

CHAPTER 1 LEGAL AND INSTITUTIONAL FRAMEWORK

INTRODUCTION

Solid waste is regulated by government agencies at federal, state, and local levels. Each element of a sound solid waste management system must comply with government agency requirements. This Chapter describes the organization within County government that implements and operates solid waste and recycling programs and facilities and federal, state, and local laws and regulations affecting solid waste management.

In August of 1990, Garrett County drafted a Recycling Plan to bring the County into compliance and fulfill state requirements. This Plan laid out the groundwork for Garrett County's Recycling Program and provided alternatives for processing, collection, and implementation based upon the needs of the County. This was a separate Plan from the 1985 Solid Waste Management Plan. Both Plans were incorporated into one Solid Waste Management Plan in 2004. In 2012, the Maryland General Assembly passed the Recycling rate and Waste Diversion – Statewide Goals Act. The Act revises the Maryland Recycling Act (1988) and requires all Counties and Baltimore City to recycle wastes and meet an overall percentage of materials recycled which is based upon the population of residents that reside in that county. Since Garrett County's population is under 150,000 residents, the State of Maryland requires the County to reach and maintain a 20% recycling rate, which includes certain designated recyclables.

Garrett County Department of Solid Waste and Recycling

Mission--

The Department of Solid Waste and Recycling is responsible for solid waste disposal and recycling services in Garrett County, Maryland. Its overall mission statement is as follows:

It shall be the present and future mission of Garrett County Department of Solid Waste and Recycling to provide an integrated, cost effective, and environmentally sound solid waste disposal system to all county residents, homeowners, and commercial enterprises. Success in this endeavor will be dependent on developing cooperative relationships with the business community, independent haulers, municipalities, contractors, regulatory authorities, and the general public. The County will promote and encourage recycling efforts and will provide as many recycling opportunities as possible where economically feasible and not in conflict with private sector initiatives.

Goals--

The Garrett County Department of Solid Waste and Recycling goals are to:

- Provide efficient and economical refuse collection services to County residents, businesses, and institutions;
- Continue to meet and exceed the Recycling Rate and Waste Diversion – Statewide Goals Act of 20 percent as required by the State for counties with populations less than 150,000;
- Provide accessible facilities for the sanitary and efficient acceptance, transportation, and disposal of solid waste generated within Garrett County;
- Support public education on sound waste management practices, with particular emphasis on source reduction and recycling; and
- Promote partnering and cooperation between the County and incorporated municipalities, businesses, and organizations for waste diversion programs.

Municipalities Goals and Objectives—

All eight incorporated municipalities have updated their Comprehensive Plans. One of the Plans have specific goals & objectives directly relating to solid waste management issues, while some have incorporated goals from *The 2008 Garrett County Comprehensive Plan* (previously known as *The Garrett County New Development Plan*). There are no specific goals or objectives directly relating to recycling in the other seven Plans, but most of the municipalities are participating in or initiating some type of Limited Recycling Program. A more in-depth discussion of these programs can be found in **Chapters 3 and 4**.

CONFORMANCE WITH STATE, REGIONAL, AND LOCAL LAND USE PLANS

The Maryland Department of Planning is tasked with reviewing the Garrett County Comprehensive Plan (scheduled for an update in 2016). The 1995 original plan titled *The Garrett County New Development Plan* was incorporated into the new plan adopted by the Garrett County Commissioners on October 7, 2008. The *2008 Garrett County Comprehensive Plan* includes basic planning tools for Garrett County to function and grow. All eight of the municipalities are required to have a Comprehensive Plan specific to their town. The Maryland Department of Planning also reviews these Plans. All Comprehensive Plans are in compliance with the Maryland Department of Planning.

To aid in regional planning issues, Garrett County works with agencies such as the Appalachian Regional Commission (ARC) and the Tri-County Council.

Appalachian Regional Commission

Congress established the ARC in 1965 to support economic and social development in the Appalachian Region of the United States. The Commission is a unique partnership composed of the governors of the 13 Appalachian states and a presidential appointee representing the federal government. Grassroots participation is provided through local development districts—multi-county organizations with boards made up of elected officials, businesspeople, and other local leaders. In an era of reduced federal funds for valuable job-creating infrastructure, the ARC program continues to merge local, state and federal funds to implement such projects. To access ARC’s website, go to: <http://www.arc.gov>.

ARC has developed a Strategic Plan called Moving Appalachia Forward, 2011-2016. This strategic plan is a guide for ARC to take targeted and measurable action toward its vision of bringing Appalachia into full economic parity with the nation. It calls for alignment of resources to maximize results and for performance measurement that ensures that the ARC partnership is effective and accountable. It creates a framework for building on past accomplishments to help move Appalachia forward. ARC’s mission is to be a strategic partner and advocate for sustainable community and economic development in Appalachia.

Tri-County Council of Western Maryland

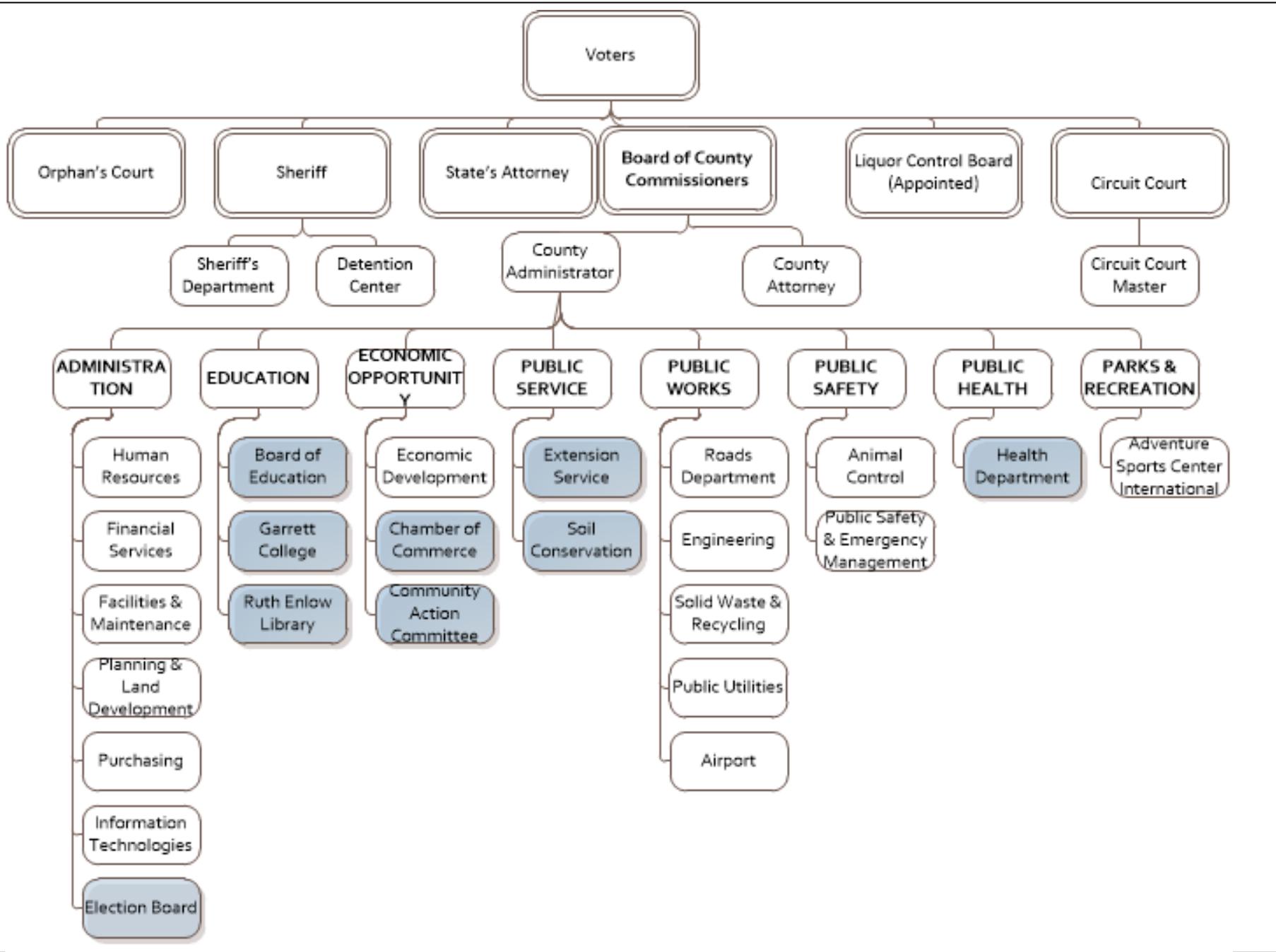
Tri-County Council for Western Maryland, Inc (TCCWMD) is a Local Development District serving a three-county region in Appalachian Maryland. TCCWMD is owned by its member governments of Allegany, Garrett and Washington Counties and has provided economic and community development assistance to its partners since its inception in 1971. TCCWMD encourages and facilitates government cooperation by addressing issues of greater than local significance on a regional basis. TCCWMD has a vision to improve the overall quality of life in the region by efficiently utilizing public and private resources to fund projects throughout the region.

STRUCTURE OF COUNTY GOVERNMENT

Garrett County’s government consists of three elected members of the Board of County Commissioners (the "Board"). The County Administrator is responsible for overseeing the financial planning, annual budget process, personnel management, and direction and management of operations within the organization. *Exhibit 1-1* illustrates the overall County government as it relates to solid waste management.

The Garrett County Department of Solid Waste & Recycling is under the Division of Public Utilities; this department is a “service related” agency under the direction of the County Administrator, who has overall responsibility for planning and implementing solid waste management programs. This Department has a staff of eight full-time employees and 24 part-time employees. The Department is responsible for solid waste and recycling collection and disposal services for residents of the County, while private firms provide collection services for municipal, commercial, and construction wastes.

EXHIBIT 1-1: Organization of Government Structure Garrett County, Maryland



LAWS AND REGULATIONS

Although solid waste management is primarily a local responsibility, federal and state laws and regulations place requirements on the programs at the local level. This section presents a brief overview of federal, state, and local solid waste management legislative and regulatory initiatives. Further information and specific details of these initiatives can be found on the websites listed in each subsection.

Federal Laws

Although compliance monitoring and enforcement of many of the federal laws and regulations are delegated to states, state implementation must, at a minimum, comply with federal laws and regulations, and states may choose to have more stringent requirements. This subsection identifies several major federal laws governing solid waste management. To access federal laws, use the website: <http://www.epa.gov>; select “Laws & Regulations” and then select “By Topic.”

- Resource Conservation and Recovery Act (RCRA) - Subtitle C and D;
- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA);
- Clean Air Act (CAA);
- Clean Water Act (CWA);
- Endangered Species Act; and
- Safe Drinking Water Act (SDWA).

Federal Regulations

The Code of Federal Regulations (CFR) contains regulations published in the Federal Register by the Executive Department and agencies of the Federal Government. Volume 40 of the CFR pertains to environmental protection regulations. Guidelines also are included for complying with the regulations. To access Federal Regulations, use the following website: <http://www.epa.gov>; select “Laws & Regulations” and then select “Regulations.” Once this page is accessed, select “The Electronic Code of Federal Regulations (• e-CFR).” From this page, scroll down to the appropriate Regulations, Title 40 – Protection of Environment, (Parts 190-259); 260-265; (Parts of 266-291); (Parts of 425 – 699).

- 40 CFR 239 - Requirements for State Permit Program Determination of Adequacy;
- 40 CFR 240 – Guidelines for the Thermal Processing of Solid Waste;

- 40 CFR 243 – Guidelines for the Storage and Collection of Residential, Commercial and Institutional Solid Waste;
- 40 CFR 246 - Source Separation for Materials Recovery Guidelines;
- 40 CFR 247 - Comprehensive Procurement Guidelines for Products Containing Recovered Materials;
- 40 CFR 254 – Prior Notice of Citizen Suits;
- 40 CFR 255 - Identification of Regions and Agencies for Solid Waste Management;
- 40 CFR 256 - Guidelines for Development and Implementation of State Solid Waste Management Plans;
- 40 CFR 257 - Criteria for the Classification of Solid Waste Disposal Facilities and Practices;
- 40 CFR 258 - Criteria for Municipal Solid Waste Landfills (Subtitle D Regulations);
- 40 CFR Parts 260 through 279 - Standards for Hazard Waste Regulations;
- 40 CFR Part 280 – Requirements for Underground Storage Tanks; and
- 40 CFR 503 - Standards for the Disposal of Sewage Sludge.

Maryland Department of the Environment

The Maryland Department of the Environment (MDE) is the State agency that oversees solid waste management issues. Under State law and in accordance with Subtitle D of RCRA, MDE regulates the design, construction, operation and maintenance of solid waste acceptance facilities in the State. MDE issues refuse and disposal permits for all solid waste acceptance facilities such as landfills (i.e., sanitary, rubble, construction and demolition (C&D) debris, industrial, and hazardous waste), transfer stations, incinerators, and processing facilities (i.e., materials recovery and rubble processing). To access MDE’s website, go to <http://www.mde.state.md.us>.

State Laws

State laws addressing solid waste management are codified under Title 9 of the *Annotated Code of Maryland* in the Environment Article. This Article contains laws affecting the location, design, and operation of solid waste disposal facilities. To access state laws on the Internet, go to the website: <http://www.mdarchives.state.md.us/msa/mdmanual/html/mmtoc.html>, select Code of Maryland (laws), if you Agree to Terms & Conditions, type “Solid Waste” in Search Bar and Hit “Go.” Some of the state laws affecting solid waste management include the following:

- Asbestos Control - Asbestos Hazard Emergency Response Act (1990);

- Composting Act (1992);
- Land-Clearing Debris Landfills - Amount of Surety (1990);
- Maryland Landfill Financial Assurance Law (1997);
- Maryland Landfill Siting Law;
- Maryland Recycling Act (1988);
- Maryland State Implementation Plan (SIP);
- Maryland State Senate Joint Resolution 6 (2000);
- Maryland Used Oil Recycling Act (1997);
- Medical Waste Legislation (1988);
- Mercury Oxide Battery Act (1992);
- Natural Wood Waste Recycling Act (1991);
- Newsprint Recycled Content Act (1991);
- Plastic Material Code (1991);
- Scrap Tire Law (1992);
- Sludge Application (1993);
- Telephone Directory Recycling Act (1991)
- Recycling of Computers, Electronics, Covered Electronic Devices and Video Display Devices (2012);
- Fluorescent & Compact Fluorescent Light Recycling (2011);
- Environment – Recycling – Public School Plans;
- Apartment and Condominium Recycling (2012); and
- Recycling Rate and Waste Diversion – Statewide Goals Act (2012).

State Regulations

COMAR--

The principal State of Maryland regulations pertaining to solid waste management are found in the *Code of Maryland Regulations* (COMAR). COMAR Title 26 contains administrative rules and regulations for solid waste management. To access COMAR online, go to the state regulations website, go to: <http://www.dsd.state.md.us>, select COMAR online. Click on number 3- “Access through Table of Contents Structure”, then select Title 26 – Department of the Environment. You can perform various searches with the different section options you select. Below is an abbreviated summary of Title 26 regulations affecting solid waste management:

- Subtitle 2 – Occupational, Industrial, and Residential Hazards
26.02.03 – Control of Noise Pollution

- Subtitle 3 - Water Supply, Sewerage, Solid Waste and Pollution Control Planning and Funding
26.03.03 - Development of County Comprehensive Solid Waste Management Plans
26.03.10 - Financial Assistance for the Constructing of Solid Waste Processing and Disposal Facilities

- Subtitle 4 – Regulation of Water Supply, Sewage Disposal, and Solid Waste
26.04.06 - Sewage Sludge Management
26.04.07 - Solid Waste Management
26.04.08 – Storage, Collection, Transferring, Hauling, Recycling, and Processing of Scrap Tire
26.04.09 - Natural Wood Waste Recycling Facilities

- Subtitle 8 – Water Pollution
26.08.04 – Permits

- Subtitle 10 – Oil Pollution & Tank Management
26.10.02 – Underground Storage Tanks
26.10.15 – Management of Used Oil

- Subtitle 11 – Air Quality
26.11.02 – Permits, Approvals, and Registration
26.11.03 – Permits, Approvals, and Registration – Title V Permits

- Subtitle 13 – Disposal of Controlled Hazardous Substances

- Subtitle 17 – Water Management
 - 26.17.01 – Erosion and Sediment Control
 - 26.17.02 – Stormwater Management
 - 26.17.04 – Construction of Nontidal Waters and Floodplains
 - 26.17.06 – Water Appropriation Use

- Subtitle 23 – Nontidal Wetlands
 - 26.23.06 – Nontidal Wetlands of Special State Concern

Annotated Code of Maryland--

Article 9 – Environmental Article is the primary statute for environmental regulation and solid waste management in the State of Maryland. To access the state regulations website, go to: <http://www.dsd.state.md.us>, select Annotated Code of Maryland (This statute contains MDE’s authority for the regulation of solid waste). Select “Maryland Statutes”, then select “Maryland Code Online”. From this point, select “Maryland Code”, then “Environment”. You can perform various searches with the different title options you select. Below is an abbreviated summary of the regulations affecting solid waste:

- Title 4 - Water Management

- Title 6 - Toxic, Carcinogenic and Flammable Substances

- Title 7 - Hazardous Materials and Substances

- Title 9 - Water, Ice, and Sanitary Facilities; this statute contains MDE’s authority to regulate the location, design, and operation of sanitary landfills through refuse disposal permits issued and enforced under authority of the following sections:
 - Section 204 - Installing, Altering or Extending Water Supply Systems, Sewerage Systems or Refuse Disposal Systems
 - 204.1 - Installing, Altering or Extending Incinerators
 - 204.2 - Installing, Altering or Extending Landfill Systems
 - Section 209 - Landfill System Hearings
 - Section 210 - Prerequisites for Issuance of Permit
 - Section 211 - Landfills, Incinerators and Transfer Stations; Requirements for Security
 - Section 212 - Landfill Systems - Options to Purchase
 - 212.1 - Denial of Permit to Non-government Person
 - Section 213 - Term of Permit (5 Years)
 - Section 214 - Revoking or Refusal to Renew a Permit
 - Section 215 - Closure and Cover when Operation Ends
 - Section 225 - Landfills near hospitals prohibited (1/2-Mile Radius)

Section 226 - Certification of Public Necessity Required for Hazardous Waste Landfill System

Section 227 - Infectious Waste in Landfill System Prohibited

Section 228 - Scrap Tires - Storage, Recycling and Disposal

Subtitle 5 - County Water and Sewerage Plans

Subtitle 6 – Sanitary Commissions

Subtitle 17 - Office of Recycling

Subtitle 18 – Household Hazardous Waste

- Title 10 – Nuisances; statute contains regulations & MDE’s authority to investigate & devise means for the control of all nuisances and conditions caused thereof, that affect the public’s health or safety.

Article 8 – Natural Resources, Annotated Code of Maryland also contains regulations of the Department of Natural Resources (DNR), which must be considered when siting solid waste facilities.

- Title 8 – Natural Resources

Chapter 3 - Landfill Project Requirements

Chapter 5 – Forest Conservation

Chapter 10 – Threatened and Endangered Species

Incorporated Towns

The *Annotated Code of Maryland* and the *COMAR* address the potential for incorporation of subsidiary solid waste plans developed by individual municipalities into the *2008 Garrett County Comprehensive Plan*. If the Garrett County Board of Commissioners determines that incorporation of a subsidiary plan meets the environmental protection goals of the *2008 Garrett County Comprehensive Plan*, it can be incorporated by reference. The specific citation from the Codes are as follows:

- Annotated Code of Maryland, Title 9-504 - “(a) Required incorporation. - To the extent that the incorporation will promote the public health, safety, and welfare, each county plan shall incorporate all or part of the subsidiary plans of each town, municipal corporation, sanitary district, privately owned facility, or local, state, or federal agency that has existing or planned development in that county.”
- *COMAR* 26.03.02B - “Each county plan shall include all or part of the subsidiary plans of the towns, municipal corporations, sanitary districts, privately owned facilities, and local, state and federal agencies having existing, planned or programmed development within the county to the extent that these inclusions shall promote the public health, safety, and welfare. These subsidiary plans may be incorporated by reference into the county plan.”

As stated above, COMAR provides Maryland municipalities the option to develop their own, or portions of their own solid waste plan and have it incorporated into the 2008 *Garrett County Comprehensive Plan*. Garrett County has developed a cooperative working relationship with all eight municipalities: Oakland, Grantsville, Deer Park, Loch Lynn Heights, Friendsville, Kitzmiller, Accident, and Mountain Lake Park.

Maryland Environmental Service (MES)

The Maryland Environmental Service (MES) was created in 1970 as an agency of the State of Maryland. MES is a public corporation that provides a wide range of environmental management services to both public and private entities. MES operates as a not-for-profit corporation and receives no direct state appropriation, but is required to provide its services on a fee-for-service basis. MES provides dependable, effective and efficient water supply and purification; disposal of liquid and solid wastes; reductions in the amount of waste generated and discharged into the environment; and the generation of energy from and recovery of wastes. MES has also been delegated the responsibility for overseeing Maryland's used oil and scrap tire recycling programs. To access MES, go to the website: <http://www.menv.com>.

Garrett County Code

Solid waste regulations pertaining to Garrett County can be found in the Garrett County Code, Part III of the General Legislation, Chapter 260 - Solid Waste. These regulations can be found on the website: <http://www.garrettcounty.org> select "Commissioners Home", then select "Code of Garrett County".

Title V: Public Works; Chapter 50 - Solid Waste General Provisions

- §50.01 - Applicability
- §50.02 - Definitions
- §50.03 - Placement of solid wastes; collection; disposal
- §50.04 - Enforcement

Chapter 50 - Recycling

- §50.15 - Purpose and intent
- §50.16 - Recyclable materials; definitions
- §50.17 - Acceptance and collection of materials
- §50.18 - Effect of plan on organizations currently recycling; registration and documentation required
- §50.19 - Amendments

Chapter 50 - Refuse Collection; Disposal

- §50.30 - Title
- §50.31 - Applicability
- §50.32 - Purpose

- §50.33 - Effect on other laws
- §50.34 - Definitions and word usage
- §50.35 - Licensing of refuse collection; disposal sites
- §50.36 - General standards
- §50.37 - Setbacks
- §50.38 - Screening
- §50.39 - Access
- §50.40 - Operating standards
- §50.41 - Signs
- §50.42 - Security
- §50.43 - Closing of site
- §50.44 - Amendments; violations and penalties
- §50.99 - Penalty

Other regulations pertaining to solid waste management issues of the General Legislation:

Title V: Public Works; Chapter 52 – Sewage Regulations

Title IX: General Regulations; Chapter 90 - Cleanliness of Roads and Ditches (waste on roads)

Title XI: Business Regulations; Chapter 111 - Junkyards