

**Legal excerpts related to
Approval to obtain a real estate easement under the Uncontrolled Sites Law
January 23, 2019**

**Excerpts from the Uncontrolled Hazardous Substance Sites Law
38 M.R.S. §§ 1361-1371**

From the Maine Legislature's Statutes website (downloaded, December 27, 2019 from:
<https://legislature.maine.gov/statutes/38/title38ch13-Bsec0.html>)

§1364. Powers and duties of the department...

7. Acquisition of property; authority. The department may acquire, by purchase, lease, condemnation, donation or otherwise, any real property or any **interest in real property that the board in its discretion determines, by 2/3 majority vote, is necessary to conduct remedial actions in response to threats or hazards posed or potentially posed by an uncontrolled site,** including, but not limited to:

A. Actions to prevent further threats or hazards and to mitigate or terminate the threats or hazards; [PL 1991, c. 312, §2 (NEW).]

B. Actions to clean up soils and ground water and remove hazardous substances from an uncontrolled site; and [PL 1991, c. 312, §2 (NEW).]

C. Replacement of water supplies contaminated or threatened by hazardous substances. [PL 1991, c. 312, §2 (NEW).]

The department may exercise the right of eminent domain in the manner described in Title 35-A, chapter 65, to take and hold real property for any of the purposes described in this subsection. The commissioner shall report on the circumstances of any taking by eminent domain to the joint standing committee of the Legislature having jurisdiction over natural resource matters during the next regular session following the acquisition of any property by eminent domain. The department may transfer or convey to any person real property or any interest in real property once acquired.

[PL 1991, c. 312, §2 (NEW).]

§1362. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [PL 1983, c. 569, §1 (NEW).]

3. Uncontrolled hazardous substance site. "Uncontrolled hazardous substance site" or "**uncontrolled site" means an area** or location, whether or not licensed, **at which hazardous substances** are or were handled or otherwise **came to be located, if it is concluded by the commissioner that the site poses a threat or hazard to the health, safety or welfare of any person or to the natural environment and that action under this chapter is necessary to abate, clean up or mitigate that threat or hazard.** The term includes all contiguous land under the same ownership or control and includes without limitation all structures, appurtenances, improvements, equipment, machinery, containers, tanks and conveyances on the site.

[PL 1983, c. 569, §1 (NEW).]

1. **Hazardous substance.** "Hazardous substance" means:

A. Any substance identified by the department under section 1319-O; [PL 2019, c. 315, §13 (AMD).]

B. Any substance identified by the board under section 1319; [PL 1983, c. 569, §1 (NEW).]

C. Any substance designated pursuant to the United States Comprehensive Environmental Response, Compensation and Liability Act of 1980, Public Law 96-510, Sections 101 and 102 (Superfund); [PL 1985, c. 746, §32 (AMD).]

D. Any toxic pollutant listed under the United States Federal Water Pollution Control Act, Section 307(a); [PL 1983, c. 569, §1 (NEW).]

E. Any hazardous air pollutant listed under the United States Clean Air Act, Section 112; [PL 1985, c. 746, §32 (AMD).]

F. Any imminently hazardous chemical substance or mixture with respect to which the Administrator of the United States Environmental Protection Agency has taken action pursuant to the United States Toxic Substances Control Act, Section 7; and [PL 1985, c. 746, §32 (AMD).]

G. Waste oil as defined in section 1303-C. [PL 1989, c. 878, Pt. B, §42 (AMD).]

Excerpts from 40 CFR § 302.4 - Designation of hazardous substances.

From the Cornell Legal Information Institute's website (Downloaded December 27, 2019 from: <https://www.law.cornell.edu/cfr/text/40/302.4>)

§ 302.4 Designation of hazardous substances.

(a) Listed hazardous substances. The elements and compounds and hazardous wastes appearing in table 302.4 are designated as hazardous substances under section 102(a) of the [United States Comprehensive Environmental Response, Compensation and Liability] Act.

Note:

The numbers under the column headed "CASRN" are the Chemical Abstracts Service Registry Numbers for each hazardous substance. The "Statutory Code" column indicates the statutory source for designating each substance as a CERCLA hazardous substance: "1" indicates that the statutory source is section

311(b)(2) of the Clean Water Act, “2” indicates that the source is section 307(a) of the Clean Water Act, “3” indicates that the source is section 112 of the Clean Air Act, and “4” indicates that the source is section 3001 of the Resource Conservation and Recovery Act (RCRA). The “RCRA Waste Number” column provides the waste identification numbers assigned to various substances by RCRA regulations. The “Pounds (kg)” column provides the reportable quantity adjustment for each hazardous substance in pounds and kilograms. Appendix A to § 302.4, which lists CERCLA hazardous substances in sequential order by CASRN, provides a per-substance grouping of regulatory synonyms (i.e., names by which each hazardous substance is identified in other statutes and their implementing regulations).

Table 302.4 - List of Hazardous Substances and Reportable Quantities

[Note: All Comments/Notes Are Located at the End of This Table]

Hazardous substance	CASRN	Statutory code†	RCRA waste No.	Final RQ pounds (Kg)
ARSENIC AND COMPOUNDS	N.A.	2,3		**
Arsenic Compounds (inorganic including arsine)	N.A.	2,3		**
Arsenic††	7440-38-2	2,3		1 (0.454)
Copper ††	7440-50-8	2		5000 (2270)
COPPER AND COMPOUNDS	N.A.	2		**
LEAD AND COMPOUNDS	N.A.	2,3		**
Lead††	7439-92-1	2		10 (4.54)
Zinc ††	7440-66-6	2		1000 (454)
ZINC AND COMPOUNDS	N.A.	2		**

† Indicates the statutory source defined by 1, 2, 3, and 4, as described in the note preceding Table 302.4.

** Indicates that no RQ is being assigned to the generic or broad class.

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