



CARDLOCK NEWS

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REFLECTIONS OF 2008

December 2008, Issue 1

Since this is the holiday season, the cardlock program staff would like to wish everyone a safe and happy holiday. This newsletter provides statistics to our operators for the 2008 license year.

We are pleased to report that compliance rates for facility inspections, records inspections, and weekly site inspections increased significantly during this past year! We would like to thank all of you for your hard work to raise the compliant rate.

Congratulations to the 31 companies in 100% compliance with both the facility inspection and records audit in 2008. We are sending them a certificate of recognition for a job well done. We hope to double this compliance in 2009.

Facility Inspections

As noted in the chart below, there was a dramatic increase in the compliance rate for fire safety inspections.

Historical facility compliance rates are listed below. Clearly, weekly site inspections are making a difference.



Historical Facility Inspection Compliance Rates

| Year | # Inspected | # of Deficiencies | # in Compliance | % in Compliance |
|------|-------------|-------------------|-----------------|-----------------|
| 2006 | 365 | 632 | 109 | 29.9% |
| 2007 | 379 | 440 | 136 | 35.9% |
| 2008 | 343 | 79 | 274 | 79.9% |

Records Inspections

Records inspection compliance rates increased. Although the goal is a 75% compliance rate for records inspections this coming year, this increase is a start in the right direction.

Historical Records Inspection Compliance Rates

| Year | # of Record Inspections | # of Record Deficiencies | # of Companies in Compliance | % of Companies in Compliance |
|------|-------------------------|--------------------------|------------------------------|------------------------------|
| 2006 | 123 | 714 | 23 | 18.7% |
| 2007 | 126 | 633 | 24 | 19.0% |
| 2008 | 110 | 827 | 47 | 42.7% |

Weekly Site Inspections

The Oregon Fire Code required daily facility site visits. We worked with the cardlock advisory committee to change that requirement to weekly. At that time, the compliance rate was very low. We discussed the possibility of going back to daily site visits, but the advisory committee disagreed and suggested we issue penalties to gain compliance. We agreed. The compliance rate for weekly site inspections more than doubled in 2008. We hope this rate voluntarily continues to rise, to eliminate the need for civil penalties and to protect the cardlock operators in the event of a lawsuit.



| Year | # of Companies | # Not in Compliance | # in Compliance | % of Companies 100% Compliance |
|------|----------------|---------------------|-----------------|--------------------------------|
| 2006 | 123 | 78 | 45 | 36.6% |
| 2007 | 126 | 86 | 40 | 31.7% |
| 2008 | 110 | 32 | 78 | 70.9% |

Synopsis of the 2008 Records Inspections

The two areas that appear to remain a challenge for the operators are acceptable proof of business and documentation of at least 900 gallons of fuel purchased. The following table shows acceptable and unacceptable proof of business.

Proof of Business

| ACCEPTABLE | UNACCEPTABLE |
|--|---|
| Tax Form Schedule C (Business) | Assumed Business Names (ABN) This is still the most frequent error in POB. |
| Tax Form Schedule F (Farm) with line 21 completed and visible. | Tax Form Schedule E (Supplement Income) |
| Tax Form 1065 (Partnership Income) | Tax Form Schedule 4835 (Farm Rental) |
| Tax Form 2290 (Highway Vehicle Use) | Tax Form Schedule 4862 (Depreciation) |
| Tax Form 4868 (Extension w/valid period) | Tax Form Schedule 4137 (Unreported Tips) |
| Tax Form 7004 (Auto 6 Month Extension) | Social Security Numbers |
| Current Business Licenses (w/valid dates) | Business Registry Numbers |

Proof of Gallons

All cardlock customers are required to purchase at least 900 gallons of fuel each year. Customers that do not have to purchase 900 gallons of fuel annually are:

- Customers that can provide a current tax form Schedule F (Farm Income w/line 21 completed and visible)
- Customers that are considered “grandfathered.” Those customers have been continual cardlock customers since June 30, 1991.

The 900-gallon requirement applies to gasoline, but also includes diesel fuel, as long as the fuel is used for business purposes. Heavy oil and home heating oil do not count toward the 900-gallon purchase requirement. Purchases from other companies, both retail and non-retail, can be included. Operators should monitor their customer purchases throughout the year to make sure the customers can remain on the system.

If the customer did not purchase 900 gallons at cardlock facilities, they can use a fuel usage report to document business use purchases at retail stations. We randomly verify fuel usage reports, so it is essential you explain to your customers they need to certify the information is true and correct. You must close the account if the customer is not able to satisfy the fuel purchase requirement.

Contested Case Hearing for Weekly Site Inspection Violations

The reason for sharing this information is two-fold. We want to advise operators that we take weekly site inspection compliance seriously, and also to let operators know the procedures and costs of a contested case hearing. The law requires us to advise operators of their right to request a contested case hearing, if they are issued a civil penalty.

When a contested case hearing is requested, we are required to contract with an administrative law judge to preside over the hearing. We are also required to obtain an assistant attorney general to represent us at the hearing.

Case in point: We issued a \$200 civil penalty (\$100 suspended) in 2007 to an operator for missing weekly site inspections. That operator requested a contested case hearing.

After the judge and our attorney worked on this case for many hours, the operator cancelled their request for hearing the day before and paid the \$100 penalty. This \$100 penalty took one year to resolve at a cost of more than \$2,300 to the cardlock program.

2009 Legislation

The OSFM has worked with the cardlock advisory committee and received permission from the Department of Administrative Services to propose a fee increase to the 2009 legislature. This proposed fee increase would raise the facility licenses from \$250 to \$300 per year, and raise the \$5 customer fee to \$7.50 in July 2009, and then to \$10 in 2010. This will be the first fee increase ever in the cardlock program. The \$5 customer fee was established in 1991 when the cardlock program was created by the legislature. We intend to keep everyone advised of the status of this bill. When the bill is completed and introduced, we will create a link from our website to the legislative website so you may access and track the bill. You will also have the opportunity to testify or comment on the bill.



We Now Have New Direct Phone Lines

| | |
|--------------------------------------|--------------|
| Anita Phillips, L & P Manager | 503-934-8264 |
| Sharon Kraw, Licensing Coordinator | 503-934-8285 |
| Jo Noffsinger, Compliance Specialist | 503-934-8286 |
| Art Spond, Compliance Specialist | 503-934-8287 |