



San Francisco International Airport

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**MEMORANDUM**

July 7, 2009

**TO:** MEMBERS, AIRPORT COMMISSION  
Hon. Larry Mazzola, President  
Hon. Linda S. Crayton, Vice President  
Hon. Caryl Ito  
Hon. Eleanor Johns  
Hon. Richard Guggenhime

**FROM:** Airport Director

**SUBJECT:** Amendment to the Airport's Rules and Regulations --  
Commuter Benefits Program

**DIRECTOR'S RECOMMENDATION**

CONDUCT A PUBLIC HEARING FOR COMMENTS ON THE PROPOSED ADDITION OF SECTION 1.11.3(E) TO THE AIRPORT'S RULES AND REGULATIONS AND ADOPT THE PROPOSED AMENDMENT REQUIRING A COMMUTER BENEFITS PROGRAM.

**BACKGROUND**

To encourage employees to use public transit or van pools and to take advantage of certain federal tax reduction programs, staff proposes the Commission adopt a rule, as part of the Tenant Trip Reduction Program, requiring Airport tenants and contractors holding individual tenant agreement with 20 or more employees to implement a Commuter Benefits Program within six months of the adoption date or establishment of tenancy at the Airport. If adopted, the rule will be incorporated in the Airport's Rules and Regulations.

Existing Federal Tax law, 26 U.S.C. § 132(f) [Internal Revenue Code], allows employers and employees to reduce the cost of public transit by enabling employers to deduct as a business expense, qualified transportation benefits that the employer provides for employees' personal transportation costs for commuting to and from work, or by allowing employees to purchase qualifying transit passes or reimbursement for vanpools rides with pre-tax dollars.

AIRPORT  
COMMISSION  
CITY AND COUNTY  
OF SAN FRANCISCO

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MAYOR

LARRY MAZZOLA  
PRESIDENT

LINDA S. CRAYTON  
VICE PRESIDENT

CARYL ITO

ELEANOR JOHNS

RICHARD J. GUGGENHIME

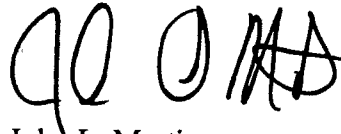
JOHN L. MARTIN  
AIRPORT DIRECTOR

Members, Airport Commission  
July 7, 2009  
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The Airport's Commuter Benefits Program is based on the City's Commuter Benefits Ordinance 199-08, which was passed by the San Francisco Board of Supervisors on August 8, 2008 and was effective September 22, 2008. The Commuter Benefits Ordinance requires all employers in San Francisco that have 20 or more persons performing work for compensation on a full-time, part-time, or temporary basis, and who work an average of at least 10 hours a week while working for the same employer within the previous calendar month, to offer a commuter benefits program. Covered employers must provide at least one of the following commuter benefits programs to covered employees: (1) Pre-Tax Election, (2) Employer Paid Benefit, or (3) Employer Provided Transit.

To enforce this requirement, Appendix C (Fine Schedule) includes a \$200.00 per day fine for failure to develop or submit a trip reduction program, a revised trip reduction program, or a program update as required. It also includes a \$200.00 per day fine for failure to implement an Airport-approved trip reduction program.

I request that this Commission hold a public hearing for comment on this proposed amendment to the Airport's Rules and Regulations and approve this resolution incorporating the amendment to the Rules and Regulations.



John L. Martin  
Airport Director

Prepared by: Tryg McCoy  
Deputy Airport Director  
Operations and Security

Attachments

**“ATTACHMENT A”**

**AMENDMENT  
TO THE  
AIRPORT’S RULES AND REGULATIONS**

**Change title of Section 1.11.3 from:**

"Requirements for Airport Tenants and Contractors under Individual Tenant Agreements with 100 or More Employees"

**to:**

"Requirements for Airport Tenants and Contractors under Individual Tenant Agreements with 20 or More Employees"

**Add New Section 1.11.3(E) – below:**

**E. Tenant Trip Reduction Program - Commuter Benefits Program.** As part of the Tenant Trip Reduction Program, each Covered Employer shall implement a Commuter Benefits Program (CBP) within the time frame specified in Section 1.11.3(E)(2) below. The CBP shall include the following provisions:

**(1) Definitions.**

Whenever used in Section 1.11.3(E) only, the following terms shall have the meanings set forth below.

- (a) "Alternative Commute Mode" shall mean public transit (bus, train, ferry, etc.), vanpool, carpool (including "casual carpool"), bicycling, and walking.
- (b) "Airport" shall mean the San Francisco International Airport.
- (c) "Covered Employee" shall mean any person who:
  - (i) Performed an average of at least ten (10) hours of work per week for compensation within the geographic boundaries of the Airport for the same Employer within the previous calendar month; and
  - (ii) Qualifies as an employee entitled to payment of a minimum wage from the Employer under the California minimum wage law, as provided under Section 1197 of the California Labor Code and wage orders published by the California Industrial Welfare Commission, or is a participant in a Welfare-to-Work Program.
- (d) "Covered Employer" shall mean an Employer for which an average of twenty (20) or more persons per week perform work for compensation. In determining the number of persons performing work for an Employer during a given week, all

persons performing work for compensation on a full-time, part-time or temporary basis, including those who perform work outside of the geographic boundaries of the Airport, shall be counted, including persons made available to work through the services of a temporary services or staffing agency or similar entity.

- (e) "Employer" shall mean a Tenant as defined in Section 1.11.9.26 or a Contractor Under Individual Tenant Agreement as defined in Section 1.11.9.10. "Employer" shall not include any governmental entity.
- (f) "Transit Pass" shall mean any pass, token, fare card, voucher or similar item entitling a person to transportation on public transit within the meaning of 26 U.S.C. § 132(f)(5)(A), as the Federal law may be amended from time to time, including but not limited to, travel by ferry, bus, trolley, streetcar, light rail or train by MUNI, BART, AMTRAK, CALTRAIN, SAMTRANS or GOLDEN GATE TRANSIT.
- (g) "Vanpool" shall mean a 'commuter highway vehicle' within the meaning of 26 U.S.C. § 132(f)(5)(B), as the federal law may be amended from time to time, which currently means any highway vehicle:
  - (i) the seating capacity of which is at least 6 adults (not including the driver), and
  - (ii) at least 80% of the mileage use of which can reasonably be expected to be (a) for the purpose of transporting employees in connection with travel between their residences and their place of employment; and (b) on trips during which the number of employees transported for such purposes is at least ½ of the seating capacity of such vehicle (not including the driver).

(2) **Commuter Benefits Program.**

For Covered Employers with an operating permit or any other permit issued by the Airport authorizing operations or the provision of services at the Airport as of July 7, 2009, this rule will take effect on January 18, 2010. For Covered Employers issued such permit after July 7, 2009, this rule will take effect within six (6) months of the issuance of such permit. All Covered Employers shall provide at least one of the following commuter benefits programs to Covered Employees:

- (a) **Pre-Tax Election:** A program, consistent with 26 U.S.C. § 132(f), allowing Employees to elect to exclude from taxable wages and compensation, employee commuting costs incurred for transit passes or vanpool charges (but not for parking), up to maximum level allowed by federal tax law, 26 U.S.C. 132 (f)(2),

which presently is one hundred and twenty dollars per month (\$120);

- (b) Employer Paid Benefit: A program whereby the Employer supplies a transit pass for the public transit system requested by each Covered Employee or reimbursement for equivalent vanpool charges at least equal in value to the purchase price of the appropriate benefit, which shall not exceed the cost of an adult San Francisco MUNI Fast Pass, which presently is \$45; or
- (c) Employer Provided Transit: Transportation furnished by the Employer at no cost to the Covered Employee in a vanpool or bus, similar multi-passenger vehicle operated by or for the employer.

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 09-0169

**AMENDMENT TO THE AIRPORT'S RULES AND REGULATIONS –  
COMMUTER BENEFITS PROGRAM**

WHEREAS, the Airport is committed to protecting the public health, safety, welfare, and environment; and

WHEREAS, encouraging employees to use public transit and van pools to reach their place of employment will reduce air pollution from private cars; and

WHEREAS, existing Federal Tax law, 26 U.S.C. § 132(f) [Internal Revenue Code], allows employers and employees to reduce the cost of public transit by enabling employers to deduct as a business expense, qualified transportation benefits that the employer provides for employees' personal transportation costs for commuting to and from work, or by allowing employees to purchase qualifying transit passes or reimbursement for vanpools rides with pre-tax dollars; and

WHEREAS, the Airport Commuter Benefits Program is based on the City and County of San Francisco's Commuter Benefits Ordinance 199-08 passed by the San Francisco Board of Supervisors on August 8, 2008 and effective September 22, 2008; and

WHEREAS, staff held tenant briefings on June 22, 23, and 24, 2009 and addressed tenants' concerns; and

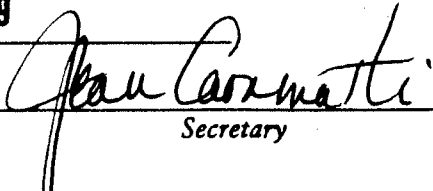
WHEREAS, fines for non-compliance exists in Appendix C through the trip reduction rule fine schedule; now, therefore, be it

RESOLVED, that this Commission, pursuant to Charter Section 4.104, hereby adopts Section 1.11.3(E), "Tenant Trip Reduction Program – Commuter Benefits Program" to the Airport's Rules and Regulations as set forth in Attachment A, effective July 7, 2009.

*I hereby certify that the foregoing resolution was adopted by the Airport Commission*

**JUL 07 2009**

*at its meeting of* \_\_\_\_\_

  
\_\_\_\_\_  
Secretary