



**Vermont Department of Environmental Conservation**  
Watershed Management Division  
1 National Life Drive, Main 2  
Montpelier VT 05620-3522  
www.watershedmanagement.vt.gov

*Agency of Natural Resources*

[phone] 802-828-1535  
[fax] 802-828-1544

May 4, 2016

Steve Miller  
Windsor Brewing Company, LLC/Harpoon Brewery  
336 Ruth Carney Drive  
Windsor, VT 05089

**Re: Draft Pretreatment Permit #3-1422**

Dear Mr. Miller:

We are proposing to issue you the above referenced permit for the discharge of brewery process wastewater from the Windsor Brewing Company, LLC/Harpoon Brewery located at 336 Ruth Carney Drive to the Town of Windsor Wastewater Treatment Facility. A draft of this permit is enclosed for your review and comment. All permit conditions remain the same.

In order to facilitate the issuance of your permit in the shortest possible time, we are also placing it on the required 30-day public notice immediately. If we do not hear from you within 30 days of the date of this letter and if there is no response within 30 days which requires a public hearing or major permit modification, the permit will be sent to the Secretary of the Agency of Natural Resources or her designated representative for final approval and signature.

If you have questions regarding the draft permit or you wish to meet with us to discuss it, please contact Allison Lowry at (802) 490-6188.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ernest F. Kelley".

Ernest F. Kelley, Program Manager  
Wastewater and Residuals Management Program  
Watershed Management Division

Enclosures (2)

cc:

Jeff Fehrs, Wastewater Management Program VT DEC

AGENCY OF NATURAL RESOURCES  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
WATERSHED MANAGEMENT DIVISION  
ONE NATIONAL LIFE DRIVE, MAIN BUILDING, 2<sup>ND</sup> FLOOR  
MONTPELIER VT 05620-3522

Permit No.: 3-1422  
PIN: NS88-0008.04

**DRAFT**  
PRETREATMENT DISCHARGE PERMIT

In compliance with the provisions of the Vermont Water Pollution Control Act as amended (10 V.S.A. Chapter 47), the Vermont Water Pollution Control Permit Regulations as amended, and the federal Clean Water Act as amended (33 U.S.C. § 1251 *et seq.*),

Windsor Brewing Company, LLC  
d.b.a. Harpoon Brewery  
336 Ruth Carney Drive  
Windsor, VT 05089

(hereinafter referred to as the "Permittee") is authorized by the Secretary of Natural Resources (Secretary) to discharge from a facility located at:

Ruth Carney Drive  
Windsor, Vermont

to the Town of Windsor Wastewater Treatment Facility in accordance with the following conditions.

This permit shall become effective on July 1, 2016.

This permit and the authorization to discharge shall expire on March 31, 2021.

Alyssa B. Schuren, Commissioner  
Department of Environmental Conservation

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Ernest F. Kelley, Program Manager  
Wastewater and Residuals Management Program  
Watershed Management Division

**I.**

**A. EFFLUENT LIMITATIONS and MONITORING REQUIREMENTS**

1. Until March 31, 2021, the Permittee is authorized to discharge from outfall serial number S/N 001 wastewater: treated process wastewater from the brewing and packaging of beer. Such discharges shall be limited and monitored by the Permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Monthly Average	Maximum Day	Measurement Frequency	Sample Type
Flow	30,000 gpd	40,000 gpd	Continuous	Total Daily Flow
Biochemical Oxygen Demand <sup>1</sup>	900 lbs/day	1800 lbs/day	1 x weekly	24 hour composite
Dissolved Oxygen	Not less than 2.0 mg/l		Continuous	Min/max
pH	Between 5.5 and 9.5 S.U.		Continuous	Min/max

Samples taken in compliance with the monitoring requirements specified above shall be collected from the outfall pipe prior to entering the municipal sewer.

- (1) The permittee shall also report the BOD concentrations on the monthly Discharge Monitoring Report.

**2. Special Conditions**

- a. The discharge of spoiled production batches of beer to the municipal sewer is prohibited.
- b. The permittee shall report, as an attachment to the discharge monitoring report, any spoiled production batches that are diverted for off-site disposal. The dates, volume of diverted material, disposal method, and location of the final disposal site shall be specified.
- c. The discharge of concentrated by-products from the brewing process, such as spent grains, hops, yeast, etc is prohibited.
- d. The permittee shall report the total monthly quantity of beer produced on the monthly discharge monitoring report.
- e. The permittee shall notify the Windsor Director of Utilities immediately of any discharge that is known or suspected to violate any the effluent limitations specified in I.A.1 above.
- f. If this discharge adversely impacts the proper operation of the Windsor Wastewater Treatment Facility or passes through without proper treatment, the Agency may reopen this permit and modify effluent limitations, monitoring requirements, or

other permit conditions as required to protect the proper operation of the Windsor Wastewater Treatment Facility and/or collection system.

### **3. Waste Management Plan**

The permittee shall implement the Waste Management Plan to ensure compliance with the effluent limitations in Condition I.A.1 above and to prevent slug loading to Windsor Wastewater Treatment Facility submitted to the Agency on July 1, 2014. The permittee shall immediately revise the plan upon the Agency's request or on its own motion to reflect equipment or operational changes. A copy of the plan shall be kept at the manufacturing facility at all times.

The plan shall address the following items:

- a. the identification and assignment of a person(s) to be responsible for the waste management operations and for overseeing all waste generation when the facility is in operation. This person shall have the authority to order the immediate correction of waste generation within the facility that may cause problems such as the discharge of high strength wastes, overloading of the pretreatment system, or failure to meet effluent limitations; and
- b. the identification, documentation, and implementation of procedures to properly separate, collect, and dispose of high strength wastes or concentrated by-products, such as spoiled production batches of beer, and other high strength materials or byproducts such as spent yeast, mash tun, etc. that may be generated as part of the brewing process. These procedures shall preclude the discharge of these wastes to the Windsor Wastewater Treatment Facility and waters of the State.

### **B. REAPPLICATION**

If the Permittee desires to continue to discharge after the expiration of this permit, the Permittee shall reapply on the application forms then in use at least 180 days before this permit expires.

Reapply for a Discharge Permit by: September 30, 2020

### **C. OPERATING FEES**

This discharge is subject to operating fees as required by 3 V.S.A § 2822.

### **D. MONITORING AND REPORTING**

#### **1. Sampling and Analysis**

The sampling, preservation, handling, and analytical methods used shall conform to the test procedures published in 40 C.F.R. Part 136.

The permittee shall use sufficiently sensitive test procedures (i.e., methods) approved under the Code of Federal Regulations, Title 40, Part 136 for the analysis of the pollutants or pollutant parameters specified in Condition I.A. above.

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. Reporting**

The Permittee is required to submit monitoring results as specified on Discharge Monitoring Report (DMR) form WR-43. Reports are due on the 15th day of each month, beginning with the month following the effective date of this permit.

If, in any reporting period, there has been no discharge, the Permittee must submit that information by the report due date.

Signed copies of these, and all other reports required herein, shall be submitted to the Secretary at the following address:

Agency of Natural Resources  
Department of Environmental Conservation  
Watershed Management Division  
One National Life Drive, Main Building, 2<sup>nd</sup> Floor  
Montpelier VT 05620-3522

and the Town of Windsor Wastewater Treatment Facility.

All reports shall be signed:

- a.** In the case of corporations, by a principal executive officer of at least the level of vice president, or his/her duly authorized representative, if such representative is responsible for the overall operation of the facility from which the discharge described in the permit form originates and the authorization is made in writing and submitted to the Agency;
- b.** In the case of a partnership, by a general partner;
- c.** In the case of a sole proprietorship, by the proprietor; or
- d.** In the case of a municipal, State, or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.

## **3. Recording of Results**

The Permittee shall maintain records of all information resulting from any monitoring activities required including:

- a. The exact place, date, and time of sampling or measurements;
- b. The individual(s) who performed the sampling or measurements;
- c. The dates and times the analyses were performed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques and methods used, including sample collection handling and preservation techniques;
- f. The results of such analyses;
- g. The records of monitoring activities and results, including all instrumentation and calibration and maintenance records; and
- h. The original calculation and data bench sheets of the operator who performed analysis of the influent or effluent pursuant to requirements of Section I.A of this permit.

The results of monitoring requirements shall be reported (in the units specified) on the Vermont reporting form DMR WR-43 or other forms approved by the Agency.

#### **4. Additional Monitoring**

If the Permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of such monitoring shall be included in the calculation and reporting of the values required in the DMR WR-43. Such increased frequency shall also be indicated.

## **II.**

### **A. MANAGEMENT REQUIREMENTS**

#### **1. Facility Modification / Change in Discharge**

All discharges authorized herein shall be consistent with the terms and conditions of this permit. The discharge of any pollutant more frequently than, or at a level in excess of, that identified and authorized by this permit shall constitute a violation of the terms and conditions of this permit. Such a violation may result in the imposition of civil and/or criminal penalties pursuant to 10 V.S.A. chapters 47, 201, and/or 211. Any anticipated facility alterations or expansions or process modifications which will result in new, different, or increased discharges of any pollutants must be reported by submission of a new permit application or, if such changes will not violate the effluent limitations specified in this permit, by notice to the Agency of such changes. Following such notice, the permit may be modified to specify and limit any pollutants not previously limited.

#### **2. Noncompliance Notification**

The Permittee shall give advanced notice to the Agency of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

In the event the Permittee is unable to comply with any of the conditions of this permit due, among other reasons, to:

- a. Breakdown or maintenance of waste treatment equipment (biological and physical-chemical systems including all pipes, transfer pumps, compressors, collection ponds or tanks for the segregation of treated or untreated wastes, ion exchange columns, or carbon absorption units);
- b. Accidents caused by human error or negligence;
- c. Any unanticipated bypass or upset which exceeds any effluent limitation in the permit;
- d. Violation of a maximum day discharge limitation for any of the pollutants listed by the Agency in this permit; or
- e. Other causes such as acts of nature;

the Permittee shall notify the Agency within 24 hours of becoming aware of such condition and shall provide the Agency with the following information, in writing, within five days:

- i. Cause of non-compliance;
- ii. A description of the non-complying discharge including its impact upon the receiving water;
- iii. Anticipated time the condition of non-compliance is expected to continue or, if such condition has been corrected, the duration of the period of non-compliance;
- iv. Steps taken by the Permittee to reduce and eliminate the non-complying discharge; and
- v. Steps to be taken by the Permittee to prevent recurrence of the condition of non-compliance.

### **3. Operation and Maintenance**

All waste collection, control, treatment, and disposal facilities shall be operated in a manner consistent with the following:

- a. The Permittee shall, at all times, maintain in good working order and operate as efficiently as possible all treatment and control facilities and systems (and related appurtenances) installed or used by the Permittee to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This

provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the Permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

- b. The Permittee shall provide an adequate operating staff which is duly qualified to carry out the operation, maintenance, and testing functions required to ensure compliance with the conditions of this permit; and
- c. The operation and maintenance of this facility shall be performed only by qualified personnel. The personnel shall be certified as required under the Vermont Wastewater Treatment Facility Operator Certification Rule.

#### **4. Quality Control**

The Permittee shall calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at regular intervals to ensure accuracy of measurements, or shall ensure that both activities will be conducted.

The Permittee shall keep records of these activities and shall provide such records upon request of the Agency.

The Permittee shall demonstrate the accuracy of the effluent flow measurement device monthly and report the results on the monthly report forms. The acceptable limit of error is  $\pm 10\%$ .

The Permittee shall analyze any additional samples as may be required by the Agency to ensure analytical quality control.

#### **5. Bypass**

The bypass of facilities (including pump stations) is prohibited, except where authorized under the terms and conditions of an Emergency Pollution Permit issued pursuant to 10 V.S.A. § 1268. It shall not be a defense for the Permittee in an enforcement action that it would have been necessary to halt or reduce the activity in order to maintain compliance with the conditions of this permit.

#### **6. Duty to Mitigate**

The Permittee shall take all reasonable steps to minimize or prevent any adverse impact to waters of the State resulting from non-compliance with any condition specified in this permit, including accelerated or additional monitoring as necessary to determine the nature and impact of the non-complying discharge.

#### **7. Records Retention**

All records and information resulting from the monitoring activities required by this permit including all records of analyses performed, all calibration and maintenance of



instrumentation records and all original 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 shall be retained for a minimum of three years, and shall be submitted to the Agency upon request. This period shall be extended during the course of unresolved litigation regarding the discharge of pollutants or when requested by the Agency.

## **8. Solids Management**

Collected screenings, sludges, and other solids removed in the course of treatment and control of wastewaters shall be stored, treated and disposed of in accordance with 10 V.S.A. chapter 159 and with the terms and conditions of any certification, interim or final, transitional operation authorization or order issued pursuant to 10 V.S.A. chapter 159 that is in effect on the effective date of this permit or is issued during the term of this permit.

## **9. Emergency Pollution Permits**

Maintenance activities, or emergencies resulting from equipment failure or malfunction, including power outages, which result in an effluent which exceeds the effluent limitations specified herein, shall be considered a violation of the conditions of this permit, unless the Permittee immediately applies for, and obtains, an emergency pollution permit under the provisions of 10 V.S.A. § 1268. The Permittee shall notify the Agency of the emergency situation by the next working day.

10 V.S.A. § 1268 reads as follows:

When a discharge permit holder finds that pollution abatement facilities require repairs, replacement or other corrective action in order for them to continue to meet standards specified in the permit, he may apply in the manner specified by the secretary for an emergency pollution permit for a term sufficient to effect repairs, replacements or other corrective action. The permit may be issued without prior public notice if the nature of the emergency will not provide sufficient time to give notice; provided that the secretary shall give public notice as soon as possible but in any event no later than five days after the effective date of the emergency pollution permit. No emergency pollution permit shall be issued unless the applicant certifies and the secretary finds that:

- (1) there is no present, reasonable alternative means of disposing of the waste other than by discharging it into the waters of the state during the limited period of time of the emergency;
- (2) the denial of an emergency pollution permit would work an extreme hardship upon the applicant;
- (3) the granting of an emergency pollution permit will result in some public benefit;
- (4) the discharge will not be unreasonably harmful to the quality of the receiving waters;

(5) the cause or reason for the emergency is not due to willful or intended acts or omissions of the applicant.

Application shall be made to the Secretary at the following address: Agency of Natural Resources, Department of Environmental Conservation, One National Life Drive, Main Building, 2<sup>nd</sup> Floor, Montpelier VT 05620-3522.

## 10. Power Failure

In order to maintain compliance with the effluent limitations and prohibitions of this permit, the Permittee shall either:

- a. Provide an alternative power source sufficient to operate the wastewater control facilities, or if such alternative power source is not in existence; or
- b. Halt, reduce, or otherwise control production and/or all discharges upon the reduction, loss, or failure of the primary source of power to the wastewater control facilities.

## B. RESPONSIBILITIES

### 1. Right of Entry

The Permittee shall allow the Agency or authorized representative, upon the presentation of proper credentials:

- a. To 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. To have access to and copy, at reasonable times, any records required to be kept under the terms and conditions of this permit;
- c. To inspect, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under this permit; and
- d. To sample or monitor, at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

### 2. Transfer of Ownership or Control

This permit is not transferable without prior written approval of the Agency. All application and operating fees must be paid in full prior to transfer of this permit. In the event of any change in control or ownership of facilities from which the authorized discharges emanate, the Permittee shall provide a copy of this permit to the succeeding owner or controller and shall send written notification of the change in ownership or control to the Agency **at least 30 days in advance of the proposed transfer date**. The notice to the Agency shall include a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and

liability between them. The Permittee shall also inform the prospective owner or operator of their responsibility to make an application for transfer of this permit.

This request for transfer application must include as a minimum:

- a. A properly completed application form provided by the Agency and the applicable processing fee.
- b. A written statement from the prospective owner or operator certifying:
  - i. The conditions of the operation that contribute to, or affect, the discharge will not be materially different under the new ownership;
  - ii. The prospective owner or operator has read and is familiar with the terms of the permit and agrees to comply with all terms and conditions of the permit; and
  - iii. The prospective owner or operator has adequate funding to operate and maintain the treatment system and remain in compliance with the terms and conditions of the permit.
- c. The date of the sale or transfer.

The Agency may require additional information dependent upon the current status of the facility operation, maintenance, and permit compliance.

### **3. Confidentiality**

Pursuant to 10 V.S.A. § 1259(b):

Any records, reports or information obtained under this permit program shall be available to the public for inspection and copying. However, upon a showing satisfactory to the secretary that any records, reports or information or part thereof, other than effluent data, would, if made public, divulge methods or processes entitled to protection as trade secrets, the secretary shall treat and protect those records, reports or information as confidential. Any records, reports or information accorded confidential treatment will be disclosed to authorized representatives of the state and the United States when relevant to any proceedings under this chapter.

Claims for confidentiality for the following information will be denied:

- a. The name and address of any permit applicant or Permittee.
- b. Permit applications, permits and effluent data.
- c. Information required by application forms, including information submitted on the forms themselves and any attachments used to supply information required by the forms.

#### **4. Permit Modification, Suspension, and Revocation**

After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked in whole or in part during its term for cause including the following:

- a. Violation of any terms or conditions of this permit;
- b. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts;  
or
- c. A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

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 shall not stay any permit condition.

The Permittee shall provide to the Agency, within a reasonable time, any information which the Agency 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 Agency upon request, copies of records required to be kept by this permit.

#### **5. Toxic Effluent Standards**

If a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under section 307(a) of the Clean Water Act for a toxic pollutant which is present in the Permittee's discharge and such standard or prohibition is more stringent than any limitation upon such pollutant in this permit, then this permit shall be modified or revoked and reissued in accordance with the toxic effluent standard or prohibition and the Permittee so notified.

#### **6. Civil and Criminal Liability**

Except as provided in, "Bypass" (Section II.A.5), "Emergency Pollution Permits" (Section II.A.9), and "Power Failure" (Section II.A.10), nothing in this permit shall be construed to relieve the Permittee from civil or criminal penalties for noncompliance. Civil and criminal penalties for non-compliance are provided for in 10 V.S.A. Chapters 47, 201 and 211.

#### **7. Oil and Hazardous Substance Liability**

Nothing in this permit shall be construed to preclude the institution of legal action or relieve the Permittee from any responsibilities, liabilities, or penalties to which the Permittee is or may be subject under 10 V.S.A. § 1281.

#### **8. State Laws**

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 established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Clean Water Act.

## **9. Property Rights**

Issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

## **10. Other Information**

If 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 Agency, it shall promptly submit such facts or information.

## **11. Severability**

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 the remainder of this permit, shall not be affected thereby.

## **12. Authority**

This permit is issued under authority of 10 V.S.A. § §1258 and 1259 of the Vermont Water Pollution Control Act, the Vermont Water Pollution Control Permit Regulations and Section 402 of the Clean Water Act, as amended.

# **II.**

## **A. OTHER REQUIREMENTS**

This permit shall be modified, or alternatively, revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved under Sections 301(b) (2) (C), and (D), 304(b) (2), and 307 (a) (2) of the Clean Water Act, if the effluent standard or limitation so issued or approved:

- 1.** Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
- 2.** Controls any pollutant not limited in the permit.

The permit as modified or reissued under this paragraph shall also contain any other requirements of the Vermont Water Pollution Control Act then applicable.

## B. DEFINITIONS

For purposes of this permit, the following definitions shall apply.

**Agency** – The Vermont Agency of Natural Resources

**Annual Average** - The highest allowable average of daily discharges calculated as the sum of all daily discharges (mg/L, lbs or gallons) measured during a calendar year divided by the number of daily discharges measured during that year.

**Average** - The arithmetic means of values taken at the frequency required for each parameter over the specified period.

**Bypass** – The intentional diversion of waste streams from any portion of a treatment facility.

**The Clean Water Act** - The federal Clean Water Act, as amended (33 U.S.C. § 1251, *et seq.*).

**Composite Sample** - A sample consisting of a minimum of one grab sample per hour collected during a 24-hour period (or lesser period as specified in the section on Monitoring and Reporting) and combined proportionally to flow over that same time period.

**Daily Discharge** - 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 limitation expressed in pounds the daily discharge is calculated as the total pounds of pollutants discharged over the day.

For pollutants with limitations expressed in mg/L the daily discharge is calculated as the average measurement of the pollutant over the day.

**Discharge** – Any wastes, directly or indirectly, that are placed, deposited or emitted into waters of the state.

**Grab Sample** - An individual sample collected in a period of less than 15 minutes

**Incompatible Substance** - Any waste being discharged into the treatment works which interferes with, passes through without treatment, or is otherwise incompatible with said works or would have a substantial adverse effect on these works or on water quality. This includes all pollutants required to be regulated under the Clean Water Act.

**Instantaneous Maximum** - A value not to be exceeded in any grab sample.

**Major Contributing Industry** - One that: (1) has a flow of 50,000 gallons or more per average work day; (2) has a flow greater than five percent of the flow carried by the municipal system receiving the waste; (3) has in its wastes a toxic pollutant in toxic amounts as defined in standards issued under Section 307(a) of the Clean Water Act; or (4) has a significant impact, either singly or in combination with other contributing industries, on a publicly owned treatment works or on the quality of effluent from that treatment works.

