

# **Solid Waste Management Bylaw 2013**

**August 2013**

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The Whangarei District Solid Waste Management Bylaw 2013 (the “Bylaw”) shall come into operation on the 1st day of October, 2013.

This bylaw is made by Whangarei District Council pursuant to Sections 145 and 146 of the Local Government Act 2002 and Section 56 of the Waste Minimisation 2008 Act.

This Bylaw amends the Solid Waste Management Bylaw 2008, which is revoked on the coming into operation of this Bylaw.

This Bylaw is in addition to controls placed on solid waste by the Northland Regional Council and the Whangarei District Council under the Litter Act 1979, the Resource Management Act 1991, the Building Act 2004 and any other Act, Regulation or Bylaw.

## Part 1 Purpose

The purpose of this bylaw is to enable the Council to carry out its functions in relation to waste management and minimisation in the interests of public health by ensuring that solid waste is collected and disposed of efficiently having regard to the objectives of the Council’s Waste Management and Minimisation Plan and to ensure the physical safety of persons and vehicles using the Council’s roads and footpaths. The bylaw is designed to cover matters of recycling; ownership of the solid waste stream and the collection, storage, separation, transfer, disposal and management of solid waste.

## Part 2 Introductory

This Part sets out definitions to identify and clearly interpret terms used throughout the Bylaw. It covers such things as licences, fees and charges.

### 2.1 Definitions

<b>Act</b>	means the Local Government Act 2002.
<b>Agent</b>	means a person or business authorised to act on another’s behalf.
<b>Approved</b>	means approved by the Council or by any officer so authorised on behalf of the Council.
<b>Approved container</b>	means any bin, mobile bin, plastic bag or multi-wall paper bag or other container from time to time approved by the Council and collected by or on behalf of the Council into which solid waste, including household refuse, recyclables and/or organic waste is to be deposited.
<b>Authorised agent</b>	means any person who is not an employee of the Council but is authorised in writing by the Chief Executive or by the Council on its behalf.
<b>Authorised officer</b>	means any person appointed or authorised in writing by the Chief Executive or by the Council to act on its behalf and with its authority and includes a member of the police.
<b>Bylaw</b>	means a Bylaw of the Council for the time being in force, made under the provisions of any enactment or authority enabling the Council to make Bylaws.
<b>Chief executive</b>	means the principal administrative officer of the Council, irrespective of the designation given to the officer, and includes any person for the time being appointed by the Council to perform the duties or a particular duty of the Chief Executive.
<b>Council and the Council</b>	means Whangarei District Council or any officer authorised to exercise the authority of the Council.
<b>Custodian</b>	means any person for the time being appointed by the Council to control or manage or to assist in the control and management of any land, or premises belonging to or under the jurisdiction of the Council.
<b>District</b>	means the district administered by the Council.

<b>Dwelling or dwelling house</b>	means any house, tent, vehicle or other structure, whether permanent or temporary, and whether attached to the soil or not, used in whole or in part for human habitation, and includes the land of the dwelling.
<b>Enforcement officer</b>	has the meaning assigned to that term in section 5(1) of the Act.
<b>Footpath, private road and private-way</b>	each have the meaning assigned to them in section 315(1) of the Local Government Act 1974.
<b>Household refuse</b>	means cold ashes, sweepings, dust, paper, bottles, bones and waste food, cans, cartons, or other food containers, or any other refuse arising from domestic housekeeping activities.
<b>Infringement offence</b>	means an offence for which any person can be punished by an infringement process under the Act.
<b>Licence</b>	means a licence or approval issued under this Bylaw.
<b>Litter Bin</b>	means any receptacle or container provided and maintained by the Council on any public place for the purpose of depositing litter.
<b>Local authority and Territorial authority</b>	have the meanings assigned to those terms in section 5(1) of the Act.
<b>Nuisance</b>	has the meaning assigned to that term in section 29 of the Health Act 1956.
<b>Occupier</b>	means the inhabitant occupier of any premises and, in any case where any building, house, tenement, or premises is or are unoccupied, includes the owner.
<b>Offence</b>	means any act or omission in relation to this Bylaw for which any person can be prosecuted.
<b>Owner</b>	means as applied to any land, building, or premises, means any person for the time being entitled to receive the rent for such property, or who would be so entitled to receive the rent for such property, or who would be so entitled if it were let to a tenant at a rack rent, and where any such person is absent from New Zealand, includes their attorney or agent.
<b>Organic waste</b>	includes garden waste, green waste, kitchen waste and food process waste.
<b>Person</b>	means a natural person and also a body of persons, whether corporate or unincorporated.
<b>Premises</b>	means land, dwelling, storehouse, warehouse, shop, cellar, yard, building, or part of the same, or enclosed space separately occupied, and all lands, buildings, and places adjoining each other and occupied together are deemed to be the premises.
<b>Public notice</b>	has the meaning assigned to that term in section 5(1) of the Act.
<b>Public place</b>	has the meaning assigned to that term in section 147(1) of the Act.
<b>Recovery</b>	has the meaning assigned to that term in section 5(1) WMA.
<b>Recyclables</b>	means items which are so designated from time to time by the Council and which are either collected, or accepted at any transfer facility, by or on behalf of the Council.
<b>Recycling</b>	has the meaning assigned to that term in section 5(1) WMA.
<b>Refuse</b>	means waste.
<b>Reserve</b>	has the meaning assigned to that term in section 2(1) of the Land Transport Act 1998.
<b>Reuse</b>	has the meaning assigned to that term in section 5(1) WMA.
<b>Solid waste disposal</b>	means any land or facility owned, managed, leased or used by the

<b>facility</b>	Council, or used with the consent of the Council, as a site for the disposal of solid waste, which may also include facilities for recycling and recovery, including management and treatment of organic waste.
<b>Special waste</b>	means any waste, including those wastes listed in the First Schedule, whether from a trade premise or any other source which is hazardous or toxic or by its nature requires special disposal because of environmental considerations or operational requirements at transfer or solid waste disposal facilities, with the exception of such waste originating in household refuse.
<b>Trade refuse</b>	means any scrap or solid waste material resulting from the carrying on of any business, manufacture, process, trade, market or other undertaking.
<b>Transfer facility</b>	means any land or facility owned, managed, leased or used by the Council, or used with the consent of the Council, as a site for the recovery, reuse, recycling, collection and transfer of any waste including refuse, recyclables and organic waste and includes Transfer Stations, Recycling and Recovery Stations and similar facilities.
<b>Vehicle</b>	has the meaning assigned to that term in section 2(10) of the Land Transport Act 1998.
<b>Waste</b>	(a) means anything disposed of or discarded; and (b) includes a type of waste that is defined by its composition or source (for example, organic waste, electronic waste, household waste or construction and demolition waste); and (c) to avoid doubt, includes any component or element of diverted material, if the component or element is disposed of or discarded; but excludes liquid wastes (such as sewage), or liquid trade wastes which are covered by Council's Trade Wastes Bylaw, or bulk liquid hazardous wastes or gaseous wastes.
<b>WMA</b>	means the Waste Minimisation Act 2008.

## 2.2 Interpretation

In this Bylaw the singular includes the plural and the plural includes the singular.

Words referring to any district, locality, place, person, office, officer, functionary, party or thing mean each district, locality, place, person, office, officer, functionary, party, thing, to whom or to which the provision applies.

Every Schedule to this Bylaw forms part of this Bylaw and if provided for in the Bylaw text, may be altered from time to time in accordance with the Act.

For the purposes of the Bylaw the word 'shall' refers to practices that are mandatory for compliance with this Bylaw, while the word 'should' refers to practices which are advised or recommended.

## 2.3 Serving of Orders and Notices

- 2.3.1 Except as otherwise provided for in any other enactment, where any notice, order, or other document is required to be served on any person for the purposes of this Bylaw, service may be effected by delivering it personally to the person or by sending it by registered post to that person's last known residential or business address.
- 2.3.2 If the person is absent from New Zealand the order, notice, or other document may be served on the person's agent in the manner referred to in clause 2.3.1 of this Bylaw.
- 2.3.3 If the order, notice, or other document relates to land or buildings, then the order, notice, or other document should be served on the person who owns that land or buildings. However, if that person is not known, or is absent from New Zealand, or has no known agent in New Zealand, the order or notice may be:

- (a) Served on the person who is occupying the land or buildings; or
- (b) If there is no person in occupation, put up on some conspicuous part of the land or buildings. It is not necessary in that notice to name the occupier or the owner of that land or buildings.

2.3.4 Where an order or notice is sent by registered post, the order or notice shall be sent so as to arrive no later than the latest time on which such order is required to be served.

2.3.5 Any order or notice issued shall state the time within which the remedial action is to be carried out, and may be extended from time to time by written authority of an authorised officer.

## 2.4 Powers of Entry for the Purposes of this Bylaw

Except where provided for under any other enactment, sections 171, 172, 173 and 182 of the Act apply in relation to any power of entry under this Bylaw.

## 2.5 Licences

2.5.1 Any person doing or proposing to do any thing or to cause any condition to exist for which a licence from the Council is required under the Bylaw, shall first obtain a licence from the Council or any authorised officer.

2.5.2 Every application for a licence shall be accompanied by the relevant fee. If the application for the licence is declined, the fee shall be refunded less any reasonable processing costs. Where a fee has been paid for which no service has been given the Council may provide a refund or waiver of all or part of the fee as it may determine.

2.5.3 No application for a licence, and no payment of or receipt for any fee paid in connection with such application, confers any right, authority or immunity on the person making that application or payment.

2.5.4 Any licence is deemed to be issued in compliance with this Bylaw if it is issued by an authorised officer, and every licence is subject to such conditions as may be imposed. Without limiting the generality of the foregoing, conditions may be imposed relating to:

- (a) The types of vehicle to be employed in solid waste collection;
- (b) The hours and days of solid waste collection;
- (c) The placement of approved containers before and after collection;
- (d) Suitably qualified vehicle operators;
- (e) Type and capacity of approved containers to be collected.

2.5.5 All licensees may be required to provide at regular intervals as specified in the licence written records detailing:

- (a) The name of the licensee;
- (b) An address for service;
- (c) The quantities, source, type and destination (as specified in the licence) of solid waste collected by the licensee from premises in the district;

2.5.6 The Council may require the licensee to provide a works performance bond.

2.5.7 Unless this Bylaw provides otherwise, every licence and every application for a licence shall be in such form as may be prescribed from time to time by the Council and the adoption of any such Licence form, including licence conditions, shall be subject to the Special Consultative Procedure as set out in Section 83 of the Local Government Act 2002.

2.5.8 Unless this Bylaw provides otherwise, a licence is not transferable, and no such licence authorises any person other than the licence holder to act in any way under its terms and conditions.

- 2.5.9 If, following a request for payment, any licence fee due remains unpaid, the licence shall immediately cease to have effect.

## 2.6 Suspension and Revocation of Licences

- 2.6.1 Unless this Bylaw provides otherwise, should the licence holder be convicted of any offence relating to the holder's suitability as a licensee, the Council may immediately revoke or suspend the licence for any specified time.
- 2.6.2 The Council may by notice in writing call upon the licence holder to appear before the Council and give reasons why the licence should not be revoked or suspended, if any of the following are brought to the notice of the Council:
- (a) That the licence holder –
    - (i) Has acted or is acting in a manner contrary to the true intent and meaning of this Bylaw.
    - (ii) Has failed to comply with any of the conditions of the licence.
    - (iii) Is in any way unfit to hold the licence.
  - (b) That the premises for which the licence was issued is being used for any purpose other than that stated in the licence, or is in a state of disrepair contrary to the terms of the licence; or
  - (c) That the Bylaw is not being properly observed.
- 2.6.3 The Council may, if it considers the allegations correct or if there is no appearance by the licence holder, revoke, or suspend the licence for any specified time.
- 2.6.4 A person whose licence has been suspended under this clause and any premises for which that licence has been suspended is, during the period of that suspension, deemed to be unlicensed.

## 2.7 Dispensing power

Where in the opinion of the Council full compliance with any of the provisions of this Bylaw would needlessly or injuriously affect any person, or the course or operation of the business of, or bring loss or inconvenience to any person without any corresponding benefit to the community, the Council may, on the special application of that person, dispense with the full compliance with the provisions of this Bylaw; provided that any other terms or conditions (if any) that Council may deem fit to impose shall be complied with by that person.

## 2.8 Forms

Wherever forms are prescribed for by these bylaws, slight deviations, but to the same effect and not calculated to mislead, do not invalidate those forms.

## 2.9 Fees and charges

- 2.9.1 The council may prescribe fees to be charged for any service, licence, certificate, authority, approval, permit or consent from, or inspection by, the Council under the provisions of the Act or any other enactment where that enactment contains no provision for authorising the council to charge a fee. The setting of any fees or charges shall be in accordance with section 150 of the Act except where section 56 of the WMA takes precedence.
- 2.9.2 Where a fee has been paid under clause 2.9.1 of this Bylaw for a service that has not been given, the Council may provide a refund, a remission, or waiver of any such fee, or portion of it as the Council may determine.

### **Part 3 Household Refuse**

- 3.1 Every owner or occupier of any premises shall ensure that no undue accumulation or collection of household refuse, except as provided elsewhere in this bylaw, is permitted or allowed to remain or be in, on, or about such premises or any part thereof.
- 3.2 Every occupier of a dwelling or part thereof separately occupied, except as provided below, shall provide an approved container for the depositing of household refuse and shall use an approved container where utilising a Council approved or contracted collection system.
- 3.3 In respect to premises such as an apartment building containing multiple occupiers then for such premises a communal facility for the collection and disposal of household refuse may be provided where such is approved by an authorised officer.
- 3.4 Except for the act of disposal or emptying, refuse containers, whether disposable or non-disposable, shall at all times be kept closed and protected from intrusion by weather and/or vermin.
- 3.5 Where refuse is placed in rigid or non-disposable containers it shall be placed so as to be capable of being emptied cleanly and easily.
- 3.6 Where in the opinion of an authorised officer an accumulation of household refuse exists on any premises as is or is likely to be injurious to health, or offensive, or to harbour vermin, or is likely to create a fire hazard, any person who, after the service upon him of a notice in writing under the hand of an authorised officer calling on him to remove and dispose of such household refuse within a time specified in such notice, shall neglect or refuse to comply with such notice, shall be guilty of an offence against this part of this Bylaw.

### **Part 4 Trade Refuse**

- 4.1 Every owner or occupier of any premises shall ensure that no undue accumulation of trade refuse or salvaged material is permitted or allowed to remain or be in, on, or about such premises or part thereof.
- 4.2 Any perishable or putrescible trade refuse shall be removed from premises daily, except where such is stored in an approved manner and provided no nuisance results there from.
- 4.3 The Council will not remove or arrange for the removal of refuse from any trade premises, other than in approved containers, except as provided for in any policy statement adopted under clause 5.1 of this Bylaw.
- 4.4 Where in the opinion of an authorised officer an accumulation of trade refuse or salvaged material exists on any premises as is or is likely to be injurious to health, or offensive, or to harbour vermin, or is likely to create a fire hazard, any person who, after the service upon him of a notice in writing under the hand of an authorised officer calling on him to remove and dispose of such trade refuse within a time specified in such notice, shall neglect or refuse to comply with such notice, shall be guilty of an offence against this part of the Bylaw.

### **Part 5 Solid Waste Policies**

- 5.1 Council will from time to time make policy decisions governing all aspects of the minimisation, management, collection and disposal of all types of solid waste whether undertaken by the Council or a contractor approved and/or licensed on behalf of the Council, including the weights, types and contents of containers which will be collected, the placing of containers for such collection, the setting of fees and charges, the timing and location of such collections and such other matters as the Council considers relevant and such policies shall be enforceable under this Bylaw.



## **Part 6 Collection Requirements**

- 6.1 This section shall apply in circumstances where the Council or a contractor approved and/or licensed on behalf of the Council undertakes the collection and disposal of household refuse, recyclables and or organic waste.
- 6.2 Approved containers shall be placed at a time and in such situation as prescribed by the Council, or by a relevant policy statement or as required by an Authorised Officer.
- 6.3 All household refuse, recyclables and organic waste placed for collection shall be in approved container(s).
- 6.4 The occupier shall be responsible for the return of non-disposable approved containers to the premises and such containers shall not be left in such location as to constitute a danger to passing pedestrian or vehicle traffic.
- 6.5 Persons whether employed by Council or acting on behalf of Council under this provision may refuse to remove refuse, recyclables or organic waste where such are placed in damaged containers where injury may result or the materials placed are prohibited under this Bylaw and where the containers or materials placed therein do not comply with the provisions of the relevant policy statement. Where materials are not collected under any or all of the above circumstances notice may be placed requiring the occupier to return the refuse, recyclables and or organic waste to the premises and to make alternative arrangements for their disposal as soon as practicable.
- 6.6 The following materials are deemed to be prohibited materials for the purposes of this Bylaw and may not be placed for collection:
  - (a) Explosive, hot ashes, highly inflammable or infectious material;
  - (b) Liquids, acids, printer's ink, paint, or any other viscous fluid;
  - (c) Broken bottles, glass or glass particles, broken crockery, china or other sharp objects or material unless these are wrapped so as to prevent injury to persons engaged in refuse collection;
  - (d) Any matter, thing or refuse of any kind other than household refuse unless specifically allowed by a policy statement under clause 5.1 of this Bylaw.

## **Part 7 Recycling**

- 7.1 The Council may arrange for the collection of specified recyclable material from specified or agreed locations such to be advised by the giving of public notice.
- 7.2 The Council or a contractor approved and/or licensed by Council may supply to occupiers a specially marked or separately identified approved container within which recyclables ("recycling container") are to be placed.
- 7.3 No person, other than a person authorised and/or licensed by Council to collect and dispose of recyclables, shall interfere with uplift, collect or remove a recycling container or its contents.
- 7.4 Recycling containers provided under this part of the Bylaw shall not be used for the disposal of non-recyclable material and non-recyclable materials shall not be left at any recycling facility.

## **Part 8 Litter Bins**

- 8.1 No person shall interfere with, or remove any litter bin erected or placed on any road or other public place for the deposition of litter by the general public, or the contents thereof, other than a person employed by the Council or acting on behalf of Council where such are responsible for the emptying, cleansing or repair of that litter bin.
- 8.2 No unauthorised person shall remove, damage, deface, write or place any sign upon or in any way interfere with any litter bin being the property of the Council.

## **Part 9 Restrictions on Collections and Ownership of Solid Waste Stream**

- 9.1 Except with the prior permission of the Council or an authorised officer no person, other than the occupier of the property from which any solid waste has come, shall on any public place interfere with or remove any solid waste including recyclables which is awaiting collection by the Council or a contractor approved and/or licensed on behalf of the Council.

## **Part 10 Transfer Facilities**

- 10.1 The delivery of solid waste including recyclables and/or organic waste to any land premises or facilities provided, owned or operated by the Council for the recovery, reuse, recycling and transfer of such materials shall be subject to such conditions as may be imposed by any consent or approval given under the Resource Management Act 1991 or other legislation and such conditions and policies as the Council may from time to time by resolution impose in respect of access to such land or premises, the hours of opening and closing, the nature of solid waste including recyclables and/or organic waste which may be delivered thereto, any fees and charges that may be imposed, and any other matter which the Council may consider necessary or desirable as determined by any such resolution.
- 10.2 All persons entering a transfer facility shall comply with the relevant rules and requirements made in accordance with Clause 10.1 of this Bylaw and as posted at the entrance of such facility. Any person failing to abide by such conditions or who acts contrary to the instruction of an authorised agent, authorised officer or custodian shall be deemed to be in breach of this Bylaw.

## **Part 11 Solid Waste Disposal Facilities**

- 11.1 The disposal of solid waste on any land, premises or facilities provided, owned or operated by the Council for the disposal of solid waste shall be subject to such conditions as may be imposed by any consent or approval given under the Resource Management Act 1991 or other legislation and such conditions and policies as the Council may from time to time by resolution impose in respect of access to the site, the hours of opening and closing, the nature of solid waste which may be disposed of therein, any fees and charges that may be imposed, and any other matter which the Council may consider necessary or desirable as determined by any such resolution.
- 11.2 All persons entering a solid waste disposal facility shall comply with the relevant rules and requirements made in accordance with Clause 11.1 of this Bylaw and as posted at the entrance of such facility. Any person failing to abide by such conditions or who acts contrary to the instruction of an Authorised Agent, Authorised Officer or Custodian shall be deemed to be in breach of this Bylaw.

## **Part 12 Transport of Solid Waste**

- 12.1 No solid waste, recyclables or organic waste is to be transported by vehicle through, over or upon any road or public place unless such is sufficiently and adequately covered so as to prevent it from falling onto or being deposited on any road or public place.

## **Part 13 Offences and Penalties**

### **13.1 Offences and Breaches**

- 13.1.1 Any person commits a breach of this Bylaw who:
- (a) Does, or causes to be done, or knowingly permits or suffers to be done anything whatsoever contrary to or otherwise than as provided by this Bylaw;
  - (b) Omits or neglects to do, or knowingly permits or suffers to remain undone, anything which according to the true intent and meaning of this Bylaw, ought to be done by that person at the time and in the manner provided by this Bylaw;
  - (c) Does not refrain from doing anything which under this Bylaw they are required to refrain from doing;

- (d) Knowingly permits or suffers any condition of or things to exist contrary to any provision contained in this Bylaw;
- (e) Refuses or neglects to comply with any notice given to that person under this Bylaw;
- (f) Obstructs or hinders any authorised officer of Council in the performance of any duty to be discharged by that officer under or in the exercise of any power conferred upon that officer by this Bylaw; or
- (g) Fails to comply with any notice or direction given under this Bylaw.

13.1.2 Where it is suspected that any person has committed a breach of this Bylaw, that person shall, on the direction of an authorised officer, provide their full name and address.

## **13.2 Penalties for breach of Bylaw**

13.2.1 Every person who breaches any provision of this Bylaw commits an offence and is liable to enforcement action by the Council. The type of enforcement action carried out by Council will depend on the severity of the situation and may include:

- (a) Non-compliant notification to the land owner/occupier including a time period to rectify the issue. If compliance is not reached within the specified time period of the notification, then Council will rectify or organise for the issue to be rectified, and recover all costs from the land owner/occupier in doing so.
- (b) Council rectifying or organising the rectification of the issue if the situation is creating nuisance or if that is the preference of the land owner/occupier, and all costs will be recovered from the land owner/occupier in doing so.
- (c) Prosecution under the Act.
- (d) An infringement notice as specified in Section 245 of the Local Government Act, 2002 with an infringement fee not exceeding ONE THOUSAND DOLLARS (\$1,000).
- (e) On summary conviction, a fine as specified in Section 66 WMA, not exceeding \$20,000.
- (f) An enforcement order or abatement notice under the Resource Management Act, 1991.
- (g) Where another enactment specifies the penalty for a breach of the Bylaw, that other penalty.

13.2.2 In accordance with Section 162 of the Act, the Council may apply to the District Court for an injunction to restrain a person from committing a breach of this Bylaw.

## **Part 14 Special Waste**

- 14.1 No person shall place any special waste in a public place.
- 14.2 No occupier of trade premises or any other premises, shall deposit, or cause to be deposited, at any transfer facility or solid waste disposal facility, any of the materials or substances described in the First Schedule to this Bylaw or any other waste that may be specified from time to time under Clause 5.1 of this Bylaw, except if such is authorised for acceptance at an approved hazardous waste drop-off area.
- 14.3 The provisions of the whole of this Bylaw shall apply with respect to Special waste and in particular insofar as is applicable the provisions of Clauses 10.2 and 11.2 of this Bylaw.

## FIRST SCHEDULE

### SPECIAL WASTE:

1. Chemicals, toxic substances, dangerous goods of all classes, prescription drugs and poisons.
2. Oils, oil sludges, liquids, volatile liquids, acids or paints.
3. Explosives, fireworks, firearms, hot ashes, highly inflammable liquid or materials.
4. Empty containers in excess of 4 litres capacity previously used to hold or contain chemicals, dangerous goods, toxic substances or fertiliser.
5. Pressurised containers unless emptied or made open to the atmosphere.
6. Empty drums unless crushed.
7. Radio-active materials and pathological waste.
8. Hydrocarbon contaminated waste.
9. Wastes containing hazardous inorganic chemicals.
10. Offal or waste from fish or meat processing activities.
11. Bulk liquid waste of any kind, or emulsions in bulk which are in excess of 4 litres.
12. Dead animals.
13. Manure, liquid manure, liquid effluents or septic tank sludge or effluent.
14. Any highly odorous waste.
15. Any other hazardous or prohibited waste not otherwise described herein, which is recorded in a waste management and minimisation plan adopted, or deemed to be adopted, by Section 43 WMA or noted in the Management Plan or consent or signage for any transfer facility or solid waste disposal facility as being prohibited for delivery to or disposal at or to that facility.