



JANET T. MILLS  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



MELANIE LOYZIM  
COMMISSIONER

June 7, 2023

***Via E-mail Only***

Michael Lannan  
Tech Environmental  
33A Front Street  
Belfast, Maine 04915

**RE: Petition to Modify or Prescribe Correction Action regarding Nordic Aquafarms, Inc**

Dear Mr. Lannan,

On April 25, 2023, the Department received your petition for a “Modification of License or Order Prescribing Corrective Action” with regard to the licenses issued to Nordic Aquafarms, Inc. (Nordic). In your letter you ask for both modification of and revocation of the permits, but cite to Chapter 2, §§ 25(B) (addressing revocation or suspension) and 27(F) (addressing a basis for modification) of the Department’s Rules.<sup>1</sup> Section 26 of Chapter 2 outlines the process for a petition for modification. Based on the arguments you make in your petition, the Department will treat your request as a petition for modification.

Pursuant to Chapter 2, § 26(B), any person may petition the Commissioner to recommend that the Board initiate proceedings to modify a license or prescribe corrective action. Such a petition must specifically describe the factual basis for the petition and state which of the criteria listed in Section 27 is being invoked.

The petition states that Nordic has made announcements that its proposed facilities in California would no longer be raising salmon; you argue that such statements represent a change in condition or circumstances that requires a temporary or permanent modification of the terms of the license. The petition argues that a switch in species would result in changes to the composition of the licensed waste discharge and associated impacts on natural resources. While

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<sup>1</sup> The petition refers to 25(B) throughout, which relates to the requirements for petitions to revoke or suspend licenses. The Department interprets the petition, in light of its reference to “Modification of License or Order Prescribing Corrective Action” and its reference to Section 27(F) (“There has been a change in any condition or circumstance that requires a corrective action or a temporary or permanent modification of the terms of the license”) as a request for the Commissioner to recommend the Board modify a license or prescribe corrective action.

unclear, the petition suggests that such a change has already been announced or inevitably will be announced for the Belfast facility.

Nordic responded to the petition on May 17, 2023. In its response, Nordic denied it has announced it would or decided it would change the species to be raised at the Belfast location. In addition, Nordic argued that the petitioner did not provide evidence that a change in species would require modification or corrective action and that any such modification or corrective action would be mooted by the Department's pending suspension proceeding.

The Department received additional correspondence from the petitioner, licensee and interested persons following receipt of the licensee's response. The petition process set forth in the rule consists of a petition and a response, followed by the Commissioner's decision on whether to initiate the requested proceeding, but additional filings by the petitioner and the licensee, and submissions by other persons are not explicitly prohibited by Section 26(B). In this case, I exercised my discretion in considering the additional submissions.

Pursuant to 38 M.R.S. § 342(11-C) and Chapter 2, § 26(B) of the Department's rules, the Commissioner may dismiss a petition to modify a license or may recommend that the Board modify a license upon making certain findings. The basis for a modification invoked by your petition is that: "There has been a change in any condition or circumstance that requires a corrective action or a temporary or permanent modification of the terms of the license." 38 M.R.S. § 342(11-B)(F); Ch. 2, § 27(F).

I have determined that the petition does not demonstrate a change in circumstance that may warrant modification or corrective action. The allegations made in the petition and the May 19, 2023, follow-up email are speculative at this time and are based on assumptions that market factors will necessitate a future change in species. Such allegations do not provide a factual basis that there has been a change in any condition or circumstance, nor has the petition provided evidence that such a change would require a modification of terms or conditions of a license. Therefore, I am dismissing the petition in accordance with 38 M.R.S. § 342(11-C) and Ch. 2, § 26(B).

As set forth in Chapter 2, § 26(H), this decision to dismiss the petition to modify is within the Commissioner's sole discretion and is not subject to judicial review.



Melanie Loyzim, Commissioner