submittal, but the EPA is encouraging its development in anticipation of program approval.

The presumptive minimum plus consumer price index (CPI) will be used for the operating permit fee. This will be discussed further under the fee demonstration section (II., 3.). Like the state, LLCHD will maintain a Class II program for minor, non-title V sources.

b. Program implementation. A permit registry is being established to ensure issuing one-third of all permits in the first year of the program. This registry also includes a provision to review permit applications within nine months of receipt for those sources of hazardous air pollutants participating in the early reduction program under section 112(i)(5) of the Clean Air Act.

In terms of initial permit applications, LLCHD outlines adequate procedures to satisfy part 70 requirements. The application process includes affected state and EPA review. LLCHD's procedures and guidance are designed to ensure that a permit is issued within 18 months of application.

LLCHD has established criteria for monitoring source compliance which include compliance inspections, citizen complaint responses, follow-up inspections, and permit application review. LLCHD will physically inspect each title V source at least once per year. Surveillance through monitoring will also be conducted to ensure compliance.

c. Personnel. LLCHD provided a workload analysis for each program category of title V activity to include permitting, compliance and enforcement, planning, monitoring, small business assistance, and communications to determine the amount of personnel needed. EPA's analysis suggests that LLCHD's estimate appears adequate for implementing the title V program.

d. Data management. All permit application information will be submitted to the state which will, in turn, make that information available to the EPA. The proposed permits will be made available for EPA review. LLCHD requires the retention of permit information by the source for five years in Article 2, section 8, (D)(2)(b). LLCHD has also committed to maintaining records for five years in its program description.

e. Applicability provisions. LLCHD provides for permitting of all major sources, affected sources, sources that opt to apply for a permit, and all sources subject to sections 111 or 112 standards (new source performance standards and

standards for hazardous air pollutants).

LLCHD exempts sources that are not major sources, affected sources, or solid waste incineration units required to obtain a permit pursuant to section 129(e) of the Act. This exemption is allowed by § 70.3(b)(1) until the Administrator completes a rulemaking to determine how the program should be structured for nonmajor sources.

(1) Applicable requirements. On the one hand, LLCHD's rules require all applicable requirements to be included in the permit. This includes requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but which have future effective dates. Additionally, the director may insert EPA promulgated requirements into permits before LLCHD has adopted the standard.

However, the EPA has determined that the items enumerated in Article 1, section 2 (3–10) in the definition of "applicable requirements" undermine the ability to incorporate all applicable requirements. As currently written, a rule must be promulgated by EPA and adopted by LLCHD to be considered an

applicable requirement.

As an example of this concern, item (4) of the applicable requirement definition states, "Any standard or other requirement established pursuant to Section 112 of the Act and regulations adopted in Section 27 of these Regulations and Standards relating to hazardous air pollutants listed in Appendix II.'' The practical effect of this definition, as an example, is that a source could claim it need not identify certain hazardous air pollutant standards in its application, for inclusion in the permit, if the requirement is not both promulgated under section 112 of the Act and in section 27 of the Lincoln-Lancaster regulations.

LLCHD has committed to modify the definition of applicable requirements in accordance with EPA guidance to receive program approval. The state of Nebraska has already initiated action to correct this deficiency. The Nebraska Environmental Quality Council adopted regulatory changes on December 2, 1994, which are included in the docket for this proposed rulemaking for the LLCHD program. Once LLCHD adopts the revisions made by the Council on December 2, including those described in II.A.2.h. also, the EPA intends to take final action to fully approve the program.

(2) Variances. Both the state's and LLCHD's rules allow sources to petition the permitting authority for a variance. Importantly, both rules clearly state that no variance will be granted that

sanctions any violation of state or Federal statutes or regulations. Based on these provisions, the submittal is approvable with respect to variances.

f. Permit content. LLCHD's regulations require title V permits to include part 70 terms and conditions for all applicable requirements in Article 2, section 7 (C)(1). These rules also stipulate that the duration of the permit (five years) will be specified in the permit. LLCHD has also provided for the inclusion of enhanced monitoring in

permits.

LLCHD's regulations do require the permit to contain a condition prohibiting emissions exceeding any allowances that the source lawfully holds under title IV of the Act as required by § 70.6(a)(4). The regulations also meet the requirements of § 70.6(a)(5) (severability), § 70.6(a)(6) (permit provisions), § 70.6(a)(7) (fees), and § 70.6(a)(8) (emissions trading). Part 70 also requires terms and conditions for reasonably anticipated operating scenarios to be included in the permit. LLCHD's rules require that the terms and conditions of each alternative scenario meet all the requirements of part 70. Section 70.6(a)(10) requires the permit to contain terms and conditions, if the permit applicant requests them, for the trading of emissions increases and decreases at the facility. LLCHD's regulations fulfill this requirement.

Part 70 also has federally enforceable requirements for the terms and conditions in a part 70 permit at \$ 70.6(b), compliance requirements at \$ 70.6(c), and emergency provisions at \$ 70.6(g). LLCHD's regulations comply

with these requirements.

LLCHD's program provides for general permits in Article 2, section 9. In section 9(B), the director will identify criteria by which sources may qualify for the general permit as required by § 70.6(d)(1).

The permitting program can also have provisions for permitting temporary sources and for permit shields. LLCHD's permitting program has both of these options and meets the requirements of part 70. LLCHD's program provides for operational flexibility and closely follows EPA's requirements.

The program does make provision to exempt the listing of insignificant activities in permit applications. The state has developed this list, which will be approved in December 1994 and then

adopted by LLCHD.

g. Permit forms. LLCHD addresses permit application requirements in Article 2, sections 5 and 7 of its regulations. Within its rules adequate procedures are outlined for the following: duty to apply, complete