FEDERAL UST REGULATIONS VERSUS HAWAII DRAFT (APRIL 23, 2018) UST REGULATIONS
TEMPORARY CLOSURE

Relevant Section
Less Relevant Section

ISSUE: The U.S. Navy is concerned about the State's definition of temporary closure and how it could affect inspection, repair and maintenance procedures at Red Hill. The Navy has asked EPA what we think of adding the language to the State's definition of temporary closure to read:

"Temporary closure" or "temporarily closed" means that owners and operators do not deposit regulated substances into the UST or tank system nor dispense regulated substances from the UST or tank system for sixty days or longer **[and the removal of fuel is not a part of a repair or maintenance effort.]** (Bracketed material added).

Federal Regulations	State Regulations
Preamble language: Page 41613, column 2 This final UST regulation expressly states which new operation and maintenance requirements owners and operators do not have to meet for UST systems in temporary closure. Owners and operators of temporarily closed UST systems that are empty do not have to perform the following periodic release detection operation and maintenance testing and inspections in subparts C and D: 30 day release detection checks, annual sump checks, and annual handheld release detection checks described in the walkthrough inspection section (see section B–1); testing of containment sumps used for interstitial monitoring described in the secondary containment testing section (see section B–4); and testing of release detection equipment described in the release detection equipment testing section (see section B–5). These requirements are unnecessary as long as the temporarily closed UST system is empty because release detection is not	**Preamble language:** There is no preamble to the Hawaii UST Regulations.

required in the first place. In addition, owners and operators of any UST system in temporary closure are not required to conduct the following periodic operation and maintenance testing and inspections for spill prevention equipment and overfill prevention equipment in subpart C: Spill prevention equipment testing (see section B–2); overfill prevention equipment inspections (see section B– 3); or spill prevention equipment checks described in walkthrough inspections (see section B–1). Spill and overfill testing or inspections are not required for UST systems in temporary closure because those systems are not receiving deliveries of regulated substances. Finally, as a conforming amendment, this final UST regulation adds subpart K to the release detection citation because new release detection requirements for field-constructed tanks and airport hydrant systems are included in that subpart.	
Definitions Federal UST Regulations do not include a definition for "Temporary Closure".	**Definitions** §11-280.1-12 Definitions: "Temporary closure" or "temporarily closed" means that owners and operators do not deposit regulated substances into the UST or tank system nor dispense regulated substances from the UST or tank system for sixty days or longer.
Recordkeeping: No specific recording keeping requirements for temporary closure.	**Recordkeeping:** §11-280.1-34 Notification, reporting, and recordkeeping. (a) Notification. Owners and operators shall notify the department of any of the following changes in information relating to an UST or tank system by submitting the "Notification for Underground Storage Tanks" form prescribed by the director: (1) Planned permanent closure or change-in-service, scheduled excavation work for permanent closure or change-in-service, or completed closure or change-in-service;

	(2) Temporary closure or the return to currently-in-use status; . . . (b)Timing of notification. Owners and operators shall submit the notifications required in subsection (a) within thirty days following any of the changes requiring notification, except that: . . . ~~(4) Notification of temporary closure must be received by the department within ninety days after commencement of the temporary closure~~ (4) Notification of temporary closure must be received by the department within thirty days of the UST system having met the definition of temporary closure in section 11-280.1-12.
Subpart G—Out-of-Service UST Systems and Closure **§ 280.70 Temporary closure** (a) When an UST system is temporarily closed, owners and operators must continue operation and maintenance of corrosion protection in accordance with § 280.31, and any release detection in accordance with subparts D and K of this part. Subparts E and F of this part must be complied with if a release is suspected or confirmed. However, release detection and release detection operation and maintenance testing and inspections in subparts C and D of this part are not required as long as the UST system is empty. The UST system is empty when all materials have been removed using commonly employed practices so that no more than 2.5 centimeters (one inch) of residue, or 0.3 percent by weight of the total capacity of the UST system, remain in the system.	**SUBCHAPTER 7 OUT-OF-SERVICE UST SYSTEMS AND CLOSURE** **§11-280.1-70 Temporary closure.** (a) When an UST system is temporarily closed, owners and operators must continue operation and maintenance of corrosion protection in accordance with section 11-280.1-31, and applicable release detection in accordance with subchapter 4. Subchapters 5 and 6 must be complied with if a release is suspected or confirmed. Spill and overfill operation and maintenance testing and inspections in subchapter 3 are not required during temporary closure. If the UST system is empty, release detection and release detection operation and maintenance testing and inspections in subchapters 3 and 4 are not required. The UST system is empty when all materials have been removed using commonly employed practices so that no

Commented [KN1]: The only difference in this section is highlighted in bold. We simply reorganized some of the text under (a).

In addition, spill and overfill operation and maintenance testing and inspections in subpart C of this part are not required. (b) When an UST system is temporarily closed for 3 months or more, owners and operators must also comply with the following requirements: (1) Leave vent lines open and functioning; and (2) Cap and secure all other lines, pumps, manways, and ancillary equipment. (c) When an UST system is temporarily closed for more than 12 months, owners and operators must permanently close the UST system if it does not meet **either performance standards in § 280.20 for new UST systems or the upgrading requirements in § 280.21,** *except that* the spill and overfill equipment requirements do not have to be met. Owners and operators must permanently close the substandard UST systems at the end of this 12-month period in accordance with §§ 280.71 through 280.74, *unless* the implementing agency provides an extension of the 12-month temporary closure period. Owners and operators must complete a site assessment in accordance with § 280.72 before such an extension can be applied for.	more than 2.5 centimeters (one inch) of residue, or 0.3 percent by weight of the total capacity of the UST system, remain in the system. (b)When an UST system is temporarily closed for ninety days or more, owners and operators must also comply with the following requirements: (1) Leave vent lines open and functioning; (2) Cap and secure all other lines, pumps, manways, and ancillary equipment; and ~~(3) Notify the department as required in section 11-280.1-34.~~ (c) When an UST system is temporarily closed for more than twelve months, owners and operators must permanently close the UST system if it does not meet **the applicable performance standards for UST systems in section 11-280.1-20 and upgrading requirements in section 11-280.1-21**, except that the spill and overfill equipment requirements do not have to be met. Owners and operators must permanently close the substandard UST systems at the end of this twelve-month period in accordance with sections 11-280.1-71 to 11-280.1-74, unless the department provides an extension of the twelve-month temporary closure period. Owners and operators must complete a site assessment in accordance with section 11-280.1-72 before such an extension can be applied for.
§ 280.210 Participation in management. **(b)(2)(i)(B):** Policing activities also include undertaking by the holder of UST environmental compliance actions and voluntary environmental actions taken in compliance with this part, provided that the holder does not otherwise participate in the management or daily operation of the UST or UST system as provided in § 280.210(a) and § 280.230. Such allowable actions include, but are not limited to, release detection and release reporting, release response and corrective action, temporary or permanent closure of an UST or UST system, UST upgrading or replacement, and maintenance of corrosion protection. **(c)(3):** Actions that are not participation in management post-foreclosure. A holder is not considered to be participating in the management of an UST or UST system or facility or property on which the UST or UST system is located when undertaking actions under this part, provided that the holder does not otherwise participate in the	**§11-280.1-210 Participation in management.** **(b)(2)(A)(ii):** Policing activities also include undertaking by the holder of UST environmental compliance actions and voluntary environmental actions taken in compliance with this chapter, provided that the holder does not otherwise participate in the management or daily operation of the UST or UST system as provided in sections 11-280.1-210(a) and 11-280.1-230. Such allowable actions include, but are not limited to, release detection and release reporting, release response and corrective action, temporary or permanent closure of an UST or UST system, UST upgrading or replacement, and maintenance of corrosion protection. **(c)(3):** Actions that are not participation in management post-foreclosure. A holder is not considered to be participating in the management of an UST or UST system or facility or property on which the UST or UST system is located when undertaking

management or daily operation of the UST or UST system as provided in § 280.210(a) and § 280.230. Such allowable actions include, but are not limited to, release detection and release reporting, release response and corrective action, temporary or permanent closure of an UST or UST system, UST upgrading or replacement, and maintenance of corrosion protection.	actions under this chapter, provided that the holder does not otherwise participate in the management or daily operation of the UST or UST system as provided in sections 11- 280.1-210(a) and 11-280.1-230. Such allowable actions include, but are not limited to, release detection and release reporting, release response and corrective action, temporary or permanent closure of an UST or UST system, UST upgrading or replacement, and maintenance of corrosion protection.
§ 280.230 Operating an underground storage tank or underground storage tank system. (b)(4) The UST system can remain in temporary closure until a subsequent purchaser has acquired marketable title to the UST or UST system or facility or property on which the UST or UST system is located.	**§11-280.1-230 Operating an underground storage tank or underground storage tank system.** (b)(4): The UST system can remain in temporary closure until a subsequent purchaser has acquired marketable title to the UST or UST system or facility or property on which the UST or UST system is located.
§ 280.242 Requirements for operator training. (a) *Class A operators.* Each designated Class A operator must either be trained in accordance with paragraphs (a)(1) and (2) of this section or pass a comparable examination in accordance with paragraph (e) of this section. (1) At a minimum, the training program for the Class A operator must provide general knowledge of the requirements in this paragraph (a). At a minimum, the training must teach the Class A operators, as applicable, about the purpose, methods, and function of: (i) Spill and overfill prevention; (ii) Release detection; (iii) Corrosion protection; (iv) Emergency response; (v) Product and equipment compatibility and demonstration; (vi) Financial responsibility; (vii) Notification and storage tank registration; (viii) Temporary and permanent closure; (ix) Related reporting, recordkeeping, testing, and inspections; (x) Environmental and regulatory consequences of releases; and (xi) Training requirements for Class B and Class C operators.	**§11-280.1-242 Requirements for operator training.** (1) Class A operators. Each designated Class A operator must either be trained in accordance with subparagraphs (A) and (B) or pass a comparable examination in accordance with paragraph (5). (A)At a minimum, the training must teach the Class A operators about the purpose, methods, and function of: (i) Spill and overfill prevention; (ii) Release detection; (iii) Corrosion protection; (iv)Emergency response; (v) Product and equipment compatibility and demonstration; (vi)Financial responsibility; (vii) Notification and permitting; (viii) Temporary and permanent closure; (ix) Reporting, recordkeeping, testing, and inspections; (x) Environmental and regulatory releases; and (xi) Training requirements for Class B and Class C operators.
Temporary Closure not specifically referenced in Federal UST Regulations	**§11-280.1-244 Retraining**

	(b) Class A and Class B operators of UST systems determined by the department to be out of compliance must complete a training program or comparable examination in accordance with requirements in section 11-280.1-242. The training program or comparable examination must be developed or administered by the department or an independent organization. An UST or tank system is out of compliance if the system: . . . (2) Is in significant violation of other requirements, such as temporary or permanent closure, tank registration, or financial responsibility, as determined by the director.