

Michigan Department of Licensing and Regulatory Affairs
Office of Regulatory Reinvention
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REGULATORY IMPACT STATEMENT (RIS)
and
COST-BENEFIT ANALYSIS

PART 1: INTRODUCTION

In accordance with the Administrative Procedures Act (APA) [1969 PA 306], the department/agency responsible for promulgating the administrative rules must complete and submit this form electronically to the Office of Regulatory Reinvention (ORR) no less than (28) days before the public hearing [MCL 24.245(3)-(4)]. Submissions should be made by the departmental Regulatory Affairs Officer (RAO) to **orr@michigan.gov**. The ORR will review the form and send its response to the RAO (see last page). Upon review by the ORR, the agency shall make copies available to the public at the public hearing [MCL 24.245(4)].

Please place your cursor in each box, and answer the question completely.

ORR-assigned rule set number:

2015-094 EQ

ORR rule set title:

Cleanup Criteria Requirements for Response Activity

Department:

Department of Environmental Quality (DEQ)

Agency or Bureau/Division

Remediation and Redevelopment Division (RRD)

Name and title of person completing this form; telephone number:

Patty Brandt, RRD Program Specialist; 517-284-5071

Reviewed by Department Regulatory Affairs Officer:

David Fiedler

PART 2: APPLICABLE SECTIONS OF THE APA

MCL 24.207a “Small business” defined.

Sec. 7a.

“Small business” means a business concern incorporated or doing business in this state, including the affiliates of the business concern, which is independently owned and operated and which employs fewer than 250 full-time employees or which has gross annual sales of less than \$6,000,000.00.”

MCL 24.240 Reducing disproportionate economic impact of rule on small business; applicability of section and MCL 24.245(3).

Sec. 40.

(1) When an agency proposes to adopt a rule that will apply to a small business and the rule will have a disproportionate impact on small businesses because of the size of those businesses, the agency shall consider exempting small businesses and, if not exempted, the agency proposing to adopt the rule shall reduce the economic impact of the rule on small businesses by doing all of the following when it is lawful and feasible in meeting the objectives of the act authorizing the promulgation of the rule:

- (a) Identify and estimate the number of small businesses affected by the proposed rule and its probable effect on small businesses.
- (b) Establish differing compliance or reporting requirements or timetables for small businesses under the rule after projecting the required reporting, record-keeping, and other administrative costs.
- (c) Consolidate, simplify, or eliminate the compliance and reporting requirements for small businesses under the rule and identify the skills necessary to comply with the reporting requirements.
- (d) Establish performance standards to replace design or operational standards required in the proposed rule.

(2) The factors described in subsection (1)(a) to (d) shall be specifically addressed in the small business impact statement required under section 45.

(3) In reducing the disproportionate economic impact on small business of a rule as provided in subsection (1), an agency shall use the following classifications of small business:

- (a) 0-9 full-time employees.
- (b) 10-49 full-time employees.
- (c) 50-249 full-time employees.

(4) For purposes of subsection (3), an agency may include a small business with a greater number of full-time employees in a classification that applies to a business with fewer full-time employees.

(5) This section and section 45(3) do not apply to a rule that is required by federal law and that an agency promulgates without imposing standards more stringent than those required by the federal law.

MCL 24.245 (3) “Except for a rule promulgated under sections 33, 44, and 48, the agency shall prepare and include with the notice of transmittal a **regulatory impact statement** containing...” (information requested on the following pages).

[**Note:** Additional questions have been added to these statutorily-required questions to satisfy the **cost-benefit analysis** requirements of Executive Order 2011-5.]

MCL 24.245b Information to be posted on office of regulatory reinvention website.

Sec. 45b. (1) The office of regulatory reinvention shall post the following on its website within 2 business days after transmittal pursuant to section 45:

- (a) The regulatory impact statement required under section 45(3).
 - (b) Instructions on any existing administrative remedies or appeals available to the public.
 - (c) Instructions regarding the method of complying with the rules, if available.
 - (d) Any rules filed with the secretary of state and the effective date of those rules.
- (2) The office of regulatory reinvention shall facilitate linking the information posted under subsection (1) to the department or agency website.

PART 3: DEPARTMENT/AGENCY RESPONSE

Please place your cursor in each box, and provide the required information, using complete sentences. Please do not answer the question with “N/A” or “none.”

Comparison of Rule(s) to Federal/State/Association Standards:

(1) Compare the proposed rule(s) to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist. Are these rule(s) required by state law or federal mandate? If these rule(s) exceed a federal standard, please identify the federal standard or citation, and describe why it is necessary that the proposed rule(s) exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

The proposed rules provide generic cleanup criteria; there is not a parallel federal rule or promulgated federal cleanup standards.

The U.S. Environmental Protection Agency (EPA) provides a recommended but not mandatory approach with respect to risk assessment for response actions at sites regulated under the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The EPA Technical Support Documentation provides the methodology and algorithms used to generate the Regional Screening Levels (RSLs); however, the EPA documentation emphasizes that the RSLs are not cleanup standards and they are a screening tool used to determine the potential need for additional investigation or site cleanup.

The proposed rules are required by state law, Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA). Section 20104(1) of the NREPA authorizes the DEQ to promulgate rules. According to Section 20120a(17) of the NREPA, the DEQ shall make revisions to the generic cleanup criteria in order to keep it current. The evaluation and any revisions must incorporate knowledge gained through the research and studies in the areas of fate and transport and risk assessment, and take into account best practices from other states, reasonable and realistic conditions, and sound science.

(2) Compare the proposed rule(s) to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities. If the rule(s) exceed standards in those states, please explain why, and specify the costs and benefits arising out of the deviation.

Due to differing purposes and regulatory programmatic processes, it is difficult to make a direct comparison of the proposed generic cleanup criteria to cleanup standards of other states.

In developing cleanup standards, other states use different risk levels (e.g., 1:1,000,000 cancer risk), use different routes of exposures (e.g., drinking water ingestion versus the combined risk of ingestion, inhalation, and dermal exposures for tap water), use different exposure assumptions (e.g., child versus adult) for similar exposure pathways, and evaluate the combined risks of exposure to multiple hazardous substances for a single exposure pathway. Other states often use conservative standards (such as the EPA’s RSLs) as an initial screening tool to determine if additional action should be taken at a site. If it is determined that further action must be taken, other states use site-specific assessments to define the measures needed to ensure protection of public health, safety, and welfare and the environment.

Michigan’s generic cleanup criteria similarly may be used as an initial screening tool to determine if additional action should be taken at a contaminated site. The development of site-specific criteria or

conducting a site-specific risk assessment is allowed to meet the remedial action or corrective action requirements of the statutes that rely upon the generic cleanup criteria, but are not required. However, only Michigan uses the generic cleanup criteria to determine “facility” status. Determining facility status is the threshold for all responsibilities and requirements of the cleanup program. In addition, the determination of facility status is part of the property transaction process that establishes a prospective purchaser’s potential liabilities for the contamination at the property.

(3) Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rule(s). Explain how the rule has been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

The proposed rules do not duplicate, overlap, or conflict with any other rules or legal requirements.

Part 201 and Part 213, Leaking Underground Storage Tanks, of the NREPA, utilize the generic cleanup criteria developed pursuant to the proposed rules. The generic cleanup criteria are cited in the administrative rules for Part 111, Hazardous Waste Management; Part 31, Water Resources Protection (groundwater discharge remediation); and Part 115, Solid Waste Management, of the NREPA. Generic cleanup criteria for groundwater aquifers require consideration of the state drinking water standard established pursuant to the Safe Drinking Water Act, 1976 PA 399, as amended, and the national secondary drinking water regulations established pursuant to 42 U.S.C. 300g-1.

Pursuant to a 2012 statutory amendment, the generic cleanup criteria for contaminated groundwater venting to surface waters are designated as the water quality standards for surface waters developed pursuant to Part 31 of the NREPA, clarifying that the generic cleanup criteria rules do not duplicate, overlap, or conflict with those standards.

The RRD has established technical committees that include staff from other program areas that are affected or in some way rely on the generic cleanup criteria, methodology, algorithms, or assumptions used to compute the criteria. This collaboration supports a consistent approach within the DEQ for risk assessment.

Purpose and Objectives of the Rule(s):

(4) Identify the behavior and frequency of behavior that the proposed rule(s) are designed to alter. Estimate the change in the frequency of the targeted behavior expected from the proposed rule(s). Describe the difference between current behavior/practice and desired behavior/practice. What is the desired outcome?

The desired outcome of the proposed rules is to provide suitable generic cleanup criteria to allow appropriate risk management decisions regarding contaminated sites. The proposed rules revise existing generic cleanup criteria that aide the assessment of risks at contaminated sites and revise the concentrations that represent an acceptable risk to public health, safety, and welfare and the environment. Generic cleanup criteria, as the outcome of the proposed revisions, provide the DEQ and regulated parties the basis to implement cleanup program risk-based requirements based on up-to-date toxicological data, chemical data, exposure assumptions, and pathway evaluation.

Generic cleanup criteria are the foundation upon which the environmental remediation and redevelopment programs are built. The generic cleanup criteria are used to identify which parcels have hazardous substances present above concentrations that could be acceptable for unrestricted residential

use. They are also relied upon to support risk-based decisions associated with environmental contamination at these properties across the state to protect public health, safety, and welfare and the environment by owners and liable parties. Commercial lenders require prospective buyers of properties to identify hazardous substances that have been released to the environment properties prior to approving loans. Property owners rely upon the generic cleanup criteria to employ liability protection mechanisms and also to ensure that the appropriate “due care” precautions and exposure controls are in place to protect their employees and the public from unacceptable exposure to hazardous substances. Eligibility for grants and loans that fuel redevelopment activities of blighted brownfields is driven by generic cleanup criteria.

An estimated 6,000 properties annually utilize the generic cleanup criteria to determine “facility” status and submit documentation for liability protection. An estimated 300 to 400 facilities utilize the generic cleanup criteria to implement remedial or corrective action sufficient to meet statutory requirements for Part 201 No Further Action Report or Part 213 Closure Report approvals. An unknown number of facilities self-implement response activity utilizing generic cleanup criteria.

(5) Identify the harm resulting from the behavior that the proposed rule(s) are designed to alter and the likelihood that the harm will occur in the absence of the rule. What is the rationale for changing the rule(s) and not leaving them as currently written?

The desired outcome of the proposed rules is to provide suitable generic cleanup criteria to allow appropriate risk management decisions regarding sites of environmental contamination. To leave the rules as currently written would not allow for appropriate risk management decisions. The comprehensive update of toxicological and chemical data, exposure assumptions, and pathway evaluation provides the ability to more accurately assess risks at contaminated sites than generic cleanup criteria as currently written. The resulting revisions to the concentrations that represent an acceptable risk to human health, safety, and welfare and the environment do not uniformly increase or decrease and include some concentrations that remain unchanged.

Where the generic cleanup criteria proposed revisions reduce the concentrations that represent an acceptable risk, using the current generic cleanup criteria could result in potential unacceptable exposures to the public.

Where the generic cleanup criteria revisions increase the concentrations that represent an acceptable risk, using the current generic cleanup criteria could result in an expenditure of time and money to evaluate and manage risks that may be unnecessary and do not provide any additional benefit to public health, safety, and welfare and the environment.

The proposed screening levels and generic cleanup criteria and process for the evaluation of volatilization of hazardous substances into indoor air have been updated to reflect nationwide current practices in a manner that fits with Michigan regulation of contaminated properties. The current cleanup criteria for this pathway are proposed to be rescinded as the concentrations that they provide do not allow appropriate risk management decisions.

(6) Describe how the proposed rule(s) protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

The fundamental objective of the remediation and redevelopment programs is to manage risks from environmental contamination in a manner that is protective of public health, safety, and welfare and the

environment. The proposed revisions to the generic cleanup criteria are designed to meet this objective. The use of the proposed generic cleanup criteria to support risk management decisions provides a less burdensome alternative than the development of site-specific criterion or conducting a site-specific risk assessment. Most response activity relying upon generic cleanup criteria can be self-implemented by liable parties or potential owners of contaminated properties, reducing transaction costs. Development of site-specific criteria or reliance on a site-specific risk assessment requires DEQ involvement in review and approval to ensure the protection of public health, safety, and welfare and the environment, increasing the expenditure of time and money for the development and subsequent interactions. Statutory risk management options do not require remediation (cleanup, removal, treatment, etc.) using the generic cleanup criteria. The alternatives offer flexibility to the regulated community to select response activity necessary to safely manage the risk associated with the contamination.

The generic cleanup criteria also allow the least burdensome alternative to determine a property is a “facility” for property transactions. The proposed generic cleanup criteria revisions allow a more accurate evaluation of the risk represented by the contamination without requiring the development of site-specific criterion or a site-specific environmental assessment. Purchasers of properties are able to limit their liability for cleanup of past environmental concerns based upon generic cleanup criteria. Financial institutions rely on the generic cleanup criteria to evaluate whether properties are “facilities” that give rise to environmental response obligations at properties for which they may acquire an interest or provide loan funds. Brownfield financial incentives such as grants, loans, and tax increment financing are available to properties meeting the definition of a “facility.” Brownfield redevelopment incentives promote the reuse of contaminated properties in a manner that is protective of public health, safety, and welfare and the environment.

(7) Describe any rules in the affected rule set that are obsolete, unnecessary, and can be rescinded.

The rule package proposes to rescind rules that are obsolete or unnecessary. Rules are proposed to be rescinded where proposed revisions address the evaluation of volatilization of hazardous substances into indoor air pathway make the current generic cleanup criteria for the pathway obsolete. The rule directing the DEQ to make available to the public the detailed basis for calculation of any cleanup criteria has been determined to be no longer necessary and is proposed to be rescinded based on statutory amendments that contain the requirements. The generic cleanup criteria tables are proposed to be included in a single rule, making rules that contained each medium’s generic cleanup criteria table no longer necessary and are proposed to be rescinded.

Fiscal Impact on the Agency:

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, an increase in the cost of a contract, programming costs, changes in reimbursement rates, etc. over and above what is currently expended for that function. It would not include more intangible costs or benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

(8) Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings on the agency promulgating the rule).

The proposed revisions are revisions to existing rules that result in minimal change to the existing fiscal impact to the DEQ. DEQ costs for Web-based applications, training, training materials, and outreach for rule implementation are expected. The proposed rules will be implemented using existing resources.

(9) Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rule(s).

There is no appropriation or funding source directly associated with these rules.

(10) Describe how the proposed rule(s) is necessary and suitable to accomplish its purpose, in relationship to the burden(s) it places on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts. So despite the identified burden(s), identify how the requirements in the rule(s) are still needed and reasonable compared to the burdens.

The proposed revisions to the generic cleanup criteria rules are necessary and suitable to facilitate appropriate risk management decisions. The proposed generic cleanup criteria revisions, by themselves, do not impose any burden on an individual. Compliance obligations are embodied in the remedial action or corrective action requirements of the statutes that rely upon the generic cleanup criteria. Achieving the statutory obligations including investigation, remedial action, closure, and Sections 20107a and 21304c of the NREPA, using scientifically supported up-to-date cleanup criteria and evaluation processes benefits public health, safety, and welfare and the environment of all communities throughout Michigan.

Impact on Other State or Local Governmental Units:

(11) Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions on other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Please include the cost of equipment, supplies, labor, and increased administrative costs, in both the initial imposition of the rule and any ongoing monitoring.

The proposed revisions of the generic cleanup criteria rules will not have any significant impact on revenues to other state or local government units. The generic cleanup criteria rules facilitate property transactions to occur and, therefore, enable the redevelopment and reuse of previously contaminated, vacant properties. Redevelopment of abandoned properties has been documented to increase the property values of the surrounding neighborhood, adding to the increase of local tax revenue.

(12) Discuss any program, service, duty or responsibility imposed upon any city, county, town, village, or school district by the rule(s). Describe any actions that governmental units must take to be in compliance with the rule(s). This section should include items such as record keeping and reporting requirements or changing operational practices.

The proposed rules do not impose any new programs, services, duties, or responsibilities upon any city, county, town, village, or school district. For sites of contamination where a governmental unit is the owner, there may be an increase or decrease in the costs of compliance. A potential increase in costs would only occur if the site's contaminant of concern is one of the chemicals where proposed acceptable concentrations of the site's contaminants of concern decrease and the change results in additional response activities being necessary. Additional response activity could include further investigation of contamination, and new or additional areas of restrictions or barriers being necessary. There may also be a decrease in costs of compliance if the site's contaminant of concern is one of the chemicals where proposed acceptable concentrations increase and result in response activities being unnecessary. The circumstances where cost may change are not readily identifiable and, therefore, estimates of increase or decrease in costs are not available.

(13) Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rule(s).

No appropriations to state or local governmental units have been made or funding sources provided as there are no identifiable additional expenditures associated with the proposed rules.

Rural Impact:

(14) In general, what impact will the rules have on rural areas? Describe the types of public or private interests in rural areas that will be affected by the rule(s).

The proposed rules do not have a specific impact on rural areas. As such, the imposition of the proposed rules will not result in additional costs to public or private interests simply due to their rural location.

Environmental Impact:

(15) Do the proposed rule(s) have any impact on the environment? If yes, please explain.

The fundamental objective of the remediation and redevelopment programs is to manage risks from environmental contamination in a manner that is protective of the environment. The proposed revisions to the generic cleanup criteria for groundwater, soil, surface water, and air are designed to protect the environment and the public's exposure to environmental contamination. The proposed rules revise existing generic cleanup criteria that aid the assessment of risks at contaminated sites and revise the concentrations that represent an acceptable risk to human health, safety, and welfare and the environment.

Small Business Impact Statement:

[Please refer to the discussion of "small business" on page 2 of this form.]

(16) Describe whether and how the agency considered exempting small businesses from the proposed rules.

The DEQ did not consider exempting small businesses from the proposed rules.

(17) If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rule(s) on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rule(s) upon small businesses as described below (in accordance with MCL 24.240(1)(A-D)), or (b) the reasons such a reduction was not lawful or feasible.

There is no disproportionate impact upon small businesses from the proposed rules. The proposed generic cleanup criteria revisions, by themselves, do not impose any burden on small businesses. Compliance obligations are embodied in the remedial action or corrective action requirements of the statutes that rely upon the generic cleanup criteria. There is no provision for addressing a small business' compliance obligations differently within the statutes since there is no relationship between the size of a business, the environmental contamination related to a business, and the risk to public health, safety, and welfare and the environment.

(A) Identify and estimate the number of small businesses affected by the proposed rule(s) and the probable effect on small business.

The DEQ does not have data with respect to the number of small businesses affected by environmental contamination. However, it is estimated that there are over 7,200 properties with leaking underground storage tanks in Michigan; these are often associated with gas stations. The majority of these sites would qualify as small businesses and would be affected by these rules. As detailed in response (12), there may be a slight increase or decrease in costs of compliance with the statutory cleanup obligations, but the circumstances that would result in an effect on any property are not readily identifiable and quantifiable.

(B) Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rule after projecting the required reporting, record-keeping, and other administrative costs.

The DEQ did not establish differing compliance or reporting requirements or timetables specific to small businesses. The proposed generic cleanup criteria revisions, by themselves, do not impose any compliance or reporting obligations. Those obligations are embodied in the remedial action or corrective action requirements of the statutes that rely upon the generic cleanup criteria. The proposed generic cleanup criteria rules do not impact the requirements for reporting or recordkeeping under any of the programs' statutory provisions.

(C) Describe how the agency consolidated or simplified the compliance and reporting requirements and identify the skills necessary to comply with the reporting requirements.

The proposed generic cleanup criteria rules do not contain any reporting requirements.

(D) Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

The proposed generic cleanup criteria rules do not include design or operation standards.

(18) Identify any disproportionate impact the proposed rule(s) may have on small businesses because of their size or geographic location.

The proposed rules will not have a disproportionate impact on small businesses due to their size or location.

(19) Identify the nature of any report and the estimated cost of its preparation by small business required to comply with the proposed rule(s).

The proposed generic cleanup criteria rules, by themselves, do not impose any obligation to prepare a report. Reports required to comply with statutory provisions of the cleanup program may rely upon the proposed rules to generate generic cleanup criteria and allow the parties to utilize site data to determine if the contaminants present pose a risk to public health, safety, and welfare and the environment.

The owner/operator of a site may conduct some level of environmental assessment, depending on the conditions of the site and the knowledge of past releases and/or practices that may have caused a release of hazardous substances at the site. The cost for environmental assessments are highly variable depending on the number of samples, the type of samples, and the lab analysis needed to adequately characterize the contamination at a site. A small business occupying a small site may require a fewer number of samples for an environmental assessment than a large site. An environmental assessment report to provide the information necessary to utilize the generic cleanup criteria is estimated to cost \$5,000 to \$20,000. The report preparation costs may have a slight increase or decrease based upon the proposed revisions to the generic cleanup criteria, but the circumstances that would result in an effect on any property where a report is being prepared are not readily identifiable and quantifiable.

(20) Analyze the costs of compliance for all small businesses affected by the proposed rule(s), including costs of equipment, supplies, labor, and increased administrative costs.

The proposed generic cleanup criteria rules, by themselves, do not impose any compliance obligations. The cost of compliance, including costs of equipment, supplies, labor, and increased administrative costs with respect to the implementation of remedial or corrective action relying on the proposed generic cleanup criteria rules would be equivalent to current costs incurred relying on the existing generic cleanup criteria. The cost to a business to comply with statutory obligations resulting from the contamination at a site are dependent on the type and level of contamination present at a site, the amount

and quality of environmental data already known about a site, the type of use of the site, as well as the response activities selected for managing the risks presented by the environmental contamination.

(21) Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rule(s).

The proposed generic cleanup criteria rules, by themselves, do not impose any compliance obligations. The cost of any legal, consulting, or accounting services incurred in complying with the statutory obligations relying on the proposed rules would be equivalent to current costs incurred relying on the existing rules.

(22) Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

The proposed rules do not result in any readily identifiable costs for a small business to absorb. The DEQ does not anticipate that small businesses will suffer economic harm or competition in the marketplace as a result of these revisions; however, businesses that are liable for a release of contaminants into the environment are required to address the risks posed by the contamination and must bear the costs associated with those responsibilities.

(23) Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

The DEQ will not incur any additional costs since the proposed revisions do not specifically exempt or set lesser standards for compliance for small businesses.

(24) Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

The public will not be adversely impacted in this manner as the proposed rules do not specifically exempt or set lesser standards of compliance for small businesses.

(25) Describe whether and how the agency has involved small businesses in the development of the proposed rule(s). If small business was involved in the development of the rule(s), please identify the business(es).

A Criteria Stakeholder Advisory (CSA) Group was commissioned to provide recommendations for the framework and development of the proposed rule revisions. This included members of the regulated community, academia, environmental consultants, attorneys, environmental organizations, the general public, and special interest groups, all of whom interact and/or directly represent small businesses.

Cost-Benefit Analysis of Rules (independent of statutory impact):

(26) Estimate the actual statewide compliance costs of the rule amendments on businesses or groups. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rule(s). What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

The proposed generic cleanup criteria rules, by themselves, do not impose any compliance obligations. The proposed generic cleanup criteria rules will not result in increased costs for statutory compliance

relative to the cost to comply with the current generic cleanup criteria rules. For properties where a liable party is responsible for the remediation of the release of hazardous substances, that party is statutorily responsible to bear the cost of complying with the requirements. The costs of conducting a Baseline Environmental Assessment that affords liability protection for a party purchasing contaminated property may have a slight increase or decrease based upon the proposed revisions to the generic cleanup criteria. The cost effects on any property where a property transaction report is being prepared are not readily identifiable and quantifiable.

(27) Estimate the actual statewide compliance costs of the proposed rule(s) on individuals (regulated individuals or the public). Please include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping). How many and what category of individuals will be affected by the rules? What qualitative and quantitative impact does the proposed change in rule(s) have on these individuals?

The proposed generic cleanup criteria rules, by themselves, do not impose any compliance obligations. The proposed generic cleanup criteria rules will not result in increased costs for statutory compliance relative to the cost to comply with the current generic cleanup criteria rules. There are no known costs of education, training, application fees, examination fees, new equipment, supplies, labor, accounting, or recordkeeping for the public or regulated individuals.

(28) Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rule(s).

The proposed generic cleanup criteria rules, by themselves, do not impose any compliance obligations that result in cost increases or reductions. The proposed generic cleanup criteria rules allow property owners or prospective purchasers of properties to utilize generic cleanup criteria to evaluate the risk from environmental conditions at the property, avoiding additional costs of developing site-specific criteria or conducting a site-specific risk assessment.

(29) Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rule(s). Please provide both quantitative and qualitative information, as well as your assumptions.

The primary benefit of the proposed generic cleanup criteria rules is to provide suitable generic cleanup criteria to allow appropriate risk management decisions regarding sites of environmental contamination using the comprehensive update of the generic cleanup criteria to allow a more accurate assessment of risks at contaminated sites. Protection of public health, safety, and welfare and the environment results from appropriate risk management decisions. The use of the generic cleanup criteria in facilitation of property transactions is an additional benefit of the proposed rules.

(30) Explain how the proposed rule(s) will impact business growth and job creation (or elimination) in Michigan.

The proposed generic cleanup criteria rules will continue to facilitate the sale and redevelopment of contaminated properties based upon scientifically sound risk management for the protection of public health, safety, and welfare and the environment. The redeveloped properties result in investment in communities, create jobs, improve property values, and provide increased tax revenue to state and local units of government.

(31) Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

The proposed generic cleanup criteria rules, by themselves, will not affect businesses. Statutory obligations relying on the proposed generic cleanup criteria rules will affect individuals and businesses consistent with the current generic cleanup criteria. There is no known affect from the proposed generic cleanup criteria rule revisions to specific segments of the public, industrial sectors, business size, and geographic location.

(32) Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of a proposed rule(s) and a cost-benefit analysis of the proposed rule(s). How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., which demonstrate a need for the proposed rule(s).

The DEQ relied upon department experts, stakeholders, and statistics and estimates drawn from existing DEQ data sources in the determination of the impact and estimated costs related to the proposed rules.

Alternatives to Regulation:

(33) Identify any reasonable alternatives to the proposed rule(s) that would achieve the same or similar goals. In enumerating your alternatives, please include any statutory amendments that may be necessary to achieve such alternatives.

The DEQ has not identified any reasonable alternatives to the proposed rules. The generic cleanup criteria resulting from the proposed rules are fundamental to the cleanup programs and there is no available alternative to achieve the goal of providing suitable generic cleanup criteria to allow appropriate risk management decisions.

(34) Discuss the feasibility of establishing a regulatory program similar to that proposed in the rule(s) that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

The development of cleanup standards is a state function rather than a private market-based system for other state cleanup programs. The development of site-specific cleanup standards may be required of private parties by other state programs, but the determination of whether the resulting standards are protective of public health, safety, and welfare and the environment is a state agency decision. A few states have implemented licensed site remediation professional programs that oversee investigation and remediation of contaminated sites and certifies to the state agency full compliance with statute and rules. These programs require any party responsible for an existing or newly identified contaminated site to complete the remediation of the affected properties under specific time frames and regulations. The development of cleanup standards for these states was done by the state agency responsible for environmental protection. An extensive revision to Michigan's cleanup programs would be necessary to mirror these programs, including revisions to Michigan's unique causational liability scheme that has made brownfield redevelopment successful in Michigan.

(35) Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rule(s). This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

A CSA Group was commissioned to provide recommendations for the framework and development of the proposed rule revisions. The recommendations provided by the CSA Group were incorporated into the proposed rules. The CSA Group Final Report summarizes the lengthy discussions of alternatives to the final recommendations for chemical/physical and toxicological properties, exposure pathway assumptions, and vapor intrusions. The report is available for review from the DEQ Web page.

Additional Information

(36) As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

Compliance obligations are embodied in the remedial action or corrective action requirements of the statutes that rely upon the generic cleanup criteria. The DEQ will continue to provide information to assist the regulated community in understanding its compliance obligations through outreach workshops, webinars, plain English fact sheets, and postings on its Web page.

PART 4: REVIEW BY THE ORR

Date Regulatory Impact Statement (RIS) received:

4-14-2016

Date RIS approved:	April 27, 2016
ORR assigned rule set number:	2015-094 EQ

Date of disapproval:	Explain:
More information needed:	Explain: