

RULES AND REGULATIONS

Title 67—TRANSPORTATION

DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 449]

Liquid Fuels Tax Funds

The Department of Transportation (Department), Office of Administration, Bureau of Municipal Services (Bureau) amends Chapter 449 (relating to liquid fuels tax funds) to read as set forth in Annex A.

The Department plans to make these amendments effective upon publication without notice of proposed rulemaking. Notice of proposed rulemaking has been omitted under the authority contained in section 204(1) of the act of July 31, 1968 (P. L. 769, No 240) (45 P. S. § 1204(1)), known as the Commonwealth Documents Law (CDL). The final-omitted rulemaking interprets and incorporates self-executing provisions in the Community and Economic Development Enhancement Act (CEDEA) (71 P. S. §§ 1709.101—1709.2106) and amendments to the municipal and county codes. The procedures specified in sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) are, in the circumstances, impracticable, unnecessary and contrary to the public interest.

The authority for this final-omitted rulemaking is 75 Pa.C.S. §§ 6103 and 9511 (relating to promulgation of rules and regulations by the department; and allocation of proceeds) and sections 1—10 of the act of June 1, 1956 (P. L. (1955) 1944, No. 655) (72 P. S. §§ 2615.1—2615.10) (act).

Purpose of the Chapter

Chapter 449 effects the fair and uniform administration of the provisions of the act and 75 Pa.C.S. § 9511, which provide a permanent allocation of a part of the liquid fuels, fuels and oil company franchise tax proceeds to counties, cities, boroughs, incorporated towns and townships for their road, street and bridge purposes.

Purpose of the Final-Omitted Rulemaking

The purpose of the final-omitted rulemaking is to update and revise existing provisions of Chapter 449 to be consistent with the CEDEA, which created the Department of Community and Economic Development by the merger of the former Departments of Commerce and Community Affairs. As a result of the merger, the annual reporting forms and documents were changed. These changes are reflected in § 449.12 (relating to annual qualification) and are intended to eliminate the confusion caused by the out dated information in the current regulation. Additionally, amendments to the municipal and county codes have superseded certain provisions of Chapter 449. These statutory amendments have affected townships of the first and second class, third class cities, boroughs, towns, counties of the third through eighth classes and councils of governments. Amendments to § 449.3 (relating to advertising, bidding and bond requirements) reflect the statutory changes from \$4,000 to \$10,000 in the dollar thresholds for determining whether competitive bidding is required in the solicitation and award of contracts, and for determining whether a municipal contract is exempt from bidding, bonding and advertising.

In §§ 449.7 and 449.8 (relating to purchase of materials and equipment; and equipment rental), telephonic price

quotations from at least three qualified and responsible contractors are required for contracts that exceed \$4,000 but are less than the \$10,000 threshold requiring advertising and competitive bidding, consistent with provisions in the statutes. These sections also provide that instead of the price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors service the market area within which it is practicable to obtain quotations. The file memorandum shall be kept until the completion of an audit by the Department of the Auditor General which includes the transaction. These audits are conducted periodically according to law and regulation.

Additionally, the bond requirement charts included in § 449.7 and § 449.9 (relating to construction and maintenance contracts) have been updated to reflect current statutory bonding requirements. This amendment will eliminate the confusion, which has existed since the statutory changes, over the appropriate advertising, bidding and bonding requirements. Section 449.7(e) has also been revised to include intergovernmental agencies in the sections dealing with advertising, bidding and bonding requirements for piggy-back purchases. This amendment was made to reflect the changes made to 62 Pa.C.S. (relating to Commonwealth Procurement Code). Sections 449.7 and 449.9 have also been updated to include metric measurements.

In developing the final-omitted rulemaking, the Bureau met and discussed the amendments with Statewide municipal associations and with staff of the Auditor General to ensure that the final-omitted rulemaking would not conflict with applicable local laws and would be acceptable to all affected parties.

Persons and Entities Affected

The final-omitted rulemaking affects all municipal governments in this Commonwealth that seek to qualify and receive Liquid Fuels Tax funds.

Fiscal Impact

The final-omitted rulemaking does not impose an increased fiscal burden on State or local governments or private entities. The final-omitted rulemaking will facilitate the expeditious review and approval of liquid fuels tax fund activities. This will allow the Department to serve the municipalities of this Commonwealth in a more effective and professional manner and will promote more efficient utilization of liquid fuels tax funds. The final-omitted rulemaking does not impose any additional reporting, recordkeeping or other paperwork requirements on the Commonwealth or local governments.

Sunset Date

The Department is not establishing a sunset date for the final-omitted rulemaking since the regulations are needed to administer the provisions required under sections 1—4 of the act and 75 Pa.C.S. § 9010 (relating to disposition and use of tax). The Department will, however, continue to closely monitor these regulations for their effectiveness.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on March 17, 2003, the Department submitted copies of this final-omitted rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Transporta-

tion Committees. On the same date, the final-omitted rulemaking was submitted to the Office of the Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(d) of the Regulatory Review Act, on April 7, 2003, this final-omitted rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, on April 24, 2003, IRRC met and approved this final-omitted rulemaking.

Contact Person

The contact person is Richard G. Zerbe, Bureau of Municipal Services, P. O. Box 8211, 400 North Street, 6th Floor, Commonwealth Keystone Building, Harrisburg, PA 17105-8211, (717) 783-8588.

Findings

The Department finds that:

(1) Public notice of intention to adopt these amendments has been omitted under section 204(1) and (3) of the CDL and the regulation promulgated thereunder, 1 Pa. Code § 7.4.

(2) This final-omitted rulemaking interprets and incorporates self-executing changes made in the CEDEA and amendments to the various municipal and county codes. The CEDEA merged the former Departments of Commerce and Community Affairs, requiring changes in annual reporting forms and documents to reflect the consolidation of the two former agencies into the new Department of Community and Economic Development. The enactment of the CEDEA itself effected the change, this final-omitted rulemaking is a correction of the requirements to conform them to the changes made by the statute. Similarly, the municipal and county codes have effected changes in the threshold dollar amounts which determine whether municipal contracts must be advertised and bid and require bid or performance bonds, or both. The final-omitted rulemaking simply conforms the requirements specific to municipal contracts involving the expenditure of Liquid Fuels Tax moneys to the changes effected in this final-omitted rulemaking to the statutes.

Under the circumstances, there would be no fruitful purpose to publish these regulatory amendments as proposed rulemaking or to invite public comment. The substance of the regulatory amendments is dictated by the changes already controlling in the amended statutes. It would be impracticable, unnecessary and contrary to the public interest to invoke the provisions of sections 201 and 202 of the CDL in these circumstances.

(3) The adoption of this final-omitted rulemaking, in the manner provided in this order, is necessary and appropriate for the administration and enforcement of the authorizing statutes.

Order

The Department, acting under the authorizing statutes, orders that:

(a) The regulations of the Department, 67 Pa. Code Chapter 449, are amended by amending §§ 449.2, 449.3, 449.5, 449.7—449.9, 449.11 and 449.12 to read as set forth in Annex A.

(b) The Secretary of the Department shall submit this order and Annex A to the Office of Attorney General and the Office of General Counsel for approval as to legality, as required by law.

(c) The Secretary of the Department shall certify this order and Annex A, and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

ALLEN D. BIEHLER, P. E.,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 33 Pa.B. 2325 (May 10, 2003).)

Fiscal Note: 18-371. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

Subpart B. NONVEHICLE CODE PROVISIONS

ARTICLE III. HIGHWAYS

CHAPTER 449. LIQUID FUELS TAX FUNDS

§ 449.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicated otherwise:

Alley—A narrow roadway, usually to the rear of abutting properties, designed for the purpose of access to the rear of the properties and not as a thoroughfare; and every roadway less than 16 feet in width.

Court—A dead-end roadway designed to provide access to properties abutting thereon which has a length of less than 250 feet or a vehicle turnaround area with a radius of less than 40 feet.

Department—The Department of Transportation of the Commonwealth.

Intergovernmental agencies—Councils of government, area governments or other affiliation of governments or government agencies as authorized by 62 Pa.C.S. Chapter 19 (relating to intergovernmental relations) to participate in, sponsor, conduct or administer a cooperative purchasing agreement and which expend public moneys for the procurement of supplies, services and construction.

Person—Individual, partnership or corporation; contracts with two or more companies owned or operated by the same person are regarded as one contract.

Road machinery and road equipment—Any machinery or equipment used primarily for the maintenance, repair, construction or reconstruction of public roads or streets, including bridges, culverts and drainage structures for which municipalities are legally responsible.

Roadway—That portion of a street or highway between the side ditch lines, face of curbs, outside edge of shoulders and gutters, or combination thereof, exclusive of slope areas.

Secretary—The Secretary of Transportation.

Way—A short stretch of roadway having both terminals in a street or road and designed to provide access to properties abutting thereon.

Way, court and alley—Any way, court or alley established after the effective date of this chapter will not be recognized as a road or street for purposes of Liquid Fuels Tax participation.

§ 449.3. Advertising, bidding and bond requirements.

(a) *General rule.* Advertising, bidding, and a performance bond are required by statute on purchases and contracts in excess of \$10,000, with certain exceptions indicated in subsection (b). See: sections 1.1 and 1.2 of the act of March 7, 1901 (P. L. 20, No. 14) (53 P. S. §§ 23308.1 and 23308.2); sections 1901—1918 of the act of June 23, 1931 (P. L. 932, No. 317) (53 P. S. §§ 36901—36918); sections 1401—1411 of the act of February 1, 1966 (P. L. (1965) 1656, No. 581) (53 P. S. §§ 46401—46411); the act of May 27, 1953 (P. L. 244, No. 34) (53 P. S. §§ 53201—53209); sections 1801—1811 of the act of June 24, 1931 (P. L. 1206, No. 331) (53 P. S. §§ 56801—56811); sections 801—808 of the act of May 1, 1933 (P. L. 103, No. 69) (53 P. S. §§ 65801—65809); and the Public Works Contractors' Bond Law of 1967 (8 P. S. §§ 191—202).

(b) *Evasion prohibited.* While it is lawful to make a purchase or contract for up to \$10,000 without advertising and bidding, it is unlawful to enter into several less-than \$10,000 contracts with the same person or with several persons merely for the purpose of evading advertising and bidding requirements.

(c) *Bonds.* Bonds shall include the following:

(1) *Bid bond.* A bid bond guarantees that the bidder will execute the contract in the event he is declared the winning bidder.

(2) *Performance bond.* A performance bond guarantees that work, materials and equipment will be provided at the time specified in the contract. A performance bond does not guarantee the quality of the work, materials and equipment.

(3) *Payment bond.* A payment bond guarantees that the contractor or supplier will pay his workers, subcontractors and suppliers.

(d) *Emergency exception to advertising and bidding requirements.* Whenever municipal officials determine that an emergency condition exists rendering it essential to undertake immediate repair or maintenance work to protect the health, safety or welfare of the people, the emergency work may be contracted for by the municipality without the necessity of advertising for competitive bids for the project.

(1) An emergency which will warrant dispensing with advertising for competitive bids must be immediate, unforeseen and existing. A condition which may or may not arise in the future or a condition which should reasonably have been foreseen in time to advertise for bids will not warrant dispensing with normal advertising and bidding requirements.

(2) The determination of the emergency and the actions of the municipal officials in contracting for emergency work shall be fully documented for Department review.

(e) *Exception to advertising, bidding and bonding requirements for home rule charter municipalities.* In the case of any municipality which has adopted a home rule charter, the Department will recognize charter provisions which are contrary to the advertising, bidding and bonding requirements in this chapter or in the various municipal codes.

(f) *Brand names.* In advertising for equipment to be rented or purchased, or for materials to be purchased or delivered in place, it is unlawful to require or specify any particular make or brand thereof, thereby excluding other makes or brands. A particular brand name or its equivalent may be specified if equal consideration is given to all brands which are reasonably similar to the specified brand. The specifications shall be reasonable and not merely imposed to exclude some brands of equipment or material in favor of other brands.

§ 449.5. Failure to receive bids.

If a purchase or contract over \$10,000 is advertised and no bids are received, the municipality may not proceed with the purchase or contract unless it is again advertised for bids. If again no bids are received, the municipality may negotiate the purchase or contract on the best terms available within 45 days of the second advertisement if no substantial changes are made in the terms, conditions and specifications contained in the bid proposal. If substantial changes must be made to procure the purchase or contract, the purchase or contract shall be re-advertised and bid on the basis of the changes.

§ 449.7. Purchase of materials and equipment.

(a) *Advertisement.* The advertisement for any purchase, whether to be picked up or delivered or, in case of materials, to be applied in place, shall contain a reasonably complete description and estimated quantities of the major items or categories of items. The advertisement shall also indicate the requirement of a bid or performance bond, or both.

(b) *Proposal.* The proposal shall contain the approximate number of items or tons, gallons, square yards, the metric equivalent, or other standard unit of measure, required, as reasonably estimated by the municipality.

(1) The bidder shall insert in the proposal:

(i) The unit price for each item.

(ii) The total price for each item (quantity × unit price).

(iii) The total price for any group of items which the proposal stipulates shall be supplied by a single bidder.

(2) Bids, without quantities, are not acceptable.

(3) Only like items may be required to be supplied by a single bidder.

(i) If this requirement is imposed, the proposal shall so indicate.

(ii) It is not permissible to require a single supplier to provide both tars and asphalts.

(iii) When tar is to be bid, it is not permissible to specify coal tar or to specify water tar.

(4) Liquid asphalt shall be purchased by one of the following:

(i) Weight.

(ii) Volume (gallons or liters) at 60°F or 15.5°C. Use the conversion table contained in the Department Bulletin 25, Publication #27.

(c) *Bonds.* On purchases over \$10,000, suppliers shall provide bonds in accordance with the following chart:

	<i>First, Second, & 2A-Class Cities</i>	<i>Third Class Cities</i>	<i>Boroughs</i>	<i>First Class Townships</i>	<i>Second Class Townships</i>
Bid Bond	*	Discretionary with council in a reasonable amount. (53 P. S. § 36901(f))	Discretionary with council, in an amount determined by council. (53 P. S. § 46402(b)(1))	Not required	Not required
Performance Bond	*	Bond or irrevocable letter of credit, in amount sufficient to council, furnished within 20 days, but not less than 10 days, of award as specified by council. (53 P. S. § 36901(g))	At council's discretion. If required, not less than 10% or greater than 100%, furnished within 20 days, but not less than 10 days, of award as specified by council. (53 P. S. § 46402(c))	Not less than 10% or greater than 100%, furnished within 20 days, but not less than 10 days, of award as specified by township commissioners. (53 P. S. § 56802(c))	Not less than 10% or greater than 100%, as specified by township supervisors, furnished within 20 days of award. (53 P. S. § 68102(g))

* See appropriate municipal code or charter.

NOTE: The Public Works Contractors' Bond Law of 1967 may supersede requirements of municipal codes. Consult the appropriate statutes or consult with the appropriate municipal solicitor, or both, regarding bonding requirements for a particular contract or project.

(d) *Annual estimate of materials.* Each municipality shall make an annual estimate of its requirements of road construction and maintenance materials, and shall advertise for bids on all items and groups of like items ordinarily supplied by a single supplier—see subsection (b)(3)—which are estimated to exceed \$10,000 for the year. For materials estimates between \$4,000 and \$10,000, three telephone price quotes shall be obtained prior to the selection of a supplier. In lieu of the price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors service the market area within which it is practicable to obtain quotations until a satisfactory audit of the contract is completed by the Department of the Auditor General. If the cost during the year of an unadvertised item or group of like items ordinarily supplied by a single supplier exceeds \$10,000, or if the cost was between \$4,000 and \$10,000 and three price quotes were not obtained, the entire cost shall be ineligible for payment from the Liquid Fuels Tax fund unless it can be shown to the satisfaction of the Secretary that it was reasonably believed that the cost of the year's requirements of that item or group of like items would not exceed \$10,000 or be between \$4,000 and \$10,000 as specified in this section.

(e) *Purchases through Department of General Services or intergovernmental agencies.* Advertising, bidding and bonding requirements do not apply to "piggy back" purchases from suppliers under contracts with the Department of General Services or intergovernmental agencies. Compliance by an intergovernmental agency with the advertising and bonding requirements in this chapter shall be sufficient to relieve a municipality cooperating in the same purchasing agreement from compliance with the advertising, bidding and bonding requirements.

(f) *Purchases of gasoline subject to Federal Energy Administration regulations.* Advertising, bidding and bonding requirements do not apply to gasoline purchases which Federal Energy Administration regulations require be made from specified suppliers if a municipality utilizes 84,000 gallons or more a year.

§ 449.8. Equipment rental.

(a) *General rule.* A contract in excess of \$10,000 for the rental of equipment shall be advertised, bid and bonded

and a contract between \$4,000 and \$10,000 shall be awarded only after three telephone price quotes are obtained, unless the work is performed by the municipality's own employee forces. For contracts between \$4,000 and \$10,000, in lieu of the price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors service the market area within which it is practicable to obtain quotations until a satisfactory audit of the contract is completed by the Department of the Auditor General.

(1) The advertisement shall contain a reasonably complete description of the type of equipment, approximate length of time the equipment will be required and whether the equipment shall be provided with operators.

(2) The proposal shall contain the approximate number of hours, days, and the like that the equipment will be required, as reasonably estimated by the municipality.

(3) Annual contracts for equipment rental and labor shall be permitted.

(4) On equipment rental contracts over \$10,000, suppliers shall provide bonds in accordance with the chart in § 449.7(c) (relating to purchase of materials and equipment).

(5) If rented equipment is subsequently purchased, any rental paid in excess of an annual rate of 25% of the value of the equipment shall be regarded as a part of the purchase price in determining if the purchase must be advertised and bid.

(b) *"Local forces" defined.* "Local forces" are defined as follows:

(1) For the local forces exception to apply to equipment rented with operators, it must be shown that more than one half of the total man-hours of work on the project will be performed by municipal employees.

(2) Bona fide temporary employees of the municipality shall be counted as municipal employees. Employees of a contractor placed on the payroll of a municipality for the duration of a project will not be recognized as municipal employees.

(3) To substantiate a determination that a project is a local forces job, all man-hours shall be identified on payroll records.

(c) *Lease-purchase contracts of equipment.* When equipment is rented for general street and highway construction and maintenance use, rather than for a particular project, it may be desirable to enter into a lease containing a purchase option.

(1) If the total amount of the lease-purchase agreement, including trade-in allowance, all rentals and the amount paid under the purchase option exceeds \$10,000, advertising, bidding and a performance bond are required.

(2) The only Liquid Fuels Tax funds which may be used for a lease-purchase agreement is the 20% portion reserved for the purchase of equipment.

(3) Equipment purchased with Liquid Fuels Tax funds shall be used primarily for street and highway use.

§ 449.9. Construction and maintenance contracts.

(a) *Cost comparison.* Before deciding to pave a road or street by purchasing materials and renting equipment with operators, the municipality should compare the cost of having the job done by contract.

(b) *Advertisement.* The advertisement for a construction or maintenance contract shall contain a reasonably complete description of the project, including the scope of the project and the type of work involved, as well as bond requirements as indicated in subsection (f).

(c) *Proposal.* The proposal shall contain the approximate number of tons or square yards of materials, or the

metric equivalents, required, as reasonably estimated by the municipality. The bidder shall insert:

- (1) The unit price of each item.
- (2) The total price for each item (quantity × unit price).
- (3) The total price for any group of items, as to which the proposal requires a total or subtotal.

(d) *Lump sum bids.* In special cases, the Director of the Bureau of Municipal Services of the Department may approve lump sum bids in lieu of the procedure in subsection (c).

(e) *Prevailing wage requirements.* If the estimated cost of a construction contract, as defined in the memorandum of understanding between the Department, the Department of Labor and Industry and the former Department of Justice exceeds \$25,000, the municipality shall:

(1) Determine the prevailing minimum wage rates from the Prevailing Minimum Wage Division of the Department of Labor and Industry.

(2) Indicate in the advertisement issued for the purpose of securing bids for the contract that prevailing wage rates shall be paid on the project.

(3) Specify the prevailing minimum wage rates in the bid proposals for the contract.

(f) *Bonds.* Construction and maintenance contractors are required to provide bonds in accordance with the following chart:

BOND REQUIREMENTS FOR CONSTRUCTION AND MAINTENANCE

	<i>First, Second, & 2A-Class Cities</i>	<i>Third Class Cities</i>	<i>Boroughs</i>	<i>First Class Townships</i>	<i>Second Class Townships</i>
Bid Bond	*	Requirement and reasonable amount discretionary with council. (53 P. S. § 36901(f))	Discretionary with council, in an amount determined by council. (53 P. S. § 46402(b)(1))	Not required	Not required
Performance Bond over \$10,000	*	Bond or irrevocable letter of credit, in amount sufficient to council, furnished within 20 days, but not less than 10 days, of award as specified by council. (53 P. S. § 36901(g))	At council's discretion. If required, not less than 10% or greater than 100%, furnished within 20 days, of award as specified by Council. (53 P. S. § 46402(c))	Not less than 10% or greater than 100%, furnished within 20 days, but not less than 10 days, of award as specified by township commissioners. (53 P. S. § 56802(c))	Not less than 10% or greater than 100%, as specified by township supervisors, furnished within 20 days of award. (53 P. S. § 68102(g))
Payment Bond over \$1,500	*	50% to 100% at discretion of city. (53 P. S. § 36907)	50% to 100% at discretion of the borough. (53 P. S. § 46406)	50% to 100% at discretion of the township. (53 P. S. § 56804)	Not required unless covered under the Public Works Contractors' Bond Law of 1967. (53 P. S. § 68105)

* See appropriate municipal code or charter.

NOTE: The Public Works Contractors' Bond Law of 1967 may supersede requirements of municipal codes. Please consult the appropriate statutes or consult with the appropriate municipal solicitor, or both, regarding bonding requirements for a particular contract or project.

(g) *Payment of engineering fees.* Reasonable engineering fees in connection with any contract made by a municipality under this chapter shall be payable out of the Liquid Fuels Tax fund of the municipality. Any fees in excess of 10% of the total contract price shall be docu-

mented and justified to the satisfaction of the Department.

§ 449.11. Twenty percent funds.

(a) *Accumulation of 20% funds.* A municipality may

accumulate its road machinery and road equipment funds—20% funds—over a period of years subject to the following limitations:

(1) The full amount of 20% funds to be carried over from one year to the next shall be on deposit in the Liquid Fuels Tax account at the end of the calendar year, and shall be carried as part of the maintenance fund balance as reported on Form MS-965.

(2) If 20% funds are accumulated in an amount in excess of 100% of the most recent Liquid Fuels Tax allotment, the municipal budget shall indicate the kind of road machinery or road equipment which the municipality plans to purchase.

(b) *Payment of loans with 20% funds.* Loans or bond issues made to finance the purchase of road machinery and road equipment may be repaid from 20% funds.

(c) *Reimbursement of general fund expenditures with 20% funds.* Expenditures from the general fund made to finance the purchase of road machinery and road equipment purchased on or after August 6, 1971, may be reimbursed from 20% funds in the same or subsequent years.

§ 449.12. Annual qualification.

(a) *Requirements.* To qualify for its annual Liquid Fuels Tax allocation, each municipality shall submit to the Department the following documents and information:

(1) Evidence that its treasurer is bonded in accordance with law, or that its treasurer is a bank requiring no bond. This information is due on or before January 31 each year and shall be submitted on Department Form MS-965.

(2) A report indicating the manner in which its liquid fuels tax allocation was expended in the preceding year, the manner in which it plans to expend its Liquid Fuels Tax allocation in the current year and the amount of funds for road and street purposes to be raised by the levying of taxes in the current year. This information shall be due on or before January 31 each year on Department Form MS-965.

(3) A report of all elected and appointed officials, indicating the official and address to which Liquid Fuels Tax allocations and correspondence shall be forwarded. This information is due on or before January 31 each year and shall be submitted on the appropriate Department of Community and Economic Development forms:

(i) Form DCED-CLGS-19-2 for Cities.

(ii) Form DCED-CLGS-19-3 for Boroughs.

(iii) Form DCED-CLGS-19-4 for First Class Townships.

(iv) Form DCED-CLGS-19-5 for Second Class Townships.

(4) A copy of Form DCED-CLGS-69 (survey of financial condition). This completed form must be received by the Department of Community and Economic Development by March 15 each year.

(b) *Waiver.* The Secretary, for good cause, may waive any of these requirements as prerequisites to qualification for the annual Liquid Fuels Tax allocation.

[Pa.B. Doc. No. 03-922. Filed for public inspection May 16, 2003, 9:00 a.m.]