

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2367

Chapter 37, Laws of 2026

69th Legislature
2026 Regular Session

COAL-FIRED ELECTRIC GENERATION FACILITY—PREFERENTIAL TREATMENT
ELIMINATION

EFFECTIVE DATE: March 11, 2026

Passed by the House February 12, 2026
Yeas 63 Nays 33

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate February 28,
2026
Yeas 29 Nays 19

DENNY HECK

President of the Senate

Approved March 11, 2026 11:03 AM

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2367** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

March 12, 2026

BOB FERGUSON

Governor of the State of Washington

**Secretary of State
State of Washington**

HOUSE BILL 2367

Passed Legislature - 2026 Regular Session

State of Washington

69th Legislature

2026 Regular Session

By Representatives Fitzgibbon, Doglio, Berry, Mena, Ramel, Parshley, Kloba, Duerr, Ormsby, Hill, and Pollet

Prefiled 01/09/26. Read first time 01/12/26. Referred to Committee on Environment & Energy.

1 AN ACT Relating to eliminating preferential treatment related to
2 a coal-fired electric generating plant; amending RCW 70A.65.080 and
3 80.80.110; repealing RCW 82.08.811 and 82.12.811; and declaring an
4 emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 70A.65.080 and 2025 c 282 s 2 are each amended to
7 read as follows:

8 (1) A person is a covered entity as of the beginning of the first
9 compliance period and all subsequent compliance periods if the person
10 reported emissions under RCW 70A.15.2200 for any calendar year from
11 2015 through 2019, or if additional data provided as required by this
12 chapter indicates that emissions for any calendar year from 2015
13 through 2019 equaled or exceeded any of the following thresholds, or
14 if the person is a first jurisdictional deliverer and imports
15 electricity into the state during the compliance period:

16 (a) Where the person owns or operates a facility and the
17 facility's emissions equal or exceed 25,000 metric tons of carbon
18 dioxide equivalent;

19 (b) Where the person is a first jurisdictional deliverer and
20 generates electricity in the state and emissions associated with this

1 generation equals or exceeds 25,000 metric tons of carbon dioxide
2 equivalent;

3 (c) (i) Where the person is a first jurisdictional deliverer
4 importing electricity into the state and:

5 (A) For specified sources, the cumulative annual total of
6 emissions associated with the imported electricity exceeds 25,000
7 metric tons of carbon dioxide equivalent;

8 (B) For unspecified sources, the cumulative annual total of
9 emissions associated with the imported electricity exceeds 0 metric
10 tons of carbon dioxide equivalent; or

11 (C) For electricity purchased from a federal power marketing
12 administration pursuant to section 5(b) of the Pacific Northwest
13 electric power planning and conservation act of 1980, P.L. 96-501, if
14 the department determines such electricity is not from a specified
15 source, the cumulative annual total of emissions associated with the
16 imported electricity exceeds 25,000 metric tons of carbon dioxide
17 equivalent.

18 (ii) In consultation with any linked jurisdiction to the program
19 created by this chapter, by October 1, 2026, the department, in
20 consultation with the department of commerce and the utilities and
21 transportation commission, shall adopt by rule a methodology for
22 addressing imported electricity associated with a centralized
23 electricity market;

24 (d) Where the person is a supplier of fossil fuel other than
25 natural gas and from that fuel 25,000 metric tons or more of carbon
26 dioxide equivalent emissions would result from the full combustion or
27 oxidation, excluding the amounts for fuel products that are produced
28 or imported with a documented final point of delivery outside of
29 Washington and combusted outside of Washington; and

30 (e) (i) Where the person supplies natural gas in amounts that
31 would result in exceeding 25,000 metric tons of carbon dioxide
32 equivalent emissions if fully combusted or oxidized, excluding the
33 amounts for fuel products that are produced or imported with a
34 documented final point of delivery outside of Washington and
35 combusted outside of Washington, and excluding the amounts: (A)
36 Supplied to covered entities under (a) through (d) of this
37 subsection; and (B) delivered to opt-in entities;

38 (ii) Where the person who is not a natural gas company and has a
39 tariff with a natural gas company to deliver to an end-use customer
40 in the state in amounts that would result in exceeding 25,000 metric

1 tons of carbon dioxide equivalent emissions if fully combusted or
2 oxidized, excluding the amounts: (A) Supplied to covered entities
3 under (a) through (d) of this subsection; and (B) the amounts
4 delivered to opt-in entities;

5 (iii) Where the person is an end-use customer in the state who
6 directly purchases natural gas from a person that is not a natural
7 gas company and has the natural gas delivered through an interstate
8 pipeline to a distribution system owned by the purchaser in amounts
9 that would result in exceeding 25,000 metric tons of carbon dioxide
10 equivalent emissions if fully combusted or oxidized, excluding the
11 amounts: (A) Supplied to covered entities under (a) through (d) of
12 this subsection; and (B) delivered to opt-in entities.

13 (2) A person is a covered entity as of the beginning of the
14 second compliance period and all subsequent compliance periods if the
15 person reported emissions under RCW 70A.15.2200 or provided emissions
16 data as required by this chapter for any calendar year from 2023
17 through 2025, where the person owns or operates a waste to energy
18 facility utilized by a county and city solid waste management program
19 and the facility's emissions equal or exceed 25,000 metric tons of
20 carbon dioxide equivalent.

21 (3) A person is a covered entity as of the beginning of the third
22 compliance period, and all subsequent compliance periods if the
23 person reported emissions under RCW 70A.15.2200 or provided emissions
24 data as required by this chapter for 2027 or 2028, where the person
25 owns or operates a railroad company, as that term is defined in RCW
26 81.04.010, and the railroad company's emissions equal or exceed
27 25,000 metric tons of carbon dioxide equivalent.

28 (4) When a covered entity reports, during a compliance period,
29 emissions from a facility under RCW 70A.15.2200 that are below the
30 thresholds specified in subsection (1) or (2) of this section, the
31 covered entity continues to have a compliance obligation through the
32 current compliance period. When a covered entity reports emissions
33 below the threshold for each year during an entire compliance period,
34 or has ceased all processes at the facility requiring reporting under
35 RCW 70A.15.2200, the entity is no longer a covered entity as of the
36 beginning of the subsequent compliance period unless the department
37 provides notice at least 12 months before the end of the compliance
38 period that the facility's emissions were within 10 percent of the
39 threshold and that the person will continue to be designated as a
40 covered entity in order to ensure equity among all covered entities.

1 Whenever a covered entity ceases to be a covered entity, the
2 department shall notify the appropriate policy and fiscal committees
3 of the legislature of the name of the entity and the reason the
4 entity is no longer a covered entity.

5 (5) For types of emission sources described in subsection (1) of
6 this section that begin or modify operation after January 1, 2023,
7 and types of emission sources described in subsection (2) of this
8 section that begin or modify operation after 2027, coverage under the
9 program starts in the calendar year in which emissions from the
10 source exceed the applicable thresholds in subsection (1) or (2) of
11 this section, or upon formal notice from the department that the
12 source is expected to exceed the applicable emissions threshold,
13 whichever happens first. Sources meeting these conditions are
14 required to transfer their first allowances on the first transfer
15 deadline of the year following the year in which their emissions were
16 equal to or exceeded the emissions threshold.

17 (6) For emission sources described in subsection (1) of this
18 section that are in operation or otherwise active between 2015 and
19 2019 but were not required to report emissions for those years under
20 RCW 70A.15.2200 for the reporting periods between 2015 and 2019,
21 coverage under the program starts in the calendar year following the
22 year in which emissions from the source exceed the applicable
23 thresholds in subsection (1) of this section as reported pursuant to
24 RCW 70A.15.2200 or provided as required by this chapter, or upon
25 formal notice from the department that the source is expected to
26 exceed the applicable emissions threshold for the first year that
27 source is required to report emissions, whichever happens first.
28 Sources meeting these criteria are required to transfer their first
29 allowances on the first transfer deadline of the year following the
30 year in which their emissions, as reported under RCW 70A.15.2200 or
31 provided as required by this chapter, were equal to or exceeded the
32 emissions threshold.

33 (7) The following emissions are exempt from coverage in the
34 program, regardless of the emissions reported under RCW 70A.15.2200
35 or provided as required by this chapter:

36 (a) Emissions from the combustion of aviation fuels;

37 (b) Emissions from watercraft fuels supplied in Washington that
38 are combusted outside of Washington;

39 (c) Emissions from a coal-fired electric generation facility
40 exempted from additional greenhouse gas limitations, requirements, or

1 performance standards under RCW 80.80.110, for emissions that
2 occurred prior to January 1, 2026;

3 (d) Carbon dioxide emissions from the combustion of biomass or
4 biofuels;

5 (e)(i) Motor vehicle fuel or special fuel that is used
6 exclusively for agricultural purposes by a farm fuel user. This
7 exemption is available only if a buyer of motor vehicle fuel or
8 special fuel provides the seller with an exemption certificate in a
9 form and manner prescribed by the department. Prior to January 1,
10 2030, this exemption is available whether motor vehicle fuel or
11 special fuel is used to propel a motor vehicle or not, but beginning
12 January 1, 2030, this exemption only applies to motor vehicle fuel or
13 special fuel that the farm fuel user uses to propel a motor vehicle.

14 (ii) The department must determine a method for expanding the
15 exemption provided under (e)(i) of this subsection to include fuels
16 used for the purpose of transporting agricultural products on public
17 highways. The department must maintain this expanded exemption until
18 December 31, 2029, in order to provide the agricultural sector with a
19 feasible transition period.

20 (iii) For the purposes of this subsection:

21 (A) "Agricultural purposes" and "farm fuel user" have the same
22 meanings as provided in RCW 82.08.865;

23 (B) "Motor vehicle fuel" means gasoline, the chief use of which
24 is as a fuel for the propulsion of motor vehicles or vessels; and

25 (C) "Special fuel" means diesel, liquefied petroleum gas (also
26 called propane), and biodiesel;

27 (f) Emissions from facilities with North American industry
28 classification system code 92811 (national security); and

29 (g) Emissions from municipal solid waste landfills that are
30 subject to, and in compliance with, chapter 70A.540 RCW.

31 (8) The department shall not require multiple covered entities to
32 have a compliance obligation for the same emissions. The department
33 may by rule authorize refineries, fuel suppliers, facilities using
34 natural gas, and natural gas utilities to provide by agreement for
35 the assumption of the compliance obligation for fuel or natural gas
36 supplied and combusted in the state. The department must be notified
37 of such an agreement at least 12 months prior to the compliance
38 obligation period for which the agreement is applicable.

39 (9)(a) The legislature intends to promote a growing and
40 sustainable economy and to avoid leakage of emissions from

1 manufacturing to other locations. The legislature further intends to
2 see innovative new businesses locate and grow in Washington that
3 contribute to Washington's prosperity and environmental objectives.

4 (b) Consistent with the intent of the legislature to avoid the
5 leakage of emissions to other jurisdictions, in achieving the state's
6 greenhouse gas limits in RCW 70A.45.020, the state, including lead
7 agencies under chapter 43.21C RCW, shall pursue the limits in a
8 manner that recognizes that the siting and placement of new or
9 expanded best-in-class facilities with lower carbon emitting
10 processes is in the economic and environmental interests of the state
11 of Washington.

12 (c) In conducting a life-cycle analysis, if required, for new or
13 expanded facilities that require review under chapter 43.21C RCW, a
14 lead agency must evaluate and attribute any potential net cumulative
15 greenhouse gas emissions resulting from the project as compared to
16 other existing facilities or best available technology including
17 best-in-class facilities and emerging lower carbon processes that
18 supply the same product or end use. The department may adopt rules to
19 determine the appropriate threshold for applying this analysis.

20 (d) Covered emissions from an entity that is or will be a covered
21 entity under this chapter may not be the basis for denial of a permit
22 for a new or expanded facility. Covered emissions must be included in
23 the analysis undertaken pursuant to (c) of this subsection. Nothing
24 in this subsection requires a lead agency or a permitting agency to
25 approve or issue a permit to a permit applicant, including to a new
26 or expanded fossil fuel project.

27 (e) A lead agency under chapter 43.21C RCW or a permitting agency
28 shall allow a new or expanded facility that is a covered entity or
29 opt-in entity to satisfy a mitigation requirement for its covered
30 emissions under this chapter and under any greenhouse gas emission
31 mitigation requirements for covered emissions under chapter 43.21C
32 RCW by submitting to the department the number of compliance
33 instruments equivalent to its covered emissions during a compliance
34 period.

35 **Sec. 2.** RCW 80.80.110 and 2011 c 180 s 107 are each amended to
36 read as follows:

37 No state agency or political subdivision of the state may adopt
38 or impose a greenhouse gas emission performance standard, or other
39 operating or financial requirement or limitation relating to

1 greenhouse gas emissions, on a coal-fired electric generation
2 facility located in Washington in operation on or before July 22,
3 2011, or upon an electric utility's long-term purchase of coal
4 transition power, that is inconsistent with or in addition to the
5 provisions of RCW 80.80.040 or the memorandum of agreement entered
6 into under RCW 80.80.100. This section does not apply after December
7 31, 2025, to a coal-fired electric generation facility subject to the
8 memorandum of agreement entered into under RCW 80.80.100 that remains
9 in operation after December 31, 2025.

10 NEW SECTION. **Sec. 3.** The following acts or parts of acts are
11 each repealed:

12 (1) RCW 82.08.811 (Exemptions—Coal used at coal-fired thermal
13 electric generation facility—Application—Demonstration of progress
14 in air pollution control—Notice of emissions violations—
15 Reapplication—Payments on cessation of operation) and 2020 c 20 s
16 1474 & 1997 c 368 s 4; and

17 (2) RCW 82.12.811 (Exemptions—Coal used at coal-fired thermal
18 electric generation facility—Application—Demonstration of progress
19 in air pollution control—Notice of emissions violations—
20 Reapplication—Payments on cessation of operation) and 2020 c 20 s
21 1480 & 1997 c 368 s 6.

22 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
23 preservation of the public peace, health, or safety, or support of
24 the state government and its existing public institutions, and takes
25 effect immediately.

Passed by the House February 12, 2026.
Passed by the Senate February 28, 2026.
Approved by the Governor March 11, 2026.
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