

Exhibit 10

September 2018 Pre-Public Notice Draft
Starkist Samoa Co. NPDES Permit No. AS0000019

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105**

**AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**

NPDES PERMIT NO. AS0000019

In compliance with the provisions of the Clean Water Act (“CWA”) (Public Law 92-500, as amended, 33 U.S.C. 1251 et seq.), the following discharger is authorized to discharge from the identified facility at the outfall location(s) specified below, in accordance with the effluent limits, monitoring requirements, and other conditions set forth in this permit. This permit authorizes the discharge of only those pollutants resulting from facility processes, waste streams, and operations that have been clearly identified in the permit application process.

Discharger Name	StarKist Samoa Co.
Discharger Address	P.O. Box 368 368 Atu’u Road Pago Pago, American Samoa 96799
Facility Name	StarKist Samoa Tuna Cannery
Facility Location Address	368 Atu’u Road Pago Pago, American Samoa 96799 Maoputasi
Facility Rating	Major

Outfall Number	General Type of Waste Discharged	Outfall Latitude	Outfall Longitude	Receiving Water
001	Tuna Canning Wastewater	14°16’49” S	170°40’8” W	Pago Pago Harbor

This permit was issued on:	<Director signature date, e.g., January 1, 2017>
This permit shall become effective on:	<1 st of month following 33 days after issue date>
This permit shall expire at midnight on:	<Effective date + 5 years – 1 day>

In accordance with 40 CFR 122.21(d), the discharger shall submit a new application for a permit at least 180 days before the expiration date of this permit, unless permission for a date no later than the permit expiration date has been granted by the Director.

Signed this _____ day of _____, <201#>, for the Regional Administrator.

Tomás Torres, Director
Water Division

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Part I. EFFLUENT LIMITS AND MONITORING REQUIREMENTS

A. Effluent Requirements

1. Effluent Limits – Outfall Number 001
The discharger is authorized to discharge tuna cannery effluent in compliance with the effluent limits and monitoring requirements specified in Table 1. The discharger shall monitor the effluent to evaluate compliance.
2. The discharge of pollutants at any point other than the outfall number specifically authorized in this permit is prohibited.
3. The discharge shall comply with all provisions of the American Samoa Water Quality Standards (AS-WQS), including the narrative standards at §24.0206. Specifically, the receiving waters:
 - a. Shall be substantially free from materials attributable to sewage, industrial wastes, or other activities of man that will produce objectionable color, odor, or taste, either of itself or in combinations, or in the biota;
 - b. Shall be substantially free from visible floating materials, grease, oil, scum, foam, and other floating material attributable to sewage, industrial wastes, or other activities of man;
 - c. Shall be substantially free from materials attributable to sewage, industrial wastes, or other activities of man that will produce visible turbidity or settle to form objectionable deposits;
 - d. Shall be substantially free from substances and conditions or combinations thereof attributable to sewage, industrial wastes, or other activities of man which may be toxic to humans, other animals, plants, and aquatic life or produce undesirable aquatic life;
 - e. For all Embayments, Open Coastal Waters and Ocean Waters Except as may be allowed by the EQC within a Zone of Mixing (§24.0207), the concentration of toxic pollutants shall not exceed the more stringent of the aquatic life criteria for marine waters or the human health concentration criteria for consumption of organisms found in EPA 2002 or the most recent version.
 - f. The temperature of the receiving waters shall not deviate more than 1.5 degrees Fahrenheit from conditions which would occur naturally and shall not fluctuate more than 1 degree Fahrenheit on an hourly basis or exceed 85 degree Fahrenheit due to the influence of other than natural causes;
 - g. There shall be no changes in basin geometry or freshwater inflow that will alter current patterns in such a way as to adversely affect existing biological populations or sediment distribution. To protect estuarine organisms, no change in

channels, basin geometry, or freshwater influx shall be made which would cause permanent changes in existing isohaline patterns of more than 10 percent.

B. Effluent Limits and Monitoring– Outfall Number 001

Table 1. Effluent Limits and Monitoring Requirements

Parameter	Maximum Allowable Discharge Limits				Monitoring Requirements ⁽²⁾	
	Concentration and Loading					
	Average Monthly	Average Weekly	Maximum Daily	Units	Frequency	Sample Type
Flow rate	—	—	2.6	MGD	Continuous	Continuous
Temperature	90	—	95	°F	Continuous	Continuous
pH	Within the range of 6.5 to 8.6 at all times.			S.U.	Continuous	Continuous
Total suspended solids	4016	—	10101	lbs/day	Weekly	24-hr Composite
Oil and grease, total recoverable	1022	—	2256	lbs/day	Weekly	24-hr Composite
Ammonia, total (as N) ⁽³⁾	(1)	—	(1)	mg/L	Weekly	Grab
	(1)	—	(1)	lbs/day		
Ammonia Impact Ratio	1.0 ⁽⁴⁾		1.0 ⁽⁴⁾	Ratio	Weekly	Calculated
Biochemical oxygen demand (5-day)	9857	—	24338	lbs/day	Twice per Week	24-hr Composite
Nitrogen, total (as N)	40.68	—	86.80	mg/L	Twice per Week	24-hr Composite
	1200	—	2100	lbs/day		
Phosphorous, Total	0.20	—	0.74	mg/L	Twice per Week	24-hr Composite
	192	—	309	lbs/day		
Mercury (total recoverable)	1.8	—	4.72	µg/L	Twice per Year	24-hr Composite
	0.04	—	0.10	lbs/day		
Zinc (total recoverable)	1138	—	2284	µg/L	Twice per Year	24-hr Composite
	24.69	—	49.56	lbs/day		
Total Residual Chlorine ⁽⁵⁾	—	—	7.5	µg/L	Weekly ⁽⁵⁾	24-hr Composite
Chronic Toxicity <i>S. purpuratus</i> , Method 1008.0 WB33L	—	—	Pass (0) ⁽⁶⁾	Pass (0) or Fail (1), TST	Twice per Year	24-hr Composite
Chronic Toxicity, <i>S. purpuratus</i> , Method 1008.0 Wx33L	—	—	(1)	% Effect, TST	Twice per Year	24-hr Composite

Chronic Toxicity <i>D. excentricus</i> , Method 1008.0 WB33N	—	—	Pass (0) ⁽⁶⁾	Pass (0) or Fail (1), TST	Twice per Year	24-hr Composite
Chronic Toxicity <i>D. excentricus</i> , Method 1008.0 Wx33N	—	—	(1)	% Effect, TST	Twice per Year	24-hr Composite
Priority Pollutant Scan ⁽⁷⁾	—	—	(1)	µg/L	Once during 4 th year of permit term	Grab

- (1) No effluent limits are set at this time, but monitoring and reporting is required.
- (2) At minimum, at least one sample per season (6 months) must be taken concurrent with the twice-yearly whole effluent toxicity monitoring.
- (3) Monitoring of total ammonia is required on a weekly basis. Compliance with monthly and daily limitations, shall be determined based on the Ammonia Impact Ratio parameter listed in this table and described in footnote 4.
- (4) The Ammonia Impact Ratio (AIR) is calculated as the ratio of the ammonia value in the effluent and the applicable ammonia standard. See Permit Appendixes D and E for a sample log to help calculate and record the AIR values, and the applicable limits. Note that the table in Appendix E already factors in dilution, so effluent data (mg/L) should be compared directly with the values in Appendix E to determine the AIR reported on the log in Appendix D. The AIR is the ammonia effluent limit and must be reported in the DMRs in addition to the directly measured ammonia, pH, and temperature values.
- (5) Chlorine limit and monitoring is only applicable if the treatment processes at the cannery are modified to incorporate chlorination, in order to implement the AS-WQS requirement on total residual chlorine in marine waters, and in the absence of a mixing zone.
- (6) The permittee shall report Pass “0” or Fail “1” for the ICIS coded parameter on the DMR form. For each toxicity test conducted during the reporting period for the month, Pass “0” constitutes rejection (i.e., statistical fail) and Fail “1” constitutes non-rejection (i.e., statistical pass) of the Test of Significant Toxicity (TST) null hypothesis (H_0) at the required IWC: **IWC mean response (0.32 % effluent) $\leq 0.75 \times$ Control mean response**. This is determined by following the instructions in *National Pollutant Discharge Elimination System Test of Significant Toxicity Implementation Document* (EPA 833-R-10-003, 2010), Appendix A. For each toxicity test reported as Pass “0” or Fail “1”, the permittee shall report the associated value for “Percent (%) Effect” for the coded parameter, calculated as: % Effect = [(Control mean response – IWC mean response) \div Control mean response] \times 100.
- (7) See attachment F for list of priority pollutants. For most current listing of all priority toxic pollutants see 40 CFR Part 423, Appendix A. Priority pollutant scan should be conducted concurrently with Whole Effluent Toxicity test.

C. Sampling

1. Samples shall be representative of the volume and quality of effluent discharged over the sampling and reporting period. All samples are to be taken during normal

operating hours. The Permittee shall identify the effluent sampling location used for each discharge.

2. Effluent samples shall be taken after in-plant return flows and the last treatment process and prior to entry into the Joint Cannery Outfall, where samples can be obtained that are representative of this facility's effluent alone.

D. General Monitoring and Reporting

1. All monitoring shall be conducted in accordance with 40 CFR 136 test methods, unless otherwise specified in this permit. For influent and effluent analyses required in this permit, the permittee shall utilize 40 CFR 136 test methods with MDLs and MLs that are lower than the effluent limits in this permit. For parameters without an effluent limit, the permittee must use an analytical method at or below the level of the applicable water quality criterion for the measured pollutant or the amount of the pollutant is high enough that the method detects and quantifies the level of pollutant in the discharge. If all MDLs or MLs are higher than these effluent limits or criteria concentrations, then the permittee shall utilize the test method with the lowest MDL or ML. In this context, the permittee shall ensure that the laboratory utilizes a standard calibration where the lowest standard point is equal to or less than the ML. Influent and effluent analyses for metals shall measure "total recoverable metal", except as provided under 40 CFR 122.45(c).
2. As an attachment to the first DMR, the permittee shall submit, for all parameters with monitoring requirements specified in this permit:
 - a. The test method number or title and published MDL or ML,
 - b. The preparation procedure used by the laboratory,
 - c. The laboratory's MDL for the test method computed in accordance with Appendix B of 40 CFR 136,
 - d. The standard deviation (S) from the laboratory's MDL study,
 - e. The number of replicate analyses (n) used to compute the laboratory's MDL, and
 - f. The laboratory's lowest calibration standard.

As part of each DMR submittal, the permittee shall notify EPA of any changes to the laboratory's test methods, MDLs, MLs, or calibration standards. If there are any changes to the laboratory's test methods, MDLs, MLs, or calibration standards, these changes shall be summarized in an attachment to the subsequent DMR submittal.

3. The permittee shall develop a Quality Assurance ("QA") Manual for the field collection and laboratory analysis of samples. The purpose of the QA Manual is to assist in planning for the collection and analysis of samples and explaining data anomalies if they occur. The QA Manual shall be developed (or updated) within 90 days of permit issuance. At a minimum, the QA Manual shall include the following:

- a. Identification of project management and a description of the roles and responsibilities of the participants; purpose of sample collection; matrix to be sampled; the analytes or compounds being measured; applicable technical, regulatory, or program-specific action criteria; personnel qualification requirements for collecting samples;
 - b. Description of sample collection procedures; equipment used; the type and number of samples to be collected including QA/Quality Control (“QC”) samples; preservatives and holding times for the samples (see 40 CFR 136.3); and chain of custody procedures;
 - c. Identification of the laboratory used to analyze the samples; provisions for any proficiency demonstration that will be required by the laboratory before or after contract award such as passing a performance evaluation sample; analytical method to be used; MDL and ML to be reported; required QC results to be reported (e.g., matrix spike recoveries, duplicate relative percent differences, blank contamination, laboratory control sample recoveries, surrogate spike recoveries, etc.) and acceptance criteria; and corrective actions to be taken in response to problems identified during QC checks; and
 - d. Discussion of how the permittee will perform data review, report results, and resolve data quality issues and identify limits on the use of data.
4. Throughout all field collection and laboratory analyses of samples, the permittee shall use the QA/QC procedures documented in their QA Manual. If samples are tested by a contract laboratory, the permittee shall ensure that the laboratory has a QA Manual on file. A copy of the permittee’s QA Manual shall be retained on the permittee’s premises and available for review by regulatory authorities upon request. The permittee shall review its QA Manual annually and revise it, as appropriate.
5. Samples collected during each month of the reporting period must be reported on Discharge Monitoring Report forms, as follows:
- a. For a *maximum daily* permit limit or monitoring requirement when one or more samples are collected during the month, report either:

The *maximum value*, if the maximum value of all analytical results is greater than or equal to the ML; or
NODI (Q), if the maximum value of all analytical results is greater than or equal to the laboratory’s MDL, but less than the ML; or
NODI (B), if the maximum value of all analytical results is less than the laboratory’s MDL.
 - b. For an *average weekly* or *average monthly* permit limit or monitoring requirement when only one sample is collected during the week or month, report either:

The *maximum value*, if the maximum value of all analytical results is greater than

or equal to the ML; or
NODI (Q), if the maximum value of all analytical results is greater than or equal to the laboratory's MDL, but less than the ML; or
NODI (B), if the maximum value of all analytical results is less than the laboratory's MDL.

- c. For an *average weekly* or *average monthly* permit limit or monitoring requirement when more than one sample is collected during the week or month, report:

The *average value* of all analytical results where 0 (zero) is substituted for *NODI (B)* and the laboratory's MDL is substituted for *NODI (Q)*.
6. In addition to information requirements specified under 40 CFR 122.41(j)(3), records of monitoring information shall include: the laboratory which performed the analyses and any comment, case narrative, or summary of results produced by the laboratory. The records should identify and discuss QA/QC analyses performed concurrently during sample analyses and whether project and 40 CFR 136 requirements were met. The summary of results must include information on initial and continuing calibration, surrogate analyses, blanks, duplicates, laboratory control samples, matrix spike and matrix spike duplicate results, and sample condition upon receipt, holding time, and preservation.
7. The permittee shall electronically submit Discharge Monitoring Reports using NetDMR (<http://www.epa.gov/netdmr>).
8. DMRs shall be submitted by the 28th day of the month following the previous reporting period. For example, under quarterly submission, the three DMR forms for January, February, and March are due on April 28th. Annual and quarterly monitoring must be conducted starting in the first complete quarter or calendar year following permit issuance. Reporting for annual monitoring is due on January 28th of the following year. A DMR must be submitted for the reporting period even if there was not any discharge. If there is no discharge from the facility during the reporting period, the permittee shall submit a DMR indicating no discharge as required.
9. The permittee shall submit an electronic or paper Discharge Monitoring Report to American Samoa EPA. Paper DMR forms shall be mailed to:

American Samoa EPA
P.O. Box PPA
Pago Pago, American Samoa 96799
attn: Fa'amao O. Asalele Jr.

E. Receiving Water Monitoring

1. The permittee shall conduct **semi-annual** receiving water monitoring that corresponds to tradewind and non-tradewind seasons. The permittee shall

monitor at the following previously established receiving water monitoring locations pollutants or parameters at five depths, i.e., 1 meter below the surface, bottom depth (defined as the depth of the diffuser, or 1 meter above the seabed if shallower than the diffuser), and three equally spaced depths between the 'surface' and 'bottom' depths.

Monitoring sites shall include:

- a. **Reference site**, Station 5, for monitoring of background concentrations for total phosphorus, total nitrogen, DO, zinc, copper, mercury, and total ammonia;
- b. **End of Pipe**, Station 14, for monitoring of DO, zinc, copper, total mercury, total ammonia to evaluate mixing zones within the zone of initial dilution;
- c. **Zone of Initial Dilution (ZID)**, Stations 8 and 8A, for monitoring of zinc, total mercury, DO and total ammonia to evaluate their respective mixing zones that were authorized for this permit term. Stations 8 and 8A are located at the boundary of the zone of initial dilution;
- d. **Zone of Mixing (ZOM)**, Stations 15, 16, and 18, for monitoring of total phosphorus, total nitrogen, DO, and light penetration to evaluate the size of the mixing zone for nutrients that was authorized for this permit term and to evaluate attainment of standards in the receiving water. Stations 15, 16 and 18 are located at the boundary of the zone of mixing.
- e. **Far-field, Station FF**, for providing comparisons between reference site (Station 5) and open ocean data,
- f. **All stations** at the zone of initial dilution and zone of mixing for monitoring of visible floating materials, grease, oil, scum or foam; and
- g. **All stations** at the zone of initial dilution, zone of mixing, reference and far-field sites, the measurement of vertical profiles of temperature, salinity, and dissolved oxygen, and light penetration at 65 feet. These data shall be collected for evaluating overall behavior of the effluent plume in the waterbody, verifying the mixing zones' protectiveness of ASWQS, and for future initial dilution and mixing zone re-analyses if determined necessary by EPA and ASEPA.

This monitoring program shall be continued unless and until the discharger submits, and EPA approves, an altered receiving water monitoring program.

The discharger shall conduct semi-annual receiving water quality monitoring for the following parameters at all monitoring stations in the program:

Parameter	Units	Stations Monitored	Monitoring Frequency	Sampling Depths (m)	Sample Type / Method
Temperature	°C	All	Semi-Annually (Tradewind & non-Tradewind seasons)	1m below surface, 1m above bottom, and 3 equally distributed depths between those two depths, also collection of vertical profile data	Field Sensor (e.g. CDT)
Salinity	PSU	“	“	“	Field Sensor
Dissolved Oxygen	mg/L	“	“	“	Field Sensor
pH	Standard Units	“	“	“	Field Sensor (pH meter)
Total Phosphorous	(µg/L as P)	“	“	“(without vertical profile)	Lab Sample (EPA 353.3)
Total Nitrogen	(µg/L as N)	“	“	“(without vertical profile)	Lab Sample (EPA 353.2 + EPA 351.2)
Ammonia (refer to AS-WQS Appendix A and permit appendix D-E for targets)	mg/L as NH ₃	5, 8, 8A, 14, FF	“	“(without vertical profile)	Lab Sample (ASEPA)
Copper (total)	µg/L	5, 8, 8A, 14, FF	“	“(without vertical profile)	Lab Sample
Zinc (total)	µg/L	5, 8, 8A, 14, FF	“	“(without vertical profile)	Lab Sample
Mercury (total)	µg/L	5, 8, 8A, 14, FF	“	“(without vertical profile)	Lab Sample
Secchi Depth / light intensity at 65 ft. depth	ft / % (by calculation)	All	“	“(without vertical profile)	Field Measurement and calculation
Oil & Grease / floating materials	n/a (observation of presence)	All	“	Surface	Observation

If a specific sample collection method or lab protocol cannot practically be implemented or is unavailable, it is the discharger’s responsibility to contact EPA and propose on an acceptable alternative.

Samples from the various sites shall be collected as close together in time as possible. Sampling for parameters that are influenced by temperature or pH (i.e., Ammonia) shall be conducted in parallel with collection of temperature and pH. All individual measurement values shall be reported as an attachment to the DMR form. Additional

method guidance for water monitoring (e.g., volunteer, EMAP, etc.) may be found at: <http://www.epa.gov/owow/>.

2. Reporting requirements for Receiving Water Monitoring
 - a. Electronic submission of data is required in the permit standard conditions, below. Receiving water monitoring data shall be submitted as an electronic attachment to NetDMR submissions. Receiving water data shall also be submitted not solely as a written report (e.g. PDF), but also in a format amenable to collation and calculation (e.g. copy of the collected data as a spreadsheet.)
 - b. Semi-annual receiving water monitoring results shall be submitted to EPA and ASEPA prior to the subsequent semi-annual receiving water monitoring event, unless otherwise specified by EPA. For example, if surface water samples were collected during the non-tradewind season in March, and tradewind sampling is scheduled for October, results shall be submitted to EPA and ASEPA prior to the October sampling event.
 - c. When submitting data collected at various depths (including the 5 samples required at “1 meter below the surface, 1 meter above the bottom, and three evenly-spaced depths between them”), the discharger shall include specific information on the depth at which each sample was collected (e.g., 5 meters below surface). Sample depths should be identical for all parameters at a given sampling station, and sampling depths should also be consistent between successive sampling events at each station.

Part II. SPECIAL CONDITIONS

A. Permit Reopener(s)

1. In accordance with 40 CFR 122 and 124, this permit may be modified by EPA to include effluent limits, monitoring, or other conditions to implement new regulations, including EPA-approved water quality standards; or to address new information indicating the presence of effluent toxicity or the reasonable potential for the discharge to cause or contribute to exceedances of water quality standards.
2. Based on the ongoing upgrades to the treatment system at the facility, the permit may also be reopened to incorporate required changes to treatment performance. The permittee is responsible for informing EPA of any changes which may increase the quantity or significantly change the nature of the pollutants discharged, consistent with 40 CFR 122.41(l) and the standard conditions of this permit [see Part II(A)(12)(a) below]. For planned modifications to the facility, the permittee shall inform EPA of any proposed changes to the treatment system a minimum of 45 days prior to making the change.
3. This permit may be re-opened to revise permit provisions as necessary to ensure protection of harbor water quality if treatment processes or receiving water conditions

change during the permit term, or if other new information indicates permit revision is warranted.

B. Twenty-four Hour Reporting of Noncompliance

1. The permittee shall report any noncompliance which may endanger human health or the environment. The permittee is required to provide an oral report by directly speaking with an U.S. EPA and American Samoa EPA staff person within 24 hours from the time the permittee becomes aware of the noncompliance. If the permittee is unsuccessful in reaching a staff person, the permittee shall provide notification by 9 a.m. on the first business day following the noncompliance. The permittee shall notify U.S. EPA and American Samoa EPA at the following telephone numbers:

U.S. Environmental Protection Agency
Wastewater Enforcement Section (ENF-3-1)
(415) 972-3577

American Samoa Environmental Protection Agency
attn: Water Quality Program Manager
(684) 633-2304

The permittee shall follow up with a written submission within five days of the time the permittee becomes aware of the noncompliance. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times; and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

2. The following shall be included as information which must be reported within 24 hours under this paragraph.
 - a. Any unanticipated bypass which exceeds any effluent limit in the permit (see 40 CFR 122.44(g)).
 - b. Any upset which exceeds any effluent limit in the permit.
 - c. Violation of a maximum daily discharge limit for any of the pollutants listed by the director in the permit to be reported within 24 hours (see 40 CFR 122.44(g)).
3. EPA may waive the written report on a case-by-case basis for reports required under paragraph B.2, if the oral report has been received within 24 hours.

C. Chronic Whole Effluent Toxicity (WET) Requirements

1. The chronic toxicity Instream Waste Concentration (IWC) required for the authorized POTW facility discharge point is expressed as **0.32 percent (%) effluent** (i.e., $1/S \times 100$, where S is 313, the initial dilution of the effluent with the receiving water). The

toxicity laboratory making the IWC for chronic toxicity testing shall use 1 part effluent to S-1 parts dilutant for a total of S parts.

2. Monitoring Frequency

Toxicity test samples shall be collected for the authorized discharge point at the designated NPDES sampling station for the effluent (i.e., downstream from the last treatment process and any in-plant return flows where a representative effluent sample can be obtained). Using the test species, WET method, and monitoring frequency specified in **Part 1, Table 1**, the permittee shall conduct toxicity testing on 24-hour composite effluent samples. A split of each effluent sample for toxicity testing shall be analyzed for all other monitored parameters (conventional, non-conventional, and priority toxic pollutants), at the minimum frequency of analysis specified by the effluent monitoring program.

3. Test Species and WET Methods

Test species and short-term WET methods for estimating the chronic toxicity of NPDES effluents are found in the first edition of *Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to West Coast Marine and Estuarine Organisms* (EPA/600/R-95/136, 1995) and applicable water quality standards; also see 40 CFR 122.41(j)(4) and 122.44(d)(1)(iv). As required by **Part 1, Table 1**, the permittee shall conduct static non-renewal toxicity tests with the purple sea urchin, *Strongylocentrotus purpuratus*, or sand dollar, *Dendraster excentricus* (Fertilization Test Method 1008.0); monitoring is conditional in that only one of these two test species must be monitored during the reporting month.

4. Chronic Non-limit WET Trigger – NOT APPLICABLE

5. Quality Assurance

- a. Quality assurance measures, instructions, and other recommendations and requirements are found in the WET methods manual(s) previously referenced. Additional requirements are specified below.
- b. Pacific Island Territory NPDES permittees and WET sample hold time. The WET methods manual hold time for NPDES samples used for WET testing begins when the 24-hour composite sampling period is completed, or the last grab sample in a series of grab samples is taken. It ends at the first time of sample use (initiation of WET test). 40 CFR 136.3(e) states that the WET method's 36-hour hold time cannot be exceeded unless a variance of up to 72-hours is authorized by EPA. In a June 29, 2015 inter-office memorandum, EPA Region 9 has authorized a hold time variance of up to 72-hours applicable only to Pacific Island Territory permittees **which ship the NPDES sample to the continental U.S. for WET testing**, with conditions. The 2015 memorandum is a WET requirement of this permit and is a permit record.

- c. The discharge is subject to a determination of rejection or non-rejection of the TST null hypothesis (H_0) from a chronic toxicity test at the required IWC. For statistical flowchart and procedures using the TST statistical approach see Appendix A of *National Pollutant Discharge Elimination System Test of Significant Toxicity Implementation Document* (EPA 833-R-10-003, 2010). For the TST statistical approach, the associated value for “Percent (%) Effect” at the required IWC is calculated as: $\% \text{ Effect} = [(\text{Control mean response} - \text{IWC mean response}) \div \text{Control mean response}] \times 100$.
 - d. Effluent dilution water and control water should be prepared and used as specified in the applicable WET methods manual. If the dilution water is different from test organism culture water, then a second control using culture water shall also be used.
 - e. If organisms are not cultured in-house, then concurrent testing with a reference toxicant shall be conducted. If organisms are cultured in-house, then monthly reference toxicant testing is sufficient. Reference toxicant tests and effluent toxicity tests shall be conducted using the same test conditions (e.g., same test duration, etc.).
 - f. If either the reference toxicant or effluent toxicity test does not meet the Test Acceptability Criteria in the WET method, then the permittee shall resample and retest within 14 days.
 - g. Removed Toxicants (chlorine, ammonia). If the discharged effluent is chlorinated, then chlorine shall not be removed from the effluent sample prior to toxicity testing without written approval by the permitting authority. pH drift during the toxicity test may contribute to artifactual toxicity when ammonia (or other pH-dependent toxicants, e.g., metals) are present; ammonia shall not be removed from the effluent sample prior to toxicity testing without written approval by the permitting authority.
6. Initial Investigation TRE Work Plan

Within 90 days of the permit effective date, the permittee shall prepare and submit to the permitting authority a copy of its Initial Investigation Toxicity Reduction Evaluation (TRE) Work Plan (1-2 pages) for review. This plan shall include steps the permittee intends to follow if toxicity is measured above the WET limit (or WET trigger) and should include the following, at minimum:

- a. A description of the investigation and evaluation techniques that would be used to identify potential causes and sources of toxicity, effluent variability, and treatment system efficiency.
- b. A description of methods for maximizing in-house treatment system efficiency, good housekeeping practices, and a list of all chemicals used in operations at the facility.

- c. If a Toxicity Identification Evaluation (TIE) is necessary, an indication of who would conduct the TIEs (i.e., an in-house expert or outside contractor).

7. Accelerated Toxicity Testing and TRE/TIE Process

If a toxicity test result is reported as Fail “1”, then the permittee shall conduct the following the accelerated toxicity testing and TRE/TIE process.

- a. If the WET limit is exceeded and the source of toxicity is known (e.g., a temporary plant upset), then the permittee shall conduct one additional toxicity test using the same species and WET method. This toxicity test shall begin within 14 days of receipt of a test result exceeding the WET limit (or WET trigger). If the additional toxicity test does not exceed the WET limit (or WET trigger), then the permittee may return to the regular testing frequency.
- b. If the WET limit is exceeded and the source of toxicity is not known, then the permittee shall conduct four additional toxicity tests using the same test species and WET method, approximately every two weeks, over a 12-week period. This testing shall begin within 14 days of receipt of a test result exceeding the WET limit. If none of the additional toxicity tests exceed the WET limit, then the permittee may return to the regular testing frequency.
- c. If one of the additional toxicity tests (in paragraphs 7.a or 7.b) exceeds the WET limit then within 14 days of receipt of this test result, the permittee shall initiate a TRE using—according to the type of treatment facility—EPA manual *Toxicity Reduction Evaluation Guidance for Municipal Wastewater Treatment Plants* (EPA/833/B-99/002, 1999), or EPA manual *Generalized Methodology for Conducting Industrial Toxicity Reduction Evaluations* (EPA/600/2-88/070, 1989). In conjunction, the permittee shall develop and implement a Detailed TRE Work Plan which shall include the following: further actions undertaken by the permittee to investigate, identify, and correct the causes of toxicity; actions the permittee will take to mitigate the effects of the discharge and prevent the recurrence of toxicity; and a schedule for these actions.
- d. The permittee may initiate a TIE as part of a TRE to identify the causes of toxicity using the same species and WET method and, as guidance, EPA manuals: *Methods for Aquatic Toxicity Identification Evaluations: Phase I Toxicity Characterization Procedures* (EPA/600/6-91/003, 1991); *Methods for Aquatic Toxicity Identification Evaluations, Phase II Toxicity Identification Procedures for Samples Exhibiting Acute and Chronic Toxicity* (EPA/600/R-92/080, 1993); *Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity* (EPA/600/R-92/081, 1993); and *Marine Toxicity Identification Evaluation (TIE): Phase I Guidance Document* (EPA/600/R-96-054, 1996).

8. Reporting of Toxicity Monitoring Results on Monthly DMR

- a. If no toxicity test monitoring for the month is required and toxicity monitoring is not conducted, then the permittee shall report “NODI(9)” (i.e., Conditional Monitoring – Not Required for This Period) on the DMR form. Nevertheless, all toxicity tests conducted during the month, whether or not monitoring is required, must be reported as described below.

For the WET limit (or WET trigger), the toxicity test result analyzed using the TST statistical approach shall be reported as Pass “0” or Fail “1” on the DMR form.

If more than one toxicity test is conducted during the month, then those Pass “0” or Fail “1” results shall be reported attached to the DMR form, except that a Fail “1” result of any one of all the toxicity tests conducted during the month shall be reported on the DMR form.

For each chronic toxicity test reported as Pass “0” or Fail “1”, the permittee shall report the associated value for “Percent (%) Effect” calculated as: % Effect = $[(\text{Control mean response} - \text{IWC mean response}) \div \text{Control mean response}] \times 100$.

The permittee shall submit the full laboratory report for all toxicity testing as an attachment to the DMR for the month in which the toxicity tests are conducted. The laboratory report for toxicity shall contain: all toxicity test results (raw data and statistical analyses) for each effluent and related reference toxicant tested; chain-of-custody; the dates of sample collection and initiation of each toxicity test; all results for other effluent parameters monitored concurrently with the effluent toxicity tests via split samples; and schedule and progress reports on TRE/TIE investigations.

To assist in reviewing within test variability, control charting by the toxicity laboratory is recommended. Each laboratory report for toxicity attached to the DMR shall include both tabular and graphical control charting information for the WET method/test species control coefficient of variation, control standard deviation, and control mean for the last 12 months of toxicity tests conducted by the laboratory. This information is reported to facilitate the review of toxicity test results and the laboratory’s performance of the WET method by the permittee and permitting authority.

- b. The permittee shall notify the permitting authority in writing within 14 days of exceedance of the WET limit (or WET trigger). This notification shall describe actions the permittee has taken (or will take) to investigate, identify, and correct the causes of toxicity; the status of actions required by this permit; and schedule for actions not yet completed; or reason(s) that no action has been taken.

9. Permit Reopener for Toxicity

In accordance with 40 CFR 122 and 124, this permit may be modified to include effluent limits or permit conditions to address toxicity (acute and/or chronic) in the

effluent or receiving waterbody, as a result of the discharge; or to implement new, revised, or newly interpreted water quality standards applicable to toxicity.

Part III. STANDARD CONDITIONS

The permittee shall comply with all EPA Region 9 Standard Conditions below.

A. All NPDES Permits

In accordance with 40 CFR 122.41, the following conditions apply to all NPDES permits and are expressly incorporated into this permit.

1. Duty to comply; at 40 CFR 122.41(a).

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the CWA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

- a. The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the CWA for toxic pollutants and with standards for sewage sludge use or disposal established under 405(d) of the CWA within the time provided in the regulations that established these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.
- b. The CWA provides that any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed \$25,000 per day for each violation. The CWA provides that any person who *negligently* violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment of not more than 2 years, or both. Any person who *knowingly* violates such sections, or such conditions or limitations is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both. Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such

sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of not more than 15 years, or both. In the case of second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization, such as defined in section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.

- c. Any person may be assessed an administrative civil penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402 of this Act. Administrative penalties for Class I violations are not to exceed \$21,393 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$53,484. Penalties for Class II violations are not to exceed \$21,393 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$267,415. Values are subject to change in accordance with federal rules.

2. Duty to reapply; at 40 CFR 122.41(b).

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. Any permittee with a currently effective permit shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Director.

3. Need to halt or reduce activity not a defense; at 40 CFR 122.41(c).

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

4. Duty to mitigate; at 40 CFR 122.41(d).

The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

5. Proper operation and maintenance; at 40 CFR 122.41(e).

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of

backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

6. Permit actions; at 40 CFR 122.41(f).

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

7. Property rights; at 40 CFR 122.41(g).

This permit does not convey any property rights of any sort, or any exclusive privilege.

8. Duty to provide information; at 40 CFR 122.41(h).

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Director upon request, copies of records required to be kept by this permit.

9. Inspection and entry; at 40 CFR 122.41(i).

The permittee shall allow the Director, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon presentation of credentials and other documents as may be required by law, to:

- a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the CWA, any substances or parameters at any location.

10. Monitoring and records; at 40 CFR 122.41(j).

- a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
 - b. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR part 503), the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample measurement, report or application. This period may be extended by request of the Director at any time.
 - c. Records of monitoring information shall include:
 - (1) The date, exact place, and time of sampling or measurements;
 - (2) The individual(s) who performed the sampling or measurements;
 - (3) The date(s) analyses were performed
 - (4) The individuals(s) who performed the analyses;
 - (5) The analytical techniques or methods used; and
 - (6) The results of such analyses.
 - d. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in 40 CFR part 503, unless other test procedures have been specified in the permit.
 - e. The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.
11. Signatory requirement; at 40 CFR 122.41(k).
- a. All applications, reports, or information submitted to the Director shall be signed and certified. (See 40 CFR 122.22.) All permit applications shall be signed as follows:
 - (1) For a corporation. By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) A president,

secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

Note: EPA does not require specific assignments or delegations of authority to responsible corporate officers identified in 40 CFR 122.22(a)(1)(i). The Agency will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Director to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under 40 CFR 122.22(a)(1)(ii) rather than to specific individuals.

- (2) For a partnership or sole proprietorship. By a general partner or the proprietor, respectively; or
 - (3) For a municipality, State, Federal, or other public agency. By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes: (i) The chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).
- b. All reports required by permits, and other information requested by the Director shall be signed by a person described in paragraph (a) of this section, or by a duly authorized representative of that person. A person is a duly authorized representative only if:
- (1) The authorization is made in writing by a person described in paragraph (a) of this section;
 - (2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters of the

company, (A duly authorized representative may thus be either a named individual or any individual occupying a named position.) and,

(3) The written authorization is submitted to the Director.

c. Changes to authorization. If an authorization under paragraph (b) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph (b) of this section must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

d. Certification. Any person signing a document under paragraph (a) or (b) of this section shall make the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

e. The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

12. Reporting requirements; at 40 CFR 122.41(l).

a. Planned changes. The permittee shall give notice to the Director as soon as possible of any planned physical alternations or additions to the permitted facility. Notice is required only when:

(1) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or

(2) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40 CFR 122.42(a)(1).

- (3) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan;
- b. Anticipated noncompliance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
 - c. Transfers. This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the CWA. (See 40 CFR 122.61; in some cases, modification or revocation and reissuance is mandatory.)
 - (1) Transfers by modification. Except as provided in paragraph (b) of this section, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under 40 CFR 122.62(b)(2)), or a minor modification made (under 40 CFR 122.63(d)), to identify the new permittee and incorporate such other requirements as may be necessary under CWA.
 - (2) Automatic transfers. As an alternative to transfers under paragraph (a) of this section, any NPDES permit may be automatically transferred to a new permittee if:
 - (A) The current permittee notifies the Director at least 30 days in advance of the proposed transfer date in paragraph (b)(2) of this section;
 - (B) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
 - (C) The Director does not notify the existing permittee and the proposed new permittee of his or her intent to modify or revoke and reissue the permit. A modification under this subparagraph may also be a minor modification under 40 CFR 122.63. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph (b)(2) of this section.
 - d. Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.
 - (1) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Director for reporting results of monitoring of sludge use or disposal practices. As of December 21,

2016 all reports and forms submitted in compliance with this section must be submitted electronically by the permittee to the Director or initial recipient, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR 3 (including, in all cases, subpart D to part 3), 40 CFR 122.22, and 40 CFR 127.

- (2) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or, in the case of sludge use or disposal, approved under 40 CFR part 503, or as specified in the permit, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Director.
 - (3) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Director in the permit.
- e. Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
- f. Twenty-four hour reporting.
- (1) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A report shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The report shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times), and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. For noncompliance events related to combined sewer overflows, sanitary sewer overflows, or bypass events, these reports must include the data described above (with the exception of time of discovery) as well as the type of event (combined sewer overflows, sanitary sewer overflows, or bypass events), type of sewer overflow structure (e.g., manhole, combine sewer overflow outfall), discharge volumes untreated by the treatment works treating domestic sewage, types of human health and environmental impacts of the sewer overflow event, and whether the noncompliance was related to wet weather. As of December 21, 2020 all reports related to combined sewer overflows, sanitary sewer overflows, or bypass events submitted in compliance with this section must be submitted electronically by the permittee to the Director or initial recipient, as defined in 40 CFR

127.2(b), in compliance with this section and 40 CFR 3 (including, in all cases, subpart D to part 3), 40 CFR 122.22, and 40 CFR part 127.

- (2) The following shall be included as information which must be reported within 24 hours under this paragraph.
 - (i) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See 40 CFR 122.41(g).)
 - (ii) Any upset which exceeds any effluent limitation in the permit.
 - (iii) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within 24 hours. (See 40 CFR 122.44(g).)
 - (3) The Director may waive the written report on a case-by-case basis for reports under 40 CFR 122.41(l)(6)(ii) of this section if the oral report has been received within 24 hours.
- g. Other noncompliance. The permittee shall report all instances of noncompliance not reported under 40 CFR 122.41(l)(4), (5), and (6) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (l)(6) of this section.
 - h. Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

13. Bypass; at 40 CFR 122.41(m).

- a. Definitions.
 - (1) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
 - (2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- b. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 40 CFR 122.41(m)(3) and (m)(4) of this section.

c. Notice.

- (1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.
- (2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph (l)(6) of this section (24-hour notice).
- (3) As of December 21, 2020 all notices submitted in compliance with this section must be submitted electronically by the permittee to the Director or initial recipient, as defined in 40 CFR 127.2(b), in compliance with this section and 40 CFR part 3 (including, in all cases, subpart D to part 3), 40 CFR 122.22, and 40 CFR part 127. Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of part 127, permittees may be required to report electronically if specified by a particular permit or if required to do so by state law.

d. Prohibition of bypass.

- (1) Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:
 - (i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
 - (iii) The permittee submitted notices as required under paragraph (m)(3) of this section.
- (2) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph (m)(4)(i) of this section.

14. Upset; at 40 CFR 122.41(n).

- a. Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does

not include noncompliance to the extent cause by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

- b. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph (n)(3) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- c. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and that the permittee can identify the cause(s) of the upset;
 - (2) The permitted facility was at the time being properly operated; and
 - (3) The permittee submitted notice of the upset as required in paragraph (l)(6)(ii)(B) of this section (24 hour notice).
 - (4) The permittee complied with any remedial measures required under paragraph (d) of this section.
- d. Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

15. Reopener Clause; at 40 CFR 122.44(c).

For any permit issued to a treatment works treating domestic sewage (including “sludge-only facilities”), the Director shall include a reopener clause to incorporate any applicable standard for sewage sludge use or disposal promulgated under section 405(d) of the CWA. The Director may promptly modify or revoke and reissue any permit containing the reopener clause required by this paragraph if the standard for sewage sludge use or disposal is more stringent than any requirements for sludge use or disposal in the permit, or controls a pollutant or practice not limited in the permit.

16. Minor modifications of permits; at 40 CFR 122.63.

Upon the consent of the permittee, the Director may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this section, without following the procedures of 40 CFR 124. Any permit modification not processed as a minor modification under this section must be made for cause and with 40 CFR 124 draft permit and public notice as required in 40 CFR 122.62. Minor modifications may only:

- a. Correct typographical errors;
 - b. Require more frequent monitoring or reporting by the permittee;
 - c. Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement;
or
 - d. Allow for a change in ownership or operational control of a facility where the Director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Director.
 - e. Change the construction schedule for a discharger which is a new source. No such change shall affect a discharger's obligation to have all pollution control equipment installed and in operation prior to discharge under 40 CFR 122.29.
 - f. Delete a point source outfall when the discharge from that outfall is terminated and does not result in discharge of pollutants from other outfalls except in accordance with permit limits.
 - g. Incorporate conditions of a POTW pretreatment program that has been approved in accordance with the procedures in 40 CFR 403.11 (or a modification thereto that has been approved in accordance with the procedures in 40 CFR 403.18) as enforceable conditions of the POTW's permits.
17. Termination of permits; at 40 CFR 122.64.
- a. The following are causes for terminating a permit during its term, or for denying a permit renewal application:
 - (1) Noncompliance by the permittee with any conditions of the permit;
 - (2) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;
 - (3) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or
 - (4) A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit (for example, plant closure or termination of discharge by connection to a POTW).

18. Availability of Reports; pursuant to CWA section 308

Except for data determined to be confidential under 40 CFR 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Regional Administrator. As required by the CWA, permit applications, permits, and effluent data shall not be considered confidential.

19. Removed Substances; pursuant to CWA section 301

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials entering waters of the U.S.

20. Severability; pursuant to CWA section 512

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and remainder of this permit, shall not be affected thereby.

21. Civil and Criminal Liability; pursuant to CWA section 309

Except as provided in permit conditions on “Bypass” and “Upset”, nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

22. Oil and Hazardous Substances Liability; pursuant to CWA section 311

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the CWA.

23. State, Tribe, or Territory Law; pursuant to CWA section 510

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the operator from any responsibilities, liabilities, or penalties established pursuant to any applicable State, Tribe, or Territory law or regulation under authorities preserved by CWA section 510.

B. *Specific Categories of NPDES Permits*

In accordance with 40 CFR 122.42, the following conditions, in addition to those set forth at 40 CFR 122.41, apply to all NPDES permits within the category specified below and are expressly incorporated into this permit.

1. Existing manufacturing, commercial, mining, and silviculture dischargers; at 40 CFR 122.42 (a). All existing manufacturing, commercial, mining, and silviculture dischargers must notify the Director as soon as they know or have reason to believe:
 - a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following “notification levels”:
 - (1) One hundred micrograms per liter (100 µg/l);
 - (2) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
 - (3) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or
 - (4) The level established by the Director in accordance with 40 CFR 122.44(f).
 - b. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following “notification levels”:
 - (1) Five hundred micrograms per liter (500 µg/l);
 - (2) One milligram per liter (1 mg/l) for antimony;
 - (3) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7).
 - (4) The level established by the Director in accordance with 40 CFR 122.44(f).

Attachment A: Definitions

1. “Average monthly discharge limitation” means the highest allowable average of “daily discharges” over a calendar month, calculated as the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.
2. “Average weekly discharge limitation” means the highest allowable average of “daily discharges” over a calendar week, calculated as the sum of all “daily discharges”

measured during a calendar week divided by the number of “daily discharges” measured during that week.

3. “Best Management Practices” or “BMPs” are schedules of activities, prohibitions of practices, maintenance procedures, and other physical, structural, and/or managerial practices to prevent or reduce the pollution of waters of the U.S. BMPs include treatment systems, operating procedures, and practices to control: plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs may further be characterized as operational, source control, erosion and sediment control, and treatment BMPs.
4. A “composite” sample means a time-proportioned mixture of not less than eight discrete aliquots obtained at equal time intervals (e.g., 24-hour composite means a minimum of eight samples collected every three hours). The volume of each aliquot shall be directly proportional to the discharge flow rate at the time of sampling, but not less than 100 ml. Sample collection, preservation, and handling shall be performed as described in the most recent edition of 40 CFR 136.3, Table II. Where collection, preservation, and handling procedures are not outlined in 40 CFR 136.3, procedures outlined in the 18th edition of Standard Methods for the Examination of Water and Wastewater shall be used.
5. A “daily discharge” means the “discharge of a pollutant” measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the “daily discharge” is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the “daily discharge” is calculated as the average measurement of the pollutant over the day.
6. A “daily maximum allowable effluent limitation” means the highest allowable “daily discharge.”
7. A “DMR” is a “Discharge Monitoring Report” that is an EPA uniform national form, including any subsequent additions, revisions, or modifications for reporting of self-monitoring results by the permittee.
8. A “grab” sample is a single sample collected at a particular time and place that represents the composition of the discharge only at that time and place. Sample collection, preservation, and handling shall be performed as described in the most recent edition of 40 CFR 136.3, Table II. Where collection, preservation, and handling procedures are not outlined in 40 CFR 136.3, procedures outlined in the 18th edition of Standard Methods for the Examination of Water and Wastewater shall be used.
9. The “method detection limit” or “MDL” is the minimum concentration of an analyte that can be detected with 99% confidence that the analyte concentration is distinguishable

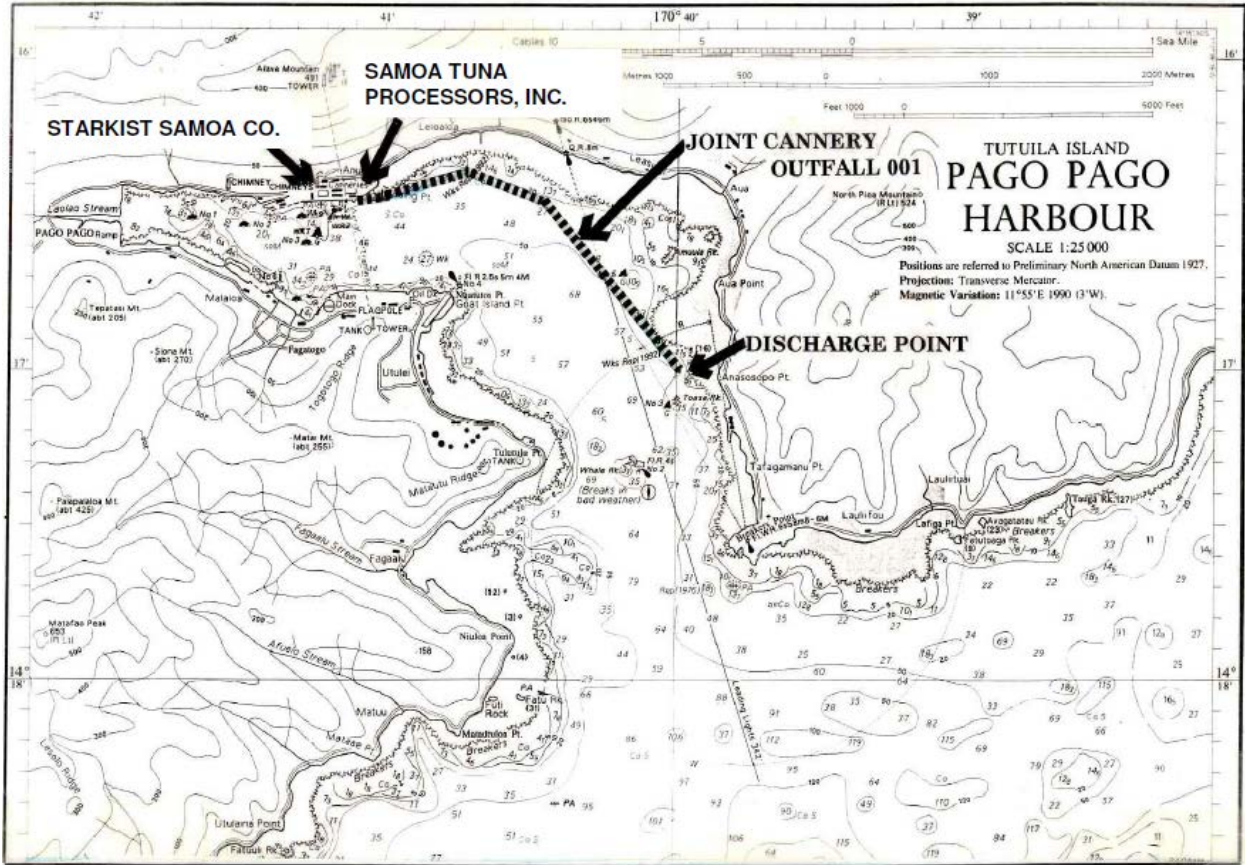
from the method blank results, as defined by a specific laboratory method in 40 CFR 136. The procedure for determination of a laboratory MDL is in 40 CFR 136, Appendix B.

10. The “minimum level” or “ML” is the concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed in a specific analytical procedure, assuming that all the method-specific sample weights, volumes, and processing steps have been followed (as defined in EPA’s draft National Guidance for the Permitting, Monitoring, and Enforcement of Water Quality-Based Effluent Limitations Set Below Analytical Detection/Quantitative Levels, March 22, 1994). If a published method-specific ML is not available, then an interim ML shall be calculated. The interim ML is equal to 3.18 times the published method-specific MDL rounded to the nearest multiple of 1, 2, 5, 10, 20, 50, etc. (When neither an ML nor MDL are available under 40 CFR 136, an interim ML should be calculated by multiplying the best estimate of detection by a factor of 3.18; when a range of detection is given, the lower end value of the range of detection should be used to calculate the ML.) At this point in the calculation, a different procedure is used for metals, than non-metals:
 - a. For metals, due to laboratory calibration practices, calculated MLs may be rounded to the nearest whole number.
 - b. For non-metals, because analytical instruments are generally calibrated using the ML as the lowest calibration standard, the calculated ML is then rounded to the nearest multiple of (1, 2, or 5) x 10ⁿ, where n is zero or an integer. (For example, if an MDL is 2.5 µg/l, then the calculated ML is: $2.5 \mu\text{g/l} \times 3.18 = 7.95 \mu\text{g/l}$. The multiple of (1, 2, or 5) x 10ⁿ nearest to 7.95 is $1 \times 10^1 = 10 \mu\text{g/l}$, so the calculated ML, rounded to the nearest whole number, is 10 µg/l.)
11. A “NODI(B)” means that the concentration of the pollutant in a sample is not detected. NODI(B) is reported when a sample result is less than the laboratory’s MDL.
12. A “NODI(Q)” means that the concentration of the pollutant in a sample is detected but not quantified. NODI(Q) is reported when a sample result is greater than or equal to the laboratory’s MDL, but less than the ML.

Attachment B: Location Map

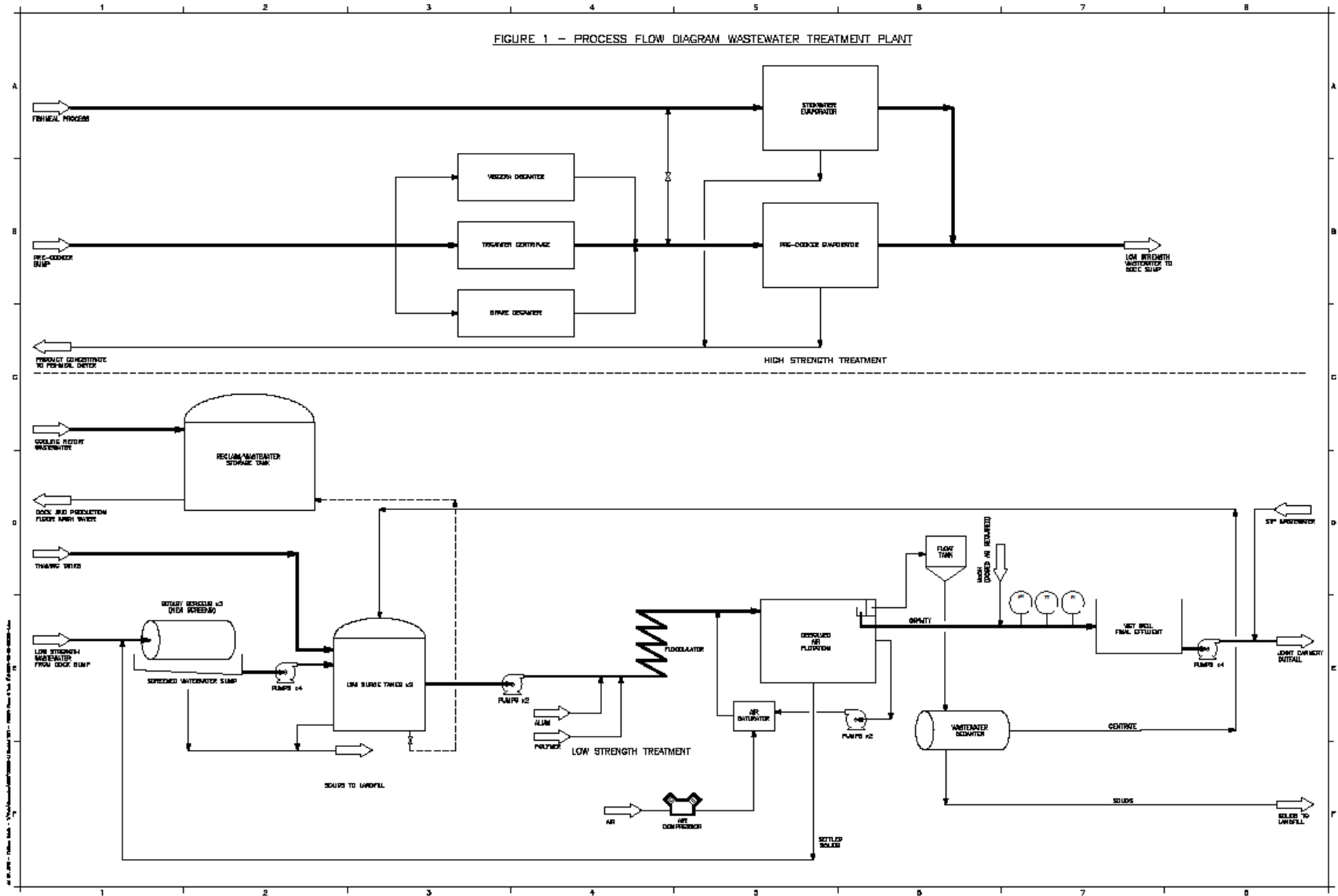
Exhibit 1-1

Location of the StarKist Samoa and Samoa Tuna Processors Canneries and the Joint Cannery Outfall



Copied from the 2017 Mixing Zone Application

Attachment C: Wastewater Flow Schematic



Attachment E. pH-Dependent Ammonia (as N) Objectives with Dilution.

Note: values in tables are expressed as milligrams of N per Liter (mg/L N).
AS-WQS standard assumes a salinity of 30g/kg.

Table I: One-Hour Average Limits (use in place of daily maximum limit)

<u>Temperature</u> (°C) ▶	25°C	30°C	35°C
<u>pH</u>	<u>Objective with 313:1 Dilution</u>		
7.8	2033	1389	952
8.0	1286	901	643
8.2	849	592	437
8.4	540	412	283
8.6	360	283	208

Based on American Samoa Water Quality Standards (2013), Appendix A, section “Water Quality Criteria for Ammonia in Saltwater (Acute)”

Permitee may choose to interpolate (linear interpolation) for temperatures between the three listed in the AS-WQS (25°C, 30°C, 35°C), or may simply choose to enter the lower number in column D of the Ammonia Impact Ratio log above (Attachment D).

Table II: Four-Day Average Limits (use in place of monthly average limit)

<u>Temperature</u> (°C) ▶	25°C	30°C	35°C
<u>pH</u>	<u>Objective with 313:1 Dilution</u>		
7.8	309	208	144
8.0	193	136	95
8.2	129	87	64
8.4	80	59	44
8.6	57	41	31

Based on American Samoa Water Quality Standards (2013), Appendix A, section “Water Quality Criteria for Ammonia in Saltwater (Chronic)”

Permitee may choose to interpolate (linear interpolation) for temperatures between the three listed in the AS-WQS (25°C, 30°C, 35°C), or may simply choose to enter the lower number in column D of the Ammonia Impact Ratio log above (Attachment D).

Attachment F: List of Priority Pollutants

Priority Pollutants are a set of chemical pollutants for which EPA has developed analytical methods. The permittee shall test for all priority pollutants in: 40 CFR Part 423, Appendix A. For reference, the 126 priority pollutants at time of issuance include:

1. Acenaphthene
2. Acrolein
3. Acrylonitrile
4. Benzene
5. Benzidine
6. Carbon tetrachloride
7. Chlorobenzene
8. 1,2,4-trichlorobenzene
9. Hexachlorobenzene
10. 1,2-dichloroethane
11. 1,1,1-trichloroethane
12. Hexachloroethane
13. 1,1-dichloroethane
14. 1,1,2-trichloroethane
15. 1,1,2,2-tetrachloroethane
16. Chloroethane
17. ~~(Removed)~~
18. Bis(2-chloroethyl) ether
19. 2-chloroethyl vinyl ethers
20. 2-chloronaphthalene
21. 2,4,6-trichlorophenol
22. Parachlorometa cresol
23. Chloroform
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3-dichlorobenzidine
29. 1,1-dichloroethylene
30. 1,2-trans-dichloroethylene
31. 2,4-dichlorophenol
32. 1,2-dichloropropane
33. 1,3-dichloropropylene
34. 2,4-dimethylphenol
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
37. 1,2-diphenylhydrazine
38. Ethylbenzene
39. Fluoranthene
40. 4-chlorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
42. Bis(2-chloroisopropyl) ether
43. Bis(2-chloroethoxy) methane
44. Methylene chloride
45. Methyl chloride
46. Methyl bromide
47. Bromoform
48. Dichlorobromomethane
49. ~~(Removed)~~
50. ~~(Removed)~~
51. Chlorodibromomethane
52. Hexachlorobutadiene
53. Hexachlorocyclopentadiene
54. Isophorone
55. Naphthalene
56. Nitrobenzene
57. 2-nitrophenol
58. 4-nitrophenol
59. 2,4-dinitrophenol
60. 4,6-dinitro-o-cresol
61. N-nitrosodimethylamine
62. N-nitrosodiphenylamine
63. N-nitrosodi-n-propylamine
64. Pentachlorophenol
65. Phenol
66. Bis(2-ethylhexyl) phthalate
67. Butyl benzyl phthalate
68. Di-N-Butyl Phthalate
69. Di-n-octyl phthalate
70. Diethyl Phthalate
71. Dimethyl phthalate
72. Benzo(a) anthracene
73. Benzo(a) pyrene
74. Benzo(b) fluoranthene
75. Benzo(k) fluoranthene
76. Chrysene

- 77. Acenaphthylene
- 78. Anthracene
- 79. Benzo(ghi) perylene
- 80. Fluorene
- 81. Phenanthrene
- 82. Dibenzo(h) anthracene
- 83. Indeno (1,2,3-cd) pyrene
- 84. Pyrene
- 85. Tetrachloroethylene
- 86. Toluene
- 87. Trichloroethylene
- 88. Vinyl chloride
- 89. Aldrin
- 90. Dieldrin
- 91. Chlordane
- 92. 4,4-DDT
- 93. 4,4-DDE
- 94. 4,4-DDD
- 95. Alpha-endosulfan
- 96. Beta-endosulfan
- 97. Endosulfan sulfate
- 98. Endrin
- 99. Endrin aldehyde
- 100. Heptachlor
- 101. Heptachlor epoxide
- 102. Alpha-BHC
- 103. Beta-BHC
- 104. Gamma-BHC
- 105. Delta-BHC
- 106. PCB-1242 (Arochlor 1242)
- 107. PCB-1254 (Arochlor 1254)
- 108. PCB-1221 (Arochlor 1221)
- 109. PCB-1232 (Arochlor 1232)
- 110. PCB-1248 (Arochlor 1248)
- 111. PCB-1260 (Arochlor 1260)
- 112. PCB-1016 (Arochlor 1016)
- 113. Toxaphene
- 114. Antimony
- 115. Arsenic
- 116. Asbestos
- 117. Beryllium
- 118. Cadmium
- 119. Chromium
- 120. Copper
- 121. Cyanide, Total
- 122. Lead
- 123. Mercury
- 124. Nickel
- 125. Selenium
- 126. Silver
- 127. Thallium
- 128. Zinc
- 129. 2,3,7,8-TCDD