

**TEXAS REAL ESTATE INSPECTOR COMMITTEE
MEETING AGENDA**

TREC Headquarters Office
Room 170, Stephen F. Austin Building
1700 North Congress Avenue, Austin, Texas

Friday, September 23, 2011 at 9:00 a.m.

CALL TO ORDER AND MINUTES

1. Call to order
2. Discussion and possible action to excuse absences
3. Minutes of the June 24, 2011 meeting

REPORTS

4. Administrator's report, including an update regarding agency activities, legislation, and questions from Committee members regarding the report
5. Standards and Enforcement Services Division report, including an update regarding the number and types of opened and closed complaint cases and questions from Committee members regarding the report
6. Education and Licensing Services Division report, including an update regarding the number of licensed inspectors and examination passage rates and questions from Committee members regarding the report
7. Staff and Support Services Division report, including an update regarding the Texas Real Estate Inspector Recovery Fund
8. Subcommittee reports and questions from Committee members regarding reports from the:
 - a. Standards of Practice subcommittee, including an update regarding possible changes to the standards of practice
 - b. Standards of Practice Commentary subcommittee, including an update regarding the development of a commentary on the standards of practice
 - c. Enforcement subcommittee, including an update regarding the volume and types of complaints being filed and possible opportunities to enhance education requirements to address areas that are lacking

- d. Education subcommittee, including an update regarding the approval of continuing education courses offered by proprietary schools and trade associations

PUBLIC COMMENTS

9. General comments from visitors

PENDING BUSINESS

10. Discussion and possible action regarding revisions to the Standards of Practice, 22 TAC Sections 535.227-.233
11. Discussion and possible action regarding revisions to 22 TAC Section 535.223, Standard Inspection Report Form, including possible action to recommend the repeal of Form REI 7A-1 and update Form REI 7-2
12. Discussion and possible action regarding a commentary to the Standards of Practice

NEW BUSINESS

13. Discussion and possible action to make recommendations to the Commission regarding the proposed Code of Conduct for advisory committees, task forces, and working groups
14. Discussion and possible action to make recommendations to the Commission regarding 22 TAC Section 535.210, Fees
15. Discussion and possible action to recommend that the Commission request an opinion from the Attorney General regarding the agency's options in the event of the unavailability of insurance to satisfy the requirements of Sections 1102.114(3) and 1102.203, Texas Occupations Code
16. Discussion and possible action regarding the Inspector Committee's role in the TREC rulemaking process for inspector-related rules, including:
 - a. the timing of proposed rules
 - b. the types of rules on which the Commission should first request input from the Committee
 - c. whether the Committee should recommend that the Commission establish a policy whereby all rules under 22 TAC Subchapter R must be reviewed by the Committee before the Commission takes any action on such rules

FUTURE MEETINGS AND ADJOURNMENT

17. Request for new business agenda items
18. Scheduling of future meetings
19. Adjourn

In accordance with the Americans with Disabilities Act, any requests for reasonable accommodation needed by persons desiring to attend this open meeting should be submitted by that person to the Commission.

**TEXAS REAL ESTATE INSPECTOR COMMITTEE
MEETING MINUTES**

Conference Room 235, TREC Headquarters Office
1101 Camino La Costa, Austin, Texas

Friday, June 24, 2011 at 9:00 a.m.

CALL TO ORDER AND MINUTES

1. Call to order at 9:03. Curtis Carr, Brian Murphy, Fred Willcox, Jill Frankel, Brad Phillips, Greg Eakin, John and Alice Eckstrum, Loretta Dehay, Doug Oldmixon, Kyle Smith, Sharon Harris, Christine Anderson were in attendance.
2. Discussion and possible action to excuse absences. Steve Rinehart excused. Nancy Carroll recently had a baby excused. Nancy Schreidel has attended a sub-committee meeting not excused due to lack of communication. Fred to ask Nancy Schreidel what her intentions are for the future.
3. Discussion and possible action to recognize former Texas Real Estate Commission chair John Eckstrum.
4. Minutes of the April 1, 2011 meeting. Jill moved to adopt minutes and Steve seconded. Motion carried unanimously.

REPORTS

5. Administrator's report, including an update regarding agency activities, legislation, and questions from Committee members regarding the report. Doug Oldmixon. First, new commission leadership. Avis Wukash has been appointed chair of commission. Troy Alley reappointed to a second six year term. New public member Weston Martinez. Bill Jones appointed to the commission. Second, moving downtown. This is the final meeting in this room. Plan to web-stream future meetings downtown. Future meetings minutes will be from the web-stream, once it is operational. TREC will have all new phone numbers with a better system and a fiber internet system with a lot more capacity. Domain has changed to trec.tx.gov. Thursday, July 14 is the last day of online services from the North building. Re-open on Monday, July 18. Brian how will this affect renewals of licensing. Doug explained there will be a few days without service. Currently, some transactions are twelve days out for initial processing until completion. In February found a glitch in the approval program that was causing month long delays. Doug needs to know if someone has not heard back in three weeks. Action by Legislature, all clean up besides Inspector issues passed. House Bill 4 finalized budget cut savings from the current biennium were used to fund move and most of imaging project. Real Estate clean up for all but Inspectors and Appraisers passed. Salespersons wanting to become brokers will need 2 more years of experience. Their education is being enhanced prior to becoming a salesperson. Commission can now write

rules for transactional competency. Appraiser jurisdiction expanded to include appraiser companies. Inspector clean up items got sidetracked by insurance debacle.

6. Standards and Enforcement Services Division report, including an update regarding the number and types of opened and closed complaint cases and questions from Committee members regarding the report. Sharon Harris reported. First three quarters of 2011, received and processed with investigations 40 complaints. Resolved 48 complaints with finished investigations 16 resulted in disciplinary action. The range of penalties assessed were within current guidelines. Specific measures are not a part of the chart. Kyle Smith responded to Brian's hypothetical regarding un-inspected septic systems in Dallas because of a lack of awareness. Kyle said that would be a case where mitigating circumstances would be weighed. Brian wants to know if inspectors are responding appropriately to TREC, when complaints are filed. Sharon Harris for the most part inspectors provide what is needed.
7. Education and Licensing Services Division report, including an update regarding the number of licensed inspectors and examination passage rates and questions from Committee members regarding the report. Trends in inspector categories are showing a slight reduction in numbers. Examination activity 31 professional and 6 real estate inspectors. 1/3 of professional inspectors passed on the first attempt. Fred, did clean up address getting out of 50%. It did not average by license type compare course providers are they at or below average. Below average can be required to do additional work. Loretta Dehay it will be calculated by whom the organization teaches separating each license. So, if a school teachers brokers and inspectors it will be evaluated for each license separately. SB 1000 semi independent agency status for TREC now. Now pay AG's office and similar groups for services and to pay general revenue 750,000. License fees to cover these expenses will go up about \$5 per year. Commission will now set budget. Total payments out of recovery fund since 1991 about \$350,000.
8. Staff and Support Services Division report, including an update regarding the Texas Real Estate Inspector Recovery Fund.
9. Subcommittee reports and questions from Committee members regarding reports from the:
 - a. Standards of Practice subcommittee, including an update regarding possible changes to the standards of practice Brian Murphy reported that sub-committee reviewed up to structures to date.
 - b. Commentary subcommittee, including an update regarding the development of a commentary on the standards of practice. To date very few people have commented on what is posted. Sub-committee will work on it again after there has been more time for comments.
 - c. Enforcement subcommittee, including an update regarding the volume and types of complaints being filed and possible opportunities to enhance education requirements to address areas that are lacking. Very few comments to proposed matrix. To date there are less than 10. Survey by trade organization suggests that members may not understand current state of enforcement. Penalty matrix brings to the for-front education issues. Doug Oldmixon this is discussed in the current newsletter. Penalty matrix limits TREC's ability to fine 10,000 per day for any offense.

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- d. Education subcommittee, including an update regarding the approval of continuing education courses offered by proprietary schools and trade associations. Review guidelines for SOP legal updates course must be done by August 1. Perceived problem for teachers getting credit Devon Bijansky to write an article for the newsletter and contact schools. Awards to schools tabled. Fred suggests awards might help encourage schools and hopes it will be considered.

PUBLIC COMMENTS

10. General comments from visitors. Fred Buck, Keller Lalor, Sandy Baker, Paul Roebuck, Brenda Roebuck, Phil Cortiss, Mike Moran, Jonathan Lang, and Mike Cothran.

PENDING BUSINESS

11. Discussion and possible action to recommend adoption of new 22 TAC §535.219, Schedule of Administrative Penalties. Has been posted and will be up for vote at next Commission meeting. Mike Cothran TPREIA conducted a survey. These are their recommendations. Matrix will deplete inspector numbers and unlicensed inspectors will increase. Provide a trigger for doubling of fines and daily fining. Fred Buck, TAREI recommends. Staff should look at what inspector did correctly before assessing penalties. Mike Moran TPREI's Houston Chapter, is concerned that consumers have not made comments. Loretta Dehay fines are not assessed there can be a hearing. Doug Oldmixon published May 11, 2011 will be on August Commission agenda. Brad Phillips continue process without amendments. Jill seconded passed unanimously.
12. Discussion and possible action to make recommendations to the Commission regarding curriculum guidelines for the new 6-hour Standards of Practice/Legal Update/Ethics course. Curtis Carr presented. Modified previous guidelines to set up new class. With 2 hour units it will be fast-paced summaries. Brian has a good course for this. Brian has donated his materials to TREC with no remuneration. Curtis moved to adopt guidelines and power point. Brad seconded. Passed unanimously.

NEW BUSINESS

13. Discussion and possible action to make recommendations to the Commission regarding Property Condition: Access, Inspections, and Utilities paragraph of TREC contract forms. Brian Murphy 20-10 Section 7a access for inspections. Brian solicited industry comments and someone gave him this to handle situation with seller not having utilities on for inspection. Inspector should not have to turn on it is not enough to have paid and current. Illegal to turn most utilities on. Occupied homes need accessibility for major components. Seller would be responsible for re-inspection fees components or utilities not suitable for inspection. Brian Murphy moved to recommend to broker lawyer committee for contract modification Jill seconded. Fred Buck, will be hard to get sellers to comply. Concern it will hurt thorough inspectors realtors will choose inspectors who do not mind accessibility issues. Passed unanimously.
14. Discussion and possible action to make recommendations to the Texas Real Estate Commission regarding revisions to the Standards of Practice, 22 TAC §§535.227-.233. Brian Murphy and his sub-committee. Committee seemed to like leaving descriptors in SOP. Fred Willcox recommends clean-up current version. Ms. Dehay recommends leaving performing

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adequately as opposed to performing for enforcement. Mike Moran this impacts proposed commentary. Phil Cortiss sewer clean outs are not always accessible. Should there be a responsibility to leave property in the state it was found? Fred wants sub-committee to consider this. Brian not an SOP matter.

15. Discussion and possible action to make recommendations to the Texas Real Estate Commission regarding revisions to 22 TAC §535.223, Standard Inspection Report Form, including possible action to recommend the repeal of Form REI 7A-1 and update Form REI 7-2. If SOP changes so will proper form, these two forms will be combined later.
16. Discussion and possible action to recommend that the Commission appoint a task force to research requirements related to mandatory professional liability insurance for inspectors. Fred Buck to research the matter. Deborah Danburg has agreed to assist Mr. Buck. Douglas Oldmixon this is improper for this Committee.
17. Discussion and possible action to recommend that the Commission appoint a task force to research the timing of real estate inspections within real estate transactions. John Ecstrum and Mike Cothran recommended as chairs making quarterly reports to the Inspector Committee. Brad moved and Steve seconded. Carried unanimously.
18. Discussion and possible action to recommend that the Commission appoint a task force to research legislative requirements and deadlines for the 2013 legislative session. Recommendation that clean up bill did not get out of writing session. Doug Oldmixon had a sponsor. Sent to counsel for drafting. Developments with E&O bill it did not get out of committee. There was no way to file as an original bill and could not get on with something else. The sponsor did not see a way to accomplish it. Brad to keep a tally of what is to be in next clean up bill.
19. Discussion and possible action to plan a public forum to obtain input from inspector licensees about whether the current Standards of Practice sufficiently address inspections in rural areas. Jonathan Lang need common sense. Roof pictures shown have holes and it is deficient does not matter whether it is local practice. Mike Cothran does not take a rural setting to have this problem. See problems in the big cities too. Mike Cothran we just have to hold our ground. Committee not interested in this.

FUTURE MEETINGS AND ADJOURNMENT

20. Request for new business agenda items. Cannot discuss agenda setting because it is not on the agenda meeting due to open meetings concern. See Chapter 2 Paragraph D in Robert's Rules Addresses this. Doug Oldmixon started discussion and said state law trumps Robert's Rules. Fred Willcox difficulties getting things on the agenda. Doug Oldmixon things will be posted so there can be discussion.

Brian wants to report at next meeting on same topics. Brad hopes to report passing of penalty matrix. Jill to report on Commentary status at next meeting.

21. Scheduling of future meetings Full Commission August 1. September 23.
22. Adjourn 1:44 pm.

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Inspector Complaints Resulting in Disciplinary Action FY 2011

Date Closed	File No.	Inspection Report	Parts, Component, System Involved	Other
9/29/10	91843	Report was incorrect. Did not provide departure for areas not inspected.	Microwave, stove top, loud AC compressor, broken AC return vent, leak in whirlpool tub, insufficient attic insulation.	
10/27/10	101577	Did not provide report to client. Failed to provide information & documents related to the complaint to the Commission.	Air conditioner	
10/28/10	92300			Made repair (no charge) after closing on a deficiency noted on report.
11/23/10	110027	Did not note all deficiencies.	Hot/cold water faucet reversed, pool light and dimmer not functioning properly.	
11/24/10	100130	Did not note all deficiencies. No departure as required related to appliances. Did not report presence of water well.	Foundation, porch.	
12/7/10	110509 102559			Unlicensed activity; lied on renewal application.
12/8/10	91340	Did not report air conditioner deficiencies.	Air conditioner	
12/10/10	102395			Unlicensed activity over 2 years.
12/13/10	100556	Did not report all deficiencies.	Attic/roof/ceiling-fire damage.	
12/22/10	92427	Did not provide report to client.	Foundation, Oven	
3/10/11	92471	Did not report all deficiencies.	Electrical, water damage due to window leaks and crack in exterior.	

4/19/2011	110317			Failed to provide info to Comn & material misstatement in App
4/25/2011	110243	Did not use Standard Inspection Report Form.		
5/19/2011	101000	Did not report all deficiencies.	Windows and Electrical	
5/19/2011	110866	Failed to deliver report within 3 days, did not properly notate the inspection report form "NI", and did not report all deficiencies.	Dryer Vent System	
5/26/2011	110768			Unlicensed activity
6/1/2011	110603			Unlicensed activity
6/7/2011	100035	Did not report all deficiencies.	Foundation, Windows, Decks, Elecrtical, Water Heater	
6/9/2011	100405	Did not report all deficiencies.	roof materials, water stains	
6/10/2011	100448	Did not report all deficiencies.	Roof materials, water stains, windows, fireplace, sheetrock, electrical, furnace, air conditioning equipment, duct system, chases and vents	
6/16/2011	111101			Failed to leave property in the same state as it was found (left ac system off and left lawn sprinkler system off)
6/16/2011	100674	Did not report all deficiencies.	roof materials	
7/29/2011	110559	Did not include required notice that report was done for a builder 535.223(6)(D)		Misleading adv.
8/11/2011	100580	Did not report all deficiencies.	Roof materials, deck material	
8/25/2011	102062	Did not use Standard Inspection Report Form		Recommended unlicensed warranty co. to clients; offered referral fees

Education and Licensing Services Division

Inspector Licensee Status

July 2011

Inspectors

	Jul 10	Aug 10	*Sep10-Dec10	Jan 11	Feb 11	Mar 11	Apr 11	May 11	Jun 11	Jul 11
<i>Inspector Licensees</i>										
Professional Inspectors(active)	2,290	2,271		2,096	2,101	2,126	2,140	2,063	2,106	2,124
Professional Inspectors(inactive)	957	951		771	779	825	835	778	791	805
Real Estate Inspectors(active)	95	97		92	91	91	92	91	89	95
Real Estate Inspectors(inactive)	34	33		21	22	24	22	17	18	17
Apprentice Inspectors(active)	72	72		60	60	62	64	60	67	65
Apprentice Inspectors(inactive)	13	15		15	15	15	15	14	16	18
<i>Total Inspectors</i>	3,461	3,439		3,055	3,068	3,143	3,168	3,023	3,087	3,124

* Totals for these months are not available due to system conversion.

Staff Services Division

Real Estate Inspection Recovery Fund No. 0988

July 2011

	Monthly Activity			Payment History		
	Beginning Balance	Current Month	Cumulative Totals	Fiscal Year	Number of Payments	Total Payments
Beginning Balance	\$ 621,353.56	\$	\$ 621,353.56	1991	2	\$ 4,309.26
Receipts:				1992	0	0.00
Licensees' Remittances to Recovery Fund		\$ 1,900.00		1993	2	15,000.00
Interest Realized		326.29		1994	5	31,473.40
Repayments		890.00		1995	4	25,668.83
Administrative Penalties		0.00		1996	2	7,500.00
Total Received in Current Month		<u>0.00</u>	\$ 3,116.29	1997	1	7,500.00
Disbursements:				1998	4	30,000.00
Payments from Recovery Fund		\$ 25,000.00		1999	1	7,500.00
Cash Transfer to General Revenue		0.00		2000	6	45,000.00
Rider Disbursements		0.00		2001	0	0.00
Total Disbursed in Current Month		<u>0.00</u>	\$ 25,000.00	2002	2	15,000.00
Total			\$ 599,469.85	2003	1	7,500.00
Reserved for Payment within 90 Days			(12,500.00)	2004	4	32,523.96
Unobligated Fund Balance			\$ <u>586,969.85</u>	2005	5	28,567.39
				2006	5	49,837.11
				2007	1	12,500.00
				2008	0	0.00
				2009	1	12,500.00
				2010	2	16,205.00
				2011 YTD	2	25,000.00
				Total		\$ <u>373,584.95</u>

Investment Position: The Fund is capable of meeting all known obligations.
Investment Compliance: The Investment Policy of the Commission has been followed.

Karen Alexander

Karen Alexander, Investment Officer

Barbara C Kolb

Barbara Kolb, Alternate Investment Officer

*Reconciled balance includes accrued revenue of \$1,771.29 which consists of fees in the Trust & Suspense fund pending transfer & accrued interest.

TITLE 22

EXAMINING BOARDS

PART 23

TEXAS REAL ESTATE COMMISSION

CHAPTER 535

GENERAL PROVISIONS

SUBCHAPTER R

REAL ESTATE INSPECTORS

RULE §535.223

Standard Inspection Report Form

The Texas Real Estate Commission adopts by reference Property Inspection Report Form REI 7A-1, approved by the Commission in 2008, and Property Inspection Report Form REI 7-2, approved by the Commission in 2009, for use in reporting inspection results. These documents are published by and available from the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188.

(1) Except as provided by this section, inspections performed for a prospective buyer or prospective seller of one-to-four family residential property shall be reported on Form REI 7A-1 or Form REI 7-2 adopted by the Commission ("the standard form").

(2) Inspectors may reproduce the standard form by computer or from printed copies obtained from the Commission. Except as specifically permitted by this section, the inspector shall reproduce the text of the standard form verbatim and the spacing, length of blanks, borders, and placement of text on the page must appear to be identical to that in the printed version of the standard form.

(3) An inspector may make the following changes to the standard form:

(A) the inspector may delete the line for name, license number, and signature of the sponsoring inspector if the inspection was performed solely by a professional inspector;

(B) the inspector may change the typeface, provided that fonts are no smaller than those used in the printed version of the standard form;

(C) the inspector may use legal sized (8-1/2" by 14") paper;

(D) the inspector may add a cover page to the report form;

(E) the inspector may add footers to each page of the report except the first page and may add headers to each page of the report;

(F) the inspector may place the property identification and page number at either the top or bottom of the page;

(G) the inspector may add subheadings under items, provided that the numbering of the standard items remains consistent with the standard form;

(H) the inspector may list other items in the appropriate section of the form and additional captions, letters, and check boxes for those items;

(I) the inspector may delete inapplicable subsections of Section VI., Optional Systems, and re-letter any remaining subsections;

(J) the inspector may delete Subsection L., Other, of Section I., Structural Systems;

(K) the inspector may allocate such space in the "Additional Information Provided by the Inspector" section and in each of the spaces provided for comments for each inspected item as the inspector deems necessary or may attach additional pages of comments to the report; and

(L) if necessary to report the inspection of a part, component, or system not contained

in the standard form, or space provided on the form is inadequate for a complete reporting of the inspection, the inspector may attach additional pages to the form. When providing comments or additional pages to report on items listed on a form, the inspector shall arrange the comments or additional pages to follow the sequence of the items listed in the form adopted by the Commission.

(4) The inspector shall renumber the pages of the form to correspond with any changes made necessary due to adjusting the space for comments or adding additional items and shall number all pages of the report, including any addenda.

(5) The inspector shall indicate, by checking the appropriate boxes on the form, whether each item was inspected, not inspected, not present, and/or deficient and shall explain the findings in the appropriate space on the form.

(6) This section does not apply to the following:

(A) re-inspections of a property performed for the same client; or
(B) inspections performed for or required by a lender or governmental agency;
(C) inspections for which federal or state law requires use of a different report; or
(D) quality control construction inspections of new homes performed for builders, including phased construction inspections, inspections performed solely to determine compliance with building codes, warranty or underwriting requirements, or inspections required by a municipality and the builder or other entity requires use of a different report, and the first page of the report contains a notice either in bold or underlined reading substantially similar to the following: "This report was prepared for a builder or other entity in accordance with the builder's requirements. The report is not intended as a substitute for an inspection of the property by an inspector of the buyer's choice. Standard inspections performed by a Texas Real Estate Commission licensee and reported on Texas Real Estate Commission promulgated report forms may contain additional information a buyer should consider in making a decision to purchase." If a report form required for use by the builder or builder's employee does not contain the notice, the inspector may attach the notice to the first page of the report at the time the report is prepared by the inspector.

(E) inspections of a single system or component of a property performed for a buyer or seller and the buyer or seller requires use of a different report, and the first page of the report contains a notice either in bold or underlined reading substantially similar to the following: "This report was prepared for a buyer or seller in accordance with the buyer or seller's requirements. The report is not intended as a substitute for a complete standard inspection of the property. Standard inspections performed by a Texas Real Estate Commission licensee and reported on Texas Real Estate Commission promulgated report forms may contain additional information a buyer should consider in making a decision to purchase." If a report form required for use by the buyer or seller does not contain the notice, the inspector may attach the notice to the first page of the report at the time the report is prepared by the inspector.

Source Note: The provisions of this §535.223 adopted to be effective February 1, 2009, 33 TexReg 9241; amended to be effective September 13, 2009, 34 TexReg 6338

From:

Sent: Thursday, September 01, 2011 10:08 PM

To: Devon.Bijansky@trec.state.tx.us

Subject: redo

Devon

Recounting our conversation, **the question is for a chinese drywall inspection, does TREC expect their licensees to use the full TREC form?**

Facts as I know them:

The inspection is sometimes for a client who is in a sales transaction and sometimes not..sometimes for an attorney...I would not that if the use of the form, under the rules, we would need to use the form sometimes and not others...that makes little or no sense.

The issue of Chinese Drywall is not covered by the SoPs and further is excluded by the rules as an environmental hazard.

Frankly the use of the TREC form for just a drywall inspection is both burdensome and cumbersome.

Equally as frank, it is difficult to explain to the client why he has to sift thru senseless pages which bear no real or imagined use of being in the package. They also detract from the purpose of the inspection and reporting.

Most, if not all of these reports, end up in Judge Fallon's court who is handling the gulf coast chinese drywall cases. Likely he would require a reworking of the report as he would have the same question as the client above.

The chinese drywall inspection is, by definition, a very specialized type of inspection bearing no resemblance to any TREC type inspection.

Regards

Mike

Mike Cothran, C.I.O., TREI # 2995, TRCC # 98307

Certified Professional Inspector

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DefectiveChineseDrywall.com

MLCInspections.com

CABO, IRC, FHA, HOME, 2-10, FmHA, ACES, RWC, BHW, TRCC, NAWT, PTI, IECC



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Commentary -- Introduction. If no comment is made on any section of the Standards of Practice, it is assumed by the Inspectors Advisory Committee that the intent of the Standard is clear.

§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) undue hazard to the inspector;

Commentary -- Nothing in the standards of practice is to be construed as instructions to an inspector that the inspector must take unnecessary risks. There are risks involved in any activity and some of the items required for inspection by these standards of practice involve significant risk. There are also conditions that may be encountered during the course of an inspection that impose an unusual or extraordinary risk. The inspector is required to use their own judgment to determine if the risk level is too great for that individual inspector. If the inspector determines a hazard to be too great to allow the inspection of a part, component or system, the inspector must follow the requirements of the Departure Provision.



EXAMPLE: Vegetation that blocks safe access to the panel board may be considered an undue hazard to the inspector

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

Commentary -- During the course of an inspection, it is not uncommon to encounter obstructions blocking access to various components of the residence. It is not the responsibility of the inspector to determine the weight of the object, the contents or value of the item. It is for the individual inspector to determine if an object can be reasonably or safely moved. If the inspector determines that an item cannot be reasonably or safely moved, the inspector must follow the requirements of the Departure Provision.



EXAMPLE: A push broom in front of a panel board would not be considered to be an obstruction preventing the inspection of the panel board.

(C) using specialized tools or procedures;

Commentary -- The Standards of Practice describe the minimum level of inspection service acceptable for the consumers of the State of Texas. How the inspector performs these inspection services and what tools the inspector uses to accomplish the requirements of the Standards of Practice are, except where specific tools are described or referenced, left to the determination of the individual inspector.

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

Commentary -- The standards of practice dictate that panels provided for observation of items required for inspection by the standards of practice be opened. These panels include access panels for bathtub drains, hydro therapy bathtub pumps and motors, dishwasher pumps, motors, water supply pipes and electrical components, the electrical components of water heaters and central heaters and the dead fronts on main disconnects, gutters, panel boards and equipment disconnects, and lighting fixture switches and electrical wall receptacles, etc. It is not intended that all lighting fixture switches and electrical wall receptacles, junction or appliance boxes be opened or that the interiors of the junction and appliance boxes be inspected. Opening of covers and panels should be made without defacing the property or damaging otherwise sound surfaces other than minor damages to painted surfaces.

(E) damaging property; or

Commentary -- This is intended to mean that the inspector will not intentionally cause damage to sound surfaces. Probing areas that appeared decayed to determine the extent of the decay shall not be construed as causing damage to sound surfaces. It is expected that the inspector will remedy any damages caused accidentally.

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

Commentary -- The inspector is not required to carry a variety of sizes of ladders. The inspector is required to carry a ladder of sufficient length to reach the level of a first story above grade roof for a majority of the substantially completed residential improvements to real property up to four dwelling units in their area.

(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

Commentary -- To prevent this section from being misunderstood, materials on a dwelling must be inspected for the function they perform. For example, a single wythe brick veneer wall is not a structural component of a dwelling unit. However, the failure to properly install, flash and drain a single wythe brick veneer wall can allow water penetration into the wall system. The presence of water in the wall system can cause the brick to effloresce, crack, craze, spall and disintegrate. It can cause metal components such as lintels and brick ties to corrode and fail. Water penetration may also cause insulating materials to lose their effectiveness, can allow interior wall coverings and wall framing materials to deteriorate and can provide the moisture necessary to allow the growth of microbial organisms. While the brick veneer may not be a structural component, defects in the brick and in its installation can have great and grave repercussions on the performance and longevity of the dwelling.

(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

Commentary -- "Industry" practice should not be confused with "local" practices. "Industry" practice, for the purposes of the standards of Practice, means compliance with accepted and published industry standards such as industry association installation or maintenance requirements. An installation is common to a certain location but, the installation cannot be confirmed by industry associations, manufacturer's installation instructions or model buildings codes, is not acceptable for the purposes of these standards of Practice.

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

Commentary – The inspector is required to use the standard inspection report form REI 7A-1. This form is to be completed as per rules §535.222 - 223.

(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

Commentary -- The inspector is free to determine which tools are necessary to achieve compliance with the standards of practice. This is a short list of specialized tools but should not be considered a set or all inclusive list. The inspector is not required to employ the use of any specialized tools or procedures to complete their inspection. The inspector is expected to use a flashlight, ladder and ordinary hand tools to perform the minimum level inspection as set forth by the standards of practice.

(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

Commentary – For the purpose of this commentary, the Standards of Practice will be referred to as The Standards.

(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.

Commentary -- The primary purpose of a pre-purchase real estate inspection is to provide a consumer as much information as possible, within the limitations of a visual inspection, so that the consumer can make an informed purchase. The inspector is encouraged to provide as much information as the inspector deems necessary for the client to understand the nature and importance of the items noted as deficient in the report. While the inspector must perform each inspection to the minimum levels prescribed by the standards of Practice, or the inspector must follow the provisions of the Departure Provision, nothing in the rules of the Texas Real Estate Commission or the intent of Chapter 1102 of the Texas Occupations Code are intended to limit the level of service provided by the inspector.

(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;

Commentary -- The inspector is expected to operate appliances in the manner in which the appliance was intended to operate. Except where specified in these standards of practice, the inspector is only required to show that the appliance or device operates. The inspector is not required to operate these appliances in all modes of operation. Should the appliance fail to operate or should be appliance break when tested or inspected by the inspector, the inspector is not at fault for the failure of the appliance. Should the inspector choose to operate the appliance in a manner other than the common usage of the appliance and the appliance fails, the inspector may be liable for having caused damage to the appliance. For example, should the inspector choose to jump the low voltage system to operate the central heater while the inspector is in the attic and the inspector causes damage to the heater from improperly jumping the low voltage system, the inspector may be liable for the damages to the appliance.

(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

Commentary -- "Near proximity" means as close to a part, component or system as possible under the circumstances encountered or necessary to properly perform an inspection under the rules of the Standards of Practice or, if access to a part, component or system is obstructed or partially obstructed or if a hazard to the inspector limits access to a part, component or system. "Near proximity" means as close to the part, component or system as safely possible. If the inspector cannot get close or near enough to a part, component or system to properly inspect in compliance with the requirements of the standards of practice, the inspector shall follow the requirements of the Departure Provision.

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

Commentary -- The report is required to be written. The report shall include all the items specifically noted for reporting in the standards of Practice, all items deficient in the opinion of the inspector, all items deficient in fact, and all items required for notification under the Departure Provision. Sufficient information, in the opinion of the inspector, should be provided so that the consumer can understand the information contained in the report.

- (3) General limitations. The inspector is not required to:
- (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 arrester system, remote controls, security or data distribution systems, or solar panels;

Commentary -- In occupied dwelling units, some defects may not be visible due to the presence of furniture, furnishings and personal property. The inspector should notify the consumer that defects or items that could not be viewed due to the presence of the furniture, furnishings or personal property were not inspected, were not considered in the rendering of the opinions stated in the report and are excluded from the inspection. It is up to the inspector to document the presence of the items that obscure the inspector's vision should questions about certain conditions arise in the future. As a reminder, these are general limitations and that there will be specific requirements for inspection of items within the standards that will supersede the general limitations.

(B) report:

- (i) past repairs that appear to be effective and workmanlike;

Commentary -- The inspector should take into consideration what, if any, structural defect or water penetration issue may have caused the repairs to be made. If the repair was related to structural deficiencies or water penetration, the inspector should attempt to determine if the actual deficiency or water penetration point(s) was repaired.

- (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;

Commentary -- The Scope of an inspection is not to determine insurability or warrantability of any given item within the standards. The standards were not intended to comply with the requirements of the Texas Department of Insurance, home warranty company guidelines or any other insurance or warranty guidelines or requirements. The Standards are not a check for code compliance. Though some items required to be inspected by the standards are code related items, those items are required to be inspected because they are considered to be safety related. Examples of such are GFCIs, AFCIs and elevated water heaters in garages. It is not rational to expect any one person to potentially know all known codes violations, recalls, regulatory agencies, defects, installation requirements, load and sizing requirements, etc...

- (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;

Commentary -- The inspector does not have the care, custody or control of the house at any time prior to, during or after the inspection. Events, damage, deterioration or mechanical failures, damage(s) caused by others, repairs performed that cause damage to the structure, failure of repaired item to perform or hazardous conditions that are

created by any repairs, action or inaction, etc. that occur after the inspection has ended are not the responsibility of the inspector. The only exceptions to this concept are if the inspector caused the damage to occur. For example, if the inspector left the oven operating, left a door unlocked, etc., the inspector may be liable for damages or expenses incurred as the result of the actions or inactions of the inspector.

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

Commentary -- All systems and components in a dwelling unit are made to operate or to perform some task. Lack of use can cause damage or failure of components as easily as damage or failure from overuse. There should be no expectation on the part of the consumer that parts, components or systems will continue to operate in the same manner as they operated during the inspection if the dwelling unit is left vacant for any length of time.

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

Commentary -- It is the responsibility of the inspector to provide sufficient documentation of the condition of the dwelling unit based on the present condition, occupancy and working under current use and habits of the current occupants of the dwelling. However, defects, deficiencies or damaged areas that were concealed or covered by the furniture, furnishings, art work, effects, other ornamental objects or clothing, etc, of the seller that were discovered when the seller vacated the property should be reported to the buyer via an updated seller's disclosure statement. The inspector is not required to anticipate the possibility of damage in areas that are obscured from observation.

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

Commentary -- The inspector should render their opinions or findings of fact based solely on the evidence found during the inspection, not on the consequences of those opinions on the consumer, the seller or the real estate agents involved.

- (v) common household accidents, personal injury, or death;
- (vi) the presence of water penetration(s); or

Commentary -- Water penetration to the interior of a dwelling unit is going to occur at some point in time in the vast majority of structures. It is not part of the inspection for the inspector to anticipate when or how such an event will occur. The inspector's responsibility is limited by the standards of practice to the discovery of accessible and visible indications of water penetration at the time of the inspection. It is the inspector's responsibility to provide sufficient documentation of the condition of the building at the time of the inspection.

- (vii) future performance of any item;

Commentary -- All structural components, electrical components, plumbing components, mechanical equipment, ducting, insulation, etc. have economic and actual service life limitations. These life durations vary between individual components. The economic and actual service life limitations cannot be anticipated by a visual inspection or, in many

cases, by an intensive investigation of the part, component or system. The actual performance of any part, component or system at the time of the inspection does not predict continued performance of that part, component or system. It is the responsibility of the individual inspector to provide adequate documentation of the operation of the part, component or system at the time of the inspection.

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

Commentary – The inspector is not required to operate valves of any type unless specifically required by the standards. As per the standards, an inspector should not damage or deface the property during the course of an inspection. It is an acknowledged fact that valves that have not been operated for a period of time have a high probability of failure due to the lack of use or operation.

- (F) designate conditions as safe;

Commentary -- It is also not the responsibility of the inspector to designate an item as unsafe. Except in the specific instances that the standards of practice require inspection and reporting of safety concerns or conditions, the inspector has no obligation to report safe or unsafe conditions. To make such a requirement would lead to an endless list and would require the inspector to make judgments of the client's clumsiness or deftness. It is not rational to expect any one person to know all potential safety hazards for any given, component, event or individual.

- (E) recommend or provide engineering, architectural, appraisal, mitigation, physical surveying, realty, or other specialist services;
- (F) review historical records, installation instructions, repair plans, cost estimates, disclosure documents, or other reports;
- (G) verify sizing, efficiency, or adequacy of the ground surface drainage system;
- (H) operate recirculation or sump pumps;
- (I) remedy conditions preventing inspection of any item;
- (J) apply open flame to operate any appliance;

Commentary – The inspector is not required to apply an open flame to any appliance to check for operation of the equipment. The inspector is not required to light pilots or use a lighter to initiate the operation of an inspected component.

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

Commentary -- An inspector should assume that a decommissioned piece of equipment was turned off for a reason and may constitute a safety hazard to the property or to the inspector to re-commission it. The inspector is required to follow the provisions of the departure provision.

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

Commentary -- It is the responsibility of the inspector to document the condition of the property as it was found to be at the time of the inspection. It is not the responsibility of

the inspector to tell the seller or the buyer how to correct items noted as deficient or to provide follow-up services to guarantee repairs are made correctly.

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

Commentary -- Example 1: Under (Scope) General Limitations, an inspector is not required to report past repairs that appear to be effective and workmanlike, yet under (e) Roof Covering Materials, the inspector shall report evidence of previous repairs to roof covering materials, flashing details, skylights, and other roof penetrations.

Example 2: Under General Limitations, The inspector is not required to: (E) operate shut-off, safety, stop, pressure, or pressure-regulating valves, yet under (C) Water heaters, The inspector shall report as deficient a temperature and pressure relief valve that: (I) does not operate manually.

(2) 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;

Commentary -- For example, a client may inform an inspector that the kitchen appliances are to be replaced and that the appliances need not be inspected; or that a professional roofer is going to inspect the roof or that a HVAC technician is to inspect the HVAC equipment. If the client instructs the inspector that the inspector need not inspect these type items, the inspector does not have to perform those inspections. The inspector is required to follow the provisions of the departure provision.

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

Commentary -- Mechanical equipment changes constantly and there may be systems or equipment present in a residence that the inspector is not familiar with. Should the inspector not have knowledge of the proper or safe operation of a part, component or system, the inspector should not attempt to perform an inspection on that part, component or system. The inspector is required to follow the provisions of the departure provision.

(iii) conditions beyond the control of the inspector reasonably prevent inspection of an item;

Commentary -- Frequently an inspector will encounter conditions which prevent the inspection of parts, components or systems from taking place. These conditions can be almost anything and may be subject to change with time. Should the inspector determine that a condition exists that prevents the inspection of an item or items, it is up to the inspector to document that condition so that the inspector can defend his decision. Examples of such conditions are: Limited access because of stored items, wet / steep roof, rainy / wet surfaces on the exterior, a large threatening dog in the back yard, attic spaces that appear difficult to enter, exposed wiring connections at the attic entrance, wasp nests in panel boxes. When these or similar conditions are encountered, the inspector must make the appropriate notation in the report stating the reason the part

component or system was not inspected. The inspector is required to follow the provisions of the departure provision.



(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;

Commentary -- The inspector is only required to inspect the components of common elements that comprise the residence being inspected. For example, if the residence is a townhouse that is on the same foundation with a number of other townhouse units, the inspector would only be required to inspect the portions of the foundation, the cladding systems, the attic, the roof structure and roof covering materials that make up the residence being inspected. The portions of the foundation, the cladding systems, the attic, the roof structure and the roof covering materials that make up other residential units do not have to be inspected. The inspector would not normally have access to the interiors of the other residential units in any event. The inspector is required to make the appropriate notation clearly stating that the inspection was limited only to those components that make up the residential unit that was inspected in the report.

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

Commentary -- Nothing in the standards of Practice or in the rules of the Texas Real Estate Commission requires an inspector to expose himself to dangerous or hazardous or unsanitary conditions. Should such a condition(s) be encountered, the inspector is required to inform the client of the hazard at the earliest practical opportunity. The inspector is required to make the appropriate notation clearly stating what hazardous or unsafe or unsanitary condition was encountered and to note what parts, components or systems were not inspected as a result of the unsafe condition in the report.

Example: An inspector who is in the attic determines that the footing is dangerous for him to proceed any further without raising the risk of his stepping through the ceiling, he should not try and walk further into that section of the attic. He must state in the report the reason that section of the attic was not inspected.

(vi) the inspector reasonably determines that actions of the inspector may cause damage to the property.

Commentary -- When the performance of an inspection of a part, component or system would require the inspector to damage sound materials, the inspector should not cause damage to the property. Should such a condition(s) be encountered, the inspector is required to inform the client of the hazard at the earliest practical opportunity. The inspector is required to make the appropriate notation clearly stating what components of the dwelling unit would have been damaged and to note what parts, components or systems were not inspected as a result of the condition in the report.

Some inspectors have used this concept to cover such things as giving the inspector full immunity from walking the surface of a roof under the theory that walking any roof surface damages the roof covering material. While this may be true in theory, there may be no measurable diminution in the service life of the roof covering material from the inspector walking the surface of the roof covering material. If the inspector is not familiar with how to walk certain roof surfaces, such as a tile roofing system, without damaging the material, the inspector should follow the departure provision in notifying the consumer that the roof was not walked. This section is not to be construed as a blanket exclusion from inspecting certain components required for inspection by these standards of practice.

Example: A panel box cover is stuck to the wall paper on the edges. If the inspector believes that to remove the cover would tear / damage the wall paper, the inspector is permitted to leave it in place and not remove it. The inspector then must state in the report the reason that the cover was not removed.

(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

Commentary -- The "earliest practical time" may vary depending on the circumstance. Generally it means when it is discovered that a part, component, system or area cannot be inspected. For example, it should be clear when the property to be inspected is approached that the roof surface can or cannot be accessed. It may be clear that a crawl space can or cannot be accessed. If the client is present, the client should be informed at that time that the roof will not be inspected from the surface of the roof or that the crawl space will not be inspected from the interior of the crawlspace. When conditions are discovered that would cause the inspector to make use of this Departure Provision, these conditions should be reported as soon as reasonably possible. For example, the determination that there are areas of the attic that cannot be accessed should not cause the inspector to leave the attic to inform the consumer of the inaccessible attic areas. It is sufficient that the client be informed after the inspector exits the attic but before the inspector leaves the property, if the client is present. If the client is not present, the inspector should inform the client of the items that could not be inspected as required by the standards of Practice as soon as reasonably possible. That may be when the report is delivered to the consumer. The inspector should realize that the consumer has a limited period of time in which to perform due diligence on the dwelling unit. The intent of this Departure Provision is to provide the consumer with as much time as possible to have all the parts, components and systems inspected prior to the termination of the option period. The inspector is required to follow the provisions of the departure provision.

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

Commentary -- The notation of the reason a part, component of system was not inspected in accordance with the Standards of Practice must be specific and clear in the report. It should also be clearly stated in the report which parts, components and systems were not inspected when the Departure provision is used.

- (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.

Commentary -- Nothing in the Standards of Practice require an inspector to put himself in a position of unacceptable risk to that individual inspector. It is clearly realized that different inspectors have different levels of tolerance for heights, for the use of ladders, and from exposure to live electrical components, etc. This provision of the Departure Provision recognizes those facts and creates a system by which the consumer can be informed that there are limitations, for whatever reason, beyond which an inspector will not venture. However, the concern of the Texas Real Estate Commission is that the consumer has the time necessary to perform the due diligence necessary for the consumer to make an informed choice. It is the requirement of this section that an inspector who does not perform certain tasks, such as climbing ladders, walking roof surfaces, walking through or crawling attic spaces, entering crawl spaces under houses, removing covers from panel boxes, electrical cabinets, etc. inform the consumer or the consumer's representative at first contact. This often means when the consumer or the consumer's representative calls, emails or otherwise contacts the inspector to arrange for inspection services. It is expected that the inspector respect the need of the consumer to have the opportunity to complete their due diligence investigations during the limited time period afforded by the option period.

- (a) 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

Commentary – While the inspector is required to note the type of foundation in the report, there are conditions under which the inspector may not be able to determine the exact type of the foundation employed or of each part of the foundation if there have been additions to the house. For example, what appears to be a concrete slab on grade may be a concrete slab supported on drilled and under reamed concrete piers. The

inspector may note what the foundation appeared to be to the best of his ability to determine the type of foundation supporting the structure.

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

Commentary – Many crawl spaces are too low to the ground to enter. Others have obstructions or other conditions that prevent parts of the crawl space from being entered. If the crawl space was entered, then that must be stated on the report. If the crawl space was not entered, then the inspector must describe in the report the place from which the crawl space and its components were viewed.

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

Commentary -- If in the opinion of the inspector, the foundation has adverse performance, he is to render that as his opinion and state in the report what evidence he found that led him to that conclusion. Though he is not required to provide in the report an exhaustive list of adverse performance indicators, he is required to provide examples of these indicators such as concrete cracks, brick cracks and out of square doors. He may choose to recommend that the client have the foundation further evaluated by a structural engineer.

- (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 differential movement of abutting flatwork such as walkways, driveways, and patios;
- (4) report as Deficient:
- (A) exposed or damaged reinforcement;

Commentary – The purpose of reporting exposed reinforcement is so that the reinforcing steel can be cleaned and covered. As the steel rebar rusts, the steel expands which can cause damage to the concrete. The ends of post tensioned cables used to reinforce a foundation can cause the failure of the cable anchoring system.



EXAMPLE: The end of a post tensioned steel cable left exposed to the elements.

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

Commentary – There is no expectation that the inspector will measure the ventilation openings in the chain wall and the square footage of the crawl space to determine if the sizing of the ventilation openings conform to the requirement of the model building codes. The inspector should inspect the condition of the crawl space and its components to determine if the amount of air flow through the crawl space appears adequate or if the crawl space does not appear to be adequately ventilated resulting in conditions such as excessive moisture or wood rot on the surface of the understructure members.

(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

Commentary -- The inspector must use reasonable judgment in determining whether a retaining wall is close enough to the foundation to affect the performance of the foundation.

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

Commentary -- It is not enough to simply check the “Inspected” box on the report. If in the opinion of the inspector, the foundation is not in need of repair or stabilization, and is functioning properly, he must make some such statement in the report. On the other hand, if in the opinion of the inspector, the foundation is in need of repair or stabilization, he must make some such statement in the report along with some of the adverse performance indicators that the inspector found.



EXAMPLE: An inspector should be able to determine that this foundation is in need of leveling.

- (a) 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.

- (b) Grading and drainage. The inspector shall report as Deficient:
 - (1) improper or inadequate grading around the foundation (including flatwork);

Commentary -- In many areas there is not enough ground clearance above the street to allow for the amount of slope required by the model building codes. In older dwelling units, it may not be possible to provide the slope required for drainage around a foundation by the model building codes. Older dwelling units can be examined for indications of water penetration or for indications of differential foundation movement or loss of support for the foundation caused by inadequate drainage. The consumer should be made aware if there are limitations in the areas surrounding the dwelling unit to provide adequate drainage in the inspector's opinion.

- (2) erosion;
- (3) water ponding; and

Commentary -- While water may not be standing in these depressions, the depressions often create trip hazards around the foundation. The inspector is not required to inspect the entire lot for water ponding or for trip hazards in the yards however; such defects near the foundation should be reported.



- (4) deficiencies in installed gutter and downspout systems.
- (a) 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.
- (a) 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

Commentary – It is the intent that the inspector walk the roof if in his opinion he can do so safely and without causing significant damage to the roof. If in the opinion of the inspector he cannot safely access the roof or if in doing so would cause significant damage to the roof, he must state in the report from what area the roof was inspected such as from the edge of the roof on a ladder or from the ground. The intent is to protect the consumer from having unrealistic expectations of how thoroughly a roof can be examined from other than the surface of the roof. As a note, minor granular loss is not considered to be significant damage.

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

Commentary – Even if the inspector can access some areas of the roof, there may be areas that are not accessible due to conditions such as a steep pitch, roof height or wet surfaces, etc. Those areas that were not accessible must be specifically noted in the report. In complying with the Departure provision, the inspector must also make the appropriate notation in the report stating the reason that section of the roof was not inspected.

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

Commentary -- The reason for this requirement is that when a section of the roof has been repaired previously, it is more likely to leak again than those sections that have not been repaired and the buyer should be notified of that history so that he may question the reasons for the repairs and so that he may monitor it after the purchase.



Examples of past repairs to the roof covering materials

- (E) evidence of water penetration; and
- (3) report as Deficient:
 - (A) a roof covering that is not appropriate for the slope of the roof;

Commentary -- While there are general requirements that provide for minimum slopes for the use of certain roof covering materials, there are exceptions. There are roofing felts made that allow the use of composition shingles on slopes as low as 1 in 12. The inspector may choose to question the use of certain materials on low sloped roofs rather than to report the use of a roof covering material on a low sloped roof as improper as a fact.

- (B) deficiencies in:
 - (i) fastening of roof covering material, as determined by a random sampling;

Commentary -- Fastening of the roof covering materials may include fasteners and the sealing of composition shingles to each other. Fasteners on composition shingles are required to be located below the sealing adhesive strip and the ends of the shingles are supposed to have fasteners at about one inch from each end of the shingle. These fasteners, if properly located, can be seen by raising the edges of the shingles without

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damaging the sealing of the shingles. According to industry publications, the sealing of the shingles to each other is as important, or more important, than the location and number of fasteners. A random number of composition shingles should be checked to see that the shingles are sealed.



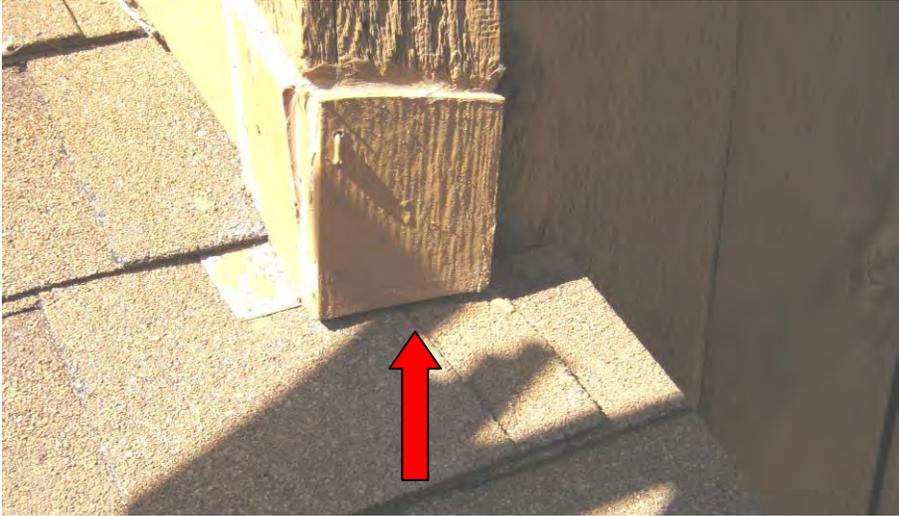
Examples of improperly fastened shingles

(ii) roof covering materials;



Example of improperly terminated roofing felt

(iii) flashing details;



Example of the lack of flashing material at wall junctions



Example of loose drip edge flashing and no visible diverter or side wall flashing termination

(iv) skylights; and

(v) other roof penetrations.

- (b) 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;
 - (4) identify latent hail damage; or

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

Commentary – If it is determined by the inspector that the roof had experiences water penetration in numerous areas or that previous repairs had taken place in numerous areas, the inspector is not required to provide a complete list of all those areas. He may instead provide a summary statement, for example, describing the roof as having experienced water penetration “in numerous areas” or having been repaired in “several areas” or simply provide examples.

- (a) Roof structure and attic. The inspector shall:
(1) report:
(A) the vantage point from which the attic space was inspected;

Commentary -- It is the intent of these standards of practice that the inspector enter the attic and that the inspector view the various components that form the attic structure or that are contained in the attic from as near to the parts and components as possible whether the attic is floored or not. If the attic cannot be entered, the inspector is required to state where the inspector was when the interior of the attic was viewed. The inspector is required to follow the provisions of the departure provision.

- (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;

Commentary -- There is no expectation that the inspector will measure the ventilation openings in the soffit and roof openings and the volume of the attic space to determine if the sizing of the ventilation openings conforms to the requirements of the model building codes. The inspector should determine from observation if the amount of air flow through the attic space appears adequate in the reasonable opinion of the inspector.

- (B) deficiencies in installed framing members and decking;

Commentary -- The intent here is that the inspector report on deficiencies. Most older homes were built with a heavier grade lumber than recently built homes. If an older home has no apparent deficiencies, but was not built with purlins, the lack of purlins does not need to be reported because it did not result in a deficiency. On the other hand, if the roof had sags, and if in the opinion of the inspector those sags were caused by the lack of proper bracing with purlins, then that would be noted in the report as a deficiency.



Example of an installed but inadequate supported purlin that has deflected

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

Commentary -- Allowable deflections are noted in span tables published in the model building codes and in span tables published by the lumber mills. While the inspector is not expected to measure the actual deflections in the roof decks, the inspector is expected to understand why deflections are important and is expected to make a reasonable effort to determine if deflections in excess of those allowed by the span tables exist. Excessive deflections can often be seen by aligning the drip edge with the ridge of the roof.





Examples of visible deflections in the roof decks



Example of the lack of sufficient edge spacing on roof decking materials

- (D) missing insulation;
 - (E) deficiencies in attic access ladder and access opening; and
 - (F) deficiencies in attic ventilators.
- (a) 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;

Commentary -- These measurements are somewhat arbitrary. An attic opening may be larger than this designated size and yet still be too small for a particular inspector to pass through. Regardless of the opening size, if an inspector does not enter an attic or unfinished space, the inspector must still state the reason in the report.

- (2) operate powered ventilators; or

Commentary – Many times when an inspector enters the attic, he finds that the power vent is not operating. If an inspector is able to access the thermostat and turn it to its lowest setting, and yet that did not activate the motor, the inspector would still not be able to say for certain that it was nonfunctional because many times the temperature of the attic air may be lower than the lowest setting on the thermostat. Therefore an inspector is not required to turn on powered ventilators.

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

- (a) Interior walls, ceilings, floors, and doors. The inspector shall:
 - (1) report evidence of water penetration; and

Commentary -- The inspector is not required to report the presence of microbial organic growths however, the presence of microbial organic growths often indicate the presence of water penetration. While the inspector is not required to report or attempt to identify the type of the microbial organic growth or to determine if the dwelling unit is a “sick building”, the inspector is required to identify the presence of water penetration.

- (2) report as Deficient:
 - (A) doors and hardware that do not operate properly;
 - (B) deficiencies related to structural performance or water penetration; and



Example of a crack in the drywall that may indicate foundation or structural deficiencies

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



Example of a label on Fire Resistive drywall

- (a) 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.
- (a) 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;

Commentary -- While specifications on the sizing of emergency escape and rescue openings may be obtained from such publications as the International Residential Code, the inspector should be aware of the general requirements and the intent of providing emergence escape routes from sleeping rooms regardless of the code requirements in effect at the time of the construction of the house. While an inspector cannot mandate changes to the structure, the inspector can make the consumer aware of an inherently hazardous condition.

- (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

Commentary -- The proper installation of flashing, seals and drains for cladding systems have become more important with the increasing of the tightness of the building envelop to reduce air infiltration. There are a number of sources that provide information to the inspector as to the type of flashings, seals and drain openings, the location of these components and their purpose. Some of these publications contain photographs and/or drawings that assist the inspector in understanding these concepts and components. Some publications provide information on how water penetration and transference of water vapor occur and the consequences of water intrusion. These publications include such publications and industry resources as the International Residential Code, the commentary to the International Residential Code, the American Society for Testing and Materials, the Brick Industry Association, Inc., the American Plywood Association, Inc. and Owens Corning's Cultured Stone, etc.



Example of a crack in the brick veneer that may indicate foundation or structural deficiencies

- (E) deficiencies in:
- (i) claddings;
 - (ii) water resistant materials and coatings;
 - (iii) flashing details and terminations;



Example of the lack of through wall flashing or a drain plane at stucco junction with the brick veneer



Example of the lack of through wall flashing installed at the window sill



Example of the lack of a weep screed or drain opening at vertical wall termination above grade for a stucco, stone or synthetic stone cladding system

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

(v) window operation and components.

(a) 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.

(a) 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



Example of damaged window glazing strips

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



Example of glass panes in a hazardous location

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

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

Commentary -- The inspector should visually inspect all accessible windows for lost seals. However, since the evidence of seal problems may vary with temperature and humidity changes, and since preliminary seal problems are often difficult to see, the inspector is not required to dedicate the amount of time it would take to exhaustively analyze every square inch of each window.

- (2) exhaustively observe glazing for identifying labels; or

Commentary -- The inspector should try and locate identifying labels on doors as well as on windows which are located in hazardous locations. However, many times the labels have faded or were worn off. As a result, the inspector is not required to dedicate the amount of time it would take to exhaustively analyze every square inch of every pane in each door and window.

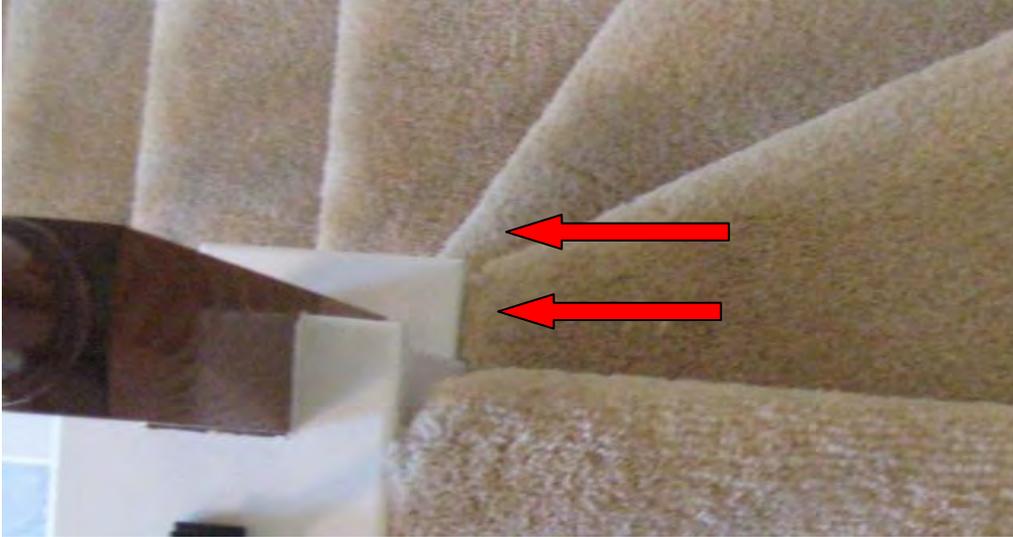
- (3) identify specific locations of damage.

(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.

Commentary -- Information on the specifications for stairways can be found in the IRC.



Example of inadequately sized winders on a staircase



Example of excessive openings between staircase treads

- (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;



Example of the lack of a fire stop at a chimney/duct chase opening

- (4) an inoperative circulating fan; and
- (5) deficiencies in the:
 - (A) damper;
 - (B) lintel, hearth, hearth extension, and firebox;



Example of non combustible extensions that may have been adequate when the house was constructed but that do not meet modern safety requirements

- (C) gas log lighter valve and location;
- (D) combustion air vents; and
- (E) chimney structure, termination, coping, crown, caps, and spark arrestor.



Example of a defect in a chimney termination

- (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

Commentary -- Attached or abutting porches or decks is understood to mean a porch or deck that is or can be used as a means of ingress or egress from a dwelling unit.

- (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;
 - (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;

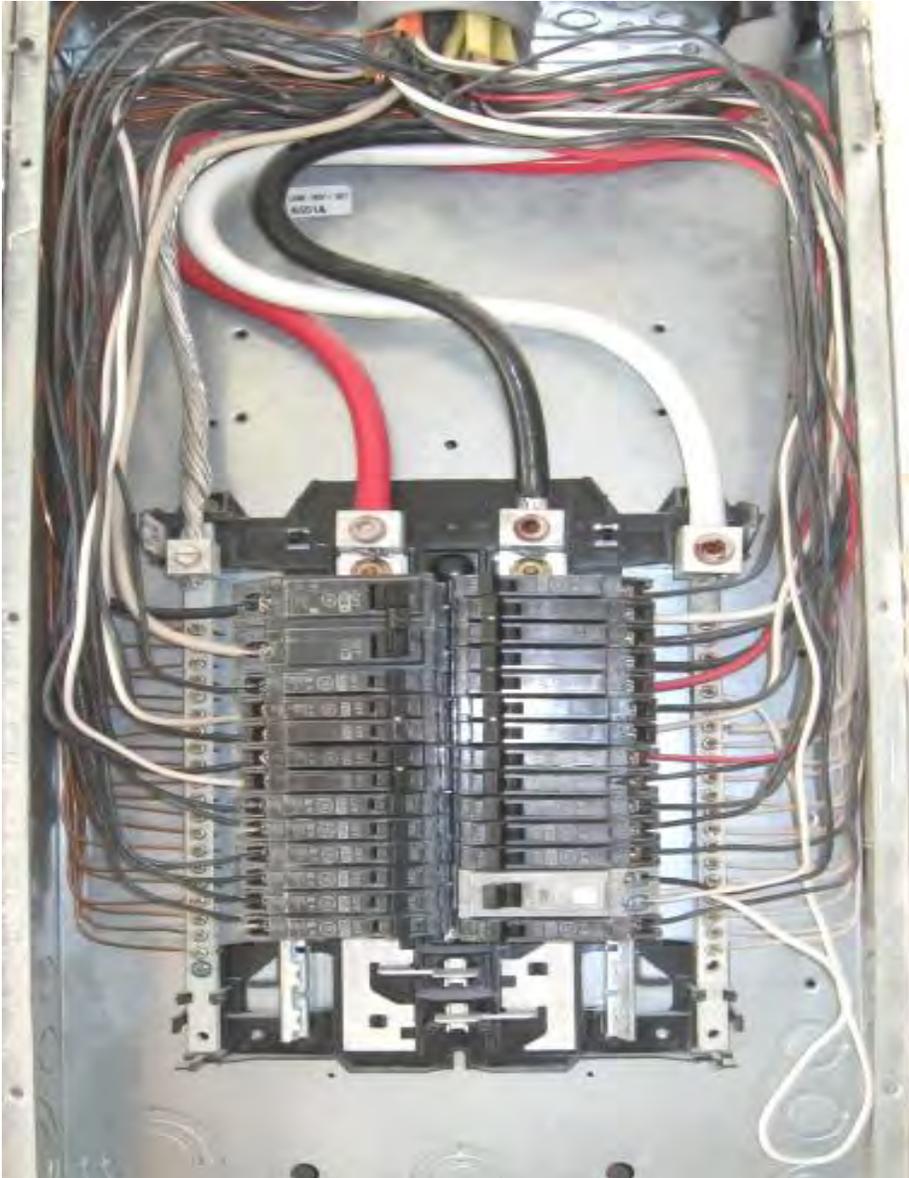
Commentary -- All electrical components must be securely fastened to prevent the conductors from being subjected to physical damage and stress and to protect the conductors and equipment from exposure to the elements.

- (B) are not appropriate for their location;
- (C) have deficiencies in clearances and accessibility;

Commentary -- Accessibility, in electricity, means that there is a workspace in front of all electrical equipment and components and that the inspector would be standing on a platform or on the ground when working on the electrical component. This is to provide safety and stability to the inspector. Clearances are required so that the inspector is not likely to come into contact with two energized electrical components or appliances. If the potentials between two components or appliances exist, the inspector may be the medium through which the differing potentials are equalized, which could result a shock to or the electrocution of the inspector. While the National Electric Code and the International Residential Code set minimum clearances for electrical components and equipment, those minimums may not be adequate for the safety of all inspectors. Each inspector should ensure that there is safe access for that inspector to each electrical component.

- (D) are missing knockouts; or
- (E) are not bonded and grounded;

Commentary -- Bonding is the equalization of electrical potentials. All materials, appliances and components capable of carrying electrical current, including low voltage systems such as telephone, satellite television and cable television systems, etc. are required to be bonded.



Example of a properly bonded and grounded sub panel board. The grounded (neutral) conductors are connected to separate bus bars and the bonding bar between the grounded and grounding bus bars has been removed

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

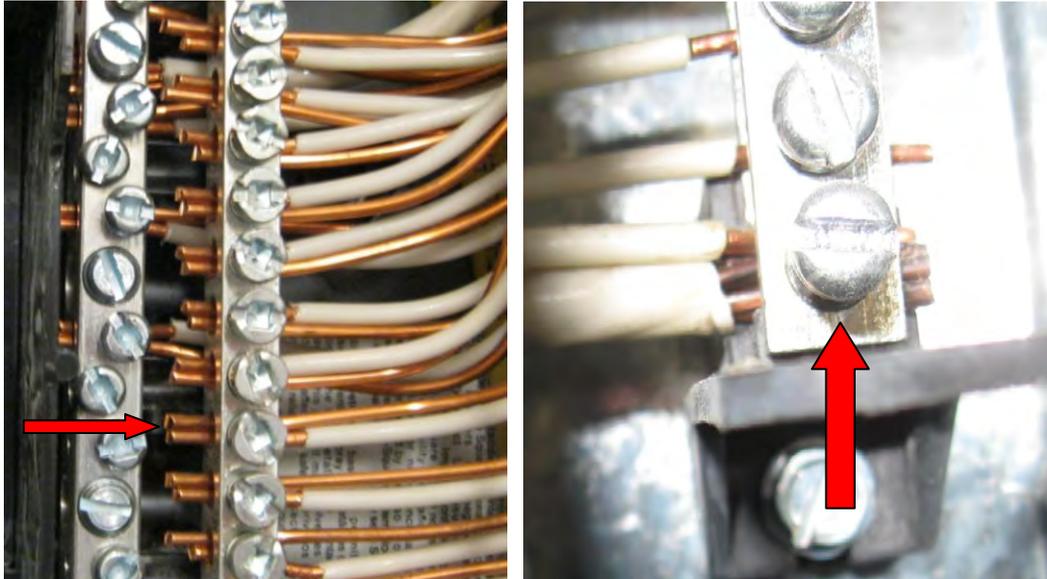
(8) conductors not protected from the edges of electrical cabinets, gutters, or cutout boxes;

Commentary -- All metal electrical cabinets, gutters, meter cans, panel boards, pull boxes and junction boxes, etc. are required to be fitted with devices that protect the insulation on the conductor(s) from the metal edges of any openings through the box. This is to prevent the insulation from being abraded, nicked or cut which would result in a fault being created.

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

Commentary: A bent piece of copper wire is not an appropriate trip tie. Appropriate trip ties must be used on 240 volt circuits.

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



Example of improperly terminated grounding conductors

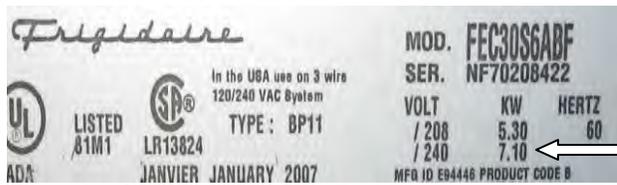
(11) deficiencies in the compatibility of overcurrent devices and conductors;
(12) deficiencies in the overcurrent device and circuit for labeled and listed 240 volt appliances;

Commentary -- The compatibility of the overcurrent devices with the requirements of the equipment and the conductors is very important. For 240 volt appliances, the requirements for the maximum overcurrent protective device and the minimum conductor size are listed on the appliance label or are shown as the kW (kilowatt) rating of the appliance. The minimum circuit ampacity listed on the label is the minimum size of the conductor, according to the amperage rating, provided that the appliance is located at the panel board or fuse box. If the appliance is far away from the panel board or the fuse box, the voltage drop caused by the length of the circuit may cause such an increase in the amperage required to force the voltage over the length of the circuit that the conductor may not be adequate. A larger conductor may need to be installed to diffuse the heat generated by the increased amperage. As mandated by the National Electric Code, voltage is regulated at 120 or 240 for the purposes of calculation only. Actual voltage in a circuit varies constantly. As noted, watts are volts multiplied by Amps. If, for example, an electric oven was rated at 3.4 kW, the amperage would be determined by dividing 3,400 watts (3.4 kW) by 240 volts. This would give us 14.167 Amps. That would mean that the oven could be connected to #14 copper conductors protected by 15 Amp, 240 volt breakers, if the oven was located at the panel board. If the oven was not located at the panel board, the conductors would likely have to be increased in size but the breakers would remain 15 Amp, 240 volt breakers. If the breakers were increased to 30 Amp breakers, then the code would have been violated

as well the requirements of Underwriters Laboratory, Inc. Underwriters Laboratory, Inc. certifies that an appliance will operate safely if it is installed according to the labeling instructions of the manufacturer.

LENNOX			
DALLAS, TEXAS			
M/N 13ACC – 060 – 230 – 02			
S/N 5805G07094			
CONTAINS HCFC – 22		DESIGN PRESSURE	
FACTORY CHARGE		HI 278 PSIG	
10 LBS 8 OZS		LO 144 PSIG	
ELECTRICAL RATING		NOMINAL VOLTS: 208/23	
1 PH	60 HZ	MIN 197	MAX 253
COMPRESSOR		FAN MOTOR	
PH	1	PH	1
RLA	28.9	FLA	1.9
LRA	169	HP	1/3
MIN. CKT. AMPACITY AMPERAGE MINIMUM		MAX FUSE OR CKT. BKR. FUSIBLE/COUPE CIRCUIT (MAY BE PER NEC)	
38.0		60	

Example of Lennox condensing unit's listing label showing the minimum circuit ampacity used to determine the size of the electrical conductors and the maximum over current protection device rating allowed for the unit



Example of a listing label for a Frigidaire oven showing that the unit is rated at 7.10 kW for 240 volts

- (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;

Commentary -- Additional hazards include such things as shock hazards, fumes from gasoline, paints, fertilizers, chlorine, acids, etc. Water or moisture causes rust. Rust, aside from causing the panel board from to deteriorate, increases resistance.

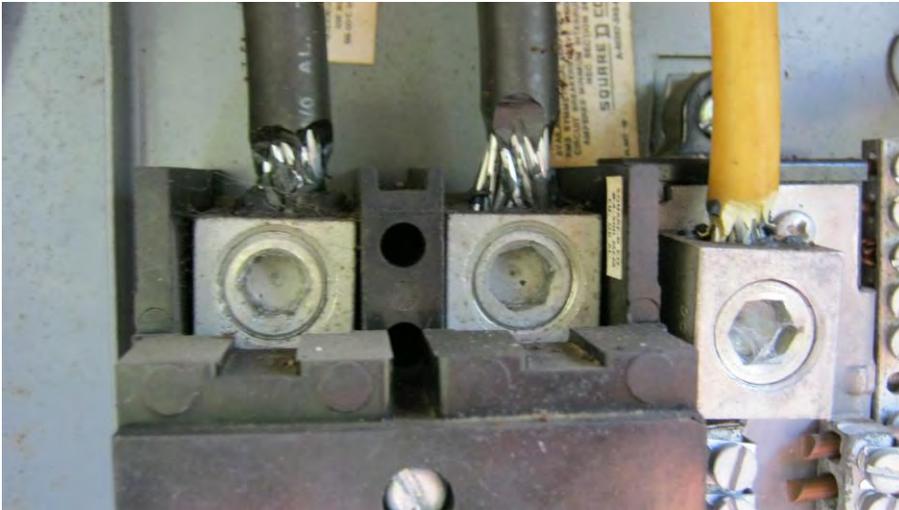


Example of a panel board in a clothes closet



Examples of a hazardous location of panel boards installed without dead fronts in a wooden enclosure in a bathroom, etc.

- (14) the absence of appropriate connections, such as copper/aluminum-approved devices;
- (15) the absence of anti-oxidants on aluminum conductor terminations;



Example of improperly applied anti-oxidizing mastic on aluminum conductors

- (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;
- (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;

Commentary -- The inspector is required to report the failure of operation of AFCIs. This is best accomplished by tripping the test buttons and checking the appropriate rooms to see if power was lost. However, it is recognized that a home owner may have a piece of equipment or device plugged into an AFCI protected receptacle that cannot afford to have power lost without possible damage resulting. Consequently, the inspector is not required to test AFCIs in houses that are occupied or in the inspector's reasonable judgment may cause damage to personal property.

- (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;

Commentary -- If after removing the screws, the cover is stuck in place, the inspector should not use his screw driver to pry the cover off. The inspector should not place his hands, fingers or a tool inside the box opening. The inspector should make the appropriate notation in the report explaining why the cover was not removed. It is the intent that the cover be removed. If the cover is not removed, the departure provisions must be followed.

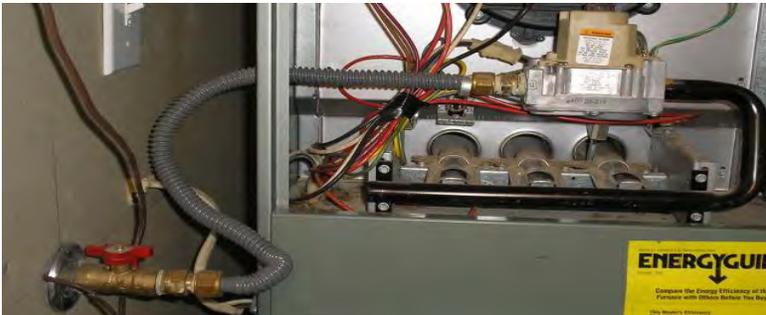
- (7) verify the effectiveness of overcurrent devices; or
- (8) operate overcurrent devices.
- (a) Branch circuits, connected devices, and fixtures. The inspector shall:
 - (1) report the type of branch circuit conductors;
 - (2) manually test the accessible smoke alarms by use of the manufacturer's 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;
 - (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).
- (a) 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
- (1) 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



Example of an improper use of a flexible gas pipe passing through the side of a gas fired heater.

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



Example of evidence of a defect in a gas fired heater vent system

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

Commentary -- As an example an inspector may test the cooling system to determine the difference between the supply air temperature and the return air temperature at the evaporator coil.

- (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.
- (a) 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).
- (b) 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;
 - (2) 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;
- (3) verify:
 - (A) compatibility of components;
 - (B) the accuracy of thermostats; or
 - (C) the integrity of the heat exchanger; or
- (4) 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:
 - i. static water pressure;
 - ii. location of water meter; and
 - iii. location of main water supply valve; and
 - (2) report as Deficient:
 - (1) the presence of active leaks;
 - (2) the lack of fixture shut-off valves;
 - (3) the lack of dielectric unions, when applicable;
 - (4) the lack of back-flow devices, anti-siphon devices, or air gaps at the flow end of fixtures;
 - (5) water pressure below 40 psi or above 80 psi static;
 - (6) the lack of a pressure reducing valve when the water pressure exceeds 80 PSI;
 - (7) 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
 - (8) deficiencies in:
 - (A) water supply pipes and waste pipes;
 - (B) the installation and termination of the vent system;
 - (C) the operation of fixtures and faucets not connected to an appliance;
 - (D) water supply, as determined by viewing functional flow in two fixtures operated simultaneously;
 - (E) functional drainage at fixtures;
 - (F) orientation of hot and cold faucets;
 - (G) installed mechanical drain stops;
 - (H) installation, condition, and operation of commodes;



Example of a broken commode

- (I) fixtures, showers, tubs, and enclosures; and
 - (J) the condition of the gas distribution system.
- (a) 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.
- (b) 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;



Example of a trapped temperature and pressure relief valve

- (ii) is improperly sized;
- (iii) has inadequate material; or
- (iv) lacks proper termination;
- (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) 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.
- (a) 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.
- (a) 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.
- (a) 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
 - (4) deficiencies in the:
 - (A) splash guard;
 - (B) grinding components;
 - (C) exterior casing; and
 - (D) secure mounting of the unit.
- (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;



Example of inadequate vent pipe material used as part of a range vent

- (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
- (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;



Example of improper material used as a dryer vent through an attic and of the lint escaping the vent system and collecting in the attic

- (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.

(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

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

Agency Code of Conduct for Appointees to Advisory Committees for TREC & TALCB

Introduction - The people of Texas have a right to expect the business of the State to be conducted with efficiency, fairness, impartiality and integrity. Volunteer service to the public as an appointed member of an advisory committee or work group (advisory committees) is a revocable privilege and carries with it a particular obligation to the public interest. Such service requires standards of professional behavior from all participants that promote and maintain public confidence and trust in the work of the agency.

This code of conduct explains the principles covering appropriate conduct in a variety of contexts and outlines the minimum standards of behavior expected of members who serve on advisory committees.

Relevant Legal Standards - The main legislation applying to appointed members is found in Chapters 1101-1103 of the Texas Occupations Code. The Administrative Rules adopted under such legislation also apply. Guidance found in opinions of the Texas Ethics Commission may also be relevant to such service.

Applicability of this Code of Conduct – Appointed advisory committees should use the standards, principles and specific requirements in this code to guide and assist their members while serving.

Responsibility to the Commission - Committee members will implement the policies of the governing body as directed, and produce the work requested of the committee in a professional manner.

Respect for People - Members will perform their duties in a professional and responsible manner. Members are to treat their colleagues, agency staff and members of the public respectfully and consistently, in a non-discriminatory manner with due regard for their rights and dignity. Sarcasm and condescension are inappropriate. Members must not harass or discriminate against their colleagues, agency staff or members of the public on the basis of any protected category, or of political conviction.

Integrity and Public Interest - Members are to promote due confidence in the integrity of public administration and always act in the public interest and not in their private interest. Members should protect the reputation of the agency. They should not engage in any activities that would bring the committee or the agency into disrepute.

Responsive Service - The agency's standards require members to commence work in a timely manner, and provide requested information promptly and in a form that is clear, accurate, current and complete. They should also ensure that their decisions and actions are reasonable, fair and appropriate to the circumstances, based on consideration of all relevant facts, and supported by adequate documentation.

Economy and Efficiency - Members should keep current with advances and changes in their area of expertise and strive to improve performance and achieve high standards of service. They should use their authority, available resources and information only for the work-related purpose intended.

Fairness and Equity - Issues or cases being considered by members should be dealt with consistently, promptly and fairly. This involves dealing with matters in accordance with approved procedures, in a

non-discriminatory manner, and in conformity with justice. When using any discretionary powers, members should ensure that they take all relevant facts into consideration, have regard to the particular merits of each case, and not take irrelevant matters or circumstances into consideration.

Protecting Confidential Information – The agency has clearly documented procedures regarding the storage, disclosure and distribution of confidential or sensitive personal, commercial or political information. Any request for information should be referred to the agency director for handling.

Guide to Ethical Decision Making - To assist in fostering a climate of ethical awareness, conduct and decision-making, members may find it useful to refer to or consider, alone or as a body, these 5 points: Is the decision or conduct lawful? Is the decision or conduct consistent with agency policy and in line with the agency's objectives and code of conduct? What will the outcome be for all parties involved? Do these outcomes raise a conflict of interest or lead to private gain at public expense? Can the decision or conduct be justified in terms of the public interest and would it withstand public scrutiny?

Conflicts of Interest - Conflicts of interest exist when it is likely that a member could be influenced, or could be perceived to be influenced, by a personal interest in carrying out their public duty. Conflicts of interest that lead to other than impartial decision-making may constitute corrupt conduct.

Some related interests that may give rise to a conflict of interest include: financial interests in a matter the agency deals with or having friends or relatives with such an interest that the member is aware of; personal beliefs or attitudes that influence the impartiality of advice given; personal relationships with the people the agency is dealing with that go beyond the level of a professional working relationship; other employment that compromises the integrity of the member and the agency; and partisan political activities or making adverse political comments related to the agency's work.

An individual member may often be the only person aware of the potential for conflict. It is therefore their responsibility to avoid any financial or other interest that could compromise impartial performance of their duties, and disclose any potential or actual conflicts of interest to the agency's director. If members are uncertain whether a conflict exists, they should discuss the related interest matter with the director and attempt to resolve any conflicts of interest that may exist.

To resolve any conflicts of interest that occur, or could occur, a range of options is available depending on the significance of the conflict. These options include: recording the details of the disclosure and taking no further action because the potential for conflict is minimal or can be eliminated by disclosure; the member relinquishing the personal interest; the member withdrawing from the consideration or particular task where the conflict arises; or the member resigning from the appointed position. Disputes over alleged conflicts of interests will be resolved through the agency director and governing body Chair.

Acceptance of Gifts or Benefits – Members should not accept a gift or benefit that is intended, or likely, to cause them to act in a non-impartial manner in the course of their duties. The governing body Chair may approve the acceptance of token gifts or benefits under certain circumstances provided that there is no possibility that the recipient might be, or might appear to be, compromised in the process.

Members should advise the director if they believe they have been offered a bribe or if they have been offered or received a favor or benefit. Members dealing with or having access to sensitive investigations or commercially sensitive information should be particularly alert to undue attempts to influence them.

Public Comment on the Work of the Committee or Agency - Public comment by members includes public speaking engagements, comments on radio and television or in letters to newspapers, and expressing views in books, journals or notices if it is expected that the comments will spread to the community at large. Members, as individual citizens of the community, have the right to make public comment and enter into public debate on political and social issues. However, there are some circumstances in which this can be inappropriate. For example, situations when the public comment, although made in a private capacity, may appear to be an official comment on behalf of the agency. In such circumstances, members should preface their remarks with a comment that they are made in a private capacity and do not represent the official view of the agency.

As a general rule, members can disclose official information that is normally given to the public seeking that information, but should only disclose other official information or documents when proper authority has been given; as required or authorized to do so by law; or when called to give evidence in court. In these cases, comments made by members should be confined to factual information and should not, as far as possible, express an opinion on official policy or practice unless required to do so by the circumstances of the particular situation (for example, when asked to do so in court).

Political and Community Participation – Members must make sure that any participation in political activities does not conflict with their duty as a volunteer to serve the agency and its policies.

Use of Official Facilities and Equipment - Members should be scrupulous in their use of public property and services. Public facilities and equipment may not be used for private purposes.

Reporting Corrupt Conduct or Waste – Members are urged to report suspected corrupt conduct, as well as serious and substantial waste of public resources. Disclosures should be made to the agency director, or if the director is suspected, then to the governing body Chair.

Violations of the Code of Conduct – Violations of one or more of the standards or requirements of this Code of Conduct may result in the immediate termination of a member's appointment to serve on an advisory committee to the agency. Termination may be made in writing by the governing body Chair. Appeal of a termination may be made in writing to the full governing body. In the event of a written appeal, the final decision of the appropriate governing body will be given in writing.

Acknowledged and Agreed to:

Print Name:

Date:

Texas Real Estate Commission
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Rules Proposed at the August 1, 2011 Commission Meeting

Subchapter R. Real Estate Inspectors

§535.210. Fees

The Texas Real Estate Commission (TREC) proposes amendments to §535.210, regarding Inspector Fees. The amendments would increase the professional inspector application fee from \$90 to \$104, the real estate inspector application fee from \$75 to \$89, and the apprentice inspector application fee from \$35 to \$84, the annual renewal fees for professional and real estate inspectors from \$27 to \$32, and the annual renewal fee for an apprentice inspector from \$22 to \$27.

The justification for the fee increases is to generate sufficient revenue to fund operations of the agency and to comply with requirements of Senate Bill 1000, 82nd Texas Legislature, Regular Session (2011).

Senate Bill 1000 makes the Texas Real Estate Commission self-directed and semi-independent. The bill removes the agency from the legislative budgeting process and requires the commission to adopt and approve an annual budget. The bill requires that the commission collect sufficient fees to fund operations to carry out its function and to fund the budget. In relevant part, the bill also requires the agency to remit \$750,000 to the general revenue fund not later than August 31 of each fiscal year, to remit a nonrefundable retainer to the State Auditor of \$10,000 per fiscal year, a nonrefundable retainer to the Attorney General of \$75,000 per fiscal year, and a nonrefundable retainer to the State Office of Administrative Hearings of \$75,000 per fiscal year. TREC will be required to reimburse each agency for all costs incurred in excess of the retainers for providing services to the commission. In addition, the bill requires the agency to pay rent in a reasonable amount to be determined by the Texas Facilities Commission with aggregate rent payments to be not less than \$550,000 per fiscal year for state fiscal years ending August 31, 2012 and August 31, 2013; and not less than \$425,000 per fiscal

year for each year ending August 31, 2014, August 31, 2015, and August 31, 2016.

Karen Alexander, Staff Services Director, has determined that for the first five-year period §535.210(a)(1) - (6) are in effect there will be fiscal implications for the state, but not to units of local government as a result of enforcing or administering the subsection. Approximately 400 applicants and 1,500 renewal applicants would be required to pay the increased fees in the remaining months of FY 2012 for a total estimated revenue of \$17,167. For FY 2013, the total estimated revenue would be \$20,600. For each of the three years after (2014 - 2016), the estimated revenue would be \$20,600 per year.

Ms. Alexander has determined that there is no anticipated impact on local or state employment as a result of implementing the amendments. However, there is an anticipated impact on small businesses and micro-businesses. The Commission has approximately 3,000 home inspectors licensed in Texas. It is estimated that nearly all of the licensees are small businesses and many of them are micro-businesses. The projected economic impact of this rule amendment on these small businesses will be negative due to the increased application and renewal fees. Under §2006.002, Texas Government Code, an agency is required to consider alternative regulatory methods only if the alternative methods would be consistent with the health, safety and environmental and economic welfare of the state. TREC has developed this proposed rule in accordance with a legislative mandate to cover all costs of operation under Senate Bill 1000, 82nd Legislature, Regular Session (2011). Consequently, any variance from the legislative mandate would not be consistent with the health, safety, and environmental and economic welfare of the state, and no alternative regulatory methods have been considered.

Ms. Alexander also has determined that for each year of the first five years the increased fees under §535.210 are in effect the public benefit

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anticipated as a result of enforcing the amendments is that the agency will raise sufficient revenue to fund costs of agency operations and required payments to the General Revenue Fund and other state agencies under Senate Bill 1000, 82nd Legislature, Regular Session (2011).

Comments on the proposal may be submitted to Loretta R. DeHay, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its licensees to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

The statute affected by this proposal is Texas Occupations Code, Chapter 1101. No other statute, code or article is affected by the proposed amendments.

§535.210. Fees.

(a)The commission shall charge and collect the following fees:

(1)a fee of **\$84** [~~\$35~~] for filing an original application for a license as an apprentice inspector;

(2)a fee of **\$89** [~~\$75~~] for filing an original application for a license as a real estate inspector, which includes a fee for transcript evaluation;

(3)a fee of **\$104** [~~\$90~~] for filing an original application for a license as a professional inspector, which includes a fee for transcript evaluation;

(4)a fee of **\$27** [~~\$22~~] for the annual renewal of the license of an apprentice inspector;

(5)a fee of **\$32** [~~\$27~~] for the annual renewal of the license of a real estate inspector;

(6)a fee of **\$32** [~~\$27~~] for the annual renewal of the license of a professional inspector;

(7) - (11)(No change.)

(b)(No change.)

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

Filed with the Office of the Secretary of State on August 4, 2011

TRD-201102975

Loretta R. DeHay

General Counsel

Texas Real Estate Commission

Earliest possible date of adoption: September 18, 2011