

Introduced by

Energy and Natural Resources Committee

(At the request of the Department of Environmental Quality)

1 A BILL for an Act to create and enact sections 23.1-10-04, 23.1-10-05, 23.1-10-06, 23.1-10-07,  
2 23.1-10-08, 23.1-10-09, 23.1-10-10, 23.1-10-11, 23.1-10-12, 23.1-10-13, 23.1-10-14,  
3 23.1-10-15, 23.1-10-16, and 23.1-10-17 of the North Dakota Century Code, relating to the  
4 regulated substance response; to amend and reenact sections 11-33-01, 23.1-10-02, 40-47-01,  
5 and 58-03-11 of the North Dakota Century Code, relating to the regulated substance response;  
6 ~~and~~ to repeal sections 23.1-04-04 and 23.1-10-01 of the North Dakota Century Code, relating to  
7 contaminated properties; to provide a continuing appropriation; and to provide for retroactive  
8 application.

9 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

10 **SECTION 1. AMENDMENT.** Section 11-33-01 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **11-33-01. County power to regulate property.**

13 For the purpose of promoting health, safety, morals, public convenience, general prosperity,  
14 and public welfare, the board of county commissioners of any county may regulate and restrict  
15 within the county, subject to chapter 54-21.3, the location and the use of buildings and  
16 structures and the use, condition of use, or occupancy of lands for residence, recreation, and  
17 other purposes. The board of county commissioners and a county zoning commission shall  
18 state the grounds upon which any request for a zoning amendment or variance is approved or  
19 disapproved, and written findings upon which the decision is based must be included within the  
20 records of the board or commission. The board of county commissioners shall establish zoning  
21 requirements for solid waste disposal and incineration facilities before July 1, 1994. The board  
22 of county commissioners may impose tipping or other fees on solid waste management and  
23 incineration facilities. The board of county commissioners may not impose any fee under this  
24 section on an energy conversion facility or coal mining operation that disposes of its waste

1 onsite. The board of county commissioners may establish institutional controls that address  
2 environmental concerns with the department of environmental quality as provided in section  
3 ~~23.1-04-04~~23.1-10-16.

4 **SECTION 2. AMENDMENT.** Section 23.1-10-02 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **23.1-10-02. Environmental quality restoration fund - Continuing appropriation.**

7 There is established an environmental quality restoration fund into which the funds  
8 recovered in this chapter may be deposited. The fund is to be administered by the department  
9 of environmental quality and may be used by the department for costs of environmental  
10 assessment, removal, corrective action, or monitoring as determined on a case-by-case basis.

11 All moneys placed in the fund under this section and section 23.1-10-05 are appropriated to the  
12 department on a continuing basis.

13 **SECTION 3.** Section 23.1-10-04 of the North Dakota Century Code is created and enacted  
14 as follows:

15 **23.1-10-04. Definitions.**

16 As used in this chapter, unless the context otherwise requires:

- 17 1. "Containment unit" means any one or a combination of containers, vessels, and  
18 enclosures, including structures and appurtenances connected to them, which or has  
19 been used to contain or dispense a regulated substance and is either stationary or  
20 attached to a motor vehicle. The definition includes pipeline facilities that transport and  
21 store regulated substances.
- 22 2. "Corrective action" means an action taken to investigate, minimize, contain, eliminate,  
23 remediate, mitigate, monitor, or clean up a release including any necessary  
24 emergency remedial effort.
- 25 3. "Corrective action cost" means any cost incurred by the department in conducting or  
26 overseeing corrective actions performed on a release; or the performance of  
27 reasonable measures undertaken to prevent or mitigate damage to the public health,  
28 public safety, public welfare, or environment of the state.
- 29 4. "Department" means the department of environmental quality.
- 30 5. "Emergency remedial effort" means an action taken to protect the public health, public  
31 safety, or environment from imminent danger resulting from a release, and an action

- 1           taken to contain a release that, if not contained, will pose in time a greater threat to the  
2           public health, public safety, or environment than if the action is not taken immediately.
- 3       6. "Environment" means land, including public and private property, surface and  
4           underground waters, fish, wildlife, biota, air, and other similar resources within the  
5           state.
- 6       7. "Fund" means the environmental quality restoration fund.
- 7       8. "Institutional controls" and "activity and use limitations" are restrictions on the use and  
8           management of real property, including buildings or fixtures, containing or preventing  
9           migration of regulated substances or other pollution or contamination, or protecting  
10           receptors from exposure or the threat of exposure to regulated substances or other  
11           pollution or contamination. Institutional controls may apply:
- 12           a. During environmental remediation activities; or
- 13           b. To residual regulated substances, pollutants, or other pollution or contamination  
14           or the byproducts of residual regulated substances, pollutants, or other pollution  
15           or contamination which may remain on property after active environmental  
16           remediation activities are concluded or while natural attenuation of regulated  
17           substances or other pollution or contamination is occurring.
- 18       9. "Potentially responsible party" means a person identified as a possible cause of, or  
19           contributor to, contamination or pollution on a site or property.
- 20       10. "Regulated substance" means a compound designated by the department, including  
21           pesticides and fertilizers regulated by the department of agriculture; the hazardous  
22           substances designated by the Federal Water Pollution Control Act [Pub. L. 80-845; 62  
23           Stat. 1155; 33 U.S.C. 1251 et seq.]; the toxic pollutants designated by the Federal  
24           Water Pollution Control Act and the Toxic Substances Control Act [Pub. L. 94-469; 90  
25           Stat. 2003; 15 U.S.C. 2601 et seq.]; the hazardous substances designated by the  
26           federal Comprehensive Environmental Response, Compensation, and Liability Act  
27           [Pub. L. 96-510; 94 Stat. 2767; 42 U.S.C. 9601 et seq.]; petroleum, petroleum  
28           substances, oil, gasoline, kerosene, fuel oil, oil sludge, oil refuse, production water, oil  
29           mixed with other wastes, crude oils, substances, or additives to be utilized in refining  
30           or blending crude petroleum or petroleum stock; any other oil or petroleum substance;  
31           solid waste regulated under chapter 23.1-08; and technologically enhanced naturally

1           occurring radioactive material regulated under chapter 23.1-03. Radioactive material  
2           other than technologically enhanced naturally occurring radioactive material is not a  
3           regulated substance under this chapter.

4       11. "Release" means an intentional or unintentional act or omission that results in the  
5           discharge, spill, leak, emission, escape, or disposal of a regulated substance into the  
6           environment and harms or threatens harm to public health or public safety or the  
7           environment.

8       12. "Responsible party" means a person that causes or contributes to an onsite or offsite  
9           release or threatened release, or that is responsible for an illegal or unpermitted  
10           storage, of a regulated substance that results in the contamination or pollution of a  
11           property or site.

12       **SECTION 4.** Section 23.1-10-05 of the North Dakota Century Code is created and enacted  
13 as follows:

14       **23.1-10-05. Revenue to the fund.**

15       Revenue from the following sources must be deposited in the state treasury and credited to  
16 the fund:

17       1. If the balance of the fund is less than five million dollars, moneys recovered by the  
18           department in an action or administrative proceeding based on violation of the state's  
19           environmental statutes, including actions for administrative expense recoveries, civil  
20           penalties, compensatory damages; and money paid pursuant to any agreement,  
21           stipulation, or settlement. This section does not limit the department's ability to agree  
22           to a supplemental environmental project as part of a settlement.

23       2. Moneys donated to the department for the purposes of this chapter.

24       3. Transfers from the abandoned oil and gas well plugging and site reclamation fund  
25           under subdivision f of subsection 2 of section 38-08-04.5.

26       4. Moneys received from a federal agency for the purpose of this section.

27       5. Any other moneys as may be deposited in the fund for use in carrying out the  
28           purposes of this chapter.

29       **SECTION 5.** Section 23.1-10-06 of the North Dakota Century Code is created and enacted  
30 as follows:

1        **23.1-10-06. Release of regulated substance prohibited - Exception.**

2        The release of a regulated substance is prohibited. This section does not apply to releases  
3 of regulated substances pursuant to and in compliance with the conditions of a federal or state  
4 environmental permit.

5        **SECTION 6.** Section 23.1-10-07 of the North Dakota Century Code is created and enacted  
6 as follows:

7        **23.1-10-07. Releases from petroleum tanks.**

8        Releases from petroleum tanks are subject to this chapter, but the department may expend  
9 moneys in the ~~regulated substance response~~ fund to address releases from petroleum tanks  
10 only if there are no available moneys in the petroleum tank release compensation fund under  
11 chapter 23.1-12.

12        **SECTION 7.** Section 23.1-10-08 of the North Dakota Century Code is created and enacted  
13 as follows:

14        **23.1-10-08. Responsible parties.**

15        1. If the department determines a release has occurred, the department shall identify the  
16 responsible party.

17        2. If no other viable responsible party can be located after the department's reasonable  
18 investigation, the department shall consider a person that became an owner of the  
19 property after the release to be a responsible party, subject to the limitations in this  
20 section.

21        a. Notwithstanding any other provision of law and except as expressly provided by  
22 federal law, a person that acquires property is not liable for an existing regulated  
23 substance on the property if the person:

24        (1) Acquired the property after the disposal or placement of the regulated  
25 substance on, in, or at the property; and at the time the property was  
26 acquired did not know and had no reason to know a regulated substance  
27 was disposed of on, in, or at the property;

28        (2) Is a governmental entity that acquired the property by escheat, by tax sale,  
29 by foreclosure, through any other involuntary transfer or acquisition, or  
30 through the exercise of eminent domain authority by purchase or  
31 condemnation; or

1           (3) Acquired the property by inheritance or bequest, and did not know ~~and had~~  
2           ~~no reason to know~~ a regulated substance was disposed of on, in, or at the  
3           property; or is the owner of the surface estate and the regulated substance  
4           was released as a result of oil or gas drilling and production operations, or  
5           other operation authorized by chapter 38-08, and the owner of the surface  
6           estate is not and has never been an operator of oil and gas wells permitted  
7           under chapter 38-08.

8           b. To establish the person had no reason to know a regulated substance was  
9           disposed of on, in, or at the property, the person must have undertaken, at the  
10           time of acquisition, all appropriate inquiries into the previous ownership and uses  
11           of the property consistent with good commercial or customary practice in an effort  
12           to minimize liability. For purposes of this requirement, the department shall take  
13           into account any specialized knowledge or experience on the part of the person,  
14           the relationship of the purchase price to the value of the property as  
15           uncontaminated, commonly known or reasonably ascertainable information about  
16           the property, the obviousness of the presence or likely presence of  
17           ~~contamination~~regulated substances at the property, and the ability to detect the  
18           ~~contamination~~regulated substances by appropriate inspection.

19           c. A person that has acquired real property may establish a rebuttable presumption  
20           the person has made all appropriate inquiries if the person establishes the  
21           person performed an investigation of the property, conducted by an  
22           environmental professional immediately before or at the time of acquisition, to  
23           determine or discover the obviousness of the presence or likely presence of a  
24           release or threatened release of regulated substances on the property.

25           d. The presumption does not arise unless the person has maintained a compilation  
26           of the information reviewed during the investigation.

27           e. This section does not diminish the liability of a previous owner or operator of the  
28           property which otherwise would be liable under this chapter, and nothing in this  
29           section affects the liability under this chapter of a person that, by any act or  
30           omission, caused or contributed to the release or threatened release of a  
31           regulated substance that is the subject of the action relating to the property.

1           f. As used in this section, "environmental professional" means an individual, or  
2           entity managed or controlled by an individual, such as an engineer,  
3           environmental consultant, and attorney, who, through academic training,  
4           occupational experience, and reputation, can objectively conduct one or more  
5           aspects of an environmental investigation.

6           3. A lender-owner is liable for a release or threatened release of a regulated substance  
7           only as provided in chapter 32-40.1.

8           **SECTION 8.** Section 23.1-10-09 of the North Dakota Century Code is created and enacted  
9 as follows:

10           **23.1-10-09. Duty to provide information - Inspections.**

11           1. When requested by the department, a responsible or potentially responsible party, or  
12           owner of real property where a release or threatened release is located or where  
13           response actions are proposed to be taken, shall furnish to the department any  
14           information the person may have or reasonably may obtain which is relevant to the  
15           release or threatened release.

16           2. The department, upon presentation of credentials, may:

17           a. Examine and copy any books, papers, records, memoranda, or data of any  
18           person that has a duty to provide information to the department under  
19           subsection 1; and

20           b. Enter upon any property, public or private, to take action authorized by this  
21           chapter, including obtaining information from a person that has a duty to provide  
22           the information under subsection 1, conducting surveys or investigations, and  
23           taking removal or remedial action.

24           **SECTION 9.** Section 23.1-10-10 of the North Dakota Century Code is created and enacted  
25 as follows:

26           **23.1-10-10. Authority to establish and enforce remediation requirements.**

27           In determining the appropriate standards to be achieved by corrective actions taken or  
28           requested under this chapter to protect public health and welfare and the environment from a  
29           release or threatened release, the department shall consider the planned use of the property  
30           where the release or threatened release is located. This chapter does not limit the authority of  
31           the department to establish environmental standards for remediation of air, soil, or water

1 pollution pursuant to this title or chapters 61-28 and 61-28.1, or to enforce site-specific  
2 environmental remediation requirements in particular cases.

3 **SECTION 10.** Section 23.1-10-11 of the North Dakota Century Code is created and enacted  
4 as follows:

5 **23.1-10-11. Action to compel performance - Injunctive relief.**

- 6 1. The department may make a request for corrective action to a responsible party. A  
7 request must be in writing, state the action requested, the reasons for the action, and  
8 reasonable times for the action to begin and be completed taking into account the  
9 urgency of the action for protection of the public health or welfare or the environment.
- 10 2. If a person responsible for a release or threatened release of a regulated substance  
11 fails to take corrective actions or make reasonable progress in completing corrective  
12 actions requested under subsection 1, the department may bring an action to compel  
13 performance of the requested corrective actions. If any person having any right, title,  
14 or interest in and to the real property where the containment unit is located or where  
15 corrective actions are proposed to be taken is not a person responsible for the release  
16 or threatened release, the person may be joined as an indispensable party in an action  
17 to compel performance to assure the requested corrective actions can be taken on  
18 that property by the responsible parties.
- 19 3. The release or threatened release of a regulated substance ~~constitutes~~ may constitute  
20 a public nuisance and may be enjoined in an action brought by the department.

21 **SECTION 11.** Section 23.1-10-12 of the North Dakota Century Code is created and enacted  
22 as follows:

23 **23.1-10-12. Cost recovery.**

24 The department may recover its reasonable and necessary expenses incurred under this  
25 chapter, including all corrective action costs and administrative and legal expenses, in a civil  
26 action brought against a responsible party. The department's certification of expenses is prima  
27 facie evidence the expenses are reasonable and necessary. The department shall provide  
28 written notice to a responsible party before incurring costs, except when prior notice is not  
29 possible because identity of the responsible party is unknown or situations require emergency  
30 remedial efforts.

1       **SECTION 12.** Section 23.1-10-13 of the North Dakota Century Code is created and enacted  
2 as follows:

3       **23.1-10-13. Corrective action costs as lien - Filing of notice of lien - Contents -**  
4 **Attachment priority.**

5       All corrective action costs expended from the ~~regulated substance response~~ fund pursuant  
6 to this chapter constitute a lien on all property owned by the responsible party when a notice of  
7 lien is filed with the recorder in the county where the property is located. The notice of lien must  
8 contain a description of the property of the responsible party upon which the lien is made, a  
9 description of the property upon which corrective action or emergency remedial efforts were  
10 made, and a statement of the corrective action costs expended from the ~~response~~ fund. Upon  
11 entry, the lien must attach to all real property of the responsible party. The lien has priority over  
12 all other claims or liens on the property, except those perfected before the department's filing of  
13 the notice of lien.

14       **SECTION 13.** Section 23.1-10-14 of the North Dakota Century Code is created and enacted  
15 as follows:

16       **23.1-10-14. Other remedies.**

17       This chapter does not limit the powers of the department or preclude the pursuit of any  
18 other administrative, civil, injunctive, or criminal remedies by the department or any other  
19 person. Administrative remedies do not need to be exhausted to proceed under this chapter.  
20 The remedies provided by this chapter are in addition to those provided under other statutory or  
21 common law.

22       **SECTION 14.** Section 23.1-10-15 of the North Dakota Century Code is created and enacted  
23 as follows:

24       **23.1-10-15. Voluntary response actions - Liability protection - Procedures.**

- 25       1. Subject to the provisions of this section, a person that is not otherwise responsible  
26 under this chapter or another environmental law for a release or threatened release is  
27 not responsible solely because the person undertakes and completes response  
28 actions to remove or remedy releases or threatened releases at an identified area of  
29 real property in accordance with a voluntary cleanup agreement.  
30       2. A person requesting liability protection under this section shall submit an application in  
31 the form required by the department. The requestor also shall submit a voluntary

1 response action plan that includes an investigation report prepared by an appropriate  
2 professional describing the methods and results of an investigation of the releases and  
3 threatened releases at the identified area of real property, methods of investigation,  
4 and the analytical results and professional's evaluation of the reported information.  
5 The department may approve the application only if the department determines the  
6 nature and extent of the releases and threatened releases at the identified area of real  
7 property have been identified and evaluated adequately in the investigation report.

8 The department's approval also must be based on consideration of the following:

9 a. If reuse or development of the property is proposed, the voluntary response  
10 action plan provides for all response actions required to carry out the proposed  
11 reuse or development;

12 b. The response actions and the activities associated with any reuse or  
13 development proposed for the property will not aggravate or contribute to  
14 releases or threatened releases that are not required to be removed or remedied  
15 under the voluntary response action plan, and will not interfere with or  
16 substantially increase the cost of response actions to address the remaining  
17 releases or threatened releases; and

18 c. The owner of the property or other relevant person agrees to cooperate with the  
19 department or other persons acting at the department's direction in taking  
20 response actions necessary to address remaining releases or threatened  
21 releases, and to avoid any action that interferes with the response actions.

22 3. If the department approves the application, the department and requestor shall enter a  
23 voluntary cleanup agreement in which the department agrees to take no action under  
24 title 23.1 and chapters 61-28 and 61-28.1 against the requestor and those persons  
25 identified in subsection 5 so long as the plan is implemented pursuant to the  
26 agreement's terms and with the exercise of due care. As part of the agreement, the  
27 department may require the owner, requestor, or other relevant person agrees to any  
28 of the following conditions:

29 a. To provide access to the property;

30 b. To allow reasonable and necessary activities at the property, including placement  
31 of borings, wells, equipment, and structures on the property; and

- 1           c. To enter an environmental covenant for the property containing institutional  
2           controls under chapter 47-37. Alternatively, institutional controls may be imposed  
3           on the property using zoning regulations under section 23.1-10-16.
- 4           4. Response actions taken under a voluntary cleanup agreement are not complete until  
5           the department certifies completion in writing. The department shall issue a certificate  
6           of completion if the parties demonstrate to the department's satisfaction the response  
7           action is complete. If a voluntary response action plan does not require removal or  
8           remedy of all regulated substances, the department may condition the certificate of  
9           completion on the owner's, requestor's, or other relevant person's continued  
10           compliance with conditions in the voluntary cleanup agreement or other conditions  
11           deemed necessary by the department.
- 12           5. In addition to the person that undertakes and completes a voluntary response action  
13           pursuant to a voluntary cleanup agreement, the liability protection provided by this  
14           section applies to the following persons so long as the persons comply with any  
15           conditions imposed by the department under subsection 4:
- 16           a. The owner of the identified property, if the owner is not responsible for any  
17           release or threatened release identified in the approved voluntary response  
18           action plan;
- 19           b. A person providing financing to the person that undertakes and completes the  
20           response actions or that acquires or develops the identified property;
- 21           c. A fiduciary that arranges for the undertaking and completion of response actions;  
22           and
- 23           d. A successor or assignee of a person to which the liability protection applies.
- 24           6. Notwithstanding subsection 1, when a person that is responsible for a release or  
25           threatened release undertakes and completes response actions, the protection from  
26           liability provided by this section applies to persons described in subsection 5 if the  
27           response actions are undertaken and completed in accordance with the following:
- 28           a. The response actions must be undertaken and completed in accordance with a  
29           voluntary cleanup agreement.
- 30           b. When the department issues a certificate of completion for response actions  
31           completed by a responsible party, the department and the responsible party may

1                   enter an agreement that resolves the responsible party's future liability to the  
2                   department for the release or threatened release addressed by the response  
3                   actions.

- 4       7. The protection from liability provided by this section does not apply to a person that:  
5           a. Aggravates or contributes to a release or threatened release that was not  
6           remedied under an approved voluntary response action plan; or  
7           b. Obtains the department's approval of a voluntary cleanup agreement for  
8           purposes of this section by fraud or misrepresentation or by knowingly failing to  
9           disclose material information, or that knows the approval was so obtained before  
10          taking an action that would have made the person subject to the protection of this  
11          section.

- 12       8. This section does not affect the authority of the department to exercise any powers or  
13          duties with respect to a new or additional release or threatened release of a regulated  
14          substance on a property or site regulated under this section, or the right of the  
15          department or any other person to seek legal or equitable relief against a person not  
16          subject to a liability protection provided under this section.

17       **SECTION 15.** Section 23.1-10-16 of the North Dakota Century Code is created and enacted  
18 as follows:

19       **23.1-10-16. Zoning regulations establishing institutional controls.**

- 20       1. If an area made subject to institutional controls involves two or more property owners  
21          and an area larger than either one city block or ten acres [4.05 hectares], the  
22          department and the political subdivision having zoning authority over the property may  
23          agree to institutional controls relating to the identified area impacted by the release or  
24          threatened release. Before the institutional controls become effective, the controls  
25          must be the subject of a public hearing and be established in the same manner as  
26          zoning regulations are established by that political subdivision. The political  
27          subdivision shall provide all notices under this subdivision, but any public hearing must  
28          be held jointly by the political subdivision and the department.
- 29       2. The department shall consider the factors in subsection 2 of section 23.1-10-15 before  
30          agreeing to institutional controls under this section.

1        3. Institutional controls may be terminated or amended at any time by written agreement  
2                    between the department and the relevant political subdivision.

3        **SECTION 16.** Section 23.1-10-17 of the North Dakota Century Code is created and enacted  
4 as follows:

5        **23.1-10-17. Liability protections issued before August 1, 2021.**

6        This chapter does not affect liability protections related to releases or threatened releases  
7 of regulated substances issued by the department before August 1, 2021. These liability  
8 protections remain in effect, subject to any conditions that were imposed by the department and  
9 the statutes in effect on the date issued.

10       **SECTION 17. AMENDMENT.** Section 40-47-01 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12       **40-47-01. Cities may zone - Application of regulations.**

13       For the purpose of promoting health, safety, morals, or the general welfare of the  
14 community, the governing body of any city may, subject to the provisions of chapter 54-21.3,  
15 regulate and restrict the height, number of stories, and the size of buildings and other  
16 structures, the percentage of lot that may be occupied, the size of yards, courts, and other open  
17 spaces, the density of population, and the location and use of buildings, structures, and land for  
18 trade, industry, residence, or other purposes. ~~Such~~The regulations may provide that a board of  
19 adjustment may determine and vary the application of the regulations in harmony with ~~their~~the  
20 regulations' general purpose and intent and in accordance with general or specific rules ~~therein~~  
21 contained in the regulations. The governing body of a city may establish institutional controls  
22 that address environmental concerns with the department of environmental quality as provided  
23 in section ~~23.1-04-04~~23.1-10-16.

24       **SECTION 18. AMENDMENT.** Section 58-03-11 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26       **58-03-11. Establishment of zoning districts - Uniformity.**

27       For the purpose of promoting the health, safety, morals, or the general welfare, or to secure  
28 the orderly development of approaches to municipalities, the board of township supervisors may  
29 establish one or more zoning districts and within ~~such~~the districts ~~may~~, subject to the provisions  
30 of chapter 54-21.3 and section 58-03-11.1, may regulate and restrict the erection, construction,  
31 reconstruction, alteration, repair, or use of buildings and structures; ~~the~~ the height, number of

1 stories, and size of buildings and structures; the percentage of lot that may be occupied; the  
2 size of courts, yards, and other open spaces; the density of population; and the location and  
3 use of buildings, structures, and land for trade, industry, residence, or other purposes. All such  
4 regulations and restrictions under this section must be uniform throughout each district, but the  
5 regulations and restrictions in one district may differ from those in other districts. The board of  
6 township supervisors may establish institutional controls that address environmental concerns  
7 with the department of environmental quality as provided in section ~~23.1-04-04~~23.1-10-16.

8 **SECTION 19. REPEAL.** Sections 23.1-04-04 and 23.1-10-01 of the North Dakota Century  
9 Code are repealed.

10 **SECTION 20. RETROACTIVE APPLICATION.** This Act is retroactive in application.