

AMENDED IN ASSEMBLY MAY 13, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1545**

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**Introduced by Assembly Member Simitian**

February 21, 2003

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An act to amend Section 21091 of the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 1545, as amended, Simitian. Environmental quality: public comments.

The existing California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect.

CEQA also requires a draft EIR, EIR, or negative declaration prepared pursuant to CEQA be prepared directly by, or under contract to, a public agency, and requires the lead agency that is preparing an EIR to provide public notice of that fact, specifying the period during which comments will be received on the draft EIR and the date, time, and place of any public meetings or hearings on the proposed project. CEQA authorizes information or other comments to be submitted in any format and requires the public agency to consider them if they are received within the public review period.

This bill would require the lead agency, with respect to the consideration of comments received on a draft EIR, to accept comments

~~and testimony~~ via e-mail and treat e-mail comments ~~and testimony~~ as equivalent to written comments ~~and testimony~~.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 21091 of the Public Resources Code is  
2 amended to read:

3 21091. (a) The public review period for a draft  
4 environmental impact report may not be less than 30 days. If the  
5 draft environmental impact report is submitted to the State  
6 Clearinghouse for review, the review period shall be at least 45  
7 days, and the lead agency shall provide a sufficient number of  
8 copies of the document to the State Clearinghouse for review and  
9 comment by state agencies.

10 (b) The public review period for a proposed negative  
11 declaration or proposed mitigated negative declaration may not be  
12 less than 20 days. If the proposed negative declaration or proposed  
13 mitigated negative declaration is submitted to the State  
14 Clearinghouse for review, the review period shall be at least 30  
15 days, and the lead agency shall provide a sufficient number of  
16 copies of the document to the State Clearinghouse for review and  
17 comment by state agencies.

18 (c) Notwithstanding subdivisions (a) and (b), if a draft  
19 environmental impact report, proposed negative declaration, or  
20 proposed mitigated negative declaration is submitted to the State  
21 Clearinghouse for review and the period of review by the State  
22 Clearinghouse is longer than the public review period established  
23 pursuant to subdivision (a) or (b), whichever is applicable, the  
24 public review period shall be at least as long as the period of review  
25 by the State Clearinghouse.

26 (d) (1) The lead agency shall consider comments it receives on  
27 a draft environmental impact report, proposed negative  
28 declaration, or proposed mitigated negative declaration if those  
29 comments are received within the public review period.

30 (2) (A) With respect to the consideration of comments  
31 received on a draft environmental impact report, the lead agency  
32 shall evaluate comments on environmental issues that are received  
33 from persons who have reviewed the draft and shall prepare a



1 written response pursuant to subparagraph (B). The lead agency  
2 may also respond to comments that are received after the close of  
3 the public review period.

4 (B) The written response shall describe the disposition of each  
5 significant environmental issue that is raised by commenters. The  
6 responses shall be prepared consistent with Section 15088 of Title  
7 14 of the California Code of Regulations, as those regulations  
8 existed on June 1, 1993.

9 (3) With respect to the consideration of comments received on  
10 a draft environmental impact report, the lead agency shall accept  
11 comments ~~and testimony~~ via e-mail and shall treat e-mail  
12 comments ~~and testimony~~ as equivalent to written comments ~~and~~  
13 ~~testimony~~.

14 (e) (1) Criteria for shorter review periods by the State  
15 Clearinghouse for documents that must be submitted to the State  
16 Clearinghouse shall be set forth in the written guidelines issued by  
17 the Office of Planning and Research and made available to the  
18 public.

19 (2) Those shortened review periods may not be less than 30  
20 days for a draft environmental impact report and 20 days for a  
21 negative declaration.

22 (3) A request for a shortened review period shall only be made  
23 in writing by the decisionmaking body of the lead agency to the  
24 Office of Planning and Research. The decisionmaking body may  
25 designate by resolution or ordinance a person authorized to request  
26 a shortened review period. A designated person shall notify the  
27 decisionmaking body of this request.

28 (4) A request approved by the State Clearinghouse shall be  
29 consistent with the criteria set forth in the written guidelines of the  
30 Office of Planning and Research.

31 (5) A shortened review period may not be approved by the  
32 Office of Planning and Research for a proposed project of  
33 statewide, regional, or areawide environmental significance as  
34 determined pursuant to Section 21083.

35 (6) An approval of a shortened review period shall be given  
36 prior to, and reflected in, the public notice required pursuant to  
37 Section 21092.

38 (f) Prior to carrying out or approving a project for which a  
39 negative declaration has been adopted, the lead agency shall  
40 consider the negative declaration together with comments that



1 were received and considered pursuant to paragraph (1) of  
2 subdivision (d).

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