

Burgos, Alexander N

Subject: FW: 04 NCAC 08 .0107 & .0109 - Rural Elec. Authority - Rules Review

From: Duke, Lawrence <lawrence.duke@oah.nc.gov>

Sent: Monday, July 17, 2023 1:45 PM

To: Liles, Frances <frances.liles@commerce.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: RE: 04 NCAC 08 .0107 & .0109 - Rural Elec. Authority - Rules Review

Ms. Liles,

Can you please file the amended versions of your rules at rules.oah@oah.nc.gov? That will complete the process.

Thank you,

Lawrence Duke

Counsel, NC Rules Review Commission

Office of Administrative Hearings

(984) 236-1938

Burgos, Alexander N

Subject: FW: 04 NCAC 08 .0107 & .0109 - Rural Elec. Authority - Rules Review

From: Liles, Frances <frances.liles@commerce.nc.gov>

Sent: Thursday, July 13, 2023 5:52 PM

To: Duke, Lawrence <lawrence.duke@oah.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: RE: 04 NCAC 08 .0107 & .0109 - Rural Elec. Authority - Rules Review

Lawrence – Thanks so much for all your help with these rule changes; I am sorry that I needed so much help but I am truly appreciative. When you have time, please send me the virtual meeting information. Thanks – Frances Liles

Burgos, Alexander N

From: Duke, Lawrence
Sent: Thursday, July 13, 2023 5:35 PM
To: Liles, Frances
Cc: Burgos, Alexander N
Subject: RE: 04 NCAC 08 .0107 & .0109 - Rural Elec. Authority - Rules Review
Attachments: submission form for .0109 - Repealed.docx; 04 NCAC 08 .0109 - Repealed.docx

On the form, for #3, select "REPEAL", as attached. Then, see the attached document with the correct Rule formatting.

Lawrence Duke

Counsel, NC Rules Review Commission
Office of Administrative Hearings
(984) 236-1938

From: Liles, Frances <frances.liles@commerce.nc.gov>
Sent: Thursday, July 13, 2023 4:20 PM
To: Duke, Lawrence <lawrence.duke@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: 04 NCAC 08 .0107 & .0109 - Rural Elec. Authority - Rules Review

I can't find anything on the form that indicates I am withdrawing it; I am sorry for all the questions. Thanks

From: Duke, Lawrence <lawrence.duke@oah.nc.gov>
Sent: Thursday, July 13, 2023 3:51 PM
To: Liles, Frances <frances.liles@commerce.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: 04 NCAC 08 .0107 & .0109 - Rural Elec. Authority - Rules Review

Frances,

Thank you for sending these responses. It is appreciated.

I do think that .0109 needs to be removed, as it is exclusively dealing with internal policy.

.0107 looks good to go. I will be recommending approval of this Rule.

Let me know what you intend to do with .0109. If you are going to remove it, can you file an amended form and the Rule as such. Also, the amended .0107 needs to be refiled, along with its form, at oah.rules@oah.nc.gov.

Thank you,

Lawrence Duke

Counsel, NC Rules Review Commission
Office of Administrative Hearings
(984) 236-1938

1 NCAC 08 .0109 is amended as published in 36.22 NCR 1778 with changes as follows:

2

3 **04 NCAC 08 .0109 DUTIES OF THE ADMINISTRATOR**

4 ~~The Administrator is responsible for directing the staff of the Authority and overseeing the functions of the office.~~

5 ~~(1) The Administrator shall oversee the application of the electric and telephone cooperatives rules and regulations~~
6 ~~to ensure they are administered according to the manner in which they are written.~~

7 ~~(2) The Administrator shall investigate and respond to complaints such as requests for deposits, meter tampering~~
8 ~~disputes, boundary issues, disputed [bills bills,] and power surges from EMC members and shall request any~~
9 ~~additional information from the cooperative needed by the Authority to respond to the complaints.~~

10 ~~(3) The Administrator may attend any annual meeting or Board meeting of an individual electric or telephone~~
11 ~~cooperative.~~

12 ~~(4) The Administrator shall review all Federal grant or loan applications from electric and telephone cooperatives,~~
13 ~~request any additional information needed for those applications, and present the grant and loan requests to the~~
14 ~~Board [of the Authority] for review and [approval decision.]~~

15 ~~(5) The Administrator is responsible for reviewing interconnection agreements and amendments between the TMCs~~
16 ~~and competing local providers (CLPs) and commercial mobile radio service providers (CMRS) as defined in 47~~
17 ~~U.S.C 252 in accordance with Section 252(e) of the Act and present those documents to the Board of the [authority~~
18 ~~Authority] for [review and decision approval.]~~

19 ~~(6) In situations where the Authority is requested to arbitrate an interconnection agreement pursuant to Section~~
20 ~~252(b)(1) of the Act or pursuant to a valid contractual agreement between a TMC and another telecommunications~~
21 ~~carrier, the Administrator is responsible for reviewing the petitions [and ensuring all and following procedures as~~
22 ~~cited in the NC Administrative Code 04 NCAC 08 .0313 for arbitration.]~~

23

24 *History Note: Authority G.S. 117-2(10); 117-2(11a); 117-2(12); 117-3.1(a); 117-26; 117-31; 117-32;*

25 *47 U.S.C 252; Eff. February 1, 1976;*

26 *Amended Eff. May 1, 2014;*

27 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive*
28 *public interest Eff. May 23, 2015.*

29 *Repealed Eff. September 1, 2023*

SUBMISSION FOR PERMANENT RULE

1. Rule-Making Agency: NC Rural Electrification Authority	
2. Rule citation & name (name not required for repeal): 04 NCAC 08 .0109	
3. Action: <input type="checkbox"/> ADOPTION <input type="checkbox"/> AMENDMENT <input checked="" type="checkbox"/> REPEAL <input type="checkbox"/> READOPTIOIN <input type="checkbox"/> REPEAL through READOPTIOIN	
4. Rule exempt from RRC review? <input type="checkbox"/> Yes. Cite authority: <input checked="" type="checkbox"/> No	5. Rule automatically subject to legislative review? <input type="checkbox"/> Yes. Cite authority: <input type="checkbox"/> No
6. Notice for Proposed Rule: <input checked="" type="checkbox"/> Notice Required Notice of Text published on: November 15, 2021 to January 14, 2022 Link to Agency notice: rea.nc.gov Hearing on: N/A Adoption by Agency on: May 31, 2023 <input type="checkbox"/> Notice not required under G.S.: Adoption by Agency on:	
7. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	8. Fiscal impact. Check all that apply. <input type="checkbox"/> This Rule was part of a combined analysis. <input type="checkbox"/> State funds affected <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$1,000,000) <input type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> No fiscal note required
9. REASON FOR ACTION	
9A. What prompted this action? Check all that apply: <input checked="" type="checkbox"/> Agency <input type="checkbox"/> Court order / cite: <input type="checkbox"/> Federal statute / cite: <input type="checkbox"/> Federal regulation / cite: <input type="checkbox"/> Legislation enacted by the General Assembly Cite Session Law: <input type="checkbox"/> Petition for rule-making <input type="checkbox"/> Other:	
9B. Explain: Clarification for Administrator duties	
10. Rulemaking Coordinator: Frances Liles Phone: 984-236-4293 E-Mail: frances.liles@commerce.nc.gov Additional agency contact, if any: Phone: E-Mail:	11. Signature of Agency Head* or Rule-making Coordinator: <i>Frances Liles</i> <hr style="width: 80%; margin-left: 0;"/> *If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form. Typed Name: Frances Liles Title: Director
RRC AND OAH USE ONLY	
Action taken: <input type="checkbox"/> RRC extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other:	

SUBMISSION FOR PERMANENT RULE

From: Liles, Frances <frances.liles@commerce.nc.gov>
Sent: Tuesday, July 11, 2023 9:02 AM
To: Duke, Lawrence <lawrence.duke@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: 04 NCAC 08 .0107 & .0109 - Rural Elec. Authority - Rules Review

Lawrence – The rule .0109 has been a part of our rules since the “beginning of time” but that doesn’t mean it should remain there; I added additional language the last time we had a rule change to provide more detail for my position. In the past, following is the language that was included in that rule:

“The Rural Electrification Authority employs a secretary, show shall be a competent engineer, and who also serves as chief administrator. The administrator is responsible for directing the staff of the authority in order to carry on the functions o the authority in checking loans, maintaining records and files and investigating complaints. The administrator has been granted the authority by the Rural Electrification Authority to select and employ any additional staff required.”

We made revisions to the rule previously because we realized the person in the position does not need to be a “competent engineer” and the person’s responsibilities have changed over the years and the functions go beyond what they were years ago. I don’t have any problem removing the rule but wanted to provide the above info before I proceed with the changes to ask for your thoughts about that. Thanks,

Frances Liles

From: Duke, Lawrence <lawrence.duke@oah.nc.gov>
Sent: Monday, July 10, 2023 2:17 PM
To: Liles, Frances <frances.liles@commerce.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: 04 NCAC 08 .0107 & .0109 - Rural Elec. Authority - Rules Review

Good Afternoon,

I am the attorney who has reviewed the Rules submitted by the NC Rural Electrification Authority for the July 2023 RRC meeting. The RRC will formally review these Rules at its meeting on Thursday, July 20, 2023, at 9:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an evite should be sent to you as we get closer to the meeting. If there are any other representatives from your Board who will want to attend virtually, let me know prior to the meeting, and we will get evites out to them as well.

Please submit the revised Rules and forms to me via email, no later than 5 p.m. on Friday, July 14, 2023.

In the meantime, please let me know if you have any questions or concerns about these changes.

Thanks,

Lawrence Duke



Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
Lawrence.Duke@oah.nc.gov
(919) 998-1998

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.