



CALIFORNIA TANK TESTER LICENSING REGULATIONS

**Title 23, Division 3, Chapter 17
California Code of Regulations
Effective July 6, 1994**



**STATE WATER RESOURCES CONTROL BOARD
STATE OF CALIFORNIA**

STATE WATER RESOURCES CONTROL BOARD**DIVISION OF CLEAN WATER PROGRAMS**

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Includes 1994 Amendments

This document contains the sections of the California Code of Regulations which identify requirements for the Tank Tester Licensing Program. Included are requirements for experience, training, application, examination, and licensing for tank testers. It also contains provisions for disciplinary action and the appeal process. The law which establishes the program is found in Section 25284.4 of Chapter 6.7 of Division 20 of the Health and Safety Code.

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ARTICLE I. GENERAL PROVISIONS

2730. Purpose

The State Water Board is vested with all the functions and duties relating to the administration of the Tank Tester License Program (section 25284.4 Health and Safety Code). Specifically, the purpose of the Tank Tester License Program is to protect the environment and public health and safety by establishing minimum qualifications for those who test underground storage tanks and associated piping and by establishing a licensing program for underground storage tank testers.

Authority: H&SC 25284.4

Reference: H&SC 25284.4

2731. Definitions

(a) "Address of record" means the address at which the licensee wishes to be contacted by the State Water Board. The address of record is public information.

(b) "Advertisement" means any written or printed communication for the purpose of soliciting, describing, or promoting the licensee's business including a brochure, letter, pamphlet, newspaper, periodical, or publication or other writing. Advertisement also includes a radio, television, or similar airwaves transmission, or videotape recording which solicits or promotes the licensee's business. It does not include:

- (1) a free directory listing which does not allow space for a license number;
- (2) any printing or writing on buildings or vehicles where the purpose of the printing is identification;
- (3) any printing, writing, or other communication memoranda, or any other writing used in the ordinary course of business where the purpose of the communication is other than solicitation or promotion of business.

(c) "Applicant" means any person who files an application for a tank tester license in accordance with the provisions of section 2761.

(d) "Approved course of study" means a course of study approved by the Division after being recommended by a committee appointed by the Division and which includes, but is not limited to:

- (1) General principles of tank and piping testing.
- (2) Basic understanding of the mathematics relating to tank testing;
- (3) Understanding of test procedures, principles, and equipment;
- (4) Knowledge of the regulations and laws pertaining to underground storage tanks;
- (5) Proper safety procedures;
- (6) Written examination to be administered to each student to determine the student's knowledge and understanding of the course of study material.

Anyone who desires to provide an approved course of study shall furnish the Division with the following material:

- (A) An instruction manual proposed for use by the instructor which covers all material and information to be given to students and which is in accordance with the provisions of subdivisions (d)(1)-(6) of this section.
- (B) Copies of all handout material to be given to students.
- (C) Copies of all video tapes to be used for instructional purposes.
- (D) Names, addresses, telephone numbers, and related work experience of each instructor

- (2) the first and last name of the licensee;
- (3) the address of record of the licensee;
- (4) the license number;
- (5) the expiration date of the license.

The license is the property of the State Water Board.

- (k) "Licensee" means any person licensed under these regulations as a tank tester and who possesses a current and valid tank tester license issued by the State Water Board.
- (l) "Local agency" means the department, office, or other agency of a county or city designated pursuant to section 25283 of the Health and Safety Code.
- (m) "Manufacturer" means any business which produces tank integrity testing equipment and which may provide training in the use of that equipment.
- (n) "Office of Tank Tester Licensing" means the unit of the Division which exercises the day-to-day functions of the Underground Tank Tester License Program.
- (o) "Qualifying Experience" means experience in all aspects of tank integrity testing including personally setting up and operating tank integrity testing equipment, collecting data and producing reports under the direct and personal supervision of a licensed tank tester, during which time training is successfully completed from a manufacturer in the appropriate test procedures.
- (p) "State Water Board" as used in these regulations means the five members of the State Water Resources Control Board.

- (q) "Tank integrity test" means a tank integrity test as defined in section 2611 of Chapter 16 of the California Code of Regulations.
- (r) "Tank tester" means any person who performs integrity tests on underground storage tanks or associated piping.

Authority: H&SC 25284.4
Reference: H&SC 25284.4 and 25283

ARTICLE 2. ADMINISTRATION

2740. Record of Licensees

The Office of Tank Tester Licensing shall maintain a current roster of the names, addresses, telephone numbers, and license numbers of all licensed tank testers. The roster shall be furnished to local agencies at least twice per calendar year and shall be made available to local agencies and interested parties upon request.

Authority: H&SC 25284.4
Reference: H&SC 25284.4

2741. Record of Disciplinary Actions

Written information regarding disciplinary action taken against licensees shall be maintained by the Office of Tank Tester Licensing and information which meets the provisions of the Information Practices Act shall be furnished to local agencies as available and to interested parties upon request.

Authority: H&SC 25284.4
Reference: H&SC 25284.4

ARTICLE 3. APPLICATION OF REGULATIONS

2750. Necessity of License

All tank integrity tests, as defined in section 2611 of Article 1 of Chapter 16 and conducted within this state, must be performed by or under the direct and personal supervision of a tank tester with a current and valid tank tester license issued pursuant to these regulations. No person shall be licensed unless the requirements as specified in Article 4 of these regulations have been met.

Authority: H&SC 25284.4
Reference: H&SC 25284.4

2751. Local Regulation: Ordinances

The provisions of these regulations shall not prevent the local authorities of any city, and/or county from:

- (a) requiring tank tester licensees to meet the requirements for and obtain a local business permit;
- (b) requiring licensees to register their name and file a copy of their State Water Board-issued tank tester license with the city and/or county. No fee, other than a fee for a local business permit, may be charged nor may any application be required by the city and/or county for that registration.

Authority: H&SC 25284.4
Reference: H&SC 25299.2

ARTICLE 4. LICENSING

2760. License Requirements

An applicant for a tank tester license shall have successfully completed training from the manufacturer of the tank and piping test equipment to be used and shall:

- (a) have completed a minimum of either one year of verifiable qualifying experience testing at least 50 underground storage tanks or have successfully completed both 6 months of qualifying experience during which at least 50 underground storage tanks were tested and an approved course of study as defined in section 2731;
- (b) file with the Division a completed application as specified in section 2761;
- (c) pay the nonrefundable application fee and the examination fee as specified in Article 7;
- (d) provide two color photographs as described in section 2731;
- (e) pass an examination administered under the direction of the Division as specified in section 2762; and
- (f) pay the license fee as specified in Article 7 upon notification by the Division.

Authority: H&SC 25284.4
Reference: H&SC 25284.4

2761. Application for Licensure

- (a) Content - An application shall include but not be limited to:

- (1) the full name, residence address, and the address of record of the applicant and the employer name and address if applicant is not self employed;
 - (2) a statement signed under penalty of perjury by a declarant, verifying the applicant's qualifying experience as specified in section 2760(a);
 - (3) verification that the applicant was trained by the manufacturer in the principles and use of the equipment and method which the applicant used to gain his or her qualifying experience and the tank and piping test equipment and method the applicant intends to use after licensure;
 - (4) applicant's original signature signed under penalty of perjury and date the application was signed;
 - (5) the nonrefundable application fee and the examination fee as specified in Article 7;
 - (6) The Division may require the submission of any additional pertinent information, evidence, statements, or documents which would support the application for licensure.
- (b) **Submittal** - An application shall be postmarked no later than three weeks before the examination. Applications postmarked after that date may be held over and processed for the next scheduled examination.
- (c) **Review** - The Division shall review the application supporting documents to determine the applicant's eligibility for licensure.

- (d) **Notice** - The Division shall notify applicants in writing within 15 days of receipt of an application whether the application is complete or deficient. The notice, if it indicates a deficiency, will state the specific information which is required to complete the application. If the application is deficient, the applicant may be scheduled for the next examination upon completion of the application.
- (e) **Abandonment** - If an applicant fails to complete an application within one year of the date of receipt by the Office of Tank Tester Licensing, or fails to take the examination within one year after the date of receipt of the application by the Office of Tank Tester Licensing, the application shall be considered abandoned. An application submitted after the abandonment of a previous application shall be treated as a new application and shall be required to meet all of the requirements for an initial license.

Authority: H&SC 25284.4
Reference: H&SC 25284.4

2762. Examination

- (a) **Content** - The examination shall include:
- (1) general principles of tank and piping tests;
 - (2) basic understanding of the mathematics relating to tank and piping integrity testing;
 - (3) knowledge of the regulations and laws governing underground storage tanks; and (4) proper safety procedures.
- (b) **Frequency** - A minimum of two examination shall be given each year.

- (c) Dishonest conduct during examination - An applicant for licensure as a tank tester who engages in dishonest conduct during the examination shall have his or her examination confiscated immediately and shall not have his or her examination graded and shall be denied the opportunity to take the examination for one year.
- (d) Confidentiality of examination questions - The Office of Tank Tester Licensing examination questions are confidential. Any person who removes all or part of an examination from the examination room or area, or who conveys or exposes all or part of an examination to any other person may be disqualified as a candidate for licensure for one year and in addition may be subject to administrative sanction under section 2773.
- (e) Notification of results - Within 30 calendar days of the examination, the Division shall notify applicants in writing whether they have passed or failed the examination.
- (f) Failure to pass examination; reexamination fee - An applicant who fails to pass an initial examination shall be eligible for a subsequent examination upon paying the reexamination fee as prescribed by Article 7 and filing a completed application for reexamination within the time limits and conditions relating to applications for initial examinations provided in section 2761.

Authority: H&SC 25284.4
 Reference: H&SC 25284.4

2763. Issuance of license, renewal and reinstatement

- (a) Issuance - Except as otherwise specified in these regulations, upon the successful completion of the application and

examination and payment of the fees prescribed by these regulations, the Division shall issue a tank tester license within 30 calendar days of receipt of the license fee.

- (b) Renewal of licenses; notice; payment of civil penalties-
 - (1) The Division shall send to each licensee a notice of renewal at least 60 calendar days prior to the expiration of each license.
 - (2) At least 30 calendar days prior to the expiration, a licensee who desires to renew his or her license shall send to the Division a completed renewal application as prescribed by section 2763(b)(3), and renewal fee as prescribed by Article 7.
 - (3) Each license renewal application shall include the licensee's full name, business and residence address and telephone number, license number, and the name under which the licensee does business. Each application shall include two color photographs as prescribed by section 2731 and the renewal fee as prescribed by Article 7.
 - (4) The Division shall notify licensees in writing within 15 calendar days of receipt of a license renewal application if the renewal application is deficient. The notice shall state the specific information which is required to complete the renewal application.
 - (5) Except as otherwise prescribed by these regulations, the Division shall issue a license renewal within 30 calendar days of receipt of a completed renewal application.

- (6) The license renewal shall not be issued until any and all penalties assessed have been paid or disciplinary actions have been completed in accordance with these regulations.
- (c) Notification of expiration; cessation of display - Upon the expiration of any license issued under these regulations, the holder of the license shall cease to carry or display the license and shall cease to conduct the business of a licensed tank tester.
- (d) Reinstatement following expiration - An expired license may be reinstated within three years of the date of expiration upon the filing of a reinstatement application and payment of the renewal fee and the reinstatement fee as prescribed by Article 7. The Division shall notify licensees in writing within 30 calendar days of receipt of a reinstatement application if the application is deficient. The notice shall state the specific information which is required to complete the application. A reinstated license shall be issued within 30) calendar days from the date of receipt of the a complete reinstatement application.
- The reinstated license shall not be issued until any and all penalties assessed have been paid or until disciplinary actions have been completed. A license which has been expired for more than three years may not be reinstated. The applicant must file for an initial application, pass the examination, and meet all of the requirements for an initial license.
- (e) Each license reinstatement application shall state the licensee's full name, business and residence address and telephone numbers, license number, and the name under which the licensee does business. Each application shall include two color photographs as prescribed by section 2731 and the reinstatement and renewal fees as prescribed by Article 7.
- (f) Suspended license; expiration and renewal; restrictions on activities - A suspended tank tester license is subject to expiration and shall be renewed as provided in this article; however, renewal of the license does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the business of a licensed tank tester, or in any other activity or conduct in violation of the order or judgment by which the license was suspended.
- (g) Revoked license - A revoked license may not be renewed or reinstated.
- (h) Assignment - A license issued under these regulations is not assignable.
- (i) License denial; grounds - A license may be denied by the Division pursuant to the provisions of section 2773.
- (j) Replacement of lost, stolen or destroyed licenses - A license which has been lost, stolen or destroyed may be replaced by the Division. A licensee may request a duplicate license by submitting a written statement of facts describing the loss, theft, or destruction of the license and by submitting two color photographs as prescribed by section 2731 and the duplicate license fee prescribed by Article 7.
- Authority: H&SC 25284.4
Reference: H&SC 25284.4

ARTICLE 5. CONDUCT OF BUSINESS AND PROHIBITED ACTS

2770. Notice of change of address

A licensee shall notify the Division of any change of his or her residence and business addresses and telephone numbers within 30 calendar days after the change.

Authority: H&SC 25284.4
Reference: H&SC 25284.4

2770.5. Name and license number on tank test reports

A licensee who personally conducts a tank or piping integrity test shall complete and sign the resulting report in accordance with the provisions of section 2643(g) of Article 4 of Chapter 16 and shall include his or her license number on the report.

Authority: H&SC 25284.4
Reference: H&SC 25284.4

2771. Liability of licensee; employee records; completion of training for testing method used

- (a) A licensee shall at all times be responsible for the conduct and performance of those under the licensee's direct and personal supervision when those persons under supervision are acting within the course and scope of their employment as tank testers.
- (b) Each licensee shall maintain a record of the following information for each underground storage tank which he or she personally tested:
 - (1) name, address and telephone number of the tank owner or operator, physical

address of the underground storage tank, and dates when the tank or piping test service was provided;

- (2) all information and data collected and reports prepared in the course of performing service as a tank tester, including but not limited to raw data, calculations and reports;
- (3) a list of persons working under the direct and personal supervision of the licensee including dates when the tank or piping test was performed.

- (c) Each licensee shall have completed training from a manufacturer for each test method used prior to using any test method. The licensee shall submit to the Office of Tank Tester Licensing, a certificate of completion or other proof of training issued by the manufacturer, before using the test method or equipment.

Authority: H&SC 25284.4
Reference: H&SC 25284.4

2772. Record retention period

Records, including those described in section 2771, shall be retained for a period of at least three years. These records shall be available for inspection by the Division and its agents upon demand, and copies thereof, and information pertaining thereto or therein, shall be submitted to the Division upon demand.

Authority: H&SC 25284.4
Reference: H&SC 25284.4

2773. Grounds for disciplinary action.

A tank tester may be liable civilly and in addition may be subject to administrative sanctions

including, but not limited to, notices of warning, letters of caution, fine assessments, denial, suspension, probation, or revocation of his or her license in accordance with sections 25284.4(g) and (h) of the Health and Safety Code for performing or causing another to perform, any of the following acts:

- (a) willfully or negligently violating, causing, or allowing the violation of the provisions of Chapters 16 and 17;
- (b) willfully or negligently failing to exercise direct and personal supervision over an unlicensed employee, associate, assistant, or agent during any phase of tank or piping integrity testing;
- (c) without regard to intent or negligence, using or permitting a licensed or unlicensed employee, associate, or agent to use any tank or piping test method or equipment which is demonstrated to be unsafe or which does not meet the requirements of section 2643 of Chapter 16;
- (d) submitting false or misleading information in connection with an application for license or engaging in fraudulent or dishonest activity during the course of an examination for licensure;
- (e) using fraud or deception in the course of doing business as a tank tester;
- (f) failing to follow standard procedures set by the manufacturer of the equipment used and which were included in evaluating the equipment for conformance with EPA standards.
- (g) failing to maintain competence in the test method and procedures for which the tank tester received training and which the tank tester uses to test tanks and associated piping;
- (h) failing to use tank and piping test methods or equipment that has been determined to meet performance standards set by federal regulations in 40 CFR 280.40, 280.43, and 280.44;
- (i) failing to notify the Division within 30 calendar days of any change of residence or business address and telephone numbers;
- (j) failing to include the licensee's name, address, and license number in any advertisement as defined in section 2731;
- (k) aiding or abetting an unlicensed tank tester or assigning a license as defined in section 2731;
- (l) failing to possess, while performing services, a license which shall be presented upon demand to the tank owner or operator, the Division or its agents or any state or local official;
- (m) failing to keep and maintain complete and correct records as described in sections 2771 and 2772;
- (n) violating section 17500 of the Business and Professions Code;
- (o) failing to have successfully completed training from a manufacturer of tank or piping test equipment in the test method being used by the licensee prior to using the test method;
- (p) using tank or piping test equipment and procedures which do not meet the requirements of Article 4 of Chapter 16.

Authority: H&SC 25284.4

Reference: H&SC 25284.4, B&PC 17500

**ARTICLE 6. APPEALS REGARDING
DISCIPLINARY ACTION**

2780. Disciplinary proceedings

A tank tester may be liable civilly in accordance with section 25284.4(h) of the Health and Safety Code and, in addition, may be subject to administrative sanctions pursuant to section 25284.4(g) of the Health and Safety Code for performing, allowing, or causing another to perform, any of the acts specified in section 2773.

Authority: H&SC 25284.4

Reference: H&SC 25284.4

2781. Action by Division

A licensee or applicant for licensure (hereafter referred to as "appellant" for the purposes of this Article) who wishes to appeal any discretionary decision made by the Office of Tank Tester Licensing or any violation of the time periods set forth in Article 4 may ask for a review by the Division Chief. The request for review must be in writing and must be postmarked within 30 calendar days of the announcement of examination results or notification of an Office of Tank Tester Licensing decision or violation of the time periods set forth in Article 4. The request for review must be accompanied by all evidence the appellant wishes to be considered by the Division Chief and by the State Water Board in any subsequent review.

The Division Chief shall review all evidence and the decision of the Office of Tank Tester Licensing and shall affirm, rescind, or modify the decision. The Division Chief's determination shall be in writing, labeled as the Division Chief's

determination and shall inform the appellant that the determination is final and conclusive unless, within 30 calendar days from the date of receipt of the determination, the appellant requests a review by the State Water Board.

Authority: H&SC 25284.4

Reference: H&SC 25284.4

2782. Requests for review by the State Water Board

- (a) A request for review by the State Water Board shall contain but not be limited to the following:
- (1) name and address of the appellant;
 - (2) a copy of the Office of Tank Tester Licensing decision and the Division Chief's determination which the State Water Board is requested to review;
 - (3) the manner in which the petitioner is aggrieved;
 - (4) the specific action which the appellant wishes the State Water Board to take;
 - (5) a copy of the evidence presented to the Division Chief prior to the determination;
- (b) The appellant may make a written request for a hearing before the State Water Board for the purpose of presenting evidence not provided to the Division Chief.

Any request to present evidence not provided to the Division Chief must include a statement as to why the evidence was not presented to the Division Chief for review.

Authority: H&SC 25284.4

Reference: H&SC 25284.4

2783. Deficient requests for review

Upon receipt by the State Water Board of a request for review which does not comply with the provisions of section 2782, the State Water Board shall notify the appellant in what respect the request for review is deficient and the time within which an amended request for review may be filed. If a properly amended request is not received by the State Water Board within the time allowed, the request shall be denied unless good cause is shown for an extension of time.

Authority: H&SC 25284.4

Reference: H&SC 25284.4

2784. Recommendation by the Division Chief

A copy of the request for review and any accompanying evidence and statement(s) shall be sent to the Division Chief. The Division Chief shall file a response to the request with the State Water Board within 20 calendar days of the receipt of the request for review.

Authority: H&SC 25284.4

Reference: H&SC 25284.4

2785. Action by the State Water Board

- (a) The State Water Board may:
- (1) refuse to review the Division Chief's determination if the request for review is not filed in accordance with the provisions of sections 2782 and 2783.
 - (2) after review of the petition and the response of the Division Chief:

(A) deny the request upon a finding that the Division Chief's determination was proper; or

(B) set aside or modify the Division Chief's determination; or

(C) direct the Division to take other specified action.

(b) Before taking final action, the State Water Board may hold a hearing for the purpose of oral argument or receipt of additional evidence or both; or, the State Water Board may provide for an informal meeting between the appellant, Division staff, and a member of the State Water Board and such other persons as the State Water Board deems necessary for arbitration.

(c) If a hearing is held, the State Water Board shall give reasonable notice to the appellant, the Division, and other persons as the State Water Board deems appropriate, of the time and place of the hearing and the issues to be considered. The hearing shall be conducted in a manner deemed most suitable for securing all relevant evidence without unnecessary delay.

Authority: H&SC 25284.4

Reference: H&SC 25284.4

ARTICLE 7. REVENUE

2800. Fees

(a) The nonrefundable application fee for an initial tank tester license is one hundred dollars (\$100).

(b) The examination fee for a tank tester license is two hundred dollars (\$200).

- (c) The license fee for a tank tester shall not exceed six hundred dollars (\$600).
- (d) The nonrefundable reexamination fee is two hundred dollars (\$200).
- (e) The license renewal fee for a tank tester shall not exceed six hundred dollars (\$600).
- (f) The license reinstatement fee is two hundred dollars (\$200).
- (g) The fee for a duplicate license, to replace a lost, stolen or destroyed license is ten dollars (\$10).
- (h) The fee for the cost of a certified copy of any license or a certification of licensure is five dollars (\$5).
- (i) The fee for processing a dishonored check is fifteen dollars (\$15).

Authority: H&SC 25284.4
Reference: H&SC 25284.4

Authority: H&SC 25284.4
Reference: H&SC 25284.4

2801. Copies of laws, rules, etc.: disposition

The Office of Tank Tester Licensing shall furnish one copy of the licensing law, rules, regulations, manuals, or guides to any applicant or licensee or other interested parties without charge.

Authority: H&SC 25284.4
Reference: H&SC 25284.4

2802. Refund of fees

Application and license fees are not refundable. Examination fees may be refunded only if the application is rejected by the Office of Tank Tester Licensing, the Division Chief or the State Water Board.