

AMERICAN POWER GROUP Corp  
Form POS AM  
April 22, 2014

As filed with the Securities and Exchange Commission on April 22, 2014  
Registration Number 333-181773

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

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POST-EFFECTIVE AMENDMENT NO. 2 TO  
FORM S-1  
REGISTRATION STATEMENT  
UNDER THE SECURITIES ACT OF 1933

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AMERICAN POWER GROUP CORPORATION

(Exact Name of Registrant as Specified in its Charter)

Delaware

(State or  
other jurisdiction of  
incorporation or  
organization

3510 (Primary  
Standard Industrial  
Classification Code  
Number)

71-0724248 (I.R.S.  
Employer Identification  
No.)

7 Kimball Lane, Building A  
Lynnfield, Massachusetts 01940  
(781) 224-2411

(Address, Including Zip Code, and Telephone Number, Including Area Code, or Registrant's Principal Executive Offices)

Charles E. Coppa  
Chief Financial Officer  
American Power Group Corporation  
7 Kimball Lane, Building A  
Lynnfield, Massachusetts 01940  
(781) 224-2411

(Name, Address, Including Zip Code, and Telephone Number, Including Area Code, of Agent for Service)

with a copy to:

Carl F. Barnes, Esq.  
Morse Barnes-Brown & Pendleton, P.C.  
CityPoint

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230 Third Street, 4th Floor  
Waltham, MA 02451  
(781)622-5930

Approximate date of commencement of proposed sale to public: As soon as practicable after the effective date hereof.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act, check the following box.

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If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration number of the earlier effective registration statement for the same offering.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Larger accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

THE REGISTRANT HEREBY AMENDS THIS REGISTRATION STATEMENT ON SUCH DATE OR DATES AS MAY BE NECESSARY TO DELAY ITS EFFECTIVE DATE UNTIL THE REGISTRANT SHALL FILE A FURTHER AMENDMENT WHICH SPECIFICALLY STATES THAT THIS REGISTRATION STATEMENT SHALL THEREAFTER BECOME EFFECTIVE IN ACCORDANCE WITH SECTION 8(A) OF THE SECURITIES ACT OF 1933 OR UNTIL THE REGISTRATION STATEMENT SHALL BECOME EFFECTIVE ON SUCH DATE AS THE COMMISSION, ACTING PURSUANT TO SECTION 8(A), MAY DETERMINE.



#### EXPLANATORY NOTE

This Post-Effective Amendment No. 2 to the Registration Statement on Form S-1 (File No. 333-181773) (the “Registration Statement”) of American Power Group Corporation (the “Company”) is being filed pursuant to the undertaking in Item 17 of the Registration Statement to update and supplement the information contained in the Registration Statement, as originally declared effective by the Securities and Exchange Commission on July 25, 2012, and as amended by Post-Effective Amendment No. 1 declared effective by the Securities and Exchange Commission on April 18, 2013 to include the information contained in the Company’s Annual Report on Form 10-K for the fiscal year ended September 30, 2013 (the “Annual Report”) that was filed with the Securities and Exchange Commission (the “SEC”) on December 23, 2013, to include the information contained in the Company’s Quarterly Report on Form 10-Q for the fiscal quarter ended December 31, 2013 that was filed with the SEC on February 13, 2014, and to update certain other information in the Registration Statement.

The information included in this Post-Effective Amendment No. 2 to the Registration Statement updates and supplements the Registration Statement and the Prospectus contained therein. No additional securities are being registered under this Post-Effective Amendment No. 2. All applicable SEC registration fees were paid at the time of the filing of the original Registration Statement.

INFORMATION CONTAINED HEREIN IS SUBJECT TO COMPLETION OR AMENDMENT. A REGISTRATION STATEMENT RELATING TO THESE SECURITIES HAS BEEN FILED WITH THE SECURITIES AND EXCHANGE COMMISSION. THESE SECURITIES MAY NOT BE SOLD UNTIL THE REGISTRATION STATEMENT BECOMES EFFECTIVE. THIS PROSPECTUS IS NOT AN OFFER TO SELL AND IS NOT A SOLICITATION OF AN OFFER TO BUY IN ANY STATE IN WHICH AN OFFER, SOLICITATION, OR SALE IS NOT PERMITTED.

SUBJECT TO COMPLETION, DATED APRIL 22, 2014  
PROSPECTUS

AMERICAN POWER GROUP CORPORATION

11,553,282 SHARES OF COMMON STOCK

This prospectus relates to the possible resale, from time to time, by the selling stockholders named in this prospectus of up to: (1) 10,346,585 shares that have been, or may be, acquired upon the conversion of shares of our 10% Convertible Preferred Stock, which preferred stock was issued to 15 investors in a private placement completed on April 30, 2012; and (2) 1,206,697 shares issued between June 30, 2012 and January 31, 2014 in lieu of the payment of cash dividends on the preferred stock in accordance with the terms of the Certificate of Designation governing the preferred stock.

We are not selling any shares of our Common Stock in this offering and, as a result, we will not receive any proceeds from the sale of the Common Stock covered by this prospectus. All of the net proceeds from the sale of our Common Stock will go to the selling security holders.

The selling security holders may sell Common Stock from time to time at prices established on the OTC Markets Group's OTCQB, or as negotiated in private transactions, or as otherwise described under the heading "Plan of Distribution." The Common Stock may be sold directly or through agents or broker-dealers acting as agents on behalf of the selling security holders. The selling security holders may engage brokers, dealers or agents who may receive commissions or discounts from the selling security holders. We will pay all the expenses incident to the registration of the shares; however, we will not pay for sales commissions or other expenses applicable to the sale of our Common Stock registered hereunder.

Our Common Stock is presently quoted on the OTC Markets Group's OTCQB under the symbol "APGL." On April 18, 2014, the last reported sale price of our Common Stock on the OTCQB was \$0.92 per share.

Investing in our Common Stock involves a high degree of risk. See "Risk Factors" beginning on page 8 to read about factors you should consider before investing in shares of our Common Stock.

NEITHER THE SECURITIES & EXCHANGE COMMISSION ("SEC") NOR ANY STATE SECURITIES COMMISSION HAS APPROVED OR DISAPPROVED OF THESE SECURITIES OR DETERMINED IF THIS PROSPECTUS IS TRUTHFUL OR COMPLETE. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

THE DATE OF THIS PROSPECTUS IS \_\_\_\_\_, 2014.



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“GreenMan,” “American Power Group” and “Green Tech Products” are our trademarks and service marks, and we claim common law rights in such marks. This prospectus refers to the trade names, service marks and trademarks of other companies. These references are made with due recognition of the rights of these companies and without any intent to misappropriate these names or marks.



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## PROSPECTUS SUMMARY

### AMERICAN POWER GROUP CORPORATION

11,553,282 SHARES OF COMMON STOCK

### ABOUT THIS PROSPECTUS

This summary highlights certain information appearing elsewhere in this prospectus. For a more complete understanding of this offering, you should read the entire prospectus carefully, including the risk factors and the financial statements. References in this prospectus to “we,” “us,” “our” and “American Power Group” refer to American Power Group Corporation together with its subsidiaries. You should read both this prospectus and any prospectus supplement together with additional information described below under the heading “Where You Can Find More Information.”

### ABOUT AMERICAN POWER GROUP

#### Company Overview

Effective August 1, 2012, our company changed its name from GreenMan Technologies, Inc. to American Power Group Corporation. The trading symbol for our Common Stock on the OTCQB also changed from “GMTI” to “APGI.” American Power Group Corporation is a Delaware corporation. Prior to August 1, 2011, our business was comprised of two business segments, our dual fuel conversion operations (American Power Group) and our molded recycled rubber products operations (Green Tech Products). Our business changed substantially in August 2011, when we sold substantially all of the assets of our molded recycled rubber products operations.

#### Products and Services

Our American Power Group's patented dual fuel conversion system is a unique external fuel delivery enhancement system that converts existing diesel engines into more efficient and environmentally friendly engines that have the flexibility, depending on the circumstances, to run on:

- Diesel fuel and compressed natural gas (CNG) or liquefied natural gas (LNG);
- Diesel fuel and pipeline gas, well-head gas or approved bio-methane; or
- 100% diesel fuel.

Our proprietary technology seamlessly displaces up to 75% of normal diesel fuel consumption with various forms of natural gas with the average displacement ranging from 40% to 65%. The energized fuel balance between the two fuels is maintained with a patented control system ensuring the engines operate to Original Equipment Manufacturers' (OEM) specified temperatures and pressures with no loss of horsepower. Installation requires no engine modification, unlike the more expensive fuel injected alternative fuel systems in the market.

By displacing highly polluting and expensive diesel fuel with inexpensive, abundant and cleaner burning natural gas, a user can:

- Reduce fuel and operating costs by 15% to 35%;
- Reduce toxic emissions such as nitrogen oxide (NOX), carbon monoxide (CO) and fine particulate emissions; and
- Enhance the engine's operating life, since natural gas is a cleaner burning fuel source.

Primary end market applications include both primary and back-up diesel generators as well as heavy-duty vehicular diesel engines.



### Recent Developments

In November 2012, we signed a National Distributor and Master Marketing Agreement with WheelTime Network LLC, a truck service network with 18 member companies providing installation and warranty support through nearly 200 service centers, 2,800 service bays, 3,500 factory-trained technicians and 30 training facilities located across the United States and Canada. Under the agreement, WheelTime endorsed American Power Group's dual fuel conversion technology to its 18 member companies and encouraged each member to become a certified installer and authorized dealer of American Power Group's Vehicular Turbocharged Natural Gas Systems. As of September 30, 2013, all of WheelTime's 18 member companies have agreed to become non-exclusive dealers and installers of our dual fuel technology. We believe that this relationship provides us the opportunity to accelerate the national rollout of our vehicular dual fuel through access to a large national network of qualified diesel engine personnel as well as testing/installation equipment.

In addition, we issued WheelTime a warrant to purchase 1,540,000 shares of our Common Stock at an exercise price of \$.55 per share. The warrant is immediately exercisable with respect to 100,000 shares of Common Stock with the remaining shares becoming exercisable in increments of 50,000 shares upon the execution of a certified installer agreement and a dealer agreement by each of the 18 members during the first year after the original issue date of the Warrant. An additional 30,000 warrants would become exercisable for each member that agreed to become an exclusive dealer by December 31, 2013. No member chose to become exclusive and therefore warrants to purchase 540,000 shares of our Common Stock have terminated. The remaining warrants will expire on December 31, 2017. During fiscal 2013, we were notified by the Environmental Protection Agency ("EPA") of an additional 360 approvals for various outside useful life ("OUL") vehicular engine families. As of September 30, 2013, we had an industry-leading 449 OUL vehicular engine family approvals. See "Business-Government Regulation", below.

In March 2013, we introduced the nation's first natural gas dual fuel glider kit. The term glider kit refers to a truck that is built from the "ground up" with a new frame, cab, electrical system and front axle but utilizing two of the following three rebuilt components: (1) engine, (2) transmission, or (3) rear axle. As a result, the initial purchase price is typically 25% lower than a new diesel truck and maintenance costs are typically 70% less compared to new truck. In August 2013 we received an \$800,000 order from Ervin Equipment of which approximately 70% is for anticipated glider conversions.

In December 2013, Iowa State Bank extended the maturity of our \$2.25 million credit facility from December 31, 2013 to April 1, 2015, increased our borrowing limit to \$2.5 million and expanded our collateral base to include certain fixed assets which will provide more working capital availability under the credit facility.

### Financing Arrangements

In April 2012, we completed the following actions.

#### Private Placement

On April 30, 2012, we completed a private placement in which we entered into a securities purchase agreement with certain accredited investors and sold 821.6 units for gross proceeds to us of \$8,216,000. Each unit had a purchase price of \$10,000 and consisted of one share of 10% Convertible Preferred Stock, which we refer to in this prospectus as 10% Preferred Stock, and one warrant to purchase 25,000 shares of Common Stock.

The 10% Preferred Stock has a ten percent annual dividend, payable quarterly in shares of Common Stock, provided that if we fail to meet certain conditions set forth in the Certificate of Designations we may be required to pay such dividends in cash. As of the date of issuance, each share of 10% Preferred Stock is convertible, at any time at the option of the holder, into 25,000 shares of Common Stock at a conversion price of \$0.40 per share. The conversion price is subject to adjustment in the event we issue shares of Common Stock or other securities convertible into or exchangeable for Common Stock at a price per share which is less than the conversion price of the 10% Preferred Stock. In addition to the conversion right described above, we may require the holders of the 10% Preferred Stock to convert their shares into shares of Common Stock in the event the volume weighted average price of our Common Stock exceeds certain threshold amounts.

The holders of the 10% Preferred Stock vote with the Common Stock on all matters presented to the holders of the Common Stock, other than the election of certain directors, on an as converted into Common Stock basis. The holders of 10% Preferred Stock voting as a separate class are entitled to elect three members of the Board of Directors. In

connection with the exercise of that right, Dr. Allen Kahn and Thomas Galvin resigned from the Board of Directors following the completion of the private placement and the Board of Directors appointed Neil Braverman, Dr. Aviel Faliks and Jamie Weston as directors. The number of directors elected by the holders of our Common Stock, voting as a separate class, will be reduced from four to three effective March 31, 2013. Kevin Tierney, Sr. resigned from the Board of Directors on January 10, 2013 in anticipation of that change. The holders of the 10% Preferred Stock also have certain rights to elect additional members of the Board of Directors in the event we fail to make the dividend payments as required by the terms of the 10% Preferred Stock. In addition, the approval of the holders of at least 67% of the outstanding 10% Preferred Stock will be required before we may take certain actions.

The holders of the 10% Preferred Stock have priority in the event of a liquidation of our company over the outstanding shares of Common Stock. Upon liquidation, dissolution or winding up of our company, whether voluntary or involuntary, before any distribution or payment is made to the holders of the Common Stock, the holders of the 10% Preferred Stock are entitled to be paid out of the assets of the company an amount equal the stated value of the 10% Preferred Stock, which is initially \$10,000 per share, plus any accrued, but unpaid, dividends.

In addition, in the event we fail to take certain actions regarding the registration of the Common Stock issuable upon conversion of the 10% Preferred Stock or we take certain other actions affecting the 10% Preferred Stock, the holders of the 10% Preferred Stock may require us to redeem such preferred stock at a price to be determined at the time of redemption in accordance with the terms of the 10% Preferred Stock.

Each investor also received a warrant to purchase a number of shares of Common Stock equal to the number of shares into which the 10% Preferred Stock purchased by such investor is convertible as of the date of issuance of the warrant. The warrants have an exercise price of \$0.50 per share and may be exercised at any time during a five-year period beginning October 30, 2012. The warrants are subject to adjustment in the event we issue shares of Common Stock or other securities convertible into or exchangeable for Common Stock at a price per share which is less than the exercise price of the warrants and upon other customary terms.

In connection with the private placement, we granted the investors the right, exercisable at any time before March 31, 2013, to invest up to \$2.7 million to buy additional units under the same terms described above. As of March 31, 2013, all of the investors have exercised their additional investment rights to purchase a total of 273.9 units, each unit consisting of one share of 10% Preferred Stock and one warrant to purchase 25,000 shares of Common Stock, for gross proceeds of \$2,739,000. The shares of Common Stock underlying these securities are not being registered for resale under this prospectus.

Of the \$8,216,000 in gross proceeds from the private placement, not including the gross proceeds received upon the exercise of the additional investment rights, our net proceeds after fees and expenses were approximately \$7,500,000. We used approximately \$495,000 of the net proceeds to retire short term debt and intend to use the balance to advance our dual fuel technologies business.

In connection with the private placement, we entered into a registration rights agreement with the holders of the 10% Preferred Stock. Pursuant to the registration rights agreement, we were required to file a registration statement with the Securities and Exchange Commission on or before May 30, 2012, to register for resale the shares of Common Stock issuable upon the conversion of the 10% Preferred Stock and upon the exercise of the warrants and to use commercially reasonable best efforts to cause the registration statement to be declared effective. The registration rights agreement requires that we pay to each investor liquidated damages equal to two percent of the amount invested by such investor in the private placement in the event we fail take certain actions affecting the registration of the shares of Common Stock or the ability of the investors to sell shares of Common Stock pursuant to Rule 144 of the Securities Act of 1933, as amended. This prospectus is a part of the registration statement we filed pursuant to the registration rights agreement.

In connection with the private placement, we entered into a voting agreement with the holders of the 10% Preferred Stock. Pursuant to the voting agreement, the investors have agreed to vote their shares of 10% Preferred Stock to elect: (a) two individuals to the Board of Directors designated by Spring Mountain Capital, for as long as Spring Mountain Capital or its affiliates owns shares of 10% Preferred Stock; and (b) one individual to the Board of Directors designated by Associated Private Equity LLC, for as long as Associated Private Equity LLC or its affiliates owns shares of 10% Preferred Stock.

#### Amendments to Certain Related Party Promissory Notes

On April 27, 2012, we entered into amendments to promissory notes in the aggregate principal amount of \$473,500 held by Charles Coppa, our Chief Financial Officer; Lyle Jensen, a member of our Board of Directors and our President and Chief Executive Officer; and Dr. Allen Kahn, who was then a member of our Board of Directors. These amendments reduced the interest rates of the promissory notes to 8% per annum and extended the maturity dates of the notes to April 30, 2014.

#### Amendment to Patent License and Note

On April 27, 2012, we entered into an amendment to the exclusive patent license agreement dated June 17, 2009, under which we license certain dual fuel technology from M & R Development, Inc. The amendment amends the royalty provisions in the license to modify the calculation of the royalty payments and to amend the timing of the royalty payments. Under the provisions of this amendment, effective April 1, 2012, the monthly royalty amount due to M&R will be the lesser of 10% of net sales or 30% of pre-royalty EBITDA (Earnings Before Interest, Taxes, Depreciation and Amortization). No royalties will be due if cumulative EBITDA is less than zero. M&R also agreed to waive any prior defaults under the license. In addition, we amended the amended and restated promissory note issued to American Power Group by M&R on December 1, 2009 to extend the maturity of the note until February 15, 2015 and to defer all interest and principal payments due under the note during calendar 2012. Thereafter, the aggregate principal amount due under the note will be paid in eight equal quarterly payments plus interest.

#### Convertible Debenture Conversions

As a condition to the closing of the private placement on April 30, 2012, the investors required that outstanding convertible promissory notes be converted into shares of Common Stock effective as of and immediately prior to the closing. At or prior to the closing, holders of convertible promissory notes in the aggregate principal amount of \$2,985,000 converted such principal, together with interest accrued thereon, into approximately 6,842,955 shares of Common Stock.

#### Corporate Information

We were originally founded in 1992 and have operated as a Delaware corporation since 1995. Our principal executive office is located at 7 Kimball Lane, Building A, Lynnfield, Massachusetts 01940, and our telephone number is (781) 224-2411. We maintain a website at [www.americanpowergroupinc.com](http://www.americanpowergroupinc.com). Our website and the information contained therein or connected thereto are not incorporated into this prospectus.



## SUMMARY OF THE OFFERING

Common Stock offered by selling security holders: 11,553,282 shares

Terms of the Offering: The selling security holders will determine when and how they will sell the Common Stock offered in this prospectus.

Common Stock outstanding, excluding Common Stock offered by selling security holders: 50,328,402 shares

Common Stock outstanding after the offering: 61,811,684 shares, which assumes the conversion of 390 outstanding shares of 10% Convertible Preferred Stock into shares of Common Stock  
Use of proceeds: We are not selling any shares of the Common Stock covered by this prospectus, and, as a result, will not receive any proceeds from this offering.

OTCQB Symbol: APGI

Risk Factors: See "Risk Factors" beginning on page 8 and the other information in this prospectus for a discussion of the factors you should consider before you decide to invest in the units.

The total number of shares of our Common Stock outstanding excludes (i) 17,633,619 additional shares of Common Stock issuable upon conversion of additional shares of 10% Convertible Preferred Stock, which are not included in this prospectus; (ii) 24,651,173 shares of Common Stock issuable upon the exercise of warrants issued to the purchasers of the 10% Convertible Preferred Stock at an exercise price of \$.50 per share; (iii) 290,000 shares of Common Stock issuable upon the exercise of warrants issued to the placement agent in connection with the private placement of the 10% Convertible Preferred Stock at an exercise price of \$.40 per share; and (iv) 5,417,121 shares of Common Stock issuable under the exercise of stock options and warrants outstanding as of April 18, 2014 at a weighted average exercise price of \$0.42 per share.

**SUMMARY CONDENSED CONSOLIDATED FINANCIAL INFORMATION**

The following summary of selected condensed consolidated financial information as of and for the fiscal years ended September 30, 2013 and 2012 has been derived from our audited consolidated financial statements included elsewhere in this prospectus. The following summary of selected condensed consolidated financial information as of and for the three months ended December 31, 2013 and 2012 has been derived from our unaudited financial statements included elsewhere in this prospectus. The condensed consolidated financial information set forth below should be read in conjunction with “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and the financial statements and notes thereto included elsewhere in this prospectus.

## Condensed Consolidated Statements of Operations

	Three Months Ended		Fiscal Year Ended	
	December 31,		September 30,	
	2013	2012	2013	2012
Net sales	\$1,842,521	\$874,953	\$7,017,122	\$2,633,880
Cost of sales	940,909	574,404	4,290,995	1,935,767
Gross profit	901,612	300,549	2,726,127	698,113
Operating expenses:				
Selling, general and administrative	991,617	882,882	4,597,311	2,927,282
Operating loss from continuing operations	(90,005 )	(582,333 )	(1,871,184 )	