



PAUL R. LEPAGE  
GOVERNOR

PATRICIA W. AHO  
COMMISSIONER

Memorandum

To: Board of Environmental Protection  
From: Cynthia Bertocci, Executive Analyst  
Date: January 17, 2013  
Re: Amendment to Chapter 2 Rules Concerning the Processing of Applications and Other Administrative Matters, Definition of "Aggrieved Person"

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Background:

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 is a major substantive rule subject to review and approval of the Legislature.

Response to Comments:

The Board held a public hearing on the proposed change to the definition of "aggrieved person" on November 1, 2012. The public comment period closed on November 13, 2012. The Board received comments from eight persons either orally at the hearing and /or in written comment prior to the close of the comment period. A summary of the comments received and staff responses to the comments are attached to the revised rule.

In response to the comments received, the definition of "aggrieved person" has been amended to state that the Board **will** interpret and apply the term consistent with the courts, rather than it is the Department's **intent** to do so.

Additionally, in response to a Board member's comment, the proposed definition has been amended to replace the word "Department" with "Board" since it is the Board which considers an appeal of a Commissioner's license decision.

Requested Action:

The Board is being asked to provisionally adopt the definition as amended in response to comments received.

Estimated time of agenda item: 20 minutes