

Statement of Policy

Liquid Fuels and Fuels

DMF-45 (SU) MOD 02-20

The following is the Pennsylvania Department of Revenue's policy on letters of credit and the conditions under which the department will draw upon them.

The Pennsylvania Vehicle Code [75 Pa. C.S. §9003(h)] allows an irrevocable letter of credit from a financial institution authorized to do business in the commonwealth to be substituted for the surety bond otherwise required as a condition to the issuance of the Liquid Fuels and Fuels Permit.

LETTER OF CREDIT REQUIREMENTS

1. The insurer must be a financial institution authorized to do business in Pennsylvania. A financial institution not authorized to do business in Pennsylvania may be the issuer, provided an authorized financial institution signs as a confirming financial institution.
2. The beneficiary shall be:
**PENNSYLVANIA DEPARTMENT OF REVENUE
PO BOX 281200
HARRISBURG PA 17128-1200**
3. The distributor's name, address and Federal Employer Identification Number (FEIN) or Social Security number (SSN) must be indicated on the letter.
4. The letter of credit must be an Irrevocable Standby Letter of Credit.
5. Funds under the credit shall be payable by a sight draft accompanied by a statement signed by an authorized designee of the department, confirming the customer is in default.
6. The amount of the letter shall be specified by the department. In addition, the amount required for any permit period shall include any amounts determined due for prior permit periods where both a letter of credit was posted and such determination amounts are under appeal and remain unpaid.
7. The letter shall expire on August 31 of the year in which the permit expires.
8. Each letter shall contain the following automatic renewal clause:

It is a condition of this letter of credit that it shall be automatically renewed for a period of one year from the present or any future expiration date unless on or before March 31 immediately preceding such present or future expiration date we notify you by certified mail that we elect not to renew this letter of credit for such additional period.

DRAW CONDITIONS

The department may draw upon a letter of credit in the following circumstances:

1. Nonpayment, after reasonable notice, of any amount due as a result of filing a tax return as required by 75 Pa. C.S. §9006 for the current permit period for tax, interest or penalty. Tax amounts due may include the Oil Company Franchise Tax imposed by 75 Pa. C.S. §9502, the aviation gasoline tax imposed by 75 Pa. C.S. §9004(c) and the Alternative Fuels Tax imposed by 75 Pa. C.S. §9004(d).
2. Nonpayment, after reasonable notice, of any non-appealed amounts that were determined or redetermined due for tax, interest, or penalty during the current permit period, regardless of the period out of which they arise.
3. In the event a letter is about to expire and a new letter and/or government bonds are not posted for the ensuing year, regardless of whether the permit is to be renewed or not, the full amount may be drawn and proceeds deposited with the State Treasurer.
4. The amount of a replacement letter for the ensuing year shall be calculated to include any amounts determined or redetermined due from prior permit periods where both a letter of credit was posted and such determination amounts are under appeal and remain unpaid. Non-payments of any such amounts remaining due after the termination of an appeal will be claimed under the replacement letter of credit.