

**CHAPTER 50  
SMART MOVES PROGRAM**

**Authority**

N.J.S.A. 27:1A-5, 27:1A-6 and 27:26A, specifically 27:26A-4.3, and the Clean Air Act Amendments of 1990, § 182(d)(1), 42 U.S.C. § 7511a(d)(1)(B).

**Source and Effective Date**

R.2003 d.168, effective March 31, 2003.  
See: 34 N.J.R. 3580(a), 35 N.J.R. 1921(a).

**Chapter Expiration Date**

Chapter 50, Smart Moves Program, expires on March 31, 2008.

**Chapter Historical Note**

Chapter 50, Railroad Transportation—Public Hearings, was adopted and became effective prior to September 1, 1969.

Chapter 50, Railroad Transportation—Public Hearings, was repealed by R.1989 d.607, effective December 18, 1989. See: 21 N.J.R. 3258(b), 21 N.J.R. 3929(b).

Chapter 50, Employer Trip Reduction Program, was adopted as R.1993 d.626, effective December 6, 1993. See: 25 N.J.R. 3132(a), 25 N.J.R. 5494(b).

Subchapter 15, Employer Trip Reduction Program Tax Credit, was adopted as R.1995 d.75, effective February 6, 1995. See: 26 N.J.R. 756(a), 27 N.J.R. 521(a).

Subchapter 11, Disclosure of Information, was adopted as R.1995 d.338, effective June 19, 1995. See: 27 N.J.R. 827(a), 28 N.J.R. 2436(b).

Chapter 50, Employer Trip Reduction Program, was repealed and a new Chapter 50, Smart Moves Program, was adopted as R.1997 d.407, effective October 6, 1997. See: 29 N.J.R. 2794(a), 29 N.J.R. 4295(b).

Chapter 50, Smart Moves Program, was readopted as R.2003 d.168, effective March 31, 2003. See: Source and Effective Date. See, also, section annotations. As a part of R.2003 d.168, Subchapter 1, Statutory Authority and Subchapter 4, Employer Notification, were repealed, effective May 5, 2003.

**Law Review and Journal Commentaries**

Employment Law Supplement Overview: Commuting Statute. Michael K. Furey, Lynne A. Anderson, Shelly A. Dean, Scott A. Ohnegian, 136 N.J.L.J. No. 15, S4 (1994).

Rules of Employer Trip Reduction Program. G. Thomas Reynolds, 138 N.J.L.J. No. 8, 10 (1994).

Gearing Up for the Employer Trip Reduction Program. Peter J. Herzberg, Brian Montag, 160 N.J.Law. 27 (Mag.) (April 1994).

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**SUBCHAPTER 1. (RESERVED)**

**SUBCHAPTER 2. DEFINITIONS**

**16:50-2.1 Definitions**

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

**“Alternative fuel vehicle”** means a vehicle solely powered by energy sources that are non-polluting or produce emissions substantially below those of gasoline-powered vehicles. Alternative fuels shall include: electricity, natural gas, propane, methanol, and other fuels as defined in The Comprehensive National Energy Policy Act of 1992, Title 3: Section 301, Public Law 102-486, approved October 24, 1992.

**“Alternative work schedule”** means a compressed work week schedule, flextime or other flexible work hours schedule, or staggered work hours schedule.

**“Approved Smart Moves for Business Program”** means a program of an employer that has voluntarily registered with the Department, has submitted the standard documentation and has been certified by the Department as eligible for the Smart Moves for Business Program Tax Credits or a Smart Moves for Business Program Challenge Grant.

**“Buspool”** means and includes the operation of an auto-bus or autobuses, with a seating capacity of 16 or more persons, on a regular schedule between fixed termini, which provide service to a predetermined group of employees pursuant to a written contract between the employer or their designated agent and an authorized motorbus operator.

**“Carpool”** means a group of two to six occupants commuting to and from a work location by means of a vehicle with a seating capacity of 15 or fewer occupants. The driver of a taxi or other livery service is not counted as a carpool occupant.

**“Clean Air Act”** means the Federal Clean Air Act, as amended by Pub.L. 101-549 (42 U.S.C. §§ 7401 et seq.) and as amended by P.L. 104-70.

**“Commissioner”** means the Commissioner of Transportation of the State of New Jersey.

**“Commute alternative”** means the mode of travel between an employee's place of residence and place of employment, which is other than in a motor vehicle occupied by one person. Commute alternatives include, but are not limited to, public transportation, carpools, vanpools, buspools, ferries, bicycling, and walking, which may be used independent of or in conjunction with alternative work schedules, teleworking and like measures. For purposes of these rules, teleworking and telecommuting are considered commute alternatives.

**“Commuter transportation benefit”** means the cost to employers of providing benefits to an employee for utilizing commute alternatives and the cost of providing services and facilities which would encourage or facilitate use by employees of commute alternatives. The benefit shall include the costs of parking by employees at park-and-ride lots if used to benefit an employer's program.

**“Compressed work week”** or **“compressed work schedule”** means a schedule in which employees work either 35 or more hours in fewer than five consecutive week days or 70 or more hours in fewer than 10 consecutive week days. Compressed work schedules shall also include: “four day-40 hour”, “three day-36 hour”, “nine day-80 hour”, nine day-72 hour” schedules, and other work schedules that reduce the number or frequency of commute trips.

**“Cost”** means the invoice cost, purchase price, or contract amount of an eligible Smart Moves for Business Program expense, excluding interest on the debt of a capital improvement. The term does not include peripheral or indirect costs associated with the purchase, installation or construction of equipment, or the costs associated with the advertisement, solicitation of bids, and/or awarding of a contract. Ineligible costs, include, but are not limited to, sales tax and shipping costs.

**“Department”** means the New Jersey Department of Transportation.

**“Division of Taxation”** means the New Jersey Department of Treasury, Division of Taxation.

**“Dual fuel vehicle”** means a highway vehicle with the capability to be powered by either of two fuels, one of which is gasoline and the other of which is an alternative fuel, such as natural gas, propane, methanol, or other fuel as defined in The Comprehensive National Energy Policy Act of 1992, Title 3, Section 301, Public Law 102-486, approved October 23, 1992, (42 U.S.C. § 13211).

**“Eligible expense”** means a direct expenditure made by a tax credit employer to provide commuter transportation benefits in support of its Smart Moves for Business Program. The expenses must be outlined in the employer's Smart Moves for Business Program Narrative and approved by the Department of Transportation as eligible for the Smart Moves for Business Tax Program Credit. Categories of eligible expenses are identified in N.J.A.C. 16:50-9.2.

**“Employee”** means a partner or limited partner in a partnership, or any person employed by an employer, in a full-time or part-time, permanent, temporary, or contract position, excluding volunteers.

**“Employee survey”** means a survey of employees' commute patterns that may be conducted at an employer's work location to determine the mode choice and participation level of employees in commute alternatives. An employee survey is not required under this chapter.

**“Employee transportation coordinator”** or **“ETC”** means an employee that may be appointed by an employer to develop and administer a Smart Moves for Business Program at a work location.

1. Tax credit employers must submit a Smart Moves for Business Program Narrative to the Department prior to filing a tax return claiming a Smart Moves for Business Tax Credit with the Division of Taxation.

2. Tax credit employers that are members of a TMA, as defined in N.J.A.C. 16:50-2, shall be considered as having an approved Smart Moves for Business Program and shall not be required to submit individual narratives to the Department. Notwithstanding this provision, membership in a TMA does not remove or reduce the responsibility of the employer to maintain all necessary documentation with regard to the number of employees participating in commute alternatives and the expenses associated with such activities.

Amended by R.2003 d.168, effective May 5, 2003.  
See: 34 N.J.R. 3580(a), 35 N.J.R. 1921(a).

### 16:50-6.3 Components of a standard narrative

(a) Tax credit employers shall prepare Smart Moves for Business Program Narratives using a standard form developed by the Department. The Smart Moves for Business Program Narrative shall include the following:

1. The name of the tax credit employer, address of the work location, and name, title, and telephone number of the designated contact person or employee transportation coordinator (ETC), if one is appointed by the employer at the work location, and the tax identification number of the employer;

2. The total number of employees at the work location;

3. A list of the Smart Moves for Business strategies currently available to employees at the work location;

4. A schedule of the actual and projected costs (with actual and anticipated implementation periods) to develop, implement, and monitor the Smart Moves for Business Program, and the number of employees participating in commute alternatives; and

5. A statement signed by the highest ranking responsible officer at the work location attesting that the information contained in the narrative is accurate and correct and that the employer will retain all Smart Moves for Business documents on file, as required by N.J.A.C. 16:50-6.7, and make such documents available for review by the Department or its agent.

(b) Other participating employers, not proposing to apply for the Smart Moves for Business Tax Credit, are encouraged to report their activities to the Department using a simplified standard Smart Moves for Business Program Narrative form. Participating employers may also utilize the services of a TMA in their area for reporting purposes. Participating employers shall be requested to provide the following information:

1. The name of the participating employer, address of the work location, and name, title, and telephone number of the designated contact person or employee transportation coordinator (ETC), if one is appointed by the employer at the work location;

2. The total number of employees at the work location; and

3. A list of the Smart Moves strategies currently available to employees at the work location, and the number of employees participating in commute alternatives.

(c) TMAs that submit program information for member employers shall prepare and submit TMA Member Employer Summary Narratives using a standard form developed by the Department. The TMA Member Employer Summary Narrative shall include the following:

1. A list of tax credit employer members, their respective tax identification number, the work location address of each tax credit member employer, and the date the employer became a member of the TMA;

2. The total number of employees at the work location and the number of employees participating in commute alternatives, and a list of the commute alternatives offered;

3. The total costs to develop, implement, and monitor the Smart Moves for Business Program for each tax credit member employer; and

4. A statement signed by the TMA executive director or president who shall attest to the correctness of the information included in the narrative and that the employers included in the narrative are current members in good standing of the TMA, and that the TMA will retain all Smart Moves for Business documents on file, as required by this subchapter, and make such documents available for review by the Department or its agent. Notwithstanding this provision, an employer claiming eligible expenses and the employer tax credit remain wholly responsible and liable for the information provided to the TMA for submittal by the TMA to the Department.

Amended by R.2003 d.168, effective May 5, 2003.  
See: 34 N.J.R. 3580(a), 35 N.J.R. 1921(a).

### 16:50-6.4 Employee survey

Although not required to do so, employers are encouraged to conduct an employee survey and report the results of an employee survey to the Department. However, tax credit employers may use the results of periodic employee transportation surveys as one method of documenting the number of participating employees for purposes of determining eligible expenses for the employer tax credits provided for in this chapter.

**16:50-6.5 Multiple site employers**

(a) An employer with more than one participating location may submit one narrative for any or all of the participating locations, provided that the same tax identification number applies to all work locations. A multiple site employer shall submit individual narratives for each tax identification number against which the employer tax credit shall be claimed.

(b) The Multiple Site Employer Smart Moves for Business Program Narrative shall include a list of all of the participating work locations.

(c) An employer may only submit a Multiple Site Narrative that represents information relative to its own worksites. An employer shall not submit a Multiple Site Narrative with another employer.

**16:50-6.6 Appointment of an employee transportation coordinator**

(a) Employers are encouraged to designate an employee transportation coordinator (ETC) at each participating work location to administer the Smart Moves for Business Program at that work location. However, the appointment of an ETC is not required.

(b) Employers are not required to send any designated ETC to training.

**16:50-6.7 Document recordkeeping**

(a) Each tax credit employer shall maintain copies of all documents prepared or used in the document preparation by the employer or by other entities acting on behalf of the employer in accordance with these rules. These documents shall include, but not be limited to, documents related to:

1. Preparation of Smart Moves for Business Program Narratives;
2. Costs and expenses relative to the development, implementation and monitoring of the Smart Moves for Business Program; and
3. Documentation of employee participation, such as: periodic employee surveys, personnel records reflecting alternative work schedules, employee registration for commuter transportation benefits, etc.

(b) A tax credit employer shall maintain the documents set forth in (a) above in the office of the ETC or the HRRO for a period not less than four years from the date the documents were first generated.

(c) Each TMA shall maintain copies of all documents prepared or used in the document preparation by the TMA on behalf of their employer members in accordance with these rules. These documents shall include, but not be limited to, documents related to:

1. Preparation of Smart Moves for Business Program Narratives; and

2. Costs and expenses relative to the development, implementation and monitoring of the Smart Moves for Business Program as reported by the member employer.

(d) A TMA shall maintain the documents set forth in (c) above in the office of the executive director or president for a period not less than four years from the date the documents were first generated.

Amended by R.2003 d.168, effective May 5, 2003.

See: 34 N.J.R. 3580(a), 35 N.J.R. 1921(a).

In (d), substituted "(c)" for "(b)" following "set forth in".

**SUBCHAPTER 7. NARRATIVE REVIEW PROCESS****16:50-7.1 Narrative review schedule**

Within 180 days of receipt of a Smart Moves for Business Program Narrative from a tax credit employer or a TMA Member Employer Summary Narrative from a TMA, the Department shall review the narrative for completeness and consistency with the provisions of this chapter and shall return incomplete and inconsistent Program Narratives to the tax credit employer or TMA preparer for revisions. If the Department returns a narrative, the Department shall concurrently notify the Division of Taxation that the narrative was returned and the reason(s) for which it was returned. An applicant whose narrative is returned has the option to revise and re-submit the narrative to the Department, either by itself or through a TMA, but must revise and resubmit a corrected narrative to the Department prior to filing a tax return claiming a Smart Moves for Business Tax Credit with the Division of Taxation. If the Department does not return a narrative within 180 days of submittal, the narrative shall be considered approved by the Department.

Amended by R.2003 d.168, effective May 5, 2003.

See: 34 N.J.R. 3580(a), 35 N.J.R. 1921(a).

Rewrote the section.

**16:50-7.2 Program narrative review guidelines**

The Department shall review Program Narratives submitted by tax credit employers for completeness and consistency, including the presence of the standard Program Narrative sections, as described in N.J.A.C. 16:50-6.

**SUBCHAPTER 8. SMART MOVES FOR BUSINESS CHALLENGE GRANTS****16:50-8.1 Purpose and intent**

(a) The Smart Moves for Business Challenge Grants Program is a Department-funded program to award financial assistance grants to New Jersey employers to implement innovative commuter assistance services at their worksites.