

APA-1
07/04

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No. 390 Department or Agency Alabama Forestry Commission
Rule No. 390-X-8-.04
Rule Title: Grounds For Decertification
X New Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? N/A

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer *Justin R*

Date January 19, 2017

(DATE FILED)
(STAMP)

APA-2
07/04

ALABAMA FORESTRY COMMISSION
FOREST PROTECTION DIVISION

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Forestry Commission

RULE NO. & TITLE: 390-X-8-.04 Grounds For Decertification [New Rule]

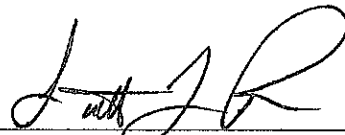
INTENDED ACTION: To adopt a new rule.

SUBSTANCE OF PROPOSED ACTION: This new rule would set forth the grounds for which a volunteer fire department may become decertified, in accordance with ALA. CODE § 9-3-17.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Views may be presented orally or in writing on or before March 10, 2017. Such input should be addressed to Scott L. Rouse, General Counsel, Alabama Forestry Commission, 513 Madison Avenue, Montgomery, Alabama 36104.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: March 10, 2017

CONTACT PERSON AT AGENCY: Scott L. Rouse, General Counsel, Alabama Forestry Commission, 513 Madison Avenue, Montgomery, Alabama 36104, (334) 240-9342.



Scott L. Rouse
Secretary of Administrative Procedure

ALABAMA FORESTRY COMMISSION
FOREST PROTECTION DIVISION
ADMINISTRATIVE CODE

CHAPTER 390-X-8
CERTIFICATION AND DECERTIFICATION
OF VOLUNTEER FIRE DEPARTMENTS

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390-X-8-.01 Volunteer Fire Departments Already Certified.

Any volunteer fire department certified by the Alabama Forestry Commission in accordance with ALA. CODE § 9-3-17 prior to adoption of these regulations shall remain certified unless and until such volunteer fire department is decertified pursuant to the procedures provided in ALA. ADMIN. CODE §§ 390-X-8-.04 through -.06.

Author: Scott L. Rouse

Statutory Authority: Code of Ala. 1975, § 9-3-17(e)

History: New regulation proposed January 31, 2017

390-X-8-.02 Minimum Certification Requirements.

A group seeking certification as a volunteer fire department in accordance with ALA. CODE § 9-3-17 must satisfy all the following standards and criteria before seeking certification by the Alabama Forestry Commission:

- a) The group must be incorporated as a nonprofit entity or be operated under authority of a municipality, fire district, or other legal subdivision;
- b) The group must have no fewer than four members, and the overall membership of the department shall have no less than 80 percent unsalaried membership;

- c) The group must have all the fire fighting apparatus, equipment, and facilities specified in ALA. CODE § 9-3-17(a)(3); and
- d) The county fire association where the group is located must formally recognize a clearly defined coverage area where the group will serve as the primary fire protection provider.

Author: Scott L. Rouse

Statutory Authority: Code of Ala. 1975, § 9-3-17(e)

History: New regulation proposed January 31, 2017

390-X-8-.03 Process For Certification.

(a) **Recommendation by County Fire Association.** A group that has satisfied all the standards and criteria set forth in ALA. ADMIN. CODE § 390-X-8-.02 may petition the county fire association where the group is located to be recognized as a volunteer fire department. If the group is so recognized by a majority vote, the county fire association shall then recommend in writing to the State Forester that the group be inspected and certified as a volunteer fire department in accordance with ALA. CODE § 9-3-17.

(b) **Inspection and Certification by State Forester.** Upon receiving a county fire association's recommendation, the State Forester (or his or her designee) shall make an inspection of the the group seeking certification, as further provided in ALA. ADMIN. CODE § 390-X-8-.05. If the group has satisfied all the standards and criteria set forth in ALA. ADMIN. CODE § 390-X-8-.02, the State Forester shall certify the group as a volunteer fire department.

Author: Scott L. Rouse

Statutory Authority: Code of Ala. 1975, § 9-3-17(e)

History: New regulation proposed January 31, 2017

390-X-8-.04 Grounds For Decertification.

Upon recommendation of a county fire association, the Alabama Forestry Commission may decertify a volunteer fire department at any time based on any of the following grounds:

- a) The department ceases for any reason to be incorporated as a nonprofit entity or be operated under authority of a municipality, fire district, or other legal subdivision;

- b) The department has fewer than four members for a period lasting longer than three months;
- c) The overall membership of the department has at any time less than 80 percent unsalaried membership;
- d) The department lacks any of the fire fighting apparatus, equipment, or facilities specified in ALA. CODE § 9-3-17(a)(3) for a period lasting longer than three months;
- e) The county fire association (or other authority having jurisdiction) ceases for any reason to recognize a clearly defined coverage area for which the department serves as the primary fire protection provider;
- f) The department ceases for any reason to actively respond to fires and other emergencies for a period lasting longer than three months;
- g) The department fails to conduct or document regularly scheduled meetings, drill, and training sessions for a period lasting longer than three months; or
- h) The department fails to provide monthly emergency response reports to the Alabama Forestry Commission for a period lasting longer than three months.

Author: Scott L. Rouse

Statutory Authority: Code of Ala. 1975, § 9-3-17(e)

History: New regulation proposed January 31, 2017

390-X-8-.05 Certification And Decertification Inspections.

(a) **Certification Inspections.** When requested by a county fire association, the State Forester may direct that a volunteer fire department in such county, or a group seeking certification as a volunteer fire department in such county, be inspected to determine whether that department or group satisfies minimum certification requirements as specified in ALA. ADMIN. CODE § 390-X-8-.02.

(b) **Decertification Inspections.** When requested by a county fire association, the State Forester may direct that an already certified volunteer fire department be inspected to determine whether grounds exist for decertification of that department, as specified in ALA. ADMIN. CODE § 390-X-8-.04.

(c) **Initial Inspection.** After a county fire association has requested a certification or decertification inspection of

a department or group, the State Forester (or his or her designee) may make such inspection upon 30 days' written notice to the affected department or group. This notice shall include a copy of any Alabama Forestry Commission forms that will be used in conducting the inspection.

(d) **Report of Initial Inspection.** After a certification or decertification inspection has been completed, the Alabama Forestry Commission shall prepare a written report detailing any certification deficiencies and/or grounds for decertification. This report shall be provided to the county fire association and the inspected department or group within 10 business days following the inspection. The inspected department or group may submit a written response to the Alabama Forestry Commission's findings within 30 days of receiving the report of the initial inspection.

(e) **Second Inspection.** If the Alabama Forestry Commission finds in an initial inspection that a group does not meet minimum requirements for certification, or if it finds that grounds exist for decertification of a department, the State Forester shall direct that a second inspection be conducted no less than 90 days following the initial inspection. This 90-day period may be shortened upon request of the inspected group or department.

(f) **Report of Second Inspection.** After a second inspection has been completed, the Alabama Forestry Commission shall again prepare a written report detailing any remaining certification deficiencies and/or grounds for decertification. This report shall be provided to the county fire association and the inspected department or group within 10 business days following the second inspection. The inspected department or group may submit a written response to the Alabama Forestry Commission's findings within 30 days of receiving the report of the second inspection.

Author: Scott L. Rouse

Statutory Authority: Code of Ala. 1975, § 9-3-17(e)

History: New regulation proposed January 31, 2017

390-X-8-.06 **Process For Decertification.**

After conducting both an initial and second decertification inspection of a certified volunteer fire department, the State Forester shall determine whether grounds yet exist for decertification of such department, as specified in ALA. ADMIN. CODE § 390-X-8-.04. Before decertifying a department, the State Forester shall consider any written responses or other materials submitted by the department. The State Forester

shall also consider whether any direct assistance from the Alabama Forestry Commission could enable the department to meet minimum certification requirements as specified in ALA. ADMIN. CODE § 390-X-8-.02. After considering all relevant factors, the State Forester may, in his or her sole discretion, decertify a department. If the State Forester so determines to decertify a department, it shall be given notice of the decision in writing, and a copy of the notice will be provided to the county fire association where the department is located. After receiving such notice, the group shall cease to be recognized as a volunteer fire department.

Author: Scott L. Rouse

Statutory Authority: Code of Ala. 1975, § 9-3-17(e)

History: New regulation proposed January 31, 2017