

US EPA ARCHIVE DOCUMENT

**MARYLAND**  
**Statutory Checklist**  
**Hazardous and Solid Waste Amendments of 1984**  
**Enacted: November 8, 1984**  
**Public Law 98-616**

**Title(s) of State Legislation:** Environment, Title 7, Subtitle 2 (1996), Annotated Code of Maryland.  
Environment, Title 7, Subtitle 2 (1999 Supplement), Annotated Code of Maryland.

**Blanket Comment:** Section 7-206 provides the Secretary of the Environment with general authority to supervise and control hazardous substances.

Statutory Element	RCRA [HSWA] Cite	Coverage Y/N	State Cite	Comment
General comment: The general authority in §7-208(a) allows the Department to adopt rules and regulations to carry out the provisions of Subtitle 2. Sections 7-208(d) and (e) contain more specific authority. Section 7-209 contains requirements for generators generating greater than 100 kg of controlled hazardous substances (CHS) during a calendar month. Section 7-209(c) subjects these generators to applicable rules and regulations adopted under §7-208(e).				
RCRA §3001				
1. Authority to regulate the generation, transportation, treatment, storage and disposal of hazardous waste produced by generators of between 100-1000 kg/month.	§3001(d) [Sec. 221]	YES	§7-208(a)&(e)(5) §7-209(c)	See the general comment above.
2. Authority to regulate the generation, transportation, treatment, storage and disposal of hazardous waste produced by generators of less than 100 kg/month.	§3001(d) [Sec. 221]	YES	§7-208(a)&(e)(5)	See the general comment above.

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HSWA Statutory Checklist (cont'd)**

Statutory Element	RCRA [HSWA] Cite	Coverage Y/N	State Cite	Comment
3. <u>Optional</u> : Authority to allow generators of between 100-1000 kg/mo to store hazardous waste on-site for up to 180 days without a permit or interim status. On-site storage of no more than 6,000 kgs may occur for up to 270 days without a permit or interim status if the generator must ship or haul the waste over 200 miles.	§3001(d) [Sec. 221]	YES	§7-208(a)&(e)(5) §7-209(c)	See the general comment above.
4. Required if a State has a delisting mechanism: in any delisting action, authority to consider factors (including additional constituents) other than those for which the waste was listed, if the State has a reasonable basis to believe that such additional factors could cause the waste to be a hazardous waste.	§3001(f)(1) [Sec. 222]	YES	§7-208(d)(3)	Section 7-208(d)(3) allows the Department to specify different provisions, as circumstances require, for different pollutant, solid waste, and hazardous substance sources, or for different geographical areas. Note, however, that Maryland is not currently seeking authorization for delisting.
5. Required if State has delisting authority: State may not allow new temporary delistings without prior notice and comment, absent good cause. Prior temporary delistings lapse if not made final by November 8, 1986.	§3001(f)(2) [Sec. 222]	YES	§7-208(d)(3)	Section 7-208(d)(3) allows the Department to specify by regulation different provisions as circumstances require for different pollutant, solid waste, and hazardous substance sources, or for different geographical areas. The rulemaking process would include notice and comment procedures. Note, however, that Maryland is not currently seeking authorization for delisting.

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Statutory Element	RCRA [HSWA] Cite	Coverage Y/N	State Cite	Comment
RCRA §3002				
6. Authority to require generators to submit reports and manifest certifications regarding efforts taken to minimize the amounts and toxicity of wastes generated.	§3002 [Sec. 224]	YES	§7-205(b) §7-208(a)&(e)(5)	Section 7-208(a) authorizes the Department to adopt regulations to carry out the provisions of Subtitle 2. Section 7-205(b) requires generators to demonstrate to the satisfaction of the Department that recovery possibilities have been considered and that the CHS cannot be reasonably treated further to reduce the volume of or the hazard that the CHS poses to the environment. In addition, the general authority at §7-208(e)(5) to establish procedures to monitor the generation of wastes provides sufficient coverage.
RCRA §3004				
7. Authority to promulgate rules requiring evidence of financial responsibility for corrective action on and off-site.	§3004(a)(6) [Sec. 208]	YES	§7-208(e)(6)&(7) §7-236(a)(1)&(2) §7-242(a)(1)	Sections 7-208(e)(6)&(7) give the Department the general authority to promulgate minimum requirements for the operation, maintenance, monitoring, reporting, and supervision of any CHS facility and the general authority to set standards for receiving and applying for facility permits. Sections 7-236(a)(1)&(2) require evidence of financial responsibility as a prerequisite for the issuance of a permit. Section 7-242(a)(1) gives the Department the authority to require the maintenance of financial assurance to cover all requirements related to the facility permit, related to monitoring, maintaining, or closing a facility, or assuring the security of the facility after closing. Note, however, that Maryland is not currently seeking authorization for HSWA corrective action authority.

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Statutory Element	RCRA [HSWA] Cite	Coverage Y/N	State Cite	Comment
8. Authority to prohibit the land disposal of any hazardous waste. Land disposal includes, but is not limited to, landfills, surface impoundments, waste piles, deep injection wells, land treatment facilities, salt dome and bed formations and underground mines or caves. Deep injection well means a well used for the underground injection of hazardous wastes other than a well to which §7010(a) of RCRA applies.	§3004(b)-(g) [Sec. 201]	YES	§7-205 §7-208(e)(4),(6), &(7)	Section 7-205 prohibits disposal of CHS unless the generator demonstrates to the satisfaction of the Department that the CHS cannot be reasonably treated further to reduce the hazard the CHS poses to the environment. Section 7-208(e)(4) gives the Department the authority to establish types and quantities of CHS that may be disposed of. In addition, §7-208(e)(6)&(7) give the Department the general authority to promulgate minimum requirements for the operation, maintenance, monitoring, reporting, and supervision of any CHS facility and the general authority to set standards for receiving and applying for facility permits. Note, however, that Maryland is not currently seeking authorization for the HSWA land disposal restrictions.

*EPA believes that States already have this authority through their authority to regulate the treatment, storage and disposal of hazardous waste. However, if a State believes it needs new authority to ban a waste from land disposal, we strongly recommend that the State seek the broad statutory authority described above. This recommendation is based primarily on §3004(g) of RCRA; Section 3004(g) requires EPA to decide whether to prohibit one or more methods of land disposal for every listed or identified hazardous waste by 1990. Thus, unless a State has statutory authority to ban the land disposal of any such hazardous waste, it may need to amend its statute repeatedly as EPA decides the status of each waste.*

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Statutory Element	RCRA [HSWA] Cite	Coverage Y/N	State Cite	Comment
9. <u>Optional</u> : Authority to waive until November 8, 1987, a prohibition on land disposal of certain hazardous wastes that might otherwise apply to the disposal of contaminated soil or debris from CERCLA §104 or §106 actions or RCRA corrective actions.	§3004 [Sec. 201]	YES	§7-208(d)(4) §7-208(e)(4)&(6)	Section 7-208(d)(4) gives the Department the authority to grant exemptions that are consistent with Federal law. Section 7-208(e)(4) gives the Department the authority to establish types and quantities of controlled hazardous substances that may be disposed of. Section 7-208(e)(6) gives the Department the general authority to promulgate minimum requirements for the operation, maintenance, monitoring, reporting, and supervision of any controlled hazardous substance facility. Note, however, that Maryland is not currently seeking authorization for the HSWA land disposal restrictions.
10. <sup>1</sup> Authority to prohibit disposal of nonhazardous liquids in Subtitle C landfills unless (1) the only reasonable alternative is disposal in a landfill or unlined impoundment, whether or not subject to Subtitle C, that contains or may contain hazardous waste and (2) disposal will not endanger an underground source of drinking water.	§3004(c)(3) [Sec. 201]	YES	§7-208(e)(4)&(6) §9-252(a)(1)&(2)	Section 7-208(e)(4) gives the Department the authority to establish types and quantities of CHS that may be disposed of. Section 7-208(e)(6) gives the Department the general authority to promulgate minimum requirements for the operation, maintenance, monitoring, reporting, and supervision of any CHS facility. This authority would extend to waste that is not CHS under Maryland law. Section 9-252(a) is the general authority for Maryland's solid waste program and provides additional authority to regulate nonhazardous liquids.
11. Authority to prohibit the storage of hazardous waste prohibited from land disposal.	§3004(j) [Sec. 201]	YES	§7-208(e)(6)	The general authority at §7-208(e)(6) gives the Department the authority to promulgate minimum requirements for the operation, maintenance, monitoring, reporting, and supervision of any CHS.

<sup>1</sup>Advisory Note: States should particularly note this requirement. Since many State statutes pertain only to hazardous waste, States are likely to need new authority to regulate the disposal of nonhazardous waste at Subtitle C facilities.

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Statutory Element	RCRA [HSWA] Cite	Coverage Y/N	State Cite	Comment
12. Authority to prohibit the use of waste oil or other materials contaminated with hazardous wastes (except ignitable wastes) as a dust suppressant.	§3004(l) [Sec. 201]	YES	§7-208(e)(4) §7-224(a)	Under §7-224(a), a person may not store, discharge, treat, or dispose of a CHS except in a CHS facility and in accordance with Subtitle 2. In addition, §7-208(e)(4) gives the Department the authority to establish the types of CHS which may be disposed of.
13. Authority to promulgate standards specifying levels or methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of its migration so as to minimize threats to human health and the environment.  <u>Optional for #13:</u> Authority to exempt wastes in compliance with such levels or methods from the land disposal prohibitions.	§3004(m) [Sec. 201]	YES	§7-208(e)(4)&(6) §7-208(d)(4)	Section 7-208(e)(4) provides the authority to establish types and quantities of CHS that may be disposed of, and §7-208(e)(6) provides the authority to set standards for CHS facilities. In addition, §7-208(d)(4) allows the Department to provide exemptions that are consistent with Federal law or regulation. Note, however, that Maryland is not currently seeking authorization for the HSWA land disposal restrictions.
14. Authority to promulgate rules for monitoring and controlling air emissions at treatment, storage, and disposal facilities.	§3004(n) [Sec. 201]	YES	§7-208(e)(3)&(6)	In addition to the authority at §7-208(e)(6), §7-208(e)(3) gives the Department the authority to set minimum design standards for CHS facilities.

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Statutory Element	RCRA [HSWA] Cite	Coverage Y/N	State Cite	Comment
15. <sup>2</sup> Authority to regulate fuel containing hazardous waste and all persons who produce, burn, distribute, and market fuel containing hazardous wastes.	§3004(q)-(s) [Sec. 204]	YES	§7-208(e)(3),(5). (6)&(7)	Under §§7-208(e)(3), (6) and (7), the Department can regulate all waste containing CHS at a CHS facility. In addition, §7-208(e)(5) provides the authority to establish procedures for monitoring generation, transportation, storage, treatment, and disposal of CHS.
16. <u>Optional</u> : Authority to exempt certain petroleum coke containing hazardous waste from petroleum refining from regulation if it is to be burned for energy recovery unless the coke exhibits a characteristic of hazardous waste.	§3004(q)(2)(A) [Sec. 204]	YES	§7-208(d)(4)	Section 7-208(d)(4) gives the Department the authority to provide exemptions that are consistent with Federal law and regulation.

<sup>2</sup>Advisory Note: States should not need new authority over fuel containing hazardous waste but may need additional authority over some of the persons or activities described above.

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Statutory Element	RCRA [HSWA] Cite	Coverage Y/N	State Cite	Comment
<p>17. Authority to allow direct action against the insurer or corporate guarantor if an owner/operator is in bankruptcy or reorganization.</p> <p><u>Optional:</u></p> <p>(A) Authority to allow an insurer to claim all rights and defenses available to the owner/operator.</p> <p>(B) Authority to limit insurer liability to the liability amount provided as evidence of financial responsibility and by contractual agreement unless the owner/operator acted in bad faith.</p>	<p>§3004(t) [Sec. 205]</p>			<p>Subtitle 2 does not include authority that is analogous to RCRA §3004(t) addressing direct action against insurers.</p> <p style="text-align: center;"><i>This provision was on the original HSWA statutory checklist. However, EPA subsequently determined that Congress did not intend this provision to be part of the authorization process and is, therefore, <u>not delegable</u> to States. This is because authorized State law must operate <u>in lieu of</u> the Federal counterpart, and in this situation, EPA has determined that State law cannot have this effect (see the June 15, 1992 Guidance document, Appendix N, addressing "Statutory (Nonchecklisted) Provisions" in the State Authorization Manual (SAM)). States can create parallel cause of action viable in State courts, but to the extent that States do so, the State's cause of action cannot limit the availability of the Federal action.</i></p>
<p>18. <sup>3</sup>Authority to assure that permits issued after 11/8/84 require corrective action for releases of hazardous waste or constituents from any solid waste management unit at a facility, regardless of when the waste was placed in the unit.</p>	<p>§3004(u) [Sec. 206]</p>	<p>YES</p>	<p>§7-208(e)(6)&amp;(7)</p>	<p>In addition to the general authority to adopt regulations for CHS facilities at §7-208(e)(6), §7-208(e)(7) gives the Department the authority to set requirements for receiving and applying for permits. Note, however, that Maryland is not currently seeking authorization for HSWA corrective action.</p>

<sup>3</sup>Advisory Note: States must have authority to require corrective action for all solid waste management units, even though the only unit receiving a permit is a deep injection well. (This authority may be under a hazardous waste or underground injection control program as long as all RCRA requirements are met.)

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Statutory Element	RCRA [HSWA] Cite	Coverage Y/N	State Cite	Comment
19. Authority to require corrective action beyond a facility's boundary. The state must have authority to include corrective action as a permit requirement.	§3004(v) [Sec. 207]	YES	§7-208(e)(6)&(7)	In addition to the general authority to adopt regulations for controlled hazardous substance facilities at §7-208(e)(6), §7-208(e)(7) gives the Department the authority to set requirements for receiving and applying for permits. Note, however, that Maryland is not currently seeking authorization for HSWA corrective action.
20. Authority to assure that permitting standards for underground hazardous waste tanks, at a minimum, satisfy Section §9003, Subtitle I of RCRA, 42 USC 9003.	§3004(w) [Sec. 207]	YES	§7-208(e)(6)&(7)	The general authority at §§7-208(e)(6) and (7) provides the Department with sufficient authority.
RCRA §3005				
21. <u>Optional</u> : Authority to allow a facility to construct an approved TSCA facility for burning PCBs without first obtaining a RCRA permit. An owner/operator may file for a RCRA permit to burn hazardous waste after construction or operation of such a facility has begun.	§3005(a)(3) [Sec. 211]	YES	§7-208(d)(3)&(4)	Section 7-208(d)(3) allows the Department to establish regulations that specify different provisions as circumstances require for different pollutant, solid waste, and hazardous substance sources. Section 7-208(d)(4) allows the Department to provide exemptions that are consistent with Federal law and regulations.
22. Authority to review land disposal permits every five years and to modify them as necessary to assure compliance with State's analog to RCRA §§3004, 3005 and to take into account improvements in technology.	§3005(c)(3) [Sec. 212]	YES	§7-238(a)(2)	Section 7-238(a)(2) limits the term of permits to five years.

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Statutory Element	RCRA [HSWA] Cite	Coverage Y/N	State Cite	Comment
23. Authority to issue permits containing any conditions necessary to protect human health and environment.	§3005(c)(3) [Sec. 212]	YES	§7-208(e)(6)&(7)	In addition to the general authority to adopt regulations for controlled hazardous substance facilities at §7-208(e)(6), §7-208(e)(7) gives the Department the authority to set requirements for receiving and applying for permits.
24. <sup>4</sup> Authority to determine that  (i) for land disposal facilities qualifying for interim status prior to 11/8/84, interim status terminates 11/8/85 unless a Part B application and certification of compliance with applicable ground-water monitoring and financial responsibility requirements are submitted by 11/8/85.	§3005(c),(e) [Sec. 213]	YES	§7-208(d)(4) §7-208(e)(6)&(7) §7-232(a)	Section 7-232(a) requires a person to hold a permit before owning, establishing, operating, or maintaining a CHS facility, and §7-208(d)(4) allows the Department to grant exemptions that are consistent with Federal law. Section 7-208(e)(6) gives the Department the general authority to set standards for controlled hazardous waste facilities, and §7-208(e)(7) authorizes the Department to set requirements for receiving and applying for a permit. Note, however, that Maryland is not currently seeking authorization for the HSWA land disposal restrictions.

<sup>4</sup>Advisory Note: The state's analog to interim status must terminate automatically in these cases (whether the state's analog is Part 265 type standards or permits). If a State statute or regulation would require any type of hearing to terminate the facility's operating authority, the State must amend its authority to delete that requirement for these provisions. (Interim status as used here means the state's analog to Federal interim status.)

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Statutory Element	RCRA [HSWA] Cite	Coverage Y/N	State Cite	Comment
(ii) <sup>5</sup> For land disposal facilities in existence on the effective date of statutory or regulatory amendments under the HSWA that require the facility to have a RCRA permit, interim status terminates 12 months after the facility is first required to obtain a permit, unless a Part B application and certification of compliance with applicable ground-water monitoring and financial responsibility requirements are submitted 12 months after the date the facility is first required to obtain a permit.	§3005(c),(e) [Sec. 213] (cont'd)	YES	§7-208(d)(4) §7-208(e)(6)&(7) §7-232(a)	See comment above.
(iii) Interim status terminates for incinerator facilities by 11/8/89 unless the owner/operator submits a Part B application by 11/8/86.	§3005(c),(e) [Sec. 213] (cont'd)	YES	§7-208(d)(4) §7-208(e)(6)&(7) §7-232(a)	Section 7-232(a) requires a person to hold a permit before owning, establishing, operating, or maintaining a CHS, and §7-208(d)(4) allows the Department to grant exemptions that are consistent with Federal law. Section 7-208(e)(6) gives the Department the general authority to set standards for controlled hazardous waste facilities, and §7-208(e)(7) authorizes the Department to set requirements for receiving and applying for a permit.
(iv) Interim status terminates for any facility other than a land disposal or an incineration facility by 11/8/92 unless the owner/operator submits a Part B application by 11/8/88.				

<sup>5</sup>Advisory Note: Applicable if State adopts optional authority in #25.

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Statutory Element	RCRA [HSWA] Cite	Coverage Y/N	State Cite	Comment
25. <u>Optional</u> : Authority to allow facilities to qualify for interim status if they (1) are in existence on the effective date of statutory or regulatory changes that render the facility subject to the requirement to have a permit and (2) meet notice and permit application requirements.	§3005(e) [Sec. 214]	YES	§7-208(d)(4) §7-208(e)(6)&(7) §7-232(a)	Section 7-232(a) requires a person to hold a permit before owning, establishing, operating, or maintaining a CHS, and §7-208(d)(4) allows the Department to grant exemptions that are consistent with Federal law. Section 7-208(e)(6) gives the Department the general authority to set standards for controlled hazardous waste facilities, and §7-208(e)(7) authorizes the Department to set requirements for receiving and applying for a permit.
26. Authority to require that facilities may not qualify for interim status under the State's analog to Section 3005(e) if they were previously denied a Section 3005(c) permit or for which authority to operate has been terminated.	§3005(c),(e) [Sec. 213]	YES	§7-208(d)(4) §7-208(e)(6)&(7) §7-232(a)	Section 7-232(a) requires a person to hold a permit before owning, establishing, operating, or maintaining a CHS, and §7-208(d)(4) allows the Department to grant exemptions that are consistent with Federal law. Section 7-208(e)(6) gives the Department the general authority to set standards for controlled hazardous waste facilities, and §7-208(e)(7) authorizes the Department to set requirements for receiving and applying for a permit.

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Statutory Element	RCRA [HSWA] Cite	Coverage Y/N	State Cite	Comment
<p>27. <u>Optional:</u></p> <p>A. Authority to issue a one-year research development, and demonstration permit for any hazardous waste treatment facility which proposes an innovative and experimental hazardous waste treatment technology or process not yet regulated. Permits may be renewed no more than three times; no renewal may exceed a year.</p> <p>B. Authority to waive or modify general permit application and issuance requirements for R&amp;D permits, except for financial responsibility and public participation requirements (RCRA §7004(b)(2)).</p> <p>C. Authority to terminate experimental activity if necessary to protect health and the environment. (Mandatory if State adopts R&amp;D permitting authority).</p>	<p>§3005(g) [Sec. 214]</p>	<p>YES</p>	<p>§7-208(d)(4) §7-208(e)(6)&amp;(7) §7-232(a)</p>	<p>The State's authority to grant exemptions consistent with Federal law, its authority to set requirements for receiving permits, and its authority to set requirements for controlled hazardous substance facilities give the State sufficient authority to issue research, development, and demonstration permits, as well as to include provisions in permits allowing the Department to terminate the experimental activity.</p>

**REVIEW COMMENTS  
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Statutory Element	RCRA [HSWA] Cite	Coverage Y/N	State Cite	Comment
28. Authority to require landfills, surface impoundments, land treatment units, and piles that received wastes after July 26, 1982 and which qualify for interim status to comply with the groundwater monitoring, unsaturated zone monitoring and corrective action requirements applicable to new units at the time of permitting.	§3005(i) [Sec. 243]	YES	§7-208(e)(3),(6) &(7)	Sections 7-208(e)(3)&(6) give the Department the general authority to set design standards and minimum requirements for CHS facilities. In addition, §7-208(e)(7) authorizes the Department to set requirements for receiving and applying for facility permits.
29. Authority to require interim status impoundments to comply with the double liner, leachate collection and ground-water monitoring requirements applicable to new units or stop treating, receiving or storing hazardous wastes.	§3005(j) [Sec. 215]	YES	§7-208(e)(3),(6) &(7)	Sections 7-208(e)(3)&(6) give the Department the general authority to set design standards and minimum requirements for CHS facilities. In addition, §7-208(e)(7) authorizes the Department to set requirements for receiving and applying for facility permits.
30. Authority to impose any necessary requirements (including double liners) on an existing surface impoundment to protect health and the environment after determining that hazardous constituents are likely to migrate into groundwater.	§3005(j) [Sec. 215]	YES	§7-208(e)(3),(6) &(7)	Sections 7-208(e)(3)&(6) give the Department the general authority to set design standards and minimum requirements for CHS facilities. In addition, §7-208(e)(7) authorizes the Department to set requirements for receiving and applying for facility permits.

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31. <u>Optional</u> : Authority to modify the double liner, leachate collection, and groundwater monitoring requirements for impoundments in §3005(j)(i) if prior to October 1, 1984, the owner/operator has entered into a consent decree, order, or agreement with EPA or an authorized State which requires corrective action and provides protection of health and environment at least equivalent to that in §3005(j)(l).	§3005(j)(13) [Sec. 215]	YES	§7-208(d)(4) §7-208(e)(3)&(6)	The Department's authority to establish design standards and minimum requirements for CHS facilities and the authority to grant exemptions consistent with Federal law provide sufficient authority.
RCRA §3006				
32. Authority to make information obtained on treatment, storage, and disposal facilities available to the public in substantially the same manner and to the same degree as if EPA were running the program.	§3006(f) [Sec. 226]	NA	NA	Maryland is not seeking authorization of its availability of information requirements at this time.
33. Authority to promulgate special generator and transporter standards for recycled hazardous used oil.	§3014(c) [Sec. 241]	YES	§7-208(e)(5) §7-209(c) §7-252 §4-405	See the general comment for this review regarding the Department's authority to regulate generators. Section 7-252 provides additional authority for the Department to adopt regulations requiring transporters to meet the labeling and container requirements. Also, §4-405 (concerning regulation of recycled hazardous used oil) provides general authority to the Secretary.

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Statutory Element	RCRA [HSWA] Cite	Coverage Y/N	State Cite	Comment
<p>34. <u>Optional</u>: Authority to deem hazardous waste used oil recycling facilities to have a permit if they comply with the State's analog to the §3004 standards. However, a State must retain the authority to require individual permits if necessary to protect human health and the environment.</p>	§3014(d)	YES	§7-208(d)(4)	Section 7-208(d)(4) gives the Department the authority to grant exemptions that are consistent with Federal law.
RCRA §3015				
<p>35. Authority to require new units, expansions and replacements of interim status waste piles to meet the requirements for a single liner and leachate collection system in current regulations applicable to permitted waste piles.</p>	§3015(a) [Sec. 243]	YES	§7-208(e)(3),(6), & (7)	Section 7-208(e)(3) gives the Department the authority to set minimum design standards for controlled hazardous waste facilities, and Section 7-208(e)(6) gives the Department the authority to set minimum requirements for the operation, maintenance, monitoring, reporting, and supervision of controlled hazardous substance facilities. Section 7-208(e)(7) authorizes the Department to adopt requirements for receiving and applying for permits.

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<p>36. Authority to require new units, expansions and replacement units at interim status landfills and surface impoundments to meet the requirements for double liners and leachate collection systems applicable to new permitted landfills and surface impoundments.</p> <p><u>Optional:</u> Facilities which comply in good faith need not retrofit at permit issuance unless the liner is leaking.</p>	<p>§3015(b) [Sec. 243]</p>	<p>YES</p>	<p>§7-208(d)(4) §7-208(e)(3),(6) &amp;(7)</p>	<p>Section 7-208(e)(3) gives the Department the authority to set minimum design standards for controlled hazardous waste facilities, and §7-208(e)(6) gives the Department the authority to set minimum requirements for the operation, maintenance, monitoring, reporting, and supervision of controlled hazardous substance facilities. Section 7-208(e)(7) authorizes the Department to adopt requirements for receiving and applying for permits. Additionally, §7-208(d)(4) gives the Department the authority to grant exemptions consistent with Federal law.</p>
<p>RCRA §3018</p>				
<p>37. <sup>6</sup>Authority to regulate listed or identified wastes which pass through a sewer system to a publicly owned treatment works (POTW) as necessary to adequately protect human health and environment.</p>	<p>§3018(b) [Sec. 246]</p>	<p>YES</p>	<p>§7-208(e)(3),(5), &amp; (6)</p>	<p>CHS facilities are regulated pursuant to §7-208(e)(3) and (6). This requirement as it applies to activities outside of a CHS facility is covered by the authority in §7-208(e)(5) to adopt regulations applicable to all CHS activities.</p>

<sup>6</sup>Advisory Note: EPA has authority to impose regulations addressing hazardous wastes passing through to a POTW. Such regulations, if adopted, may be under RCRA, the Clean Water Act or other authority.

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RCRA §3019				
38. Authority to require permit applicants for landfills or surface impoundments to submit exposure information.	§3019(a) [Sec. 247]	YES	§7-208(e)(7) §7-235(1)	Section 7-208(e)(7) gives the Department the authority to set requirements to apply for and receive a permit; §7-235(1) gives the Department the authority to specify the permit application form.
39. Authority to make exposure and health assessment information available to the Agency for Toxic Substances and Disease Registry. (See CERCLA §104(i))	§3019(b)(1) [Sec. 247]	YES	§7-207(b)(2)	Under §7-207(b)(2), the Department may advise, consult, and cooperate with units of State or Federal government.
RCRA §§ 7002, 7003 and Others				
40. <sup>7</sup> The States' variance procedures and decision criteria must be no less stringent than EPA's. <u>Optional:</u> Authority to grant variances and exemptions that are no less stringent than allowed by Subtitle C of RCRA.		YES	§7-208(d)(4)	Section 7-208(d)(4) gives the Department the authority to grant exemptions consistent with Federal law.

<sup>7</sup>Advisory Note: Unless a state is absolutely sure that it will never wish to grant a variance or exemption, we strongly recommend states obtain this authority. The States' variance procedures and decision criteria must be no less stringent than EPAs.

**REVIEW COMMENTS**  
**MARYLAND**  
**HSWA Statutory Checklist (cont'd)**

Statutory Element	RCRA [HSWA] Cite	Coverage Y/N	State Cite	Comment
41. <u>Optional</u> : Neither the State nor citizens may bring action against common carriers for imminent hazards arising after delivery of the shipment to the consignee, provided the carrier exercised due care when handling the work.	§7002(g), §7003(a)	NO	No State Citation	The State does not have a provision in Subtitle 2 relating to liability of common carriers of CHS.
RCRA §1004				
42. <sup>8</sup> Authority to regulate hazardous waste that is radioactive except to the extent that the waste is source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended. (68 Stat. 923)	§1004(27)	YES	§7-208(e)(1)	The Department has the authority to specify which wastes are CHS under §7-208(e)(1).

<sup>8</sup>Advisory Note: This is not a HSWA requirement. EPA has now determined that hazardous wastes are subject to RCRA if they are mixed with source, special nuclear or byproduct material even though source, special nuclear, or byproduct itself is not subject to RCRA. Thus, States will need to review their authority to ensure that only source, special nuclear, or byproduct material is excluded from their hazardous waste jurisdiction.