

Chapter 108 – FEES
Repeal 28 Texas Administrative Code (TAC) §108.1

1. INTRODUCTION. The Texas Department of Insurance, Division of Workers' Compensation (division) adopts the repeal of 28 TAC §108.1, *Charges for Copies of Public Information*. The repeal of §108.1 is adopted without changes to the proposed text as published in the May 4, 2018, issue of the *Texas Register* (43 TexReg 2705). No party submitted a request for public hearing to the division.

In accordance with Government Code §2001.033, the division's reasoned justification for the repeal of §108.1 is set out in this order, which includes the preamble.

2. REASONED JUSTIFICATION. Section 108.1 pertains to charges for copies of public information. The section is outdated and no longer necessary since other statutes and rules currently govern charges for public information.

Subsection (a) states that the charge for public information is governed by Government Code, Chapter 552, the Texas Building and Procurement Commission, 1 TAC §111.61 et seq., and the Texas Labor Code. The enactment of Senate Bill 452 and Senate Bill 727, 79th Legislature, 2005, transferred the duties of the Texas Building and Procurement Commission pertaining to the public information law to the Office of Attorney General. Additionally, the Texas Building and Procurement Commission's rules regulating charges for copies of public information located in 1 TAC §111.61 et seq., were transferred and reorganized under 1 TAC §70.1 to §70.11. This transfer was effective September 1, 2005. Labor Code §402.081(d) states that the fee for access to information under Government Code, Chapter 552, must be in accord with the rules of the attorney general.

Subsection (b) makes an exception to the fee requirements in subsection (a) and states that costs for copies of commission confidential information or publications compiled by the commission are established by the commission's fee schedule and Publications Price List. In reference to "the commission," the 79th Texas Legislature passed House Bill 7 in 2005, which abolished the Texas Workers' Compensation Commission and transferred its powers and duties to the Texas Department of Insurance, Division of Workers' Compensation. The commission's Publications Price List was last used in 2005, and costs for copies of confidential claim file information are now governed by the rules of the attorney general.

Subsection (c) states that all other requests for public information, including those not covered by the Government Code, Texas Labor Code, and the Texas Building and Procurement Commission will be charged at actual cost, including costs of materials, labor and overhead, to the commission to provide the item. However, the charges listed in Government Code Chapter 552, the Texas Labor Code, and 1 TAC §70.1 to §70.11 cover all charges necessary for requests for public information from the division.

The division adopts the repeal of 28 TAC §108.1 because this rule is no longer necessary.

3. SUMMARY OF COMMENTS AND AGENCY RESPONSE.

Comment: Two commenters support the division's repeal as proposed. These commenters agree that the rule is outdated and that other statutes and rules currently govern charges for copies for public information from the division.

Division Response: The division appreciates the supportive comments.

4. STATUTORY AUTHORITY. The repeal is adopted under Labor Code §402.00111, §402.00116, §402.061, §402.064, and §402.081.

Labor Code §402.00111 requires the commissioner of workers' compensation to exercise all executive authority, including rulemaking authority, under Title 5 of the Labor Code. Labor Code §402.00116 provides the commissioner the authority to administer and enforce workers' compensation laws and other laws granting jurisdiction to or applicable to the division or the commissioner. Labor Code §402.061 requires the commissioner to adopt rules as necessary for the implementation and enforcement of the Texas Workers' Compensation Act. Labor Code §402.064 provides the commissioner authority to set reasonable fees for services provided to persons requesting services from the division, including what is listed under Labor Code chapter 402, subchapter E (Records and Employee Information). Labor Code §402.081 states the fee for access to public information under Chapter 522, Government Code, shall be in accord with the rules of the attorney general.

No other codes, statutes, or articles are affected by this adoption.

5. TEXT.

Chapter 108 – FEES

§108.1. Charges for Copies of Public Information.

6. CERTIFICATION. This agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Issued at Austin, Texas, on July 26, 2018.

X

Nicholas Canaday III
General Counsel
Texas Department of Insurance, Division of
Workers' Compensation

The commissioner adopts the repeal of §108.1.

Cassandra J. Brown
Commissioner of Workers' Compensation

COMMISSIONER'S ORDER NO. _____

ATTEST:

X

Nicholas Canaday III
General Counsel
Texas Department of Insurance, Division of Workers' Compensation

COMMISSIONER'S ORDER NO. _____