

APAC: POLLUTING WITHOUT BOUNDARIES

A Report On APAC-Atlantic Asphalt Plants in North Carolina

September 23, 2005

by the

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Esse quam videre

Overview

APAC-Atlantic, Inc. operates thirteen asphalt plants in North Carolina. This report will cover violations of environmental laws and citizens' complaints of the five APAC-Atlantic plants which are recorded in state files of the Asheville Regional Office of the NC Department of Environment and Natural Resources Division of Air Quality. The five operating APAC-Atlantic asphalt plants in the Asheville Region are located in Rutherfordton in Rutherford County, Burnsville in Yancey County, Hendersonville in Henderson County, Morganton in Burke County and Penrose in Transylvania County. About a year ago APAC-Atlantic changed its corporate name, so most of the documents in this report will refer to APAC-Carolina; it is the same company.

The APAC-Atlantic plants in this region range from small to large:

<u>Location</u>	<u>Permitted Annual Production Limit (tons)</u>
Penrose	145,500
Henderson	400,000
Burnsville	730,000
Morganton	815,000
Rutherfordton	2,600,000

APAC is one of the nation's largest transportation construction contractors. It possesses huge resources of financial capital, business acumen and engineering skill. But the company's track record in western North Carolina reveals a corporate behemoth with its eye on the bottom line; it seems to care little for the health and well-being of the people who live nearest the asphalt factories it operates.

Help in gathering the information for this report was provided by the able research team of the Rutherford County Citizens Against Pollution.

Louis Zeller, Campaign Coordinator
Blue Ridge Environmental Defense League
September 23, 2005

APAC-Atlantic, Inc.

**Penrose
Transylvania County**

April 12, 1983 Complaint filed with NC DEM-ARO by local resident who reported that the operation of was much worse this year, citing excessive noise, dust, smoke, and a heavy odor. State inspector noted earlier malfunction which should have required the plant to shut-down during repair. Inspector also noted that noise and odor was consistent with those encountered at other asphalt plants.

April 27, 1983 Resident complained of excessive dust and flames 30 feet high from burning tar. NC DEM inspector arrived May 4, asphalt plant dryer was not operating.

May 19, 1983 Letter from resident to APAC plant operator complaining of “nauseating” exhaust gases which cause headaches. The resident had measured “loud, rumbling” noise levels of 83-86 decibels from his front porch, 240 feet from the plant. He added, “Even when the plant is not operating, the smell from asphalt lingers over our property and in our house.”

May 26, 1983 NC DEM inspector finds plant to be in compliance with regulations.

June 3, 1983 NC DEM investigator met with APAC to discuss complaints and possible actions to reduce noise, smoke and dust. Measures completed by July 14, 1983.

September 16, 1983 NC DEM inspection done when plant not in operation.

October 19, 1983 Complaint from resident to NC DEM prompts site visit same day. Visible emissions of 20-30% noted from pollution control device (baghouse filter), indicated non-compliance with state particulate regulations, and large hole in dryer emitting dust.

April 26, 1984 NC DEM inspector noted 5-20% opacity from baghouse, several holes in plant emitting dust; observed “marginal” compliance with particulate regulations but no other violations.

June 5, 1984 Resident called NC DEM complaining of dust worse than ever. No violations noted by NC DEM during inspection 9 days later.

August 6, 1984 Resident again complained on excessive dust from asphalt plant. NC DEM inspected plant two days later, observed excessive dust, recommended repairs. Inspection in October noted no violations.

May 31, 1985 Resident complained of excess dust from plant. NC DEM recommends that plant operator spread oil on roadways.

September 5, 1985 Following a series of complaints from local residents, NC DEM inspectors observe visible emissions of 15-60% opacity. Many holes found in pollution control device (baghouse). Problem corrected.

April 10, 1986 Resident called to complain of dust and grit. NC DEM inspection the following day.

August 4, 1986 A letter from a local resident to NC DEM pleading for help states, "More than three years have passed since we first contacted your department and there is still an excessive amount of dust ejected almost every day the plant is operating. This dust is ejected through the stack, through various leaks in the system and dust kicked up by the loader and truck traffic." He enclosed a series of photographs depicting a "blow out" of pollutants from the asphalt plant. He also said that a "black, oily" substance coated plants along the branch and oil was in the creek. Finally, he noted that the adjacent rock quarry generated large amounts of dust which could be seen rising "above the rim of the quarry." One week later the state inspector replied promising increased surveillance.

August 10, 1987 NC DEM inspector reports plant in compliance with permit.

August 17, 1988 NC DEM reports plant in compliance.

May 1, 1989 In a letter of complaint to NC DEM a resident states that the pollution problems continue to get worse and provides recent photographs of dust clouds at the plant; he recites the history of failure by the state to properly regulate APAC's Penrose asphalt plant, adding, "Do I have to call your department every time there is a hole in one of the dust collector bags or every time the sprinklers are not turned on?" He received no reply.

August 22, 1989 NC DEM reports plant in compliance.

October 20, 1989 Another letter from resident to NC DEM states problem still worse and encloses 18 more photographs taken June through October.

September 6, 1990 NC DEM reports plant in compliance.

August 12, 1991 Yet another letter from resident to NC DEM states problem continues at APAC's asphalt plant. More photographs provided.

March 10, 1992 NC DEM/DENR issues Notice of Violation to APAC-Carolina (now APAC-Atlantic) for "excessive fugitive particulate emissions coming from aggregate dryer and sifting screens at the plant."

Spring 2000 New drum mix plant installed

September 26, 2000 Resident calls NC DAQ complaining that the APAC Penrose plant is operating at night, producing more odor, more emissions and more noise. State inspectors arrived at the plant site on October 4 and noted no violations but recommended further surveillance to determine if an odor problem exists.

November 16, 2000 Resident calls NC DAQ to complain about plant “spewing” pollution which hangs in the air and an “awful smell” which got worse after the new plant was installed. State inspectors arrived later that day after the plant had ceased operation and noted no problems.

July 17 and 18, 2001 Resident phoned in to NC DAQ complaining of odors driving her out of her house. State inspectors arrived at plant to find faint odor on site only.

August 6, 2001 Resident calls NC DAQ with odor complaint. Inspectors arrived next day, found no objectionable odor, gave resident odor log to record occurrences.

September 30, 2002 NC DAQ inspection finds no problems.

APAC-Atlantic, Inc.
Hendersonville
Henderson County

May 29, 1992 NC DEM issued a Notice of Violation for improper operation of the baghouse filter.

May 18, 1995 NC DEM issued a Notice of Violation issued for improper operation of the baghouse filter and a fugitive dust problem.

June 26, 1997 NC DAQ inspection notes visible dust emissions from baghouse filter. On July 1st NC DAQ Issued a Notice of Violation for improper operation of facility resulting in excess air pollution.

October 9, 1997 NC DAQ inspectors again noted visible emissions from baghouse filters. A new Notice of Violation was issued on October 16th. On May 13, 1998 NC DAQ fines APAC-Carolina (now APAC-Atlantic) \$1,433 for the October 16, 1997 violation.

October 16, 2001 During stack testing, NC DAQ discovered “strong asphalt odors” in the trailer park across the road from the APAC plant. The inspectors notified the company.

December 5, 2001 NC DAQ inspection prompted by citizens complaints about another asphalt plant in the area finds “strong asphalt odors” in the in the Kingswood Hill Subdivision located near the APAC Hendersonville asphalt plant.

March 25, 2002 DAQ Air Toxics Analytical Support Team performs tests of asphalt plant recycled fuel oil for chemical contamination. Hendersonville plant fails test; elevated halogen levels were found to be from 26% to 123% over maximum limit.

March 27, 2002 NC DAQ issues Notice of Violation to APAC-Carolina (now APAC-Atlantic) for burning No. 4 recycled fuel oil with a total halogen concentration of 2230 parts per million (maximum in 1000 ppm).

May 16, 2002 NC DAQ issued a Notification of Objectionable Odors and Requirement to Implement Maximum Feasible Controls. The notice was based on many citizens complaints which resulted in a determination by NC DAQ that there were “very strong odors beyond the APAC facility’s boundaries.” APAC-Carolina (now APAC-Atlantic) objected but was required to submit compliance schedule by the Director of DAQ.

April 7, 2003 NC DAQ issued Notice of Violation to APAC-Carolina (now APAC-Atlantic) failure to comply with arsenic emission limitations. The company was cited for failing to meet fuel oil requirements for recycled oil delivered between April and June 2002. The maximum arsenic level for fuel oil is 1 part per million, but APAC’s Annual Report submitted to NC DAQ stated that No. 4 fuel oil delivered during that time had an arsenic level of “less than 1.94 ppm.” APAC then contracted with another laboratory, Precision Petroleum Labs in Houston, to re-test the fuel oil to show no excess arsenic.

May 13, 2003 NC DAQ issued Recision of Notice of Violation based on re-testing done by APAC-Carolina (now APAC-Atlantic).

July 21, 2004 NC DAQ issues Notice of Violation for failing to submit quarterly reports. APAC is required to report its monthly asphalt production, annual asphalt production, NOx, SO2 and CO emissions, and recycled fuel oil tests. APAC-Atlantic requested to remove the quarterly reporting requirement in its next permit for the Hendersonville plant.

APAC-Atlantic, Inc.
Burnsville
Yancey County

September 25, 1986 Resident complains of excessive dust, said, “he had never before seen an asphalt plant emit that much dust.” Pollution control device (baghouse filter) found to have two broken bags.

October 8, 1986 Dust from asphalt plant causes complaints from residents who report the problem has persisted for several weeks. The plume was visible four miles away from asphalt plant, according to state official.

June 10, 1987 Notice of Noncompliance issued by NC DEM for failing to control visible emissions (15A NCAC 2d .0521) exceeding 20% opacity. On June 19 APAC responds to DEM saying problems with baghouse filters fixed.

June 11, 1987 Four residents call NC DEM to complain of excessive dust from asphalt plant.

September 15, 1987 NC DEM inspection again cites failure of operator to control visible emissions, opacity as high as 65%. Photographs of smokestack taken by DEM.

December 1, 1987 DEM issues Notice of Noncompliance for “large quantities” of emissions from several holes in plant observed by state inspectors on November 19th.

February 5, 1988 APAC-Carolina (now APAC-Atlantic) fined \$1,722.70 for failure to control emissions. Previous notices of noncompliance by company noted in legal documents: June 6, 1975 and April 19, 1977.

August 22, 1996 NC DEM inspectors note visible emissions from baghouse filter and no method of dust control. Plant operator said bag filters had been changed two weeks earlier. Inspectors recommended Notice Of Violation be issued for excess particulate emissions (15A NCAC 2D .0506c).

August 23, 1996 A different NC DEM inspector noted visible emissions in excess of 20% opacity, recommended Notice of Violation for improper operation of the plant. The NOV for the two occurrences was issued on April 30th.

August 7, 1997 DEM issues two Notice of Violation for repeat offense of excess particulate emissions caused by lack of dust control (15A NCAC 2D .0506c) and fugitive emissions from the baghouse filter.

June 3, 1999 NC DEM inspection notes excess visible emissions up to 40% opacity from the baghouse filter. A Notice of Violation was recommended. On June 8th DEM inspectors again visited the plant following reports of persistent excess emissions up to 30% opacity. On June 10, 1999 NC DEM issued a Notice of Violation for the two events.

September 2, 1999 NC DEM inspection notes plant operator exceeded maximum hourly production limit. Permit stipulated 150 tons/hour while operator was running at 165 tons/hour. Operator reported to have said he thought the plant could run as high as 180 tons per hour. No violation recommended by NC DEM because annual limit not exceeded and state air toxic limit had not been “triggered.”

July 17, 2002 NC DEM inspector recommended Notice of Violation for failure to operate plant properly causing excess visible emissions of up to 50% opacity. APAC-Atlantic contested the NOV and no record of a violation being issued was in the file.

September 17, 2003 Resident calls NC DAQ to complain about plant, said that cloths hung on line and outside furniture get covered with soot and black film and that they have to keep their windows closed.

**APAC-Atlantic, Inc.
Morganton
Burke County**

April 14, 1992 Visible emission of 30-40%, violation for failure to effectively maintain pollution control equipment (baghouse filter).

June 20, 1996 Warning letter for visible emission of 40-50%, violation of (15A NCAC 2D .0521). APAC operated two units at this site, and older batch mix plant and a newer drum mix plant. The violation occurred at the newer plant which was using an “anti-strip” additive made of animal fat by products. The anti-strip was required by NC DOT.

June 26, 1996 Visible emissions of 40-50% again noted by NC DENR inspectors, again from NC DOT required additive.

July 22, 1999 At this inspection NC DENR noted that the offending plant had been relocated to Mecklenburg County.

**APAC-Atlantic, Inc.
Rutherfordton
Rutherford County**

April 23, 2003 Odor complaint phoned to ARO-DENR by man living about one mile from the Rutherfordton plant. Resident said, “the odor bad, burning eyes even inside house.”

May 14, 2003 NC DENR Inspector issued NOV for violation of (General Condition #6) excess dust emissions from pollution control device.