

Frequently Asked Questions about the State and Alternative Fuel Provider Program

Prepared by the
U.S. Department of Energy
Office of Technology Utilization



DOE/GO-102000-1064
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Also available from the Alternative Fuels Data Center
Web site at <http://www.afdc.doe.gov>

The Framework

The U.S. Department of Energy (DOE) is implementing the provisions of the Energy Policy Act (EPA) of 1992, which calls for programs designed to accelerate the introduction of alternative fuel vehicles to reduce the nation's dependence on imported oil. As a quick reference to information about DOE's State and Alternative Fuel Provider Program, DOE has prepared the following questions and answers for managers of state and alternative fuel provider fleets.

Compliance of State and Fuel Provider Fleets with EPA

Q. *What are some good resources to help me understand EPA compliance?*

A. Here are several excellent sources of information:

- ◆ The interactive Web site, **www.fleets.doe.gov**, is designed to help fleets understand whether or not they need to comply with EPA, and their options in choosing alternative fuel vehicles (AFVs). It also locates refueling and recharging sites across the United States.
- ◆ Documents with information on compliance are available at **www.ott.doe.gov/credits** or by calling 800-423-1363. For example, a publication entitled *Comparison of EPA and Clean Fuel Fleet Program Requirements* is available, as well as the guide for state and fuel provider fleets mentioned just below.
- ◆ *Alternative Fueled Vehicles for State Government and Fuel Provider Fleets: A Guide for Meeting the Requirements of the Alternative Fuel Transportation Program* was published by DOE in response to Sections 501, 507(o), 508, 511, 512, and 513 of EPA. If you have questions after examining the document online at **www.afdc.nrel.gov/documents/epactrule.html**, call DOE (202-586-9171).

Q. *Who is the DOE contact responsible for overseeing compliance of state and fuel provider fleets?*

A. Unless otherwise noted in this document, direct all correspondence to Mr. Dana O'Hara, Program Manager, Alternative Fuel Transportation Program, EE-34, 1000 Independence Avenue, SW, Washington, D.C. 20585; phone: 202-586-9171; fax: 202-586-1610. To send e-mail about the program, address it to **regulatory_info@afdc.nrel.gov**.

- ◆ 10 CFR Part 490 *Federal Register*, March 14, 1996 (Volume 61, Number 51) is available online at **www.afdc.nrel.gov/documents/epactrule.html**. This is the final rule for the program.
- ◆ *Guidance on Requesting Exemptions* was published in October 1999, and is available at **www.ott.doe.gov/credits**.

Q. *How do I determine if my company meets the definition of an alternative fuel provider?*

A. The rulemaking states that an entity is an alternative fuel provider if its "principal business" is:

- ◆ Producing, storing, refining, processing, transporting, distributing, importing, or selling (at wholesale or retail) any alternative fuel (other than electricity)
- OR**
- ◆ Generating, transmitting, importing, or selling (at wholesale or retail) electricity
- OR**
- ◆ Producing, importing, or producing and importing (in combination) an average of 50,000 barrels per day or more of petroleum

AND 30% (a “substantial portion”) or more of its gross annual revenues are derived from producing alternative fuels.

Q. *Which fuels are allowable for EPAAct compliance?*

A. The following fuels are mentioned in the rule:

- ◆ Neat (100%) methanol, denatured ethanol, and other alcohols
- ◆ Mixtures containing 85% or more by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels
- ◆ Natural gas (compressed or liquefied)
- ◆ Liquefied petroleum gas (propane)
- ◆ Electricity (including electricity from solar energy)
- ◆ Hydrogen
- ◆ Coal-derived liquid fuels
- ◆ Fuel (other than alcohol) derived from biological materials (including neat or 100% biodiesel).

In addition, DOE has made a ruling that qualifies three blends of the new "P-series fuel" as alternative fuels. (The ruling is at www.ott.doe.gov/credits on the Web, and includes information about the three blends that DOE has approved for use.) DOE also released a rulemaking that allows covered fleets to obtain credits for purchase of biodiesel for B20 or higher blends (see the next question).

Q. *How does an organization acquire credit for using biodiesel? How does the process work?*

A. The rulemaking, located at www.ott.doe.gov/credits, explains the conditions under which a fleet may receive credit for biodiesel. An organization that purchases blends of B20 or higher for use as fuel in vehicles of more than 8,500 pounds gross vehicle weight rating may count only the pure biodiesel portion toward EPAAct requirements. A fleet can receive one EPAAct credit for each 450 gallons of pure biodiesel

(2,250 gallons of B20) purchased for use in medium and heavy vehicles. Fleets may earn a maximum of 50% of credits for biodiesel use unless the fleet is a biodiesel fleet, which earns 100% of credits.

Q. *Are electric-hybrid vehicles counted as AFVs under EPAAct?*

A. Electric-hybrid vehicles are not currently included in the State and Alternative Fuel Provider Program.

Q. *Is a state university or state college covered under EPAAct section 507(o)?*

A. Possibly. DOE has decided to allow each state to determine for itself which agencies operate or control a state fleet for reporting purposes. However, DOE will expect states to follow the common understanding of what constitutes a “state agency.” State agencies are usually authorized and funded by the state legislature, receive funding from the state budget, or are situated on state property. Examples of agencies that DOE expects to be classified as state agencies are departments, offices, and divisions of state government; state colleges and universities; port authorities; and other state entities.

Q. *Are school districts considered state entities if they are state-funded?*

A. It is up to the state to decide whether school districts are state agencies. Consult your state’s legal authority. (See also the previous question.)

Q. *Are state agencies required to use an alternative fuel in their AFVs?*

A. No. EPAAct requires covered state fleets to acquire AFVs but does not require them to use an alternative fuel.

Q. *Can a fuel provider receive credit under EPAAct for acquiring an E85 flexible-fuel vehicle?*

A. A fuel provider may receive credit as long as E85 fuel is available in the operating territory, and the fuel is used to the practical

extent possible. If no E85 is available in proximity to the fuel provider's fleet, the fuel provider should acquire a type of AFV for which the alternative fuel is available. The fuel provider should apply for an exemption if there are *no* alternative fuels available within the fleet's territory.

Q. Are fuel providers required to always use an alternative fuel in their AFVs?

A. EPCAct requires fuel providers to use the fuel in their vehicles except where and when it is not available. Fuel providers must keep records of their fuel use for a minimum of three years (see 10 *CFR* Part 490 Subpart D, Section 490.306).

Q. What are the penalties for noncompliance with EPCAct?

A. 10 *CFR* Part 490 Subpart G, Section 490.604 of the rulemaking defines the penalties as

- ◆ A fine of \$5,000 per violation for civil penalties
- ◆ A criminal fine of \$10,000 per willful violation
- ◆ A criminal fine of \$50,000 if violations are willful and repeated.

Filing Annual Fleet Reports

Q. How can I file our annual fleet report with DOE?

A. There are several ways to submit a report:

- ◆ Submit your report electronically via the DOE Web site at **www.ott.doe.gov/credits**
- ◆ Download and print an Excel spreadsheet or Form 101 (DOE/OTT/101) from the Web site, fill it out and mail or fax it to Jaycor at 11410 Isaac Newton Square North, Suite 103, Reston, VA 20190; fax: 703-397-9359; e-mail: afv_credit_acct@va.jaycor.com.
- ◆ Request hard copies of either of these forms from the National Alternative

Fuels Hotline at 800-423-1363, fill them out, and send them to Jaycor at the above address.

Because fax transmissions can be difficult to read, we suggest that you follow up a fax with a mailed copy. (Note: the Excel spreadsheet also may be submitted online, but Form 101 must be downloaded and filled in by hand.)

Q. Where can I find help with submitting an AFV fleet report on the Web site?

A. Detailed instructions about how to submit an AFV annual fleet report are available on the DOE Web site (**www.ott.doe.gov/credits**). If questions remain, contact the Credits Webmaster at the National Renewable Energy Laboratory in Golden, CO, fax: 303-275-4415, or e-mail: webmaster.credits@afdc.nrel.gov.

Q. How will I know that you received my annual fleet report?

A. All fleet reports will be reviewed for completeness and accuracy as they are received. You will receive a fax or e-mail message confirming that we received yours, and if necessary, you will be asked to provide missing information. The review and confirmation process typically takes less than a week. If you haven't received an acknowledgment, call the AFV Program Office at 800-959-5780 to find out where your report stands.

Q. What information do I need to review my fleet report data on the Web?

A. If you originally entered your fleet data through the Web site, you were given a fleet key, a registered user ID, and a password at that time. Now, you can use these to review your data. If you submitted your fleet report through another means (e.g., as an Excel spreadsheet or in paper form), use the "Register" option under the "Add Fleet" button on the Acquisition and Credits Database Main Menu of the Web site to get your ID and password.

Q. I omitted an AFV when I made my last annual fleet report submission. Can I amend my annual fleet report later?

A. Yes. Just note the situation and provide the required information on the vehicle to Jaycor.

Q. Are fuel providers required to report vehicles outside a metropolitan statistical area/consolidated metropolitan statistical area (MSA/CMSA)?

A. Yes. Any new light-duty vehicle (LDV) acquired by a covered fuel provider is counted in determining AFV acquisition requirements if the fleet owns, operates, leases, or otherwise controls 50 or more LDVs. These LDVs must not be on the list of excluded vehicles, 20 of them must be used primarily within the MSA/CMSAs, and those same 20 LDVs must be centrally fueled or capable of being centrally fueled.

Q. Do I have to report the Vehicle Identification Number (VIN) and other information about ALL my LDVs, or just AFVs?

A. Only AFVs must be reported on in detail.

Q. What happens if I cannot identify a vehicle by its VIN?

A. All on-road certified vehicles have a VIN. If the vehicle doesn't have a VIN, it can't be included in the program.

Q. What if my organization fails to make its annual report to DOE?

A. The deadline for filing a report is December 31st of the relevant model year; for example, December 31, 2000, for the model year 2000 report. Failure to file an annual fleet report or late filing of the report may subject your organization to civil or criminal penalties. You may avoid being out of compliance by submitting your annual report in a timely and complete manner. See www.ott.doe.gov/credits for instructions on how to submit your report. You may ask the

DOE Program Manager, in writing, for an extension on submitting your report.

Acquisition/Conversion of Vehicles

Q. What does "acquisition date" really mean?

A. Acquisition date means the date on which the vehicle is taken into possession or control, such as through purchase or lease.

Q. When I provide my total LDV count, should I include AFVs in that figure?

A. Yes, you should include AFVs in the LDV count.

Q. Do I have to report acquisition information on LDVs or AFVs for model years 1993 through 1996?

A. No. The program does not require LDV or AFV information before model year 1997. However, any AFVs acquired after October 24, 1992, and before September 1, 1996, do earn credits.

Q. If I report a vehicle that was acquired as an AFV, do I have to report its conversion date?

A. No. If you acquired the vehicle as an AFV, it was either an original equipment manufacturer (OEM) vehicle, or it had been converted by a previous owner. However, if the vehicle was converted when you owned it, you must report the conversion date.

Q. Can I report vehicles acquired or converted before EPOA was signed into law (October 24, 1992) to get credits?

A. No. Vehicles acquired or converted before EPOA became a law are not included in this program and don't earn AFV credits.

Q. We are an electric utility that took the electric utility option, which delayed our acquisition requirements for one year. Must we meet EPOA requirements using only

electric vehicles? Do we have to evaluate other choices as well?

A. DOE put electric utilities on notice that designation of the electric utility option did not permit an electric utility to consider only EVs to meet requirements. DOE might consider granting an exemption if an electric utility were able to show that it was unable to acquire any fuel-type AFVs that met the “normal requirements and practices” of its business. Several fleets asked DOE’s Alternative Fuel Transportation Program for exemptions based on lack of suitable electric vehicles. When these requests were denied, two were appealed to DOE’s Office of Hearings and Appeals (OHA), but OHA denied both appeals.

Q. *How do credits for vehicles of over 8,500 pounds gross vehicle weight rating work? How may they be applied?*

A. You may receive one credit for each medium- or heavy-duty alternative fuel vehicle once your EPCa requirements for LDVs are fully met. They are reported to DOE as acquisitions with your annual report (see 10 *CFR* Part 490 Subpart F Section 490.502).

Q. *Our fleet did not acquire enough vehicles or credits during the past model year. How can I reconcile the problem?*

A. You may obtain credits through transfer or purchase from another entity. If the model year is not over, you may also want to purchase biodiesel for use in blends of B20 or higher for your medium- and heavy-duty vehicles to meet your requirements for that model year. (Note that this is limited to 50% of requirements for non-biodiesel fuel providers.) Please refer to the Web site at www.ott.doe.gov/credits for a list of state and fuel provider fleets with excess credits or for guidance on obtaining credit for biodiesel purchases. Another option would be to contact the program manager and propose other options such as purchasing more AFVs in the next model year. DOE is interested in having fleets that are out of

compliance reconcile with DOE as soon as possible.

Q. *What happens if I ordered my AFVs early in the model year and, through no fault of my own, did not receive the vehicles before the model year ended?*

A. You must inform DOE in writing that the vehicles were received late and explain the circumstances that led to their late arrival. DOE will evaluate the situation and will work with you to develop an equitable solution.

Exclusion of Vehicles

Q. *Can I count excluded vehicles in my calculations?*

A. If you acquire an AFV in any of the excluded-vehicle categories (see list of vehicles in 10 *CFR* Subpart A, Section 490.3 of the rule), you may apply this AFV toward your compliance requirements or for additional credit. The only exception to this is that non-road vehicles may not count toward your requirements nor for additional credits.

Exemption Requests

Q. *If AFVs or alternative fuels are not available in my area, but my organization is covered by EPCa, what should I do?*

A. If you can't find AFVs or alternative fuels that meet your normal business practices and requirements, you may file for exemptions from EPCa acquisition requirements. A complete guide to filing your request is located at www.ott.doe.gov/credits. After DOE receives complete documentation justifying your request, the department has 45 working days to make a decision on whether you qualify for exemptions from EPCa. With proper proof, DOE may offer your organization a partial or complete exemption from the acquisition requirements. (State agencies may also file for exemptions as a result of financial

hardship—see 10 *CFR* Part 490 Subpart 490.204.)

Q. If DOE's Office of Energy Efficiency and Renewable Energy denies our exemption request, do we have other options?

A. Yes. If an exemption request is denied, you may file an appeal within 30 days of the date of DOE's determination with DOE's OHA. (See Section 490.308 [g] of 10 *CFR* Part 490 and the OHA Web site at www.oha.doe.gov/eecases.htm. The Web site contains OHA decisions of appeals filed by covered entities under the Alternative Fuel Transportation Program.)

Q. When DOE grants exemptions, how are they applied to an organization's credit account?

A. Exemptions directly reduce a fleet's requirements for acquiring AFVs or credits for the model year in which they are applied. Thus, if a fleet is required to acquire ten AFVs or credits and applies for and receives five exemptions, the fleet has to actually acquire five AFVs or credits. If the fleet acquires more than the five required AFVs, the excess vehicles are counted as credits that may be banked, traded, or sold.

Q. We think our organization is not (or is no longer) covered by the requirements of 10 CFR Part 490 for state government and fuel provider fleets. How can I confirm this with DOE?

A. One of the following conditions will apply:

◆ **Not enough vehicles in the fleet (fewer than 50 LDVs if fleet is in the United States)**

DOE must receive information in writing before determining whether a fleet is covered. Provide a list of all of the LDVs currently in your fleet (of 8,500 pounds gross vehicle weight rating or less), and include the make, model, and VIN of each vehicle.

◆ **Not enough vehicles in an MSA (fewer than 20 LDVs in a single MSA)**

Again, DOE needs this in writing. Provide a list of all the LDVs currently in your fleet and where they are located, and the model, make, and vehicle identification number of each of these vehicles.

◆ **Not enough revenue from alternative fuels**

Send DOE written notification with certified financial statements or an annual report so that DOE may verify that your organization is not deriving at least 30% of its total revenues from the sale of an alternative fuel.

◆ **Does not operate in any of the 125 EPAct locations listed in Appendix A of the rulemaking**

Provide DOE with a map of your service territory and/or a list of the counties in which you operate.