SENATE COMMITTEE ON ENVIRONMENTAL QUALITY
Senator Blakespear, Chair
2025 - 2026 Regular

Bill No:	AB 40		
Author:	Bonta		
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Urgency:	No	**Fiscal:**	Yes
Consultant:	Brynn Cook		

SUBJECT: California Environmental Quality Act: environmental impact reports: coal handling, storage, and export

DIGEST: This bill would require that new or expanded projects for the handling, storage, or export of more than 5,000,000 tons per year of coal of be reviewed in an environmental impact report (EIR) under the California Environmental Quality Act (CEQA) and that certain conditions, including changing the type of coal or increasing the quantity of coal handled, stored, or exported, would trigger a subsequent or supplemental EIR, among other provisions.

ANALYSIS:

Existing law:

1) Requires lead agencies with the principal responsibility for carrying out or approving a proposed discretionary project to prepare a negative declaration, mitigated negative declaration, or environmental impact report (EIR) for this action, unless the project is exempt from CEQA (CEQA includes various statutory exemptions, as well as categorical exemptions in the CEQA Guidelines). (Public Resources Code (PRC) §21000 et seq.)

2) Requires a lead agency or responsible agency to prepare a subsequent or supplemental EIR only if specified events occur, such as when new information, which was not known and could not have been known at the time the EIR was certified as complete, becomes available. (PRC §21166(c))

This bill:

1) Requires that an EIR, pursuant to CEQA, be conducted for new or expanded projects that handle, store, or export 5,000,000 short tons of coal or more per year.

2) Specifies that a subsequent or supplemental environmental impact report will be required for new or expanded projects that handle, store, or export 5,000,000 short tons of coal or more per year if any of the following apply:
   a) There is a change in the type of coal handled, stored, or exported.
   b) There is a significant change in the quantity of coal handled, stored, or exported.
   c) The environmental impact report is 10 or more years old.

3) Requires that a lead agency shall not certify an EIR pursuant to these provisions unless the project proponent demonstrates enforceable mitigation measures to reduce fine and coarse pollutants to within the threshold limit set by the lead agency.

Background

1) *Coal through Oakland Port.* The Oakland Bulk and Oversized Terminal (OBOT) is a planned bulk export terminal at the former Oakland Army Base, located on Port of Oakland. When the Oakland Army Base closed in 1999, part of the property reverted to the City of Oakland while another portion went to the Port of Oakland. In 2009, the Port of Oakland secured Trade Corridor Improvement Fund (TCIF) funding for a project to develop warehouse space, logistics facilities, and a rail terminal on the site. By diverting freight from trucks to trains, the new rail terminal complex was expected to reduce diesel particulate matter emissions while simultaneously increasing the efficiency of goods movement through the port.

   In 2013, City of Oakland and OBOT signed a Development Agreement. In 2015, plans for the development, including that the developer of OBOT had arranged $53 million in Utah funding in exchange for coal shipping rights, sparked public backlash. Despite the controversy, the city finalized a 66-year Ground Lease with OBOT in 2016, but then separately passed an ordinance banning coal handling and storage within Oakland, a move reinforced by state legislation cutting off public funding for coal port projects (SB 1279, Hancock Chapter 215, Statutes of 2016). OBOT responded by suing, arguing the coal ban was unconstitutional and preempted by federal law, and in 2018 a federal judge ruled in the developer's favor, finding the city's health and safety evidence insufficient to justify the ban — though the ruling left open the possibility that Oakland could try again with stronger evidence. Rather than revisit the ban, the city instead terminated OBOT's lease over missed construction deadlines, and after settlement talks collapsed in 2022, the dispute shifted to state court over whether the city had breached its contract.

Oakland lost this case at the trial court level and again on appeal, and in September 2025 the California Supreme Court declined further review, bringing the decade-long legal fight to a close in OBOT's favor. As a result, OBOT now has a clear legal path to build the terminal, with the coal ban effectively dead as applied to this project. As planned, OBOT would export up to 7.4–10 million tons of coal per year, primarily from Utah, by rail through West Oakland.[1]

2) *Expected Health Impacts of Coal at OBOT*. A 2023 CARB-funded assessment found that passing coal trains significantly increase ambient PM2.5 concentrations. [2] PM2.5 exposure is causally linked to a wide range of adverse health outcomes, including premature mortality, cardiovascular and respiratory diseases, adverse birth outcomes, and cognitive/developmental impairments. Health risks are present even at concentrations below current regulatory standards, with no known safe level of PM2.5. The most vulnerable populations- infants, children, elderly, people of color, low-income residents, and those with pre-existing health conditions – bear a disproportionate burden of exposure and health impacts.[3]

Several studies, including those commissioned by the City of Oakland during their legal battle against OBOT's coal shipping plans, have examined the health implications of shipping and handling millions of tons of coal through the port of Oakland specifically. In 2016**,** A panel of public health experts conducted a Health Impact Assessment, and concluded that coal trains significantly increase concentrations of fine particulate matter (PM2.5) in communities along rail lines due to emissions of both coal dust and diesel exhaust[4]. These findings were supported in a 2024 study by the UC Davis Air Quality Research Center.[5] This study modeled PM2.5 exposure along the rail corridor from Oakland to Martinez, finding that coal train pollution would have significant health effects that disproportionately impact communities of color and people who are young, old, or have low incomes. The City of Oakland commissioned a study (Environmental Science Associates, 2016) ahead of the City Council's vote on a coal ban, which concluded that coal dust from the proposed terminal would worsen air quality, and that the degraded air quality would impact largely low-income and minority neighborhoods.

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[1] https://www.phi.org/press/study-backs-oaklands-case-for-blocking-coal-terminal/
[2] https://ucdavis.app.box.com/s/sh55sgeix0r39k07zfsai1tcamux8qpw
[3] https://www.mdpi.com/1660-4601/8/6/1755
[4] *An Assessment of the Health and Safety Implications of Coal Transport through Oakland*,
[5] stro B, Fang Y, Sospedra MC, Kuiper H, Ebisu K, Spada N. Health impact assessment of PM2.5 from uncovered coal trains in the San Francisco Bay Area: Implications for global exposures. Environ Res. 2024 Jul 1;252(Pt 1):118787. doi: 10.1016/j.envres.2024.118787. Epub 2024 Mar 29. PMID: 38555092; PMCID: PMC11467780.

Another study by UC Berkeley Energy and Resources Group, analyzed the proposed Oakland bulk export terminal. It concluded that coal transport would generate hazardous fugitive coal dust and diesel emissions, leading to measurable increases in asthma, heart disease, hospitalizations, and mortality for nearby West Oakland residents and workers.

The study also reviewed the potential mitigations that have been proposed, including covering the rail cars carrying the coal and storing the coal indoors at the Army Base, and found that these mitigations are unproven and largely experimental.[6]

3) *Ranking the naughty list: Types of coal and their health impacts.* There are four main types (or ranks) of coal: anthracite, bituminous, subbituminous, and lignite.

Lignite. Lignite is softest type of coal and has the lowest carbon and energy content of the four. It contains up to 70% water by weight: because so much energy is lost evaporating that water during combustion, lignite is among the most polluting coals per unit of usable energy produced.

Sub-bituminous. This type of coal contains less water and is more energy dense than lignite. However, it has less carbon, more water and is a less efficient source of heat for boilers than bituminous coal, though it is often lower in sulfur content than eastern bituminous coals, which somewhat reduces its sulfur dioxide and acid rain contribution.

Bituminous coal. This is the most commonly used type of coal in the US: it is denser and more carbon-rich, and burns hotter and more efficiently than lignite or sub-bituminous coal. It is mined chiefly in the Midwest and Appalachian regions and commonly used in power plant boilers for generation of electric power. Its principal environmental liability is its high sulfur content that when burned creates oxides of sulfur. Utilities often blend high-sulfur Appalachian bituminous coal with low-sulfur Powder River Basin coal specifically to manage SOx emissions and regulatory compliance costs.

Anthracite. This is the highest and rarest rank, has the greatest carbon content (up to 95% carbon) and burns the cleanest and most efficiently of the four types, producing the least pollution per unit of energy, but it is rare and used primarily in specialized applications (like steel smelting).

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[6] An Assessment of the Health and Safety Implications of Coal Transport through Oakland Public Health Advisory Panel on Coal in Oakland Oakland, California June 14, 2016

Across all ranks, the core health and environmental concerns are similar in kind but differ in magnitude: fine particulate matter (PM2.5) and coal dust released during mining, transport, and combustion are linked to respiratory and cardiovascular disease; sulfur and nitrogen oxides contribute to acid rain and smog formation; mercury and other trace heavy metals can bioaccumulate in waterways and food chains.

4) *CEQA and EIRs.* CEQA is designed to (a) make government agencies and the public aware of the environmental impacts of a proposed project, (b) ensure the public can take part in the review process, and (c) identify and implement measures to mitigate or eliminate any negative impact the project may have on the environment. CEQA is enforced by civil lawsuits that can challenge any project's environmental review. Nonprofits, private individuals, public agencies, advocacy groups, and other organizations can all file lawsuits under CEQA.

   Under CEQA, projects (unless they have a specific exemption) must undergo environmental analysis. This process starts with an initial study which determines what level of further environmental review is needed for a given project. If a project has no significant effects on the environment, or if those effects can be fully mitigated, the project can move forward with a negative declaration (ND) or mitigated negative declaration (MND). If the initial study finds that the project has potential significant effects on the environment, then a full EIR is required. An EIR provides thorough environmental review of a proposed project, analyzing the significant direct and indirect environmental impacts of a proposed project on water quality, transportation, air quality and greenhouse gas emissions, terrestrial and aquatic biological resources, surface and subsurface hydrology, land use and agricultural resources, aesthetics, geology and soils, recreation, public services and utilities such as water supply and wastewater disposal, and cultural resources, among other factors. The EIR also includes proposed mitigation measures for any significant effects that it identifies. It also requires a consideration of alternatives to the proposed project, and a consideration of cumulative and growth-inducing impacts.

5) *Subsequent and Supplemental EIR.* When an EIR has been prepared for a project, no further environmental review is needed, except in the following circumstances:
   (a) Substantial changes are proposed in the project which will require major revisions of the environmental impact report.
   (b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report.

(c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.

In these cases, the project would have to do a subsequent EIR. A subsequent EIR is given the same public review process as a project EIR, providing another opportunity for public engagement with the new information.

In contrast to a subsequent EIR, a supplement to an EIR can be prepared when only minor changes are needed to the EIR. The supplemental EIR is more akin to a simple revision of the project EIR. When evaluated by the agency, the project EIR is considered with the supplement to the EIR as a revision for the relevant changes. The supplemental EIR is still subject to the same public review process, but only the supplement to the EIR needs to be circulated.

Comments

1) *Purpose of Bill.* According to the author, "California's environmental review framework was not built for what is happening in West Oakland right now. The Trump administration has invoked a Cold War-era emergency law to direct $75 million toward the construction of a bulk coal export terminal on one of the most environmentally overburdened communities in California, a community that was designated a first-year priority under AB 617's Community Air Protection Program precisely because of its documented cumulative pollution burden.

   "The environmental review that the terminal's operators rely upon is over a decade old. It did not account for the type of coal now planned, nor the volumes now projected, which have grown dramatically. And it predates peer-reviewed, CARB-funded science establishing that coal trains measurably increase dangerous levels of fine particulate matter in the communities they pass through. AB 40 closes that gap. It ensures that before any public agency issues a discretionary approval for a large-scale coal terminal in California, there is a full Environmental Impact Report that reflects the actual coal, the actual volume, and the actual science, and that where significant air quality impacts are found, the developer must demonstrate enforceable mitigation before any approval can be issued"

2) *Beautiful Coal*. In June of 2026, President Trump announced that he would invoke the Defense Production Act, a Cold War-era emergency law, to allocate nearly $700 million into coal plants and a new Oakland export terminal under the guise of national security. In announcing the action, President Trump said,

"Starting this summer, the West Gateway project will break ground and by summer 2028, over 12 million tons of clean beautiful coal per year will be shipped to countries all around the world."

Given the enormous environmental impact of coal, the unprecedented nature of the project, and the promised rapid timeline, it may be prudent to ensure that full CEQA review is carried out in its entirety for this (or any comparable project). AB 40 ensures that this will be the case by requiring large scale coal handling projects to go through a full EIR, rather than an ND/MND or exemption. While a project that involves the movement, handling, and storage of large volumes of coal would likely be subject to an EIR or subsequent EIR given the significant amounts of air pollution associated with coal handling, AB 40 ensures that this is the case.

3) *SEIR or SEIR?* AB 40 specifies that certain changes, including changing the type of coal going through the port, or changes in the quantity of coal, trigger a subsequent or supplemental EIR, notwithstanding any other law. The type of coal used at a site, and significant increases in coal throughput, are both likely to have significant impacts on the environment and human health, given both the profound environmental and human health impacts associated with coal and the specific risks associated with different types of coal (as identified in the background section). In these situations, a subsequent EIR, which is required for significant changes to a project in existing law, may be better suited than a supplemental EIR, which is primarily for small modifications to the existing EIR.

The author and committee may wish to amend the bill to specify that expanding a coal facility significantly can trigger a subsequent, not a supplemental EIR.

In addition, the author and committee may wish to clarify that the conditions pertaining to large-scale coal and storage projects that trigger a subsequent EIR are additional to the existing triggers for subsequent EIRs that apply to all projects in CEQA broadly, among other technical and clarifying changes. Finally, the author and committee may wish to specific what constitutes a 'significant' increase in handling and storing of coal projects that would trigger a subsequent EIR.

4) *Committee amendments.* ***Staff recommends the committee adopt the bolded amendments contained in comment 3.***

Related/Prior Legislation

SB 1279, Hancock Chapter 215, Statutes of 2016, prohibits the California Transportation Commission (CTC) from programming or allocating funds for any new bulk-coal terminal project proposed on or after January 1, 2017

SOURCE: Author

SUPPORT:

350 Bay Area Action
350 Humboldt
Apen Action
Bay Area-system Change Not Climate Change
Biofuelwatch
California Environmental Voters
California Sportfishing Protection Alliance
Californians for Energy Choice
Center for Biological Diversity
Center for Environmental Health
Center on Race, Poverty and the Environment
Citizens' Climate Lobby
City of Alameda
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Cleanearth4kids.org
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Climate Reality Project Bay Area Chapter
Coalition for Clean Air
Common Vision
Communities for a Better Environment
Earthjustice
East Bay Democratic Socialists of America
East Bay Permanent Real Estate Cooperative
Elders Climate Action Northern California Chapter
Elders Climate Action Southern California Chapter
Emeryville; City of
Extinction Rebellion San Francisco Bay Area
Facts Families Advocating for Chemical and Toxics Safety
Fossil Free California Votes
Green Party of Alameda County
Greenaction for Health and Environmental Justice
Healthy Martinez
Labor Rise Climate Jobs Action Group

No Coal in Oakland
Oil and Gas Action Network
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Pesticide Action and Agroecology Network
Physicians for Social Responsibility - Los Angeles
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Reimagine Richmond
Resource Renewal Institute
Richmond Shoreline Alliance
San Francisco Bay Physicians for Social Responsibility
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Skyline Community Church Ucc
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Spur
St. Columba Catholic Church
Stop Oak Expansion Coalition
Sunflower Alliance
The Climate Center
United Native Americans
Wellstone Democratic Renewal Club
West Berkeley Alliance for Clean Air and Safe Jobs
West Oakland Environmental Indicators Project
West Oakland Neighbors
Youth Vs. Apocalypse

OPPOSITION:

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California Business Roundtable
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California Manufacturers & Technology Association (CMTA)
California Railroads
California Retailers Associaiton
Insight Terminal Solutions, LLC
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Western States Petroleum Association

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