Sixty-sixth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2108

Introduced by

Energy and Natural Resources Committee

(At the request of the Department of Health)

A BILL for an Act to create and enact a new subsection to section 23.1-08-23 of the North Dakota Century Code, relating to citizen suit and intervention; to amend and reenact section 23.1-08-04 of the North Dakota Century Code, relating to coal combustion residuals; to provide a penalty; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23.1-08-04 of the North Dakota Century Code is amended and reenacted as follows:

23.1-08-04. Coal combustion ~~residues~~residuals - Present use and disposal deemed acceptable. (Contingent effective date - See note)

Notwithstanding any other provision of law, the legislative assembly deems the present use and disposal of coal combustion ~~residues~~residuals to be acceptable and that present regulation allows for the beneficial use of coal combustion ~~residues~~residuals in concrete, for other construction applications, and for other innovative uses and allows for safe disposal without coal combustion ~~residues~~residuals being regulated as a hazardous waste. If a federal law or regulation is adopted pertaining to the use and disposal of coal combustion ~~residues~~residuals, this section does not prohibit the state from seeking state primacy of the federal program.

SECTION 2. A new subsection to section 23.1-08-23 of the North Dakota Century Code is created and enacted as follows:

The following citizen participation provisions apply to violations of this chapter relating to coal combustion residuals or any permit condition, rule, order, limitation, or other applicable requirement implementing this chapter relating to coal combustion residuals:

a. A person having an interest that may be affected adversely by a violation of this chapter may commence a civil action to compel compliance with this chapter, or a rule, order, or permit issued under this chapter.

b. Notice of the violation must be given to the department and to an alleged violator sixty days before commencement of a citizen suit brought under this subsection.

c. A person with an interest that may be affected adversely by a violation of this chapter may intervene as a matter of right in a civil action brought by the department to require compliance with this chapter.

SECTION 3. EFFECTIVE DATE. This Act is effective on August 1, 2019, if the Legislative Council has received certification from the chief of the environmental health section of the state department of health that all authority, powers, and duties from the environmental health section of the state department of health have been transferred to the department of environmental quality. If the certification in this section is not received by August 1, 2019, this Act is effective on the date certification is received.