



State of New Jersey

DEPARTMENT OF THE TREASURY
DIVISION OF TAXATION
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NOTICE TO ALL FACILITIES SUBJECT TO THE AIR TOXICS SURCHARGE

Effective retroactively to January 1, 2004, P.L. 2004, c. 51 imposes an air toxics surcharge upon the owner or operator of each "facility". For purposes of this law, "facility" means that building, equipment and contiguous area at a single location used to conduct business and for which the owner or operator is required to submit a **Release and Pollution Prevention Report (RPPR)** as per the New Jersey Department of Environmental Protection (DEP).

Registration

Those facilities that are currently required to file the RPPR have been pre-registered with the Division of Taxation for the Air Toxics Surcharge. Information regarding facility air toxin emissions that was reported to the DEP on the RPPR for the year 2002 has been shared with the Division of Taxation for purposes of calculating the Surcharge due.

The surcharge shall be based on the annual emissions of each Category 2, Category 3 and Category 4 toxic substances as reported in the RPPR. A list of toxic substances by Category can be obtained on the Division's website: www.state.nj.us/treasury/taxation. The air toxics surcharge due in a calendar year shall be based upon the data reported in the release and pollution prevention report for emissions that occurred two calendar years before the year for which the return is filed. **The Air Toxics Surcharge Return Assessment (Form ATX-100) with payment relating to emissions reported on the RPPR for the 2002 calendar year is due on or before MARCH 15, 2005.**

Air Toxics Surcharge Return

Facilities that have submitted a 2002 RPPR, relating to 2002 emissions, will receive a Return Assessment by the end of January 2005 outlining their Surcharge obligation. The pre-printed return will reflect the total emissions for each of the three categories as was reported on the RPPR to the DEP and a total Surcharge due.

Rates

The air toxics surcharge is based on pounds of the following substances released as stock or fugitive emissions as reported on the RPPR: \$0.10 per pound of Category 2 toxic substances, \$1.00 per pound of Category 3 toxic substances, and \$10.00 per pound of Category 4 toxic substances.

Credits

Chapter 51 also provides for three available credits for the air toxics surcharge. The first two credits described below can be claimed on the Air Toxics Surcharge Return. The third credit must be claimed separately on the Form ATX-200, Claim for Air Toxics Surcharge Credit.

A 50 % surcharge credit is available provided that the owner or operator certifies that the total actual emissions of mercury in 2002 is equal to or less than the numerical limits set by the DEP on mercury emissions from operation at the facility. This credit only applies to industries where mercury-related numerical limits are regulated by the DEP.

A 50% surcharge credit is available when the owner or operator has installed, uses and properly maintains selective catalytic reduction equipment or a scrubber, or other particulate control technology with similar benefits to selective catalytic reduction equipment or scrubbers, permitted by the DEP to reduce air emissions.

An owner or operator may claim up to 5% of the purchase price (excluding interest or financing costs) of any control equipment purchased or installed in 2002 and thereafter. The 5% credit may be claimed in one calendar year or spread over ten years. This surcharge credit form must be accompanied by a Certification of Air Toxic Surcharge Credit Qualification from the DEP certifying that use of the control equipment will result in the reduction or prevention of emissions of toxic substances to the atmosphere. An owner or operator claiming this credit must certify that the control equipment has been fully functional and properly maintained. This credit shall become effective for the calendar year in which the certification has been granted. The Claim for Air Toxics Surcharge Credit, Form ATX-200, will be available on the Division's website: www.state.nj.us/treasury/taxation.

The law caps the surcharge at \$500,000 annually. The maximum credit allowed in any given tax year is 50% of the total Air Toxics Surcharge due.

For further information regarding the Air Toxics Surcharge, contact the Division of Taxation Regulatory Services Branch (609) 292-5994. For RPPR inquiries, contact the the DEP's Office of Pollution Prevention and Right to Know, 401 E. State Street, PO Box 423, Trenton, NJ 08625-0423, via telephone at (609) 777-0518. For inquiries regarding control equipment certification from the DEP, contact the Air Preconstruction Permit section, 401 E. State Street, PO Box 027, Trenton, NJ 08625-0027 or via telephone at (609) 292-6716.