatory requirements except as specifically required by these standards;

(ii) the presence or absence of pests, termites, or other wood-destroying insects or organisms;

(iii) the presence, absence, or risk of asbestos, lead-based paint, mold, mildew, corrosive or contaminated drywall "Chinese Drywall" or any other environmental hazard, environmental pathogen, carcinogen, toxin, mycotoxin, pollutant, fungal presence or activity, or poison;

(iv) types of wood or preservative treatment and fastener compatibility; or

(v) the cause or source of a condition;

(D) anticipate future events or conditions, including but not limited to:

(i) decay, deterioration, or damage that may occur after the inspection;

(ii) deficiencies from abuse, misuse or lack of use;

(iii) changes in performance of any component or system due to changes in use or occupancy;

(iv) the consequences of the inspection or its effects on current or future buyers and sellers;

(v) common household accidents, personal injury, or death;

(vi) the presence of water penetrations; or

(vii) future performance of any item;

(E) operate shut-off, safety, stop, pressure or pressure-regulating valves or items requiring the use of codes, keys, combinations, or similar devices;

(F) designate conditions as safe;

(G) recommend or provide engineering, architectural, appraisal, mitigation, physical surveying, realty, or other specialist services;

(H) review historical records, installation instructions, repair plans, cost estimates, disclosure documents, or other reports;

(I) verify sizing, efficiency, or adequacy of the ground surface drainage system;

(J) verify sizing, efficiency, or adequacy of the gutter and downspout system;

(K) operate recirculation or sump pumps;

(L) remedy conditions preventing inspection of any item;

(M) apply open flame or light a pilot to operate any appliance;

(N) turn on decommissioned equipment, systems or utility services; or

(O) provide repair cost estimates, recommendations, or re-inspection services.

(4) In the event of a conflict between specific provisions and general provisions in the standards of practice, specific provisions shall take precedence.

(5) Departure.

(A) An inspector may depart from the inspection of a component or system required by the standards of practice only if:

(i) the inspector and client agree the item is not to be inspected;

(ii) the inspector is not qualified to inspect the item;

(iii) in the reasonable judgment of the inspector, conditions exist that prevent inspection of an item;

(iv) the item is a common element of a multi-family development and is not in physical contact with the unit being inspected, such as the foundation under another building or a part of the foundation under another unit in the same building;

(v) the inspector reasonably determines that conditions or materials are hazardous to the health or safety of the inspector; or

(vi) in the reasonable judgment of the inspector, the actions of the inspector may cause damage to the property.

(B) If an inspector departs from the inspection of a component or system required by the standards of practice, the inspector shall:

(i) notify the client at the earliest practical opportunity that the component or system will not be inspected; and

(ii) make an appropriate notation on the inspection report form, stating the reason the component or system was not inspected.

(C) If the inspector routinely departs from inspection of a component or system required by the standards of practice, and the inspector has reason to believe that the property being inspected includes that component or system, the earliest practical opportunity for the notice required by this subsection is the first contact the inspector makes with the prospective client.

(c) Enforcement. Failure to comply with the standards of practice is grounds for disciplinary action as prescribed by Chapter 1102.

§535.228. Standards of Practice: Minimum Inspection Requirements for Structural Systems.

(a) Foundations. The inspector shall:

(1) render a written opinion as to the performance of the foundation; and

(2) report:

(A) the type of foundations;

(B) the vantage point from which the crawl space was inspected;

(3) generally report present and visible indications used to render the opinion of adverse performance, such as:

(A) binding, out-of-square, non-latching doors;

(B) framing or frieze board separations;

(C) sloping floors;

(D) window, wall, floor, or ceiling cracks or separations; and

(E) rotating, buckling, cracking, or deflecting masonry cladding.

(4) report as Deficient:

(A) deteriorated materials;

(B) deficiencies in foundation components such as; beams, joists, bridging, blocking, piers, posts, pilings, columns, sills or subfloor;

(C) deficiencies in retaining walls related to foundation performance;

(D) exposed or damaged reinforcement;

(E) crawl space ventilation that is not performing; and

(F) crawl space drainage that is not performing.

(5) The inspector is not required to:

(A) enter a crawl space or any area where headroom is less than 18 inches or the access opening is less than 24 inches wide and 18 inches high;

(B) provide an exhaustive list of indicators of possible adverse performance; or

(C) inspect retaining walls not related to foundation performance.

(b) Grading and drainage. The inspector shall:

(1) report as Deficient:

(A) drainage around the foundation that is not performing;

(B) deficiencies in grade levels around the foundation; and

(C) deficiencies in installed gutter and downspout systems.

(2) The inspector is not required to:

(A) inspect flatwork or detention/retention ponds (except as related to slope and drainage);

(B) determine area hydrology or the presence of underground water; or

(C) determine the efficiency or performance of underground or surface drainage systems.

(c) Roof covering materials. The inspector shall:

(1) inspect the roof covering materials from the surface of the roof;

(2) report:

(A) type of roof coverings;

(B) vantage point from where the roof was inspected;

(C) evidence of water penetration;

(D) evidence of previous repairs to the roof covering material, flashing details, skylights and other roof penetrations; and

(3) report as Deficient deficiencies in:

(A) fasteners;

(B) adhesion;

(C) roof covering materials;

(D) flashing details;

(E) skylights; and

(F) other roof penetrations.

(4) The inspector is not required to:

(A) determine the remaining life expectancy of the roof covering;

(B) inspect the roof from the roof level if, in the inspector's reasonable judgment, the inspector cannot safely reach or stay on the roof or significant damage to the roof covering materials may result from walking on the roof;

(C) determine the number of layers of roof covering material;

(D) identify latent hail damage;

(E) exhaustively examine all fasteners and adhesion, or

(F) provide an exhaustive list of locations of deficiencies and water penetrations.

(d) Roof structures and attics. The inspector shall:

(1) report:

(A) the vantage point from which the attic space was inspected;

(B) approximate average depth of attic insulation;

(C) evidence of water penetration;

(2) report as Deficient:

(A) attic space ventilation that is not performing;

(B) deflections or depressions in the roof surface as related to adverse performance of the framing and decking;

(C) missing insulation;

(D) deficiencies in

(i) installed framing members and decking;

(ii) attic access ladders and access openings; and

(iii) attic ventilators.

(3) The inspector is not required to:

(A) enter attics or unfinished spaces where openings are less than 22 inches by 30 inches or headroom is less than 30 inches;

(B) operate powered ventilators; or

(C) provide an exhaustive list of locations of deficiencies and water penetrations.

(e) Interior walls, ceilings, floors, and doors. The inspector shall:

(1) report evidence of water penetration;

(2) report as Deficient:

(A) deficiencies in the condition and performance of doors and hardware;

(B) deficiencies related to structural performance or water penetration; and

(C) the absence of or deficiencies in fire separation between the garage and the living space and between the garage and its attic.

(3) The inspector is not required to:

(A) report cosmetic damage or the condition of floor, wall, or ceiling coverings; paints, stains, or other surface coatings; cabinets; or countertops, or

(B) provide an exhaustive list of locations of deficiencies and water penetrations.

(f) Exterior walls, doors, and windows. The inspector shall:

(1) report evidence of water penetration;

(2) report as Deficient:

(A) the absence of performing emergency escape and rescue openings in all sleeping rooms;

(B) a solid wood door less than 1-3/8 inches in thickness, a solid or honeycomb core steel door less than 1-3/8 inches thick, or a 20-minute fire-rated door between the residence and an attached garage;

(C) missing or damaged screens;

(D) deficiencies related to structural performance or water penetration;

(E) deficiencies in:

(i) weather stripping, gaskets or other air barrier materials;

(ii) claddings;

(iii) water resistant materials and coatings;

(iv) flashing details and terminations;

(v) the condition and performance of exterior doors, garage doors and hardware; and

(vi) the condition and performance of windows and components.

(3) The inspector is not required to:

(A) report the condition of awnings, blinds, shutters, security devices, or other non-structural systems;

(B) determine the cosmetic condition of paints, stains, or other surface coatings; or

(C) operate a lock if the key is not available.

(D) provide an exhaustive list of locations of deficiencies and water penetrations.

(g) Exterior and interior glazing. The inspector shall:

(1) report as Deficient:

(A) insulated windows that are obviously fogged or display other evidence of broken seals;

(B) deficiencies in glazing, weather stripping and glazing compound in windows and doors; and

(C) the absence of safety glass in hazardous locations.

(2) The inspector is not required to:

(A) exhaustively inspect insulated windows for evidence of broken seals;

(B) exhaustively inspect glazing for identifying labels; or

(C) identify specific locations of damage.

(h) Interior and exterior stairways. The inspector shall:

(1) report as Deficient:

(A) spacing between intermediate balusters, spindles, or rails for steps, stairways, guards, and railings that permit passage of an object greater than 4 inches in diameter, except that on the open side of the staircase treads, spheres less than 4-3/8 inches in diameter may pass through the guard rail balusters or spindles; and

(B) deficiencies in steps, stairways, landings, guardrails, and handrails.

(2) The inspector is not required to exhaustively measure every stairway component.

(i) Fireplaces and chimneys. The inspector shall:

(1) report as Deficient:

(A) built-up creosote in accessible areas of the firebox and flue;

(B) the presence of combustible materials in near proximity to the firebox opening;

(C) the absence of fireblocking at the attic penetration of the chimney flue, where accessible; and

(D) deficiencies in the:

(i) damper;

(ii) lintel, hearth, hearth extension, and firebox;

(iii) gas valve and location;

(iv) circulating fan;

(v) combustion air vents; and

(vi) chimney structure, termination, coping, crown, caps, and spark arrestor.

(2) The inspector is not required to:

(A) verify the integrity of the flue;

(B) perform a chimney smoke test; or

(C) determine the adequacy of the draft.

(j) Porches, Balconies, Decks, and Carports. The inspector shall:

(1) inspect:

(A) attached balconies, carports, and porches;

(B) abutting porches, decks, and balconies that are used for ingress and egress; and

(2) report as Deficient:

(A) on decks 30 inches or higher above the adjacent grade, spacings between intermediate balusters, spindles, or rails that permit passage of an object greater than four inches in diameter; and

(B) deficiencies in accessible components.

(3) The inspector is not required to:

(A) exhaustively measure every porch, balcony, deck, or attached carport components; or

(B) enter any area where headroom is less than 18 inches or the access opening is less than 24 inches wide and 18 inches high.

§535.229. Standards of Practice: Minimum Inspection Requirements for Electrical Systems

(a) Service entrance and panels. The inspector shall:

(1) report as Deficient:

(A) a drop, weatherhead or mast that is not securely fastened to the building;

(B) the absence of or deficiencies in the grounding electrode system;

(C) missing or damaged dead fronts or covers plates;

(D) conductors not protected from the edges of electrical cabinets, gutters, or cutout boxes;

(E) electrical cabinets and panel boards not appropriate for their location; such as a clothes closet, bathrooms or where they are exposed to physical damage;

(F) electrical cabinets and panel boards that are not accessible or do not have a minimum of 36-inches of clearance in front of them;

(G) deficiencies in:

(i) electrical cabinets, gutters, cutout boxes, and panel boards;

(ii) the insulation of the service entrance conductors, drip loop, separation of conductors at weatherheads, and clearances;

(iii) the compatibility of overcurrent devices and conductors;

(iv) the overcurrent device and circuit for labeled and listed 240 volt appliances;

(v) bonding and grounding;

(vi) conductors;

(vii) the operation of installed ground-fault or arc-fault circuit interrupter devices; and

(H) the absence of:

(i) trip ties on 240 volt overcurrent devices or multi-wire branch circuit;

(ii) appropriate connections;

(iii) anti-oxidants on aluminum conductor terminations;

(iv) a main disconnecting means.

(2) The inspector is not required to:

(A) determine present or future sufficiency of service capacity amperage, voltage, or the capacity of the electrical system;

(B) test arc-fault circuit interrupter devices when the property is occupied or damage to personal property may result, in the inspector's reasonable judgment;

(C) conduct voltage drop calculations;

(D) determine the accuracy of overcurrent device labeling;

(E) remove covers where hazardous as judged by the inspector;

(F) verify the effectiveness of overcurrent devices; or

(G) operate overcurrent devices.

(b) Branch circuits, connected devices, and fixtures. The inspector shall:

(1) manually test the installed and accessible smoke and carbon monoxide alarms;

(2) report the type of branch circuit conductors;

(3) report as Deficient:

(A) the absence of ground-fault circuit interrupter protection in all:

(i) bathroom receptacles;

(ii) garage receptacles;

(iii) outdoor receptacles;

(iv) crawl space receptacles;

(v) unfinished basement receptacles;

(vi) kitchen countertop receptacles; and

(vii) receptacles that are located within six feet of the outside edge of a sink;

(B) the failure of operation of ground-fault circuit interrupter protection devices;

(C) missing or damaged receptacle, switch or junction box covers;

(D) the absence of:

(i) equipment disconnects;

(ii) appropriate connections, such as copper/aluminum approved devices, if branch circuit aluminum conductors are discovered in the main or sub-panel based on a random sampling of accessible receptacles and switches;

(E) deficiencies in:

(i) receptacles;

(ii) switches;

(iii) bonding or grounding;

(iv) wiring, wiring terminations, junction boxes, devices, and fixtures, including improper location;

- (v) doorbell and chime components;
- (vi) smoke and carbon monoxide alarms;
- (F) improper use of extension cords;
- (G) deficiencies in or absences of conduit, where applicable; and
- (H) the absence of smoke alarms:
 - (i) in each sleeping room;
 - (ii) outside each separate sleeping area in the immediate vicinity of the sleeping rooms; and
 - (iii) in the living space of each story of the dwelling.
- (4) The inspector is not required to:
 - (A) inspect low voltage wiring;
 - (B) disassemble mechanical appliances;
 - (C) verify the effectiveness of smoke alarms;
 - (D) verify interconnectivity of smoke alarms;
 - (E) activate smoke or carbon monoxide alarms that are or may be monitored or require the use of codes;
 - (F) verify that smoke alarms are suitable for the hearing-impaired;
 - (G) remove the covers of junction, fixture, receptacle or switch boxes unless specifically required by these standards.

§535.230. Standards of Practice: Minimum Inspection Requirements for Heating, Ventilation, and Air Conditioning Systems.

- (a) Heating equipment. The inspector shall:
 - (1) report:
 - (A) the type of heating systems;
 - (B) the energy sources;
 - (2) report as Deficient:
 - (A) inoperative units;
 - (B) deficiencies in the thermostats;
 - (C) inappropriate location;
 - (D) the lack of protection from physical damage;
 - (E) 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;

(F) the absence of an opening that would allow access to equipment for inspection, service, repair or replacement without removing permanent construction or building finish;

(G) when applicable; a floored passageway and service platform that would allow access for equipment inspection, service, repair or replacement;

(H) deficiencies in mounting and performance of window and wall units;

(I) in electric units, deficiencies in:

- (i) performance of heat pumps;
- (ii) performance of heating elements; and
- (iii) condition of conductors; and

(J) in gas units:

(i) gas leaks;

(ii) flame impingement, uplifting flame, improper flame color, or excessive scale buildup;

(iii) the absence of a gas shut-off valve within six feet of the appliance;

(iv) the absence of a gas appliance connector or one that exceeds six feet in length;

(v) gas appliance connectors that are concealed within or extended through walls, floors, partitions, ceilings or appliance housings; and

(vi) deficiencies in:

- (I) combustion, and dilution air;
- (II) gas shut-off valves;
- (III) access to a gas shutoff valves that prohibits full operation;

(IV) gas appliance connector materials; and

(V) the vent pipe, draft hood, draft, proximity to combustibles, and vent termination point and clearances; and

(b) Cooling equipment other than evaporative coolers. The inspector shall:

- (1) report the type of systems;
- (2) report as Deficient:

- (A) inoperative units;
- (B) inadequate cooling as demonstrated by its performance;
- (C) the absence of an opening that would allow access to equipment for inspection, service, repair or replacement without removing permanent construction or building finish;
- (D) when applicable; a floored passageway and service platform that would allow access for equipment inspection, service, repair or replacement;
- (E) noticeable vibration of blowers or fans;
- (F) water in the auxiliary/secondary drain pan;
- (G) a primary drain pipe that discharges in a sewer vent;
- (H) missing or deficient refrigerant pipe insulation;
- (I) dirty coils, where accessible;
- (J) condensing units lacking adequate clearances or air circulation or that has deficiencies in the fins, location, levelness, or elevation above grade surfaces;
- (K) deficiencies in:
 - (i) the condensate drain and auxiliary/secondary pan and drain system;
 - (ii) mounting and performance of window or wall units; and
 - (iii) thermostats.
- (c) Evaporative coolers. The inspector shall:
 - (1) report:
 - (A) type of systems;
 - (B) the type of water supply line;
 - (2) report as Deficient:
 - (A) inoperative units;
 - (B) inadequate access and clearances;
 - (C) deficiencies in performance or mounting;
 - (D) missing or damaged components;
 - (E) the presence of active water leaks; and
 - (F) the absence of backflow prevention.
 - (d) Duct systems, chases, and vents. The inspector shall report as Deficient:
 - (1) damaged duct systems or improper material;
 - (2) damaged or missing duct insulation;
 - (3) the absence of air flow at accessible supply registers;
 - (4) the presence of gas piping and sewer vents concealed in ducts, plenums and chases;
 - (5) ducts or plenums in contact with earth; and
 - (6) deficiencies in:
 - (A) filters;
 - (B) grills or registers; and
 - (C) the location of return air openings.
 - (e) The inspector is not required to:
 - (1) program digital thermostats or controls;
 - (2) inspect:
 - (A) for pressure of the system refrigerant, type of refrigerant, or refrigerant leaks;
 - (B) winterized or decommissioned equipment; or
 - (C) duct fans, humidifiers, dehumidifiers, air purifiers, motorized dampers, electronic air filters, multi-stage controllers, sequencers, heat reclaimers, wood burning stoves, boilers, oil-fired units, supplemental heating appliances, de-icing provisions, or reversing valves;
 - (3) operate:
 - (A) setback features on thermostats or controls;
 - (B) cooling equipment when the outdoor temperature is less than 60 degrees Fahrenheit;
 - (C) radiant heaters, steam heat systems, or unvented gas-fired heating appliances; or
 - (D) heat pumps, in the heat pump mode, when the outdoor temperature is above 70 degrees;
 - (4) verify:
 - (A) compatibility of components;
 - (B) tonnage match of indoor coils and outside coils or condensing units;

- (C) the accuracy of thermostats; or
- (D) the integrity of the heat exchanger; or

(5) determine:

- (A) sizing, efficiency, or adequacy of the system;
- (B) balanced air flow of the conditioned air to the various parts of the building; or
- (C) types of materials contained in insulation.

§535.231. Standards of Practice: Minimum Inspection Requirements for Plumbing Systems.

(a) Plumbing systems. The inspector shall:

(1) report:

- (A) location of water meter;
 - (B) location of homeowners main water supply shutoff valve; and
 - (C) static water pressure;
- (2) report as Deficient:
- (A) the presence of active leaks;
 - (B) the lack of a pressure reducing valve when the water pressure exceeds 80 PSI;
 - (C) the lack of an expansion tank at the water heater(s) when a pressure reducing valve is in place at the water supply line/system;

(D) the absence of:

- (i) fixture shut-off valves;
- (ii) dielectric unions, when applicable;
- (iii) back-flow devices, anti-siphon devices, or air gaps at the flow end of fixtures; and

(E) deficiencies in:

- (i) water supply pipes and waste pipes;
- (ii) the installation and termination of the vent system;
- (iii) the performance of fixtures and faucets not connected to an appliance;
- (iv) water supply, as determined by viewing functional flow in two fixtures operated simultaneously;
- (v) fixture drain performance;
- (vi) orientation of hot and cold faucets;

- (vii) installed mechanical drain stops;
- (viii) commodes, fixtures, showers, tubs, and enclosures; and
- (ix) the condition of the gas distribution system.

(3) The inspector is not required to:

- (A) operate any main, branch, or shut-off valves;
- (B) operate or inspect sump pumps or waste ejector pumps;
- (C) verify the performance of:
 - (i) the bathtub overflow;
 - (ii) clothes washing machine drains or hose bibbs; or
 - (iii) floor drains;

(D) inspect:

- (i)** any system that has been winterized, shut down or otherwise secured;
- (ii)** circulating pumps, free-standing appliances, solar water heating systems, water-conditioning equipment, filter systems, water mains, private water supply systems, water wells, pressure tanks, sprinkler systems, swimming pools, or fire sprinkler systems;
- (iii)** inaccessible gas supply system components for leaks;
- (iv)** for sewer clean-outs; or
- (v)** for the presence or performance of private sewage disposal systems; or

(E) determine:

- (i)** quality, potability, or volume of the water supply; or
- (ii)** effectiveness of backflow or anti-siphon devices.

(b) Water heaters. The inspector shall:

(1) report:

- (A) the energy source;
- (B) the capacity of the units;

(2) report as Deficient:

- (A) inoperative units;

- (B) leaking or corroded fittings or tanks;
- (C) damaged or missing components;
- (D) the absence of a cold water shut-off valve;
- (E) if applicable, the absence of a pan or a pan drain system that does not terminate over a waste receptor or to the exterior of the building above the ground surface;
- (F) inappropriate locations;
- (G) the lack of protection from physical damage;
- (H) burners, burner ignition devices or heating elements, switches, or thermostats that are not a minimum of 18 inches above the lowest garage floor elevation, unless the unit is listed for garage floor installation;
- (I) the absence of an opening that would allow access to equipment for inspection, service, repair or replacement without removing permanent construction or building finish;
- (J) when applicable; a floored passageway and service platform that would allow access for equipment inspection, service, repair or replacement;
- (K) the absence of or deficiencies in the temperature and pressure relief valve and discharge piping;
- (L) a temperature and pressure relief valve that failed to operate, when tested manually;
- (M) in electric units, deficiencies in:
 - (i) performance of heating elements; and
 - (ii) condition of conductors; and
- (N) in gas units:
 - (i) gas leaks;
 - (ii) flame impingement, uplifting flame, improper flame color, or excessive scale build-up;
 - (iii) the absence of a gas shut-off valve within six feet of the appliance;
 - (iv) the absence of a gas appliance connector or one that exceeds six feet in length;
 - (v) gas appliance connectors that are concealed within or extended through walls, floors, partitions, ceilings or appliance housings;

- (vi) deficiencies in:
 - (I) combustion and dilution air;
 - (II) gas shut-off valves;
 - (III) access to a gas shutoff valves that prohibit full operation;
 - (IV) gas appliance connector materials; and
 - (V) vent pipe, draft hood, draft, proximity to combustibles, and vent termination point and clearances.
- (3) The inspector is not required to:
 - (A) verify the effectiveness of the temperature and pressure relief valve, discharge piping, or pan drain pipes;
 - (B) operate the temperature and pressure relief valve if the operation of the valve may, in the inspector's reasonable judgment, cause damage to persons or property; or
 - (C) determine the efficiency or adequacy of the unit.
- (c) Hydro-massage therapy equipment. The inspector shall:
 - (1) report as Deficient:
 - (A) inoperative units;
 - (B) the presence of active leaks;
 - (C) deficiencies in components and performance;
 - (D) missing and damaged components;
 - (E) the absence of an opening that would allow access to equipment for inspection, service, repair or replacement without removing permanent construction or building finish; and
 - (F) the absence or failure of operation of ground-fault circuit interrupter protection devices; and
 - (2) The inspector is not required to determine the adequacy of self-draining features of circulation systems.

§535.232. Standards of Practice: Minimum Inspection Requirements for Appliances. (a) Dishwashers. The inspector shall report as Deficient:

- (1) inoperative units;
 - (2) deficiencies in performance or mounting;
 - (3) rusted, missing or damaged components;
 - (4) the presence of active water leaks; and
 - (5) the absence of backflow prevention.
- (b) Food waste disposers. The inspector shall report as Deficient:
- (1) inoperative units;
 - (2) deficiencies in performance or mounting;
 - (3) missing or damaged components; and
 - (4) the presence of active water leaks.
- (c) Range hoods and exhaust systems. The inspector shall report as Deficient:
- (1) inoperative units;
 - (2) deficiencies in performance or mounting;
 - (3) missing or damaged components;
 - (4) ducts that do not terminate outside the building, if the unit is not of a re-circulating type or configuration; and
 - (5) improper duct material.
- (d) Electric or gas ranges, cooktops, and ovens. The inspector shall report as Deficient:
- (1) inoperative units;
 - (2) missing or damaged components;
 - (3) combustible material within thirty inches above the cook top burners;
 - (4) absence of an anti-tip device, if applicable;
 - (5) gas leaks;
 - (6) the absence of a gas shutoff valve within six feet of the appliance;
 - (7) the absence of a gas appliance connector or one that exceeds six feet in length;
 - (8) gas appliance connectors that are concealed within or extended through walls, floors, partitions, ceilings or appliance housings;
 - (9) deficiencies in:
 - (A) thermostat accuracy (within 25 degrees at a setting of 350° F);
 - (B) mounting and performance;
 - (C) gas shut-off valves;
 - (D) access to a gas shutoff valves that prohibits full operation; and
 - (E) gas appliance connector materials.
- (e) Microwave ovens. The inspector shall inspect built-in units and report as Deficient:
- (1) inoperative units;
 - (2) deficiencies in performance or mounting; and
 - (3) missing or damaged components.
- (f) Mechanical exhaust systems and bathroom heaters. The inspector shall report as Deficient:
- (1) inoperative units;
 - (2) deficiencies in performance or mounting;
 - (3) missing or damaged components;
 - (4) ducts that do not terminate outside the building; and
 - (5) a gas heater that is not vented to the exterior of the building unless the unit is listed as an unvented type.
- (g) Garage door operators. The inspector shall report as Deficient:
- (1) inoperative units;
 - (2) deficiencies in performance or mounting;
 - (3) missing or damaged components;
 - (4) installed photoelectric sensors located more than six inches above the garage floor; and
 - (5) door locks or side ropes that have not been removed or disabled.
- (h) Dryer exhaust systems. The inspector shall report as Deficient:
- (1) missing or damaged components;
 - (2) the absence of a dryer exhaust system when provisions are present for a dryer;
 - (3) ducts that do not terminate to the outside of the building;
 - (4) screened terminations; and
 - (5) ducts that are not made of metal with a smooth interior finish.
- (i) The inspector is not required to:

- (1) operate or determine the condition of other auxiliary components of inspected items;
- (2) test for microwave oven radiation leaks;
- (3) inspect self-cleaning functions;
- (4) disassemble appliances;
- (5) determine the adequacy of venting systems; or
- (6) determine proper routing and lengths of duct systems.

§535.233. Standards of Practice: Minimum Inspection Requirements for Optional Systems. If an inspector agrees to inspect a component described in this section, §535.227 of this title (relating to Standards of Practice: General Provisions) and the applicable provisions of this section apply.

(1) Landscape irrigation (sprinkler) systems. The inspector shall:

(A) manually operate all zones or stations on the system through the controller;

(B) report as Deficient:

- (i) the absence of a rain or moisture sensor,
- (ii) inoperative zone valves;
- (iii) surface water leaks;
- (iv) the absence of a backflow prevention device;
- (v) the absence of shut-off valves between the water meter and backflow device;

(vi) deficiencies in the performance and mounting of the controller;

(vii) missing or damaged components; and

(viii) deficiencies in the performance of the water emission devices; such as, sprayer heads, rotary sprinkler heads, bubblers or drip lines.

(C) The inspector is not required to inspect:

- (i) for effective coverage of the irrigation system;
- (ii) the automatic function of the controller;
- (iii) the effectiveness of the sensors; such as, rain, moisture, wind, flow or freeze sensors; or

(iv) sizing and effectiveness of backflow prevention device.

(2) Swimming pools, spas, hot tubs, and equipment. The inspector shall:

(A) report the type of construction;

(B) report as Deficient:

(i) the presence of a single blockable main drain (potential entrapment hazard);

(ii) a pump motor, blower, or other electrical equipment that lacks bonding;

(iii) the absence of or deficiencies in safety barriers;

(iv) water leaks in above-ground pipes and equipment;

(v) the absence or failure in performance of ground-fault circuit interrupter protection devices; and

(vi) deficiencies in:

(I) surfaces;

(II) tiles, coping, and decks;

(III) slides, steps, diving boards, handrails, and other equipment;

(IV) drains, skimmers, and valves;

(V) filters, gauges, pumps, motors, controls, and sweeps;

(VI) lighting fixtures; and

(VII) the pool heater that these standards of practice require to be reported for the heating system.

(C) The inspector is not required to:

(i) disassemble filters or dismantle or otherwise open any components or lines;

(ii) operate valves;

(iii) uncover or excavate any lines or concealed components of the system;

(iv) fill the pool, spa, or hot tub with water;

(v) inspect any system that has been winterized, shut down, or otherwise secured;

(vi) determine the presence of sub-surface water tables;

(vii) determine the effectiveness of entrapment covers;

(viii) determine the presence of pool shell or sub-surface leaks; or

(ix) inspect ancillary equipment such as computer controls, covers, chlorinators or other chemical dispensers, or water ionization devices or conditioners other than required by this section.

(3) Outbuildings. The inspector shall report as Deficient:

(A) the absence or failure in performance of ground-fault circuit interrupter protection devices in grade-level portions of unfinished accessory buildings used for storage or work areas, boathouses, and boat hoists; and

(B) deficiencies in the structural, electrical, plumbing, heating, ventilation, and cooling systems that these standards of practice require to be reported for the principal building.

(4) Private water wells. The inspector shall:

(A) operate at least two fixtures simultaneously;

(B) recommend or arrange to have performed coliform testing;

(C) report:

(i) the type of pump and storage equipment;

(ii) the proximity of any known septic system;

(D) report as Deficient deficiencies in:

(i) water pressure and flow and performance of pressure switches;

(ii) the condition of accessible equipment and components; and

(iii) the well head, including improper site drainage and clearances.

(E) The inspector is not required to:

(i) open, uncover, or remove the pump, heads, screens, lines, or other components of the system;

(ii) determine the reliability of the water supply or source; or

(iii) locate or verify underground water leaks.

(5) Private sewage disposal (septic) systems. The inspector shall:

(A) report:

(i) the type of system;

(ii) the location of the drain or distribution field;

(iii) the proximity of any known water wells, underground cisterns, water supply lines, bodies of water, sharp slopes or breaks, easement lines, property lines, soil absorption systems, swimming pools, or sprinkler systems;

(B) report as Deficient:

(i) visual or olfactory evidence of effluent seepage or flow at the surface of the ground;

(ii) inoperative aerators or dosing pumps; and

(iii) deficiencies in:

(I) accessible components;

(II) functional flow;

(III) site drainage and clearances around or adjacent to the system; and

(IV) the aerobic discharge system.

(C) The inspector is not required to:

(i) excavate or uncover the system or its components;

(ii) determine the size, adequacy, or efficiency of the system; or

(iii) determine the type of construction used.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Kerri Lewis

Deputy General Counsel

Texas Real Estate Commission

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