

# No Ruling Yet on Furnace Rule Settlement Agreement; AHRI Files Motion Asking Court to Delay Compliance Date

By Charlie McCrudden | March 26, 2013 | [Leave a Comment](#)



With less than six weeks to go before the May 1 compliance date for the Department of Energy's regional standards requiring condensing furnaces in 30 northern states, many contractors have questions about the status of the rules and the proposed settlement agreement in an ongoing lawsuit challenging those rules.

To be clear, the new furnace standards mandating that all residential non-weatherized natural gas and mobile home furnaces installed in the Northern region be at least 90% AFUE are still set to go into effect on May 1, 2013.

However, if the U.S. Court of Appeals for the D.C. Circuit accepts a pending settlement agreement in a federal lawsuit against the new rules, they would be rescinded.

The settlement agreement was filed with the Court on January 11, 2013, after several months of mediation discussions between the American Public Gas Association, the organization challenging the rules, and the Department of Energy, the agency that finalized them in October of 2011.

Intervening parties with a stake in the outcome of the lawsuit filed motions in support and in opposition to the settlement agreement. The Court must consider these motions before ruling.

As of today (March 26), the Court has yet to rule on the settlement agreement. A ruling on the settlement agreement could come at any time.

In a recent development, last week the Air-Conditioning, Heating, and Refrigeration Institute (AHRI) filed a motion requesting the Court to "stay the federal minimum efficiency standards for residential non-weatherized gas furnaces pending judicial review; and grant an extension of the May 1, 2013, compliance date should the Court uphold the furnace standards on the merits."

The motion is intended to provide relief to the HVAC industry manufacturers, distributors, and contractors from the uncertainty of the new furnace standards that are set to go into effect in without an enforcement program.

In letters sent on July 30, 2012, and more recently on February 27, 2013, AHRI wrote to Secretary of Energy Steven Chu, to petition the DOE to postpone the May 1, 2013, compliance date for 18 months. The American Gas Association also petitioned DOE to delay the dates in December 2012. There has been no response from DOE on any of these petitions.

In requesting the Court to intervene, AHRI argues that postponing the May 1, 2013, compliance date is a reasonable approach to alleviating the harms, burdens, and confusion in the HVAC marketplace. With the pending settlement agreement still in limbo, manufactures, distributors, and contractors face the possibility of new regulatory liabilities, and the prospect of stranded inventories.

Intervenors have 10 days to file response motions in support or opposition to the motion. ACCA will be filing a response motion in support of AHRI's motion.

In the meantime, until the Court accepts this settlement, the underlying standards that require 90% AFUE for residential natural gas furnaces in the North region beginning May 1, 2013, are still in effect. It's impossible to predict when the Court will rule on the settlement agreement or the AHRI motion to delay the compliance date. The prudent thing to do is assume nothing will change with regard to the rules.

**ACCA members will be notified by email alert with any updates or news about the settlement.**

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