

Addendum A

Maine Department of Environmental Protection Response to Comments on the Nordic Draft Board Order A-1148-71-A-N

October 5, 2020

During the public comment period, the Department received numerous comments from interested parties and intervenors regarding the Draft Board Order dated July 17, 2020 (Draft Order) for a Chapter 115 air emission license for Nordic Aquafarms (Nordic). See 06-096 C.M.R. ch. 115, *Major and Minor Source Air Emission License Regulations* (Ch. 115). Many of the comments received were similar in content and/or concern. Similar comments have been summarized collectively below and are followed by the Department's responses.

The Board considered the comments received alongside information in the record. Based on its review and analysis, the Board finds that the Nordic facility would be a minor source and that their application for a Ch. 115 air emission license should be processed in accordance with the requirements of Ch. 115 for minor sources, which is consistent with the Department's established practice and professional judgment.

The Clean Air Act (CAA) and federal air regulations contain requirements specific to the licensing of major sources and major modifications. The United States Environmental Protection Agency (EPA) relies on state, tribal, and local permitting authorities to adopt and implement permitting programs for minor sources. Maine has delegated authority from EPA for its minor source permitting program as approved under its State Implementation Plan (SIP). These requirements are contained in Ch. 115.

The Board concurs with and adopts the Department's responses below, including any findings or conclusion therein.

Comments received from Amy Grant, President of Upstream Watch, in a letter to the Honorable Robert S. Duchesne, Presiding Officer, dated August 15, 2020

TOPIC: MINOR SOURCE VS. SYNTHETIC MINOR SOURCE VS. MAJOR SOURCE

COMMENT #1: The application seems to have been processed in a manner simply for compliance with the Maine SIP as if it were a "true" minor source and the only source, but not for demonstrating compliance with the state ambient air quality standards as one of many sources in the area.

RESPONSE #1: The term "true" minor source is not a defined term in Maine's air licensing program and has no bearing on how an application is processed pursuant to Ch. 115. The term "true" minor source refers to a source that does not require specific license restrictions to maintain emissions below major source threshold levels. The terms "minor source" and "major source" are defined in 06-096 C.M.R. ch. 100, *Definitions Regulation* (Ch. 100). Ch. 115 provides for different application and licensing process requirements depending on whether a source is a "minor source" or a "major source." Nordic applied for a minor source air emission license, and the Department processed the application in accordance with Ch. 115.

Addendum A

Maine Department of Environmental Protection Response to Comments on the Nordic Draft Board Order A-1148-71-A-N

October 5, 2020

Department staff examined other nearby sources to determine if any impacts would be significant in or near the facility's significant impact area. Due to the location of the Nordic facility, the extent of its predicted significant impact area, and other nearby source's emissions, Department staff determined that no other sources would be included in combined-source modeling analysis.

COMMENT #2: The applicant has elected to take a "synthetic minor" designation to reduce the annual emissions to levels below the major source threshold. Although this restricts annual emissions, it does not restrict short-term emissions. The commenter further stated that the paragraph in the Draft Order explaining how the Department distinguishes between a major or a minor source needs modification because it does not include a discussion about synthetic minor sources.

RESPONSE #2: The term "synthetic" minor source is not a defined term in Maine's air licensing program and has no bearing on how an application is processed pursuant to Ch. 115. The term refers to a source that has accepted license restrictions that limit annual emissions to below major source threshold levels, thereby making the source a minor source. Maine's licensing program allows a source to accept license restrictions in order to be licensed as a minor source. The annual fuel use limit included in the Draft Order is enforceable as a practical matter. It is also federally enforceable and sufficient to restrict Nordic's annual emissions to minor source levels. By accepting an annual fuel use limit for the generators, Nordic meets the criteria of a minor source.

COMMENT #3: The commenter stated that the limitations on a facility that enable it to be classified as a "synthetic" minor source must be "enforceable throughout the life of the facility as proposed," and that the license must specify a practical method to limit emissions.

RESPONSE #3: There is no provision in Ch. 115 that states that license conditions cannot be changed through future licensing actions to amend or modify an existing license. As discussed above, the annual fuel use limit conditioned in the Draft Order is sufficient to restrict Nordic's annual emissions and is enforceable. Absent a license amendment or modification, that fuel use limit will continue to be in effect and enforceable. Any amendment or modification to that limit would be subject to additional permitting requirements and actions, as required by Ch. 115.

COMMENT #4: The commenter asserted that the word "synthetic" is missing from a discussion about additional analyses of impacts that would be required if the facility were a major source. In making this point, the commenter alleges the facility would be required to perform further analyses of short-term emissions if the wording were changed to include "synthetic."

RESPONSE #4: As discussed above, the term "synthetic" minor source is not a defined term in Maine's air licensing program and has no bearing on how an application is processed pursuant to Ch. 115. Because the project's calculated annual emissions did not exceed the modeling thresholds, Ch. 115 did not require

Addendum A

Maine Department of Environmental Protection Response to Comments on the Nordic Draft Board Order A-1148-71-A-N

October 5, 2020

the applicant to perform or submit an ambient air dispersion modeling analysis. The Department conducted its own ambient air quality analysis of the proposed source due to concerns raised by the public. The Department's modeling showed that emissions from Nordic's facility would not exceed National Ambient Air Quality Standards (NAAQS). Ch. 115 did not require further restrictions on short term limits from Nordic's facility.

TOPIC: INSIGNIFICANT SOURCES

COMMENT #5: The commenter stated that Nordic's application is incomplete because it did not contain the proper application materials, including those listing insignificant sources. The commenter also stated that insignificant activities and/or units are still a part of the facility's emissions and must be included in the application, and that it is not possible to determine if the facility would trigger de minimis thresholds for criteria or hazardous air pollution emission thresholds without the inclusion of insignificant activities in the application and analysis.

RESPONSE #5: Ch. 115 states, "Once a source requires an air emission license, all emissions units which emit regulated pollutants at the source must be included in the license, except the following: insignificant activities listed in Appendix B of this Chapter; activities which the Department has determined in writing on a case-by-case basis to be substantially equivalent to the insignificant activities specified in Appendix B of this Chapter; and those activities which are clearly trivial." Ch. 115 does not require that all insignificant activities at a source be identified or that emission information be provided in the application. The Department has added language to the Draft Order to clarify this point.

COMMENT #6: The commenter stated that small stationary engines were not identified in Nordic's application, and therefore they cannot be properly conditioned. The commenter also stated that it is not sufficient to simply add in the draft license that any engines (such as maintenance units, emergency engines, and portable units) not specifically listed therein are still subject to applicable State and Federal regulations.

RESPONSE #6: Stationary engines smaller than 0.5 MMBtu/hr (approximately 70 HP) are listed in Ch. 115, Appendix B, (B)(3) as insignificant units. Portable engines smaller than 0.5 MMBtu which are used for maintenance or emergency-only purposes only were excluded from licensing in writing by the Department in a policy memorandum dated July 13, 2017¹, consistent with federal engine regulations, because they are substantially equivalent to the insignificant activity described in Appendix B, (B)(3). As insignificant activities, these engines are not required to be included in a minor source license, nor are their emissions required to be included in any NAAQS or increment air dispersion modeling analysis. The language contained in the Draft Order addressing small stationary and portable engines is standard language that

¹ Link to *Policy on Portable Reciprocating Internal Combustion Engines*
<https://www.maine.gov/dep/air/publications/index.html>

Addendum A

Maine Department of Environmental Protection Response to Comments on the Nordic Draft Board Order A-1148-71-A-N

October 5, 2020

is included in every minor source air emission license where appropriate. Although these small engines are considered “insignificant activities” under Chapter 115 and require no changes to the air emission license to operate on site, the language serves as a reminder to facilities that these engines are still subject to all applicable state and federal requirements, meaning those requirements that may be applicable even though licensing may not be required. For example, these insignificant activities are subject to rules such as fuel sulfur content requirements of 06-096 C.M.R. ch. 106 and visible emissions requirements of 06-096 C.M.R. ch. 101.

COMMENT #7: The commenter stated that Nordic incorrectly omitted significant hazardous air pollutants (HAPs) emission units from their Ch. 115 air emission license application that should have been reviewed as part of the application process. The commenter alleged that processes such as fish rearing, slaughtering, and removal of products and byproducts involve HAPs emission units that are not “insignificant activities” and should be a part of the application review process. They further stated that since no HAP emission units were provided in the application, there is an expectation that no HAPs will be emitted, and that this should be added to the Findings of Fact.

RESPONSE #7: The Department does not consider the lack of HAP emission units in the Ch. 115 air emission license application to indicate that the application is incomplete. The Department considered the application as complete regarding sources and units subject to licensing based on information in the application as well as evidence in the record. HAP may be emitted from various equipment and activities at the facility, but based on the Department’s experience and professional judgement, any HAP emitted would occur at levels consistent with an area source of HAP. Since no sources of HAP subject to any HAP-specific applicable requirements were identified for the project, the Draft Order does not contain specific conditions relative to HAP emissions. However, by definition, facilities that are not major sources of HAP are area sources of HAP by default, and the Draft Order limits facility emissions to not exceed area source levels of HAP.

TOPIC: SECONDARY AND CONSTRUCTION EMISSIONS, ODOR, AND CONTAMINANTS

COMMENT #8: The commenter stated that the Ch. 115 application is deficient because it doesn’t include all of the other significant or insignificant sources, other ancillary utility sources on-site, secondary emissions, construction emissions, odor control emissions, direct vent emissions, etc. that are necessary to condition the overall facility.

The commenter stated that the DEP is required to address the potential for “air pollution” that includes air contaminants such as dust, odor, vehicle emissions, construction emissions, emissions from maintenance equipment, noise, etc.

Addendum A

Maine Department of Environmental Protection Response to Comments on the Nordic Draft Board Order A-1148-71-A-N

October 5, 2020

The commenter stated that no air contaminant emission sources have been identified by the applicant for several components of the facility, such as the fish hatchery and associated equipment, chemical storage and processing areas, odor control units, dredging operations, etc.

The commenter proposed that the draft air emission license be redrafted, but only after the applicant has provided information from all air contaminant sources of air, odor, noise, and dust emissions that could cause air pollution.

RESPONSE #8: As an applicant for a minor source air emission license and pursuant to Ch. 115, Nordic is not required to list insignificant activities. Consistent with Ch. 115 and longstanding Department practice, construction activities, mobile source emissions, and secondary emissions need not be addressed in this Draft Order. Pursuant to Ch. 115 and 40 Code of Federal Regulations (C.F.R.) § 52.21(b)(4), the Department does not consider secondary emissions in determining whether a source is a major source. Additionally, except for specific source categories as identified in Ch. 115 and the Clean Air Act (CAA), the Department does not consider fugitive emissions in determining whether a source is a major source. A land-based fish farm does not fall within not one of those excepted source categories identified by Ch. 115 or the CAA.

Although “air contaminants” are defined in state statute Title 38 § 582, noise and odor are not regulated under Ch. 115; therefore, there is no authority to address them in this Draft Order. Additionally, concerns raised by the commenter about indoor air quality at an industrial facility fall outside the scope of Ch. 115 and are typically regulated by the Occupational Safety and Health Administration (OSHA)

Pursuant to Ch. 115, sources of air pollutants that are not vented directly to the ambient air are generally considered insignificant activities and are not addressed in an air emission license. Pursuant to the CAA, emissions from mobile sources (both on and off-road) are regulated by EPA and are not addressed in state-issued, minor source air emission licenses. Emissions from mobile sources are addressed at new major sources and major modifications at existing major sources, but these are addressed qualitatively on a case-by-case basis as part of a Growth Analysis as required by the 1990 *New Source Review Workshop Manual* (Draft), not in a minor source ambient air quality modeling analysis such as the one performed here by the Department. Regulated air pollutants emitted from insignificant activities, such as water and wastewater treatment equipment and activities, are not addressed in minor source air emission licenses.

COMMENT #9: The commenter stated that the applicant must demonstrate compliance with ambient air quality standards by submitting a study that includes secondary emissions, fugitive emissions, and insignificant sources that were omitted from the initial information supplied.

The commenter asserted that the Draft Order is incomplete because it does not include analysis of potential exposure from dust; discussion of how the generators’ emissions would combine with construction emissions, secondary emissions, or insignificant sources; or discussion of how air emissions would be impacted if Phase II of the project was never developed.

Addendum A

Maine Department of Environmental Protection Response to Comments on the Nordic Draft Board Order A-1148-71-A-N

October 5, 2020

The commenter asserted that their initial request of the Board was to have all air-related activities be included as a topic at the public hearing and that all air contaminants be considered together. They further stated that odor emissions from vents and odor control exhaust are not exempt from permitting or conditioning.

RESPONSE #9: As discussed above, air contaminants other than regulated air pollutants are not subject to Ch. 115 licensing. Because Nordic's proposed annual emissions were below the modeling threshold levels contained in Ch. 115, the applicant was not required to conduct or submit a modeling analysis. The Draft Order addresses those air pollutants that are regulated by Ch. 115.

Please see Response #17 below for a discussion of implications if the project does not reach Phase II.

TOPIC: MODELING

COMMENT #10: The commenter stated that it is impossible to impose appropriate and reasonable conditions to ensure that the facility complies with ambient air quality standards if the conditions used to limit the facility to a synthetic minor classification allow most or nearly all of the allowable emissions to be consumed.

RESPONSE #10: The minor source dispersion modeling performed by the Department for the Nordic facility in response to concerns raised by intervenors and the public was conducted in a manner consistent with analyses for other minor source applications. Department staff examined other nearby sources to determine if any impacts would be significant in or near the facility's significant impact area. Due to the location of the Nordic facility, the extent of its predicted significant impact area, and other nearby source's emissions, Department staff determined that no other sources would be included in combined-source modeling analysis.

In addition, conservative background data values, representative of the existing air quality in the project area, were added to the maximum predicted Nordic facility impacts to account for criteria air pollutants inherent in the ambient airshed not explicitly associated with a single source (i.e., a combination of pollutants from mobile, residential, agricultural, etc.) Ch. 115 does not require evaluation of how close a facility's predicted impacts are to NAAQS, only that it does not exceed the NAAQS. In other words, either the ambient air quality analysis demonstrates that a facility meets the standard, or not. In this case, as explained in the Draft Order, the modeling demonstrated that Nordic meets all applicable NAAQS and increment standards.

COMMENT #11: The commenter asserted that air dispersion modeling performed by the Department for this project was incomplete because it did not include all of the emission sources that the commenter felt should have been included, such as mobile sources, construction activities, insignificant sources, fugitive emissions, etc. This assertion was made or alluded to multiple times throughout the letter.

Addendum A

Maine Department of Environmental Protection Response to Comments on the Nordic Draft Board Order A-1148-71-A-N

October 5, 2020

RESPONSE #11: As discussed in Response #8 above, an applicant for a minor source air emission license is not required to list insignificant activities pursuant to Ch. 115. Consistent with Ch. 115 and Department established practices, construction activities, mobile source emissions, secondary emissions, noise, and odor need not be addressed in this Draft Order.

COMMENT #12: The commenter stated that the Department did not evaluate a sufficient number of potential equipment combinations and operating scenarios (including startups and shutdowns) of the generators along with the other sources to adequately determine the worst-case conditions for emissions from the facility.

RESPONSE #12: Dispersion modeling is traditionally considered to be a conservative computational method (meaning it typically over-predicts impacts) used to predict local ambient air quality impacts associated with a licensed source of air pollution. Because annual emissions from the Nordic facility were below modeling threshold levels contained in Ch. 115 for all criteria pollutants, a modeling analysis was not required to be submitted. In response to concerns raised by intervenors and the public, the Department conducted air dispersion modeling consistent with EPA and Department guidance, professional judgement, and longstanding Department practices for other minor sources. This includes selecting the operating scenario that the Department believes represents the worst-case scenario for emissions from the facility and selecting conservative background ambient air quality values that are representative of the area. The Department finds that its modeling adequately addressed the worst-case conditions for emissions from the facility as licensed.

TOPIC: TEMPORARY

COMMENT #13: The commenter questioned how “facility’s several year construction phase has been categorized as temporary”.

RESPONSE #13: Construction activities will not be a permanent part of the licensed “source” and therefore are not addressed as specific air emissions units from the “source.” There is, however, a standard condition in every air emission license which requires a source to develop and implement a best management practices plan to minimize fugitive emissions from construction and other related activities.

TOPIC: FUEL

COMMENT #14: The commenter requested that a specific condition be added to the draft air emission license limiting the fuel fired in the generators to low sulfur #2 diesel fuel only.

Addendum A

Maine Department of Environmental Protection Response to Comments on the Nordic Draft Board Order A-1148-71-A-N

October 5, 2020

RESPONSE #14: Specific Condition 17(A)(2), already included in the Draft Order, limits the facility to only using ultra-low sulfur distillate fuel in the generators. The definition of “distillate fuel” contained in the proposed Draft Order is inclusive of low sulfur #2 fuel oil and low sulfur diesel fuel. It is the same definition the Department includes in all air emission licenses where any form of distillate fuel is utilized at a facility, whether it be diesel fuel, kerosene, or heating oil. (The definition is based on the definition for “distillate oil” contained in 40 C.F.R. Part 60 Subpart Dc, *Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units*.) This Department uses this definition of distillate fuel because the properties and emission profiles for these distillate products have become increasingly similar in recent years, and there is no longer a need to differentiate between them in order to ensure compliance with applicable air emissions limits.

TOPIC: EMERGENCY USE

COMMENT #15: The commenter expressed concern, based on the applicant’s testimony at the hearing in this proceeding, that the non-emergency, peak shaving generator units might potentially be used for emergency power as well.

RESPONSE #15: The Draft Order licenses these units as non-emergency engines, meaning that they are licensed to operate within the constraints of license conditions at any time for any reason, including both for prime power and for emergencies. However, if the Nordic chooses to operate the generators during an emergency, the fuel consumed by the generators during that time still counts against the annual fuel limit for the facility. In other words, whether Nordic uses the fuel for non-emergency peak shaving operation of the generators or for emergency operation of the generators, the facility will be held to the fuel limit in the license. Emergency operation of these generators will not relieve the facility from complying with their annual fuel limit.

COMMENT #16: The commenter expressed concern as to whether “air contaminant sources” will continue to operate in a power outage and how it will affect the facility’s overall emissions on a short-term basis.

RESPONSE #16: The Draft Order provides for the emissions from eight generators, seven of which can be operated simultaneously. As discussed above, the Draft Order does not make any distinction as to the reason that the generators may operate, as they may run either for the generation of prime power or during power outages. The actual short-term emissions will be the same, regardless of the generators’ reason for operating. It is important to note that the dispersion modeling performed by the Department assumed the maximum short-term emissions from each of the seven generators while running at 100% capacity for 24 hours per day for 365 days per modeled year. This modeling assumption is extremely conservative, given that the annual facility-wide distillate fuel use limit of 900,000 gallons

Addendum A

Maine Department of Environmental Protection Response to Comments on the Nordic Draft Board Order A-1148-71-A-N

October 5, 2020

equates to the generators operating less than 11% of the year at full capacity. Based on that modeling, the Department concluded that operation of the generators during a power outage and within license limits would not cause an exceedance of any NAAQS or increment standards.

TOPIC: AIR QUALITY EXCEEDANCE

COMMENT #17: The commenter expressed concern that if Phase II of the project is not built, it will change the variables used in the air dispersion modeling and could lead to a possible air quality exceedance scenario for multiple criteria pollutants.

RESPONSE #17: The dispersion modeling performed by the Department was based upon the Nordic facility as it was proposed to the Department in its Ch. 115 application. The Department evaluated the proposed facility based on information that was submitted in the application and evidence in the record. The Department did not make any assumptions regarding the various phases of construction/operation at the facility. Should Nordic fail to construct the facility in accordance with the design criteria as modeled, the Department may use its discretion to require Nordic to perform and submit additional updated modeling to demonstrate that the as-built facility will meet all applicable NAAQS and may use its authority to reopen and amend the license, as appropriate.

TOPIC: CLASS I INCREMENT

COMMENT #18: The commenter stated that the “Class I Increments” portion of the Department’s air dispersion modeling has not been confirmed.

RESPONSE #18: The evaluation of Class I increment impacts is only required for new major sources, major modifications to existing sources, or to sources in close proximity to a Class I area, defined in Ch. 100 as a major source located within 10 kilometers of any Class I area. Because the Department determined that the Nordic facility is a minor source, Nordic was not required to conduct a Class I Increment analysis as part of its Ch. 115 application. In addition, given the magnitude of emissions from the proposed Nordic facility and the distance between the proposed facility and the nearest Class I area (Acadia National Park, approximately 50 kilometers away), it is highly unlikely that emissions from the Nordic facility would have any significant Class I impacts.

Email received from Lisa Fryer, dated August 3, 2020

The email, which is addressed to Ms. Bertocci, was submitted on behalf of the Northport Village Corporation (NVC) and includes an attached letter from NVC addressed to Presiding Officer Duchesne dated July 30, 2020.

Addendum A

Maine Department of Environmental Protection Response to Comments on the Nordic Draft Board Order A-1148-71-A-N

October 5, 2020

COMMENT #19: The commenter stated that based on the application and testimony provided, there are many Findings of Fact missing from the draft Ch. 115 license, making it impossible to condition the permit. It states that the Findings of Fact need to be revised to reflect all submitted information as well as missing permitting information.

RESPONSE #19: The air emission license is not intended to be a historical document capturing all of the testimony and material submitted. It is a document written to clearly identify relevant information about the licensed facility, to identify and stipulate standard and specific statutory and regulatory conditions that apply, and to identify how compliance with these license conditions is to be accomplished and demonstrated. In this case, the Department considered all testimony and information submitted into the record by the applicant and by the intervenors and developed the Draft Order using information identified as relevant, required, and appropriate.

COMMENT #20: The commenter requested a restructuring of the draft review process to a more iterative one, and to coordinate the timelines between processing the Ch. 115 and Site Law applications.

Additionally, the commenter requested the following:

1. A single purpose comment process for the project;
2. That the Findings of Fact be extracted from the draft order and the draft license for comments first with respect to completeness, relevancy, and omission of facts; and
3. A delay of the Ch. 115 comments so that they can be discussed with Site Law air emissions.

RESPONSE #20: In a letter to Mr. John Spritz from Presiding Officer Duchesne dated August 7, 2020, Presiding Officer Duchesne denied the request to restructure the draft review process and to alter the format of the air emission license. Additionally, Presiding Officer Duchesne denied the request to coordinate the timelines of the comment periods for Site Law and the Ch. 115 air emission license review. The Presiding Officer noted that the Board will consider all comments and Draft Orders together before reaching a decision on any one of the permits Nordic has applied for.

Letter from Steven Rea, received by Dept. 8/7/20

COMMENT #21: The proposed stack heights are significantly higher than Belfast zoning regulations allow.

RESPONSE #21: Local zoning requirements are not within the scope of Ch. 115. The Department does not have any authority to intervene in municipal zoning regulations and requirements regarding maximum structure heights. The Department only requires that the Nordic facility construct the dimensions of each stack in accordance with the design criteria as represented in a dispersion modeling analysis that demonstrates compliance with all applicable NAAQS.

Addendum A

Maine Department of Environmental Protection Response to Comments on the Nordic Draft Board Order A-1148-71-A-N

October 5, 2020

COMMENT #22: The Nordic facility will result in a significant increase of nitrogen oxide pollutants in the air for the surrounding Belfast and Northport communities.

RESPONSE #22: The air dispersion modeling performed by the Department indicated that the facility will comply with all applicable ambient air quality standards.

COMMENT #23: The size of the power plant is out of proportion to any other industrial facility in the area.

RESPONSE #23: The size or proportion of the power plant relative to any other licensed industrial facility in the area is not within the scope of Ch. 115.

COMMENT #24: Nordic has intentionally misled the public and the Board with their renderings of the facility that omit any depiction of smoke stacks.

RESPONSE #24: The Department was made aware of the smoke stacks in the Ch. 115 application and was informed when Nordic requested to increase the design stack height. These parameters were included in the air dispersion modeling performed by the Department. The visual impact of buildings and structures associated with a licensed facility is not within the scope of Ch. 115.

Letter from John Spritz, President of Northport Village Corporation (NVC), dated 8/16/20

COMMENT #25: The commenter affirmed that NVC supports the concerns indicated by Upstream Watch in their communication of August 15, 2020.

RESPONSE #25: Please refer to comments #1 through #18 and their accompanying Department responses.

The commenter also attached letters of concern from Bayside residents Dr. Steven M. Rothman, Mark J Stelmack, P.E. and Paula J. Foley-Stelmack.

Addendum A

Maine Department of Environmental Protection Response to Comments on the Nordic Draft Board Order A-1148-71-A-N

October 5, 2020

COMMENT #26: Dr. Rothman stated that the true environmental impact of the plant is unknown and that there is no way to accurately model the impact that the plant will have in the area.

He then cited concerns about the following:

1. Waste water discharge having an undetermined effect on animal life in the bay;
2. Alterations in the water in the bay could permanently wipe out jobs of community members on the east and west sides of the bay; and
3. The plant will be an eyesore and impact local businesses in the area which depend on the summer tourist influx.

RESPONSE #26: Items 1, 2, and 3 above are not relevant to the Ch. 115 air emission license application or Draft Order. Because these comments may be relevant to Nordic's applications for a wastewater discharge license or a Site Law or Natural Resources Protection Act license, these comments were forwarded to Department staff in the Bureau of Water Quality and Bureau of Land Resources for consideration.

COMMENT #27: The Stelmacks stated that they support NVC's position on the air permit application.

RESPONSE #27: Please refer to comments #1 through #18 and their accompanying Department responses.

COMMENT #28: The Department owes the citizens an unbiased summation of the application and should not simply suggest foregone conclusions when summarizing its Findings of Fact.

RESPONSE #28: The Department included in its Findings of Fact a complete summation of the record in these proceedings as it is relevant to the requirements of Ch. 115 for an air emission license. The full record is available to the public for inspection. A full recitation of information from the application and this proceeding is neither the purpose of the Findings of Fact nor the appropriate location for such information.

COMMENT #29: Commenters requested a single purpose comment process for project.

RESPONSE #29: Please see the response to Comment #20 above.

COMMENT #30: Commenters requested that the Findings of Fact be extracted from the draft order and the draft license for comments first with respect to completeness, relevancy, and omission of facts.

RESPONSE #30: Please see the response to Comment #20 above.

Addendum A

Maine Department of Environmental Protection Response to Comments on the Nordic Draft Board Order A-1148-71-A-N

October 5, 2020

COMMENT #31: Commenters asserted that emissions from the entire “facility” or “source” for construction, operations, and maintenance must be examined together, so commenters requested the delay of Ch. 115 comments so they can be discussed with Site Law air emissions.

RESPONSE #31: Ch. 115 does not address secondary emissions from construction, maintenance, and operations, and these emissions are not required to be evaluated in the potential-to-emit calculations or accounted for in minor source air dispersion modeling. Please see the response to Comment #20 above.

COMMENT #32: Commenters requested that Ch. 115 draft FOF comments be extended to coincide with the comments from the SLODA application draft Findings of Fact.

RESPONSE #32: Please see the response to Comment #20 above.

Email from Ms. Tucker dated 8/16/2020

COMMENT #33: The commenter submitted a Comment Objection and renewed motion for stay or dismissal filed by the MGL Intervenors and Interested and Aggrieved Person Friends of the Harriet L. Hartley Conservation Area, focused on Title, Right or Interest (TRI), concluding with the Petitioners moving “for an immediate stay or dismissal without prejudice of Nordic’s permit and license applications currently pending in the Board.”

RESPONSE #33: The document attached in the above-referenced email asserts that the Ch. 115 application should not have been accepted as the applicant has not been able to secure TRI needed to proceed with the project. In a letter dated August 27, 2020, the Presiding Officer ruled on this motion, reiterating the Board’s denial of this motion in the Twentieth Procedural Order. No other comments relative to the Ch. 115 application or Draft Order are contained in this document.

Email from Ms. Tourangeau dated 8/17/2020

The commenter included as an attachment a letter from Mainely Environmental to Presiding Officer Duchesne dated August 14, 2020.

COMMENT #34: The commenter requested that draft condition 17(D) be amended to add language allowing the use of work practice standards in lieu of the stipulated visible emission standard during startups, shutdowns, and malfunctions, consistent with provisions in Ch. 101.

Addendum A

Maine Department of Environmental Protection Response to Comments on the Nordic Draft Board Order A-1148-71-A-N

October 5, 2020

RESPONSE #34: The Department finds that the engines being proposed/installed for this project are new, state-of-the-art, Tier 4 engines and that they can be expected to meet the visible emission standard at all times. The use of work practices in lieu of meeting the visible emission standard at all times is not considered by the Department to be Best Available Control Technology (BACT). The request to change Specific Condition 17(D) to incorporate work practice standards is therefore denied.

COMMENT #35: The commenter requested that draft be modified to remove the mandatory initial performance test requirement, instead making it conditional upon request by the Department.

RESPONSE #35: The Department will require the facility to demonstrate the engines' ability to meet the manufacturer's stated emission limits within the specified time after commissioning, as detailed in Specific Condition 17(F). This condition eliminates the need for the Department to make a formal request at a later time. The request by the applicant to remove the mandatory initial performance test requirement is therefore denied.

COMMENT #36: The commenter requested the addition of a Specific Condition to limit the number of generators licensed to operate simultaneously to no more than seven (7).

RESPONSE #36: The Board added a specific condition that limits the number of generators licensed to operate at one time to no more than seven, consistent with operating restrictions proposed by Nordic in the application and consistent with the worst case operating scenario modeled by the Department.