

# ATTESTATION ENGAGEMENT

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Perry County

Pennsylvania

50-000

Liquid Fuels, ACT 44,  
and ACT 89 Tax Funds

For the Period

January 1, 2015 to December 31, 2015

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April 2017



Commonwealth of Pennsylvania  
Department of the Auditor General

Eugene A. DePasquale • Auditor General

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EUGENE A. DePASQUALE  
AUDITOR GENERAL

### Independent Auditor's Report

The Honorable Leslie Richards  
Secretary  
Department of Transportation  
Harrisburg, PA 17120

We examined the accompanying Form MS-991 With Adjustments for the Liquid Fuels Tax Fund and the Reports of Act 44 and Act 89 Tax Funds With Adjustments of Perry County for the period January 1, 2015 to December 31, 2015. The county's management is responsible for presenting the Form MS-991 and the Reports of Act 44 and Act 89 Tax Fund, in accordance with the criteria set forth in Note 1. Our responsibility is to express an opinion on the Form MS-991 With Adjustments and the Reports of Act 44 and Act 89 Tax Funds 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. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the Form MS-991 and Reports of Act 44 and Act 89 Tax Funds are fairly stated based on the criteria, in all material respects. An examination involves performing procedures to obtain evidence about the Form MS-991 and Reports of Act 44 and Act 89 Tax Funds. The nature, timing and extent of the procedures selected depend on our judgement, including an assessment of the risks of material misstatement of the Form MS-991 and Reports of Act 44 and Act 89 Tax Funds, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our opinion.

We are mandated by Section 403 of *The Fiscal Code*, 72 P.S. § 403, to audit each county's Liquid Fuels, Act 44, and Act 89 Tax Funds 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*.

### Independent Auditor's Report (Continued)

As described in Note 4, the adjustments included on the Form MS-991 With Adjustments and the Reports of Act 44 and Act 89 Tax Funds With Adjustments are made by the Department of the Auditor General.

As discussed in Finding No. 1, the county expended \$77,965.99 from its Liquid Fuels Tax Fund for retroactive and nonpermissible expenditures. Additionally, as discussed in the Summary Of Prior Examination Recommendations section of this report, during our 2014 examination we recommended that the county reimburse \$30,162.25 to its Liquid Fuels Tax Fund and \$2,330.01 to its Act 44 Tax Fund for overexpending Liquid Fuels Tax Fund money on project No. M-12-50000-416. As of the exit conference date of this examination of February 22, 2017, the county had not reimbursed \$30,162.25 to its Liquid Fuels Tax Fund or \$2,330.01 to its Act 44 Tax Fund.

Although management of the municipality provided us with a management representation letter on the date of our exit conference of February 22, 2017, held at the county, they did not respond to our request for an updated management representation letter including the disclosure of any subsequent events that affected the Form MS-991 and Reports of Act 44 and Act 89 Tax Funds through the date of this report.

In our opinion, except for retroactive expenditures and nonpermissible expenditures, the county's failure to reimburse the Liquid Fuels Tax Fund and Act 44 Tax Fund for prior examination findings, and for the possible effects of the county's failure to provide an updated management representation letter, the Form MS-991 With Adjustments and the Reports of Act 44 and Act 89 Tax Funds With Adjustments present, in all material respects, the information required by the Pennsylvania Department of Transportation for the Liquid Fuels, Act 44, and Act 89 Tax Funds of Perry County for the period January 1, 2015 to December 31, 2015, in conformity with the criteria set forth in Note 1.

In accordance with *Government Auditing Standards*, we are required to report all deficiencies that are considered to be significant deficiencies or material weaknesses in internal control; fraud and noncompliance with provisions of laws or regulations that have a material effect on the Form MS-991 and the Reports of Act 44 and Act 89 Tax Funds; and any other instances that warrant the attention of those charged with governance; noncompliance with provisions of contracts or grant agreements, and abuse that has a material effect on the Form MS-991 and the Reports of Act 44 and Act 89 Tax Funds. We are also required to obtain and report the views of responsible officials concerning the findings, conclusions, and recommendations, as well as any planned corrective actions. We performed our examination to express an opinion on whether the Form MS-991 and the Reports of Act 44 and Act 89 Tax Funds 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 Form MS-991 and the Reports of Act 44 and Act 89 Tax Funds or on compliance and other matters; accordingly, we express no such opinions.

Independent Auditor's Report (Continued)

A *deficiency in internal control* 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 and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the Form MS-991 and the Reports of Act 44 and Act 89 Tax Funds will not be prevented, or detected and corrected, on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control over reporting on the Form MS-991 and the Reports of Act 44 and Act 89 Tax Funds was for the limited purpose of expressing an opinion on whether the Forms MS-991 and the Reports of Act 44 and Act 89 Tax Funds are presented in accordance with the criteria described above and would not necessarily identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our engagement we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

As part of obtaining reasonable assurance about whether the Form MS-991 and the Reports of Act 44 and Act 89 Tax Funds are free from material misstatement, we performed tests of Perry County's compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of amounts on the Form MS-991 and the Reports of Act 44 and Act 89 Tax Funds. However, providing an opinion on compliance with those provisions was not an objective of our engagement, and accordingly, we do not express such an opinion. The results of our tests disclosed the following instances of noncompliance that are required to be reported under *Government Auditing Standards*:

- Retroactive Expenditures/Nonpermissible Expenditures.
- Liquid Fuels Money Deposited Into The General Fund.

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

We appreciate the courtesy extended by Perry County to us during the course of our examination. If you have any questions, please feel free to contact Michael B. Kashishian, CPA, CGAP, CFE, Director, Bureau of County Audits, at 717-787-1363.



Eugene A. DePasquale  
Auditor General

March 13, 2017

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PERRY COUNTY  
LIQUID FUELS, ACT 44,  
AND ACT 89 TAX FUNDS  
BACKGROUND  
FOR THE PERIOD  
JANUARY 1, 2015 TO DECEMBER 31, 2015

Background

*The Vehicle Code* makes provisions and provides funding for County Liquid Fuels, Act 44, and Act 89 Programs. The Pennsylvania Department of Transportation has regulatory administration and oversight of the funds supporting these county programs. Counties are required to comply with those provisions and to report annually.

*The Vehicle Code* imposes a state tax on liquid fuels and fuels used or sold and delivered by distributors within the Commonwealth (75 Pa. C.S. § 9004(a)). One-half cent of the tax collected on each gallon of liquid fuels is deposited in the Commonwealth's Liquid Fuels Tax Fund. The Vehicle Code further provides for the disposition and use of this tax, including the allocations to counties in June and December of each year to fund construction, reconstruction, maintenance and repair of county roads, streets and bridges. The allocation to the respective counties is made in the ratio that the average amount returned to each county during the three preceding years bears to the average amount returned to all counties during the three preceding years (75 Pa C.S. § 9010).

*The Vehicle Code*, as amended by Act 44 of 2007 (July 18, 2007, P.L.169), requires the Pennsylvania Turnpike Commission to make annual contributions for the benefit of the Pennsylvania Department of Transportation's Motor License Fund, and further requires the Department of Transportation to distribute \$5,000,000 of the annual contribution to counties (75 Pa. C.S. § 8915.6). The annual distribution to counties is determined based upon the ratio of square footage of deck area of a county's county-owned bridges to the total square footage of deck area of county-owned bridges throughout the Commonwealth. The reporting of the square footage of deck area of a county's county-owned bridges is required as part of the National Bridge Inspection Standards Program.

*The Vehicle Code*, as amended by Act 89 of 2013 (November 25, 2013, P.L. 974, No.89) provides for semi-annual allocations to all counties that own public bridges (75 Pa. C.S. § 9502(a)(2)(iv)). These allocations are made on the first business day of June and December each year. The Commonwealth allocates the funds available through Act 89 to counties based upon the ratio of square footage of deck area of a county's county-owned bridges to the total square footage of deck area of county-owned bridges throughout the Commonwealth. The reporting of the square footage of deck area of a county's county-owned bridges is required as part of the National Bridge Inspection Standards Program.

PERRY COUNTY  
LIQUID FUELS TAX FUND  
2015 FORM MS-991 WITH ADJUSTMENTS

	Reported	Adjustments (Note 4)	Adjusted Amount
Balance, January 1, 2015	\$ 341,427.53	\$ -	\$ 341,427.53
<u>Receipts:</u>			
State allocations	82,970.31	-	82,970.31
Interest (Note 3)	667.73	-	667.73
Reimbursable agreements (Note 5)	73,449.48	-	73,449.48
Miscellaneous (Note 6)	250.00	126,559.17	126,809.17
	157,337.52	126,559.17	283,896.69
Total receipts	157,337.52	126,559.17	283,896.69
Total funds available	498,765.05	126,559.17	625,324.22
<u>Expenditures:</u>			
Construction	100,531.68	(12,614.30)	87,917.38
Maintenance and repair	115,218.20	12,614.30	127,832.50
Administrative	-	-	-
Grants to political subdivisions	-	-	-
Miscellaneous (Note 7)	-	126,559.17	126,559.17
	215,749.88	126,559.17	342,309.05
Total expenditures	215,749.88	126,559.17	342,309.05
Balance, December 31, 2015	283,015.17	-	283,015.17
Unpaid encumbrances (Note 8)	220,000.00	-	220,000.00
Unencumbered balance, December 31, 2015	\$ 63,015.17	\$ -	\$ 63,015.17

Notes To Form MS-991 and Reports of Act 44 and Act 89 Tax Funds With Adjustments are an integral part of this report.

PERRY COUNTY  
2015 REPORT OF ACT 44 TAX FUND  
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2015	\$ 104,690.73	\$ (18,620.90)	\$ 86,069.83
<u>Receipts:</u>			
Act 44 Funds	-	18,620.90	18,620.90
Interest (Note 3)	203.44	-	203.44
Reimbursable agreements	-	-	-
Miscellaneous	-	-	-
Total receipts	<u>203.44</u>	<u>18,620.90</u>	<u>18,824.34</u>
Total funds available	<u>104,894.17</u>	<u>-</u>	<u>104,894.17</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	-	-	-
Miscellaneous	-	-	-
Total expenditures	<u>-</u>	<u>-</u>	<u>-</u>
Balance, December 31, 2015	<u>\$ 104,894.17</u>	<u>\$ -</u>	<u>\$ 104,894.17</u>

Notes To Form MS-991 and Reports of Act 44 and Act 89 Tax Funds With Adjustments are an integral part of this report.



PERRY COUNTY  
2015 REPORT OF ACT 89 TAX FUND  
WITH ADJUSTMENTS

	<u>Reported</u>	<u>Adjustments (Note 4)</u>	<u>Adjusted Amount</u>
Balance, January 1, 2015	\$ -	\$ 13,168.70	\$ 13,168.70
<u>Receipts:</u>			
Act 89 Funds	42,295.41	(13,168.70)	29,126.71
Interest (Note 3)	37.45	-	37.45
Reimbursable agreements	-	-	-
Miscellaneous	-	-	-
Total receipts	<u>42,332.86</u>	<u>(13,168.70)</u>	<u>29,164.16</u>
Total funds available	<u>42,332.86</u>	<u>-</u>	<u>42,332.86</u>
<u>Expenditures:</u>			
Construction	-	-	-
Maintenance and repair	-	-	-
Miscellaneous	-	-	-
Total expenditures	<u>-</u>	<u>-</u>	<u>-</u>
Balance, December 31, 2015	<u><u>\$ 42,332.86</u></u>	<u><u>\$ -</u></u>	<u><u>\$ 42,332.86</u></u>

Notes To Form MS-991 and Reports of Act 44 and Act 89 Tax Funds With Adjustments are an integral part of this report.

PERRY COUNTY  
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS  
NOTES TO FORM MS-991 AND REPORTS OF  
ACT 44 AND ACT 89 TAX FUNDS WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2015 TO DECEMBER 31, 2015

1. Criteria

A. *The Vehicle Code* prescribes criteria for liquid fuels program funds (75 Pa C.S. § 9010). The Pennsylvania Department of Transportation's *Publication 9* provides more specific policies and procedures to counties for the administration and reporting of the liquid fuels program funds. In the event of any discrepancies between the two, the legislation governs.

(1) Funds received by the counties must be deposited in a special fund designated as the County Liquid Fuels Tax Fund and no other money may be deposited and commingled. Money should be invested to earn interest until expended.

- For purposes of payments under (2), below, the county may borrow and place in the special fund money not in excess of the liquid fuels tax funds to be received during the current calendar year.

(2) Payments from the special fund may be used for:

- construction, reconstruction, maintenance and repair of roads, highways, bridges and curb ramps from a road or highway to provide for access by individuals with disabilities consistent with Federal and State law;
- property damages and compensation of viewers for services in eminent domain proceedings involving roads, highways, and bridges;
- construction, reconstruction, operation and maintenance of publicly owned ferryboat operations;
- interest and principal payments on road, bridge, or publicly owned ferryboat operation bonds or sinking fund charges;
- acquisition, maintenance, repair and operation of traffic signs and signals;
- erection and maintenance of stop and go signal lights, blinkers and other like traffic control devices;
- indirect costs, including benefit costs, overhead and other administrative charges for those county employees directly engaged in eligible projects, not to exceed 10 percent of the yearly allocation to the county; and

PERRY COUNTY  
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS  
NOTES TO FORM MS-991 AND REPORTS OF  
ACT 44 AND ACT 89 TAX FUNDS WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2015 TO DECEMBER 31, 2015

1. Criteria (Continued)

- individual vehicle liability insurance for equipment purchased under the fund, not to exceed 10 percent of the yearly allocation to the county.
- (3) Counties may not make expenditures from the special fund for new construction on roads, bridges, curb ramps, or publicly owned ferryboat operations without the approval of the plans for construction by the Pennsylvania Department of Transportation. And, counties may not allocate money from the special fund to political subdivisions within the county until the application and the contracts or plans for the proposed expenditures have been made on a form prescribed by the Pennsylvania Department of Transportation.
- (4) Counties may encumber current funds for future road and bridge construction, reconstruction, and maintenance projects including viable municipal projects. Counties must redistribute any unencumbered balance in the special fund to political subdivisions if the unencumbered balance is more than the county's receipts during the preceding twelve month period.
- (5) Counties must submit a report to the Pennsylvania Department of Transportation by January 31 for the period ending December 31 on prescribed Form MS-991, The Report of County Liquid Fuels Tax Fund, showing the receipts and expenditures of the money received by the county from the Commonwealth. Upon failure to file the report or instances of any non-compliant payments, allocations, or expenditures, the Pennsylvania Department of Transportation may withhold further funding until the delinquent report is filed, the money is allocated, or the expenditures for the prior 12 months are approved.
- B. *The Vehicle Code*, as amended by Act 44 of 2007 (July 18, 2007, P.L. 169), prescribes the Pennsylvania Department of Transportation with oversight authority of the Act 44 funds distributed to the counties from the Pennsylvania Turnpike Commission's annual contribution of \$5,000,000 to the Commonwealth's Motor License Fund. The County's Act 44 Tax Fund is used to account for the distribution made to the county from the Department of Transportation and the payments made for construction and maintenance of county-owned bridges.

PERRY COUNTY  
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS  
NOTES TO FORM MS-991 AND REPORTS OF  
ACT 44 AND ACT 89 TAX FUNDS WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2015 TO DECEMBER 31, 2015

1. Criteria (Continued)

(1) Funds received by the counties must be deposited in a special fund designated as the County Act 44 Fund and no other money may be deposited and commingled. (Note: Act 44 and Act 89 Funds may be deposited in a single account. However, the county must account for these funds independently for auditing). Money should be invested to earn interest until expended.

- For purposes of payments under (2), below, the county may borrow and place in the special fund money not in excess of the liquid fuels tax funds to be received during the current calendar year.

(2) Payments from the special fund may be used for:

- Construction, reconstruction, maintenance, and repair of public bridges for which the county is legally responsible.
- Interest and principal payments on bridge loans and bonds or sinking fund charges for such bonds becoming due within that current calendar year.
- County Engineer's salary and benefit costs for bridge work (that portion of the total calculated to be relevant to bridge work only).
- Engineering fees related to bridge work (fees in excess of 10% of the total contract price must be documented and justified to the satisfaction of the District Municipal Services Office).
- Liability insurance for bridge equipment and vehicles when the named beneficiary is the entity's Act 44 Fund.
- Inspection costs associated with bridges.
- Purchase of right-of-way for bridge construction, reconstruction, or maintenance.

PERRY COUNTY  
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS  
NOTES TO FORM MS-991 AND REPORTS OF  
ACT 44 AND ACT 89 TAX FUNDS WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2015 TO DECEMBER 31, 2015

1. Criteria (Continued)

- (3) For bridge maintenance/preservation activities, the county must confer with a District Municipal Services Representative to determine if Department of Transportation approval is required. All rehabilitations, replacements or any other work that affects the carrying capacity of the structure or the waterway areas requires the approval of the Department of Transportation.
- (4) In order to receive Act 44 funds as scheduled, each county must submit an annual report showing the receipts and expenditures for the preceding 12 months. The use of the funds must be in compliance with the Act. Failure to do so may result in the county's not receiving allocations until such deficiencies are resolved.

C. *The Vehicle Code*, as amended by Act 89 of 2013 (November 25, 2013, P.L. 169), prescribes the Pennsylvania Department of Transportation with oversight authority of the Act 89 funds distributed to the counties from the Department of Transportation. The County's Act 89 Tax Fund is used to account for the distribution made to the county from the Department of Transportation and the payments made for construction and maintenance of county-owned bridges.

- (1) Funds received by the counties must be deposited in a special fund designated as the County Act 89 Fund and no other money may be deposited and commingled. (Note: Act 89 and Act 44 Funds may be deposited in a single account. However, the county must account for these funds independently for auditing). Money should be invested to earn interest until expended.

- For purposes of payments under (2), below, the county may borrow and place in the special fund money not in excess of the liquid fuels tax funds to be received during the current calendar year.

- (2) Payments from the special fund may be used for:

- Construction, reconstruction, maintenance, and repair of public bridges for which the county is legally responsible.
- Interest and principal payments on bridge loans and bonds or sinking fund charges for such bonds becoming due within that current calendar year.
- County Engineer's salary and benefit costs for bridge work (that portion of the total calculated to be relevant to bridge work only).

PERRY COUNTY  
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS  
NOTES TO FORM MS-991 AND REPORTS OF  
ACT 44 AND ACT 89 TAX FUNDS WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2015 TO DECEMBER 31, 2015

1. Criteria (Continued)

- Engineering fees related to bridge work (fees in excess of 10% of the total contract price must be documented and justified to the satisfaction of the District Municipal Services Office).
  - Liability insurance for bridge equipment and vehicles when the named beneficiary is the entity's Act 89 Fund.
  - Inspection costs associated with bridges.
  - Purchase of right-of-way for bridge construction, reconstruction, or maintenance.
- (3) For bridge maintenance/preservation activities, the county must confer with a District Municipal Services Representative to determine if Department of Transportation approval is required. All rehabilitations, replacements or any other work that affects the carrying capacity of the structure or the waterway areas requires the approval of the Department of Transportation.
- (4) In order to receive Act 89 funds as scheduled, each county must submit an annual report showing the receipts and expenditures for the preceding 12 months. The use of the funds must be in compliance with the Act. Failure to do so may result in the county's not receiving allocations until such deficiencies are resolved.

Basis Of Presentation

In accordance with reporting requirements prescribed by the Pennsylvania Department of Transportation, the Report of County Liquid Fuels Tax Fund With Adjustments and the Reports of Act 44 and Act 89 Tax Funds With Adjustments do not constitute complete financial presentations of the county's assets, liabilities, expenses, and fund balance but include the receipts, expenditures, and fund balances of the County Liquid Fuels Tax Fund and the County Act 44 and Act 89 Tax Funds, respectively.

PERRY COUNTY  
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS  
NOTES TO FORM MS-991 AND REPORTS OF  
ACT 44 AND ACT 89 TAX FUNDS WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2015 TO DECEMBER 31, 2015

1. Criteria (Continued)

The Pennsylvania Department of Transportation prescribes that the county report the following on the Form MS-991, *Report of County Liquid Fuels Tax Fund*:

- A. The balance in the County Liquid Fuels Tax Fund at the beginning of the report calendar year.
- B. Receipts which must be itemized and include the County's Liquid Fuels Tax Fund allocations, interest, reimbursable agreements, and miscellaneous items such as loans, sale of salvageable material, and damage claims to road or bridge property.

*Refer to the related Notes: Note 3, Interest Earnings; Note 5, Reimbursable Agreements; and Note 6, Miscellaneous Receipts.*

- C. Accounts receivable (to be realized within 60 days of the year end).
- D. Total Liquid Fuels Tax funds available for expenditure and encumbrances.
- E. Expenditures for county-owned roads, highways, and bridges.
- F. Accounts payable (accrued wages, accrued payroll taxes, and accounts payable vendors to be realized within 60 days of the year end).
- G. The balance in the fund at the close of the report calendar year.
- H. Encumbered and unencumbered balances on hand at the close of the report calendar year.

*Refer to Note 8, Encumbrances.*

The Pennsylvania Department of Transportation prescribes that the county report the following on the Reports Of Act 44 Tax Fund and Act 89 Tax Fund:

- A. The balance in the County Act 44 and Act 89 Tax Fund at the beginning of the report calendar year.

PERRY COUNTY  
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS  
NOTES TO FORM MS-991 AND REPORTS OF  
ACT 44 AND ACT 89 TAX FUNDS WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2015 TO DECEMBER 31, 2015

1. Criteria (Continued)

- B. Receipts which must be itemized and include the County's Act 44 and Act 89 allocations, interest, reimbursable agreements, and miscellaneous items such as loans, sale of salvageable material, and damage claims to road or bridge property.

*Refer to the related Notes: Note 3, Interest Earnings.*

- C. Total Liquid Fuels Tax funds available for expenditure and encumbrances.
- D. Expenditures for county-owned bridges.
- E. The balance in the fund at the close of the report calendar year.

2. Deposits

*The County Code*, Title 16 P.S. § 17067, authorizes the county 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 or savings bank's assets minus liabilities.

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



PERRY COUNTY  
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS  
NOTES TO FORM MS-991 AND REPORTS OF  
ACT 44 AND ACT 89 TAX FUNDS WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2015 TO DECEMBER 31, 2015

2. Deposits (Continued)

There were no deposits exposed to custodial credit risk as of December 31, 2015. 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 county's name.

Fund Balance

The fund balance for the Liquid Fuels Tax Fund consists of the following:

Cash	<u>\$283,015.17</u>
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The fund balance for the Act 44 Tax Fund consists of the following:

Cash	<u>\$104,894.17</u>
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The fund balance for the Act 89 Tax Fund consists of the following:

Cash	<u>\$42,332.86</u>
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3. Interest Earnings

Our examination disclosed that the county deposited idle liquid fuels tax money in interest-bearing accounts which earned \$667.73 during 2015, thus providing additional funds for road maintenance and repairs.

Additionally, the county deposited idle Act 44 tax money in an interest-bearing account which earned \$203.44 during 2015, thus providing additional funds for road maintenance and repairs.

Additionally, the county deposited idle Act 89 tax money in an interest-bearing account which earned \$37.45 during 2015, thus providing additional funds for road maintenance and repairs.

PERRY COUNTY  
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS  
NOTES TO FORM MS-991 AND REPORTS OF  
ACT 44 AND ACT 89 TAX FUNDS WITH ADJUSTMENTS  
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JANUARY 1, 2015 TO DECEMBER 31, 2015

4. Adjustments

2015 Form MS-991

An adjustment of \$126,559.17 was made to “Miscellaneous” because deposits in error were not reported.

Adjustments were made to “Construction” and “Maintenance and repair” because expenditures of \$12,614.30 were misclassified.

An adjustment of \$126,559.17 was made to “Miscellaneous” because a reimbursement for deposits in error was not reported.

2015 Report of Act 44 Tax Fund

An adjustment of \$(18,620.90) was made to “Balance, January 1, 2015” because of a prior report adjustment that was not carried forward in the fund balance.

An adjustment of \$18,620.90 was made to “State allocations” because the 2014 Liquid Fuels Tax Fund allocation, which should have been deposited in December of 2014 was not deposited into the Act 44 Tax Fund until March of 2015 (Summary Of Prior Examination Recommendations).

2015 Report of Act 89 Tax Fund

An adjustment of \$13,168.70 was made to “Balance, January 1, 2015” because an incorrect fund balance was reported.

An adjustment of \$(13,168.70) was made to “Act 89 Funds” because these receipts were overstated.

5. Reimbursable Agreements

During our examination we noted that the county entered into a reimbursement agreement with the Commonwealth of Pennsylvania for the inspection of county bridges. During our current examination period the county received \$73,449.48 as a result of this agreement and deposited the money into the Liquid Fuels Tax Fund. As of December 31, 2015, \$18,564.60 was due the Liquid Fuels Tax Fund.

PERRY COUNTY  
LIQUID FUELS, ACT 44, AND ACT 89 TAX FUNDS  
NOTES TO FORM MS-991 AND REPORTS OF  
ACT 44 AND ACT 89 TAX FUNDS WITH ADJUSTMENTS  
FOR THE PERIOD  
JANUARY 1, 2015 TO DECEMBER 31, 2015

6. Miscellaneous Receipts

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

<u>Source</u>	<u>Description</u>	<u>Amount</u>
Vendor	Bid specs	\$ 250.00
General Fund	Deposits in error (Note 7)	<u>126,559.17</u>
Total		<u>\$126,809.17</u>

7. Deposits In Error

The following deposits in error were made into the Liquid Fuels Tax Fund during our examination period:

<u>Source</u>	<u>Date Deposited</u>	<u>Amount</u>	<u>Date Repaid</u>
General Fund	09/03/2015	\$ 6,759.24	12/22/2015
General Fund	11/12/2015	76,963.59	12/22/2015
General Fund	12/17/2015	<u>42,836.34</u>	12/22/2015
Total		<u>\$126,559.17</u>	

8. Encumbrances

As of December 31, 2015, \$220,000.00 was encumbered for county projects.

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**Finding No. 1 - Retroactive Expenditures/Nonpermissible Expenditures**

Our examination disclosed that the county transferred \$45,805.82 from its Liquid Fuels Tax Fund to its General Fund on March 24, 2015 for the reimbursement of expenditures incurred from April 8, 2014 to November 18, 2014. Because these expenditures were not reimbursed within the same calendar year in which the expenditures were made, these expenditures are considered to be retroactive.

<u>Description</u>	<u>Date Paid From General Fund</u>	<u>Amount</u>
Bridge inspection – Invoice 587910	04/29/14	\$ 9,305.23
Bridge inspection – Invoice 591547	05/27/14	22,908.44
Bridge inspection – Invoice 595205	07/01/14	6,175.03
Bridge inspection – Invoice 598529	07/29/14	3,482.56
Bridge inspection – Invoice 602583	08/26/14	1,977.30
Bridge lighting – April Invoice	04/15/14	220.86
Bridge lighting – May Invoice	05/13/14	220.86
Bridge lighting – June Invoice	06/17/14	220.86
Bridge lighting – July Invoice	07/15/14	218.66
Bridge lighting – August Invoice	08/19/14	218.66
Bridge lighting – September Invoice	09/03/14	218.07
Bridge lighting – October Invoice	10/14/14	214.50
Bridge lighting – November Invoice	11/18/14	213.44
Bridge weight limit signs – Invoice 124025	06/10/14	211.35
Total		<u>\$45,805.82</u>

The Department of Transportation’s *Publication 9* contains the policies and procedures for the administration of the Liquid Fuels Tax Fund. *Publication 9*, Chapter One, Section 1.6.6.3, states:

Unacceptable Expenditures

- 10. Retroactive expenditures.

Additionally, the Department of Transportation’s *Publication 9*, Chapter 4, Section 4.6.6.3, states:

Examples of what Liquid Fuels Tax Fund monies may not be expended for are:

- 12. Retroactive Expenditures.

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**Finding No. 1 - Retroactive Expenditures/Nonpermissible Expenditures (Continued)**

Because these expenditures were paid from the General Fund between April 8, 2014 and November 18, 2014, and were not reimbursed with Liquid Fuels Tax Fund money until March 24, 2015, the expenditures incurred were not reimbursed in a reasonable period of time. Therefore, the county did not comply with the Department of Transportation’s *Publication 9*.

Additionally, our examination disclosed that the county expended \$9,267.65 during 2015 from the Liquid Fuels Tax Fund for the following nonpermissible items:

<u>Description</u>	<u>Amount</u>	<u>Total Nonpermissible expenditures</u>
Bridge No. 6 engineering – Invoice 623425 (non-vehicular)	310.78	
Bridge No. 6 engineering – Invoice 626074 (non-vehicular)	<u>2,522.43</u>	\$2,833.21
Dellville Bridge Engineering – Invoice 619649 (Reimbursed by insurance – Not deposited into the Liquid Fuels Tax Fund)	<u>6,434.44</u>	<u>\$6,434.44</u>
Total		<u><u>\$9,267.65</u></u>

The Liquid Fuels and Fuels Tax Act of April 17, 1997, P.L. 6, § 12, 75 Pa. C.S.A. § 9010(b)(2)(i)(A-H), provides, in part, that Liquid Fuels Tax Fund money can only be used “for the purposes of construction, reconstruction, maintenance and repair of roads, highways, and bridges. . . .”

The Department of Transportation has been statutorily authorized to promulgate regulations concerning the administration of Liquid Fuels Tax Fund money and has determined that certain items, including Bridge No. 6 which is not open to vehicular traffic and Dellville Bridge which is eligible for insurance reimbursement, are outside the scope of permissible expenditures.

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**Finding No. 1 - Retroactive Expenditures/Nonpermissible Expenditures (Continued)**

Furthermore, the county transferred \$22,892.52 from its Liquid Fuels Tax Fund to its General Fund on March 24, 2015 for the reimbursement of expenditures incurred from April 8, 2014 to October 21, 2014. Because these expenditures were not reimbursed within the same calendar year in which the expenditures were made, these expenditures are considered to be retroactive. Of that amount, \$3,346.65 was for Bridge No. 6, a bridge not open for vehicular traffic, which makes the expenditures non permissible. These expenditures are as follows:

<u>Description</u>	<u>Date Paid From General Fund</u>	<u>Total Invoice</u>	<u>Total Nonpermissible Amounts</u>
Bridge maintenance engineering – Invoice 591549	06/13/14	\$6,280.83	\$1,165.97
Bridge maintenance engineering – Invoice 598530	07/29/14	1,810.38	75.07
Bridge maintenance engineering – Invoice 602584	08/26/14	7,022.57	693.25
Bridge maintenance engineering – Invoice 606916	09/30/14	2,541.13	288.30
Bridge maintenance engineering – Invoice 595207	10/14/14	3,117.57	729.95
Bridge maintenance engineering – Invoice 610588	10/21/14	2,120.04	394.11
Totals		<u>\$22,892.52</u>	<u>\$3,346.65</u>

Because these expenditures were paid from the General Fund between April 8, 2014 and November 18, 2014, and were not reimbursed with Liquid Fuels Tax Fund money until March 24, 2015, the expenditures incurred were not reimbursed in a reasonable period of time. Therefore, the county did not comply with the Department of Transportation's *Publication 9*.

The Department of Transportation has been statutorily authorized to promulgate regulations concerning the administration of Liquid Fuels Tax Fund money and has determined that certain items, including Bridge No. 6 which is not open to vehicular traffic, are outside the scope of permissible expenditures.

The failure to comply with the Liquid Fuels and Fuels Tax Act, the Department of Transportation's Regulations, and the Department of Transportation's *Publication 9* could result in the county having to reimburse \$77,965.99 to its Liquid Fuels Tax Fund.

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**Finding No. 1 - Retroactive Expenditures/Nonpermissible Expenditures (Continued)**

Recommendations

We recommend that the county reimburse \$77,965.99 to its Liquid Fuels Tax Fund upon official notification by the Department of Transportation.

We further recommend that, in the future, the county complies with the Liquid Fuels and Fuels Tax Act, the Department of Transportation's Regulations, and the Department of Transportation's *Publication 9* as noted above.

Management's Response

The Chief Fiscal Officer stated:

I was not hired until November 26, 2014, and prior to my hiring, the Chief Fiscal Officer position was vacant for several months. During this time, expenditures for Liquid Fuels were incurred, however the money was not transferred into or out of the Liquid Fuels account. Therefore, the 2014 expenditures from May to December 31, were not transferred until after I was trained and understood the fiscal process in early 2015.

As for the finding for nonpermissible expenditures, our engineer included nonpermissible expenditures on the same invoice as permissible and were even indicated as 2014 Bridge Inspection Project. Therefore, our Accounts Payable Manager coded those invoices completely as county liquid fuels. This error was not found until the review of the MS-991 and MS-999. I have asked our engineer to not mix county liquid fuels expenditures with non-county liquid fuels expenditures.

Auditor's Conclusion

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

PERRY COUNTY  
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**Finding No. 2 - Liquid Fuels Money Deposited Into The General Fund**

Our examination disclosed that the county deposited reimbursements received from the Commonwealth of Pennsylvania for bridge inspection that were paid with Liquid Fuels Tax Fund money into the General Fund, which is in noncompliance with the Liquid Fuels and Fuels Tax Act. The deposits were as follows:

<u>Source</u>	<u>Amount</u>	<u>Date Deposited Into General Fund</u>	<u>Date Transferred To Liquid Fuels Tax Fund</u>
Commonwealth of Pennsylvania	\$ 6,759.24	05/06/14	01/02/15
Commonwealth of Pennsylvania	18,326.75	07/07/14	03/24/15
Commonwealth of Pennsylvania	7,444.18	06/24/14	03/24/15
Commonwealth of Pennsylvania	4,940.02	08/22/14	03/24/15
Commonwealth of Pennsylvania	2,786.05	09/03/14	03/24/15
Commonwealth of Pennsylvania	<u>1,581.84</u>	10/15/14	03/24/15
 Total	 <u><u>\$41,838.08</u></u>		

The practice of depositing liquid fuels money into any account other than the Liquid Fuels Tax Fund account is contrary to the Liquid Fuels and Fuels Tax Act, 75 Pa. C.S.A. § 9010(b)(2), which states, in part:

All money received by the counties...shall be deposited and maintained in a special fund designated as the County Liquid Fuels Tax Fund. No other money shall be deposited and commingled into the County Liquid Fuels Tax Fund, except in a county which does not have sufficient money in such special fund to provide for payments designated in the current annual budget.

When Liquid Fuels Tax Fund money is commingled with the General Fund or other funds, the potential for Liquid Fuels Tax Fund money to be used for unauthorized purposes increases significantly.



PERRY COUNTY  
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**Finding No. 2 - Liquid Fuels Money Deposited Into The General Fund**

Recommendations

We recommend that, in the future, the county deposit all liquid fuels tax money immediately upon receipt into the Liquid Fuels Tax Fund.

In addition, the county officials may desire to take advantage of the electronic transfer of funds being offered by the Department of Transportation.

Management's Response

The county officials offered no formal response at this time.

Auditor's Conclusion

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

PERRY COUNTY  
LIQUID FUELS, ACT 44,  
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SUMMARY OF PRIOR EXAMINATION RECOMMENDATIONS  
FOR THE PERIOD  
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Summary Of Prior Examination Recommendations

In our prior report we recommended that the Department of Transportation review our examination finding to determine if the county should reimburse \$30,162.25 to its Liquid Fuels Tax Fund and \$2,330.01 to its Act 44 Tax Fund for over expending money on project No. M-12-50000-416.

During our current examination we reviewed a letter dated April 5, 2016, from the Department of Transportation informing the county to reimburse \$30,162.25 to its Liquid Fuels Tax Fund. Additionally, we reviewed a letter dated February 13, 2017, from the Department of Transportation informing the county to reimburse \$2,330.01 to its Act 44 Tax Fund. As of the exit conference date of this examination of February 22, 2017, the county had not reimbursed \$30,162.25 to its Liquid Fuels Tax Fund or \$2,330.01 to its Act 44 Tax Fund.

In our prior report we also recommended that the county:

- Deposit all allocations immediately upon receipt.
- Expend only the approved amount of Liquid Fuels Tax Fund money on road construction projects.

During our current examination we noted that the county complied with our recommendations.

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SUMMARY OF EXIT CONFERENCE  
FOR THE PERIOD  
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An exit conference was held February 22, 2017. Those participating were:

PERRY COUNTY

Ms. Amy Davis, Chief Fiscal Officer

DEPARTMENT OF THE AUDITOR GENERAL

Ms. Tammy Fleisher, Audit Supervisor

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

PERRY COUNTY  
LIQUID FUELS, ACT 44,  
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REPORT DISTRIBUTION  
FOR THE PERIOD  
JANUARY 1, 2015 TO DECEMBER 31, 2015

This report was initially distributed to:

**The Honorable Leslie Richards**  
Secretary  
Department of Transportation

**Perry County**  
25 West Main Street  
P. O. Box 37  
New Bloomfield, PA 17068

**The Honorable Brenda K. Benner**  
Chairman of the Board of Commissioners

**The Honorable Harva Owings Baughman**  
Treasurer

**Ms. Kathy Burkholder**  
Chief Clerk

**Ms. Amy Davis**  
Chief Fiscal Officer

**The Honorable Donna Jones**  
Chair, Auditors

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