Part 70 also requires permitting authorities to submit periodic accounting reports to EPA. Upon further guidance by EPA, LLCHD will be requested to submit these reports.

LLCHD's submittal included a list of sources and the amount of fees that it expects to collect in the first year from each source as part of its fee demonstration (\$379,122). LLCHD's year-to-year estimates of resources by major activities adequately satisfies the four-year projection.

- 5. Provisions Implementing the Requirements of Other Titles of the Act
- a. Acid rain. The legal requirements for an approval under the title V operating permits program for a title IV program were cited in EPA guidance distributed on May 21, 1993, entitled "Title V—Title IV Interface Guidance for States." The LLCHD has met the five major criteria of this guidance which include legal authority, regulatory authority, forms, regulatory revisions, and a commitment to acid rain deadlines. The LLCHD has adopted by reference 40 CFR part 72.
- reference 40 CFR part 72.

  b. Section 112. The specific title V program approval criteria with respect to section 112 provisions are enumerated in a memorandum from John Seitz, Office of Air Quality Planning and Standards, dated April 13, 1993. LLCHD has met these criteria as described in the following topics:
- (1) Section 112(d), (f), and (h).–EPA emissions standards. In accordance with part 70, LLCHD will not issue any permit (or permit revision addressing any emissions unit subject to a newly promulgated section 112 standard) unless it would ensure compliance with all applicable section 112 standards. Additionally, part 70 permits will be reopened which have three or more years remaining before their expiration date to incorporate any newly promulgated standard (section 70.7 (f)(1)(i)).
- (2) General provisions. The Seitz memorandum notes that the implementation of all current National Emission Standard for Hazardous Air Pollutants (NESHAP) standards and future maximum achievable control technology (MACT) (and residual risk) standards includes the implementation of any "general provisions" that EPA develops for these standards. Initial title V approval must ensure that states will carry out these provisions as in effect at the time of any permit issuance or revisions. EPA adopted the 40 CFR part 63, subpart A General Provisions on February 28, 1994. Neither the state nor Lincoln-Lancaster has had an opportunity to adopt these provisions to

date. However, the intention is to adopt all applicable requirements as noted in the general program description. EPA thus considers this requirement to be met.

(3) Section 112 (g)-Case-by-Case MACT for modified/constructed and reconstructed major toxic sources. The agency proposes to require best available control technology for new and modified sources of air toxics. In the absence of any EPA guidance/ regulations defining case-by-case MACT procedures and methods for determining agency equivalency of Federal requirements at the time of agency program submittal, the agency's submission should be adequate for the interim. LLCHD's intent is to adopt Federal air toxic regulations expeditiously

(4) Section 112 (i)(5)-early reductions. LLCHD has adequate provisions for implementation of this program by adopting by reference 40 CFR part 63, subpart D, early reduction compliance extension rules, promulgated in the **Federal Register** on December 29, 1992. To date, no source in the agency area has made a commitment to participate in the early reductions program. The agency provides for incorporating alternative emission limits into permits in section 8, paragraph (B)(3).

(5) Section 112(j)-case-by-case MACT hammer. It is the agency's intent to make case-by-case MACT determinations and to issue permits to subject sources in accordance with the section 112(j) requirements. Section 7(B)(2) requires newly subject sources to file a permit application within 12 months of first becoming operational or otherwise subject to the title V program. Section 7(B)(3) requires sources subject to section 28 (MACT) to submit a permit application within 12 months of becoming operational. The agency would make its case-by-case MACT determination after receipt of the permit application and prior to permit issuance.

(6) Section 112(l)–State air toxics programs. The EPA intends to delegate authority for existing section 112 standards under the authority of section 112(l) concurrent with approval of the title V program. It is expected that the agency will request delegation of future 112 standards/rules in accordance with the adoption-by-reference procedures in 40 CFR part 63, subpart E, § 63.91. Since the agency has already adopted by reference the section 112(i) early reduction rule (Section 27), EPA anticipates delegating this authority concurrent with title V approval.

(7) Section 112(r)-accidental release plans. The agency has provided for the

section 112(r) requirements in its rules in section 8(K). The permit of a source subject to the requirements of section 112(r) will contain a requirement to register the plan; verification of plan preparation and submittal to the state (NDEQ), the state Emergency Response Commission, and any local emergency planning committee; and will require an annual certification in accordance with section 7(B), that the risk management plan is being properly implemented.

The permit application requires a schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance: section 7, paragraph (F)(2). The permit requirement for a compliance schedule is listed in section 8, paragraph (L)(3).

## B. Options for Approval/Disapproval and Implications

The EPA is proposing to grant approval to the operating permits program submitted by the LLCHD on November 12, 1993, and modified on June 15, 1994. Prior to final action, LLCHD must: (1) Render a modification of the definition "applicable requirement," and (2) modify the provisions related to title I modifications.

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) approval requirements for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that the LLCHD program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, the EPA is also proposing to grant approval under section 112(l)(5) and 40 CFR 63.91 of LLCHD's program for receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated. This program for delegations only applies to sources covered by the part 70 program.

## III. Administrative Requirements

## A. Request for Public Comments

The EPA is requesting comments on all aspects of this proposed rule. Copies of LLCHD's submittal and other information relied upon for the proposed interim approval are contained in a docket maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed rulemaking. The principal purposes of the docket are: