



# Department of Environmental Protection

Lawton Chiles  
Governor

Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

Virginia B. Wetherell  
Secretary

December 17, 1996

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Ken Dalton  
Environmental Compliance Officer  
APAC-Florida, Inc.  
Macasphalt Division  
Post Office Box 1819  
Winter Haven, Florida 33882-1819

Re: DRAFT Permit Amendment No. 7770073-004-AO  
Portable Drum Mix Asphalt Plant

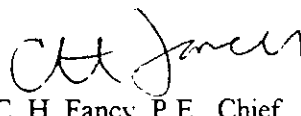
Dear Mr. Dalton:

Enclosed is one copy of the Draft Air Operation Permit Amendment for your portable drum mix asphalt plant. The amendment will allow the unit to relocate to a site near Frostproof, Polk County, Florida. The Department's Intent to Issue Air Operation Permit Amendment and the "PUBLIC NOTICE OF INTENT TO ISSUE AIR OPERATION PERMIT AMENDMENT" are also included.

The "PUBLIC NOTICE OF INTENT TO ISSUE AIR OPERATION PERMIT AMENDMENT" must be published within 30 (thirty) days of receipt of this letter. Proof of publication, i.e., newspaper affidavit, must be provided to the Department's Bureau of Air Regulation office within 7 (seven) days of publication. Failure to publish the notice and provide proof of publication within the allotted time may result in the denial of the permit.

Please submit any written comments you wish to have considered concerning the Department's proposed action to A. A. Linero, P.E., Administrator, New Source Review Section, at the above letterhead address. If you have any other questions, please contact Willard Hanks or Mr. Linero at 904/488-1344.

Sincerely,

  
C. H. Fancy, P.E., Chief,  
Bureau of Air Regulation

CHF/wh/t

Enclosures

*"Protect, Conserve and Manage Florida's Environment and Natural Resources"*

**DRAFT**

January XX, 1997

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Ken Dalton, EHS Director  
APAC-Florida, Inc.  
Macasphalt Division  
Post Office Box 1819  
Winter Haven, Florida 32399-2400

Re: DRAFT Permit Amendment No. 7770073-004-AO  
Relocate to Frostproof, Polk County

Dear Mr. Dalton:

The Department has reviewed the APAC-Florida, Inc., Macasphalt Division, letter dated October 23, 1996, requesting an amendment to its permit for a relocatable drum mix asphalt plant. The amendment will allow the unit to operate at a site that is near Frostproof in Polk County. This request is acceptable and the permit is hereby amended as follows:

Insert of page 2 of permit after description of present operation at Pasco County:

Location: 2 miles East of U.S. Highway 27 and 2.5 miles North of U.S. Highway 98 in Frostproof, Polk County.

Latitude: N 27° 45' 32"

Longitude: W 81° 36' 16"

Correct facility I.D. to 7770073

All other conditions of the permit to operate this unit remain in effect. A copy of this letter shall be filed with the referenced permit and shall become part of the permit.

Sincerely,

Howard L. Rhodes, Director  
Division of Air Resources Management

HLR/wh/t

Enclosures

In the Matter of an  
Application for Permit Amendment by:

APAC-Florida, Inc.  
Macasphalt Division  
Post Office Box 1819  
Winter Haven, Florida 33882-1819

DRAFT Permit Amendment No.:7770073-004-AO

Portable Drum Mix Asphalt Plant  
Relocatable Unit

### INTENT TO ISSUE AIR OPERATION PERMIT AMENDMENT

The Department of Environmental Protection (Department) gives notice of its intent to issue an air operation permit amendment (copy of DRAFT Permit Amendment attached) for the proposed project, detailed in the application specified above, for the reasons stated below.

The applicant, APAC-Florida, Inc., Macasphalt Division, applied on October 25, 1996, to the Department for an air operation permit amendment for its portable drum mix asphalt plant to relocate near Frostproof, Polk County, Florida. The requested amendment does not authorize any other change to the existing air permit for this unit.

The Department has permitting jurisdiction under the provisions of Chapter 403, Florida Statutes (F.S.), and Florida Administrative Code (F.A.C.) Chapters 62-4, 62-210, and 62-212. The above actions are not exempt from permitting procedures. The Department has determined that an air operation permit amendment is required to operations at the described facility at the new location.

The Department intends to issue this air operation permit amendment based on the belief that reasonable assurances have been provided to indicate that operation of these emission units will not adversely impact air quality, and the emission units will comply with all appropriate provisions of Chapters 62-4, 62-204, 62-210, 62-212, 62-296, and 62-297, F.A.C.

Pursuant to Section 403.815, F.S., and Rule 62-103.150, F.A.C., you (the applicant) are required to publish at your own expense the enclosed "PUBLIC NOTICE OF INTENT TO ISSUE AIR OPERATION PERMIT AMENDMENT". The notice shall be published one time only within 30 (thirty) days in the legal advertisement section of a newspaper of general circulation in the area affected. For the purpose of these rules, "publication in a newspaper of general circulation in the area affected" means publication in a newspaper meeting the requirements of Sections 50.011 and 50.031, F.S., in the county where the activity is to take place. Where there is more than one newspaper of general circulation in the county, the newspaper used must be one with significant circulation in the area that may be affected by the permit. If you are uncertain that a newspaper meets these requirements, please contact the Department at the address or telephone number listed below. The applicant shall provide proof of publication to the Department's Bureau of Air Regulation, at 2600 Blair Stone Road, Mail Station #5505, Tallahassee, Florida 32399-2400 (Telephone: 904/488-1344; Fax 904/ 922-6979) within 7 (seven) days of publication. Failure to publish the notice and provide proof of publication within the allotted time may result in the denial of the permit amendment pursuant to Rule 62-103.150 (6), F.A.C.

publish the notice and provide proof of publication within the allotted time may result in the denial of the permit amendment pursuant to Rule 62-103.150 (6), F.A.C.

The Department will issue the FINAL Permit Amendment, in accordance with the conditions of the enclosed DRAFT Permit Amendment unless a response received in accordance with the following procedures results in a different decision or significant change of terms or conditions.

The Department will accept written comments concerning the proposed DRAFT Permit Amendment issuance action for a period of 14 (fourteen) days from the date of publication of "PUBLIC NOTICE OF INTENT TO ISSUE AIR OPERATION PERMIT AMENDMENT." Written comments should be provided to the Department's Bureau of Air Regulation, 2600 Blair Stone Road, Mail Station #5505, Tallahassee, Florida 32399-2400. Any written comments filed shall be made available for public inspection. If written comments received result in a significant change in this DRAFT Permit Amendment, the Department shall issue a Revised DRAFT Permit Amendment and require, if applicable, another Public Notice.

The Department will issue the permit amendment with the attached conditions unless a timely petition for an administrative hearing is filed pursuant to Sections 120.569 and 120.57 F.S., or a party requests mediation as an alternative remedy under Section 120.573 F.S. before the deadline for filing a petition. Choosing mediation will not adversely affect the right to a hearing if mediation does not result in a settlement. The procedures for petitioning for a hearing are set forth below, followed by the procedures for requesting mediation.

A person whose substantial interests are affected by the Department's proposed permitting decision may petition for an administrative hearing in accordance with Sections 120.569 and 120.57 F.S. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department, 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, Florida 32399-3000, telephone: 904/488-9730, fax: 904/487-4938. Petitions must be filed within fourteen days of publication of the public notice or within fourteen days of receipt of this notice of intent, whichever occurs first. A petitioner must mail a copy of the petition to the applicant at the address indicated above, at the time of filing. The failure of any person to file a petition (or a request for mediation, as discussed below) within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57 F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention will be only at the approval of the presiding officer upon the filing of a motion in compliance with Rule 28-5.207 of the Florida Administrative Code.

A petition must contain the following information: (a) The name, address, and telephone number of each petitioner, the applicant's name and address, the Permit File Number and the county in which the project is proposed; (b) A statement of how and when each petitioner received notice of the Department's action or proposed action; (c) A statement of how each petitioner's substantial interests are affected by the Department's action or proposed action; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of the facts that the petitioner contends warrant reversal or modification of the Department's action or proposed action; (f) A statement identifying the rules or statutes that the petitioner

contends require reversal or modification of the Department's action or proposed action; and (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wants the Department to take with respect to the action or proposed action addressed in this notice of intent.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in this notice of intent. Persons whose substantial interests will be affected by any such final decision of the Department on the application have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

A person whose substantial interests are affected by the Department's proposed permitting decision, may elect to pursue mediation by asking all parties to the proceeding to agree to such mediation and by filing with the Department a request for mediation and the written agreement of all such parties to mediate the dispute. The request and agreement must be filed in (received by) the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, Florida 32399-3000, by the same deadline as set forth above for the filing of a petition.

A request for mediation must contain the following information: (a) The name, address, and telephone number of the person requesting mediation and that person's representative, if any; (b) A statement of the preliminary agency action; (c) A statement of the relief sought; and (d) Either an explanation of how the requester's substantial interests will be affected by the action or proposed action addressed in this notice of intent or a statement clearly identifying the petition for hearing that the requester has already filed, and incorporating it by reference.

The agreement to mediate must include the following: (a) The names, addresses, and telephone numbers of any persons who may attend the mediation; (b) The name, address, and telephone number of the mediator selected by the parties, or a provision for selecting a mediator within a specified time; (c) The agreed allocation of the costs and fees associated with the mediation; (d) The agreement of the parties on the confidentiality of discussions and documents introduced during mediation; (e) The date, time, and place of the first mediation session, or a deadline for holding the first session, if no mediator has yet been chosen; (f) The name of each party's representative who shall have authority to settle or recommend settlement; and (g) The signatures of all parties or their authorized representatives.

As provided in Section 120.573 F.S., the timely agreement of all parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57 F.S. for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within sixty days of the execution of the agreement. If mediation results in settlement of the administrative dispute, the Department must enter a final order incorporating the agreement of the parties. Persons whose substantial interests will be affected by such modified final decision of the Department have a right to petition for a hearing only in accordance with the requirements for such petitions set forth above. If mediation terminates without settlement of the dispute, the Department shall notify all parties in writing that the administrative hearing processes under Sections 120.569 and 120.57 F.S. remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action and electing remedies under those two statutes.


In addition to the above, a person subject to regulation has a right to apply for a variance from or waiver of the requirements of particular rules, on certain conditions, under Section 120.542 F.S. The relief provided by this state statute applies only to state rules, not statutes, and not to any federal regulatory requirements. Applying for a variance or waiver does not substitute or extend the time for filing a petition for an administrative hearing or exercising any other right that a person may have in relation to the action proposed in this notice of intent.

The application for a variance or waiver is made by filing a petition with the Office of General Counsel of the Department, 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, Florida 32399-3000. The petition must specify the following information: (a) The name, address, and telephone number of the petitioner; (b) The name, address, and telephone number of the attorney or qualified representative of the petitioner, if any; (c) Each rule or portion of a rule from which a variance or waiver is requested; (d) The citation to the statute underlying (implemented by) the rule identified in (c) above; (e) The type of action requested; (f) The specific facts that would justify a variance or waiver for the petitioner; (g) The reason why the variance or waiver would serve the purposes of the underlying statute (implemented by the rule); and (h) A statement whether the variance or waiver is permanent or temporary and, if temporary, a statement of the dates showing the duration of the variance or waiver requested.

The Department will grant a variance or waiver when the petition demonstrates both that the application of the rule would create a substantial hardship or violate principles of fairness, as each of those terms is defined in Section 120.542(2) F.S., and that the purpose of the underlying statute will be or has been achieved by other means by the petitioner.

Persons subject to regulation pursuant to any federally delegated or approved air program should be aware that Florida is specifically not authorized to issue variances or waivers from any requirements of any such federally delegated or approved program. The requirements of the program remain fully enforceable by the Administrator of the EPA and by any person under the Clean Air Act unless and until the Administrator separately approves any variance or waiver in accordance with the procedures of the federal program.

Executed in Tallahassee, Florida.

  
\_\_\_\_\_  
C. H. Fancy, P.E., Chief  
Bureau of Air Regulation

**CERTIFICATE OF SERVICE**

The undersigned duly designated deputy agency clerk hereby certifies that this INTENT TO ISSUE AIR OPERATION PERMIT AMENDMENT (including the PUBLIC NOTICE and the DRAFT permit amendment) was sent by certified mail (\*) and copies were mailed by U.S. Mail before the close of business on 12-20-96 to the person(s) listed:

Mr. Ken Dalton, Macasphalt\*  
Mr. Jerry Kissel, SW District  
Mr. Alan Zahm, Central District

Clerk Stamp

**FILING AND ACKNOWLEDGMENT FILED,**  
on this date, pursuant to §120.52(7), Florida  
Statutes, with the designated Department Clerk,  
receipt of which is hereby acknowledged.

Kemi Jobe                      12-20-96  
(Clerk)                                      (Date)

**PUBLIC NOTICE OF INTENT TO ISSUE AIR OPERATION PERMIT AMENDMENT**

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

DRAFT Permit Amendment No.: 7770073-004-AO  
Frostproof, Polk County

The Department of Environmental Protection (Department) gives notice of its intent to issue an air operation permit amendment to APAC-Florida, Inc., Macasphalt Division, that will allow the operation of a drum mix asphalt plant at a site in Polk County near Frostproof that is approximately 2 miles northwest of the intersection of U.S. Highways 27 and 98. The plant is permitted to emit 8.68 pounds per hour and 11.72 tons per year particulate matter. A Best Available Control Technology (BACT) determination pursuant to Rule 62-212.400, F.A.C. and 40 CFR 52.21, Prevention of Significant Deterioration (PSD) was not required for this operation permit amendment. The amendment will not result in an increase in any emissions from the facility, and will not cause a violation of any state or federal ambient air quality standards or increments. The expected date of operation at the Frostproof site is March, 1997. The applicant's name and address are: APAC-Florida, Inc., Macasphalt Division, Post Office Box 1819, Winter Haven, Florida 33882-1819.

The Department will issue the FINAL Permit Amendment, in accordance with the conditions of the DRAFT Permit Amendment unless a response received in accordance with the following procedures results in a different decision or significant change of terms or conditions.

The Department will accept written comments concerning the proposed DRAFT Permit Amendment issuance action for a period of 14 (fourteen) days from the date of publication of this Notice. Any written comments should be provided to the Department's Bureau of Air Regulation, 2600 Blair Stone Road, Mail Station #5505, Tallahassee, Florida 32399-2400. Any written comments filed shall be made available for public inspection. If written comments received result in a significant change in this DRAFT Permit Amendment, the Department shall issue a Revised DRAFT Permit Amendment and require, if applicable, another Public Notice.

The Department will issue FINAL Permit Amendment with the conditions of the DRAFT Permit Amendment unless a timely petition for an administrative hearing is filed pursuant to Sections 120.569 and 120.57 F.S. or a party requests mediation as an alternative remedy under Section 120.573 before the deadline for filing a petition. Choosing mediation will not adversely affect the right to a hearing if mediation does not result in a settlement. The procedures for petitioning for a hearing are set forth below, followed by the procedures for requesting mediation.

A person whose substantial interests are affected by the Department's proposed permitting decision may petition for an administrative hearing in accordance with Sections 120.569 and 120.57 F.S. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department, 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, Florida 32399-3000, telephone: 904/488-9370, fax: 904/487-4938. Petitions must be filed within fourteen days of publication of the public notice or within fourteen days of receipt of this notice of intent, whichever occurs first. A petitioner must mail a copy of the petition to the applicant at the address indicated above, at the time of filing. The failure of any person to file a petition (or a request for mediation, as discussed below) within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57 F.S., or to intervene in this



proceeding and participate as a party to it. Any subsequent intervention will be only at the approval of the presiding officer upon the filing of a motion in compliance with Rule 28-5.207 of the Florida Administrative Code.

A petition must contain the following information: (a) The name, address, and telephone number of each petitioner, the applicant's name and address, the Permit File Number and the county in which the project is proposed; (b) A statement of how and when each petitioner received notice of the Department's action or proposed action; (c) A statement of how each petitioner's substantial interests are affected by the Department's action or proposed action; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of the facts that the petitioner contends warrant reversal or modification of the Department's action or proposed action; (f) A statement identifying the rules or statutes that the petitioner contends require reversal or modification of the Department's action or proposed action; and (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wants the Department to take with respect to the Department's action or proposed action addressed in this notice of intent.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in this notice of intent. Persons whose substantial interests will be affected by any such final decision of the Department on the application have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

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- (f) The name of each party's representative who shall have authority to settle or recommend settlement; and
- (g) The signatures of all parties or their authorized representatives.

As provided in Section 120.573 F.S., the timely agreement of all parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57 F.S. for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within sixty days of the execution of the agreement. If mediation results in settlement of the administrative dispute, the Department must enter a final order incorporating the agreement of the parties. Persons whose substantial interests will be affected by such modified final decision of the Department have a right to petition for a hearing only in accordance with the requirements for such petitions set forth above. If mediation terminates without settlement of the dispute, the Department shall notify all parties in writing that the administrative hearing processes under Sections 120.569 and 120.57 F.S. remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action and electing remedies under those two statutes.

A complete project file is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at:

Department of Environmental Protection  
Bureau of Air Regulation  
111 S. Magnolia Drive, Suite 4  
Tallahassee, Florida, 32301  
Telephone: 904/488-1344  
Fax: 904/922-6979

Department Of Environmental Protection  
Southwest District  
3804 Coconut Palm Drive  
Tampa, Florida 33619  
Telephone: 813/744-6100  
Fax: 813/744-6458

Department of Environmental Protection  
Central District  
3319 Maguire Blvd., Suite 232  
Orlando, Florida 32803-3767  
Telephone: 407/894-7555  
Fax: 407/897-2966

The complete project file includes the Draft Permit Amendment, the application, and the information submitted by the responsible official, exclusive of confidential records under Section 403.111, F.S. Interested persons may contact the Administrator, New Resource Review Section at 111 South Magnolia Drive, Suite 4, Tallahassee, Florida 32301, or call 904/488-1344, for additional information.

Florida Department of  
Environmental Protection

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**Memorandum**

TO: Clair Fancy

THROUGH: Al Linero *al linero*

FROM: Willard Hanks *wmh*

DATE: December 11, 1996

SUBJECT: APAC-Florida, Inc.  
Macasphalt Division  
Amendment of Permit  
Permit No. 7770073-004-AO

Attached is an Intent and a DRAFT letter proposing to amend an operation permit for a relocatable drum mix asphalt plant. The Central District issued the construction and operation permit for this unit. The proposed amendment will allow the plant to relocate and operate in the Southwest District at a site near Frostproof, Polk County, Florida. No other change in plant operations is being authorized by this amendment.

I recommend your approval and signature of the Intent to amend this permit.

CHF/wh/t

Attachment

P 265 659 111

US Postal Service  
**Receipt for Certified Mail**

No Insurance Coverage Provided.  
Do not use for International Mail (See reverse)

S. #40 Ken Dalton	
Street & Number APAC - FIA	
Post Office, State, & ZIP Code Winter Haven, FL	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date 12-20-96	
7770073-004-AD	

PS Form 3800, April 1995

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items
- Complete items
- Print your name as card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

2.  Restricted Delivery  
Consult postmaster for fee.

3. Article Addressed to:  
Ken Dalton, ECD  
APAC - Fla., Inc.  
Macasphalt Division  
P O BOX 1819  
Winter Haven, FL  
33882-1819

4a. Article Number  
P 265 659 111

4b. Service Type

Registered       Certified  
 Express Mail       Insured  
 Return Receipt for Merchandise       COD

7. Date of Delivery  
DEC 20 1996

5. Received By: (Print Name)  
C. Adams

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: (Addressee or Agent)  
X *C Adams*

PS F

Receipt

Thank you for using Return Receipt Ser.