

**Lockey, Heather@CNRA**

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**From:** Crimmins, Philip P@DOT <philip.crimmins@dot.ca.gov>  
**Sent:** Wednesday, March 14, 2018 7:50 PM  
**To:** CEQA Guidelines@CNRA  
**Cc:** Crimmins, Philip P@DOT  
**Subject:** Written Comments to the Proposed Updates to CEQA Guidelines - 2017  
**Attachments:** CEQA Guidelines Updates 2017 - Aeronautics Comments.pdf

March 14, 2018

Dear Mr. Calfee,

The attached comments to the subject document are offered for your consideration.

Sincerely,  
Philip Crimmins

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CEQA + Noise  
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*Making Conservation  
a California Way of Life.*

March 13, 2018

VIA EMAIL (CEQA.Guidelines@resources.ca.gov)

Christopher Calfee  
Deputy Secretary and General Counsel  
California Natural Resources Agency  
1416 Ninth Street, Suite 1311  
Sacramento, CA 95814

Re: Proposed Updates to the CEQA Guidelines - Final November 2017

Dear Mr. Calfee,

Thank you for the opportunity to comment on the document referenced above. The California Department of Transportation, Division of Aeronautics (Division) appreciates all of the efforts and outreach to update the California Environmental Quality Act (CEQA) Guidelines. The following comments are offered for your consideration.

The Division's comments that were sent to the Office of Planning and Research (OPR) in response to the *Proposed Updates to the CEQA Guidelines, August 11, 2015, Preliminary Discussion Draft*, are attached for your review because they are applicable to the proposed updates in the 2017 Final. Our requests and recommendations from 2015 remain the same today; that is, to not edit or move the checklist noise question as it relates to airports, over to the hazards section of the checklist. Such a move would be a technical error because noise, even aircraft noise that is considered excessive, is not a hazard or a hazardous material and it could steer environmental analysis for some projects in the wrong direction.

Noise from aviation sources is not analyzed for its potential as a hazard so it would be misleading to decision makers and the public to have it discussed as a hazard in environmental documents. Likewise, the National Environmental Policy Act environmental analysis treats noise differently than hazards and safety. The aviation noise question as it is currently written and within the section of other noise questions in the checklist, should remain as it is today.

The California Supreme Court's decision in *California Building Industry Assn. v. Bay Area Air Quality Management Dist. (CBIA v. BAAQMD)*, D. *Exceptions to the General Rule*, contains several specific exceptions to CEQA's general rule. Public Resources Code Section 21096 is one of those exceptions. It requires lead agencies to consider airport-related safety hazards and/or noise problems. When lead agencies analyze proposed projects near airports for safety and noise, they reference different sets of technical criteria and resources for determining potential environmental impacts.

Mr. Christopher Calfee

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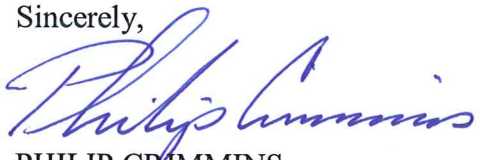
OPR did not provide written responses or feedback to our 2015 comments in the 2017 Final Updates package in either the thematic responses to comments, or the section titled "Updating the Environmental Checklist" (pages 31-36), where explanations for proposed deletions, consolidation or updating are stated.

The proposed updates note that the Appendix G, environmental checklist is in a sample format to guide planners, provoke thought and alert interested parties to issues that might be overlooked in the environmental review process. The proposed updates also state that the checklist is not a binding mandate. This approach to providing non-regulatory guidance is helpful and has become an essential tool for lead agencies as they prepare CEQA documents. The sample format and questions are used in nearly all of the CEQA documents we receive and review from the State Clearinghouse (nearly 600) every year. The checklist is especially valuable to the many lead agencies that choose to prepare their CEQA documents in-house. We are concerned that if too many deletions or consolidations are made to the checklist it will be streamlined into a less useful form for lead agencies.

The 2017 Final proposed updates have now eliminated all references to private airstrips. In order to prompt lead agencies to consider safety and noise issues for proposed projects near existing, as well as new private airstrips, we request that a private airstrip reference remain in the checklist language.

Thank you for the opportunity to review and comment on the proposed CEQA Guidelines updates. If you have any questions, please contact me at (916) 654-6223, or by email at [philip.crimmins@dot.ca.gov](mailto:philip.crimmins@dot.ca.gov).

Sincerely,



PHILIP CRIMMINS

Aviation Environmental Specialist

attached: October 12, 2015, comments re: CEQA Guidelines Update; Preliminary Discussion Draft

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*Serious Drought.  
Help save water!*

October 12, 2015

Mr. Christopher Calfee  
Senior Counsel  
Governor's Office of Planning and Research  
1400 Tenth Street  
Sacramento, CA 95814

Re: CEQA Guidelines Update; Preliminary Discussion Draft (August 11, 2015)

The California Department of Transportation, Division of Aeronautics (Division), reviewed the above-referenced document with respect to airport and aviation-related noise and safety issues pursuant to the California Environmental Quality Act Guidelines (Guidelines). The Division has technical expertise in the area of airport operation safety, noise and airport land use compatibility. We are a funding agency for airport projects and have permit authority for public-use and special-use airport and heliports. According to Appendix B in the Guidelines the Division itself has state department statutory authorities to review and comment on environmental documents.

The Division appreciates the effort the Office of Planning and Research (OPR) has undertaken to update and improve the Guidelines. We are interested in this update process because final changes to the Guidelines could affect our day-to-day responsibilities and workload. We focused on the proposed updates to Appendix G because it is the foundation of environmental analysis and document structure. The following comments are offered for your consideration.

**Appendix G; Moving Aviation Noise to Hazards**

We believe that OPR should not transfer *Section XI(e)-Noise* over to *Section VIII(e)-Hazards and Hazardous Materials* because noise, as an environmental factor itself, is not defined as a potentially hazardous situation or material, or a hazard to the environment. Primarily, it would not be technically accurate to consider noise as a hazardous environmental factor and then analyze it as such in any environmental document. There is no logical fit for noise to be situated amongst the other true hazards in *Section VIII* such as flooding, unstable soils, and harmful materials. Practitioners of CEQA might also mistakenly conclude that noise as a hazardous environmental factor would not be worth studying unless the potential exists for it to reach hazardous levels.

When the Division is a Responsible Agency for the approval of state airport and heliport permits, and airport improvement grants and loans, it becomes even more critical to have airport noise and hazards completely analyzed by lead agencies as we are dependent on their environmental analysis to carry out our approval of the project. We would like to continue to see aviation noise

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in the noise *Section XI* instead of burying it in hazards *Section VIII* so there is no doubt about the importance of analyzing each of these distinct environmental factors separately.

The aviation noise question that currently resides in *Section XI(e)-Noise* lost much of its meaning and focus in the proposed move over to *Section VIII-Hazards*. The question as currently written is succinct and accurate as it is informed by statutory references in the Public Utilities Code section 21002(g), 21670, 21674.7 and 21669; Public Resources Code 21096, and the California Airport Land Use Planning Handbook which is published by the Division. Striking section *XI(e)* also leaves out a significant part of a project's cumulative noise environmental analysis.

We urge OPR to keep the text of *Section XI(e)* intact and in its current location.

#### **Appendix G; Change in Air Traffic Pattern**

Rather than strike *Section XV(c)-Transportation/Traffic* from the Guidelines we would prefer that OPR clarify and add text to this important question. While the Division agrees that it would be a rare project proposal that would cause an airport to change its traffic pattern, the environmental impacts would likely be significant and unavoidable. We believe that decision makers and the public would be well served to know when such a project could affect their environment. Changing an airport's traffic pattern would place aircraft flying at lower altitudes over areas near airports where they have not flown before which, literally overnight, would substantially increase aircraft noise and safety concerns in those areas. Projects which could lead to these impacts include very tall structures built close to airports such as wind energy turbines, communications towers, new and taller power-line support structures, and residential/office buildings. Closing, shifting or realigning an airport runway could also alter the prescribed flight pattern of aircraft.

Thank you for the opportunity to review and comment on these proposed Guidelines updates and please keep us up-to-date on future proposed changes. If you have any questions, please contact me at (916) 654-6223, or by email at [philip.crimmins@dot.ca.gov](mailto:philip.crimmins@dot.ca.gov).

Sincerely,

*Original Signed by*

PHILIP CRIMMINS  
Aviation Environmental Specialist