



TEXAS RETAILERS
A S S O C I A T I O N

June 3, 2022

Rules Coordinator
Railroad Commission of Texas
Office of General Counsel
Via email: rulescoordinator@rrc.texas.gov

Dear Commissioners and Railroad Commission Rules Coordinator:

Thank you for considering comments submitted on behalf of Texas Retailers Association regarding the proposed rule published for SB 1668 passed during the 87th Texas legislative session.

Summary of overall revisions needed to the proposed rule for SB 1668

- 1) Provide a deadline for RRC to send applicants a certificate once a complete application has been submitted to RRC. We have suggested 10 business days for RRC to send out the certificate after receiving the completed application. However, if the 10-day timeframe cannot be met, allow the test score and application submitted, or the receipt thereof to be used as a temporary certificate to give the RRC staff time to comply.
- 2) Clarify the language to ensure that ASME mounted mobile tanks (primarily used for cooking) are also included as they are already included in the PERC and PERC based training provided for in the bill that relates to cylinders.
- 3) Remove the new and never intended in the law requirement for outside trainer certification. Instead, AFS should review and approve any PERC based training and exam materials submitted by a licensed retailer annually so that the licensed retailer may directly administer the online training and exam, wherein an outside instructor is not necessary. PERC does not require an outside instructor and it is not required in the proposed rule for PERC materials either.

Proposed comments

SB 1668 is a straightforward bill that eliminates unnecessary regulatory barriers to obtain a certificate to refill propane containers. There is currently a severe shortage of certified individuals who are allowed to refill containers. The bill states that additional requirements

under statute for certificates to fill cylinders shall be waived by the Commission if applicants complete training consistent with Propane Education Research Council (PERC) guidelines and submit proof of the completion of training, submit an application, pay a fee, and complete an examination in one of three ways. The multiple pages of proposed rules go well beyond the intent and bounds of the bill by adding an additional layer of certification by the Commission as an outside trainer. Further, it does not include any deadline by which the Commission is to issue a certificate to an applicant who has submitted a completed application; thus, we propose that certificates be issued within 10 business days of receipt of a completed application by the RRC. If a certificate cannot be issued within 10 days through no fault of the applicant, we strongly suggest a temporary certificate be allowed whether it's the successful test score, or the paid application fee. Four to nine weeks is not acceptable. Finally, clarification is needed to ensure that both cylinders and ASME mounted motor/mobile fuel tanks, which are covered in the PERC training already, will be allowed under this certificate. The intent was to cover the ASME mounted propane tanks primarily used for cooking and frequently seen on RV's, which is covered in the PERC training already in the bill and that will be approved for use.

The PERC training and PERC based training is available in an online format for both the training courses and the examination. The intent of the bill was to allow applicants to satisfy the training and examination requirements by RRC to hold a certificate to refill propane with these more readily available online courses and testing. The rule must reflect the same. It is unnecessary and overly burdensome to require training and certification of an outside instructor who would simply administer an online class and exam where no additional instruction is necessary or required by PERC. Instead of the outside trainer, which was never intended or contemplated in the legislation, we propose having the AFS division of the RRC approve annually the PERC based training to be administered online by a licensed retailer. We understand that under option 1 in the rule draft, the direct online PERC training and examination may be administered by anyone without a certified instructor already, thus it is clear that an instructor is not necessary. The PERC based training is word for word PERC content that may be rebranded by a company administering the training using an exam that includes the PERC content. Approval by AFS of the PERC based training would be more than sufficient to ensure that the necessary content is being administered. We ask that the RRC accept the proposed revisions and adopt the rule as revised.

Sincerely,

A handwritten signature in black ink, appearing to read "John McCord", written in a cursive style.

John McCord
Executive Director
Texas Retailers Association