

Date of Hearing: August 27, 2026

ASSEMBLY COMMITTEE ON NATURAL RESOURCES

Isaac G. Bryan, Chair

AB 40 (Bonta) – As Amended August 21, 2026

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

SUMMARY: Requires that new projects for the handling, storage, or export of more than 5 million tons per year of coal 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, triggers a subsequent EIR, among other provisions.

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 an 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))
- 3) Requires the Office of Land Use and Climate Innovation to prepare and develop proposed guidelines for the implementation of CEQA by public agencies. Requires the guidelines to include objectives and criteria for the orderly evaluation of projects and the preparation of EIRs and negative declarations in a manner consistent with the statute. (PRC 21083)

THIS BILL:

- 1) Defines the following terms:
 - a) “Large-volume bulk coal facility” as a facility with a design capacity exceeding 5 million short tons per year of coal handling, storage, or export. Excludes a building, use, or infrastructure located at the same site, located within the same specific plan or redevelopment area, or covered by the same EIR as a large-volume bulk coal facility, if that building, use, or infrastructure does not handle, store, transport, or export coal, even if the building, use, or infrastructure was considered to be part of an overall project previously evaluated in an EIR that also addressed the large-volume bulk coal facility.
 - b) “Type of coal” refers to the classification of coal as lignite, subbituminous, bituminous, or anthracite.
- 2) Requires, before issuing the initial discretionary approval for a large-volume bulk coal facility, a lead agency to prepare or cause to be prepared an EIR.

- 3) Requires issuance of any permit by an air pollution control district or air quality management district that authorizes construction, or increases potential emissions, of a large-volume bulk coal facility to be considered a discretionary approval and not be exempt from CEQA.
- 4) Prohibits, independent of the conditions for a subsequent EIR and adopted guidelines, a lead agency, air pollution control district, or air quality management district from relying on an existing EIR to issue a discretionary approval for or to a large-volume bulk coal facility, and a subsequent EIR, or a new EIR required, if any of the following conditions are met:
 - a) There is a change in the type of coal handled, stored, or exported, or the EIR did not explicitly address the type of coal to be handled, stored, or exported;
 - b) There is a significant increase in the quantity of coal handled, stored, or exported, or the EIR did not explicitly disclose the quantity of coal to be handled, stored, or exported; or,
 - c) There is an increase in the design capacity of a project that did not previously meet the definition of a large-volume bulk coal facility so that the total amount of coal handled, stored, or exported exceeds 5 million short tons per year.
- 5) Provides that if a previously certified EIR for a large-volume bulk coal facility did not specifically analyze the environmental impacts of coal handling, storage, and transportation, that EIR does not retain informational value.
- 6) Prohibits a lead agency, air pollution control district, or air quality management district from relying on an EIR described above and requires those entities to treat a large-volume bulk coal facility analyzed in that EIR as a new project, independent of the project that was analyzed in that EIR.
- 7) Prohibits, in addition to the other requirements under CEQA and adopted guidelines, an EIR or subsequent EIR prepared pursuant to this bill from being certified, and prohibits the project from being approved, unless the EIR or subsequent EIR does both of the following:
 - a) Identifies the type or types of coal and potential volume of coal that may be handled, stored, or exported at a large-volume bulk coal facility, and evaluate the environmental impacts of, and mitigation for, the handling, storage, or export of the coal type or types and volume of coal; and,
 - b) Evaluates the large-volume bulk coal facility's potential to generate fugitive dust emissions of fine particulate matter (PM_{2.5}) and coarse particulate matter (PM₁₀) during construction and operations and require mitigation measures sufficient to prevent a significant increase in ambient concentrations of PM_{2.5} and PM₁₀ beyond the facility's boundaries. Requires, where the local air pollution control district or air quality management district has adopted a numeric individual project threshold for increases in ambient concentrations of PM_{2.5} or PM₁₀, those thresholds to be used to determine significance.
- 8) Provides that nothing in this bill shall be construed to do any of the following:
 - a) Require a new, subsequent, or supplemental EIR for a building, use, or infrastructure that is not a large-volume bulk coal facility;

- b) Affect the validity of a previously certified EIR or other determination made for a building, use, or infrastructure that is not a large-volume bulk coal facility; and,
 - c) Affect the ability of a lead agency, air pollution control district, or air quality management district to rely on or tier from, a previously certified EIR or other determination made pursuant to this division for a building, use, or infrastructure that is not a large-volume bulk coal facility.
- 9) Requires the provisions of this bill to apply retroactively to any discretionary approval for a large-volume bulk coal facility by a lead agency, air pollution control district, or air quality management district that is pending or made between June 4, 2026, and January 1, 2027.
- 10) Provides that the provisions of this bill are severable.
- 11) Provides that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Coal.** While California's native coal deposits are limited to lignite, the state tracks all four major ranks of coal when reviewing regional energy markets, industrial uses, or legacy imports:
- Lignite is the lowest rank of coal with the highest moisture content and lowest heat value, and has is low in carbon (25–35%). Because it is poor fuel for burning, California's lignite was historically used to extract wax for products like candles, shoe polish, and lipstick rather than generating electricity.
 - Subbituminous is a dull black coal with a lower heating value than bituminous. It has a carbon content around 40%.
 - Bituminous is a middle-to-high rank, dense, and commonly used in coal powered plants or steel production.
 - Anthracite is the highest rank and has the highest carbon content (86–97%).

There are no active commercial coal mines in California and the state eliminated all coal-fired electricity generation, yet coal is still transported through the state along freight railways and near freight facilities.

- 2) **Increased coal pollution in California.** On June 4, 2026, the Trump Administration announced \$700 million in federal funding to support coal-fired power plants and coal export infrastructure, including \$425 million for 13 coal plants nationwide and \$75 million for construction of the Oakland Bulk and Oversized Terminal (OBOT). The terminal has a documented design capacity of 9–10 million short tons of coal annually and is expected to begin operations in 2028.

The U.S. coal mining industry, especially companies with mines in western states, have long sought greater access to export markets due to declining domestic demand and closures of domestic coal plants.

This investment in Oakland would facilitate the transport of millions of tons of coal through communities across U.S., increasing exposure to coal dust, diesel emissions, and other environmental and public health risks.

A 2023 Air Resources Board-funded assessment found that passing coal trains significantly increase ambient PM_{2.5} concentrations. PM_{2.5} 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.

- 3) **California Environmental Quality Act.** The CEQA process is intended to: (1) inform government decision-makers and the public about the potential environmental effects of proposed activities; (2) identify the ways that environmental damage can be avoided or significantly reduced; (3) prevent significant, avoidable environmental damage by requiring changes in projects, either by the adoption of alternatives or imposition of mitigation measures; and, (4) disclose to the public why a project was approved if that project has significant environmental impacts that cannot be mitigated to a less than significant level.

An EIR is the central document prepared when a proposed project is likely to have significant environmental impacts that cannot be avoided or mitigated to a less than significant amount. 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 EIR.
- b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the EIR.
- c) New information, which was not known and could not have been known at the time the EIR 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.

- 4) **Oakland terminal.** In 2002, the City of Oakland (City) prepared an EIR that evaluated the environmental impacts of the Oakland Army Base (OAB) Redevelopment Plan and Army Base Reuse Plan. On July 29, 2002, the City Planning Commission certified the 2002 EIR, and the Oakland Base Reuse Authority adopted the 2002 EIR and approved the Reuse Plan. The EIR does not discuss the possibility of developing a bulk goods terminal for coal.

In 2012, as the City and the Port of Oakland substantially refined a portion of the Redevelopment Plan, the City prepared an Initial Study/Addendum to the 2002 EIR for the 2012 OAB Project. The City expressly considered whether the changed project required a subsequent or supplemental EIR. It concluded that a new EIR was not needed and that an addendum was appropriate because the changes would not result in new significant

environmental effects. The 2012 Addendum discussed developing a bulk goods terminal but did not identify or analyze coal as a potential commodity.

In 2012 and 2013, the City entered into agreements with developers including OBOT to develop a bulk cargo shipping terminal at the former OAB. The proposed terminal was envisioned as a bulk-cargo facility where bulk goods would arrive by rail, be transferred to ships, and be exported. The initial environmental review did not identify coal as a commodity to be handled at the terminal because coal was not envisioned as part of the project.

In 2015, after news reports surfaced that the OBOT project would be built to export coal from Utah, Environmental organizations filed a CEQA lawsuit in Alameda County Superior Court arguing that Oakland had failed to perform the environmental review required before approving a coal-export operation. The groups voluntarily dismissed their lawsuit without prejudice after the City of Oakland represented that the City was exploring actions to address the possibility that the terminal would be used for coal.

There has never been a stand-alone CEQA EIR prepared specifically for the OBOT as the terminal was treated as part of the redevelopment of the former OAB and addressed in the 2002 EIR and 2012 Addendum for that project.

- 5) **This bill.** AB 40 requires a full EIR before a lead agency can grant an initial discretionary approval for a new or expanded bulk coal handling, storage, or export facility with a design capacity exceeding 5 million short tons per year. It also requires updated environmental review when the type or quantity of coal changes and would prohibit an air district from granting discretionary approval without such review. Lastly, the bill requires every relevant EIR to evaluate the facility's potential to generate fugitive dust emissions and to include mitigation sufficient to prevent a significant increase in ambient concentrations beyond the facility's boundaries.

The bill applies retroactively to discretionary approval for a large-volume bulk coal facility that is pending or made between June 4, 2026, and January 1, 2027, to ensure it covers OBOT.

- 6) **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 EIR 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.

REGISTERED SUPPORT / OPPOSITION:

Support

1000 Grandmothers for Future Generations
350 Bay Area Action
350 Humboldt
Alameda County Board of Supervisors,
District 5
Apen Action
Bay Area-system Change Not Climate
Change
Biofuelwatch
California Democratic Party
California Environmental Justice Alliance
California Environmental Voters
California Green New Deal Coalition
California Nurses for Environmental Health
& Justice
California Sportfishing Protection Alliance
Californians for Energy Choice
Ceja Action
Center for Biological Diversity
Center for Environmental Health
Center on Race, Poverty and the
Environment
Citizens' Climate Lobby
City of Alameda
City of Berkeley
City of Emeryville
Clean Water Action
Cleaneearth4kids.org
Climate Action California
Climate Future California
Climate Health Now Action Fund
Climate Reality Project Bay Area Chapter
Coalition for Clean Air
Common Vision
Communities for a Better Environment
Dayenu: a Jewish Call to Climate Action
Earthjustice
East Bay Democratic Socialists of America
East Bay Permanent Real Estate
Cooperative
Elders Climate Action Northern California

and Southern California Chapters
Environmental Protection Information
Center
Extinction Rebellion San Francisco Bay
Area
Facts Families Advocating for Chemical and
Toxics Safety
Families Advocating for Chemical and Tech
Safety
Food & Water Watch
Fossil Free California Votes
Friends Committee on Legislation of
California
Green Party of Alameda County
Greenaction for Health and Environmental
Justice
Healthy Martinez
Immaculate Heart Community
Environmental Commission
Labor Rise Climate Jobs Action Group
No Coal in Oakland
NRDC
Oil & Gas Action Network
Our City Sf
Pesticide Action and Agroecology Network
Physicians for Social Responsibility - Los
Angeles
Planning and Conservation League
Reimagine Richmond
Resource Renewal Institute
Richmond Shoreline Alliance
San Francisco Bay Physicians for Social
Responsibility
San Francisco Baykeeper
San Francisco Policy Action Team / Climate
Reality Bay Area
Santa Cruz Climate Action Network
Scientist Rebellion Turtle Island West
Sierra Club
Sierra Club California
Skyline Community Church UCC

Solidarityinfo service
Spur
St. Columba Catholic Church
Stop Oak Expansion Coalition
Sunflower Alliance
The Climate Center
Unite Here Local 2
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

Bay Area Council
California Chamber of Commerce
California Manufacturers and Technology Association
Commercial Real Estate Development Association
Naiop of California
Insight Terminal Solutions, LLC
Pacific Merchant Shipping Association
Western States Petroleum Association

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