

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #3

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Air Pollution Control Commission TITLE NUMBER: 45

CITE AUTHORITY Chapter 16, Article 20, Section 5

AMENDMENT TO AN EXISTING RULE: YES NO

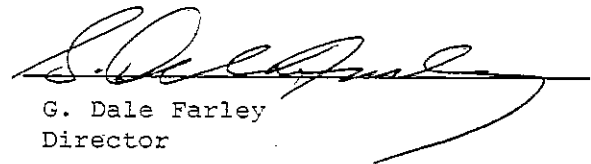
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 8

TITLE OF RULE BEING AMENDED: Ambient Air Quality Standards for Sulfur
Oxides and Particulate Matter

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.


G. Dale Farley
Director

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SECRETARY OF STATE

DATE: September 6, 1989

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: G. Dale Farley, Director - WVAPOC

LEGISLATIVE RULE TITLE: Regulation 8 - "Ambient Air Quality Standards For Sulfur Oxides and Particulate Matter"

1. Authorizing statute(s) citation Chapter 16, Article 20, Section 5

2. a. Date filed in State Register with Notice of Hearing:

June 1, 1989

b. What other notice, including advertising, did you give of the hearing?

Notice of hearing was provided in one newspaper in each of ten

(10) designated air quality control regions in the state. (See

attached list with dates of publication.)

c. Date of hearing (s): July 31, 1989

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

September 6, 1989

f. Name and phone number of agency person to contact for additional information:

G. Dale Farley

Director

(304) 348-2275

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

_____ N/A _____

b. Date of hearing: _____ N/A _____

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

_____ N/A _____

d. Attach findings and determinations and reasons:

Attached _____ N/A _____

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Chapter 16-20, Series 8 - "Ambient Air Quality Standards for Sulfur Oxides and Particulate Matter"

Type of Rule: X Legislative Interpretive Procedural

Agency Air Pollution Control Commission Address 1558 Washington Street, East
Charleston, West Virginia 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ 36,300	\$	\$	\$ 36,300	\$
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment	36,300			36,300	
Other					

2. Explanation of above estimates:

Projected equipment cost for eleven (11) PM₁₀ air monitors to be phased into operation over two years pending adequate funding. APCC will request USEPA to provide funding for at least six (6) monitors.

3. Objectives of these rules:

This regulation adopts the National Ambient Air Quality Standards for Sulfur Oxides and Particulate. The revisions to this existing regulation are a result of EPA's promulgation of new PM₁₀ standards on July 1, 1987.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

PM₁₀ implementation plan development will require APCC staff time as mandated by the federal Clean Air Act. Monitoring of ambient PM₁₀ levels will require phased acquisition of PM₁₀ monitoring equipment.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

No impact above any impacts ultimately resulting from federal promulgation of the National Ambient Air Quality Standards for PM₁₀.

C. Economic Impact on Citizens/Public at Large.

No impact above any impacts ultimately resulting from federal promulgation of the National Ambient Air Quality Standards for PM₁₀.

Date: September 6, 1989

Signature of Agency Head or Authorized Representative



G. Dale Farley
Director

AMENDMENTS

ERRATA

CHANGES TO REGULATION 8
(45CSR8)

"Air Quality Standards for Sulfur Oxides and Particulate Matter"

- | | |
|------------------------|---|
| Page 2, Section 2.5. | Delete definition of "TSP" or "Total Suspended Particulate Matter." |
| Page 3, Section 3.1.a. | Correction: Changed (0.05 ppm) to (0.5 ppm) |
| Page 3, Section 3.1.b. | Deleted reference to "Total Suspended Particulate Matter" (10 lines) and replaced with "PM ₁₀ " standards. |
| Page 4, Section 4.1. | Deleted Section 4.1., reference to "Total Suspended Particulate Matter" measurements. |

Re-numbered subsections as required.

Regulation was amended as a result of public comment.

[PROPOSED]

45CSR8

SUMMARY

45CSR8 was promulgated by the Commission on January 19, 1972, amended on June 25, 1975 and on January 8, 1979. The latest amendment to the regulation became effective on May 1, 1979. This regulation adopts the national ambient air quality standards for sulfur oxides and particulate. The revisions to this regulation are a result of EPA's promulgation of the new PM₁₀ particulate standards on July 1, 1987.

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[PROPOSED]

45CSR8

TITLE 45
LEGISLATIVE RULES
WEST VIRGINIA AIR POLLUTION CONTROL COMMISSION

SERIES 8
AMBIENT AIR QUALITY STANDARDS FOR SULFUR OXIDES AND PARTICULATE
MATTER

Index.

- §45-8-1. General.
- §45-8-2. Definitions.
 - 2.1. "Air Pollutants"
 - 2.2. "Air Pollution"
 - 2.3. "Commission"
 - 2.4. "Person"
 - 2.5. "Particulate Matter"
 - 2.6. "PM₁₀"
 - 2.7. "Standard Conditions"
 - 2.8. "Ambient Air Quality Standards"
- §45-8-3. Ambient Air Quality Standards.
- §45-8-4. Methods of Measurement.
- §45-8-5. Inconsistency Between Regulations.

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1989 SEP -6 PM 4: 16

[PROPOSED]

45CSR8

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

TITLE 45
LEGISLATIVE RULES
WEST VIRGINIA AIR POLLUTION CONTROL COMMISSION

SERIES 8
AMBIENT AIR QUALITY STANDARDS FOR SULFUR OXIDES AND PARTICULATE
MATTER

§45-8-1. Anti Degradation-Policy General.

1.1. Scope. — In the best interests of the State of West Virginia it is the objective of the Commission to obtain and maintain the cleanest air possible, consistent with the best available technology.

Where the present ambient air is of better quality than the established standards, the Commission will develop long-range plans to protect the difference between the present quality and the established standards. The plans will be based upon the best available forecasts of probable land and air uses in such areas of high air quality.

The air quality of these areas will not be lowered unless it has been clearly demonstrated to the Commission that such a change is justifiable as a result of necessary economic or social development and will not result in statutory air pollution. This will require that any industrial, public, or private project or development which could constitute a new source of air pollutants, within an area of such high air quality, provide the best practicable control available under existing technology as part of the initial project.

1.2. Authority. — This regulation is issued under the authority of the West Virginia Code, Chapter 16, Article 20, Section 5. This regulation relates to West Virginia Code, Chapter 16, Article 20, Sections 1 through 13 inclusive.

1.3. Filing date. —

1.4. Effective Date. —

§45-8-2. Definitions.

2.1. "Air Pollutants" mean solids, liquids, or gases which, if discharged into the air, may result in a statutory air pollution.

2.2. "Air Pollution", 'statutory air pollution', has the meaning ascribed to it in Section 2 of Chapter 16, Article 20 of the Code of West Virginia, as amended.

2.3. "Commission" means the West Virginia Air Pollution Control Commission.

2.4. "Person" means any and all persons, natural or artificial, including any municipal, public, or private corporation organized or existing under the law of this or any other state or country, and any firm, partnership, or association of whatever nature.

2.5. "Particulate Matter" means any material, except uncombined water, that exists in a finely divided form as a liquid or solid.

2.6. "PM₁₀" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers.

~~2.6.~~2.7. "Standard Conditions" means, for the purposes of this regulation, a temperature of 25°C and a pressure of 760 millimeters of mercury column.

~~2.7.~~2.8. "Ambient Air Quality Standards" means the numerical expression of a specified concentration level for a particular air pollutant in the ambient air and the time-averaging interval over which that concentration level is measured.

§45-8-3. Ambient Air Quality Standards.

3.1. The following ambient air quality standards shall not be exceeded at any sampling site:

a. Sulfur Dioxide

Primary Standard

Annual Arithmetic Mean Concentration - 80 micrograms per cubic meter (0.03 parts per million).

Maximum 24-Hour Concentration - 365 micrograms per cubic meter (0.14 ppm) - not to be exceeded more than once per year.

Secondary Standard

Maximum Three (3) Hour Concentration - 1300 micrograms per cubic meter (0.5 ppm) - not to be exceeded more than once per year.

~~b. Particulate Matter~~

~~Primary Standard~~

~~Annual Geometric Mean Concentration - 75 micrograms per cubic meter.~~

~~Maximum 24 Hour Concentration - 260 micrograms per cubic meter - not to be exceeded more than once per year.~~

~~Secondary Standard~~

~~Maximum 24 Hour Concentration - 150 micrograms per cubic meter - not to be exceeded more than once per year.~~

b. PM₁₀

Primary and Secondary Standards

Annual Arithmetic Mean Concentration - 50 micrograms per cubic meter (ug/m³). The standards are attained where the expected annual arithmetic mean, in accordance with Appendix K of 40 CFR 50, is less than or equal to 50 ug/m³.

Maximum 24 Hour Concentration - 150 micrograms per cubic meter (150 ug/m³). The standards are attained when the expected number of days per calendar year with a 24-hour average concentration above 150 ug/m³, as determined in

accordance with Appendix K of 40 CFR 50, is less than or equal to one.

§45-8-4. Methods of Measurement.

~~4.1. Suspended particulate matter concentrations shall be determined by high volume filtration or by such other methods approved as equally or more specific, accurate, sensitive, and reproducible by the West Virginia Air Pollution Control Commission.¹~~

~~4.2. Sulfur dioxide concentrations shall be determined by any of the methods listed below or by such other methods approved as equally or more specific, accurate, sensitive, and reproducible by the West Virginia Air Pollution Control Commission:~~

- ~~(a) Utilization of the West Gaeke (pararosaniline) method as modified by Scaringell, et al.²~~
- ~~(b) The use of a continuous sampling and recording instrument based on coulometric, colorimetric, or an equivalent principle and utilizing the modified West Gaeke analytical procedure as a standard means of calibration.~~

4.1. PM₁₀ concentrations shall be measured in the ambient air as particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers by:

- a. reference method based on Appendix J of 40 CFR 50 and designated in accordance with 40 CFR 53, or
- b. an equivalent method designated in accordance with 40 CFR 53.

4.2. Sulfur dioxide concentrations shall be measured in the ambient air as sulfur dioxide by:

- a. reference method based on Appendix A of 40 CFR 50 and designated in accordance with 40 CFR 53, or
- b. an equivalent method designated in accordance with 40 CFR 53.

Section 5. Effective Date

~~-----Regulation Series VIII (1975) was amended by the Commission on the 8th day of January, 1979, and shall become effective the 1st day of May, 1979. Regulation Series VIII (1975), as amended, shall henceforth be cited as Regulation Series VII (1979). Regulation Series VIII (1975) was adopted by the Commission on the 25th day of June, 1975, and became effective the 1st day of August, 1975, and superseded Regulation Series VIII (1972) which was adopted by the Commission on the 19th day of January, 1972, and became effective March 15, 1972.~~

§45-8-5. Inconsistency Between Regulations.

In the event of any inconsistency between this regulation and any other regulation of the Commission, such inconsistency shall be based upon the application of the more stringent provision, term, condition, method, rule, or regulation.

~~The foregoing is a true and correct copy of the West Virginia Air Pollution Control Commission Regulation Series VIII (1979) as adopted on the 8th day of January, 1979.~~

Carl G. Beard, H
Secretary
West Virginia Air Pollution
Control Commission

WEST VIRGINIA ADMINISTRATIVE REGULATIONS

Subject: Regulation VIII--"Ambient Air Quality Standards for Sulfur Oxides and Particulate Matter"

REFERENCES

¹"Air Pollution Measurements of the National Air Sampling Network: Analysis of Suspended Particulates, 1957-1961."--Public Health Service Pub. No. 978, Washington, D. C., 1962.

²Scaringelli, F. P., Saltzman, B. E., and Frey, S. A.; "Spectrophotometric Determination of Atmospheric Sulfur Dioxide."--Analytical Chemistry, Vol. 39, pp. 1709-1719, December, 1967.

LEGAL DEPARTMENT



Monongahela Power Company

Part of the Allegheny Power System

1310 Fairmont Avenue, Fairmont WV 26554 (304) 366-3000

July 28, 1989

West Virginia Air Pollution
Control Commission
1558 Washington Street, East
Charleston, WV 25311

Re: Comments on Air Regulations
Public Hearing - July 31, 1989

Dear Air Pollution Control Commission:

Monongahela Power Company hereby offers the following comments on the West Virginia Air Pollution Control Commission proposed regulations filed with the Secretary of State on June 1, 1989.

Series 8 -- Ambient Air Quality Standards for Sulfur Oxides and Particulate Matter.

✓ Page 3 b. A. -- Primary and Secondary Standards for Total Suspended Particulate Matter (TSP) have been left in the regulations. TSP is no longer used as a measure of particulate matter but rather a PM_{10} standard has been adopted at the federal level. The Air Pollution Control Commission needs to be consistent and delete the TSP standards.

✓ Page 3. a. -- The secondary standard should be 0.5 ppm and not 0.05 ppm as written.

Series 11 -- Prevention of Air Pollution Emergency Episodes.

Pages 4, 5, 6 and 8 -- Standards for Total Suspended Particulate Matter (TSP) have been left in the regulations. TSP is no longer used as a measure of particulate matter but rather a PM_{10} standard has been adopted at the federal level. The Air Pollution Control Commission needs to be consistent and delete the TSP standards.

Series 14 -- Permits for Construction and Major Modification of Major Stationary Sources.

West Virginia Air Pollution
Control Commission
Page 2

Page 12, Section 2.25 -- PM₁₀ standard should be 15 TPY not 1.5.

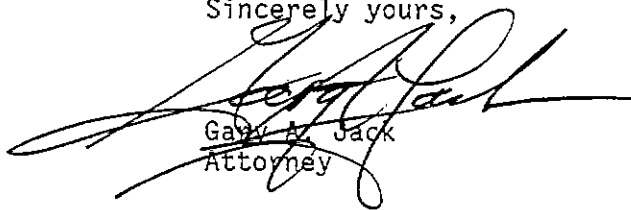
Pages 14 and 15 -- Standards for Total Suspended Particulate Matter (TSP) have been left in the regulations. TSP is no longer used as a measure of particulate matter but rather a PM₁₀ standard has been adopted at the federal level. The Air Pollution Control Commission needs to be consistent and delete the TSP standards.

Series 15, 16, 27.

No comments.

We appreciate the opportunity to comment.

Sincerely yours,



Gary A. Jack
Attorney

GAJ:cwr



WEST VIRGINIA
MANUFACTURERS ASSOCIATION

SUITE 505
405 CAPITOL STREET
CHARLESTON, WV 25301
TELEPHONE (304) 342-2123

RECEIVED
JUL 31 1989

OFFICE OF THE
SECRETARY OF DEPARTMENT OF
ENVIRONMENTAL POLICY AND
CONTROL

July 31, 1989

Mr. G. Dale Farley
Director
WV Air Pollution Control Commission
1558 Washington Street, East
Charleston, West Virginia 25311

RE: Comments to Proposed Amendments to
45 C.S.R. 8, 11, 14 and 15

Dear Mr. Farley:

Please find enclosed for filing comments to the proposed amendments of WVAPCC Regulations 45 C.S.R. 8, 11, 14 and 15 submitted on behalf of the West Virginia Manufacturers Association.

Thank you for your consideration of our concerns as set out in the attached comments. If you have any questions, please contact me.

Very truly yours,

Robert L. Foster

RLF:rmh
Enclosure

Comments of
West Virginia Manufacturers Association
on Proposed Amendments to WVAPCC Regulations
45 C.S.R. 8, 11, 14 and 15

Submitted July 31, 1989

COMMENTS OF THE WEST VIRGINIA MANUFACTURERS
ASSOCIATION ON PROPOSED AMENDMENTS TO WVAPCC REGULATIONS 45 C.S.R. 8, 11, 14,
AND 15 WHICH INCORPORATE THE FEDERAL PM10 STANDARDS

A. INTRODUCTION.

On June 1, 1989 public notice appeared announcing the filing of proposed amendments to the West Virginia Air Pollution Control Commission's Emission Standards for Hazardous Air Pollutants, Standards of Performance for New Stationary Sources, Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration, Prevention of Air Pollution Emergency Episodes, and Ambient Air Quality Standards for Sulfur Oxides and Particulate Matter. Pursuant to this notice, the West Virginia Manufacturers Association ["WVMA"] files these comments on the proposed amendments. The WVMA represents a broad cross-section of the industrial sector of West Virginia. Many of our members are significantly affected by the application of the air pollution regulations. These comments on the proposed amendments to the West Virginia Air Pollution Control Commission's Regulations are in the tradition of the active and supportive role that the WVMA has played in the continuing development of the West Virginia air regulatory program.

B. GENERAL COMMENTS.

1. Incorporation by Reference of Federal Regulations. - It has been our long-standing suggestion that the WVAPCC make amendments to its regulations by incorporating, by reference, the

federal regulatory amendments. We applaud the WVAPCC for the use of this methodology.

2. State Regulations Are Not to be More Stringent Than The Federal Program. - W.Va. Code § 16-20-5(4) - states that "no rule, regulation, standard, program or plan of the Commission to control air pollution from any source hereafter promulgated, adopted or implemented may be more stringent than any federal rule, regulation, standard, program or plan applicable to the control of air pollution from that source." Therefore, the proposed amendments cannot be more stringent than the federal program governing the effected sources.

C. COMMENTS ON SPECIFIC REGULATIONS.

1. 45 C.S.R. 8 - AAOS For Sulfur Oxides and Particulate Matter.

a. Section 3.1.a - This section addresses the primary and secondary standards for sulfur dioxide. The secondary standard lists the maximum three-hour concentration as 0.05 ppm. According to the federal standards, this standard should read as 0.5 ppm. This typographical error should be corrected.

b. Sections 3.1.b.A and 4.1 - These sections reference the standards for total suspended particulate matter (TSP). It is understood by the WVMA that the TSP standard remains in these regulations because of a shortage of PM_{10} samplers currently in operation in the state. It is our opinion that the WVAPCC may continue to operate the TSP samplers without having to list the TSP standard in the regulations. We propose, therefore, that the TSP

standards be removed from the regulations in accordance with the federal amendments which resulted in the PM_{10} standards, and to avoid a regulation more stringent than the federal rules.

2. 45 C.S.R. 11 - Prevention of Air Pollution Emergency Episodes.

a. Section 3.1.b, c and d. - These sections address the levels at which specific pollutants create an "alert", "warning" or an "emergency". Included in the list of pollutants which are required to be monitored is TSP. The federal counterpart to this section can be found at 40 C.F.R. 51, Appendix L. The federal regulations for emergency episodes do not include TSP due to the new PM_{10} amendments. As stated previously, it is understood that the APCC intends to continue its operation of the TSP samplers due to a shortage of the new PM_{10} samplers. Once again, we are of the opinion that the state may continue to operate such TSP samplers without having to maintain the TSP standards in the regulations. By maintaining the TSP standards in the regulations, the WVAAPCC is establishing a regulatory scheme which is more stringent than the federal.

3. 45 C.S.R. 14 - Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration.

a. Section 2.25 - This section defines "significant" net emission increases. Specifically, this section lists the significant pollutant and emission level of PM_{10} to be 1.5 TPY. The federal counterpart lists the rate for PM_{10} to be 15 TPY. This is

a typographical error and should be corrected.

4. 45 C.S.R. 15 - Emission Standards for Hazardous Air Pollutants.

a. Section 3.1 - This section addresses the availability of public information. It incorrectly cross-references 40 C.F.R. 61.15, which is the federal regulatory section for modifications to stationary sources. The correct citation for the "availability of public information" regulation is 40 C.F.R. 61.16. This typographical error should be corrected.

D. CONCLUSION.

The WVMA appreciates the opportunity to comment on these regulations and trusts that our comments will be given appropriate consideration.0



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

841 Chestnut Building
Philadelphia, Pennsylvania 19107

AUG 01 1989

G. Dale Farley, Director
West Virginia Air Pollution
Control Commission
1558 Washington Street, East
Charleston, West Virginia 25311

Dear Mr. Farley:

On June 6, 1989, EPA received the WVAAPCC's Regulations 8, 11, 14, 15 and 16 with proposed revisions. After a review by the Air Management Division (AMD), a number of comments and suggestions have been formulated. The comments are stated below and are referenced to by Regulation and section.

- 45-8-2. 2.xx Precise definitions should be added for "Particulate Matter emissions" and "PM₁₀ emissions" as provided in 40CFR part 51.
- 45-11-2. 2.s Since there is no longer a Secretary of Health, Education and Welfare, the EPA Administrator must designate a "Region."
- 45-11-4. 4.3 Sulfur dioxide concentrations shall be measured as sulfur dioxide and not, as stated, as carbon dioxide.
- 45-11-5. 5.xx It is recommended that emission reduction plans be addressed with respect to wood stoves used in homes. These stoves have the capability to be a significant source of PM emissions.
- 45-14-2. 2.25 The 'significant' emissions rate for PM₁₀ is listed as 1.5 TPY, when the actual rate should be listed as 15 TPY.
- 45-14-4. 4.3 The remainder of the State of West Virginia should be designated as Class III, rather than 'Class II.'
- Regulation 15 The summary of the regulation changes should refer to 40 CFR 61 (as is done with NSPS in Regulation 16).

Regulation 15

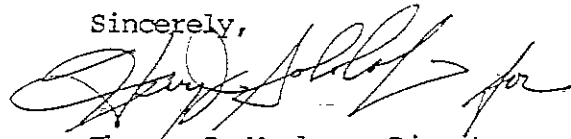
The attached Table for the Regulation summary should refer to Affected Source Categories, rather than Effectted Source Categories.

Regulation 16

The attached Table for the Regulation summary should refer to Affected Source Categories, rather than Effectted Source Categories.

The AMD has examined the enforceability of these proposed Regulation revisions and discovered no issues of concern. Finally, the EPA appreciates the opportunity to review and comment on these revisions prior to the July 31, 1989 public hearing on these Regulation revisions. If there are any questions, please contact Joseph Kunz at (215) 597-8486.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tom Maslany", followed by a horizontal line and the letters "for".

Thomas J. Maslany, Director
Air Management Division