

ALABAMA FORESTRY COMMISSION
ADMINISTRATIVE CODECHAPTER 390-X-8
CERTIFICATION AND DECERTIFICATION OF VOLUNTEER FIRE DEPARTMENTS

TABLE OF CONTENTS

390-X-8-.01	Volunteer Fire Departments Already Certified
390-X-8-.02	Minimum Certification Requirements
390-X-8-.03	Process For Certification
390-X-8-.04	Grounds For Decertification; Process For Recommendations To Decertify
390-X-8-.05	Certification And Decertification Inspections
390-X-8-.06	Process For Decertification
390-X-8-.07	Default Decertification
390-X-8-.08	Voluntary Decertification

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

Any volunteer fire department certified by the Alabama Forestry Commission in accordance with Code of Ala. 1975, §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 Rules 390-X-8-.04 through -.06.

Author: Scott L. Rouse

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

History: New Rule: Filed May 26, 2017; effective July 10, 2017.

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

(1) A group seeking certification as a volunteer fire department in accordance with Code of Ala. 1975, §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 Code of Ala. 1975, §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 Rule: Filed May 26, 2017; effective July 10, 2017.

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

(1) Recommendation by County Fire Association. A group that has satisfied all the standards and criteria set forth in Ala. Admin. Code Rule 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 Code of Ala. 1975, §9-3-17.

(2) 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 group seeking certification, as further provided in Ala. Admin. Code Rule 390-X-8-.05. If the group has satisfied all the standards and criteria set forth in Ala. Admin. Code Rule 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 Rule: Filed May 26, 2017; effective July 10, 2017.

390-X-8-.04 Grounds For Decertification; Process For Recommendations To Decertify.

(1) 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 six 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 Code of Ala. 1975, §9-3-17(a) (3) for a period lasting longer than six months;

(e) The county fire association 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 six months;

(g) The department fails to conduct or document regularly scheduled meetings, drill, and training sessions for a period lasting longer than six months; or

(h) The department fails to provide monthly emergency response reports to the Alabama Forestry Commission.

(2) A recommendation to decertify a volunteer fire department can only be made upon a majority vote of the county fire association, conducted in a regularly scheduled meeting and in compliance with all the bylaws of said county fire association.

Author: Scott L. Rouse

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

History: New Rule: Filed May 26, 2017; effective July 10, 2017.

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

(1) **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 Rule 390-X-8-.02.

(2) **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 Rule 390-X-8-.04.

(3) **Notice to Local Governments.** Upon receiving a certification inspection request from a county fire association, the State Forester shall give notice of the request to the county commission and, if applicable, city council where such department is located. The State Forester will thereafter communicate and work with such

local governments to facilitate provision of adequate community fire protection in those jurisdictions.

(4) **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.

(5) **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.

(6) **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.

(7) **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 Rule: Filed May 26, 2017; effective July 10, 2017.

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

(1) 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 Rule 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 Rule 390-X-8-.02.

(2) After considering all relevant factors, the State Forester may recommend to the Alabama Forestry Commission that a department be decertified, and such recommendation may then be voted upon at the Commission's next meeting. If the Alabama Forestry Commission determines to decertify a department, the department shall be given notice of the decision in writing, and a copy of the notice will be provided to the county fire association and local government(s) where the department is located. After receiving such notice, the group shall cease to operate as a volunteer fire department.

Author: Scott L. Rouse

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

History: New Rule: Filed May 26, 2017; effective July 10, 2017.

390-X-8-.07 Default Decertification.

(a) If a volunteer fire department certified by the Alabama Forestry Commission in any way refuses to allow a decertification inspection required by ALA. ADMIN. CODE Rule 390-X-8-.05, or if a department fails to respond to any notice of a decertification inspection within 30 days of its issuance, then that department shall be in default.

(b) Once a department is in default, the State Forester shall give written notice to the department that its continued refusal to allow a decertification inspection, or its continued failure to respond to a notice of a decertification inspection, can result in summary decertification of the department.

(c) If the department thereafter continues to be in default for a period of no less than 30 days, the State Forester may recommend to the Alabama Forestry Commission that the department be summarily decertified. The Commission may then act upon the recommendation in the manner provided in ALA. ADMIN. CODE Rule 390-X-8-.06.

Author: Scott L. Rouse

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

History: New Rule: Filed January 18, 2019; effective March 4, 2019.

390-X-8-.08 Voluntary Decertification.

(a) Any volunteer fire department certified by the Alabama Forestry Commission may decide at any time to voluntarily relinquish its certification, regardless of whether a decertification inspection has been requested or performed.

(b) To effectuate a voluntary decertification, the governing body of the department must adopt a resolution expressly relinquishing certification of the department, and that resolution must be transmitted in writing to the State Forester (or his or her designee). After such resolution is received, the department shall cease to be recognized as a volunteer fire department without need of further action by the Alabama Forestry Commission.

(c) In the event a department no longer has a functioning governing body, the current chief of the department may submit a written request for voluntary decertification to the State Forester (or his or her designee). The request must include a sworn affidavit from the current chief attesting to the department's lack of a functioning governing body and confirming that no other person or legal entity has authority over the department. After the request and affidavit are received and acknowledged in writing by the State Forester, the department shall cease to be recognized as a volunteer fire department without need of further action by the Alabama Forestry Commission.

(d) If the State Forester determines at any time that a written request, affidavit or resolution provided pursuant to this rule contains a material misrepresentation of facts or was otherwise submitted in bad faith, the State Forester shall have the discretion to summarily reinstate the affected department's certification without requiring it to comply with the process set forth in ALA. ADMIN. CODE Rule 390-X-8-.03.

Author: Scott L. Rouse

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

History: New Rule: Filed January 18, 2019; effective March 4, 2019.