

Texas Administrative Code

RULE §535.227

Standards of Practice: General Provisions

a) Definition of terms. The following words have the following meanings, unless the context clearly indicates otherwise.

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

(2) Functioning--Performing in an expected or required manner; carrying out the design purpose or intended operation of a part, system, component, member.

(3) Inaccessible--Not having access without the use of special tools, equipment, or instruments, or removing doors, walls, stored items or similar obstructions, or by causing damage to a structure, finish or component, equipment or system, or by virtue of inadequate clearance, walkways, passageways, or hazardous condition.

(4) In Need of Repair--Does not adequately function or perform.

(5) Inspect--To look at and examine accessible items, parts, systems or components without, except as required by the rules of the Texas Real Estate Commission, laboratory, scientific or engineering evaluation or testing, destructive tests or the dismantling or removal of parts, members or components.

(6) Inspector--A person licensed as a professional inspector, a person licensed as an apprentice inspector or a person licensed as a real estate inspector.

(7) Performance--The act of carrying out, completing, executing or achievement of an operation, design or function in a manner consistent with the intent of the manufacturer, designer or accepted industry practice.

(8) Report--A written or oral communication of the inspector's opinions, observations, determinations, and findings in an inspection.

(9) Standards of Practice--§535.227 of this title (relating to Standards of Practice: General Provisions), §535.228 of this title (relating to Standards of Practice: Inspection Guidelines for Structural Systems), §535.229 of this title (relating to Standards of Practice: Inspection Guidelines for Mechanical Systems: Appliances, Cooling Systems, Heating Systems, Ducts, Vents and Flues, and Plumbing Systems), §535.230 of this title (relating to Standards of Practice: Inspection Guidelines for Electrical Systems) and §535.231 of this title (relating to Standards of Practice: Optional Systems).

(b) Scope.

(1) The standards of practice are the minimum levels of inspection practice required of inspectors for the accessible parts, components, and systems typically found in improvements to real property, excluding detached structures, decks, docks and fences. The inspector may provide a higher level of inspection performance than required by the standards of practice and may inspect parts, components, and systems in addition to those described by the standards of practice.

(2) The inspector shall:

(A) inspect items, parts, systems, components and conditions which are present and visible at the time of the inspection, but the inspector is not required to determine or estimate the remaining life expectancy or future performance of any inspected item, part, system or component;

(B) operate mechanical and electrical equipment, systems, and appliances during an inspection in normal modes and operating range at the time of the inspection;

(C) report which of the parts, components, and systems present in the property have or have not been inspected;

(D) report as in need of repair inspected parts, components or systems that are not functioning or that the standards of practice require the inspector to report as in need of repair;

(E) address all of the parts, components, and systems contained in the standards of practice in the property being inspected.

(F) complete the standard inspection report form under §535.223 of this title (relating to Standard Inspection Reports) if that section applies;

(G) identify in any written report the inspector who performed the inspection by name and license number;

(H) comply with any other law or license requirement necessary to perform inspections or services other than what is required by the standards of practice, such as an air-conditioning and refrigeration contractor license which may be required for the inspector to make a direct in-line connection to a refrigerant system, or a structural pest control license which may be required to perform a wood-destroying-insect inspection;

(3) In the event of a conflict between a specific provision and a general provision in the standards of practice, the specific provision controls. The standards of practice do not apply to the following:

(A) parts, components or systems other than those specifically described;

(B) conditions other than those specifically described, such as environmental conditions, presence of toxic or hazardous wastes or substances, presence of termites or other wood-destroying insects or organisms, compliance with codes, ordinances, statutes or restrictions or the efficiency, quality, durability of any item inspected;

(C) any part, component or system the inspector excludes under the departure provision in this section; and

(D) any determination of insurability or warrantability of any part, component or system.

(c) Departure Provision.

(1) An inspector shall exclude from the inspection any part, component or system which the inspector is not competent or qualified to inspect.

(2) An inspector may exclude any part, component or system required for inspection by the standards of practice which is inaccessible, cannot be inspected due to circumstances beyond the control of the inspector, or the inspector's client has agreed is not to be inspected.

(3) This departure provision does not prohibit an inspector from specializing nor require the inspector to specifically exclude other parts, components or systems not ordinarily considered a part of the inspector's specialty. However, the inspector shall comply with the standards of practice for the items being inspected.

(4) If an inspector excludes any part, component or system listed in the standards of practice, other than one which the client has agreed is not to be inspected, the inspector shall:

(A) advise the client at the earliest practicable time that the specific part, component or system will not be included in the inspection; and

(B) state in any written inspection report that the excluded part, component or system was not inspected.

(d) Enforcement. Failure to comply with §535.227 of this title (relating to Standards of Practice: General Provisions), §535.228 of this title (relating to Standards of Practice: Inspection Guidelines for Structural Systems), §535.229 of this title (relating to Standards of Practice: Inspection Guidelines for Mechanical Systems: Appliances, Cooling Systems, Heating Systems, Ducts, Vents and Flues, and Plumbing Systems), §535.230 of this title (relating to Standards of Practice: Inspection Guidelines for Electrical Systems) and §535.231 of this title (relating to Standards of Practice: Optional Systems) is a ground for disciplinary action as prescribed by Chapter 1102 and §535.224 of this title (relating to Proceedings before the Committee).