

Texas Real Estate Commission
Chapter 535, General Provisions
Rules Adopted at the October 27, 2008 Meeting

Subchapter R. Real Estate
Inspectors
22 TAC §§535.227 - 535.233

The Texas Real Estate Commission (TREC) adopts new rules §§535.227 - 535.233 concerning inspector standards of practice with changes to the text as published in the September 5, 2008, issue of the *Texas Register* (33 TexReg 7405), as follows: “and surface” was added after “underwater” in §535.228(d)(3) in order to make clear that this provision is consistent with §535.227(b)(3)(I); “devices...including improper location” was added to §535.229(c)(3)(G) in order to clarify that all types of electrical devices are included in this provision and that improper location is a deficiency; and the numbering of §535.231(c) is changed because the proposed draft erroneously included two paragraph (3)s. The revisions to the rules as adopted do not change the nature or scope so much that they could be deemed different rules. The rules as adopted do not affect individuals other than those contemplated by the rules as proposed. The rules as adopted do not impose more onerous requirements than the proposed versions and do not materially alter the issues raised in the proposed rules. Changes in the adopted rules respond to public comments or otherwise reflect non-substantive variations from the proposed rules to clarify their intent and improve readability. Sections 535.227, 535.230, 535.232, and 535.233 are adopted without changes.

The new rules are adopted as a result of the Real Estate Inspector Committee's comprehensive review and recommendation regarding inspector standards of practice. The rules divide the standards of practice for inspectors into seven sections by providing two additional sections and contain a number of substantive changes recommended by the Texas Real Estate Inspector Committee, an advisory committee of six professional inspectors and three public members appointed by TREC. In order to allow a transition

period for inspectors to implement any changes to their processes that may be necessary, these rules will become effective February 1, 2009.

Generally, the new sections rearrange the current standards of practice, listing the systems, components, and items in a home which the inspector must include in an inspection unless the inspector's client agrees to limit the scope of the inspection.

New §535.227 addresses general provisions which include definitions, the scope, and the departure provisions of an inspection. New §535.228 addresses minimum inspection requirements for structural systems. New §535.229 addresses minimum inspection requirements for electrical systems. New §535.230 addresses minimum inspection requirements for heating, ventilation, and air conditioning systems. New §535.231 addresses minimum inspection requirements for plumbing systems. New §535.232 addresses minimum inspection requirements for appliances. New §535.233 addresses minimum inspection requirements for optional systems.

The reasoned justification for the new sections is increased clarity for inspectors and consumers alike regarding what a home inspector is and is not required to inspect, as well as standards that more accurately reflect current technology, codes, and practices that form the basis of many of the standards.

The Commission received five comments during the notice and comment period regarding the proposed §§535.227 - 535.233.

Comment: One commenter generally supported the proposed rules but suggested adding the word “visible” to “gas lines” in §535.233(7)(a) to make clear that inspectors are not required to inspect gas lines that are not visible.

Response: The Commission respectfully disagrees with this comment, as the general limitations in §535.227(b)(3)(A)(iv), which apply to §§535.227

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- 535.233, already make clear that inspectors are not required to inspect anything that is buried, hidden, latent, or concealed.

Comment: One commenter suggested changing “built-in appliances” to “in-place appliances” to include appliances such as washing machines and refrigerators.

Response: The Commission respectfully disagrees with this comment, as these items are not permanently attached to the real property and often are not conveyed with the property. Moreover, if a client wishes to have them inspected, these rules do not prohibit the inspector from including them in the inspection.

Comment: One commenter outlined several differences between the existing standards and the proposed new rules but did not express an opinion about these differences except for stating that the requirement to inspect lighting fixtures had been deleted and should be returned to the rules.

Response: The Commission respectfully disagrees with this comment, as the language of “lighting fixtures” was changed to “fixtures” in order to incorporate ceiling fans and other types of fixtures but still includes light fixtures.

Comment: One commenter raised several questions about how to interpret the proposed new rules but did not express an opinion about these issues except for suggesting that the trash compactor section be changed to an optional item.

Response: The Commission respectfully disagrees with this comment, finding that enough homes have built-in trash compactors to warrant requiring them to be inspected when present.

Comment: One commenter raised several questions and suggested a multitude of stylistic and substantive changes to the rules, including (1) incorporating the boilerplate introductory text on the proposed standard inspection report form into §535.227(b)(1); (2) adding or expanding lists of examples in many parts of the standards of practice; (3) adding “surface” to “underground

drainage systems” in §535.228(d)(3); (4) changing the specific references to doors with certain fireproof characteristics to “approved rated fire door” in §535.228(k)(2)(B); (5) combining of provisions for efficiency of space; (6) specifying that the requirement to report deficiencies in the installation and termination of the plumbing vent system applies only to waste vents; and (7) requiring reporting as deficient the lack of a hot water shut-off valve under certain circumstances.

Response: The Commission respectfully disagrees with items (1), (2), and (4) – (7) above, as follows: (1) this text is largely informational for the public and does not belong on the Administrative Code; (2) additional lists of examples would only serve to confuse the reader or give the impression that they are exhaustive lists when they are not; (4) lower-quality doors may be approved and fire rated for different purposes, but this provision addresses only doors meeting the criteria to be approved for residential exterior applications; (5) the provisions that the commenter recommends combining must be kept separate for clarity and comprehension; (6) the requirement regarding deficiencies in the plumbing vent system applies to waste vents as well as other type of vents; and (7) a shut-off valve on a hot water supply line could cause excess pressure to build up in the line and cause the pipe to burst. The Commission agrees with item (3) above and has added “surface” to §535.228(d)(3) so that this limitation applies to both surface and underground drainage.

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.

§535.227. Standards of Practice: General Provisions.

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(a) Definitions.

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

(A) undue hazard to the inspector;

(B) moving furnishings or large, heavy, or fragile objects;

(C) using specialized tools or procedures;

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

(E) damaging property; 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) Cosmetic--Related only to appearance or aesthetics, and not related to structural performance, operability, or water penetration.

(4) Deficiency--A condition that, in the inspector's reasonable opinion, adversely and materially affects the performance of a system or component or constitutes a hazard to life, limb, or property as specified by these standards of practice. General deficiencies include but are not limited to inoperability, material distress, water penetration, damage, deterioration, missing parts, and unsuitable installation.

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

(6) Inspect--To look at and examine accessible items, parts, systems, or components and report observed deficiencies.

(7) Performance--Achievement of an operation, function, or configuration consistent with accepted industry practice.

(8) Report--To provide the inspector's opinions and findings on the standard inspection report form.

(9) Specialized tools--Tools such as

thermal imaging equipment, moisture meters, gas leak detection equipment, environmental testing equipment and devices, elevation determination devices, and ladders capable of reaching surfaces over one story above ground surfaces.

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

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

(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 limited visual survey and basic operation of the systems and components of a building using normal controls and does not require the use of specialized tools 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 parts, 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:

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- (A) inspect:
- (i) items other than those listed herein;
 - (ii) elevators;
 - (iii) detached structures, decks, docks, fences, or waterfront structures or equipment;
 - (iv) anything buried, hidden, latent, or concealed; or
 - (v) 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, or solar panels;
- (B) report:
- (i) past repairs that appear to be effective and workmanlike;
 - (ii) cosmetic or aesthetic conditions; or
 - (iii) wear and tear from ordinary use;
- (C) determine:
- (i) insurability, warrantability, suitability, adequacy, capacity, reliability, marketability, operating costs, recalls, counterfeit products, life expectancy, age, energy efficiency, vapor barriers, thermostatic operation, code compliance, 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, or any other environmental hazard, environmental pathogen, carcinogen, toxin, mycotoxin, pollutant, fungal presence or activity, or poison; or
 - (iv) types of wood or preservative treatment and fastener compatibility;
- (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 part, 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 penetration(s); 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) operate recirculation or sump pumps;
- (K) remedy conditions preventing inspection of any item;
- (L) apply open flame to operate any appliance;
- (M) turn on decommissioned equipment, systems, or utility services; or

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(N) 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 standards of practice only if the requirements of subparagraph (B) are met, and:

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

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

(iii) conditions beyond the control of the inspector reasonably 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) the inspector reasonably determines that actions of the inspector may cause damage to the property.

(B) If a part, component, or system required for inspection is not inspected, the inspector shall:

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

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

(C) If the inspector routinely departs from inspection of a part, system, or

component, the earliest practical opportunity for the notice required by this subsection is the first contact with the prospect and the inspector has reason to believe that the property being inspected has the part, system, or component the inspector routinely does not inspect.

(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) inspect slab surfaces, foundation framing components, subflooring, and related structural components;

(2) report:

(A) the type of foundation(s); and

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

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

(A) open or offset concrete cracks;

(B) binding, out-of-square, non-latching, warped, or twisted doors or frames;

(C) framing or frieze board separations;

(D) out-of-square wall openings or separations at wall openings or between the cladding and window/door frames;

(E) sloping floors, countertops, cabinet doors, or window/door casings;

(F) wall, floor, or ceiling cracks;

(G) rotating, buckling, cracking, or deflecting masonry cladding;

(H) separation of walls from ceilings or floors; and

(I) soil erosion, subsidence or shrinkage adjacent to the foundation and

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differential movement of abutting flatwork such as walkways, driveways, and patios;

(4) report as Deficient:

(A) exposed or damaged reinforcement;

(B) a crawl space that does not appear to be adequately ventilated;

(C) crawl space drainage that does not appear to be adequate;

(D) deteriorated materials;

(E) damaged beams, joists, bridging, blocking, piers, posts, pilings, or subfloor;

(F) non-supporting piers, posts, pilings, columns, beams, sills, or joists; and

(G) damaged retaining walls related to foundation performance; and

(5) render a written opinion as to the performance of the foundation.

(b) Specific limitations for foundations. The inspector is not required to:

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

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

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

(c) Grading and drainage. The inspector shall report as Deficient:

(1) improper or inadequate grading around the foundation (including flatwork);

(2) erosion;

(3) water ponding; and

(4) deficiencies in installed gutter and downspout systems.

(d) Specific limitations for grading and drainage. The inspector is not required to:

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

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

(3) determine the efficiency or operation of underground or surface drainage systems.

(e) Roof covering materials. The inspector shall:

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

(2) report:

(A) type of roof covering(s);

(B) vantage point from where the roof was inspected

(C) any levels or surfaces that were not accessed;

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

(E) evidence of water penetration; and

(3) report as Deficient:

(A) a roof covering that is not appropriate for the slope of the roof;

(B) deficiencies in:

(i) fastening of roof covering material, as determined by a random sampling;

(ii) roof covering materials;

(iii) flashing details;

(iv) skylights; and

(v) other roof penetrations.

(f) Specific limitations for roof covering. The inspector is not required to:

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

(2) 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;

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

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(4) identify latent hail damage; or

(5) provide an exhaustive list of locations of water penetrations or previous repairs.

(g) Roof structure and attic. The inspector shall:

(1) report:

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

(B) the presence of and approximate average depth of attic insulation and thickness of vertical insulation, when visible; and

(C) evidence of water penetration; and

(2) report as Deficient:

(A) attic space that does not appear to be adequately ventilated;

(B) deficiencies in installed framing members and decking;

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

(D) missing insulation;

(E) deficiencies in attic access ladder and access opening; and

(F) deficiencies in attic ventilators.

(h) Specific limitations for roof structure and attic. The inspector is not required to:

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

(2) operate powered ventilators; or

(3) provide an exhaustive list of locations of water penetrations.

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

(1) report evidence of water penetration; and

(2) report as Deficient:

(A) doors and hardware that do not operate properly;

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

(C) lack of fire separation between the garage and the residence and its attic space.

(j) Specific limitation for interior walls, doors, ceilings, and floors. The inspector is not required to:

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

(2) provide an exhaustive list of locations of water penetrations.

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

(1) report evidence of water penetration; and

(2) report as Deficient:

(A) the lack of functional emergency escape and rescue openings in all sleeping rooms;

(B) the lack of a solid wood door not less than 1-3/8 inches in thickness, a solid or honeycomb core steel door not 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; and

(E) deficiencies in:

(i) claddings;

(ii) water resistant materials and coatings;

(iii) flashing details and terminations;

(iv) the condition and operation of exterior doors, garage doors, and hardware; and

(v) window operation and components.

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(l) Specific limitations for exterior walls, doors, and windows. The inspector is not required to:

(1) report the condition or presence of awnings, shutters, security devices, or systems;

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

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

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

(1) inspect the window and door glazing; and

(2) 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 exterior doors; and

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

(n) Specific limitation for exterior and interior glazing. The inspector is not required to:

(1) exhaustively observe insulated windows for evidence of broken seals;

(2) exhaustively observe glazing for identifying labels; or

(3) identify specific locations of damage.

(o) Interior and exterior stairways. The inspector shall report as Deficient:

(1) 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

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

(p) Specific limitation for stairways. The inspector is not required to exhaustively measure every stairway component.

(q) Fireplace and chimney. The inspector shall report as Deficient:

(1) built-up creosote in visible areas of the firebox and flue;

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

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

(4) an inoperative circulating fan; and

(5) deficiencies in the:

(A) damper;

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

(C) gas log lighter valve and location;

(D) combustion air vents; and

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

(r) Specific limitations for fireplace and chimney. The inspector is not required to:

(1) verify the integrity of the flue;

(2) perform a chimney smoke test; or

(3) determine the adequacy of the draft.

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

(1) inspect balconies, attached carports, and attached porches and 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;

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(B) deficiencies in visible footings, piers, posts, pilings, beams, joists, decking, water proofing at interfaces, flashing, surface coverings, and attachment points of porches, decks, balconies, and carports; and

(C) deficiencies in, or absence of required, guardrails and handrails.

(t) Specific limitation for porches, balconies, decks, and carports. The inspector is not required to:

(1) exhaustively measure the porch, balcony, deck, or attached carport components; or

(2) 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 report as Deficient:

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

(2) the lack of a grounding electrode system;

(3) the lack of a grounding electrode conductor;

(4) the lack of a secure connection to the grounding electrode system;

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

(6) electrical cabinets, gutters, meter cans, and panel boards that:

(A) are not secured to the structure;

(B) are not appropriate for their location;

(C) have deficiencies in clearances and accessibility;

(D) are missing knockouts; or

(E) are not bonded and grounded;

(7) cabinets, disconnects, cutout boxes, and panel boards that do not have dead fronts secured in place with proper fasteners;

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

(9) trip ties not installed on 240 volt circuits;

(10) deficiencies in the type and condition of the wiring in the cutout boxes, cabinets, or gutters;

(11) deficiencies in the compatibility of overcurrent devices and conductors;

(12) deficiencies in the overcurrent device and circuit for labeled and listed 240 volt appliances;

(13) a panel that is installed in a hazardous location, such as a clothes closet, a bathroom, where there are corrosive or easily ignitable materials, or where the panel is exposed to physical damage;

(14) the absence of appropriate connections, such as copper/aluminum-approved devices;

(15) the absence of anti-oxidants on aluminum conductor terminations;

(16) the lack of a main disconnecting means;

(17) the lack of arc-fault circuit interrupting devices serving family rooms, dining rooms, living rooms, parlors, libraries, dens, bedrooms, sunrooms, recreations rooms, closets, hallways, or similar rooms or areas; and

(18) failure of operation of installed arc-fault circuit interrupter devices.

(b) Specific limitations for service entrance and panels. The inspector is not required to:

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

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

(3) report the lack of arc-fault circuit interrupter protection when the circuits are in conduit;

(4) conduct voltage drop calculations;

(5) determine the accuracy of overcurrent device labeling;

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

(7) verify the effectiveness of overcurrent devices; or

(8) operate overcurrent devices.

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

(1) report the type of branch circuit conductors;

(2) manually test the accessible smoke alarms by use of the manufacturer's approved test or by the use of canned smoke; and

(3) report as Deficient:

(A) the lack 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) laundry, utility, and wet bar sink receptacles located within 6 feet of the outside edge of a laundry, utility, or wet bar sink; and

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

(C) receptacles that:

(i) are damaged;

(ii) are inoperative;

(iii) have incorrect polarity;

(iv) are not grounded, if applicable;

(v) display evidence of arcing or excessive heat;

(vi) are not securely mounted; or

(vii) have missing or damaged covers;

(D) switches that:

(i) are damaged;

(ii) are inoperative;

(iii) display evidence of arcing or excessive heat;

(iv) are not securely mounted; or

(v) have missing or damaged covers;

(E) deficiencies in or absences of conduit, where applicable;

(F) appliances and metal pipes that are not bonded or grounded;

(G) deficiencies in wiring, wiring terminations, junctions, junction boxes, devices, and fixtures, including improper location;

(H) the lack of equipment disconnects;

(I) the absence of 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;

(J) improper use of extension cords;

(K) deficiencies in smoke alarms that are not connected to a central alarm system; and

(L) the lack of smoke alarms:

(i) in each sleeping room;

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(ii) outside each separate sleeping area in the immediate vicinity of the sleeping rooms; and

(iii) on each additional story of the dwelling, including basements but excluding crawl spaces and uninhabitable attics (in dwellings with split levels and without an intervening door between the levels, a smoke alarm installed on the upper level and the adjacent lower level shall suffice provided that the lower level is less than one full story below the upper level).

(d) Specific limitations for branch circuits, connected devices, and fixtures. The inspector is not required to:

- (1) inspect low voltage wiring;
- (2) disassemble mechanical appliances;
- (3) verify the effectiveness of smoke alarms;
- (4) verify interconnectivity of smoke alarms
- (5) activate smoke alarms that are being actively monitored or require the use of codes; or
- (6) verify that smoke alarms are suitable for the hearing-impaired.

§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 system(s);and
 - (B) the energy source(s);
 - (2) report as Deficient:
 - (A) an inoperative unit;
 - (B) deficiencies in the controls and operating components of the system;
 - (C) the lack of protection from physical damage;

(D) 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;

(E) inappropriate location;

(F) inadequate access and clearances;

(G) deficiencies in mounting and operation of window units; and

(H) deficiencies in thermostats;

(3) in electric units, report as Deficient deficiencies in:

(A) operation of heating elements;

and

(B) condition of conductors; and

(4) in gas units, report as Deficient:

(A) gas leaks;

(B) the presence of forced air in the burner compartment;

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

(D) the lack of a gas shut-off valve;

and

(E) deficiencies in:

(i) conditioned, combustion, and dilution air;

(ii) gas shut-off valves and locations;

(iii) gas connector materials and connections; and

(iv) the vent pipe, draft hood, draft, proximity to combustibles, and vent termination point and clearances.

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

(1) report the type of system(s); and

(2) report as Deficient:

(A) inoperative unit(s);

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(B) inadequate cooling as demonstrated by its performance in the reasonable judgment of the inspector;

(C) inadequate access and clearances;

(D) noticeable vibration of the blower fan or condensing fan;

(E) deficiencies in the condensate drain and auxiliary/secondary pan and drain system;

(F) water in the auxiliary/secondary drain pan;

(G) a primary drain pipe that terminates in a sewer vent;

(H) missing or deficient refrigerant pipe insulation;

(I) dirty evaporator or condensing coils, where accessible;

(J) damaged casings on the coils;

(K) a condensing unit lacking adequate clearances or air circulation or that has deficiencies in the condition of fins, location, levelness, or elevation above ground surfaces;

(L) deficiencies in mounting and operation of window or wall units; and

(M) deficiencies in thermostats.

(c) Evaporative coolers. The inspector shall:

(1) report:

(A) type of system(s) (one- or two-speed);

(B) the type of water supply line; and

(C) winterized units that are drained and shut down; and

(2) report as Deficient:

(A) inoperative units;

(B) inadequate access and clearances;

(C) corrosive and mineral build-up or rust damage/decay at the pump, louvered

panels, water trays, exterior housing, or the roof frame;

(D) less than a one-inch air gap between the water discharge at the float and water level in the reservoir;

(E) corrosion, decay, or rust on the pulleys of the motor or blower;

(F) the lack of a damper; and

(G) deficiencies in the:

(i) function of the pump;

(ii) interior housing, the spider tubes, tube clips, bleeder system;

(iii) blower and bearings;

(iv) float bracket;

(v) fan belt;

(vi) evaporative pad(s);

(vii) installation and condition of the legs on the roof rails and fasteners to the roof structure and the unit;

(viii) roof jack; and

(ix) thermostats.

(d) Duct system, chases, and vents. The inspector shall report as Deficient:

(1) damaged ducting or insulation, improper material, or improper routing of ducts;

(2) the absence of air flow at accessible supply registers in the habitable areas of the structure;

(3) improper or inadequate clearance from the earth; and

(4) deficiencies in:

(A) duct fans;

(B) filters;

(C) grills or registers;

(D) the location of return air openings; and

(E) gas piping, sewer vents, electrical wiring, or junction boxes in the duct system, plenum(s), and chase(s).

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(e) Specific limitations for the heating equipment, cooling equipment, duct system, chases, and vents. 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 evaporative coolers;
or

(C) 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 when temperatures may damage equipment;

(4) verify:

(A) compatibility of components;

(B) the accuracy of thermostats; or

(C) the integrity of the heat exchanger; or

(5) determine:

(A) sizing, efficiency, or adequacy of the system;

(B) uniformity of the supply of conditioned air to the various parts of the structure; 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) static water pressure;

(B) location of water meter; and

(C) location of main water supply valve; and

(2) report as Deficient:

(A) the presence of active leaks;

(B) the lack of fixture shut-off valves;

(C) the lack of dielectric unions, when applicable;

(D) the lack of back-flow devices, anti-siphon devices, or air gaps at the flow end of fixtures;

(E) water pressure below 40 psi or above 80 psi static;

(F) the lack of a pressure reducing valve when the water pressure exceeds 80 PSI;

(G) 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; and

(H) deficiencies in:

(i) water supply pipes and waste pipes;

(ii) the installation and termination of the vent system;

(iii) the operation of fixtures and faucets not connected to an appliance;

(iv) water supply, as determined by viewing functional flow in two fixtures operated simultaneously;

(v) functional drainage at fixtures;

(vi) orientation of hot and cold faucets;

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(vii) installed mechanical drain stops;

(viii) installation, condition, and operation of commodes;

(ix) fixtures, showers, tubs, and enclosures; and

(x) the condition of the gas distribution system.

(b) Specific limitations for plumbing systems. The inspector is not required to:

(1) operate any main, branch, or shut-off valves;

(2) operate or inspect sump pumps or waste ejector pumps;

(3) inspect:

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

(B) 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;

(C) the inaccessible gas supply system for leaks;

(D) for sewer clean-outs; or

(E) for the presence or operation of private sewage disposal systems;

(4) determine:

(A) quality, potability, or volume of the water supply; or

(B) effectiveness of backflow or anti-siphon devices; or

(5) verify the functionality of clothes washing drains or floor drains.

(c) Water heaters. The inspector shall:

(1) report the energy source;

(2) report the capacity of the unit(s);

(3) report as Deficient:

(A) inoperative unit(s);

(B) leaking or corroded fittings or tank(s);

(C) broken or missing parts or controls;

(D) the lack of a cold water shut-off valve;

(E) if applicable, the lack of a pan and drain system and the improper termination of the pan drain line;

(F) an unsafe location;

(G) 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;

(H) inappropriate location;

(I) inadequate access and clearances;

(J) the lack of protection from physical damage;

(K) a temperature and pressure relief valve that:

(i) does not operate manually;

(ii) leaks;

(iii) is damaged;

(iv) cannot be tested due to obstructions;

(v) is corroded; or

(vi) is improperly located; and

(L) temperature and pressure relief valve discharge piping that:

(i) lacks gravity drainage;

(ii) is improperly sized;

(iii) has inadequate material; or

(iv) lacks proper termination;

(4) in electric units, report as Deficient deficiencies in:

(A) operation of heating elements;

and

(B) condition of conductors; and

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(5) in gas units, report as Deficient:

(A) gas leaks;

(B) lack of burner shield(s);

(C) flame impingement, uplifting flame, improper flame color, or excessive scale build-up;

(D) the lack of a gas shut-off valve; and

(E) deficiencies in:

(i) combustion and dilution air;

(ii) gas shut-off valve(s) and location(s);

(iii) gas connector materials and connections; and

(iv) vent pipe, draft hood, draft, proximity to combustibles, and vent termination point and clearances.

(d) Specific limitations for water heaters. The inspector is not required to:

(1) verify the effectiveness of the temperature and pressure relief valve, discharge piping, or pan drain pipes;

(2) 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

(3) determine the efficiency or adequacy of the unit.

(e) Hydro-massage therapy equipment. The inspector shall report as Deficient:

(1) inoperative unit(s) and controls;

(2) the presence of active leaks;

(3) inaccessible pump(s) or motor(s);

(4) the lack or failure of required ground-fault circuit interrupter protection; and

(5) deficiencies in the ports, valves, grates, and covers.

(f) Specific limitation for hydro-massage therapy equipment. 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) Dishwasher. The inspector shall report as Deficient:

(1) inoperative unit(s);

(2) rust on the interior of the cabinet or components;

(3) failure to drain properly;

(4) the presence of active water leaks; and

(5) deficiencies in the:

(A) door gasket;

(B) control and control panels;

(C) dish racks;

(D) rollers;

(E) spray arms;

(F) operation of the soap dispenser;

(G) door springs;

(H) dryer element;

(I) door latch and door disconnect;

(J) rinse cap;

(K) secure mounting of the unit; and

(L) backflow prevention.

(b) Food waste disposer. The inspector shall report as Deficient:

(1) inoperative unit(s);

(2) unusual sounds or vibration level;

(3) the presence of active water leaks; and

and

(4) deficiencies in the:

(A) splash guard;

(B) grinding components;

(C) exterior casing; and

(D) secure mounting of the unit.

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(c) Range exhaust vent. The inspector shall report as Deficient:

- (1) inoperative unit(s);
- (2) a vent pipe that does not terminate outside the structure, if the unit is not of a re-circulating type or configuration;
- (3) inadequate vent pipe material;
- (4) unusual sounds or vibration levels from the blower fan(s);
- (5) blower(s) that do not operate at all speeds; and
- (6) deficiencies in the:
 - (A) filter;
 - (B) vent pipe;
 - (C) light and lens;
 - (D) secure mounting of the unit; and
 - (E) switches.

(d) Electric or gas ranges, cooktops, and ovens. The inspector shall report as Deficient:

- (1) inoperative unit(s);
- (2) the lack of a gas shut-off valve;
- (3) gas leaks; and
- (4) deficiencies in the:
 - (A) controls and control panels;
 - (B) thermostat(s) sensor support;
 - (C) glass panels;
 - (D) door gasket(s), hinges, springs, closure, and handles;
 - (E) door latch;
 - (F) heating elements or burners;
 - (G) thermostat accuracy (within 25 degrees at a setting of 350 °F);
 - (H) drip pans;
 - (I) lights and lenses;
 - (J) clearance to combustible material;
 - (K) anti-tip device;

(L) gas shut-off valve(s) and location(s);

(M) gas connector materials and connections; and

(N) secure mounting of the unit.

(e) Microwave oven. The inspector shall:

(1) inspect built-in units; and

(2) report as Deficient:

(A) inoperative unit(s); and

(B) deficiencies in the:

(i) controls and control panels;

(ii) handles;

(iii) the turn table;

(iv) interior surfaces;

(v) door and door seal;

(vi) glass panels;

(vii) lights and lenses;

(viii) secure mounting of the unit; and

(ix) operation, as determined by heating a container of water or with other means of testing.

(f) Trash compactor. The inspector shall report as Deficient:

(1) inoperative unit(s);

(2) unusual sounds or vibration levels; and

(3) deficiencies in the secure mounting of the unit.

(g) Mechanical exhaust vents and bathroom heaters. The inspector shall report as Deficient:

(1) inoperative unit(s);

(2) unusual sounds, speed, and vibration levels;

(3) vent pipes that do not terminate outside the structure;

(4) a gas heater that is not vented to the exterior of the structure; and

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(5) the lack of an exhaust ventilator in required areas.

(h) Garage door operators. The inspector shall report as Deficient:

(1) inoperative unit(s);

(2) door locks or side ropes that have not been removed or disabled; and

(3) deficiencies in:

(A) installation;

(B) condition and operation of the garage door operator;

(C) automatic reversal during the closing cycle;

(D) electronic sensors;

(E) the control button; and

(F) the emergency release components.

(i) Doorbell and chimes. The inspector shall report as Deficient:

(1) inoperable unit(s); and

(2) deficiencies in components.

(j) Dryer vents. The inspector shall report as Deficient:

(1) improper routing and length of vent pipe;

(2) inadequate vent pipe material;

(3) improper termination;

(4) the lack of a dryer vent system when provisions are present for a dryer; and

(5) damaged or missing exterior cover.

(k) Specific limitations for appliances. 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) test trash compactor ram pressure; or

(5) determine the adequacy of venting 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 below apply.

(1) Lawn and garden sprinkler systems. The inspector shall:

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

(B) report as Deficient:

(i) surface water leaks;

(ii) the absence or improper installation of anti-siphon devices and backflow preventers;

(iii) the absence of shut-off valves;

(iv) deficiencies in water flow or pressure at the zone heads;

(v) the lack of a rain or freeze sensor;

(vi) deficiencies in the condition of the control box; and

(vii) deficiencies in the operation of each zone, associated valves, and spray head patterns.

(2) Specific limitations for lawn and garden sprinkler systems. The inspector is not required to inspect:

(A) for effective coverage of the sprinkler system;

(B) the automatic function of the timer or control box;

(C) the effectiveness of the rain or freeze sensor; or

(D) sizing and effectiveness of anti-siphon devices or backflow preventers.

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

(A) report the type of construction;

(B) report as Deficient:

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

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

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

(iv) deficiencies in lighting fixture(s);

(v) the lack or failure of required ground-fault circuit interrupter protection; 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; and

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

(C) when inspecting a pool heater, report deficiencies that these standards of practice require to be reported for the heating system.

(4)Specific limitations for swimming pools, spas, hot tubs, and equipment. The inspector is not required to:

(A) dismantle or otherwise open any components or lines;

(B) operate valves;

(C) uncover or excavate any lines or concealed components of the system or determine the presence of sub-surface leaks;

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

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

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

(G) 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.

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

(A) the lack of ground-fault circuit interrupter protection 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 structure.

(6) Outdoor cooking equipment. The inspector shall:

(A) inspect the built-in equipment; and

(B) report the energy source; and

(C) report as Deficient:

(i) inoperative unit(s);

(ii) a unit or pedestal that is not stable;

(iii) gas leaks; and

(iv) deficiencies in:

(I) operation;

(II) control knobs, handles, burner bars, grills, the box, the rotisserie (if present), and heat diffusion material;

(III) gas shut-off valve(s) and location(s); and

(IV) gas connector materials and connections.

(7) Gas supply systems. The inspector shall:

(A) test gas lines using a local or an industry-accepted procedure; and

(B) report as Deficient:

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(i) leaks; and

(ii) deficiencies in the condition and type of gas piping, fittings, and valves.

(8) Specific limitation for gas lines. The inspector is not required to inspect sacrificial anode bonding or for its existence.

(9) Private water wells. The inspector shall:

(A) operate at least two fixtures simultaneously;

(B) recommend or arrange to have performed water quality or potability testing;

(C) report:

(i) the type of pump and storage equipment; and

(ii) the proximity of any known septic system; and

(D) report as Deficient deficiencies in:

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

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

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

(10) Specific limitations for private water wells. The inspector is not required to:

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

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

(C) locate or verify underground water leaks.

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

(A) report:

(i) the type of system;

(ii) the location of the drain field;

and

(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; and

(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 or visible components;

(II) functional flow;

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

(IV) the aerobic discharge system.

(12) Specific limitations for individual private sewage disposal (septic) systems. The inspector is not required to:

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

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

(C) determine the type of construction used.

(13) Whole-house vacuum system. The inspector shall report as Deficient:

(A) inoperative units;

(B) deficiencies in the main unit; and

(C) deficiencies in outlets.

(14) Specific limitations for whole-house vacuum systems. The inspector is not required to:

(A) inspect the attachments or hoses; or

(B) verify that accessory components are present.

(15) Other built-in appliances. The inspector shall report deficiencies in condition or operation of other built-in appliances not listed in this section.

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This agency hereby certifies that the repeal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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Devon V. Bijansky

Assistant General Counsel

Texas Real Estate Commission

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