

Comments of the American Public Gas Association re:
**DOE “Notice of Proposed Rulemaking (NOPR): Alternative Fuel
Transportation Program; Alternative Fueled Vehicle Credit Program
(Subpart F) Modification and Other Amendments,
76 Fed. Reg. 67288
December 15, 2011**

On behalf of the American Public Gas Association (APGA), I would like to applaud the Department of Energy (DOE) for its recent release of the “Notice of Proposed Rulemaking (NOPR): Alternative Fuel Transportation Program; Alternative Fueled Vehicle Credit Program (Subpart F) Modification and Other Amendments, 76 Fed. Reg. 67288.” APGA sincerely appreciates the DOE’s effort to make changes to the alternative fuel fleet regulations to further advance the development and deployment of alternative fueled vehicles (AFVs). However, APGA respectfully submits that DOE consider changes to the NOPR (detailed below) to ensure that natural gas vehicles (NGVs) and infrastructure receive equal treatment to other AFV technologies.

APGA is the national association for publicly-owned natural gas distribution systems. There are approximately 1,000 public gas systems in 36 states and over 700 of these systems are APGA members. Publicly-owned gas systems are not-for-profit, retail distribution entities owned by, and accountable to, the citizens they serve. They include municipal gas distribution systems, public utility districts, county districts, and other public agencies that have natural gas distribution facilities.

APGA has long recognized that the United States’ dependence on foreign oil is one of the foremost threats to our nation both economically and militarily. The U.S. economy is dangerously dependent upon crude oil for stability and economic growth and in no area is this dependence more evident than in the transportation sector. Even slight increases in the price of gasoline can send shock waves throughout the economy, reduce consumers’ purchasing power and spending, cause financial markets to tumble, and inhibit economic growth.

Moreover, it is on the foundation of our economic strength that our military might depends. The sad fact remains that the main sources of crude oil are outside the U.S. According to the Energy Information Administration, the U.S. imports approximately 51% of the oil it consumes (2009 data), meaning that America’s economic prosperity (and therefore its military strength) is tied to purchasing crude oil from foreign countries, many of which have interests that are antithetical to

our own. In short, the U.S. sends billions of dollars to potentially hostile nations, upon which it is dependent for its prosperity and ultimately its security.

Natural gas vehicles (NGVs) can play a critical role in reducing America's energy dependence on foreign oil as well as reducing greenhouse gas emissions. The combination of a secure, domestic, affordable fuel source that can be used by existing technology makes NGVs the logical choice for replacing our transportation fleet.

In order to ensure that NGVs can make these critical contributions to U.S. energy and national security, APGA respectfully submits comments on the following aspects of the NOPR: Heavy Duty Vehicles, Investments in Alternative Fuel Infrastructure Credits, Investments in Non-Road Fuel Equipment, and the Use of Banked Credits.

Heavy Duty Vehicles, p. 67,299, 67300

The current proposed rule only allows covered fleets to earn AFV credits for heavy-duty vehicles **after** satisfying the acquisition requirements for light-duty vehicles. APGA respectfully believes that this structure is inconsistent with federal fleet policy and acts as a disincentive for purchasing heavy-duty AFVs.

The treatment of heavy-duty AFV's under the NOPR is completely inconsistent with the policy governing federal fleets. Federal fleets currently earn multiple credits for acquiring heavy-duty, dedicated AFVs, and do not have to first satisfy their light duty acquisitions in order to qualify for such credits. Thus, federal fleets are more easily able to make significant petroleum reductions that are a result of replacing conventional heavy-duty vehicles with AFVs.

In contrast, state government and alternative fuel provider fleets under the NOPR, would be faced with an obvious disincentive to purchase heavy-duty AFVs, as the light-duty requirements must be fulfilled before the purchase of heavy-duty AFVs count as excess acquisitions and garner additional credits.

Therefore, APGA believes that DOE should amend its policy concerning heavy-duty vehicles and adopt the position that all heavy-duty AFV acquisitions exceed a fleet's requirements (and therefore earn additional credits) because they have no requirement to buy such vehicles. APGA strongly believes that given the significant petroleum reductions provide by heavy-duty AFVs, DOE should be making it easier for fleets to purchase them, not more difficult.

Investments in Alternative Fuel Infrastructure Credits, p. 67295, 67300

APGA supports the DOE position to limit Alternative Fuel Infrastructure credits to fueling infrastructure that is used to refuel vehicles as opposed to a broader definition that allows credit for equipment used in the offsite production or blending of fuels. APGA believes that a key factor in accelerating alternative fuels is the development of the fueling facility, so we think DOE appropriately has limited this provision. We also recommend allowing additional credits for public stations.

However, DOE should clarify in the final rule whether there must be control or ownership of the infrastructure in order to qualify for credits. For example, could a covered fuel provider earn credit for investing in a fueling station owned and operated by a customer? The notice says that “the alternative fuel infrastructure would have to be installed and paid for by the fleet requesting credit, or at least paid for by that fleet.” This seems to allow for a covered fleet to earn credit for its investments in stations owned and operated by others.

APGA recommends that DOE expressly allow covered fuel providers to earn credit for financial investments they make in stations owned and/or operated by another entity. APGA also submits that the final rule also should clarify that an investment of \$125,000 in a single alternative fuel station qualifies for 5 credits (which appears to be what the NOPR suggests) but it would be helpful if DOE specifically highlighted this example and the example of 10 credits for an investment of \$250,000 in a public station.

Investments Non-Road Alternative Fuel Equipment, p. 67296

APGA strongly supports the DOE’s decision to only allow mobile equipment to qualify as a Non-Road Alternative Fuel Equipment. APGA also recommends that DOE clarify that qualifying equipment must be self-powered.

Moreover, we also note that investments in non-road equipment present the same ownership issue as with infrastructure investments: can a covered fleet earn credits for investments in non-road equipment operated by its customers or other fleets? APGA recommends proposing that such investments should be promoted as a way to encourage broader market acceptance of alternative fuel vehicle technology. The notice talks about the “fleet’s acquisition of the equipment.” P. 67301. The term “acquisition” in our view is more limiting than the statutes use of “investment” and should not be construed to require that the fleet acquire non-road equipment for its own use in order to qualify for credits.

Use of Banked Credits p. 67289, 67304

APGA supports requiring the use of banked credits before requesting any future exemptions. The current program is extremely credit heavy and reducing the supply of credits could encourage automakers to make more AFVs available in future years as fleets use their credits and begin to need to purchase AFVs to comply.

APGA also notes with respect to the new reporting requirement, there does not appear to be any value in this step if fleets do not have any obligation to actually buy credits so it is not clear what benefit this new step provides. APGA requests that DOE clarify what benefit could be realized from the new step.

I thank you in advance for your consideration of our views.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bert Kalisch". The signature is fluid and cursive, with the first name "Bert" and last name "Kalisch" clearly distinguishable.

Bert Kalisch
President & CEO