



**ERIE COUNTY WATER AUTHORITY**  
**INTEROFFICE MEMORANDUM**

To: Jerome D. Schad, Chair  
Peggy A. LaGree, Vice Chair  
Michele M. Iannello, Treasurer

CC: Terrence D. McCracken, Secretary  
Karen A. Prendergast, Chief Financial Officer  
Russell J. Stoll, Chief Operating Officer  
Leonard F. Kowalski, Executive Engineer

From: Mark S. Carney, General Counsel

Date: September 21, 2021

Subject: HR Policies/Procedures Vehicle Policy No. 9 - Section 2 Amendment

---

Attached please find the proposed modification to Section 2 of the Vehicle Policy No. 9 of the HR Policies/Procedures allowing 24-hour access vehicles to be for both work and personal use, 100 miles outside the county line.

This issue has come up in that some employees have been required to maintain their personal vehicles for short travel outside the county limits. Since these employees are required to log all personal hours pursuant to IRS rules and are taxed on the same, it is inequitable to have them retain personal vehicles for short commutes.

ERIE COUNTY WATER AUTHORITY  
AUTHORIZATION FORM  
For Approval/Execution of Documents  
(check which apply)

**Contract:** \_\_\_\_\_ **Project No.:** \_\_\_\_\_  
**Project Description:** HR Policy/Procedures Amendment to Use of Authority Vehicles  
Policy No. 9

**Item Description:**

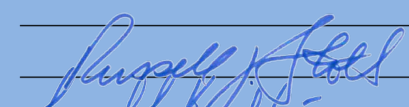



<input type="checkbox"/> Agreement	<input type="checkbox"/> Professional Service Contract	<input type="checkbox"/> Amendment	<input type="checkbox"/> Change Order
<input type="checkbox"/> BCD	<input type="checkbox"/> NYSDOT Agreement	<input type="checkbox"/> Contract Documents	<input type="checkbox"/> Addendum
<input type="checkbox"/> Recommendation for Award of Contract	<input type="checkbox"/> Recommendation to Reject Bids		
<input type="checkbox"/> Request for Proposals			
<input checked="" type="checkbox"/> Other <u>Policy Amendment</u>			

**Action Requested:**


<input type="checkbox"/> Board Authorization to Execute	<input type="checkbox"/> Legal Approval
<input type="checkbox"/> Board Authorization to Award	<input type="checkbox"/> Execution by the Chairman
<input type="checkbox"/> Board Authorization to Advertise for Bids	<input type="checkbox"/> Execution by the Secretary to the Authority
<input type="checkbox"/> Board Authorization to Solicit Request for Proposals	
<input checked="" type="checkbox"/> Other <u>Board Approval of Policy Amendment</u>	

**Approvals Needed:**

**APPROVED AS TO CONTENT:**

<input type="checkbox"/> Other (if Applicable)	_____	Date: _____
<input checked="" type="checkbox"/> Chief Operating Officer		Date: <u>09/22/2021</u>
<input checked="" type="checkbox"/> Executive Engineer		Date: <u>09/22/2021</u>
<input type="checkbox"/> Director of Administration	_____	Date: _____
<input type="checkbox"/> Risk Manager	_____	Date: _____
<input checked="" type="checkbox"/> Chief Financial Officer		Date: <u>09/22/2021</u>
<input checked="" type="checkbox"/> Legal		Date: <u>9/22/2021</u>

**APPROVED FOR BOARD RESOLUTION:**

<input checked="" type="checkbox"/> Secretary to the Authority		Date: <u>09/22/21</u>
--	--	-----------------------

**Remarks:** \_\_\_\_\_  
\_\_\_\_\_

**Resolution Date:** \_\_\_\_\_ **Item No:** \_\_\_\_\_

**ERIE COUNTY WATER AUTHORITY  
HR Policies/Procedures**

<b>Re:</b>	<b>USE OF AUTHORITY VEHICLES</b>	<b>Policy No.:</b>	<b>9.0</b>
<hr/>			
<b>Application:</b>	<b>Employees Using Authority Vehicles</b>	<b>Amended:</b>	<b>01/22/98</b> <b>01/10/08</b> <b>06/18/09</b> <b>02/20/14</b> <b>04/14/16</b> <b>04/30/20</b> <b>12/17/20</b> <b>09/30/21</b>

**POLICY**

The Erie County Water Authority (the “Authority”) owns a fleet of work vehicles used by Authority personnel. Individuals holding certain titles within the Authority are permitted to take these work vehicles home for various work-related reasons, depending upon the employee’s title. When an employee uses a work vehicle for “personal use,” the value of the “personal use” is considered a taxable fringe benefit subject to FICA and federal and state income taxes.

The Authority has adopted this policy to set forth clear and comprehensive guidelines applicable to employees, using work vehicles for personal use, and whose personal use is subject to applicable rules and regulations promulgated by the Internal Revenue Service.

**PROCEDURE**

**Section 1     Definitions**

(a)     “**24-Hour Access Vehicle**” means a **work vehicle** assigned to an employee who has 24-hour access to the vehicle for business and personal use.

(b)     “**Annual lease value**” means the value assigned by the **IRS** based on the **FMV** of a work vehicle.

(c)     “**Annual statement of business travel**” means the annual statement given to the **Authority’s** Comptroller in the month of December, indicating the total mileage placed on a **work vehicle** and the mileage, or percentage of total mileage used, for business or trade.

(d)     “**Assigned Work Vehicle**” means, for purpose of this policy, a **work vehicle** assigned to an employee for business use and for limited **personal use** to commute to and from work.

- (e) “**Authority**” means the Erie County Water Authority.
- (f) “**Business log**” means the log kept by an employee who may use a **work vehicle** 24-hours a day for both personal and business travel. For tax purposes, such an employee is required to maintain a business log containing the business mileage, time and place for business travel, and the business purpose for such travel.
- (g) “**Calculated fringe benefits**” means the fringe benefit allocated for **personal use** using either the **Commuting Rule** or the **Lease Value Rule** and for the fuel used for **personal use**.
- (h) “**Chief Operating Officer**” means the individual whose position is defined under the job specifications for Executive Director.
- (i) “**Commuting Rule**” means the **IRS** rule for calculating **personal use** for commuting to or from home, using a **work vehicle**. Under the **Commuting Rule**, the **IRS** has established a published, flat rate for a **one-way commute**.
- (j) “**FICA**” means payroll withholdings for social security and Medicare.
- (k) “**FMV**” means fair market value.
- (l) “**Fuel value**” means the value of fuel provided by the **Authority** for a **work vehicle**, including fuel pumped at the Union Road Service Center or fuel billed or invoiced to the **Authority**. Fuel assessed for personal use is a taxable fringe benefit under **IRS** rules.
- (m) “**IRS**” means the Internal Revenue Service within the United States Department of the Treasury.
- (n) “**Lease Value Rule**” means the **IRS** rule for calculating **personal use** by an employee who has 24-hour access to a **work vehicle**.
- (o) “**One-way commute**” means commuting one-way, either to, or from work. During a **one-way commute**, an employee is permitted to use an **Assigned Work Vehicle** on a de minimis basis for personal errands while traveling en route to work or from home.
- (p) “**Personal use**” means use of a **work vehicle** for purposes unrelated to work including, but not limited to, commuting to or from work.
- (q) “**Work vehicle**” means a vehicle owned by the **Authority** and used by **Authority** personnel for business purposes. The term “work vehicle,” as used in this policy, has the same meaning as the term “employer-provided vehicle,” as used by the **IRS**.
- (r) “**Working Condition Benefit Rule**” means the **IRS** rule that permits a taxpayer to deduct allowable business expenses when the taxpayer’s use of an employee-provided vehicle is considered taxable income.

## Section 2     **24-Hour Access Vehicle**

(a)     The *Authority* provides *24-Hour Access Vehicle* to essential personnel who incur extensive business mileage or who are routinely required to respond to emergencies on a 24-hour basis.

(b)     The *Authority* shall assign a *work vehicle* on a twenty-four (24) basis to an essential employee having one of the following titles: Chief Instrument and Control Systems Specialist, Chief Operating Officer, Director of Operations, Executive Engineer, Security Officer (ECWA), Sr. Production Engineer, and Sr. Distribution Engineer.

(c)     Employees having one of the titles set forth in paragraph (b) of this section are not required to accept a *24-Hour Access Vehicle*. Subject to the provisions of Policy No. 8 Travel and Training Expenses, such an employee may seek mileage reimbursement for using a personal vehicle for business usage.

(d)     Employees assigned to a *24-Hour Access Vehicle* may use such vehicle for *personal use* subject to the limitations set forth in paragraphs (e) through (g) of this section.

(e)     Employees assigned to a *24-Hour Access Vehicle* may not leave the United States with the vehicle for personal use. The employee must have prior approval from the Authority to use the work vehicle for business purposes outside of the United States.

(f)     Employees assigned to a *24-Hour Access Vehicle* may not travel more than 100 miles outside the County of Erie for personal use. The employee must receive prior approval from the Authority to use a *24-Hour Access Vehicle* beyond 100 miles of the County of Erie line for either business or personal use. Approval from the Authority shall be granted by either an action of the Board of Commissioners or the Secretary to the Authority.

(g)     Employees assigned to a *24-Hour Access Vehicle* must have a valid New York State driver's license.

### (h)     ***Business Log***

(1)     In accordance with *IRS* rules and regulations, an employee assigned to a *24-Hour Access Vehicle* must maintain a *business log*.

(2)     The employee is solely responsible for recording and maintaining a *business log*.

(3)     The *IRS* considers written records made at the time of each business use are the best evidence.

(4)     Any use of a *24-Hour Access Vehicle* that is not substantiated as business use would be treated by the *IRS* as taxable income. Under such circumstances, the employee will be subject to the *working condition*

*benefit rule.*

(i) ***Annual Statement of Business Travel***

- (1) An employee assigned to a ***24-Hour Access Vehicle*** must provide an ***annual statement of business travel*** to the Authority during the month of December.
- (2) The employee is solely responsible for the content of the ***annual statement of business travel***.
- (3) If the employee fails to provide the ***annual statement of business travel***, the Authority is required under ***IRS*** rules and regulations to calculate personal use at 100% of the vehicle's ***annual lease value***.

(j) The taxable fringe benefit for ***personal use*** of a ***24-Hour Access Vehicle*** is calculated by the Authority based on the ***Lease Value Rule***.

(k) The ***fuel value*** for ***personal use*** by an employee assigned to a ***24-Hour Access Vehicle*** will be reported separately in the employee's wages pursuant to section 5 of this policy.

### **Section 3 Assigned Work Vehicle**

(a) The ***Authority*** provides ***Assigned Work Vehicles*** to essential personnel who do not routinely report to one work location or who may be on-call for emergencies. ***Assigned Work Vehicles*** contain equipment necessary either to respond to an emergency or to perform daily work assignments.

(b) The ***Authority*** provide an ***Assigned Work Vehicle*** to an essential employee having one of the following titles: Director of Water Quality, Electrical Engineer, Control Operator Crew Chief, and Pump Mechanic Crew Chief.

(c) Employees using an ***Assigned Work Vehicle*** must have a valid New York State driver's license.

(d) An ***Assigned Work Vehicle*** must display ***Authority*** decals on the driver's and passenger's front doors.

(e) An essential employee with an ***Assigned Work Vehicle***, as defined, may use the vehicle for business use and for limited ***personal use*** to commute to and from work.

(f) Commuting to and from work is considered under ***IRS*** rules as ***personal use***.

(g) The taxable fringe benefit for ***personal use*** of an ***Assigned Work Vehicle*** is calculated by the Authority based on the ***Commuting Rule***.

## Section 5 FICA and Tax Withholdings

(a) *Calculated fringe benefits* will be reported on the employee's W-2 under "Wages, tips and other compensation" (Box 1) and "Other" (Box 14).

(b) As required by *IRS* rules and regulations, *FICA* will be withheld during the last pay period in December for income reported as a *calculated fringe benefit*.

(c) The Comptroller will not withhold state and federal income tax for income reported as a *calculated fringe benefit*. Employees having reported taxable income as a *calculated fringe benefit* are responsible for reporting and paying any taxable liability for income reported as a *calculated fringe benefit*.