

Texas Commission on Environmental Quality De Minimis Background and Overview

General Information

Senate Bill 766 of the 76th Texas Legislature created Texas Health and Safety Code (THSC) Section 382.05101, which authorized the Texas Commission on Environmental Quality (TCEQ) to create the criteria to establish a de minimis level of air contaminants for facilities or groups of facilities below which a permit under other THSC sections is not required. Title 30 Texas Administrative Code, Chapter 116.119 (30 TAC 116.119) designates four distinct categories of facilities eligible to be de minimis.

De Minimis without Prior Authorization

If a facility as a whole (all emissions of those contaminants at the site) meets at least one of the first three criteria in the de minimis rule, then registration or authorization prior to construction is not required. The first three categories: 1) de minimis list, 2) material usage rates, and 3) site-wide emission rate caps, have very specific requirements stated in [30 TAC § 116.119\(a\)\(1\)-\(3\)](#). If the facility meets one or more of the conditions under the first three categories, owners and 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. These conditions are limited to:

1. Categories of facilities or sources included on the *De Minimis Facilities or Sources* list. The list is available by request and on the TCEQ De Minimis Facilities or Sources List web page at www.tceq.texas.gov/permitting/air/guidance/newsourcereview/list-of-de-minimis-facilities.html.
2. Facilities or sources at a site which, in combination, use the following materials at no more than the indicated limits. (Demonstrate compliance with purchase records.)
 - A. cleaning and stripping solvents, 50 gallons per year
 - B. coatings (excluding plating materials), 100 gallons per year
 - C. dyes, 1,000 pounds per year
 - D. bleaches, 1,000 gallons per year
 - E. fragrances (excluding odorants), 250 gallons per year
 - F. water-based surfactants/detergents, 2,500 gallons per year
3. Facilities or sources located inside a building at a site which meets the site-wide emission rate caps based on the July 19, 2000 [Effects Screening Level \(ESL\) list](#) without the addition of control devices as listed in Table 1. (Demonstrate compliance with calculations.)

Table 1

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	
	(pounds/day)	(tons/year)	(pounds/day)	(tons/year)
≥ 3500 ($\mu\text{g}/\text{m}^3$)	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

Case by Case De Minimis

There may be facilities that are de minimis, but do not meet the pre-set criteria found in categories 1 - 3. TCEQ will review requests on a case-by-case basis under 30 TAC Chapter 116.119(a)(4). These requests require the TCEQ to evaluate the facility and its emissions under the conditions of the fourth category:

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

To ensure that case-by-case reviews are brief and consistent, provide all information as requested in [TCEQ Form 20045, PI-1 D Case-by-Case De Minimis Review Application Form, and Instructions](#). Since de minimis is intended to exempt a facility from having to obtain an air permit, all emissions associated with the facility, or any group of facilities, must meet de minimis criteria (no “partial permitting”).

Petition to Amend the De Minimis Facilities or Sources List

You may petition the executive director to amend the *De Minimis Facilities or Sources* list. The executive director may also initiate amendments to the list. The executive director will conduct public notice and hold a comment period on proposed amendments to the list. The executive will consider, at a minimum:

- typical operating scenarios;
- typical design and location;
- the types and rates of air contaminants emitted;
- engineering judgment and experience; and
- toxicological or health impacts.

If a category is deleted from the list, owners or operators will have 180 days from the date of publication of the amended list to obtain other authorization.

Contact Us

Send all correspondences regarding de minimis, including requests for case-by-case reviews, and petitions to amend the *De Minimis Facilities or Sources* list to the address in the Table 2.

Call the Air Permits Division with questions 512-239-1250.

Table 2

U.S. Mail Regular, Certified, or Priority Mail	Hand Delivery, Overnight Mail
TCEQ Office of Air Air Permits Division Mail Code 161, P.O. Box 13087 Austin, Texas 78711-3087	TCEQ Office of Air Air Permits Division Mail Code 161, 12100 Park 35 Circle, Building C, Third Floor, Room 300 W Austin, Texas 78753