

**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Chapter 50, Railroad Transportation—Public Hearings, was repealed by R.1989 d.607, effective December 18, 1989.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Chapter 50, Employer Trip Reduction Program, was repealed and a new Chapter 50, Smart Moves Program, was adopted as R.1997 d.407, effective October 6, 1997.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 As a part of R.2003, d.168, Subchapter 1, Statutory Authority and Subchapter 4, Employer Notification, were repealed, effective May 5, 2003.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).

**CHAPTER TABLE OF CONTENTS**

SUBCHAPTER 1. (RESERVED)

SUBCHAPTER 2. DEFINITIONS

16:50-2.1 Definitions

SUBCHAPTER 3. ENTITIES ELIGIBLE TO PARTICIPATE; INFORMATION RESOURCES

16:50-3.1 Entities eligible to participate; information resources

SUBCHAPTER 4. (RESERVED)

SUBCHAPTER 5. EMPLOYER PARTICIPATION

16:50-5.1 Registration schedule  
16:50-5.2 Completion and submittal of registration form

SUBCHAPTER 6. NARRATIVE STANDARDS, SUBMITTAL SCHEDULE, AND COMPONENTS

16:50-6.1 Standards  
16:50-6.2 Narrative submittal schedule  
16:50-6.3 Components of a standard narrative  
16:50-6.4 Employee survey  
16:50-6.5 Multiple site employers  
16:50-6.6 Appointment of an employee transportation coordinator  
16:50-6.7 Document recordkeeping

SUBCHAPTER 7. NARRATIVE REVIEW PROCESS

16:50-7.1 Narrative review schedule  
16:50-7.2 (Reserved)

SUBCHAPTER 8. SMART MOVES FOR BUSINESS CHALLENGE GRANTS

16:50-8.1 Purpose and intent  
16:50-8.2 Eligibility criteria  
16:50-8.3 Requests for applications  
16:50-8.4 Submission requirements  
16:50-8.5 Application and review procedures  
16:50-8.6 Monitoring  
16:50-8.7 Rescission and withholding of funds  
16:50-8.8 Severability

SUBCHAPTER 9. SMART MOVES FOR BUSINESS PROGRAM TAX CREDIT

16:50-9.1 Standards  
16:50-9.2 Eligible expenses  
16:50-9.3 Proof of registration  
16:50-9.4 Appeals

SUBCHAPTER 10. DISCLOSURE OF INFORMATION

16:50-10.1 Administration of the Smart Moves for Business Program  
16:50-10.2 Authorized disclosure of information

SUBCHAPTER 11. PROGRAM MONITORING

16:50-11.1 Work location reviews  
16:50-11.2 TMA reviews  
16:50-11.3 Non-adherence to program standards

SUBCHAPTER 12. APPEALS

16:50-12.1 Standards

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 autobus 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.