

CITY OF NEW CASTLE
LAWRENCE COUNTY
37-301

LIQUID FUELS TAX FUND
EXAMINATION REPORT

FOR THE YEAR ENDED
DECEMBER 31, 2008

CONTENTS

	<u>Page</u>
Background.....	1
Independent Auditor's Report	3
Financial Section:	
2008 Form MS-965 With Adjustments	7
Notes To Form MS-965 With Adjustments	10
Finding And Recommendations:	
Finding - Purchases Over \$10,000.00 In Noncompliance With Advertising And Bidding Requirements	15
Comment.....	18
Summary Of Exit Conference.....	19
Report Distribution	21

CITY OF NEW CASTLE
LAWRENCE COUNTY
LIQUID FUELS TAX FUND
BACKGROUND
FOR THE YEAR ENDED
DECEMBER 31, 2008

Background

The Liquid Fuels Tax Municipal Allocation Law, Title 72 P.S. § 2615.5, provides municipalities other than counties (townships, boroughs, cities, towns, home rule, and optional plan governments) with an annual allocation of liquid fuels taxes from the state's Motor License Fund to be used for the maintenance and repair of streets, roads, and bridges for which the municipality is responsible. The allocation of these funds to municipalities is based: (1) 50 percent on the municipality's proportion of local road mileage to the total local road mileage in the state, and (2) 50 percent on the proportion of a municipality's population to the total population in the state.

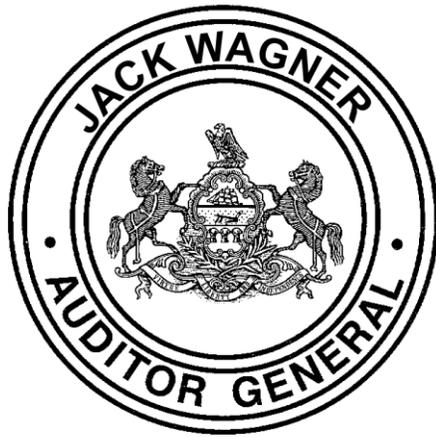
The Vehicle Code, Title 75 P.S. § 9511, provides municipalities with annual maintenance payments to be received from the Motor License Fund for functionally local highways that were transferred to a municipality from the Commonwealth of Pennsylvania.

Each municipality must deposit the Liquid Fuels Tax Fund money and annual maintenance payments that it receives into a special fund called the Municipal Liquid Fuels Tax Fund or State Fund. A municipality may not deposit any other monies into this fund except when the municipality does not have enough money in the special fund to meet the payments called for by its current annual budget for road and bridge purposes. In this case, the municipality may borrow money or transfer money from its General Fund to its Liquid Fuels Tax Fund.

The Department of Transportation has been given the regulatory authority for the administration of these funds. To qualify for its annual allocation, each municipality shall submit the following documents and information to the Department of Transportation:

1. Evidence that the treasurer is bonded in accordance with the law, or that its treasurer is a bank requiring no bond by January 31 of each year.
2. A report indicating the manner in which its liquid fuels tax allocation was expended in the previous year (Form MS-965) by January 31 of each year.
3. A report of elected and appointed officials by January 31 of each year.
4. A Survey of Financial Condition by March 15 of each year.

Department of Transportation *Publication 9* contains the policies and procedures that govern the use of Liquid Fuels Tax Fund money. However, if there is a difference between *Publication 9* and any legislation, the legislation shall govern.



Independent Auditor's Report

The Honorable Allen D. Biehler, P.E.
Secretary
Department of Transportation
Harrisburg, PA 17120

We examined the accompanying Forms MS-965 With Adjustments for the Liquid Fuels Tax Fund of the City of New Castle, Lawrence County, for the year ended December 31, 2008. The municipality's management is responsible for the Forms MS-965. Our responsibility is to express an opinion on the Forms MS-965 With Adjustments based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. An examination includes examining, on a test basis, evidence supporting the City of New Castle, Lawrence County's Forms MS-965 for the year ended December 31, 2008 and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

We are mandated by Section 403 of *The Fiscal Code*, 72 P.S. § 403, to audit each municipality's Liquid Fuels Tax Fund to ensure that funds received are expended in accordance with applicable laws and regulations. *Government Auditing Standards* issued by the Comptroller General of the United States include attestation engagements as a separate type of audit. An attestation engagement performed pursuant to *Government Auditing Standards* involves additional standards that exceed the standards provided by the American Institute of Certified Public Accountants. Accordingly, this attestation engagement complies with both *Government Auditing Standards* and Section 403 of *The Fiscal Code*.

As described in Note 4, the adjustments included on the Forms MS-965 With Adjustments are made by the Department of the Auditor General.

As discussed in the Finding and Recommendations section of this report, the city expended \$28,458.77 from the Liquid Fuels Tax Fund for patching materials without advertising for bids.

Independent Auditor's Report (Continued)

In our opinion, except for the matter discussed in the preceding paragraph, the Forms MS-965 With Adjustments present, in all material respects, the information required by the Pennsylvania Department of Transportation for the Liquid Fuels Tax Fund of the City of New Castle, Lawrence County, for the year ended December 31, 2008, in conformity with the criteria set forth in Note 1.

In accordance with *Government Auditing Standards*, we are required to report findings of significant deficiencies in internal control, violations of provisions of contracts or grant agreements, and abuse that are material to the Forms MS-965 and any fraud and illegal acts that are more than inconsequential that come to our attention during our examination. We are also required to obtain the views of management on those matters. We performed our examination to express an opinion on whether the Forms MS-965 are presented in accordance with the criteria described above and not for the purpose of expressing an opinion on the internal control over reporting on the Forms MS-965 or on compliance and other matters; accordingly, we express no such opinions.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the City of New Castle, Lawrence County's ability to initiate, authorize, record, process, or report data reliably in accordance with the applicable criteria such that there is more than a remote likelihood that a misstatement of the City of New Castle, Lawrence County's Forms MS-965 that is more than inconsequential will not be prevented or detected by the City of New Castle, Lawrence County's internal control.

A material weakness is a significant deficiency or combination of significant deficiencies that results in more than a remote likelihood that a material misstatement of the Forms MS-965 will not be prevented or detected by the City of New Castle, Lawrence County's internal control.

Our consideration of internal control over reporting on the Forms MS-965 was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any significant deficiencies or material weaknesses, as defined above, in internal control over reporting on the Forms MS-965.

Independent Auditor's Report (Continued)

The results of our tests disclosed the following instance of noncompliance that is required to be reported under *Government Auditing Standards*:

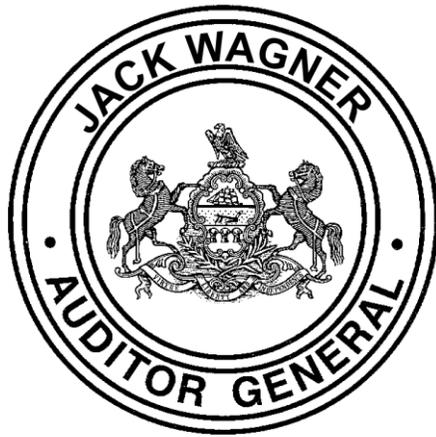
- Purchases Over \$10,000.00 In Noncompliance With Advertising And Bidding Requirements.

We are concerned in light of the municipality's failure to correct a previously reported finding regarding purchases over \$10,000.00 in noncompliance with advertising and bidding requirements. The municipality should strive to implement the recommendations and corrective actions noted in this report.

This report is intended solely for the information and use of the Pennsylvania Department of Transportation and the management of City of New Castle, Lawrence County and is not intended to be and should not be used by anyone other than these specified parties.

September 1, 2009

JACK WAGNER
Auditor General



CITY OF NEW CASTLE
LAWRENCE COUNTY
LIQUID FUELS TAX FUND
2008 FORM MS-965 – SECTION 1
WITH ADJUSTMENTS

<u>Expenditure Summary</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
Major equipment purchases	\$ -	\$ -	\$ -
Minor equipment purchases	-	-	-
Computer/Computer related training	-	-	-
Agility projects	-	-	-
Cleaning streets and gutters	-	-	-
Winter maintenance services	140,800.92	-	140,800.92
Traffic control devices	-	-	-
Street lighting	387,744.23	-	387,744.23
Storm sewers and drains	-	-	-
Repairs of tools and machinery	-	-	-
Maintenance and repair of roads and bridges	28,458.77	-	28,458.77
Highway construction and rebuilding projects	-	-	-
Miscellaneous (Note 6)	-	75,076.92	75,076.92
 Total (To Section 2, Line 5)	 <u>\$ 557,003.92</u>	 <u>\$ 75,076.92</u>	 <u>\$ 632,080.84</u>

Notes to Form MS-965 With Adjustments are an integral part of this report.

CITY OF NEW CASTLE
LAWRENCE COUNTY
LIQUID FUELS TAX FUND
2008 FORM MS-965 – SECTION 2
WITH ADJUSTMENTS

<u>Fund Balance</u>	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
1. Balance, January 1, 2008	\$ 4,177.08	\$ -	\$ 4,177.08
Receipts:			
2. State allocation	578,654.59	-	578,654.59
2a. Turnback allocation	5,760.00	-	5,760.00
2b. Interest on investments (Note 3)	2,511.50	-	2,511.50
2c. Miscellaneous (Note 5)	-	75,076.92	75,076.92
3. Total receipts	<u>586,926.09</u>	<u>75,076.92</u>	<u>662,003.01</u>
4. Total funds available	<u>591,103.17</u>	<u>75,076.92</u>	<u>666,180.09</u>
5. Expenditures (Section 1)	<u>557,003.92</u>	<u>75,076.92</u>	<u>632,080.84</u>
6. Balance, December 31, 2008	<u>\$ 34,099.25</u>	<u>\$ -</u>	<u>\$ 34,099.25</u>

Notes to Form MS-965 With Adjustments are an integral part of this report.

CITY OF NEW CASTLE
LAWRENCE COUNTY
LIQUID FUELS TAX FUND
2008 FORM MS-965 – SECTION 3
WITH ADJUSTMENTS

<u>Equipment Balance</u>	<u>Reported</u>	<u>Adjustments</u>	<u>Adjusted Amount</u>
1. Prior year equipment balance	\$ 4,177.08	\$ -	\$ 4,177.08
2. Add: Current year equipment allocation (20% of Lines 2 + 2a, Section 2)	116,882.92	-	116,882.92
3. PENNDOT approved adjustments	-	-	-
4. Total funds available for equipment acquisition	121,060.00	-	121,060.00
5. Less: Major equipment expenditures	-	-	-
6. Remainder	<u>121,060.00</u>	<u>-</u>	<u>121,060.00</u>
7. Equipment balance available for subsequent year (Lesser of Line 6 or Section 2 balance, but not less than zero)	<u>\$ 34,099.25</u>	<u>\$ -</u>	<u>\$ 34,099.25</u>

Notes to Form MS-965 With Adjustments are an integral part of this report.

CITY OF NEW CASTLE
LAWRENCE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORM MS-965 WITH ADJUSTMENTS
FOR THE YEAR ENDED
DECEMBER 31, 2008

1. Criteria

Section 1

This section of Form MS-965 With Adjustments provides a summary of Liquid Fuels Tax Fund expenditures by category. Categories requiring explanation include:

- Major equipment purchases are purchases of road machinery and road equipment that cost in excess of \$4,000.00.
- Minor equipment purchases are purchases of road machinery and road equipment that cost \$4,000.00 or less.
- Agility projects are exchanges of services with the Department of Transportation.

Section 2

This section of Form MS-965 With Adjustments provides information on the fund balance. Categories requiring explanation include:

- The state allocation is generally received from the Department of Transportation during the first week in April of each year. The amount the municipality receives is based half on its population and half on its road mileage.
- The turnback allocation is generally received from the Department of Transportation during the first week in April of each year. A municipality receives a yearly turnback allocation based on road mileage for all roads that were transferred to the municipality from the Commonwealth of Pennsylvania through the Highway Transfer Program.
- Expenditures include the total transferred from Section 1.

Section 3

This section of Form MS-965 With Adjustments determines if the municipality expended Liquid Fuels Tax Fund money in excess of the permissible amount for equipment and the balance that the municipality may carry forward for the purchase of equipment to the subsequent year.

CITY OF NEW CASTLE
LAWRENCE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORM MS-965 WITH ADJUSTMENTS
FOR THE YEAR ENDED
DECEMBER 31, 2008

1. Criteria (Continued)

Section 3 (Continued)

Department of Transportation *Publication 9* requires that the amount expended for equipment purchases in a given year not exceed the sum of the equipment balance carried forward from the previous year and 20 percent of the current year's Liquid Fuels Tax Fund allocation and, if applicable, 20 percent of the turnback allocation plus other Department of Transportation approved adjustments.

If the municipality spent in excess of the amount listed on Line 4, the excess must be reimbursed to the Liquid Fuels Tax Fund.

The equipment balance to be carried forward for the subsequent year is the lesser of the amount on Line 6 or the ending fund balance on Line 6 of Section 2, but not less than zero.

Basis Of Presentation

The financial activities of the municipality are accounted for in separate funds. The Liquid Fuels Tax Fund is used to account for state aid revenues from the Pennsylvania Department of Transportation used primarily for building and improving local roads and bridges. The Form MS-965 has been prepared in accordance with reporting requirements prescribed by the Pennsylvania Department of Transportation as a result of the Fuels Tax Act 655, dated 1956 and as amended, which does not constitute a complete presentation of the entity's assets, liabilities, expenses, and fund balance. Accordingly, the presentation of Form MS-965 With Adjustments is restricted to the Liquid Fuels Tax Fund, which represents a segment of the entity.

Basis Of Accounting

The accompanying Form MS-965 With Adjustments is prepared in accordance with reporting requirements prescribed by the Pennsylvania Department of Transportation. Under this method, revenues are recognized when received and expenditures are recorded when paid.

CITY OF NEW CASTLE
LAWRENCE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORM MS-965 WITH ADJUSTMENTS
FOR THE YEAR ENDED
DECEMBER 31, 2008

1. Criteria (Continued)

General Fixed Assets

General fixed assets are recognized as expenditures at the time of purchase. No depreciation has been provided on the heavy equipment used to maintain and repair roads and bridges.

2. Deposits

The Third Class City Code, Title 53 P.S § 36804.1, authorizes the city to deposit its funds in the following:

- Deposits in savings accounts or time deposits, other than certificates of deposit or share accounts of institutions having their principal place of business in the Commonwealth of Pennsylvania and insured by the Federal Deposit Insurance Corporation (FDIC) or other like insurance. For any amount above the insured maximum, the depository shall pledge approved collateral.
- Certificates of deposit purchased from institutions insured by the FDIC or other like insurance to the extent that such accounts are so insured. For any amounts in excess of the insured maximum, such deposits shall be collateralized by a pledge or assignment of assets. Certificates of deposit may not exceed 20 percent of a bank's total capital surplus or 20 percent of a savings and loan's or savings bank's assets minus liabilities.

Deposits consist of receipts and deposits in a financial institution. Pennsylvania statutes require all deposits to be insured and, for any amount above the insured maximum, to be secured with approved collateral as defined.

There were no deposits exposed to custodial credit risk as of December 31, 2008. Custodial credit risk, as defined by GASB No. 40, includes deposits that are not covered by depository insurance and the deposits are uncollateralized, collateralized with securities held by the pledging financial institution, or collateralized with securities held by the pledging financial institution's trust department or agent but not in the municipality's name.

CITY OF NEW CASTLE
LAWRENCE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORM MS-965 WITH ADJUSTMENTS
FOR THE YEAR ENDED
DECEMBER 31, 2008

2. Deposits (Continued)

Fund Balance

The fund balance consists of the following:

Cash	<u>\$34,099.25</u>
------	--------------------

3. Interest On Investments

Our examination disclosed that the municipality deposited idle liquid fuels tax money in an interest-bearing account which earned \$2,511.50 during 2008, thus providing additional funds for road maintenance and repairs.

4. Adjustments

Section 1

An adjustment of \$75,076.92 was made to “Miscellaneous” expenditures because check No. 1325 and bank service charges were not reported (see Note 6).

Section 2

An adjustment of \$75,076.92 was made to “Miscellaneous” because these receipts were not reported.

5. Miscellaneous Receipts

The following miscellaneous receipts were deposited into the Liquid Fuels Tax Fund during the examination period:

Source	Description	Amount
General Fund	Temporary loans (Note 7)	\$75,058.76
Financial institution	Refund of bank service charges	18.16
Total		<u>\$75,076.92</u>

CITY OF NEW CASTLE
LAWRENCE COUNTY
LIQUID FUELS TAX FUND
NOTES TO FORM MS-965 WITH ADJUSTMENTS
FOR THE YEAR ENDED
DECEMBER 31, 2008

6. Miscellaneous Expenditures

The following miscellaneous expenditures were paid from the Liquid Fuels Tax Fund during the examination period:

<u>Payee</u>	<u>Description</u>	<u>Amount</u>
General Fund	Repayment of temporary loans (Note 7)	\$75,058.76
Financial institution	Bank service charges	18.16
Total		<u>\$75,076.92</u>

7. Temporary Loans

During the examination period, the city made temporary loans totaling \$75,058.76 from its General Fund to its Liquid Fuels Tax Fund to pay current invoices. The temporary loans were as follows:

<u>Date</u>	<u>Amount</u>
01/22/08	\$ 2,133.00
02/19/08	13,599.17
03/04/08	28,313.36
04/11/08	31,013.23
Total	<u>\$75,058.76</u>

On May 5, 2008, the city transferred \$75,058.76 from its Liquid Fuels Tax Fund to its General Fund to repay the loans.

CITY OF NEW CASTLE
LAWRENCE COUNTY
LIQUID FUELS TAX FUND
FINDING AND RECOMMENDATIONS
FOR THE YEAR ENDED
DECEMBER 31, 2008

Finding - Purchases Over \$10,000.00 In Noncompliance With Advertising And Bidding Requirements

Our examination disclosed that the city expended \$28,458.77 from the Liquid Fuels Tax Fund for the purchase of patching materials without advertising for bids. These expenditures were as follows:

<u>Invoice Number</u>	<u>Invoice Date</u>	<u>Check Number</u>	<u>Check Date</u>	<u>Amount</u>
453641	01/25/08	1320	02/11/08	\$ 2,181.20
80304018	03/05/08	1324	04/11/08	1,503.61
80317030	03/18/08	1324	04/11/08	1,463.48
80312034	03/13/08	1324	04/11/08	1,501.14
80324003	03/25/08	1327	05/02/08	1,505.47
80327035	03/28/08	1327	05/02/08	1,503.61
80402023	04/03/08	1327	05/02/08	1,501.14
80409007	04/10/08	1327	05/02/08	1,655.03
80415001	04/16/08	1327	05/02/08	1,653.00
80422011	04/24/08	1328	05/09/08	1,662.50
455198	03/14/08	1329	05/30/08	1,160.32
80505015	05/06/08	1330	05/30/08	1,655.03
80519006	05/20/08	1332	08/08/08	1,690.22
80619008	06/20/08	1332	08/08/08	1,688.97
80714001	07/15/08	1332	08/08/08	1,900.29
23440	04/30/08	1336	10/30/08	77.19
25657	08/21/08	1336	10/30/08	217.17
81009001	10/10/08	1337	10/30/08	1,925.38
81030014	10/31/08	1338	11/20/08	1,967.52
26673	10/20/08	1339	12/03/08	46.50
2008 Total				<u>\$28,458.77</u>

The above purchases were not made in compliance with the advertising, bidding, and contract requirements of *The Third Class City Code*, 53 P.S. § 36901(b), (also found at § 1901 of *The Third Class City Code* as published by the Local Government Commission), which requires that purchases over \$10,000.00 must be advertised, bid, and awarded by contract. *The Third Class City Code*, 53 P.S. § 36902, and § 1902 of *The Third Class City Code* as published by the Local Government Commission further states that advertising, bidding and contract requirements should not be evaded through piecemeal purchases.

CITY OF NEW CASTLE
LAWRENCE COUNTY
LIQUID FUELS TAX FUND
FINDING AND RECOMMENDATIONS
FOR THE YEAR ENDED
DECEMBER 31, 2008

Finding - Purchases Over \$10,000.00 In Noncompliance With Advertising And Bidding Requirements (Continued)

In addition, the above purchases were not made in compliance with the Department of Transportation's *Publication 9*, Appendix D, Section 449.7(d), which states, in part:

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 . . . which are estimated to exceed \$10,000 for the year If the cost during the year of an unadvertised item or group of like items ordinarily supplied by a single supplier exceeds \$10,000 . . . 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 [of the Department of Transportation] 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

The failure to follow *The Third Class City Code* and the Department of Transportation's *Publication 9* could result in the city having to reimburse \$28,458.77 to its Liquid Fuels Tax Fund.

A similar finding was also written in our prior report (see Comment).

Recommendations

We recommend that the city reimburse \$28,458.77 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

Further we again recommend that, in the future, the city comply with *The Third Class City Code* and the Department of Transportation's *Publication 9* as noted in this finding.

CITY OF NEW CASTLE
LAWRENCE COUNTY
LIQUID FUELS TAX FUND
FINDING AND RECOMMENDATIONS
FOR THE YEAR ENDED
DECEMBER 31, 2008

Finding - Purchases Over \$10,000.00 In Noncompliance With Advertising And Bidding Requirements (Continued)

Management's Response

The city officials stated:

The finding for the 2006-2007 audit was received in May of 2008 via the exit conference. We received official notification from PENNDOT in 2009.

We are aware of the issue and will work with Council and Mayor to develop a schedule (timeline) in bidding out both hot and cold patch annually.

Auditor's Conclusion

During our next examination we will determine if the municipality complied with our recommendations.

CITY OF NEW CASTLE
LAWRENCE COUNTY
LIQUID FUELS TAX FUND
COMMENT
FOR THE YEAR ENDED
DECEMBER 31, 2008

Comment - Summary Of Prior Examination Recommendations

In our prior report we recommended that the Department of Transportation review our examination finding to determine if the municipality should reimburse \$30,917.16 to its Liquid Fuels Tax Fund. This amount consists of \$20,947.18 for noncompliance with advertising and bidding requirements and \$9,969.98 for a failure to maintain documentation for price quotations. A finding for purchases over \$10,000.00 in noncompliance with advertising and bidding requirements was also written in our current report.

During our current examination we reviewed a letter dated February 13, 2009, from the Department of Transportation informing the municipality to reimburse \$30,917.16 to its Liquid Fuels Tax Fund. We noted that the municipality reimbursed this amount to its Liquid Fuels Tax Fund on March 4, 2009, which was subsequent to our examination period.

In our prior report we also recommended that the city comply with the *Third Class City Code* and the Department of Transportation's *Publication 9* by advertising for bids for all purchases over \$10,000.00.

During our current examination we noted that the municipality complied with our recommendation.

CITY OF NEW CASTLE
LAWRENCE COUNTY
LIQUID FUELS TAX FUND
SUMMARY OF EXIT CONFERENCE
FOR THE YEAR ENDED
DECEMBER 31, 2008

An exit conference was held September 1, 2009. Those participating were:

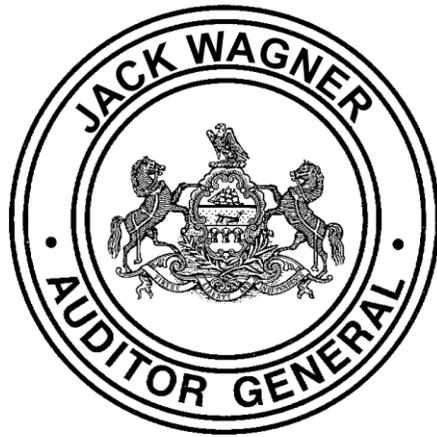
CITY OF NEW CASTLE

Ms. Stephanie Dean, Chief Financial Officer
Ms. Tamara Gibson, Business Administrator
Mr. Joshua D. Latore, Finance Clerk

DEPARTMENT OF THE AUDITOR GENERAL

Mr. James P. Adams, Auditor

The results of the examination were presented and discussed in their entirety.



CITY OF NEW CASTLE
LAWRENCE COUNTY
LIQUID FUELS TAX FUND
REPORT DISTRIBUTION
FOR THE YEAR ENDED
DECEMBER 31, 2008

This report was initially distributed to:

The Honorable Allen D. Biehler, P.E.
Secretary
Department of Transportation

City of New Castle
Lawrence County
230 North Jefferson Street
New Castle, PA 16101-2220

The Honorable Karen DeCarlo

President of Council

Ms. Stephanie Dean

Chief Financial Officer

Mr. Joshua D. Latore

Finance Clerk

This report is a matter of public record. Copies of this report may be obtained from the Pennsylvania Department of the Auditor General, Office of Communications, 318 Finance Building, Harrisburg, PA 17120. To view this report online or to contact the Department of the Auditor General, please access our web site at www.auditorgen.state.pa.us.