



PAUL R. LEPAGE
GOVERNOR

Robert A. Foley, Chair

Cynthia S. Bertocci
Executive Analyst

Ruth Ann Burke
Board Clerk

Memorandum

To: Board of Environmental Protection
From: Cynthia Bertocci, Executive Analyst
Date: July 18, 2013
Re: Final Adoption of Amendment to Chapter 2 Rule Concerning the Processing of Applications and Other Administrative Matters, Definition of "Aggrieved Person"

Statutory and Regulatory Reference: Amendments to Chapter 2 are authorized under the Board's rulemaking authority set forth in 38 M.R.S. § 341-H(2). Resolve 2011, chapter 144 (LD 1647) directed the Board of Environmental Protection to adopt rules to conform the standards for standing to appeal a Commissioner's decision to the Board to the judicial standards for standing to appeal a decision of the Board to court. The rule was identified as major substantive. Resolve 2013, chapter 65 (LD 861) authorized final adoption of the rule.

Background:

The Board held a public hearing on the proposed change to the definition of "aggrieved person" on November 1, 2012, and subsequently modified the proposed rule in response to comments. The Board provisionally adopted the amended definition on January 17, 2013 and forwarded the rule to the Legislature for review and approval. The Legislature's Joint Standing Committee on Judiciary held a public hearing on the provisionally adopted rule on May 7, 2013. The Legislature authorized final adoption of the rule in Resolve 2013, chapter 65; no changes were made by the Legislature.

Requested Action:

The Board is being asked to finally adopt the definition of "aggrieved person" as approved by the Legislature. The following documents are provided for your review:

- Resolve 2013, chapter 65 authorizing final adoption of the rule;
- The rule change in legislative format; and
- The revised Basis Statement and Response to Comments;
- The rule and Basis Statement in final format with changes accepted.

Estimated time of agenda item: 15 minutes