

'Alternative cover' landfill bill raises concerns, more debate expected today

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By MARY SELL, Alabama Daily News

Legislation to clarify that landfills can use materials other than dirt to cover new garbage each day is raising concerns about what the Alabama Department of Environmental Management (ADEM) has permitted as "alternative cover," including coal ash, and its permitting process.

Federal Environmental Protection Agency regulations say landfill operators must cover disposed solid waste with six inches of earthen material at the end of each operating day for safety and health reasons.

The EPA also says approval of alternative covers is allowed by directors of state environmental agencies if the landfill operator "demonstrates that the alternative material and thickness control disease vectors, fires, odors, blowing litter and scavenging without

presenting a threat to human health and the environment.”

But late last year, landfills had to stop using the alternatives after communities near two sites filed a lawsuit that argued ADEM wasn’t making landfills demonstrate the effectiveness of their alternative covers.

The Alabama Court of Civil Appeals ruled in October that ADEM should not have allowed the alternative covers, the Associated Press reported. The court was responding to a lawsuit filed by people who live near Arrowhead Landfill in Perry County and Stone’s Throw Landfill in Tallapoosa County.

The lawsuit claimed that the use of waste covers including tarps has led to a foul smell and vermin around landfills. The judges overturned a lower court that dismissed the lawsuit.

Today, the Alabama House of Representatives is expected to continue debate and possibly vote on a landfill cover bill.

Current state law defines a sanitary landfill as a “controlled area of land upon which solid waste is deposited and is compacted and covered with compacted earth each day as deposited...”

House Bill 140 strikes the words “with compacted earth.”

The bill was debated for about an hour on Tuesday before being carried over. Sponsor Rep. Alan Baker, R-Brewton, said the change is needed to codify what the Alabama Department of Environmental Management has done for about three decades —approve various alternative covers, including shredded car parts from scrapped vehicles, contaminated soil and sludge from paper processing.

“It would be up to ADEM to decide in permits what covers are allowed,” Baker said on the House floor.

Attempts to reach ADEM officials this week about the approval process and what materials have previously been approved were not successful.

Information from environment attorney David Ludder, who represented plaintiffs in the recent lawsuit, shows more than two dozen sites permitted to use materials other than earth as daily cover, at least one permit allowed for coal ash.

A call to the Turkey Trot landfill in Washington County was referred to Advanced Disposal corporate offices in Georgia. Calls were not returned.

Coal combustion residuals, commonly known as coal ash, are byproducts of the combustion of coal at power plants by electric utilities and independent power producers, according to the EPA. Coal ash contains contaminants like mercury, cadmium and arsenic associated

with cancer and various other serious health effects, according to the agency.

The advocacy group Conservation Alabama has been lobbying against Baker's bill and has multiple concerns, including the health impacts on neighborhoods when nearby landfills use alternative covers.

"When you look at where these landfills are located, they're in poorer communities." Conservation Alabama Executive Director Tammy Monistere told Alabama Daily News.

Most people don't think about their trash once it leaves their home.

"There are communities that don't have that luxury," she said.

Conservation Alabama would like to see landfill operators file with ADEM a plan outlining effectiveness when they want to use an alternative cover and for there to be a public hearing and public comment period before plans are approved.

Monistere would also like to see coal ash removed as an acceptable alternative.

Rep. Pebblin Warren, D-Tuskegee, offered an amendment Tuesday to Baker's bill that would have done much of what Conservation Alabama wanted, including striking coal ash.

House members voted down Warren's amendment.

After nearly an hour of debate Tuesday evening, when it was apparent there were more questions from other lawmakers, leadership moved to end debate, to be resumed today.

A Senate version of the same legislation, Senate Bill 117, by Sens. Greg Albritton, R-Range, and Linda Coleman-Madison, D-Birmingham, was approved in a committee last week and awaits a vote in the full chamber.

This story will be updated.