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**INDEPENDENT REGULATORY REVIEW COMMISSION**  
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

December 10, 2001

Honorable David E. Hess, Chairman  
Environmental Quality Board  
Rachel Carson State Office Building  
400 Market Street, 16th Floor  
Harrisburg, PA 17101

Re: Regulation #7-365 (IRRC #2211)  
Environmental Quality Board  
Heavy-Duty Diesel Emissions Control Program

Dear Chairman Hess:

Enclosed are our Comments. They will soon be available on our website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us).

Our Comments list objections and suggestions for consideration when you prepare the final version of this regulation. We have also specified the regulatory criteria which have not been met. These Comments are not a formal approval or disapproval of the proposed version of this regulation.

If you would like to discuss these Comments, please contact my office at 783-5417.

Sincerely,

A handwritten signature in black ink that reads "Robert E. Nyce / RNE".

Robert E. Nyce  
Executive Director  
evp  
Enclosure

cc: Honorable Arthur D. Hershey, Majority Chairman, House Environmental Resources and Energy Committee  
Honorable Camille George, Democratic Chairman, House Environmental Resources and Energy Committee  
Honorable Mary Jo White, Chairman, Senate Environmental Resources and Energy Committee  
Honorable Raphael J. Musto, Minority Chairman, Senate Environmental Resources and Energy Committee

# **Comments of the Independent Regulatory Review Commission**

**on**

## **Environmental Quality Board Regulation No. 7-365**

### **Heavy-Duty Diesel Emissions Control Program**

**December 10, 2001**

We submit for your consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) which have not been met. The Environmental Quality Board (EQB) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by November 9, 2003, the regulation will be deemed withdrawn.

#### **Implementation. – Statutory Authority.**

Section 177 of the Clean Air Act states in part:

...any State which has plan provisions approved under this part may adopt and enforce for any model year standards relating to control of emissions from new motor vehicles or new vehicle engines and take such other actions as are referred to in section 209(a) respecting such vehicles if-

- (1) such standards are identical to the California standards for which a waiver has been granted for such model year, and
- (2) California and such State adopt such standards at least two years before commencement of such model year (as determined by regulations of the Administrator)...

At this point, the California Air Resource Board (CARB) has not applied for or received a waiver from the Environmental Protection Agency (EPA) to implement these standards. In accordance with Section 177 of the Clean Air Act, the EQB should not go forward with the final-form version of this regulation until a waiver has been submitted by CARB and approved by EPA.