



May 19, 2016

Subject: New Requirement to Affect Some Real Estate Transactions in the FNSB Nonattainment Area

Dear Real Estate Professional,

This letter is to inform you of an upcoming new requirement regarding property transactions within the Fairbanks North Star Borough (FNSB). The Alaska Department of Environmental Conservation (DEC) expects that the Environmental Protection Agency (EPA) will redesignate the FNSB from a Moderate to a Serious Nonattainment Area for fine particulate matter (PM_{2.5}) in June or July 2016. When EPA redesignates the area, it will "activate" a measure in state regulations (18 AAC 50.077) that requires the removal or replacement, of any wood-fired heating device that does not meet emission criteria before the property may be sold, leased, or conveyed. This measure will directly affect some real estate transactions within the nonattainment area.

Background

Portions of the FNSB do not meet the federal health based standards for fine particulate matter (PM_{2.5}), which is found in wood smoke and other combustion sources. PM_{2.5} may cause health problems when people are exposed to harmful concentrations. High PM_{2.5} concentrations contribute to increased respiratory symptoms (such as irritation of the airways, coughing, or difficulty breathing), decreased lung function, aggravated asthma, development of chronic bronchitis, irregular heartbeat, nonfatal heart attacks, and premature death in people with heart or lung disease. Controlling particulate matter will benefit public health in the community.

ADEC, in conjunction with the FNSB air quality program, developed and adopted an Air Quality Plan to begin addressing the air pollution problems in the area. Wood smoke is a leading cause of the air pollution problems in the nonattainment area. The specific regulations regarding requiring the removal or replacement of noncomplying wood-fired heating devices were released in 2013 with a lengthy public comment period. The Air Quality Plan and its regulations were adopted in December 2014 and included requirements for wood-fired heating devices.

The Clean Air Act requires that the Air Quality Plan contain contingency measures that go into effect if the area failed to meet the air quality standards by December 31, 2015. Unfortunately, the FNSB failed to meet the PM_{2.5} standard by this deadline. Therefore, EPA will re-designate the area from a Moderate Nonattainment Area to a Serious Nonattainment Area, likely by June or July 2016. At that point, the wood-fired heating device contingency measures will become 'active.'

Once the EPA designates the FNSB PM_{2.5} nonattainment area as "serious", 18 AAC 50.077 requires removal or replacement, of any wood-fired heating device not meeting emission criteria — prior to the property being sold, leased, or conveyed. The contingency measure is designed to help slowly reduce the numbers of older,

uncertified wood-fired heating devices in the nonattainment area. Older devices have higher emissions compared to newer devices. Reducing their numbers is expected to have a positive impact on air quality inside the nonattainment area.

For your convenience, DEC has developed a webpage (<http://dec.alaska.gov/air/PM2.5-Real-Estate.htm>) that provides information on this contingency measure, including links to a map of the affected non-attainment area, a link to the specific regulations, links to lists of acceptable devices that meet emission standards, waiver information and more. DEC maintains lists on this website to assist in determining what devices do not need to be removed or replaced. Simply, if it is on a list, the device may stay.

The following guidance should be used in order to meet the requirements of 18 AAC 50.077. Devices required to be removed should be removed or replaced:

- For home or property sales, non-compliant wood heaters are to be removed or replaced prior to the close of a sale (closing).
- For leases, non-compliant wood heaters are to be removed or replaced before commencement of the lease term.

DEC may grant a temporary waiver after considering:

- financial hardship information provided by the owner or operator;
- technical feasibility information provided by the owner or operator; and
- potential impact to locations with populations sensitive to exposure to PM_{2.5}, such as hospitals, schools, child care facilities, health clinics, long-term care facilities, assisted living homes, and senior centers; and
- transitional timing, such as, if a sale occurred prior to the effective date of this requirement but the closing is after the effective date.

If this topic does not pertain to you or you wish to be removed from our mailing list, please contact me. DEC will send out another letter once EPA has issued the federal register notice of the requirement being in full effect.

If you have any questions about this letter or the applicable State regulations, you can contact me at (907) 451-5172 or via email at lee.borden@alaska.gov. Alternatively, you may contact John Clark at (907) 269-4913 or via email at john.clark2@alaska.gov.

Sincerely,



Lee Borden
Environmental Program Specialist

cc: John Clark, ADEC/Non-Point Mobile Source, Anchorage
Cindy Heil, ADEC/Non-Point Mobile Source, Anchorage
Denise Koch, ADEC/Air Quality Director, Juneau