

New Real Estate Requirement Effective October 2, 2020.

Beginning October 2, 2020 all solid fuel burning devices 25 years or older with a particulate matter emission rating of more than 2.0 grams per hour are required to be removed before the device is sold, leased, or conveyed as part of an existing building or property.

This requirement applies to all solid fuel burning devices regardless of EPA certification. An older heating device with an emission rating of 2.0 grams per hour or less can remain in the structure. The 25-year age requirement is a 'rolling' requirement, which means each year additional devices will reach their 25-year mark and be subject to this requirement. The easiest way to tell if a device must be removed is as follows:

Step 1: Check manufacture label for an emission rate, if the emission rate is equal to or less than 2.0 grams per hour, the device may stay. Ensure that the device is registered, and no further action is required.

Step 2: If the emission rate is greater than 2.0 grams per hour, then:

Current calendar year minus manufactured year must be less than 25 years.

Example 1: 2020 – 1995 = 25 years, all devices manufactured in 1995, 1994, 1993 ... and so on need to be removed or replaced.

Example 2: 2021 – 1996 = 25 years, all devices manufactured in 1996, 1995, 1994 ... need to be removed or replaced

Any wood-fired heating device without a manufacturer's label is considered a non-EPA certified device and is required to be removed. **EXCEPTION:** there may be pellet devices without a label that meets the 2.0 grams per hour or less requirement. Please contact steven.hoke@alaska.gov for assistance with pellet devices.

This new requirement expands on the existing requirements and pertains to the **entire** nonattainment area within the Fairbanks North Star Borough.

See map here: <https://dec.alaska.gov/air/burnwise/regulations/>

Background:

In 2006, portions of the Fairbanks North Star Borough were designated as nonattainment for particulate matter, PM_{2.5}. The primary source of PM_{2.5} is combustion from solid fuel fired devices used for home heating. A plan (the Moderate Plan) was developed for the area and contained a contingency measure that would only be triggered if the area failed to meet the deadline for clean air. That contingency measure was the first measure to impact the real estate market requiring non-EPA certified devices to be removed or replaced prior to the property sales. Due to the area failing to meet the deadlines this contingency measure was triggered. Another consequence of that initial failure to meet clean air deadlines was that EPA reclassified the area as a "Serious Area" and another

plan was required. The Serious plan contained another contingency measure that expanded the requirements of the first contingency measure to include removal of older, higher emitting EPA certified heating devices.

In May 2020, the Environmental Protection Agency (EPA) Region 10 published notice of actions related to the Fairbanks North Star Borough fine particulate matter (PM2.5) nonattainment area in the Federal Register. The actions included a “Finding of Failure” to attain the PM2.5 standard by December 2019 as well as a denial of the state’s request to extend that deadline by 5 years. This procedural action by EPA addressed Clean Air Act (CAA) requirements.

On September 2, 2020, EPA published its final action on the “Finding of Failure” to attain the standard, thus triggering the contingency measure of the Serious Plan that requires higher emitting heating devices 25 years or older to be removed or replaced.

Requirement:

The contingency measure established by 18AAC 50.077(n), pertaining to solid fuel burning devices transferred in real estate sales, states: an owner of a wood-fired heating device, other than a masonry heater, within the nonattainment area that has a particulate matter emission rating of greater than 2.0 grams per hour shall render the device inoperable by the following deadlines:

- for a device manufactured 25 years or more before the effective date of the EPA finding or a device lacking EPA certification, before December 31, 2024; or before the device is sold, leased, or conveyed as part of an existing building, whichever is earlier;
- for a device manufactured less than 25 years before the effective date of the EPA finding, before 25 years from the date of manufacture.

This means that prior to property sale, lease or conveyance, only wood-fired heating devices that are less than 25 years old remain on the property. All devices older than 25 years that fail to meet the 2.0 gram per hour emission rating threshold are required to be removed or replaced regardless of whether they are EPA certified or not. Devices that are older than 25 years, have an EPA certification, AND have an emission rating of 2.0 grams per hour or less may remain. The requirement is also for a moving 25 years; therefore, additional devices will become ineligible to remain on the property with each passing year.

ADEC’s webpage (<http://dec.alaska.gov/air/anpms/communities/fbks-pm2-5-real-estate>) will be updated on October 2, 2020, the effective date of EPA’s action, to provide additional information on the new requirements. For those who wish to replace their devices, only new devices may be eligible for installation and must be professionally installed per state regulation. New devices that are approved for installation in the area may be found at <https://dec.alaska.gov/air/burnwise/standards#Approved>.

If you would like more information, please contact Steven Hoke at (907) 451-5172 or via email at steven.hoke@alaska.gov.