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## Environment Committee

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### HB 2385

**Brief Description:** Requiring certain asphalt production facilities to meet contemporary air emission standards.

**Sponsors:** Representatives Pollet and Farrell.

<p style="text-align: center;"><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Requires asphalt production facilities to apply for an updated Clean Air Act permit if the facility is operating under a permit issued before 1996 that contains less stringent conditions than would be required in more-recently issued permits.</li></ul>
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**Hearing Date:** 1/19/16

**Staff:** Jacob Lipson (786-7196).

**Background:**

The Department of Ecology (ECY) and seven local air pollution control authorities (local air authorities) have each received approval from the United States Environmental Protection Agency (EPA) to administer aspects of the federal Clean Air Act in Washington. Local clean air agencies have the primary responsibility for administering the state and federal Clean Air Acts in counties which have elected to activate a local air authority or to form a multicounty air authority. In other areas of the state, the ECY is responsible for administering state and federal Clean Air Act programs. Under the federal Clean Air Act, each state maintains a State Implementation Plan that describes how the state implements clean air programs to achieve the federal ambient air quality standards for air pollutants.

Under the Clean Air Act, large facilities that qualify as major sources of emissions are required to obtain an operating permit, which must renewed every five years. By contrast, the primary emissions regulations for smaller sources of emissions (those facilities that emit fewer pollutants than sources covered by an air operating permit, but that emit more than negligible levels of air pollutants), are established under a Notice of Construction Order of Approval (NOC permit) that

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is issued at the outset of a source's operations. NOC permits generally remain in place unless there is a modification to the covered facility that will increase emissions or cause a new air pollutant to be emitted, at which point the facility must apply for a NOC to be reissued to the facility. NOC permit criteria are also sometimes revised during settlement of an enforcement action against a facility, or when the ECY makes a determination of Reasonably Available Control Technology (RACT) for a particular category of source, the criteria of which are then incorporated into existing permits.

In April 2011, the ECY issued a general NOC permit available for coverage of new or modified asphalt plants in the counties in which no local air authority exists. The general NOC permit contains emission limits for specified air pollutants including particulate matter and carbon monoxide, establishes operational requirements including the use of specified emissions control equipment, and requires process monitoring and emissions testing.

**Summary of Bill:**

Certain facilities that produce asphalt or asphalt products must apply to the ECY to receive an updated NOC permit. The requirement to obtain an updated NOC permit is limited to facilities that:

- have not have received a NOC permit more recently than January 1, 1996;
- operate under a NOC permit with less frequent emission testing requirements or less stringent or narrower emission limits than if the facility had been required to obtain a NOC permit after January 1, 2006; and
- have been the subject of multiple odor or nuisance complaints that subsequent investigation attributed to the facility.

After receiving an application from an asphalt facility for an updated NOC permit, the ECY or local air authority must notify the applicant within 30 days if the application is complete or if additional information is required. Within 90 days of receipt of a complete application, the ECY or authority must issue the facility an updated NOC permit. The updated NOC permit must contain conditions that are at least as stringent and broad in scope as the conditions included in the 2011 Ecology general order for asphalt plants.

Unless permit conditions are updated, NOC permits issued to an asphalt production facility prior to January 1, 1996 expire on January 1, 2018.

Facilities required to obtain an updated NOC permit must pay the same application fees and submit the same plans, specifications, and information required of applicants for a new NOC permit. However, the issuance of the updated NOC permit does not require analysis under the State Environmental Policy Act and does not require an assessment of whether the updated permit will cause an ambient air quality standard to be exceeded.

**Appropriation:** None.

**Fiscal Note:** Requested on 1/12/16.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.