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Senate of Pennsylvania

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CAPITOL PRESERVATION COMMITTEE

October 10, 2002

Mr. Robert E. Nyce
Independent Regulatory Review Commission
14th Floor Harrisstown 2
333 Market Street
Harrisburg, PA 17101

Dear Mr. Nyce:

Please review the enclosed letter from Mr. John Kulik of the Pennsylvania Petroleum Marketers and Convenience Store Association.

I agree with the concerns expressed in this letter and would ask that you respond with some clarification of their assertions at your earliest convenience.

I look forward to your response.

Sincerely,

A handwritten signature in cursive script that reads "Gibson E. Armstrong".

Gibson E. Armstrong
Chairman, Senate Labor & Industry Committee
Senator, Lancaster & York Counties

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PETROLEUM MARKETERS &
CONVENIENCE STORE ASSOCIATION

October 10, 2002

The Honorable Gibson E. Armstrong, Chairman
Senate Labor and Industry Committee
Main Capitol, Room B-46A
Harrisburg, PA 17120

Dear Senator Armstrong:

We wish to express some concerns on behalf of our members regarding the proposed rulemaking, Title 34 Labor and Industry, Uniform Construction Code. Our association represents over 450 petroleum marketers, most of whom market home heating oil. Currently, about 1.2 million households, over 25%, use home heating oil in the Commonwealth.

When the original legislation was passed, we contacted the PA Dept. of Labor & Industry (DLI) and were informed that national construction and energy utilization regulations would be adopted. Our association was not contacted nor was it aware of the Pennsylvania Housing Research Center (PHRC) Alternative to Chapter 11 of the International Residential Code (IRC), which is part of the proposed rulemaking.

The national code allows for flexibility in the mix of fuels, furnace efficiency, amount of window area, insulation and construction values. It rewards the use of higher efficiency furnaces by reducing other construction costs and does not limit fuel type arbitrarily. Several calculations must be made to determine compliance, but this work can be done in an office environment from building plans.

When the proposed rulemaking was published for comment on August 24, 2002, we became aware of the PHRC Alternative to Chapter 11 of the IRC, which was produced by the PHRC.

According to the preface of the PHRC Alternative, "Act 45 requires the PA DLI to promulgate regulations to implement the requirements of the legislation and, in addition, to **consider** (emphasis added) the development of alternative prescriptive methods for energy conservation that account for the various climatic regions within the Commonwealth. In deriving these energy standards, the PA DLI was to seek to balance energy savings with initial construction costs."

The rationale for the PHRC to develop an alternative version of Chapter 11 of the IRC 2000 was:

- That it was simpler;
- That it was more flexible;
- That it focused on Pennsylvania in terms of climatic and other conditions;
- That it was equivalent to the provisions of the IECC 2000; and
- That it was independent, as far as possible, of other documents, etc.

The Honorable Gibson E. Armstrong
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The authors also may have felt that the alternative would be utilized by small-volume builders who do not have a large support staff.

Unfortunately, the "advantages" listed above are not available to builders or consumers wishing to use oil heating equipment. The inherent cost savings in using higher-efficiency equipment and reduced costs of other construction are another advantage lost.

We believe that the Alternate Chapter 11 discriminates against oil equipment simply by using a threshold annual fuel use efficiency (AFUE) of 90%. Table PA 1103.6, Equipment Requirements for High Efficiency Equipment Trade-Off, illustrates our point. While there is a column heading "Gas and Oil (Furnace or Boiler) with Central Air Conditioning," the uninformed reader would not realize that oil furnaces and oil and gas boilers are not readily available with an AFUE of 90%.

According to information produced by the Gas Appliance Manufacturers Association (GAMA) for its Directory of Gas and Oil Equipment, the following AFUE ranges apply:

Gas Furnaces:	78-96.6% AFUE
Gas Boilers:	80-99% AFUE (very limited, over 90%)
Oil Furnaces:	78-86% AFUE
Oil Burners:	79-90.1% AFUE (very limited, over 87%)

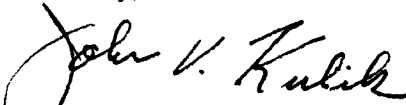
Our first choice in this matter would be to discard Alternate Chapter 11 because the "simplification" utilized certainly pushes users toward gas as the easy, more-flexible method of compliance. It is not apparent to us that an alternative is required.

Our second choice, in the interest of fairness and to avoid the appearance of a fuel bias, is to suggest that one or two additional sets of tables be created starting at 80% AFUE, with corresponding changes in the other values. The same model used to create the presently proposed tables could be utilized.

We respectfully request that you make our concerns part of the committee's comments and response to the PA DLI and the Independent Regulatory Review Commission.

Thank you for the opportunity to voice our concerns. Please contact us if you have any additional questions.

Sincerely,



John V. Kulik
Executive Vice President

JVK:mjw