

## DISTRICT DEPARTMENT OF TRANSPORTATION

### NOTICE OF FINAL RULEMAKING

The Director of the District Department of Transportation (DDOT), pursuant to the authority set forth in the Transportation Benefits Equity Amendment Act of 2020, effective January 24, 2020 (D.C. Law 23-113; D.C. Official Code § 32-151, *et seq.*) and Mayor's Order 2020-124, dated December 10, 2020, hereby gives notice of the final adoption of amendments to Chapter 33 (Transit Benefit Programs) of Title 7 (Employment Benefits) of the District of Columbia Municipal Regulations (DCMR).

This rulemaking implements the Transportation Benefits Equity Amendment Act of 2020 (Act), which requires most employers that offer free or reduced-cost parking benefits to their employees to either: 1) provide an alternative benefit in the form of a transit or bicycling subsidy; 2) pay to DDOT a monthly compliance fee; or 3) implement a DDOT-approved transportation demand management (TDM) plan.

This rulemaking specifies the requirements of a qualifying TDM plan; sets criteria to determine the market value of a Clean-air Transportation Fringe Benefit; establishes biennial employer reporting requirements; sets fines and penalties for noncompliance with the Act, pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.01, *et seq.*); provides the applicable exceptions to the general benefit requirement; and adds new definitions of relevant terms.

A Notice of Proposed Rulemaking was published in the *District of Columbia Register* on November 12, 2021, at 68 DCR 011993, with a 30-day public comment period. The District Department of Transportation thoroughly reviewed and considered all public feedback throughout this rulemaking process. DDOT received two public comments. DDOT made no changes based on public comments.

DDOT received two submissions from the public with comments and questions on the proposed rulemaking: a letter from CareFirst BlueCross BlueShield and a joint submission from the Federal City Council, the DC Hospital Association, the DC Chamber of Commerce, and the DC Building Industry Association. DDOT received no resolutions from any Advisory Neighborhood Commissions.

An aggregation of the comments included in these submissions along with DDOT's responses are below.

***1. The District should delay implementing this program until the effects of teleworking and the public health emergency are fully realized.***

DDOT is implementing this program to fulfill a legislative mandate and advance the District's mode-shift goals toward more sustainable forms of transportation. The intent of this program is to create a no cost/ low-cost incentive to encourage commuters who would otherwise switch to a more sustainable form of transportation but for driving being their most convenient option. Free

or subsidized parking at work makes driving more convenient; therefore, this program provides those commuters with the option of converting that parking subsidy into a transportation subsidy at little to no cost on the part of the employer.

Now is an appropriate time to implement this program because employers and employees are contemplating how they will transition back to work in-person and can account for the requirements of this program in that process. As people return to work in-person, the potential exists for the number of single-occupancy vehicle commute trips to increase beyond pre-pandemic levels as people may see their vehicles as personal protective equipment. This potential does not comport with DDOT's mobility and sustainability goals; therefore, DDOT is implementing this program now to preclude the reversion to driving en masse. Implementing this program after employers have finalized a return-to-work policy would place an additional burden on employers and employees who would have to recalibrate their return-to-work policy to comply with this law.

***2. Require covered employees to submit a form, provided by DDOT, to covered employers noticing their intent to accept the Clean Air Transportation fringe benefit. Failure to do so will constitute a refusal of the benefit.***

This recommendation was not incorporated because the enabling legislation places responsibility for offering the benefit on the covered employer rather than the employee. In addition, requiring that a qualified employee request the Clean-air Transportation Fringe Benefit in lieu of the parking space they are offered adds an additional barrier to forgoing the afforded parking benefit which this program is designed to encourage. DDOT will make a standardized form available on its website to employers to distribute to their covered employees.

***3. Require DDOT to mail annual notice to covered employers which includes how DDOT calculated the market value of monthly parking spaces within .25 miles of the covered employer. The employer would then have 30 days to dispute the calculation. If DDOT fails to provide this notice, the covered employer would not be subject to the requirements of this program.***

This recommendation was not included because the methodology for how DDOT will calculate the market value of the parking benefit is outlined in the new section 7 DCMR § 3310. Disputes about the market value of the parking benefit will be resolved on a case-by-case basis between the employer and DDOT.

An employer seeking to dispute the valuation of the parking benefit may submit to DDOT evidence demonstrating that DDOT's original valuation was incorrect. In response, DDOT may amend the original valuation if the evidence is accepted.

***4. Allow for an eight-month grace period before enforcement to allow covered employers to poll their workforce and submit their plans to DDOT.***

This suggestion was not specifically included in the regulations, but the grace period will be implemented in practice. Covered employers will have until the end of their current lease on parking or until January of 2023—whichever is later—to come into compliance with these regulations.

**5. How is the compliance fee calculated? Are covered employers fined for total number of employees? Is the compliance fee based on the number of parking spots or total number of employees in DC?**

The Clean Air Compliance Fee is calculated based on the number of employees who are offered a parking benefit but not the Clean-air Transportation Fringe Benefit—or additional healthcare benefits contribution or compensation—in lieu of it.

**6. Given the greater prevalence of hybrid work models, will there be some adjustment available for employees who commute to the office only 1-3 days per week?**

A covered employee is not permitted to utilize a parking benefit on some days and the transit benefit on the remaining days because the enabling legislation prohibits an employee from accepting both, simultaneously. The valuation of the parking benefit and thus the fringe benefit owed to the covered employer is not affected by the covered employee's use of the parking benefit, so the parking and transit benefits cannot be prorated based on use.

With that said, the program allows a covered employer to be in compliance with the law by implementing a Transportation Demand Management Plan, in lieu of offering a Clean-air Transportation Fringe Benefit, which may include telework and hybrid work models.

**7. Can an employee who accepts a Clean-air Transportation Fringe Benefit and normally takes the train or other public transportation be reimbursed by the employer for occasional parking if the employee, on a few occasions drives to the office and parks? Is the employee solely responsible for parking in this scenario?**

The employee is solely responsible for parking in this situation and the employer may not subsidize or reimburse the cost of parking in this situation. The enabling legislation prohibits an employee from accepting both the fringe benefit and a parking benefit. The bill defines “parking benefit” as:

*Personal motor vehicle parking, on or within 0.5 miles of the business premises and located in the District, offered to an employee, in addition to compensation, either directly by the employer or through an employer subsidy, for which the employee pays nothing or less than market value.*

In the scenario described, the occasional parking space would constitute a “parking benefit” and, therefore, cannot be accepted by the employee along with the Clean-air Transportation Fringe Benefit. However, an employer can consider having a daily parking rate for employees who need to drive to work occasionally. The employee would still need to pay the full daily rate.

**8. Is the additional compensation and increased contribution to the employee's health coverage equal to the market value of the parking benefit taxable?**

The answer to this question depends on the benefits package offered by the employer to employees and how they chose to structure the additional compensation; however, a contribution to the employee's healthcare benefits could likely be made pre-tax and additional compensation would

likely be taxable. Any increase to the employee's compensation in any form would have to be made in compliance with section 132 of the Internal Revenue Code, approved July 18, 1984 (98 Stat. 877; 26 U.S.C. § 132).

***9. Is the number of employees required to be surveyed based on the number of employees the covered employer has in the District?***

Yes. The size of the employer is determined by the number of employees in the District.

***10. What does "that has been conducted in a manner acceptable to DDOT" mean? Can the employer conduct the survey itself or is an independent third party needed to do the survey? Will a simple SurveyMonkey be acceptable?***

DDOT will provide employers with a survey to distribute to employees to ensure uniformity among responses.

This language was included to assure the integrity of the program in the event that DDOT finds evidence that employee surveys were conducted in bad faith or contrary to best practices in survey methodology.

***11. How will covered employers provide DDOT with their proposed strategy for reducing commuter trips by vehicle? Is DC Department of Transportation (DDOT) able to create a standard form/template for covered employers to submit this information?***

Yes, DDOT has a standardized form and process for employers to propose a TDM plan, in lieu of providing the Clean-air Transportation Fringe Benefit. This standardized form includes goals and strategies for reducing single-occupancy-vehicle commute trips. In accordance with §3309.2, upon receipt, DDOT will have 60 days to review the employer's proposed TDM plan and approve or provide feedback.

***12. What is the benchmark time period for these metrics? When does this time period begin? Due to the current pandemic and the fact that most employees are not returning to the office full-time, parking is currently at 0%. From what point in time will DDOT analyze this reduction? Calendar year? Starting when the regs go into effect? Some other date?***

This question applies to covered employers opting to implement a TDM plan rather than offer the option of a Clean-air Transportation Fringe Benefit. The baseline number of commuter trips made by car from which the 10% annual reduction is measured is the number of vehicle commuters at the time of submission of the proposed TDM plan.

In the event that all or a vast majority of a covered employer's employees are teleworking and, therefore, not commuting by vehicle to their workplace, the covered employer would be considered in compliance with these regulations as, presumably, the number of employees commuting by single-occupancy vehicle would be below 25%. A covered employer opting to implement a TDM plan rather than provide the Clean-air Transportation Fringe Benefit would be considered out of

compliance with these regulations if the percent of covered employees commuting by single-occupancy vehicle rises above 25%.

Covered employers concerned that more than 25% of employees would commute by single-occupancy vehicle as they return to work in-person may find that offering the Clean-air Transportation Fringe Benefit is a more feasible means of remaining in compliance.

***13. Is the reduction in the number of employee commuter trips based on the number of parking spots the employer is currently leasing, the number of employees, or the number of commuter trips? What is the definition of an [employee] commuter trip?***

When a covered employer opts to implement a TDM plan over providing the Clean-air Transportation Fringe Benefit, the ultimate goal of an approved TDM plan is to reduce the number of employees commuting by single-occupancy vehicle and rideshare vehicle to 25% or less. The reduction in the number of employee commuter trips is based on the number of employees. One employee corresponds with one employee commuter trip.

***14. Is DDOT able to create a standard mechanism to submit information/evidence that the employer is implementing the approved strategy to reduce vehicle trips to the site? Is DDOT able to provide a template for the annual data report 90 days before its due date?***

Yes. A template for data reporting and a standardized platform to submit evidence of implementation of the TDM plan will be made available on DDOT's website.

***15. How will a covered employer's compliance with its approved TDM plan be audited? What information will need to be provided as part of an audit? Regulations should include a mechanism for this audit process. Reasonable notice should be provided to the employer and audit should be conducted during business hours only and be limited to only data pertaining to the commuter benefit/parking.***

In the event that an employer implementing a TDM plan is audited, DDOT will provide the employer notice of the audit and 30-days to respond to a request for documents and information, in a similar fashion to the review process captured in § 3309.5. Documents requested would be limited to information pertaining to the employer's commuter and parking benefits package but may vary depending on the reason for the audit.

***16. The definition of market value should deduct the portion that employees pay, so it should only be based on the amount the employer pays for the parking.***

This recommendation was not incorporated because doing so would not reflect the market value of the space had the employee been financing their monthly parking individually. The enabling legislation requires that the market value of the parking benefit be equal to the price of monthly parking offered to the general public.

Section 2 of the enabling legislation states:

*(e) For the purposes of this section, the market value of a parking benefit shall be: “(1) The publicly-advertised price of parking available for rent to the public at a privately-owned parking facility within one-quarter mile of the business premises; or “(2) If there is no privately-owned parking facility within one-quarter mile of the employee’s place of work that rents parking to the public, an amount determined pursuant to rules issued by the Department.*

Deducting the amount that the employees pay for the parking benefit would reflect, not the market value to an individual vehicle commuter, but the value to a large commercial tenant.

***17. When do these regulations apply to covered employers who lease parking and whose lease agreements allow for extensions or continuations?***

These regulations apply to covered employers who lease parking at the end of the current lease’s term regardless of whether that lease contemplates extensions. Relevant language in the enabling legislation is below.

*(2) If, before the applicability date of the Transportation Benefits Equity Amendment Act of 2020, passed on 2nd reading on April 7, 2020 (Enrolled version of Bill 23- 148), a covered employer leases the parking spot used by the employee who is offered a parking benefit, this section shall apply to the parking benefit at the end of the current lease term, regardless of whether the lease agreement contemplated extensions beyond the current lease term.*

***18. Does the reduction required by the Transportation Demand Management (TDM) plan have to be implemented by the end of the lease term?***

No. Before the end of the lease term or January 15, 2023, whichever is later, the employee will be required to offer the Clean-air Transportation Fringe Benefit or begin implementing a TDM plan approved by DDOT.

***19. Does parking benefit mean the net amount between the parking cost minus the amount the employee pays?***

The parking benefit includes both free and subsidized parking offered by the employer. Section 2(a) of the enabling legislation defines parking benefit as:

*Personal motor vehicle parking, on or within 0.5 miles of the business premises and located in the District, offered to an employee, in addition to compensation, either directly by the employer or through an employer subsidy, for which the employee pays nothing or less than market value.*

***20. What constitutes an employee who is required to use their personal vehicle for regular performance of their work?***

This exemption applies to employers for whom a personal vehicle is necessary for employees to perform their job function. The question of to whom this applies will be answered on a case-by-case basis. Qualifying examples often cited by the Committee on Transportation and the Environment include delivery and taxi services, housekeepers, and home health aide providers. Employees offered a take-home company vehicle whose job function does not require a personal vehicle do not fall into this category.

The Director adopted the rules as final on February 8, 2022. The rules will take effect upon publication of this notice in the *District of Columbia Register*.

**Chapter 33, TRANSIT BENEFIT PROGRAMS, of Title 7, EMPLOYMENT BENEFITS, of the DCMR is amended as follows:**

**Section 3300, PURPOSE AND SCOPE, is amended as follows:**

**Subsection 3300.1 is amended to read as follows:**

3300.1 The purpose of this chapter is to establish standards and procedures for the implementation of Title III-A of the Sustainable DC Omnibus Amendment Act of 2014, effective December 17, 2014 (D.C. Law 20-142; D.C. Official Code § 32-151 *et seq.*) (the “Act”) and the Transportation Benefits Equity Amendment Act of 2020, effective June 24, 2020 (D.C. Law 20-113; D.C. Official Code, § 32-152.01 *et seq.*).

**Section 3302, PENALTIES AND FINES, is amended as follows:**

**Subsection 3302.4 is added to read as follows:**

3302.4 The following persons shall be subject to civil fines and penalties pursuant to the Transportation Benefits Equity Amendment Act of 2020, effective January 24, 2020 (D.C. Law 23-113; D.C. Official Code § 32-151 *et seq.*) and the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.01 *et seq.* (2016 Repl. & 2018 Supp.)):

- (a) A covered employer who fails to comply with the provisions of § 3307.1;
- (b) A covered employer who fails to comply with the reporting requirement in § 3311; or
- (c) A covered employee who fails to comply with § 3307.2.

**A new section 3307, CLEAN-AIR TRANSPORTATION FRINGE BENEFIT: REQUIREMENTS, is added to read as follows:**

3307.1 Except as provided in § 3312, a covered employer that offers a parking benefit to an employee shall:

- (a) Offer the employee a Clean-air Transportation Fringe Benefit in an amount equal to or greater than the monthly market value of the parking benefit offered to the employee;
- (b) Pay to DDOT a Clean Air Compliance fee of \$100 per month per employee who is offered a parking benefit; or
- (c) Implement a transportation demand management plan that meets the standards set forth in § 3309.

3307.2 A covered employee's acceptance of the Clean-air Transportation Fringe Benefit shall constitute a refusal of the parking benefit offered by the covered employer.

3307.3 A covered employee shall not concurrently accept or use a Clean-air Transportation Fringe Benefit and a parking benefit offered by the covered employer.

**A new section 3308, CLEAN-AIR TRANSPORTATION FRINGE BENEFIT: PROCEDURES, is added to read as follows:**

3308.1 An employee who accepts a Clean-air Transportation Fringe Benefit shall, using the Clean-air Transportation Fringe Benefit worksheet made available by DDOT, estimate the amount of the Clean-air Transportation Fringe Benefit that the employee will use each month and provide that estimate to his or her employer.

3308.2 An employee may amend the estimate provided to his or her employer in accordance with § 3308.1 not more than once every twelve (12) months.

3308.3 If the estimate provided pursuant to this section is less than the Clean-air Transportation Fringe Benefit offered to the employee pursuant to § 3307.1(a), the covered employer shall provide the employee with one of the following in an amount that, when combined with the estimate is equal to the Clean-air Transportation Fringe Benefit offered to the employee:

- (a) Additional compensation;
- (b) An increased contribution to the employee's health coverage;
- (c) A combination of (a) and (b) of this subsection.

**A new section 3309, CLEAN-AIR TRANSPORTATION FRINGE BENEFIT: TRANSPORTATION DEMAND MANAGEMENT PLAN REQUIREMENTS, is added to read as follows:**



3309.1

To comply with § 3307.1(c), a covered employer shall submit to DDOT a proposed transportation demand management (TDM) plan, in a format provided by DDOT, which includes the following information:

- (a) The total number of employees at work locations within the District;
- (b) The number of employees currently receiving parking benefits subject to this chapter;
- (c) Results of a survey of the commute modes used by its employees, to include driving, carpooling, for-hire vehicles, public transportation, walking, and biking, that has been conducted in a manner acceptable to DDOT. For covered employers with:
  - (1) Fewer than fifty (50) employees, survey results must comprise responses from at least ninety percent (90%) of employees;
  - (2) Between fifty (50) and ninety-nine (99) employees, survey results must comprise responses from at least eighty-four percent (84%) of employees;
  - (3) Between one hundred (100) and two hundred and forty-nine (249) employees, survey results must comprise responses from at least seventy percent (70%) of employees;
  - (4) Between two hundred and fifty (250) and four hundred and ninety-nine (499) employees, survey results must comprise responses from at least fifty percent (50%) of employees;
  - (5) Between five hundred (500) and nine hundred and ninety-nine (999) employees, survey results must comprise responses from at least thirty-seven percent (37%) of employees;
  - (6) One thousand (1000) employees or more, survey results must comprise responses from at least twenty percent (20%) of employees.
- (d) A plan that lists reasonable strategies and a timeline for reducing the number of employees' commuter trips made by car by at least 10% from the previous year, until 25% or less of employees' commuter trips are made by car, including for-hire vehicles; and
- (e) Any other information DDOT deems necessary to evaluate the feasibility of a proposed TDM plan.

- 3309.2 DDOT shall review a submitted TDM plan and provide the covered employer with a determination within sixty (60) calendar days of receipt.
- 3309.3 If DDOT determines that the proposed TDM plan meets the requirements of this section, DDOT shall approve the proposed TDM plan.
- 3309.4 Within ninety (90) calendar days of the approval of its TDM plan, a covered employer shall provide DDOT with evidence demonstrating the employer's implementation of the plan in accordance with § 3307.1(c). Satisfactory evidence may include proof of enrollment in WMATA's SmartBenefits program, or an employer's notifications to its employees concerning transit options and benefits.
- 3309.5 If DDOT determines that a proposed TDM plan does not meet the requirements of this section, DDOT shall provide the covered employer with a notice of disapproval that includes a brief description of the deficiencies in the plan, and an opportunity to amend and resubmit the proposed TDM plan within thirty (30) calendar days of the issuance of the notice.
- 3309.6 If DDOT determines that a proposed TDM plan that has been amended and resubmitted in accordance with § 3309.5 fails to meet the requirements of this section, the covered employer shall:
- (a) Begin offering a Clean-air Transportation Fringe Benefit to employees; or
  - (b) Begin paying the Clean Air Compliance fee in accordance with § 3307.1(b).
- 3309.7 By January 15 of each year, a covered employer with an approved TDM plan shall submit to DDOT an annual data report, on a form provided by DDOT, on the actual commute mode share of the covered employer's employees during the previous calendar year.
- 3309.8 DDOT shall audit a covered employer's compliance with its approved TDM plan annually.
- 3309.9 If DDOT determines that a covered employer has failed to comply with its approved TDM plan, the covered employer shall have an additional one hundred and eighty (180) calendar days to comply with the requirements of the TDM plan for the previous year.
- 3309.10 A covered employer who submits a proposed TDM plan pursuant to this section shall not be subject to the requirements in § 3307.1 unless DDOT informs the covered employer that:
- (a) A proposed TDM plan that was amended and resubmitted in accordance with § 3309.5 failed to meet the requirements of this section;

- (b) The covered employer failed to submit an annual data report as required by § 3309.7;
- (c) After one hundred eighty (180) calendar days granted pursuant to § 3309.9, the covered employer failed to comply with its approved TDM plan for the previous year; or
- (d) The covered employer failed to implement an approved TDM plan within ninety (90) calendar days of written approval from DDOT.

**A new section 3310, CLEAN-AIR TRANSPORTATION FRINGE BENEFIT: MARKET VALUE OF EMPLOYER-PROVIDED PARKING BENEFIT, is added to read as follows:**

3310.1 DDOT shall determine the market value of a Clean-air Transportation Fringe Benefit for each covered employer. The market value of a Clean-air Transportation Fringe Benefit shall be:

- (a) The median of the publicly-advertised monthly prices of parking available for rent to the public at any privately-owned parking facilities within one quarter (1/4) mile of the business premises;
- (b) If there is no privately-owned parking facility within one quarter (1/4) mile of the employee's place of work that rents parking to the public, the median of the publicly-advertised monthly prices of parking available for rent to the public at any privately-owned parking facilities within one half (1/2) mile of the business premises; or
- (c) If there is no privately-owned parking facility within one-half mile of the employee's place of work that rents parking to the public, a sum of one hundred seventy five dollars (\$175), which may be adjusted according to the most recent Consumer Price Index for All Urban Consumers in the Washington Metropolitan Statistical area, as published by the United States Bureau of Labor Statistics. DDOT shall publish the adjusted sum on its website.

3310.2 For purposes of this section, "parking facility" means a facility licensed pursuant to and compliant with Chapter 6 of Title 24 of the DCMR.

3310.3 The publicly-advertised monthly price of a particular privately-owned parking facility shall be determined by referencing published prices available online or in print that correspond to what an individual would pay for monthly access to the parking facility and shall not include personalized price quotes or special one-time or recurring discounts.

**A new section 3311, CLEAN-AIR TRANSPORTATION FRINGE BENEFIT: EMPLOYER REPORTING OF PARKING BENEFITS, is added to read as follows:**

- 3311.1 Each covered employer shall submit to the Director of DDOT a report every two (2) years, with the first report to be submitted by January 15, 2023, that includes:
- (a) The total number of employees;
  - (b) The number of employees:
    - (1) Offered a parking benefit;
    - (2) Using a parking benefit;
    - (3) Offered a Clean-air Transportation Fringe Benefit;
    - (4) Using a Clean-air Transportation Fringe Benefit; and
    - (5) For whom the covered employer is paying to DDOT the \$100 Clean Air Compliance Fee;
  - (c) The market value of the Clean-air Transportation Fringe Benefit for the covered employer; and
  - (d) Whether any of the exceptions in § 3312 apply to the covered employer, including:
    - (1) If the exception in § 3312.1 applies, the date on which any owned parking spot was purchased by the employer;
    - (2) If the exception in § 3312.2 applies, the date on which the current lease term will end, disregarding any contemplated lease extensions beyond the current term;
    - (3) If the exception in § 3312.3 applies, the date on which the previously approved transportation demand management plan will expire; or
    - (4) If the exception in § 3312.4 applies, the date on which the current Campus Plan expires, disregarding any contemplated term extensions.

**A new section 3312, CLEAN-AIR TRANSPORTATION FRINGE BENEFIT: APPLICABILITY AND EXCEPTIONS is added to read as follows:**

- 3312.1 A parking benefit offered by a covered employer who, before October 1, 2020, owned, and continues to own, the parking spot used by an employee as a parking benefit shall not be subject to the provisions of § 3307.

- 3312.2 A parking benefit offered by a covered employer who, before October 1, 2020, leases the parking spot used by an employee as a parking benefit shall not be subject to the provisions of § 3307 until the end of the current lease term, regardless of whether the lease agreement contemplated extension beyond the current lease term.
- 3312.3 A covered employer who, before October 1, 2020, is party to a transportation demand management (TDM) plan that was reviewed by DDOT, shall not be subject to the provisions of § 3307 until the end of the current term of the TDM plan, regardless of whether the TDM plan contemplated extension beyond the current term, or until October 1, 2025, whichever is earlier.
- 3312.4 A covered employer who, before October 1, 2020, is party to a Campus Plan approved pursuant to Subtitle X101 of Title 11 of the DCMR, shall not be subject to the provisions of § 3307 until the end of the current term of the Campus Plan, regardless of whether the Campus Plan contemplated extension beyond the current term, if the Campus Plan requires annual reporting to DDOT of:
- (a) The current percentage, and year-over-year change in the percentage, of trips to campus that are made by car, including for-hire vehicles;
  - (b) Performance standards in the Campus Plan related to reducing the percentage of trips to campus that are made by car, including for-hire vehicles; and
  - (c) Policies that the covered employer will adopt to meet the performance standards in the Campus Plan related to reducing the percentage of trips to campus that are made by car, including for-hire vehicles.

**Section 3399, DEFINITIONS, is amended as follows:**

**Subsection 3399.1 is amended as follows:**

**A new definition, “Clean-air Transportation Fringe Benefit”, is added after the definition of “Act” to read as follows:**

**Clean-air Transportation Fringe Benefit** means the following benefits that are provided, in addition to compensation, by a covered employer to an employee:

- (a) Transportation in a commuter highway vehicle, as that term is defined in Section 132(f)(5)(B) of the Internal Revenue Code (26 USC § 132(f)(5)(B)), if such transportation is in connection with travel between the employee’s residence and place of employment;

- (b) Any transit pass, as that term is defined in Section 132(f)(5)(A) of the Internal Revenue Code (26 USC § 132(f)(5)(A)); and
- (c) Any qualified bicycle commuting reimbursement, as that term is defined in Section 132(f)(5)(F)(i) of the Internal Revenue Code (26 USC § 132(f)(5)(F)(i)).

**A new definition, “DDOT”, is added after the definition of “Covered employer” to read as follows:**

**DDOT** means the District Department of Transportation.

**A new definition, “Parking benefit”, is added after the definition of “Full-time employees” to read as follows:**

**Parking benefit** means personal motor vehicle parking, on or within 0.5 miles of the business premises and located in the District, offered to an employee, in addition to compensation, either directly by the employer or through an employer subsidy, for which the employee pays nothing or less than market value. The term “parking benefit” does not include parking that is offered to an employee who is required to use a personal motor vehicle in the regular performance of his or her work.