

**Response to Public Comments on the Revised 2020 NPDES permit AS0000019
Starkist Samoa Tuna Cannery**

February 2021

I. Background

- A. EPA received comments on the revised permit, which was public noticed on September 28, 2020, with the comment period closing on October 28, 2020. EPA originally issued the NPDES permit for the Starkist Samoa Co. facility on February 26, 2020. EPA then withdrew three contested provisions and provided notice that the remainder of the permit was effective on June 20, 2020. This revised permit only addresses, and comments were only accepted on, the three withdrawn and revised permit provisions. Starkist Samoa Co., (hereinafter Starkist, discharger, or permittee) was the only party to submit comments. The comments are summarized below.

II. Responses to specific comments

- A. Starkist comments on safety and accessibility of monitoring stations near coral reefs
Response: EPA appreciates the discharger's more detailed input on the specific safety and logistical issues affecting sample collection at the three receiving water monitoring stations Coral-N, Coral-E, and Coral-S. These sites were located to collect data representative of conditions affecting the coral reefs in Pago Pago Harbor, which impinge upon the zone of mixing and constrain it in accordance with American Samoa Water Quality Standards (ASWQS) §24.0207(b)(9). The depth ranges specified for sample collection are consistent with input received from the American Samoa Environmental Protection Agency (AS-EPA), based on their local expertise, that

...for a Harbor fringing reef... Any sampling depth greater than 60 feet is not representative of waters in near proximity to coral, as coral growth is typically limited below 60 feet because of reduced sunlight penetration.
(AS-EPA Comments – Starkist Draft NPDES permit, August 12, 2019)

Collection of these receiving water data in close proximity to the reef are necessary to ensure the protection of water quality, including protection of endangered species such as specific corals believed to be present in the Harbor by the National Marine Fisheries Service (NMFS).

At the same time, monitoring provisions are not intended to present a risk to the safety of persons collecting the required samples. Starkist's submission of more detailed information on the bathymetry profiles near the stations, tidal and wind behavior, and especially the results of recent test runs to approach each sampling locations by boat were taken into account by EPA in the final revised permit. The updated receiving water monitoring language clarifies that safety of the monitoring team is the top priority and defers to the vessel operator's professional discretion to determine the closest safe approach to the defined sampling locations, even when it restricts sampling

to areas beyond the target seabed depth(s). The final revised permit language, Part I.E.1.g on page 12 of the permit, clarifies this greater flexibility as follows:

samples shall be collected at a location where the total water depth is approximately 30 feet up to a maximum total water depth of approximately 60 feet to ensure representative sampling of near-reef waters as specified by AS-EPA, except where this requirement would conflict with vessel safety. In the case that the above depth requirements cannot be met, the sampling vessel shall still approach as close as safely possible to the respective station location.

This revised language facilitates reef station sample collection at bottom depths which are safely achievable but still sufficiently close to each designated sampling site to be representative.

B. Starkist comments on the frequency of required Priority Pollutant Scans

The discharger emphasizes cost issues and a preference for pollutant-specific testing in requesting a reduced frequency for Priority Pollutant Scan (PPS) testing.

Response: As the discharger notes in their comment, the most recent PPS was submitted in 2016 and the facility has undergone substantial changes since that time. These changes include, but are not limited to, new plant processes, new equipment, new waste-streams, changes to treatment systems, and an increase in anticipated total production. Due to the scope and ongoing nature of these changes, and the identified potential sensitivity of the receiving water (e.g. presence of endangered corals), EPA is retaining the requirement for annual priority pollutant scans in the permit. Collection of regular PPS data is necessary to identify new and changing constituents in the effluent. Requiring annual priority pollutant scans is also consistent with permit requirements for other facilities in the Pacific Islands.

As noted in EPA's February 26, 2020 response to comments on the draft Starkist Samoa NPDES permit, item II.C, EPA has incorporated and considered the available post-2016 data (e.g. discharge monitoring reports (DMRs) and supplemental submissions), collected after major upgrades to both production and treatment processes at the facility. These post-2016 data included a limited number of pollutants and covered submissions up until February-March 2019. Unlike the above post-2016 pollutant-specific data sets, priority pollutant scans are more comprehensive and complement the pollutant-specific monitoring by capturing data on a common set of 126 pollutants. Many of these 126 pollutants are not designated for regular monitoring at the Starkist facility. As the most recent available priority pollutant scan data are from 2016 and therefore pre-date several of the major upgrades implemented by Starkist, this level of comprehensive data has not yet been collected to evaluate potential changes to the effluent that may have occurred as a result of the major upgrades.

Starkist's comments contend that the cannery's processes have been "stable", and on that basis suggest that effluent quality should be presumed to have improved since the treatment modifications were made. For this reason, the discharger states that

additional priority pollutant scans should not be required, or limited to one instance of data collection late in the term of the reissued permit. Additionally, the discharger requests that sampling only be conducted for 13 metals identified in the 2016 scan, rather than the full range of priority pollutants. EPA believes this suggested approach does not adequately account for the potential changes to the effluent caused by factors communicated by Starkist to EPA, including, but not limited to:

- production changes at the facility (e.g. near-exclusive processing of whole fish instead of lower-treatment-load fish filets, varying fish sources which may result in different concentrations in fish tissue, among other proposed changes,
- anticipated changes to overall cannery throughput (variations in anticipated flow and production rates) which can be expected to affect treatment load and performance,
- treatment system re-plumbing which has been reported as causing complications for various parts of the treatment system (e.g. re-plumbing of the high strength waste treatment system in December 2018 which caused overflows)
- changes to facility maintenance practices (e.g. cleaning chemicals used) resulting from the changes to production and treatment systems

The scope of the changes to the facility which have the potential to affect effluent makeup supports EPA's conclusion that there is not an adequate basis to presume all potential changes to the effluent would be positive / increase protectiveness, or that changes would only occur to previously detected constituents. Therefore, careful validation through additional priority pollutant scans is necessary. Furthermore, a new baseline performance for the modified facility can only be established by analyzing multiple post-upgrade data points for each parameter, hence there is a need for multiple priority pollutant scans within the permit term to provide those data and establish a statistically robust dataset on these parameters.

Starkist also references EPA's 2010 Permit Writer's Manual (hereafter "the Manual"), sections 8-1 and 8-1.3, as containing a number of factors for consideration when setting monitoring frequencies. EPA has considered such factors, including the following:

- Design Capacity of Treatment Facility: the Manual notes that Monitoring frequency may need to be increased at facilities where treatment system is near capacity. In light of multiple compliance challenges encountered during the previous permit, as well as the decision to rely on ocean disposal in lieu of upgrading on-site treatment systems which would be more likely to capture and reduce releases of currently un-monitored chemicals, EPA does not currently have the necessary certainty that there is a robust safety margin in the treatment system's capacity to reduce discharges of rarely-monitored priority pollutants. Collecting data on these pollutants on a somewhat more frequent (annual) basis

can provide the necessary confidence that the treatment system in its current form is able to address these constituents.

- Treatment method used: the Manual recommends that monitoring frequencies be similar for similar treatment processes, and notes that “consistent high pollutant removals on a consistent basis” would be grounds for less frequent monitoring relative to plants with “little or insufficient treatment”. The facility’s current treatment setup contains little targeted treatment for parameters on the priority pollutant list, and it is therefore more important to collect data to confirm this treatment setup is adequately addressing such constituents.
- Compliance history: the Manual notes that more frequent monitoring is appropriate for a facility which has had difficulty achieving compliance, and during the prior permit term the Starkist facility encountered compliance problems. (See February 2020 Fact Sheet for Starkist NPDES Permit at pages 15-16 for a more detailed compliance history).
- Cost of monitoring relative to permittee’s capabilities: the Manual notes that monitoring should not be “excessive” and target the frequency that is necessary to provide sufficient information about the discharge. EPA believes that annual priority pollutant monitoring, as required of several other facilities in the U.S. Pacific Island Territories, is achievable for Starkist, and further that such monitoring is necessary to provide sufficient information, particularly given the need to characterize the post-upgrade effluent discharge and the sensitivity of the receiving water as described in the following point.
- Location of the discharge: the Manual notes that monitoring frequency could increase for discharges to sensitive waters. As Pago Pago Harbor has experienced elevated nutrient levels in recent years, including effects such as documented algal blooms, and is known to contain several newly-listed endangered species of coral, the receiving water is now known to be more sensitive than at the time the previous permit was issued.
- Nature of the pollutants: the Manual notes that monitoring frequency may need to be increased for wastewaters with toxic or variable pollutant contents. The priority pollutant scan data collection is specifically intended to identify whether a broad range of toxic pollutants are present, and to capture potential variations in pollutants outside the scope of other monitoring.
- Frequency of the discharge: the Manual recommends that monitoring frequency for continuous discharge of highly concentrated wastewaters or at facilities with significant variations in production schedule may need to be more frequent.
- Number of monthly samples used in developing effluent limitations: This section of the Manual addresses sample collection relative to averaging periods for limits which consider a value averaged over time, e.g. average monthly

limits. This consideration is not applicable to priority pollutant scans where averaging is not a factor.

- Tiered limitations: This section of the Manual addresses limits which may vary in response to anticipated seasonal changes in discharge due to higher and lower facility production during on- and off-seasons, which is not currently a factor in the Starkist permit limits.

Other considerations: This section of the Manual notes considerations for coordinating monitoring of parameters which may be correlated in some way (e.g. metals and pH where the latter may affect the solubility of the former). As a priority pollutant scan is already a coordinated monitoring effort across the full list of priority pollutants, this is not a relevant factor for setting priority pollutant scan frequencies.

The discharger's comments also identify logistical difficulties with organizing priority pollutant sample submission from the remote location of American Samoa. The discharger makes, and EPA acknowledges, a clear distinction between "normal" sampling conditions and sampling disruptions caused by the global COVID-19 pandemic and associated travel restrictions. For EPA's Covid-specific policies, see the website <https://www.epa.gov/enforcement/covid-19-enforcement-and-compliance-resources>. The COVID-19 public health emergency is a rapidly evolving situation. This website has been established in order to provide the public, the regulated community and other government agencies with the most complete and up to date information on EPA enforcement and compliance policy and actions related to COVID-19.

During pre-COVID-19 conditions, the discharger's 2016 priority pollutant scan and multiple priority pollutant scan submissions from other facilities in American Samoa, indicate that the cost and logistical burdens of conducting priority pollutant sample collection and testing are achievable for dischargers in American Samoa under normal conditions.

Therefore, EPA is retaining the requirement for Priority Pollutant Scans to be conducted annually rather than at a lesser frequency.

C. Starkist's miscellaneous updates and typographical corrections

1. Revised permit and fact sheet – preference for capitalization as "Starkist" rather than "StarKist" as company name.
Response: EPA has made the requested change throughout the documents, except where it appears to affect deliberately double-capitalized E-mail addresses.
2. Revised permit and fact sheet – request that EPA list PO Box 368 instead of PO Box 957 as the discharger's mailing address.
Response: EPA notes that Starkist's preferred address at PO Box 368, Pago Pago, AS 96799 has been the listed mailing address on both permit and fact sheet since their initial public notice in July 2019. As the requested address already is listed on the permit and fact sheet, EPA has taken no further action on this comment.

3. Fact Sheet only - updating facility primary contact and E-mail address.
Response: EPA appreciates the submission of current contact information and has updated the fact sheet accordingly.