MAIL OUT #-95-38

TITLE 13. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER THE ADOPTION OF THE NATIONAL SECURITY EXEMPTION FOR MILITARY TACTICAL VEHICLES AND EQUIPMENT

The Air Resources Board (the "Board" or "ARB") will conduct a public hearing at the time and place noted below to consider adoption of the national security exemption for military tactical vehicles and equipment.

DATE: December 14, 1995

TIME: 9:30 a.m.

PLACE: Air Resources Board
Hearing Room, Lower Level
2020 L Street
Sacramento, California 95814

This item will be considered at a two-day meeting of the Board, which will commence at 9:30 a.m., December 14, 1995, and may continue at 8:30 a.m., December 15, 1995. This item may not be considered until December 15, 1995. Please consult the agenda for the meeting, which will be available at least 10 days before December 14, 1995, to determine the day on which this item will be considered.

INFORMATIVE DIGEST OF PROPOSED ACTION

Sections Affected: The proposed adoption of a national security exclusion and exemption for military tactical vehicles and equipment -- adopt section 1905, Title 13, California Code of Regulations (CCR), which incorporates by reference 40 Code of Federal Regulations (CFR), Subpart R, Sections 85.1702(a)(2), 85.1703, 85.1704(b), 85.1708, and 85.1710; amend section 2400, Title 13, CCR, which incorporates by reference 40 CFR, Subpart J, Section 90.908, amend section 2420, Title 13, CCR, which incorporate by reference 40 CFR, Subpart J, Section 89.908.

The ARB staff is proposing to adopt regulations for the exclusion and exemption of military tactical vehicles and equipment from exhaust emission standards for new on-road motor vehicles (Title 13, Chapter 1, section 1950 et seq.) and engines used in off-road vehicles and equipment (Title 13, Chapter 9, sections 2400 et seq.). The proposal would define military tactical vehicles to mean an "on-road motor vehicle or off-road vehicle or equipment owned by the U.S. Department of Defense and/or the U.S. military services and used in combat, combat support, combat service support, tactical or relief operations, or training for such operations."

The proposal would align California regulations with the regulations and policies of the United States Environmental Protection Agency (U.S. EPA) that exclude and exempt military tactical vehicles and equipment. The ARB staff is proposing that the federal provisions providing for national security exemptions be incorporated by reference. On-road engines and vehicles that fall

under the proposed definition of a military tactical vehicle would be excluded or exempted in accordance with 40 CFR, Subpart R, Sections 85.1702(a)(2), 85.1703, 85.1704(b), 85.1708, and 85.1710. Off-road engines and equipment defined as military tactical equipment, as proposed, would be exempted in accordance with 40 CFR, Subpart J, Sections 89.908 and 90.908. The ARB would defer to the U.S. EPA the administration of the program and granting of national security exemptions. To the extent that certain vehicles and equipment, including those that are commercially available, fall within the definition of military tactical vehicles or equipment, and such vehicles and equipment do not require a federal exemption in that they meet federal emission standards, the proposal would exempt such vehicles and equipment from meeting California emission standards. However, the U.S. Department of Defense will be required to submit to the ARB a list of all vehicles and equipment that are excluded and or exempted under the above provisions and which are located in California.

AVAILABILITY OF DOCUMENTS AND CONTACT PERSON

The Board staff has prepared a Staff Report which includes the initial statement of reasons for the proposed action and a summary of the environmental impacts of the proposal, if any. Copies of the Staff Report and the full text of the proposed regulatory language may be obtained from the Board's Public Information Office, 2020 L Street, Sacramento, CA 95814, (916) 322-2990. The Board staff has compiled a record which includes all information upon which the proposal is based. This material is available for inspection upon request to the contact person identified immediately below.

The ARB has determined that this regulation will not affect small business. Irrespective of this finding, the regulations are written in plain English and the accompanying staff report provides a plain English summary of the proposed action.

Further inquiries regarding this matter should be directed to Veronika Pesinova, Associate Air Pollution Specialist, On-Road Controls Section, at (818) 575-7050, 9528 Telstar Avenue, El Monte, CA 91731.

COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred in reasonable compliance with the proposed regulations are presented below.

The Executive Officer has determined that the proposed regulatory action will not create costs or savings, as defined in Government Code section 11346.5(a)(6), to any state agency or in federal funding to the state, costs or mandate to any local agency or school district whether or not reimbursable by the state pursuant to Part 7 (commencing with section 17500), Division 4, Title 2 of the Government Code, or other nondiscretionary savings to local agencies.

The Executive Officer has also determined that adoption of the proposed regulatory action will not have a significant adverse economic impact on businesses, including the ability of California

businesses to compete with businesses in other states.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on private persons and businesses. The proposed amendments are intended to align California regulations with federal regulations for exemptions and exclusions for military tactical vehicles and equipment. Thus, the Executive Officer has also determined that there will be no, or an insignificant, potential cost impact, as defined in Government Code section 11346.5(a)(9), on private persons or businesses directly affected resulting from the proposed action.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within California, or the expansion of businesses currently doing business within California. An assessment of the economic impacts of the proposed regulatory action can be found in the Staff Report.

Finally, the Executive Officer has also determined, pursuant to Government Code section 11346.5(a)(3)(B),that the proposed adoption and amendments will not affect small businesses in that provisions apply to and only affect the United States Department of Defense and its national procurement policies.

Before taking final action on the proposed regulatory action, the Board must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing. To be considered by the Board, written submissions must be addressed to and received by the Board Secretary, Air Resources Board, P. O. Box 2815, Sacramento, CA 95812, no later than 12:00 noon, December 13, 1995, or received by the Board Secretary at the hearing.

The Board requests but does not require that 20 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing. The Board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

STATUTORY AUTHORITY AND HEARING PROCEDURES

This regulatory action is proposed under that authority granted in Health and Safety Code Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104. This action is proposed to implement, interpret and make specific Health and Safety Code Sections 43013, 43107, 43018, 43101, 43102, 43104, 43105, 43150-43154, 43205.5 and 43210-43212.

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Title 2, Division 3, Part 1, Chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with nonsubstantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such event the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted. The public may request a copy of the modified regulatory text from the Board's Public Information Office, 2020 L Street, Sacramento, CA 95814, (916) 322-2990.

CALIFORNIA AIR RESOURCES BOARD

James D. Boyd
Executive Officer

Date: October 17, 1995