



METROPOLITAN
TRANSPORTATION
COMMISSION

Agenda Item 5

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Memorandum

TO: Planning Committee

DATE: March 7, 2014

FR: Executive Director

W.I.: 1222

RE: Bay Area Commuter Benefits Program: Resolution No. 4134

This memorandum requests the Committee to forward Resolution 4134 to the full Commission for approval to support implementation of the Bay Area Commuter Benefits Program pursuant to Senate Bill 1339 in coordination with the Bay Area Air Quality Management District (Air District).

Background

Senate Bill 1339 (enacted in 2012) authorizes the Air District and MTC to adopt and implement a Bay Area Commuter Benefits Program (Program) on a pilot basis effective until January 1, 2017 that will require the roughly 10,000 employers with 50 or more full-time employees in the Bay Area to offer one of three commuter benefit options to their employees, or obtain approval of a suitable alternative. SB 1339 requires the Air District and MTC to jointly evaluate and report on the results of the Program no later than July 1, 2016. MTC and Air District staff have developed the Program under which the Air District will enforce compliance with the Program through adoption of a new ordinance (Regulation 14, Rule 1: Bay Area Commuter Benefits Program) and MTC will provide outreach services to inform and assist employers to implement the requirements.

The requirements of SB 1339 are similar to several local ordinances in the San Francisco Bay Area (including the City and County of San Francisco, City of Richmond, the City of Berkeley, and the San Francisco International Airport). The proposed regional program is being coordinated with these local programs to minimize confusion for employers.

Many Bay Area employers, especially large companies and organizations, already offer services and incentives to encourage the use of alternative commute modes and several employer assistance programs already exist in some counties to help Bay Area employers develop and implement effective programs. The proposed Bay Area Commuter Benefits Program will complement and build upon these existing programs.

Program Development

In the course of developing the proposed Program, Air District and MTC staff met with many business groups and employer organizations, including multiple Chambers of Commerce and

economic development associations in cities and counties throughout the region. Staff also engaged stakeholders, including Congestion Management Agencies, Transportation Management Associations, the staff of local cities with commuter benefit ordinances, vendors that administer commuter benefit programs for employers, and Bay Area transit agencies.

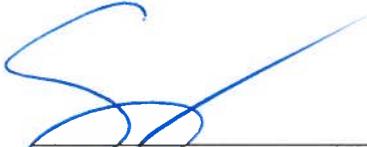
The Air District issued the preliminary draft Program in August 2013 for informal review of the ordinance. Formal public workshops were held in all nine Bay Area counties in October 2013 to solicit input on the draft Program. The comments received in response to the draft Program were reviewed and considered when preparing the final documents. The proposed final documents including: the proposed Regulation 14, Rule 1; a Staff Report; the Initial Study and Negative Declaration for purposes of CEQA, and a socio-economic analysis; were issued for public review and comment in January 2014, in anticipation of a public hearing before the Air District Board of Directors on March 19, 2014. A summary of the review process, comments received, and responses to these comments is provided in Attachment B.

Attachment C includes presentation slides that will be presented at your meeting and provide further detail on the program guidelines and implementation. The Air District and MTC will encourage compliance by means of outreach and education to employers and will assist employers that do not already have commuter benefit programs. Employer registration will be offered through an on-line system managed by the 511 Regional Rideshare Program. In the event that an employer does not register and comply with the rule by the September 30, 2014 deadline, enforcement will be pursued by the Air District using the civil enforcement powers granted to it by California Health & Safety Code section 42402.

MTC's primary role in implementing the program will be to develop and manage employer outreach activities through the 511 Regional Rideshare Program and provide user-friendly information to help employers comply with the Program. Commuter benefit information will be easily accessible on 511.org. The Air District's primary role is development of the Rule, Program compliance and enforcement, and to coordinate with MTC to complete the Program evaluation. These respective responsibilities are described in Resolution No. 4134.

Staff Recommendation

Staff will present the draft Program to the Policy Advisory Council on March 12 and will report on their input at your meeting on March 14, 2014. The Program and ordinance will be presented for approval by the Air District Board of Directors on March 19, 2014. Pending their approval, staff recommends that the Committee forward Resolution No. 4134 to the full Commission for approval to support implementation of the Bay Area Commuter Benefits Program pursuant to Senate Bill 1339.



Steve Heminger

SH: CMG

Date: March 26, 2014
W.I.: 1222
Referred by: Planning

ABSTRACT

Resolution No. 4134

Under this resolution, the Metropolitan Transportation Commission (MTC) adopts the Bay Area Commuter Benefits Program and ratifies the Bay Area Air Quality Management District's adoption of an Ordinance entitled Air District Regulation 14, Mobile Source Emissions Reduction Measures, Rule 1, Bay Area Commuter Benefits Program. This resolution implements MTC's obligations under Senate Bill 1339 (Yee, 2012).

Further discussion of this action is contained in the Executive Director's memorandum dated March 14, 2014.

Date: March 26, 2014
W.I.: 1222
Referred by: Planning

METROPOLITAN TRANSPORTATION COMMISSION
Resolution No. 4134

WHEREAS, the Metropolitan Transportation Commission (MTC) is the regional transportation planning agency for the San Francisco Bay Area pursuant to Government Code 66500 et seq.; and

WHEREAS, the Bay Area Air Quality Management District (Air District) is the San Francisco Bay Area's air pollution control agency; and

WHEREAS, Senate Bill 1339 (Yee, 2012) (SB 1339), effective January 1, 2014, authorizes the Air District and the MTC to jointly adopt a commuter benefit ordinance on a pilot basis, effective until January 1, 2017; and

WHEREAS, SB 1339 requires the Air District and MTC to jointly evaluate and report on the results of the commute benefit ordinance no later than July 1, 2016; and

WHEREAS, pursuant to SB 1339, the Air District and MTC have developed the Bay Area Commuter Benefits Program (Program) and related Air District Regulation 14, Mobile Source Emissions Reduction Measures, Rule 1, Bay Area Commuter Benefits Program (Ordinance); and

WHEREAS, the primary goal of the Program is to expand the number of employers who provide commuter benefits and increase the number of employees who take alternative commute modes to driving as solo drivers, such as transit, vanpools, carpools, biking; and

WHEREAS, the Program will also reduce motor vehicle emissions, improve air quality and help the San Francisco Bay Area achieve the climate protection targets set by Assembly Bill 32 and Senate Bill 375 (Steinberg, 2008); and

WHEREAS, the Program will require employers with 50 or more full-time employees, in the geographic boundaries of the Air District, to offer one of three commuter benefit options, or

an equivalent benefit option, to their employees and implement the benefit, no later than six months after adoption of the Program; and

WHEREAS, the Program will also require employers to provide an annual registration update and information needed to evaluate the Program, if requested by MTC and the Air District; and

WHEREAS, the Air District will manage compliance with, and enforcement of, the Ordinance, attached hereto as Attachment A, and assist MTC with Program evaluation; and

WHEREAS, MTC will manage employer outreach activities related to the Program through the 511 Regional Rideshare Program and assist the Air District with Program evaluation; and

WHEREAS, the Air District has approved the Program and Ordinance; now, therefore, be it

RESOLVED, that MTC adopts the Program and ratifies the Air District's adoption of the Ordinance; and, be it further

RESOLVED, that MTC will manage employer outreach activities through the 511 Regional Rideshare Program, and assist the Air District with Program evaluation and in preparing a report on the Program to the State Legislature as required by SB 1339.

METROPOLITAN TRANSPORTATION COMMISSION

Amy Rein Worth, Chair

This resolution was entered into by the Metropolitan Transportation Commission at a regular meeting of the Commission held in Oakland, California on March 26, 2014.

REGULATION 14
MOBILE SOURCE EMISSIONS REDUCTION MEASURES
RULE 1
BAY AREA COMMUTER BENEFITS PROGRAM
(To Be Presented for Approval by the BAAQMD on March 19, 2014)
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REGULATION 14
MOBILE SOURCE EMISSIONS REDUCTION MEASURES
RULE 1
BAY AREA COMMUTER BENEFITS PROGRAM

14-1-100 GENERAL

14-1-101 Description: This rule serves as the regional commute benefits ordinance authorized by California Government Code section 65081. The purpose of this rule is to improve air quality, reduce emissions of greenhouse gases and other air pollutants, and decrease traffic congestion in the San Francisco Bay Area by encouraging employees to commute to work by transit and other alternative commute modes.

14-1-102 Applicability: This rule applies to all public, private, and non-profit employers for which an average of 50 or more full-time employees per week perform work for monetary compensation within the geographic boundaries of the Bay Area Air Quality Management District (District) as determined pursuant to Section 14-1-402.

14-1-103 Disclaimers: This rule shall not be interpreted to:

- 103.1 Prevent an employer from offering a commuter benefits program that is more generous than the minimum requirements described in this rule, provided that the employer complies with all provisions of this rule.
- 103.2 Require any employee to change his or her commute mode.
- 103.3 Absolve any employer or other party from any obligation required by an existing collective bargaining agreement with employees, or any provision of law.

14-1-200 DEFINITIONS

14-1-201 Air Pollution Control Officer (APCO): The Executive Officer of the Bay Area Air Quality Management District, or a designee of the APCO.

14-1-202 Alternative Commute Modes: Transit, vanpool, carpool, bicycling, or walking.

14-1-203 Commuter Benefits: Benefits, services, and information provided by an employer, consistent with Section 14-1-300, to encourage employees to commute by alternative commute modes.

14-1-204 Commuter Benefits Coordinator: An employee or other agent designated by the employer who is responsible for implementing the employer's commuter benefits program and complying with the requirements of this rule.

14-1-205 Employee: Any person who performs services for the employer in return for monetary compensation and to whom the employer has provided or will provide an Internal Revenue Service Form W-2.

14-1-206 District: The Bay Area Air Quality Management District.

14-1-207 Covered Employee: An employee who performed an average of at least 20 hours of work per week within the previous calendar month within the geographic boundaries of the District, excluding a seasonal/temporary employee as defined in Section 14-1-210.

14-1-208 Employer: Any public, private, or non-profit entity (person, corporation, partnership, business firm, government agency, special purpose agency, educational institution, health care facility, etc.) for which an average of 50 or more full-time employees per week perform work for monetary compensation within the geographic boundaries of the District as determined

- pursuant to Section 14-1-402. The term excludes seasonal/temporary employees as defined in Section 14-1-210.
- 14-1-209 Full-time Employee:** An employee who performed an average of at least 30 hours of work per week within the previous calendar month within the geographic boundaries of the District, excluding a seasonal/temporary employee as defined in Section 14-1-210.
- 14-1-210 Seasonal/Temporary Employee:** An employee who works for the employer 120 days or less within the calendar year.
- 14-1-211 Transit:** Bus, rail, or ferry service operated by a public agency or a private entity.
- 14-1-212 Transportation Management Association (TMA):** An organization, funded in whole or in part by employers and/or property owners, through which employers, developers, property managers or owners, business improvement districts, and/or local government agencies work together to provide information and services to encourage the use of alternative commute modes. The employer financial contribution to a TMA may be in the form of a direct membership payment, via an assessment earmarked for specific commuter benefit programs or services, or indirectly through the rent paid to a business park or building covered by a TMA.
- 14-1-213 Vanpool:** A commute mode using a vehicle with a seating capacity of at least six adults (not including the driver) that meets the definition of "commuter highway vehicle" in Internal Revenue Code Section 132(f)(5)(B).
- 14-1-300 STANDARDS**
- 14-1-301 Commuter Benefit Options:** No later than six (6) months after adoption of this rule by the District Board of Directors and concurrence by the MTC Commission, whichever is later, each employer subject to this rule must offer, either directly or through a TMA as defined in Section 14-1-212, at least one of the following commuter benefit options to all covered employees.
- 301.1 Option 1: Pre-tax option: A program, consistent with Section 132(f) of the Internal Revenue Code, allowing covered employees to elect to exclude from taxable wages costs incurred for transit passes or vanpool charges, up to the maximum amount allowed by federal tax law.
- 301.2 Option 2: Employer-paid benefit: A program whereby the employer offers employees a subsidy to offset the monthly cost of commuting via transit or by vanpool. In 2013, the subsidy shall be equal to either the monthly cost of commuting via transit or vanpool, or seventy-five dollars (\$75), whichever is lower. The APCO shall annually adjust this amount consistent with the California Consumer Price Index for San Francisco-Oakland-San Jose. An employer may also elect to provide a subsidy for bicycle commuting costs in addition to subsidies for transit and vanpool costs.
- 301.3 Option 3: Employer-provided transit: Transportation furnished by the employer at no cost, or low cost as determined by the APCO, to employees in a vanpool or bus, or similar multi-passenger vehicle operated by or for the employer.
- 14-1-302 Alternative Commuter Benefit Program:** Pursuant to Government Code sections 65081(d) and (g), in lieu of complying with Section 14-1-301, an employer may offer an alternative benefit, either directly or through a TMA as defined in Section 14-1-212. The alternative benefit must be proposed in writing, must comply with guidelines issued by the APCO, and must be approved in writing by the APCO. The criterion for approval of an alternative commuter benefit is that it must provide at least the same reduction in single-occupant vehicle trips as any of the options described in Section 14-1-301.

14-1-400 ADMINISTRATIVE REQUIREMENTS

14-1-401 Notification to Employers: The APCO will provide notice to employers within the District regarding the adoption and implementation of this rule by means of written notice and/or email notification.

14-1-402 Determination of Employee Count: For purposes of determining applicability of this rule pursuant to Section 14-1-102, the number of full-time employees employed by an employer shall be determined by calculating the average number of employees per week carried on the payroll over the course of the most recent three-month period, consistent with guidelines issued by the APCO.

14-1-403 Designate Commuter Benefits Coordinator: Employers subject to this rule shall designate a Commuter Benefits Coordinator who is responsible for implementing the employer's commuter benefits program and complying with the requirements of this rule.

14-1-404 Initial Registration: Employers subject to this rule shall submit an initial registration to the APCO no later than six (6) months after the adoption of this rule by the District Board of Directors and concurrence by the MTC Commission, whichever is later. In registering, the employer shall provide information necessary for purposes of this rule, consistent with any guidance issued by the APCO, and shall verify the accuracy of the information. This information shall include:

404.1 The employer name;

404.2 The name, job title, and contact information for the Commuter Benefits Coordinator;

404.3 The total number of full-time employees and covered employees within the geographic boundaries of the District;

404.4 The location of each work site within the District boundaries;

404.5 The number of full-time employees and covered employees at each work site;

404.6 The commuter benefits option that the employer has chosen to implement to comply with Section 14-1-300.

404.7 Employers who become subject to this rule at any time pursuant to Section 14-1-402 shall register with the APCO and comply with all requirements in this rule no later than six (6) months of becoming subject to this rule.

14-1-405 Employee Notification: Using appropriate means such as email messages, paper memos, in-house newsletters or bulletins, and/or conventional or electronic bulletin boards, the employer shall:

405.1 Notify all covered employees that the employer is subject to the requirements of the rule;

405.2 Inform employees as to which of the commuter benefit options the employer will offer;

405.3 Provide information as to how a covered employee may apply for and receive the commuter benefit;

405.4 Provide a point of contact within the organization for further information about the commuter benefit; and

405.5 Provide commuter benefits information as part of the employee benefits package explained to all newly hired employees.

405.6 The employer shall provide to employees the notifications required by Sections 14-1-405.2, 405.3, and 405.4 when the commuter benefit is first made available to employees, and at least once per year thereafter.

14-1-406 Annual Registration Update: After initially registering with the APCO pursuant to Section 14-1-404, the employer shall update and verify its registration information on an annual basis.

- 14-1-407 Program Evaluation:** Employers shall provide information needed to evaluate the results of the rule, or facilitate the development of such information, upon request by the APCO.
- 14-1-408 Role of Transportation Management Association:** An employer that participates in a TMA as defined in Section 14-1-212 may authorize the TMA to fulfill any or all of the administrative requirements described in Section 14-1-400.
- 14-1-409 Violations:** Violations of this rule are subject to the civil penalty provisions for enforcement of air pollution control laws in the California Health and Safety Code beginning at section 42402.
- 14-1-500 MONITORING AND RECORDS**
- 14-1-501 Recordkeeping Requirements:** An employer, or a TMA as defined in Section 14-1-212 on behalf of an employer, shall:
- 501.1 Maintain and retain records, files, and documentation to establish compliance with the requirements of this rule;
 - 501.2 Retain records, files, and documentation to establish compliance with this rule for a period of three years; and
 - 501.3 Make records, files, and documentation available upon request by the APCO.

Appendix A

Comments and Staff Responses

Appendix A: Comments and Staff Responses

On January 21, 2014, the Air District and the Metropolitan Transportation Commission (MTC) issued a Notice of Public Hearing to consider adoption of proposed Regulation 14: Mobile Source Emissions Reductions Measures, Rule 1: The Bay Area Commuter Benefits Program (proposed Program).

Interested parties were provided 30 days to review and submit comments on the proposed Program and the supporting documents. No comments were received on the CEQA document. The comments on the Proposed Program received by the comment deadline (February 21, 2014) are summarized below, along with staff responses.

ID#	Name & Organization	Summary	Staff Responses
1	Caitlin Chew	Expresses support for proposed Program.	Comment noted.
2	Ellen Barton, San Mateo C/CAG	Suggests that the Air District expand focus of the proposed Program beyond commuter trips and employer-provided benefits.	Air District staff recognizes that commuter trips are only a part of all Bay Area vehicle trips. The proposed Program is one component of a comprehensive strategy to reduce vehicle miles traveled throughout the region. The transportation control measures (TCMs) adopted in the <i>Bay Area 2010 Clean Air Plan</i> , which were developed by both MTC and the Air District, lay out a roadmap to reduce vehicle miles traveled and vehicular emissions across the Bay Area for all types of vehicle trips. The proposed Program will help to implement one of the 17 TCMs in the 2010 Clean Air Plan. The proposed Program also complements other regional efforts to reduce motor vehicle travel, such as <i>Plan Bay Area</i> , adopted in July 2013 by MTC and the Association of Bay Area Governments (ABAG).
3	Neil Kingston, University of the Pacific	The proposed Program would be an additional burden to employers.	In developing the proposed Program, the Air District and MTC have endeavored to minimize administrative and reporting requirements. Assistance to help employers understand and comply with the Program will be provided by means of web-based resources and by staff of the 511 Regional Rideshare Program. For many employers, the tax savings will offset compliance costs. The socio-economic analysis on the proposed Program found that the Bay Area would experience an additional \$84 million in induced economic activity, resulting in 610 additional jobs, as a

			result of implementation of the proposed Program. This analysis also found that impacts on small businesses would not be significant, even under "worst-case scenario" assumptions.
4	Paul Steinberg, Team Carma	The proposed Program should do more to promote alternative modes such as carpooling and bicycling, rather than just including them under Option 4. These modes are two of the most important ways to reduce drive-alone commute trips. The Air District and MTC spend considerable funds to promote the use of these commute modes, so it makes sense to highlight these modes in the Commuter Benefit Program.	<p>The Air District and MTC strongly support bicycling and carpooling as alternative commute modes. In fact, promoting carpooling and bicycling may be the most effective way to reduce vehicle trips to worksites that are not well served by transit. As noted in the response to Comment #2, the Air District and MTC implement a wide range of transportation control measures to promote carpooling, bicycling, and other alternative commute modes.</p> <p>The proposed Program was developed pursuant to Senate Bill 1339, which defines three basic commuter benefit options, as well as an alternative commuter benefit option (Option 4). The three basic options defined in SB 1339 focus on transit and vanpools, because these modes receive the most favorable treatment in terms of the commuter tax benefits in the federal tax code (IRS Code section 132-f).</p> <p>Option 4 provides a viable and flexible way for employers to comply with the Program. Employers that want to promote bicycle commuting can offer a bicycle subsidy (in addition to the transit and vanpool subsidy) as part of Option 2, or they can include bicycling as an element of an alternative commuter benefit pursuant to Option 4. Employers that want to promote carpooling can craft an alternative commuter benefit via Option 4 with a focus on measures to promote carpooling.</p>
5	Bruce Reiser, Schnitzer Steel Industries	<ul style="list-style-type: none"> • The proposed Program should apply to employers with 100+ employees (rather than 50). • The proposed Program should provide exemptions for the 	<ul style="list-style-type: none"> • The applicability threshold in the proposed rule of 50 or more full-time employees is defined in Senate Bill 1339. This threshold is consistent with the authorizing legislation. • Regarding these proposed exemptions, staff acknowledges that many worksites are not

		<p>following:</p> <p>(1) Employers with multiple shifts/employees that work unplanned or irregular hours; and</p> <p>(2) Worksites located more than ¼ mile from a transit stop.</p>	<p>well served by transit, nor are all employee work schedules conducive to using transit or vanpools. However, the basic premise of the proposed Program is that all employers can provide some combination of information, services, or incentives to promote alternative commute modes. The Program gives employers the flexibility to select a commuter benefit program appropriate to its worksite and workforce. Option 4, the alternative commuter benefit option, may be the most appropriate for employers whose worksites are located in non-transit rich areas, or for those with irregular work schedules. Although the effectiveness of commuter benefit programs may vary among worksites, the Program asks that all employers make a good faith effort to reduce drive-alone trips to their worksites.</p>
6	Keith Carson, President, Alameda County Board of Supervisors	<p>Alameda County actively encourages the use of alternative commute modes via its Clean Commute Program, which allows employees to use pre-tax \$\$ for transit. The County also provides shuttles and operates a carpool matching service. The County's program saves money for both the County and its employees, while providing environmental benefits. The County Board of Supervisors supports the proposed Bay Area Commuter Benefits Program.</p>	<p>Comment noted. The Alameda County Clean Commute Program may provide a good model for public and private employers elsewhere in the region.</p>
7	Sara Greenwald	<ul style="list-style-type: none"> • Expresses support for the proposed Program. • Ideally, employers would work with public transit agencies to provide frequent, reliable home-to-work service for employees. I appreciate that BAAQMD works with many transit agencies to provide shuttles between transit stations and workplaces. How does 	<ul style="list-style-type: none"> • Comment noted. • Employer assistance for the Program will be provided via the 511 Regional Rideshare Program (RRP). The RRP staff is knowledgeable about the various transit providers, and can provide information to employers about the transit options for their employees. Also, as noted in response to Comment #2, the Air District and MTC work together to implement a wide range of transportation control

		<p>BAAQMD plan to expand its work to help employers deal with the welter of transit agencies their employees may use?</p> <ul style="list-style-type: none"> • Some employers may offer company shuttles through private contractors. Private shuttles can crowd municipal transit lanes and stops. In San Francisco, Muni has started a program to charge these shuttles a small fee. How does BAAQMD currently (or plan to) help the many employers and transit agencies work out fee systems? 	<p>measures, including programs to promote transit use. These efforts are on-going.</p> <ul style="list-style-type: none"> • At this time, staff believes that potential fees for use of local bus lanes or bus stops can be most appropriately addressed by means of dialogue between the local transit agency and the companies that operate the shuttle or bus service.
8	David Schonbrunn, TRANSDEF	<p>Option 3 should specify minimum standards for coverage by an employer-provided transit service. The proposed Program needs to either specify a quantitative coverage standard or a include backstop requirement, accomplished through adopting one of the other Options.</p>	<p>For purposes of Option 3, staff believes that employers are in the best position to determine the appropriate level of bus or shuttle service to provide to their employees. Employers are most familiar with their employees' commute patterns, home locations, work schedules, etc. There are various types of transportation that can be provided pursuant to Option 3, including long-distance bus service, "last-mile" shuttle service, or vanpools. Given the wide range of transportation options and the diversity of employers, staff believes it is not necessary at this time to define standards that would be applicable across the board. Staff will monitor compliance with the Program via Option 3 over the duration of the pilot period (through the end of 2016). If the Program is reauthorized on a long-term basis, staff may consider whether minimum standards should be defined for Option 3 based on experience during this initial pilot phase.</p>
9	Peter Engel, CCTA	<ul style="list-style-type: none"> • The proposed rule defines vanpool and transit, but not carpool. Is the intent that a carpool could be any two people in a car like for access to an HOV lane? 	<ul style="list-style-type: none"> • The proposed rule defines the terms "transit" and "vanpool" because these terms are defined in a specific way in IRS Section 132(f). However, since there are no federal tax benefits for carpooling, staff sees no need at this time to define "carpool" in the proposed rule. If an employer wants to promote carpooling as an element of its

		<ul style="list-style-type: none"> • A definition of “work site” could be helpful. Is a home office a work site? • What is the compliance and enforcement process, and what will the fines for non-compliance be? 	<p>commuter benefits program and sees the need to define “carpool”, the employer may define the term as it deems appropriate.</p> <ul style="list-style-type: none"> • At this time, staff sees no need to define the term “worksite”. The proposed Program applies to employers based on the number of full-time employees within the Air District’s jurisdiction, regardless of where employees work. Any employee who meets the definition of “full-time employee” as defined in the rule should be counted for purposes of determining whether the employer is subject to the Program, regardless of the employee’s worksite location or type. • The Air District and MTC will encourage compliance by providing outreach, information and assistance to employers via the 511.org regional rideshare program. The Air District would pursue enforcement actions only as a last resort, in the event that an employer refuses to comply with the Program. If necessary, the enforcement process would be as follows: If an employer fails to respond to Air District/MTC notices, a Notice to Comply would be issued, specifying a deadline to respond. If the employer again fails to take action, the Air District may then issue a Notice of Violation. In the event that it becomes necessary to levy a penalty, the proposed penalty would depend upon the various factors that the Air District is required to consider pursuant to Health & Safety Code section 42402.
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#1

From: Caitlin Chew [caitlin.chew@gmail.com]

Sent: Friday, January 24, 2014 9:30 AM

To: Commuter Benefits

Subject: comment in support of Regulation 14: Mobile Source Emissions Reduction Measures, Rule 1: Bay Area Commuter Benefits Program, and a California Environmental Quality Act (CEQA) Negative Declaration

Dear Mr. David Burch,

I am writing to you to express my support for adoption of Regulation 14: Mobile Source Emissions Reduction Measures, Rule 1: Bay Area Commuter Benefits Program, and a California Environmental Quality Act (CEQA) Negative Declaration, as a resident of the Bay Area.

Regards,
Caitlin Chew

#2

From: Ellen Barton [ebarton@smcgov.org]
Sent: Wednesday, February 05, 2014 1:24 PM
To: Commuter Benefits
Subject: Comment on regulation 14

If regulations and funding restrictions allow, I suggest that the Air District expand its focus beyond commuter trips and employer-provided benefits. Commute trips represent only 20% of all trips and other types of trips offer more flexibility (time constraints, for example) that make transportation mode behavior change more likely.

Ellen Barton
Active Transportation Coordinator
San Mateo C/CAG
(650) 599-1420

 Save Paper. Think Before You Print.

#3

From: Neil Kingston [nkingston@PACIFIC.EDU]
Sent: Thursday, January 23, 2014 6:41 PM
To: Commuter Benefits
Subject: Comment

I believe the BAAQMD is already an overreaching institution that is playing a game of hide the responsibility.

The employers and employees of the Bay Area are constantly bombarded with more costs to their businesses and personal lives. The quality of our air is not the issue here. It is a blatant attempt of BAAQMD with these proposed rules, to further its ability to control Bay Area life. Our air quality is heavily influenced by global pressures. As a whole the people of California lead the nation in proactive steps toward a sustainable world. All this proposal will do is get the HR department of BAAQMD busy hiring yet more enforcement officers. I say no.

Not that it matters. You never read comments anyway.

Neil Kingston
Director of Building Operations
University of the Pacific
Dugoni School of Dentistry
San Francisco
415-929-6471
Sent from my iPad

#4



Attachment B
5669 Snell Ave #250
San Jose, CA 95123

t. (408).465.4844
e. info@car.ma
w. www.car.ma

20 February 2014

David Burch via commuterbenefits@baaqmd.gov
Principal Environmental Planner
Bay Area Air Quality Management District
939 Ellis Street, San Francisco, California, 94109,

Re: Comments on PROPOSED REGULATION 14, RULE 1: BAY AREA COMMUTER BENEFITS PROGRAM

We were disappointed to learn of the omission of carpooling and bicycling from these recommendations, considering they are two strongest tools for combatting transportation emissions due to Single Occupancy Vehicles.

By placing these options under Option 4, they do not receive the same level of attention as they should in light of the value they offer toward achieving emission goals. This decision also seems to ignore the millions of dollars spent annually by BAAQMD and MTC on these initiatives, much of the \$2.2bn the Feds spend on Commuter Tax Benefit (IRS Section 132f).

- The Federal Commuter Tax Benefit recognizes the importance of subsidies for commuters that carpool by providing up to \$250 toward qualified parking
- The Annual BAAQMD budget allocates \$1m+ annually to the Spare the Air program, which promotes both carpooling and bicycling
- Annual Great Race for Clean Air is designed to reduce SOVs through carpooling
- The Metropolitan Transportation Commission 511.org funds ridesharing (AKA carpooling, vanpooling, casual carpooling, real-time carpooling) and bicycling programs including >\$12m STP/CMAQ grants over the past two years

It seems counter-productive to spend millions of dollars annually promoting modal options that are not specifically called out as acceptable options for compliance with Senate Bill 1339.

Tracking option to verify compliance are readily available including:

- MTC www.ridematch.511.org database tracks matches and commute logs,
- MTC funds Bay Area BikeShare with GPS verification of trips,
- MTC funds Carma Real-time Ridesharing with GPS verification of trips,
- Drivers of casual carpools use the Bay Bridge using GPS tracked FasTrak tags,
- Receipts for qualified bike expenses are easy to scan.

We ask the committee to reconsider adding options specifically for carpooling and bicycling.

Thank you for your consideration,



Paul A. Steinberg
Team Carma

Carma Background

Carma provides a free consumer smartphone app that allow commuters to match up in real-time, or in advance, to carpool or ride-share. The cost to a Rider is always \$0.20 per mile, Avego retains \$0.03 per mile to operate the service, and the balance of \$0.17 per mile is deposited in to the Driver's electronic wallet. This model is based on an organic concept referred to as "casual carpooling" in Houston TX and San Francisco CA, or "slugging" in Washington DC.

Avego operates Federal funded "Real-Time Ridesharing" projects in partnership with Federal, State (Caltrans, Texas DOT, Virginia DOT) and local Transportation Authorities. Relevant projects include;

- San Francisco CA is currently world's largest public-private partnership designed to reduce emissions and SOV travel. Project is funded with a CMAQ grant and administered by Caltrans and the Metropolitan Transportation Commission, and stakeholders including Sonoma/Marin/Contra Costa county transportation authorities. This project receives lots of regional and national TV and radio coverage including; BloombergTV, KTVU, and CBS
- Austin TX uses automated occupancy verification to provide discounted tolls for HOV users along toll roads 183A and 290. Project is funded with a Value Pricing Grant and administered by TxDOT and Central Texas Regional Mobility Authority with independent oversight by Texas A&M Transportation Institute.
- Santa Barbara CA traffic mitigation project along Highway 101 during lane expansion from Ventura to Santa Barbara CA, reduces parking overflows at the local colleges. Project is funded with a Federal Value Pricing grant and administered by Caltrans and the Santa Barbara Council of Governments.
- Washington DC project is available exclusively to Department of Defense employees as part of Base Realignment and Closure (BRAC) along the heavily congested I-95/395/495 corridors. Project is funded through a Federal Value Pricing grant and administered by VDOT and the Northern Virginia Regional Commission (NVRC).

Avego is a Delaware Corporation headquartered in San Jose, CA, and a wholly owned subsidiary of Avego Ltd, located at Penrose Wharf, Alfred Street, Cork, Ireland. The primary investor, founder and Managing Director is an American citizen (inventor, venture capitalist and philanthropist) named Sean O'Sullivan.

#5



February 21, 2014

Mr. David Burch
Principal Environmental Planner
Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109

Re: Regulation 14, Rule 1: Bay Area Commuter Benefits Program

Dear Mr. Burch,

Schnitzer Steel Industries, Inc. appreciates this opportunity to comment on the proposed Regulation 14, Rule 1 regarding the Bay Area Commuter Benefits Pilot Program.

We are a global leader in the metals recycling industry and one of the first recycling companies in Oakland. For over 50 years, we have been recycling end of life materials that are made into new reusable products all over the world. Schnitzer's North America operations process millions of tons of metal, resulting in the savings in millions of tons of CO2 equivalents compared to the mining, smelting, and manufacturing of raw metal ore and metal products.

Schnitzer was built on the principles of sustainability and environmental stewardship which can be seen at any of our local facilities in the Bay Area. As such, we are not opposed to encouraging the use of carpooling, vanpooling, and mass transit, however we have comments and suggested alternative language regarding your proposed Regulation 14, Rule 1.

- 1) Our Oakland facility has two shifts per day that do not align with regular commute hours. Additionally, our employees often must work unplanned overtime which could potentially leave them stranded at our plant with no carpool or viable transit services to get them home.
 - a. **We suggest adding a section that allows exemptions for facilities with multiple shifts and employees that often have to work unplanned overtime and irregular hours. We suggest the following language:** *"Exemptions for Irregular Work Hours and Multiple Shifts: This rule shall not apply to facilities that have multiple shifts which may be outside of regular transit hours or employees that may have to work unplanned overtime which would require their shift to end outside of regular transit hours"*

- 2) For section 14-1-402 Applicability, we suggest the following alternate language:
"Applicability: This rule applies to all public, private, and non-profit employer facilities for which an average of 100 or more full time employees per week perform work for monetary compensation within the geographic boundaries of the Bay Area Air Quality Management District (District) as determined pursuant to Section 14-1-402."

We feel this language would remove the financial and administrative burden of managing such a program for a smaller company whose costs would not be insignificant.

- 3) Our facility in Oakland is not conveniently located near a public transit stops/stations. For example, the facility is located 1.1 miles from the West Oakland Bart Station. If an employee were to walk from the station, 0.29 miles of this trip would be on Embarcadero West where there are no sidewalks (due to cargo rail lines) posing a significant safety hazard to our employee. We are 0.4 miles from the nearest AC Transit Station and the employee would have the same 0.29 mile walk with no sidewalks along a street with heavy truck traffic. The Jack London Amtrak Station is located approximately 1 mile from our facility in Oakland and would require the employee to walk that one mile with the same 0.29 mile section with no sidewalk.

- a. **We suggest adding a section that allows exemptions for employers with facilities that are greater than ¼ mile from a transit stop. We suggest the following or similar language in the rule:** "Exemptions for employers not near transit stops/stations: This rule shall not apply to facilities that are located more than ¼ mile from the nearest transit stop and/or station."

As you can see, the current rule language imposes significant challenges to the employee commuter from a safety and convenience factor. We strongly believe the language we put forward addresses many concerns raised in the rule.

Schnitzer Steel greatly appreciates this opportunity to comment on this rule to you. Should you have any questions, please feel free to contact me at 510-444-3919.

Thank you for your consideration,



Mr. Bruce Rieser
Southwest Regional Director
Schnitzer Steel Industries, Inc.

#6



BOARD OF SUPERVISORS

KEITH CARSON
PRESIDENT
SUPERVISOR, FIFTH DISTRICT
February 19, 2014

David Burch
Principal Environmental Planner
Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109

Dear Mr. Burch:

SUBJECT: SUPPORT FOR PROPOSED RULE (REGULATION 14, RULE 1: BAY AREA COMMUTER BENEFITS PROGRAM)

I am writing on behalf of the Alameda County Board of Supervisors in support of the Bay Area Air Quality Management District's proposed Rule 1: Commuter Benefits Program. Environmental stewardship is a core tenet of Alameda County, and to address the County's contribution to climate change, the Board of Supervisors passed the Alameda County Climate Action Plan for Government Operations and Services, in 2010. The Plan sets greenhouse gas (GHG) reductions targets of 15%-20% within the next six years and an 80%+ reduction by the year 2050. The Plan also outlines areas of focus to reduce operational emissions, including employee commuting.

Alameda County has been actively participating in reducing green-house gas emission throughout the County, and in doing so the County has developed programs and policies to reduce the environmental impact of employee commuting, which currently represents over one-third of our total emissions. County employees have the option to enroll in a pre-tax commuter benefits program--helping both employees and the County to save money, while encouraging the utilization of public transit. In addition, Alameda County's General Services Agency Parking Division operates shuttles that transport employees to BART stations to make transit more accessible. Furthermore, the County's Clean Commute Program developed a carpool matching service and regularly engages our employees on the benefits of clean commuting in the Bay Area.

Alameda County's efforts to provide commuter benefits and incentives to employees can be instrumental in encouraging commuters to switch to cleaner commuting modes. Many of these benefits can be offered at no or low cost to the employer and the benefits of clean air and reduced emissions are invaluable. Therefore, the Alameda County Board of Supervisors supports the Bay Area Air Quality Management District's proposed Rule 1: Commuter Benefits Program.

Sincerely,

A handwritten signature in black ink that reads "Keith Carson".

Keith Carson
President, Alameda County Board of Supervisors

#7

From: Sara Greenwald [anderson.greenwald@att.net]
Sent: Sunday, January 26, 2014 5:49 PM
To: Julian Elliot; Commuter Benefits
Subject: questions re Rule 1, Reg 14, commuter benefit program

David Burch
Principal Environmental Planner
Bay Area Air Quality Management District

I support proposed Rule 1, Regulation 14 to require employers with 50 or more full-time employees in the Bay Area to offer commuter benefit options to offer to their employees. This is a strong step toward improving our air quality by getting more commuters out of their cars and onto shared transit.

Two questions:

1. Ideally, employers would work with public transit agencies to provide frequent, reliable home-to-work service for employees. I appreciate that BAAMQD works with many transit agencies to provide shuttles between transit stations and workplaces. How does BAAMQD plan to expand its work to help employers deal with the welter of transit agencies their employees may use?
2. Some employers may offer company shuttles through private contractors. Private shuttles can crowd municipal transit lanes and stops. In San Francisco, Muni has started a program to charge these shuttles a small fee. How does BAAMQD currently (or plan to) help the many employers and transit agencies work out fee systems?

Thank you for your leadership on this issue,

Sara Greenwald
San Francisco

#8

-----Original Message-----

From: David Schonbrunn [<mailto:david@schonbrunn.org>]

Sent: Monday, February 24, 2014 10:47 AM

To: David Burch

Subject: Commute Benefits

David,

I'm pleased to see this program moving forward. I believe we first started advocating for its adoption back in the 1997 CAP. I have two brief comments:

Footnote 21 is missing "save" in the second sentence.

Option 3 is unacceptably vague as to the compliance threshold for coverage by an employer-provided transit service. While the other Options pertain to all employees, Option 3 is silent as to the percentage of employees that are to be offered service. It should be obvious that providing one shuttle covering only a small fraction of employees would not meet the program's intent. The rule therefore needs either a quantitative coverage standard or a backstop, accomplished through adopting one of the other Options.

Thanks,

--David

David Schonbrunn, President

Transportation Solutions Defense and Education Fund (TRANSDEF) P.O. Box 151439 San Rafael, CA 94915-1439

415-370-7250 cell & office

David@Schonbrunn.org

www.transdef.org

#9

From: Peter Engel [<mailto:pengel@ccta.net>]
Sent: Thursday, January 30, 2014 1:49 PM
To: David Burch
Subject: BAAQMD regulation 14, Rule 1 question

David-

I was reading the proposed ordinance to implement SB 1339 and had a few quick comments and questions.

1. The document defines vanpool; and transit but not carpool. Is the intent that a carpool could be any two people in a car like for access to an HOV lane?
2. A definition of a "work site" might be helpful. Is a home office a work site?
3. Can you provide a situation where a violation occurs and the fines described in HSC Section 42402 are applied? Lets assume a required employer does not register. Does that mean they will be fined \$1,000 per day? \$10,000 per day? What if they register but neglect to notify the employees? Same fines? I am assuming that some process for notifying employers of noncompliance will be developed. Will that be established in policy?

Thanks for taking time on this.



CONTRA COSTA
transportation
authority

Peter Engel, Program Manager
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Bay Area

Commuter Benefits Program

Program Overview For Planning Committee

March 14, 2014

Christine Maley-Grubl

Project Manager, MTC



Background & Overview

- Program based on Senate Bill 1339 (enacted in 2012)
- Authorizes MTC & Air District to jointly adopt a regional commuter benefits ordinance
- Modeled on local ordinances in several Bay Area cities
- Program must be approved by MTC Commission and Air District Board in order to take effect
- Pilot program: 2014-2016
- Report to Legislature due by July 2016



Purpose/Objectives

- Reduce motor vehicle trips to worksites
- Reduce traffic congestion
- Improve air quality
- Reduce emissions of greenhouse gases
- Take advantage of federal commuter tax benefits that provide tax savings to employers & employees
- Expand the number of employers that make commuter benefits available to their employees





Applicability

- Employers with 50+ full-time employees in the Bay Area:
 - ✓ Private business
 - ✓ Public Agency
 - ✓ Non-profit organizations
- Employee count based on all Bay Area worksites combined
 - ✓ Including branch locations with less than 50 employees
- Applies to approximately 10,000 employers





Four Commuter Benefit Options

- Option 1: Pre-tax payroll deduction for transit or vanpool
- Option 2: Direct subsidy for transit or vanpool
- Option 3: Employer-provided transportation
- Option 4: Alternative commuter benefit





Program Requirements

- Select one of the four options
- Designate a commuter benefits coordinator
- Register with MTC/Air District via 511.org
- Notify employees & make benefit available
- Provide information needed for Program evaluation



Commuter Benefit Program Elements

- New Air District Rule (Regulation 14, Rule 1) to serve as foundation for Program
- Guidelines to explain Program options & requirements
- Employer assistance via MTC's 511 Regional Rideshare Program
- Web-based registration system & employer database

Objective

- Make it easy for employers to comply
- Minimize administrative requirements



Key Roles & Responsibilities

Air District:

- Develop rule & guidelines to complement the rule
- Compliance verification/enforcement

MTC:

- Develop registration process & employer database
- Employer assistance via 511 Regional Rideshare Program



METROPOLITAN
TRANSPORTATION
COMMISSION



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT



Bay Area
Commuter Benefits Program



Public Outreach

- Engaged wide range of stakeholders: employers, congestion management agencies, transportation management agencies, transit agencies, etc.
- Issued draft rule & workshop report in late August
- Public workshops in all nine Bay Area counties in October 2013 for input on draft Program
- Revised program elements as appropriate to respond to public comments



Input Received

- Keep it simple
- Desire for assistance to understand the options & the potential tax benefits
- Interest in Option 4 (alternative commuter benefit) among employers not well served by transit
- Some employers do not support a mandatory approach





Preparing for Implementation

Air District and MTC staff in conjunction with 511 Regional Rideshare Program are working closely to:

- Provide employer assistance by developing **511** webpage, Employer Guide and other materials
- Develop Phone Help Line for employers - Call **511**
- Develop web-based registration process
- Coordinate with stakeholders:
 - ✓ Local cities with commuter benefit ordinances
 - ✓ Transportation Management Associations
 - ✓ Congestion Management Agencies
 - ✓ Local Employer Outreach Programs-Delegated Counties

Program Landing Page on 511





511.ORG TRANSIT TRAFFIC RIDESHARE BICYCLING PARKING

MY 511 Login | Register  

511 Home Get Around Go Green Call 511 About 511 Mobile & Apps Developer Resources Enhanced Planner **BETA**

Employer Resources



Bay Area Commuter Benefits Program

Find a better way to work!

Commuter benefits encourage employees to take transit, vanpool, carpool, bicycle and walk rather than drive alone to work.

Bay Area employers with 50 or more employees are now required to register for the Bay Area Commuter Benefits Program. Through this program, employers must offer their employees [one of four Commuter Benefit options](#) in order to comply with CA Senate Bill 1339, signed into law in October 2012.

This Program Supports Employers Through:

- Potential payroll tax savings
- Enhanced employee recruitment
- Improved employee retention
- Reduced employee health costs
- Reduced employee stress

CLICK HERE TO REGISTER

For Employers of 50 or More Employees

▶▶▶

Employers, Already Registered?

Username

Password

LOG IN

[Trouble Logging In?](#)

PROGRAM NEWS AND HIGHLIGHTS



How do Commuter Tax Benefits Work?

- Originates from IRS Revenue Code, Section 132(f) [Publication 15b](#)
- Provides tax free transportation fringe

HELPFUL RESOURCES

FAQs ▶

Employer Guide ▶



Process & Timeline

- Notice of Public Hearing Issued January 21 (30-day public comment period thru Feb. 21)
 - ✓ Proposed Rule (Regulation 14, Rule 1)
 - ✓ Staff Report
 - ✓ Socio-economic analysis
 - ✓ CEQA doc (Initial Study/Negative Declaration)
- MTC Planning Committee – March 14
- Air District Board Hearing – March 19
- MTC Commission – March 26
- Program Implementation – Early April 2014
- Employers choose option/implement program by Sept 30, 2014



Positive Outcomes for Employers and Employees

- Employers save +/- 8% on payroll taxes
- Employees can save 40% + on their (after tax) commuter costs on transit/vanpool fares
- Enhance employee benefits





Program Overview for Planning Committee

Christine Maley-Grubl

Project Manager, MTC

P: 510/817-5927 E: cmaley@mtc.ca.gov