

**Appendix D-1 New York Public Officer's Law (POL) section 73-a, "Financial disclosure"**

**Appendix D-2 Title 19 of the New York Codes of Rules and Regulations (19 NYCRR) Part 937, "Access to Publicly Available Records"**

**Appendix D-3 Copy of Delegation Order M3-5001-09 which includes entities that received delegated responsibilities for implementing and enforcing portions of the New York SIP**

## Public Officers

§ 73-a.

2. (a) Every statewide elected official, state officer or employee, member of the legislature, legislative employee and political party chairman and every candidate for statewide elected office or for member of the legislature shall file an annual statement of financial disclosure containing the information and in the form set forth in subdivision three of this section. On or before the fifteenth day of May with respect to the preceding calendar year: (1) every member of the legislature, every candidate for member of the legislature and legislative employee shall file such statement with the legislative ethics commission which shall provide such statement along with any requests for exemptions or deletions to the joint commission on public ethics for filing and rulings with respect to such requests for exemptions or deletions, on or before the thirtieth day of June; and (2) all other individuals required to file such statement shall file it with the joint commission on public ethics, except that:

(i) a person who is subject to the reporting requirements of this subdivision and who timely filed with the internal revenue service an application for automatic extension of time in which to file his or her individual income tax return for the immediately preceding calendar or fiscal year shall be required to file such financial disclosure statement on or before May fifteenth but may, without being subjected to any civil penalty on account of a deficient statement, indicate with respect to any item of the disclosure statement that information with respect thereto is lacking but will be supplied in a supplementary statement of financial disclosure, which shall be filed on or before the seventh day after the expiration of the period of such automatic extension of time within which to file such individual income tax return, provided that failure to file or to timely file such supplementary statement of financial disclosure or the filing of an incomplete or deficient supplementary statement of financial disclosure shall be subject to the notice and penalty provisions of this section respecting annual statements of financial disclosure as if such supplementary statement were an annual statement;

(ii) a person who is required to file an annual financial disclosure statement with the joint commission on public ethics, and who is granted an additional period of time within which to file such statement due to justifiable cause or undue hardship, in accordance with required rules and regulations on the subject adopted pursuant to paragraph c of subdivision nine of section ninety-four of the executive law shall file such statement within the additional period of time granted; and the legislative ethics commission shall notify the joint commission on public ethics of any extension granted pursuant to this paragraph;

(iii) candidates for statewide office who receive a party designation for nomination by a state committee pursuant to section 6-104 of the election law shall file such statement within ten days after the date of the meeting at which they are so designated;

(iv) candidates for statewide office who receive twenty-five percent or more of the vote cast at the meeting of the state committee held pursuant to section 6-104 of the election law and who demand to have their names placed on the primary ballot and who do not withdraw within fourteen days after such meeting shall file such statement within ten

days after the last day to withdraw their names in accordance with the provisions of such section of the election law;

(v) candidates for statewide office and candidates for member of the legislature who file party designating petitions for nomination at a primary election shall file such statement within ten days after the last day allowed by law for the filing of party designating petitions naming them as candidates for the next succeeding primary election;

(vi) candidates for independent nomination who have not been designated by a party to receive a nomination shall file such statement within ten days after the last day allowed by law for the filing of independent nominating petitions naming them as candidates in the next succeeding general or special election;

(vii) candidates who receive the nomination of a party for a special election shall file such statement within ten days after the date of the meeting of the party committee at which they are nominated;

(viii) a candidate substituted for another candidate, who fills a vacancy in a party designation or in an independent nomination, caused by declination, shall file such statement within ten days after the last day allowed by law to file a certificate to fill a vacancy in such party designation or independent nomination;

(ix) with respect to all candidates for member of the legislature, the legislative ethics commission shall within five days of receipt provide the joint commission on public ethics the statement filed pursuant to subparagraphs (v), (vi), (vii) and (viii) of this paragraph.

Source:

[http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=\\$\\$PB073-A\\$\\$@TXPBO073-A+&LIST=SEA1+&BROWSER=EXPLORER+&TOKEN=35760758+&TARGET=VIEW](http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=$$PB073-A$$@TXPBO073-A+&LIST=SEA1+&BROWSER=EXPLORER+&TOKEN=35760758+&TARGET=VIEW)

**OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK**

**TITLE 19. DEPARTMENT OF STATE**

**CHAPTER XX. JOINT COMMISSION ON PUBLIC ETHICS**

**PART 937**

**ACCESS TO PUBLICLY AVAILABLE RECORDS**

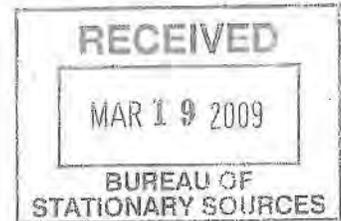
937.1 Scope and purpose

These regulations provide information concerning the procedures by which records of the Joint Commission on Public Ethics ("Commission") shall be available for public inspection and copying. Pursuant to Executive Law section 94(19)(a) the only records of the Commission which shall be available for public inspection and copying are set forth below:

\*(a) The information set forth in an annual statement of financial disclosure filed pursuant to section 73-a of the Public Officers Law except the categories of value or amount, which shall remain confidential, and any other item of information deleted pursuant to Section 94 (9)(h) of the Executive Law. \*effective until January 1, 2013;

\*\* (a) The information set forth in an annual statement of financial disclosure filed pursuant to section 73-a of the Public Officers Law except information deleted pursuant to section 94(9)(h) of the Executive Law. \*\*effective January 1, 2013;

STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION



\_\_\_\_\_ X  
In the Matter of the Delegation of the  
Gasoline Dispensing Facility Program under  
The Environmental Conservation Law  
Article 19 to the

DELEGATION ORDER  
M3-5001-09

THE COUNTY OF WESTCHESTER  
and  
THE WESTCHESTER COUNTY DEPARTMENT OF HEALTH

\_\_\_\_\_ X  
WHEREAS, the Air Pollution Control Law (Article 19 of the Environmental Conservation Law ("ECL")), expresses the policy of the Legislature to protect the resources of the State of New York from contamination due to air pollution from gasoline dispensing sites and transport vehicles;

WHEREAS, pursuant to the Air Pollution Control Law, the New York State Department of Environmental Conservation ("Department") promulgated Title 6 of New York's Code of Rules and Regulations (NYCRR) Part 230, "Gasoline Dispensing Sites and Transport Vehicles Program" governing such facilities;

WHEREAS, the Air Pollution Control Law and NYCRR Part 201 allow the Commissioner of the Department ("Commissioner") to approve local programs regulating gasoline dispensing sites and transport vehicles for any county which desires to administer its own gasoline dispensing sites and transport vehicles program within its jurisdiction in accordance with the criteria set forth in ECL 19-0709 and 6 NYCRR Part 201-1.9;

WHEREAS, Westchester County ("County") authorizes the Westchester County Department of Health Commissioner ("Health Commissioner") to administer the Department's gasoline dispensing sites and transport vehicle program set forth in the foregoing regulations;

WHEREAS, on December 20, 2007, the Westchester County Department of Health ("Health Department") submitted an application requesting delegation of the Department's gasoline dispensing sites and transport vehicles program set forth in the foregoing regulations;

WHEREAS, the Westchester County Board of Health, on November 20, 2008, adopted Westchester County Sanitary Code, Article XXVI entitled "Gasoline Dispensing Sites and Transport Vehicles;"

WHEREAS, the Department has determined that the Health Department's gasoline dispensing sites and transport vehicles program, as implemented in accordance with this Order, will provide environmental protection equal to or greater than the regulatory requirements of ECL Article 19 and 6 NYCRR Part 230;

WHEREAS, by copy of this Order, the Commissioner has approved the Health Department's application;

WHEREAS, the Commissioner and the Health Commissioner wish to set forth the procedures and arrangements for the administration of the Department's gasoline dispensing facility program;

NOW, THEREFORE, after considering the foregoing, I do order as follows:

#### **Section 1- DELEGATION OF AUTHORITY**

Section 1.1 Pursuant to the authority given me under ECL 3-0301.2(p) and 6 NYCRR Part 201-1.9, and subject to the conditions set forth herein, the Health Department's authority to administer the gasoline dispensing sites and transport vehicles program described herein is approved. Westchester County Sanitary Code, Article XXVI, is incorporated herein by reference, and is made a part of this Order.

Section 1.2 Section 1.2 The Health Commissioner shall have primary responsibility for the registration of gasoline dispensing sites (as defined in 6 NYCRR Parts 230.1(b)(4)) within Westchester County. The Department retains its authority over any gasoline dispensing sites at facilities subject to Title V permitting under 6 NYCRR Subpart 201-6.

Section 1.3 The Health Commissioner shall have primary responsibility for the

administration of the gasoline dispensing sites and transport vehicles program within Westchester County, including, but not limited to, inspections, test report reviews, and data retention.

## **Section 2 - REGULATIONS**

Section 2.1 The Department shall provide a written copy of all regulatory interpretations to the Health Department within thirty (30) days of making such regulatory interpretations. The Health Department shall not act in a manner inconsistent with any regulatory interpretations provided by the Department.

Section 2.2 The Health Department shall notify the Department of any proposed changes to Westchester County Sanitary Code, Article XXVI and the regulations to be adopted there under. Any revision to the Westchester County Sanitary Code, Article XXVI will be subject to approval by the Department prior to becoming effective.

Section 2.3 The Department shall notify the Health Department of any changes to ECL Article 19 or 6 NYCRR Part 230 with respect to the dispensing or transport of gasoline. The Health Department agrees that if the Department amends either Article 19 or 6 NYCRR Part 230, the Health Department shall have six (6) months to amend any corresponding provisions of Westchester County Sanitary Code, Article XXVI. Any such amendment to the Westchester County Sanitary Code, Article XXVI shall be submitted to the Department for review prior to being adopted by the Health Department as set forth above.

Section 2.4 Should the Health Department fail to make appropriate amendments to Westchester County Sanitary Code, Article XXVI and any regulations adopted there under, within six (6) months of any such amendment, the Commissioner may rescind this Delegation Order pursuant to the provisions set forth in Section 12 of this Order.

## **Section 3 - VARIANCES**

Section 3.1 The Health Commissioner shall provide the Department with a copy of all

applications for variances received by the Health Commissioner along with a notice of the Health Department's intent to grant or deny the variance. Both the application and notice shall be sent to the Department's Central Office Division of Air Resources Enforcement Section Chief and the Region 3 Air Pollution Control Engineer. Nothing in this section shall restrict the Health Department's ability to deny a variance.

Section 3.2 Nothing contained in this Order shall authorize the Health Department to grant a variance unless the Department has authorized such a variance in writing.

#### **Section 4 - STAFFING AND TRAINING**

Section 4.1 The County and the Health Commissioner shall maintain staffing levels necessary to effectively carry out the requirements of this Order and implement the gasoline dispensing sites and transport vehicles program. The Health Commissioner shall maintain a minimum of five (5) trained staff dedicated to the implementation of this program. The Department shall be notified thirty (30) days prior to any decision to reduce staffing below such levels. A reduction in the level of staffing resulting in the Health Department's inability to effectively inspect all gasoline dispensing facilities within Westchester County on an average of once every three years shall be grounds for rescission of this Delegation Order.

Section 4.2 By copy of this Order, the Department approves the Health Department's Attachment A, Personnel Training, submitted as part of the Health Department's application for the delegation of 6 NYCRR Part 230 which provides a plan for training field staff in enforcement of the Health Department's gasoline dispensing sites and transport vehicles program. The Health Department's training plan covers requirements relating to the dispensing of gasoline imposed by Westchester County Sanitary Code, Article XXVI, and the regulations adopted there under, including: Stage I and Stage II vapor recovery equipment, Stage II vapor recovery system testing requirements, submerged fill requirements, owner/operator requirements, transport vehicle requirements, record keeping and reporting requirements, registrations, enforcement procedures,

database management, and program management. The Health Department shall notify the Department of any proposed changes to its personnel training plan. Any such changes will be subject to approval by the Department prior to becoming effective.

Section 4.3 All new Health Department employees assigned to the Health Department's gasoline dispensing and transport vehicles program shall receive training before performing independent facility inspections. This training shall be provided by the Health Department in accordance with Attachment A, Personnel Training.

### **Section 5 - OUTREACH**

Section 5.1 The Health Department shall provide information to the regulated public within the County on the requirements and interpretations of the Health Department's gasoline dispensing and transport vehicles program and ways to comply with this program ("Outreach Information"). This information may be made available at seminars, in written format or on the internet. The Health Department shall provide the Department with copies of any and all outreach information provided and shall notify the Department in advance of any proposed outreach being conducted.

Section 5.2 As requested by the Department, the Health Department will participate in any gasoline dispensing sites and transport vehicles program outreach within the County that the Department may decide to undertake.

Section 5.3 The Health Department will provide notification to gasoline dispensing facility (GDF) owners within the County at least forty-five (45) days prior to a registration renewal or a Stage II vapor recovery test being due.

### **Section 6 - APPLICATION REVIEW**

Section 6.1 The Health Department shall undertake a program for verifying compliance with the Health Department's gasoline dispensing sites and transport vehicles program at a facility

prior to processing a registration for that facility in accordance with Westchester County Sanitary Code, Article XXVI.

Section 6.2 This review shall include an evaluation of the registration data submitted and all inspection and test reports.

Section 6.3 If the owner cannot document that the facility is in compliance with the applicable gasoline dispensing sites and transport vehicles requirements, appropriate enforcement action shall be taken.

### Section 7 - COMPLIANCE STRATEGY PLAN

Section 7.1 By copy of this Order, the Department approves the Health Department's Attachment B, Compliance Strategy, submitted as part of the Health Department's application for the delegation of 6 NYCRR Part 230 which provides a compliance strategy plan outlining how the Health Department plans to inspect GDFs and educate the regulated community within Westchester County. The Health Department shall notify the Department of any proposed changes to its compliance strategy plan. Any such changes will be subject to approval by the Department prior to becoming effective.

Section 7.2 The Health Department shall conduct inspections and monitor compliance in accordance with Westchester County Sanitary Code, Article XXVI, and any regulations there under, as well as in accordance with the compliance strategy plan outlined in Attachment B. All GDFs within the County shall be inspected at least once every three years.

Section 7.3 The Health Department shall maintain all records of facility inspections, test results, and other reports for at least five (5) years. These records shall be provided to the Department upon request. This requirement shall not apply to records maintained by the Health Department within the GDF database.

## Section 8 – ENFORCEMENT

Section 8.1 By copy of this Order, the Department approves the Health Department's Attachment C, Enforcement Procedures, submitted as part of the Health Department's application for the delegation of 6 NYCRR Part 230 outlining how the Health Department intends to enforce Westchester County Sanitary Code, Article XXVI, and any regulations adopted there under. This plan includes a discussion of enforcement procedures and penalties related to specific violations. The Health Department shall notify the Department of any proposed changes to its enforcement procedures plan. Any such changes will be subject to approval by the Department prior to becoming effective.

Section 8.2 Whenever the Health Department has reason to believe that any person is in violation of any provision of Westchester County Sanitary Code, Article XXVI, or any regulations adopted there under, the Health Department shall commence an appropriate enforcement action to compel compliance and seek appropriate remedies, including penalties where appropriate. In addition, where allowed by law, the Health Department shall take appropriate enforcement action whenever there are violations of orders issued pursuant to any of the foregoing provisions, regardless of whether such orders have been issued by the Department, the County, the Health Department or a court of competent jurisdiction. Any penalties collected by the Health Department shall be retained by the Health Department.

Section 8.3 Whenever, on the basis of information available to the Department, there is reason to believe that any facility within the County is in violation of any provision of ECL, Article 19 or of 6 NYCRR Part 230, the Department may notify the Health Department of such finding and may refer the matter to the Health Department for enforcement. If the Health Department is notified and the Health Department does not take appropriate enforcement action within thirty (30) days of the receipt of such notification, the Department may initiate an action to compel compliance and seek appropriate remedies, including penalties.

Section 8.4 Nothing in this Order shall restrict or diminish the authority of the Department to initiate or cause to be initiated enforcement action for violations of an environmental regulation, including but not limited to ECL Article 19 or 6 NYCRR Part 230.

Section 8.5 Whenever the Department initiates an enforcement action, the Health Department shall be precluded from pursuing a separate enforcement action for the same violations. The Department shall notify the Health Department of any such enforcement action and the results thereof. The Health Department shall provide reasonable assistance to the Department in the Department's enforcement action, including technical assistance, upon written request to the Health Commissioner.

Section 8.6 By mutual agreement between the Department and the Health Department, the Health Department may refer enforcement actions to the Department. In these cases, the Health Department shall provide full documentation of the alleged violations to the Department including, but not limited to, the notice of violation, photographs, and any other supporting documentation. If requested, the Health Department inspector who observed the violation(s) shall attend the conference convened by the Department with the facility owner/operator for the purpose of describing the observed violation and answering relevant questions.

Section 8.7 Any enforcement action initiated by the Health Department and resulting in a probable exceedance of the \$1,000 per day per violation limitation must be referred to the Department.

#### **Section 9 - DATABASE MANAGEMENT**

Section 9.1 The Health Department shall maintain an up-to-date computerized GDF database containing all of the data fields listed in Section 9.2 of this Order. An electronic copy of the GDF database shall be provided to the Department by March 31, June 30, September 30, and December 31 of each year. The Health Department will make changes to their database upon the request of the Department within thirty (30) days of such request. Failure by the Health Department to maintain their GDF database, as stated above, shall lead to a written warning of potential

rescission. If the non-compliance is not corrected in ninety (90) days, the Department may consider this grounds for rescission of the delegation of authority made herein pursuant to the provisions of Section 12 of this Delegation Order.

Section 9.2 The Health Department shall maintain the GDF database consistent with the following information:

- (a) facility name and address including street, city, and zip code;
- (b) facility phone number;
- (c) facility operator name and address including street, city, and zip code;
- (d) operator phone number;
- (e) facility owner name and address including street, city, and zip code [Note: If the owner is a corporation, the information must match an active corporation in the NYS Department of State database. If it is a DBA or partnership, one or more partners, or responsible officials of the DBA, must be listed];
- (f) owner phone number;
- (g) facility operating status (i.e. operating, shutdown, etc...)
- (h) latest inspection date;
- (i) latest regulatory citations violated;
- (j) DEC ID (as supplied by the Department);
- (k) PBS ID;
- (l) latest Stage II test date, including the Dry/Wet test date and Pressure Decay (P/D) test date; and
- (m) associated Stage II test pass /fail designations.

#### **Section 10 - REPORTING**

Section 10.1 The Health Department shall provide the Department with an annual report of the status of their gasoline dispensing sites and transport vehicles program. Such report shall be

submitted to the Chief of the Air Enforcement Section in the Department's Central Office and the Region 3 Air Pollution Control Engineer on or before February 1 for the immediate preceding calendar year. The annual report shall contain the following elements:

- (a) Program summary and update, including but not limited to, an overview of the Health Department's enforcement presence and GDF owners/operators response;
- (b) Summary of program achievements, including but not limited to the number of inspections achieved, number of violations discovered, amount of penalties collected, and documented corrections to non-compliance;
- (c) Summary of any program improvement initiatives that are ongoing or planned for the coming year including: regulations, staffing, training, outreach, registrations/applications, inspections, enforcement, and data management; and
- (d) Problem areas and how they are being addressed.

#### **Section 11 - PROGRAM REVIEW, COORDINATION, AND MANAGEMENT**

Section 11.1 The Department shall meet periodically with the Health Department for the purpose of program coordination and management, and to review the Health Department's implementation of the gasoline dispensing sites and transport vehicles program. Such meetings shall occur at least annually, but may be held more frequently at the discretion of the Department.

Section 11.2 Any submission made by the Health Department pursuant to this Order which is intended to be accepted and approved by the Department becomes part of and enforceable under this Order.

Section 11.3 As an adjunct to the training provided by the Department and to ensure that Health Department personnel continue to perform facility inspections in a manner consistent with Department inspectors, Health Department and Department personnel shall jointly undertake one to two inspections annually of GDFs within Westchester County. The facilities to be inspected shall be selected by the Department.

Section 11.4 In addition, the Department will annually review a representative sample of inspection data generated by the Health Department to ensure that effective inspections are being conducted. The Department may choose to reinspect certain facilities to verify the Health Department's inspection findings. If discrepancies are found, the Health Department will be notified and given a chance to respond.

#### **Section 12 - RESCISSION**

Section 12.1 If the Department determines that the Health Department has failed to comply with any of the terms or conditions of this Order, the Department shall notify the Health Department in writing of such a determination. The Health Department shall have 90 days from receipt of such notification to respond to the determination and comply with the terms and conditions of this Order. If the Health Department fails to take such action, or the Health Department's action is deemed to be insufficient by the Department, the Department's sole remedy shall be rescission of this Order.

#### **Section 13 - TERM OF THIS ORDER**

Section 13.1 This Order shall remain in full force and in effect for a period of five (5) years following the effective date of this Order. The Health Department may submit a renewal application up to one year, but no later than one hundred eighty (180) days prior to the expiration date of this Order, to which the Department shall respond within one hundred eighty (180) days of receipt of the application. If, prior to the expiration date of this Order, the Department fails to respond, this Order shall remain in effect until such time that the Department responds.

Section 13.2 At any time at least one hundred and eighty (180) days after written notice, the Department, the County, or the Health Department may terminate this Order whenever it is deemed to be in the best interest of either party.

#### Section 14 – NOTICE

Section 14.1 Unless otherwise specified, all notices required or permitted for herein shall be in writing and sent by certified mail, postage prepaid, or by hand, or by overnight mail, or by telecopy confirmed by either of the previous methods, addressed to the parties as shown below or at such other addresses as the parties may designate in writing from time to time:

NYSDEC Enforcement Section Chief  
Division of Air Resources  
Bureau of Stationary Sources  
625 Broadway  
Albany, New York  
12233

NYSDEC Region 3 Air Pollution Control Engineer  
Division of Air Resources  
21 South Putt Corners Road  
New Paltz, New York  
12561

Commissioner  
Westchester County Department of Health  
145 Huguenot Street  
New Rochelle, New York  
10801

County Executive  
Westchester County  
148 Martine Avenue  
White Plains, New York  
10601

#### **Section 15 – EFFECTIVE DATE**

Section 15.1 This Order shall take effect upon execution by the Department, the County, and the Department of Health; and approved by the Westchester County Attorney's Office.

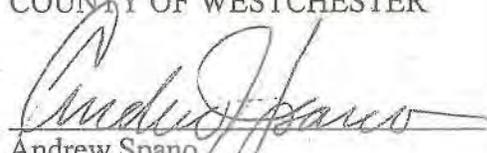
DATED: Albany, New York  
18 May, 2009

NEW YORK STATE DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION



Alexander B. Grannis  
Commissioner

COUNTY OF WESTCHESTER



Andrew Spano  
County Executive

WESTCHESTER COUNTY DEPARTMENT  
OF HEALTH



Joshua Lipsman, M.D., J.D., M.P.H.  
Commissioner

Approved by the Westchester County  
Board of Acquisition and Contract on the  
\_19th\_ day of \_February\_, 2009

Approved as to form and manner of execution

 3/12/09  
Assistant County Attorney

MUNICIPALITY'S ACKNOWLEDGMENT

STATE OF NEW YORK        )  
  ) ss.:  
COUNTY OF WESTCHESTER )

On this 4<sup>th</sup> day of March 2009, before me, the undersigned, personally appeared Patsy Yang, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she is the First Deputy Commissioner of Westchester County Department of Health, the municipal corporation described in and which executed the within instrument, who being by me duly sworn did depose and say that he/she executed the same in his/her capacity, and that by his/her signature(s) on the instrument, the municipal corporation executed the instrument.

John Letizia  
Notary Public                      County

