



Texas Commission on Environmental Quality Steps to Amend the “List of De Minimis Facilities or Sources”

Senate Bill 766 of the 76th Texas State Legislature created an exception from the need to obtain any authorization from the Texas Commission on Environmental Quality (TCEQ) for facility construction and operation. As a result of this legislation and substantial evaluation by the TCEQ, Title 30 Texas Administrative Code, Chapter 116 (30 TAC Chapter 116) was changed to designate four (4) distinct categories of facilities where no authorization is required. If a facility as a whole (all emissions) meets the criteria, then registration or authorization prior to construction is not required. These requirements are listed in 30 TAC § 116.119 and include:

1. Categories of facilities or sources on the list entitled, “De Minimis Facilities or Sources.” The “List of De Minimis Facilities or Sources” will be maintained in the TCEQ’s Office of Permitting, Remediation, and Registration, Air Permits Division (APD) in Austin, with copies maintained in the TCEQ’s regional offices, and on the TCEQ Website at www.tceq.state.tx.us/nav/permits/air_permits.html.
2. Facilities or sources at a site which, in combination, use the following materials at no more than the indicated limits.
 - cleaning and stripping solvents, 50 gallons per year
 - coatings (excluding plating materials), 100 gallons per year
 - dyes, 1,000 pounds per year
 - bleaches, 1,000 gallons per year
 - fragrances (excluding odorants), 250 gallons per year
 - water-based surfactants/detergents, 2,500 gallons per year
3. Facilities or sources located inside a building at a site which meet the following site-wide emission rate caps based on the July 19, 2000 Effects Screening Level (ESL) list without the addition of control devices.

| ESL of Substance(s) July 19, 2000 ESL list | Emission Rate Cap for Individual Substances, Site-wide | | Emission Rate Cap for Multiple Substances, Site-wide | |
|---|---|--------------|---|--------------|
| | ($\mu\text{g}/\text{m}^3$) | (pounds/day) | (tons/year) | (pounds/day) |
| ≥ 3500 | 5 | 0.9 | 10 | 2.4 |
| 1200 - 3499 | 3 | 0.5 | 6 | 1.3 |
| 400 - 1199 | 1 | 0.2 | 3 | 0.5 |
| 100 - 399 | 0.25 | 0.05 | 1 | 0.2 |

4. Any individual facility, source, or group of facilities or sources, which the executive director determines to be de minimis based upon:
 - A. proximity to receptors;
 - B. rate of emission of air contaminants;
 - C. engineering judgment and experience; and
 - D. determination that no adverse toxicological or health effects would occur off property.

Items 1 through 3 have very specific requirements stated in the rule. Owners/operators of these facilities or sources do not have to obtain any written confirmation from the TCEQ before construction or as a condition of operation. However, it is anticipated that there are facilities or sources that are de minimis, but do not meet pre-set criteria. For this reason, 30 TAC § 116.119(c)(1) allows persons to petition the executive director to amend the “List of De Minimis Facilities or Sources.” These petition requests require the TCEQ to evaluate the facility or source and its emissions.

Steps to Amend the “List of De Minimis Facilities or Sources”

Any person may petition the executive director to amend the “List of De Minimis Facilities or Sources” by submitting request to:

| U.S. Mail | Overnight Courier Service (physical address required) |
|--|--|
| TCEQ Office of Permitting, Remediation, and Registration Air Permits Division, MC 162 Post Office Box 13087 Austin, Texas 78711-3087 | TCEQ Office of Permitting, Remediation, and Registration Air Permits Division, MC 162 12100 Park 35 Circle Austin, Texas 78753 |
| | Additional information that may be needed: APD Location: Building C, Floor 2 Phone Number: (512) 239-1334 |

APD Process to Amend “List of De Minimis Facilities or Sources”

- In accordance with the requirements of 30 TAC § 116.119(c)(1), a request is received to amend the “List of De Minimis Facilities or Sources.” The request is forwarded to the APD De Minimis Coordinator.
- The De Minimis Coordinator notifies the APD Division Director and Special Assistant. Management accepts/declines request.
 - If accepted, management directs De Minimis Coordinator to proceed and provides priority.
 - If declined, management advises if the request should be addressed at a later time, and De Minimis Coordinator prepares response letter to requestor.
- The APD Division Director, the TCEQ Executive Director and the Chief Engineer’s Office are notified of the request and the decision to accept or decline the request as deemed necessary.
- Technical Program Support Section Manager routes project to appropriate New Source Review Section Manager for assignment. The assigned permit reviewer notifies the Environmental Law Division, Field Operations Division, Small Business and Environmental Assistance Division, Toxicology Section, and the Chief Engineer’s Office [the de minimis team] of the project and asks for representatives.
- Permit reviewer conducts technical review, prepares technical summary and analysis package, and obtains de minimis team sign-off and Section Manager approval.
 - Permit reviewer coordinates support, technical review and decisions with the de minimis team.
 - Technical analysis package includes: a technical summary and a briefing summary sheet.
 - Sheet contains: request, background/summary of the analysis, final recommendation.

Steps if APD cannot recommend that the “List of De Minimis Facilities or Sources” be amended.

- Permit reviewer prepares a letter for the APD Division Director signature to the requestor stating that the request cannot be supported. Attach the brief technical summary justifying the decision.
- Brief the APD Division Director on denial letter. As determined by the APD Division Director, brief appropriate levels of management and incorporate their comments as applicable. The APD Division Director signs letter.

Steps if APD recommends that the “List of De Minimis Facilities or Sources” be amended.

- The De Minimis Coordinator prepares public notice package and response to comment package based on requirements contained in 30 TAC § 116.119 for publication. The public notice information will be published on the TCEQ announcements page at www.tceq.state.tx.us/permitting/air/nav/all_types.html and the Texas Register for 30 days.
- After response to comment package is sent to commenters, the De Minimis Coordinator will amend the “List of De Minimis Facilities or Sources” and file de minimis package in the APD filing system.