

**El Aguila**  
**RURAL TRANSPORTATION**

**Drug & Alcohol**  
**Free Workplace Policy**

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COUNTY CLERK  
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WEBB COUNTY, TEXAS

BY *[Signature]* DEPUTY



Webb County Commissioners Court  
June 2011

Webb County Commissioners Court  
1000 Houston Street  
Laredo, Texas 78040

Amended October 27, 2014  
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**El Aguila  
RURAL TRANSPORTATION  
DRUG/ALCOHOL-FREE WORKPLACE POLICY**

**1.0 POLICY STATEMENT**

El Aguila Rural Transportation by and through the Webb County Commissioners Court is committed to promoting the safety and well-being of its employees, passengers, motorists and pedestrians. To ensure that transit service is delivered safely, efficiently and effectively, each employee has the responsibility to perform his/her duties in a safe, conscientious, and courteous manner.

A drug/alcohol-free workplace is essential to creating a safe environment for employees and the public while providing transit services. El Aguila is committed to providing a drug/alcohol-free workplace through the enforcement of the regulations issued by the Federal Transit Administration (FTA). In February 1994, the Federal Transit Administration (FTA) published two regulations prohibiting drug use and alcohol misuse by transit employees and required that transit agencies test for prohibited drug use and alcohol misuse. In August 2001, these regulations were updated and consolidated into one regulation. The new regulation is 49 CFR Part 655 "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations". In addition, the U.S. Department of Transportation (DOT) issued 49 CFR Part 40, *Procedures for Transportation Workplace Drug and Alcohol Testing Programs* which describes the testing procedures to be followed. A complete copy of regulation Part 49 CFR Part 40 as amended will be made available to an employee upon request.

**2.0 PURPOSE:**

In order to meet its public safety responsibilities and to comply with the requirements of the above laws and regulations, including the requirements of the FTA and State regulations regarding the prevention of prohibited drug use and misuse of alcohol in transit operations, El Aguila has adopted the following Drug/Alcohol-Free Workplace Policy *and a copy of this policy will be distributed to each covered employee.*

**3.0 DRUG AND ALCOHOL DESIGNATED EMPLOYER REPRESENTATIVE (DER)**

Any questions regarding this policy or any aspect of El Aguila's Substance Abuse Program should be addressed to the following transit system representatives:

Ms. Cynthia Mares Drug & Alcohol Program Manager (DAPM) Director, Webb County Administrative Services 1110 Washington Street, Suite 204 Laredo, Texas 78040  956-523-4143	Ms. Margie Gomez Designated Employer Representative (DER) Webb County Administrative Services 1110 Washington Street, Suite 204 Laredo, Texas 78040  956-523-4717
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#### **4.0 SAFETY- SENSITIVE FUNCTIONS**

The Federal Transit Administration (FTA) has determined that safety-sensitive functions are performed by those who:

1. Operate revenue service vehicles, whether or not the vehicle is in revenue service.
2. Operate non-revenue service vehicles that require drivers to hold a Commercial Drivers License (CDL).
3. Control dispatch or movement of a revenue service vehicle.
4. Maintain revenue service vehicles or equipment used in revenue service. (The rule applies to all maintenance contractors who stand in the shoes of an urbanized system serving a population of 200,000 or more and who perform engine repair, revenue service repair, equipment repair, and component rebuild/overhaul).
5. Carry a firearm for security purposes.

#### **5.0 SAFETY SENSITIVE POSITIONS**

Safety sensitive position- a duty position or job category which requires the performances of a safety- sensitive function(s) such as those job titles listed below:

1. Drivers/Operators
2. Director of Rural Transportation
3. Director, Economic Development/Community Action Agency
4. Scheduler/Dispatcher
5. Maintenance
6. Mechanic

#### **6.0 PARTICIPATION AS A REQUIREMENT OF EMPLOYMENT**

Every employee of the El Aguila working in a job classified as a safety-sensitive position must participate in the employer's prohibited drug and alcohol testing program. *All covered employees are required to submit to drug and alcohol tests conducted in compliance with 49 CFR Parts 40 & 655.* Participation in this program is a condition of employment with El Aguila.

#### **7.0 PERIOD OF COVERAGE AND PROHIBITED BEHAVIOR**

An employee must not consume alcohol while performing a safety-sensitive function. (655.32).

Consumption of Alcohol is prohibited:

1. Four hours prior to performing a safety-sensitive function (655.33).
2. Eight hours following an accident unless the employee has already undergone a post accident test (655.34).
3. Employees are also prohibited from consuming alcohol during the hours the employee is on-call (655.33(b)).
4. A blood alcohol concentration of 0.04 or greater while on duty, while performing a safety-sensitive function, is considered a positive test result (655.31).

Employees with an alcohol concentration of 0.02 or greater, but less than 0.04 will not be allowed to perform or continue to perform safety-sensitive functions until a subsequent test measures less than 0.02, or the employee has been removed from duty for at least 8 hours.

Use and ingestion of illegal drugs is prohibited at all times and can be tested for drugs anytime while on duty.

## **8.0 ON- CALL EMPLOYEES**

On call employees who are called for duty will be given the opportunity to acknowledge any use of alcohol or the inability to perform his/her safety sensitive function when called to report to duty. In the event that a covered employee acknowledges the use of alcohol, but claims the ability to perform his/her duties and reports to work El Aguila must administer a reasonable suspicion test.

## **9.0 VIOLATION OF A CRIMINAL DRUG STATUTE**

If an employee pleads guilty or nolo-contendere (no contest) to a violation of a criminal drug statute, the employee must notify his/her supervisor no later than five (5) days after the conviction. El Aguila is then required to notify the federal government and the Texas Department of Transportation (TX DOT) within ten (10) days of said notification by the employee or other actual notice of this conviction. An employee convicted of a violation of a criminal drug statute will be terminated.

In addition, the distribution, dispensation, possession, concealment, use, sale, or unlawful manufacture of alcohol or drugs while on duty or on El Aguila premises or conviction of a criminal drug statute for a violation occurring in the workplace is strictly prohibited and will be grounds for termination. All El Aguila employees must comply with this policy and report within 5 days any conviction for a violation of a drug statute that occurred in the workplace.

## **10.0 PREVIOUS DOT EMPLOYER RECORD CHECK**

Section 40.25 of the Revised DOT Drug and Alcohol Testing rule states that all DOT covered employers must make a good faith effort to obtain testing records for the previous (2) two years, for all applicants seeking safety-sensitive positions. Every applicant will be required to complete a written consent that allows their previous employer (s) to release drug and alcohol testing information to the El Aguila. Should applicant refuse to provide this consent he/she will not be permitted to perform safety-sensitive functions.

El Aguila will submit the applicant/transferee's written consent along with a request for information to each of the DOT-regulated employers who have employed the applicant/transferee for any period during the 2 years before the date of individual's application or transfer: The following information will be obtained:

1. Alcohol test results of 0.04 alcohol concentration or greater;
2. Verified positive drug tests;
3. Refusals to test;
4. Other Violations of FTA/DOT rules; and
5. As appropriate, documentation of the successful completion of DOT return-to-duty requirements including follow up tests.

If the previous employer does not have this information, this documentation will be obtained from the employee. El Aguila expects that any report turned in is not a false report from any previous DOT employer.

If possible El Aguila will obtain and review this information before the applicant employee performs safety sensitive functions. If El Aguila does not receive information within (30) thirty days El Aguila will document a good faith effort to receive the information. If El Aguila has not made a good faith effort to obtain the information El Aguila will not allow the employee to perform safety sensitive functions after 30 days from the date on which the employee first performed safety sensitive job duties.

El Aguila must also ask all applicants/transferees whether he/she has tested positive, or refused to test, within the past two years on any DOT pre-employment drug or alcohol test administered by a DOT covered employer for which they did not get the job.

If information obtained from a previous employer indicates a non-negative test result in violation of a DOT/FTA regulation El Aguila will not allow the employee to perform safety-sensitive duties unless documentation is obtained stating that the employee has complied with the return-to-duty requirements including SAP assessment, successful treatment, negative return-to-duty test and follow-up tests.

Any employee who previously violated a DOT drug and alcohol regulation or who had a positive test result and who cannot confirm completion of any treatment program will be terminated under El Aguila authority.

El Aguila will keep the following confidential documentation received and or good faith efforts for a minimum of 3 years:

1. Alcohol test results of 0.04 alcohol concentration or greater;
2. Verified positive drug tests;
3. Refusals to test;
4. Other violations of FTA/DOT rules; and as appropriate, documentation of the successful completion of DOT return-to-duty requirements including follow up tests. Revised: June 23, 2009
5. If the previous employer does not have this information, this documentation must be obtained from the employee.

## **11.0 CIRCUMSTANCES FOR TESTING**

Under El Aguila authority if an employee comes forward with a Drug or Alcohol problem, the employee will not be allowed to continue to perform safety-sensitive functions and will be terminated. A covered employee will be tested for prohibited misuse under this part and all different types of tests will follow same policies:

### **11.1 PRE-EMPLOYMENT TESTING (655.41 & 655.42)**

Prior to conducting a pre-employment test, El Aguila will inform the applicant or employee in writing of the testing requirement. (655.17)

El Aguila will require that all applicants for employment in safety-sensitive positions or individuals being transferred into safety-sensitive positions from non-safety sensitive positions be given a preemployment drug test. Applicants will not be assigned safety-sensitive functions unless the individual has a verified negative test result.

When an existing covered employee has not performed a safety-sensitive function for 90 consecutive calendar days and the employee has not been in the employer's random testing pool during that time for sickness, vacation, jury duty, leaves of absence, workers compensation, Family Medical Leave or any other purpose that extends 90 days or more, the employee will be required to take a pre-employment drug test and obtain a negative test result prior to the reassignment of safety-sensitive duties.

Any applicant who undergoes a pre-employment test, but is not actually assigned safety-sensitive duties within 90 days from the date of the test, will have to be re-tested with negative test results prior to the applicant's first performance of safety-sensitive duties.

El Aguila has chosen to conduct under FTA authority pre-employment alcohol testing only after making a contingent offer of employment (or transfer).

El Aguila will follow the procedures set forth in Part 655.42 and Part 40 (Subparts J through N). The applicants must have a negative alcohol test (<0.02 BAC) before he or he is assigned any safety-sensitive duties.

When an employee or applicant has previously failed or refused a pre-employment drug test administered under this part, the employee must provide the employer proof of having successfully completed a referral, evaluation and treatment program.

If a pre-employment test is cancelled, El Aguila shall require all applicants/transferee to submit to and pass another test.

### **11.2 REASONABLE SUSPICION TESTING (655.43)**

The FTA regulations (Sec. 655.43) require that a safety-sensitive employee submit to a test when El Aguila has reasonable suspicion that the employee has used a prohibited drug or has misused alcohol. The request to undergo a reasonable suspicion test will be based on a specific, contemporaneous, articulable observation concerning the appearance, behavior, speech, or body odor of the safety-sensitive employee and determinations will only be made by trained supervisors trained in detecting the signs and symptoms of drug use and alcohol misuse.

El Aguila supervisor(s) may direct a covered employee to undergo reasonable suspicion testing for alcohol only while the employee is performing safety sensitive functions; just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions.

Likewise an El Aguila supervisor may direct a covered employee to undergo reasonable suspicion testing for drugs anytime the employee is on duty.

Under most circumstances, the alcohol test will be administered immediately following the determination or within two (2) to eight (8) hours following the determination.

### **11.3 POST ACCIDENT TESTING (655.44)**

#### **Fatal Accident Testing -**

El Aguila will perform a drug and alcohol test as soon as possible following an accident involving the loss of human life. El Aguila will test each surviving covered employee that operated the mass transit vehicle at the time of the accident. El Aguila will also test any other covered employee whose performance could have contributed to the accident, as determined by the employer, using the best information available at the time of the accident.

El Aguila will perform a Drug & Alcohol test as soon as possible following an accident not involving the loss of human life, in which the mass transit vehicle involved is a passenger bus or van where one or more vehicles incurs disabling damage (including non-FTA funded vehicles) as the result of the accident and is removed from operation. El Aguila shall test each covered employee operating the mass transit vehicle at the time of the accident when an individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident.

El Aguila employees shall remain readily available for testing at the scene of the accident. A covered employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying the employer or the employer representative of his or her location or if he or she leaves the scene of the accident prior to submission to such test, will be deemed by the employer to have refused to submit to testing.

If determined El Aguila shall test for alcohol as soon as possible or within two (2) to eight (8) hours and within thirty-two (32) hours for drugs following an accident.

El Aguila will not test employees whose performance can be completely discounted as a contributing factor.

El Aguila, prohibits employees from consuming alcohol for 8 hours following an accident, or until a post-accident test has taken place, whichever comes first.

#### **11.4 EL AGUILA POST- ACCIDENT NON-DOT TESTING**

El Aguila holds the right under its own authority to test any operator involved in an accident, if the operator is operating any El Aguila vehicle at the time of the accident. Test administered will be a Non- DOT test.

#### **11.5 RANDOM TESTING (655.45)**

The FTA regulations (655.45) require random testing of drugs and alcohol for all employees performing safety-sensitive functions.

El Aguila will use a valid scientifically computer based method to select safety-sensitive employees for random testing. The random number computer generator is matched with the employees' identification number (i.e., social security number or other identification number).

At least 25 percent of the total number of safety-sensitive employees subject to drug testing and 10 percent subject to alcohol testing must be tested each year. These rates are the minimum annual percentage rates published in the Federal Register. Tests will be unannounced as well as unpredictable and testing will be spread reasonably throughout all periods of the calendar year. Random drug testing may also be conducted at all times of the day when safety sensitive functions are being performed to include nights, weekends, and holidays. Once the employee has been notified that he/she has been selected for testing, he/she should then report immediately to the collection site.

All safety-sensitive employees will have an equal chance of being selected for testing and shall remain in the pool, even after being tested. It is possible for some employees to be tested several times in one year, and other employees not to be tested for several years. Every effort shall be made to provide the maximum privacy possible. Employees shall be individually and discretely notified to report to the collection site, and employees selected will be assured that testing is a routine random test.

Any employee required to submit to a drug and/or alcohol test must cooperate fully with the collection process and complete all required forms and documents. Random testing must be conducted at all times of day when safety-sensitive functions are performed.

El Aguila requires each covered employee who is notified of selection for random drug or random testing proceed to the test site immediately. If the employee is performing a safety-sensitive function at the time of the notification, the employee ceases to perform the safety sensitive function and proceeds to the testing site immediately.

A covered employee shall only be randomly tested for alcohol misuse before the employee is performing safety-sensitive functions, during, or after the employee is performing safety sensitive duties. A covered employee may be randomly tested for prohibited drug use anytime while on duty.

If an employee is off-duty or unavailable at the time El Aguila desires to conduct a test, the test may be postponed until the employee is on duty only if the test can be performed during the same testing period.

For random testing purposes, El Aguila *may* remove any employee whose absence from work extends 90 days or more from the random testing pool for any testing period for which he or she will not perform any safety-sensitive duties.

El Aguila does not allow any discretion by management personnel as to who is selected or notified for random testing.



El Aguila will give no advance warning; testing will be unannounced and immediate. El Aguila will exercise care in scheduling substitute employees for those employees who are unavailable at the time El Aguila desires to conduct a test.

### **12.0 PROHIBITED SUBSTANCES**

Under the FTA drug testing regulation for safety-sensitive employees, El Aguila is required to conduct laboratory testing of urine specimens for the following five (7) types of drugs. (655.21):

1. Marijuana
2. Cocaine
3. Opiates (e.g., heroin, morphine, codeine)
4. Phencyclidine (PCP)
5. Amphetamines (e.g., racemic amphetamine, dextroamphetamine, and methamphetamine).
6. AMP/MAMP
7. MDMA,MDA,MDEA (Ecstasy)

Alcohol is also a prohibited substance.

### **13.0 TEST STANDARDS**

The initial test will use an Immunoassay with the following initial cutoff levels (ng/ml) for a negative result. All specimens indicated positive on the initial test shall be confirmed using GC/MS techniques with the following cutoff level (ng/ml):

<b>Test</b>	<b>Immunoassay Initial Screening</b>	<b>GC/MS Confirmatory</b>
Marijuana	50 ng/ml	15 ng/ml
Cocaine	150 ng/ml	100 ng/ml
Opiates	2000 ng/ml	2000 ng/ml (Morphine/Codeine)
Phencyclidine	25 ng/ml	25 ng/ml
Amphetamines	500 ng/ml	250 ng/ml
AMP/MAMP	500 ng/ml	250 ng/ml
MDMA,MDA,MDEA(Ecstasy)	500 ng/ml	250 ng/ml

El Aguila reserves the right under its own authority to test for other drugs.

### **14.0 BEHAVIOR THAT CONSTITUTES A REFUSAL TO SUBMIT TO A TEST**

- Failure to appear for any test (except a pre-employment) at the collection site in the time allotted.
- Failure to remain at the test site until the testing process is completed, except in preemployment situations where leaving before the testing process begins is not deemed to be a test refusal.
- Failure to provide a urine, breath, or saliva specimen (verbal or physical) as required by DOT Part 40.
- Failure to permit the observation or monitoring of specimen collection when it is required.
- Failure to provide a sufficient amount of urine or breath specimen collection when it is required with no medical explanation.
- Failure or refusal to take a second test when required.
- Failure to undergo a medical evaluation when required by an MRO.
- Failure to cooperate with the testing process. (Examples: refusal to empty pockets or wash hands after being directed to so by the collector, or behaving in a confrontational manner that disrupts the collection process).

- For an observed collection, failure to, follow the observer's instructions to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if individual is wearing any type of prosthetic device that could be used to interfere with the collection process.
- Possession or wearing of a prosthetic or other device that could be used to interfere with process.
- Admitting adulteration or substitution of the specimen to the collector or the MRO.
- If the MRO reports a verified adulterated or substituted test result.
- In alcohol testing, refusal to sign Step 2 of the Alcohol Testing Form ("ATF").
- Leaving the scene of the accident without just cause prior to submitting to post-accident tests.

An employee who refuses to take a non- DOT test or to sign a non-DOT form, is not considered to have refused to take a DOT test. There are no consequences under DOT agency regulations for refusing to take a non-DOT test. However, under El Aguila authority, an employee who refuses to take a non-DOT test or sign a non-DOT form will be terminated.

### **15.0 FTA DRUG AND ALCOHOL REQUIRED TESTING PROCEDURES**

Drug and alcohol testing of safety-sensitive employees and safety-sensitive job candidates will be conducted in a manner designed to protect employees and the integrity of the testing process, safeguard the validity of test results, and ensure that those results are attributable to the correct employee.

Urine samples for drug testing will be collected in private at the collection site designated by El Aguila, using the split sample collection method. If the collection site personnel and the El Aguila representative have a reason to believe that an adulterated or substituted sample has been provided, or that the employee altered or substituted the sample, the employee will be required to submit a second, sample under direct observation of collection site personnel of the same gender as the employee. The determination to submit a second sample or to provide the original sample under observed collection shall be made in accordance with Section 49 CFR Part 40.

Any covered employee who questions the results of a required Federal DOT Regulated Test under the paragraphs of this policy may request that the split sample be tested. The split sample test must be conducted at a second DHHS-certified laboratory with no affiliation with the laboratory that analyzed the primary specimen. The split sample must be provided at the same time as the primary sample to be tested. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. The employee shall pay for the cost of testing the split specimen are covered in order for a timely analysis of the sample, however, El Aguila will reimburse the employee if the split sample test from the employee results are negative. Thus, indicating the first test was incorrect and not the employees fault.

If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled and will direct El Aguila to retest the employee under direct observation. Employees do not have access to a test of their split specimen following an invalid result.

The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary is positive, the split will be retained for testing if so requested by the employee through the Medical Review Officer. If the primary specimen is positive, it will be retained in frozen storage for one year and the split specimen will also be retained for one year.

**Direct Observation Procedure:** Prior to specimen collection, observer must request employee to raise his/her shirt, blouse, or dress/skirt as appropriate above the waist, lower clothing and underpants and to turn around to show that he/she is not wearing any type of device that could be used to interfere with the collection process.

An approved chain of custody procedure will be followed in the administration of all drug tests. Urine samples will be sealed and installed by the employee and a witness. The drug testing custody and control form will be completed in the manner specified in 49 CFR Part 40.

Urine samples will be promptly sent to and tested by a laboratory that is certified to perform drug tests by the Department of Health and Human Services (DHHS), in accordance with the procedures set forth in 49 CFR Part 40. In most cases, the turnaround time will be no longer than forty-eight (48) hours for negative results and seventy-two (72) hours for positive results 49 CFR Part 40 permits up to five (5) days turnaround.

Urine samples including primary specimens, Immunoassay-initial screen, & GC/MS confirmatory testing will be stored for (1) one year if positive. Split specimen-urine samples will be discarded if the primary specimen is negative. If the test is positive, the split specimen will be kept in long term frozen storage for at least sixty (60) days.

Breathalyzer tests will be conducted in a manner that provides the employee with privacy to the greatest extent possible. All of the procedures regarding such tests set forth in the 49 CFR Part 40, including procedures relating to completion of the breath alcohol testing form, will be followed.

Alcohol tests will be conducted using a National Highway Traffic Safety Administration (NHTSA) approved Evidentiary Breath Testing device (EBT) operated by a trained breath alcohol technician (BAT). If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test.

Initial drug screening will be conducted using an accepted Immunoassay method. All positive tests will be confirmed using the Gas Chromatography/Mass Spectrometry (GC/MS) drug testing method.

Specimen Validity "Testing will be conducted on all urine specimens provided for testing under DOT authority. 49 CFR Part 40. Specimen Validity Testing is the evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of Validity Testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

#### **OBSERVED COLLECTIONS:**

- All follow-up tests;
- Any time the employee is directed to provide another specimen because the temperature on the original specimen was out of the accepted temperature range of 90 F -100 F;
- Any time the employee is directed to provide another specimen because the original specimen appeared to have been tampered with;
- Any time a collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
- Any time the employee is directed to provide another specimen because the laboratory reported to the MRO that the original specimen was invalid and the MRO determined that there was not an adequate medical explanation for the result;
- Any time the employee is directed to provide another specimen because the MRO determined that the original specimen was positive, adulterated or substituted, but had to be cancelled because the test of the split specimen could not be performed.

#### **16.0 CONFIDENTIALITY**

Confidentiality will be maintained throughout the drug/alcohol screening process. Individual test results may not be released to any other party, or parties, without a specific written authorization by the tested person to release the results to others, except as follows:

1. The employee authorizes the transmittal of the information. The employee has signed a release form for a back to work agreement with El Aguila in which the results of the screen must be known for further action concerning the employee.
2. The employee has been sent for drug and/or alcohol testing and the Medical Review Officer (or designee) must inform the Manager of Administrative Services or designee of the test results.
3. When a claim is made against El Aguila which involves the drug and alcohol screen and/or its result.
4. When necessary to comply with State or Federal requirements.

Every effort will be made to carry out all actions relative to this policy in a manner which respects the dignity and confidentiality of those involved.

El Aguila employees (or applicants) are required to submit to a drug or alcohol test and must promptly execute consent to the collection of samples; analysis of the sample to determine the presence of designated controlled substances and/or their metabolites, or alcohol, and the release of test results to El Aguila's Designated Employer Transit System Representatives.

By way of written request, every El Aguila employee will have the right to access his/her own drug and alcohol records and legible copies of the results of all drug and alcohol tests will promptly be made available to the employee.

#### **17.0 VIOLATIONS AND CONSEQUENCES OF THE MISUSE OF DRUGS AND ALCOHOL:**

Violations occur when an employee:

- Has a verified positive drug test result.
- Has a confirmed alcohol concentration of 0.04 or greater;
- Refuses to submit to a test.
- Uses drug and or alcohol while performing a safety-sensitive function(s); just before or just after performing a safety-sensitive function(s). Under the El Aguila authority any employee who uses alcohol before, while, or just after performing a safety-sensitive function will be terminated.
- Uses alcohol during specified on calls hours when they are on-call. Under the El Aguila authority any employee on call having an alcohol level of 0.04 or greater will be terminated.
- Does not submit to all authorized tests.

Since El Aguila practices zero-tolerance, any El Aguila employee having any of the above violations will immediately be removed from Safety Sensitive duties and under El Aguila authority employee will be terminated. The employee may be referred to a Substance Abuse Professional (SAP).

El Aguila will not permit a covered employee tested under the provisions of this part who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 to perform safety-sensitive functions, until:

1. The employee's alcohol concentration measures less than 0.02; or
2. The start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test.

The foregoing regarding the use of alcohol will apply to periods when employees are on breaks, between shifts, or at lunch, if they are scheduled or may be assigned to work thereafter on the same day. These rules will also apply to non-safety sensitive employees.

## **18.0 DISCIPLINARY ACTION: GROUNDS FOR IMMEDIATE DISCHARGE.**

Since El Aguila practices zero-tolerance, the following rules will apply to non-safety sensitive employees and Safety-Sensitive employees. Under El Aguila authority, any employee who violates these rules will be terminated.

1. Failure to report an arrest for violation of a drug or alcohol statute within five (5) days of the arrest. An employee who is terminated for failure to comply with this section will be reinstated only if he/she supplies evidence that it was not reasonably possible to comply.
2. Refusal to submit to an authorized drug or alcohol test.
3. Consuming alcoholic beverages or any substances containing alcohol, during working hours, during breaks, between shifts, at lunch, if the employee is scheduled for work or may be assigned to work.
4. Distribution, dispensing, possession, concealment, use, sale or unlawful manufacture of any prohibited substance, while on duty or on El Aguila premises.
5. Conviction of any criminal drug statute and failure to notify El Aguila of such conviction within five (5) days.

The policy of El Aguila is to terminate Safety Sensitive employees after the first violation. However, in the event that an employee is returned to Safety Sensitive duties for any reason, he/she will be subject to all Return-To-Duty and Follow-up testing as specified in 49 CFR Part 40 and Part 655.

## **19.0 RETURN-TO-DUTY TESTING 655.46 & 40.285**

Since El Aguila practices zero-tolerance the following rules will apply to nonsafety sensitive employees and Safety-Sensitive employees. Under El Aguila authority any employee who violates these rules will be terminated.

1. Employee must first be evaluated by a Substance Abuse Professional.
2. Employee must pass a return to duty drug and alcohol tests. Employee will pay fees for all return to duty drug or alcohol tests.
3. Employee must have a verified negative drug test result and a negative alcohol test result to return back to a safety sensitive function.
4. If a drug test is cancelled, El Aguila shall require the employee to submit to and pass another drug test. Employee will pay fees for another drug test if the drug test has been cancelled.
5. If an employee is unable to provide a sufficient amount of urine to permit a return-to-duty drug test (i.e., 45 mL), the "insufficient volume" procedures must be followed: When an employee is unable to provide 45mL's of urine, the collector will discard the specimen and instruct the employee that he/she has up to 3 hours to provide another specimen with sufficient volume.
  - a. The 3 hour time period begins when the insufficient quantity or empty cup is presented to the collector.
  - b. The employee may only consume up to 40 ounces of fluid distributed reasonably thorough out the period.
  - c. Refusal to drink liquids will not be considered a test refusal, unless the 3 hour time period has expired and the employee refuses the attempt to provide a new urine specimen; this is considered a test refusal.
  - d. If re-attempts are made that result in insufficient urine volume the specimen must and will be discarded. There will be no combination of urine collected to create one specimen of sufficient volume.
  - e. Specimen will only be maintained if a temperature reading was out of temperature range or showed evidence of tampering or adulteration.
  - f. After the 3 hours have passed and the employee is still unable to provide an adequate specimen El Aguila will:

1. Discard the insufficient specimen.
2. Testing will be discontinued.
3. Administrative Services will be notified.
4. Administrative Services will consult with Medical Review Officer.
5. El Aguila will direct employee to obtain a medical evaluation from a licensed physician who is acceptable to El Aguila.
6. An evaluation will be made within 5 business days of the initial collection effort.
7. The medical evaluation must determine a medical condition, which may include a physiological condition, urinary dysfunction, a pre-existing physiological condition (not to include unsupported assertions of "situational anxiety" or dehydration), a condition which is serious and permanent or long-term disability that is highly likely to prevent the employee from providing a sufficient urine specimen in the future.

**20.0 FOLLOW —UP —TESTING (655.47 & 40.301)**

Since El Aguila practices zero-tolerance the following rules will apply to nonsafety sensitive employees and Safety-Sensitive employees. And under El Aguila authority any employee who violates these rules will be terminated.

- a. If an employee is allowed to return-to-duty, he/she shall be subject to 'unannounced follow-up-testing for at least 12 months but not more than 60 months. Employee will pay fees for all follow-up drug or alcohol tests.
- b. Six tests will be performed during the first 12 months the employee has returned back to duty. Employee will pay fees for any follow up tests performed during the first 12 months the employee has returned back to duty.
- c. Every case will be decided based on the unique circumstance of the individual.
- d. Should the Substance Abuse Professional recommend follow-up testing beyond the 12 month period, it shall not exceed the 60 months form the time the employee returns to duty and any follow up testing beyond the 60 months will be paid by the employee.
- e. The Substance Abuse Professional will recommend based upon the evaluation on how testing may be conducted. Testing may be weekly, biweekly, monthly and or may be reduced to monthly or quarterly testing.
- f. The Substance Abuse Professional may also recommend that a follow-up alcohol test have a required result of less than 0.04.
- g. The Substance Abuse Professional will document his/her recommendation in a written follow-up testing plan that El Aguila is required to follow.
- h. El Aguila will not impose any additional testing requirements beyond the SAP"s follow-up testing plan.
- i. Follow-up testing must be unannounced with no predictable pattern.
- j. Follow-up testing is separate from and in addition to the random testing program.
- k. Any employee of El Aguila who is subject to follow-up testing must also remain in the standard random pool. Test fees will not apply to random testing.
- l. If a recommendation for aftercare from the SAP is received then El Aguila will be encouraged to create a return-to-duty contract with the employee that will require the employee to comply with the aftercare recommendations. Such a contract would spell out performance goals and obligations, remaining free of prohibited substances and complying with aftercare recommendations.

## **21.0 DILUTE NEGATIVE (40.197)**

If El Aguila, is informed by the MRO that a positive drug test was dilute El Aguila will simply treat the test as a verified positive test. El Aguila will not direct the employee to take another test based on the fact that the specimen was dilute.

If the MRO informs El Aguila that a negative test was dilute then *El Aguila* will take the following action:

1. If the MRO directs El Aguila to conduct a second test under direct observation (i.e., because the Creatinine concentration of the specimen equal to or greater than 2mg/dl, but less than or equal to 5 mg/dl-El Aguila will do so immediately with no advance notice. Second test result is final as there will not be a third test.
2. If the creatinine is greater than 5mg/dl but below 20 mg/dl El Aguila will direct the employee to take another test immediately with no advance notice- not directly observed. El Aguila will conduct retests in pre-employment situations and in random test situations.
3. Such recollections will not be under direct observation, unless there is another basis for use of direct observation (see 40.67) and (c).
4. El Aguila will treat all employees the same for this purpose.
5. El Aguila will treat the result of the test the employee was directed to take under paragraph (I) and not a prior test as the test result of record, on which El Aguila will rely for purposes of this part.
6. If the result of the test El Aguila directed the employee to take is also dilute negative then El Aguila will not permit the employee to take an additional test because the result was dilute. However, should the MRO direct El Aguila to conduct a recollection under direct observation under paragraph (1) of this section, El Aguila will immediately do so.  
Note: There is no split specimen testing authorized for an invalid test result.
7. If the employee declines to take a test that El Aguila directed him/her to take under this section, the employee has refused the test for purposes of this part and DOT agency regulations.

## **22.0 EDUCATION AND TRAINING PROGRAMS AND REQUIREMENTS (655.14)**

1. Community Service Hotline Phone Numbers: National Technical Assistance
  - a. Drug-Free Workplace Help Line- 1-800-843-4971
  - b. National Clearinghouse For Alcohol And Drug Information- 1-800-729-6686
  - c. National Institute On Drug Abuse Treatment Hotline (NIDA)- 1-800-662-IIELP
  - d. Department Of Transportation=S Anti-Drug Information Center- 1-800-CALDRUG
  - e. Employee Assistance Professionals Association (EAPA)- 703-522-6272
  - f. National Association Of State Alcohol And Drug Abuse Directors ( NASADAD) 202-783-6868
2. Safety/Sensitive Employee Training:
  - a. Minimum 60 minutes for drugs.
  - b. No training requirement for alcohol.
3. Supervisory Training Requirements:
  - a. 60 minutes in addition to employee training (if safety/sensitive)
  - b. 60 minutes in physical, behavioral, and performance indicators of probable drug use.
  - c. 60 minutes in physical, behavioral, and performance indicators of probable alcohol use
4. El Aguila shall establish an employee education and training program for all covered employees, including:
  - a. Education- The education component shall include display and distribution to every covered employee of: informational material and a community service hot line telephone number for employee assistance, if available.

- b. Training- Covered employees. El Aguila covered employees *will* receive at least 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment and on the signs and symptoms that may indicate prohibited drug use.
- c. Supervisors- Supervisors and/or other company officers authorized by the El Aguila to make reasonable suspicion determinations shall receive at least 60 minutes of training on the physical, behavioral, and performance indicators of probable drug use and at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

### **23.0 REFERRAL, EVALUATION, AND TREATMENT (SECTION 655.62)**

If a covered employee has a verified positive drug test result, or has a confirmed alcohol test of 0.04 or greater, or refuses to submit to a drug or alcohol test required by this part, the employer shall advise the employee of the resource available for evaluating and resolving problems associated with prohibited drug use and alcohol misuse, including the names, addresses, and telephone numbers of substance abuse professionals (SAPs) and counseling and treatment programs.

### **24.0 TEXAS ALCOHOL AND DRUG ABUSE LICENSED SITE FACILITIES FOR THE EL AGUILA AREA**

Gabriela Martinez-Vela  
3301 Chacota St. Ste. 2A  
Laredo, Texas  
(956) 723-4488

### **25.0 EFFECTS OF ALCOHOL**

Alcohol is the most commonly abused drug in the United States and its effect on an individual's health, work and personal life is immense. It is estimated that each alcoholic affects four to five other people, including family, friends and co-workers. The average American pays \$1000 annually to cover the hidden costs of alcoholism such as decreased productivity, accidents, increased health costs, jail, and treatment costs. Approximately 65 percent of murders, 60 percent of child abuse cases, 40 percent assaults, and 55 percent of domestic violence cases are alcohol related. Additionally, alcohol is a major factor in the majority of the traffic fatalities that occur each year.

Alcoholics put themselves at constant risk of death and illness. Those who don't die in traffic accidents are likely to succumb to one of a number alcohol related illness, such as liver disease, malnutrition, and a weakened immune system.

There is a wide spectrum of signs and symptoms of an alcohol problem which can include the following; urgency of first drinks, feelings of guilt about drinking, onset of memory blackouts, increased dependence on alcohol, decreases ability to stop drinking when others do so, neglect of food and physical deterioration.

If an employee suspects he or she has an alcohol problem, he or she should seek the help of a Substance Abuse Professional (SAP).



## **26.0 ADDITIONAL PROVISIONS REQUIRED BY STATE LAW**

El Aguila as an employer in the State of Texas must comply with the Texas Workers Compensation Act. Tex.Rev.Civ.Stat.Art. 6308 s. 7.10 (Vernon Supp.1991) which mandates that the following section be part of an employer's Drug-Free Workplace Policy.

## **27.0 PRESCRIPTION DRUGS/OVER THE COUNTER DRUGS**

The appropriate use of prescription drugs and over the counter medication is not prohibited. However, the following guidelines must be observed.

1. Any employee using a prescription drug should consult with his/her physician regarding the effects of that drug in relation to the operation of motorized vehicles, machinery, or safety-sensitive functions.
2. Employees should read all labels carefully.
3. On-duty employees may not use over the counter medications where the manufacturer advises against their use while operating motorized vehicles, machinery, safety-sensitive functions, or where their use during working hours has not been approved by the employee's physician.
4. In the event of a question regarding the use of any prescription drug or over the counter medication, the employee must notify their supervisor, and must submit written approval for use of the medication from his/her physician, upon request.
5. Any employee reporting for a drug/alcohol test must provide the Medical Review Officer (MRO) with names of prescriptions and over the counter medication that they are currently taking.
6. An employee who reports for duty while using any over the counter or prescription medication where the manufacturer advises against their use while operating motorized vehicles or machinery, who informs El Aguila of such, and does not provide the written approval from her/his physician, will not be allowed to perform the safety-sensitive duties for failure to provide said written approval shall have any time beyond the remainder of the day of the report charged against her/his attendance records, and any instance thereafter.

**28.0 CHEMICAL SCREENING CONSENT AND RELEASE FORM**

I, \_\_\_\_\_, hereby acknowledge I have been informed and given a copy of El Aguila's Substance Abuse Policy and agree to be bound by this policy for the purposes of applying for, accepting, or continuing employment with el Aguila. I also hereby state that I am not a user of controlled substances except under medical supervision as listed below.

I understand and consent freely and voluntarily to El Aguila's request for urine or other specimen for sample required to detect the presence of any addictive or illegal drugs. I hereby release and hold harmless the El Aguila, the laboratory, their employees, agents, and contractors from any liability arising from (1) this request to furnish a specimen or sample. (2) The testing of the specimen or sample, and (3) any decisions made, based upon the results of the tests, which concern my application for employment or my continued employment. I consent to allow any designated El Aguila employee, physician, laboratory, hospital, or medical professional to perform appropriate chemical tests for the presence of alcohol, drugs, or other controlled substances. I give my permission to any designated El Aguila. Employee, physician laboratory, hospital, or medical professional to release the results of these tests to the El Aguila or its designated representative and I release any designated institution or person from any liability whatsoever arising from the release of this information. I have taken within the past 30 days, or am presently taking, the following medications:

<b>Name of Drug</b>	<b>Condition for which Taken</b>	<b>Prescribing Physician</b>
_____	_____	_____
_____	_____	_____

I hereby consent to allow the El Aguila or its designated representative to verify and/or confirm the above information with the prescribing physician listed above.

\_\_\_\_\_  
Printed Name (El Aguila Representative)

\_\_\_\_\_  
Applicant/Employee Signature

\_\_\_\_\_  
Date

**29.0 EMPLOYEE ACKNOWLEDGMENT FORM**

I, \_\_\_\_\_, hereby acknowledge that El Aguila's Substance Abuse Policy has been reviewed with and explained to me, and that I have been given a copy of El Aguila's Substance Abuse Policy.

I further acknowledge the following:

That I have been notified that the unlawful manufacture, distribution, dispensation, possession, or use of alcohol, drugs, or other controlled substances is strictly prohibited in El Aguila's workplace, and that violations of these prohibitions will be grounds for termination.

That El Aguila has provided information to me concerning the dangers of drug and alcohol abuse in the workplace, and the availability of drug and alcohol counseling and rehabilitation:

That as a condition of continued employment, I will abide by El Aguila's Substance Abuse Policy: if convicted of drug-related activity in the workplace, I will notify the El Aguila within five days of the conviction.

I understand and agree to the above terms and conditions of employment. I understand that the above in no way creates an obligation or contract of employment and that I, as well as the El Aguila, have the right to end the employment relationship at any time. I further understand that the El Aguila has the sole discretion to modify or replace these policies at any time without notice.

\_\_\_\_\_  
Employee Name (Please Print)

\_\_\_\_\_  
Social Security No.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

**30.0 REFERRAL NOTICE**

You have indicated on your Chemical Screening Consent Release Form that you are not a user of any controlled substances. However, our screening test has revealed the presence of a controlled substance.

As a result, you will not be considered for employment at this time. However, you may elect to receive professional evaluation and/or to enter a rehabilitation program (at your own expense) at a facility approved by the Texas Commission on Alcohol and Drug Abuse. After successful completion, you may reapply for a position with the El Aguila.

\_\_\_\_\_  
El Aguila Department Head

\_\_\_\_\_  
Date

I acknowledge receipt of this notice

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

### 31.0 EL AGUILA REASONABLE SUSPICION DOCUMENTATION FORM

Employee Name:	Date of Observation Month/Day/Year:
Location:	Time of Observation:

**OBSERVED PERSONAL BEHAVIOR (CIRCLE/CHECK MARK ALL APPROPRIATE ITEMS)**

<b>(Odor of Alcoholic beverage)</b> <input type="checkbox"/> Strong <input type="checkbox"/> Faint <input type="checkbox"/> Moderate <input type="checkbox"/> None	<b>Eyes:</b> <input type="checkbox"/> Bloodshot <input type="checkbox"/> Glassy <input type="checkbox"/> Clear <input type="checkbox"/> Dilated Pupils <input type="checkbox"/> Normal <input type="checkbox"/> Heavy Lids <input type="checkbox"/> Fixed Pupils	<b>Speech:</b> <input type="checkbox"/> Confused <input type="checkbox"/> Accent <input type="checkbox"/> Stuttered <input type="checkbox"/> Thick Tongued <input type="checkbox"/> Mumbled <input type="checkbox"/> Slurred <input type="checkbox"/> Cotton mouthed
<b>Attitude:</b> <input type="checkbox"/> Excited <input type="checkbox"/> Indifferent <input type="checkbox"/> Hilarious <input type="checkbox"/> Insulting <input type="checkbox"/> Cocky <input type="checkbox"/> Sleepy <input type="checkbox"/> Talkative <input type="checkbox"/> Profane <input type="checkbox"/> Cooperative <input type="checkbox"/> Polite	<b>Unusual Action:</b> <input type="checkbox"/> Hiccoughing <input type="checkbox"/> Fighting <input type="checkbox"/> Belching <input type="checkbox"/> Crying <input type="checkbox"/> Vomiting <input type="checkbox"/> Laughing <input type="checkbox"/> Other	<b>Balance:</b> <input type="checkbox"/> Falling <input type="checkbox"/> Needs Support <input type="checkbox"/> Wobbling <input type="checkbox"/> Swaying <input type="checkbox"/> Other
<b>Walking:</b> <input type="checkbox"/> Falling <input type="checkbox"/> Staggering <input type="checkbox"/> Stumbling <input type="checkbox"/> Swaying <input type="checkbox"/> Other	<b>Turning:</b> <input type="checkbox"/> Falling <input type="checkbox"/> Staggering <input type="checkbox"/> Stumbling <input type="checkbox"/> Swaying <input type="checkbox"/> Hesitant <input type="checkbox"/> Other	

**Any other unusual actions or statements:**

**Signs or complaints of illness or injury:**

**Supervisor's Opinion**

<b>Effects of Drug/Alcohol Intoxication</b>	<input type="checkbox"/> None <input type="checkbox"/> Slight <input type="checkbox"/> Obvious <input type="checkbox"/> Extreme
<b>Action Taken</b>	<input type="checkbox"/> Send for Testing <input type="checkbox"/> Send Employee back to Duty
<b>Employee Test Performed</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No      Comments:

**Additional Comments:**

<b>Supervisor Signature:</b>	<b>Date:</b>	<b>Time:</b>
	<b>Witness:</b>	

**32.0 EL AGUILA-"RELEASE OF INFORMATION FORM"**  
**(49 CFR Part,40 Drug and Alcohol Testing)**

**Section I.** To be completed by the new employer, signed by the employee, and transmitted to the previous employer:

**Employee Printed or Typed Name:** \_\_\_\_\_

**Employee SS or ID Number:** \_\_\_\_\_

I hereby authorize release of information from my Department of Transportation regulated drug and alcohol testing records by my previous employer, listed in Section I-B, to the employer listed in Section I-A. The release is in accordance with DOT Regulation 49 CFR Part 40, Section 40.25. I understand that information to be released in Section II-A by my previous employer, is limited to the following DOT-regulated testing items:

1. Alcohol tests with a result of 0.04 or higher;
2. Verified positive drug test;
3. Refusals to be tested;
4. Other violations of DOT agency drug and alcohol testing regulations;
5. Information obtained from previous employers of a drug and alcohol rule violation.
6. Documentation, if any, of completion of the return-to-duty Process following a rule violation.

**Failure to provide written consent, including former employer information and signature, will result in you being disqualified for a safety sensitive position with El Aguila, as per 49CFR Part 40.25(a).**

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

**I-A.**

New Employer Name: \_\_\_\_\_

Address: \_\_\_\_\_ City, State ZIP \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number \_\_\_\_\_

Designated Employer Representative: \_\_\_\_\_

**I-B.**

Previous Employer Name: \_\_\_\_\_

Address \_\_\_\_\_ City, State ZIP \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number \_\_\_\_\_

Designated Employer Representative: \_\_\_\_\_

**Section II.** To be completed by the previous employer and transmitted by mail or fax to the new employer:

**II-A.**

1. In the two years prior to the date of the employee's signature (in Section I), for DOT-regulated testing did the employee have alcohol tests with a result if 0.04 or higher? YES \_\_\_\_\_ NO \_\_\_\_\_
2. Did the employee have verified positive drug tests? YES \_\_\_\_\_ NO \_\_\_\_\_
3. Did the employee refuse to be tested? YES \_\_\_\_\_ NO \_\_\_\_\_
4. Did the employee have other violations of DOT agency drug and alcohol testing regulations? YES \_\_\_\_\_ NO \_\_\_\_\_
5. Did a previous employer report a drug and alcohol rule violation to you? YES \_\_\_\_\_ NO \_\_\_\_\_
6. If you answered YES to any of the above items, did the employee complete the return-to-duty process?  
N/A \_\_\_\_\_ Yes \_\_\_\_\_ No \_\_\_\_\_

**NOTE:** If you answered YES to item 5, you must provide the previous employer's report. If you answered YES to item 6, you must also transmit the appropriate return-to-duty documentation (e.g., SAP report(s), follow-up testing record).

**II-B.**

Name of person providing information in Section II-A: \_\_\_\_\_

Title: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Date: \_\_\_\_\_

### 33.0 EL AGUILA POST ACCIDENT TESTING DECISION REPORT

Note: Accident does not necessarily mean collision. If an individual falls on a vehicle and needs to be taken to the hospital, an accident has occurred, and a post-accident test is required unless the driver can be discounted as a contributing factor.

<b>System Name:</b>	
<b>Date of Accident :</b>	<b>Time of Accident:</b>
<b>Driver of Vehicle:</b>	
Location of Accident:	
<b>Traffic Crash Report Attached:</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>1. Was there loss of life as a result of the accident?</b>	<input type="checkbox"/> Yes ( <b>Requires testing-No Exceptions</b> ) <input type="checkbox"/> No
<b>2. Did an Individual suffer a bodily injury and immediately receive medical treatment away from the scene of the accident?</b>	
<input type="checkbox"/> Yes ( <b>Requires testing unless covered employee or driver on the vehicle can be completely discounted as a contributing factor to the accident</b> )	
<input type="checkbox"/> No ( <b>Requires no testing under FTA authority.</b> )	
<b>3. Was there disabling damage to any of the vehicles involved?</b>	
<small>Disabling damage means damage, which precludes departure of my vehicle from leaving the scene of the occurrence in its usual manner in daylight after simple repairs; or damage to any vehicle that could have been operated but which would have further damaged the vehicle if so operated. Disabling damage does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts; tire disablement even if no spare tire is available; or damage to headlights, taillights, turn signals, horn, mirrors, or wind shield wipers that makes them inoperative.</small>	
<input type="checkbox"/> Yes (Requires testing unless question 4 applies.) <input type="checkbox"/> No (Requires no testing under VIA Authority.)	
<b>4. Can the driver or any other covered employee on the vehicle be completely discounted as a contributing factor to the accident?</b>	
<input type="checkbox"/> Yes	<input type="checkbox"/> No Even if you answer No, under FTA regulations you must also meet the criteria questions 1, 2, and/or 3 to require testing.. <b>Note: If you discount the driver as a contributing factor, it should be well documented</b>
Documentation:	
<b>5. If drug and alcohol testing is required, can the performance of any other safety sensitive employees (e.g., maintenance personnel, dispatcher, etc.), whose performance may have contributed to the accident (as determined by the transit agency at the time of the accident), be completely discounted as contributing to the accident?</b>	
<input type="checkbox"/> Yes <input type="checkbox"/> No Even if you answer No, under PTA regulations you must also meet the criteria questions 1, 2, and/or 3 to require testing.	
<b>6. Did you perform a drug and/or alcohol test?</b>	
<input type="checkbox"/> Yes <input type="checkbox"/> No If No, complete # 6 and sign and submit a report.	
<b>Name of Supervisor making this determination:</b>	
<b>Time Employee was informed of this determination:</b>	
<b>7. Decision to Test:</b>	<input type="checkbox"/> FTA Authority <input type="checkbox"/> El Aguila Authority
<b>8. Was an alcohol test performed within 2 hours?</b>	
<input type="checkbox"/> Yes Date & Time: <input type="checkbox"/> NO Why, Not?:	
<b>9. If no alcohol test was performed and more than (8) hours elapsed from. the time of the accident, please explain:</b>	
<b>10. Was a drug test performed within 32 hours?</b>	
<input type="checkbox"/> Yes Date & Time: <input type="checkbox"/> NO Why, Not?:	
<b>11. Did the driver leave the scene of the accident without just cause?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	
If yes, please explain	
<b>Report Submitted by</b> (signature & Title):	<b>Date:</b>

**Attachments:**

1. Order for testing form

**34.0 DRUG AND ALCOHOL RECORD ACCESS FORM**

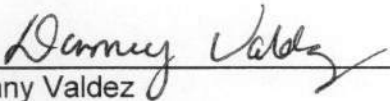
I, \_\_\_\_\_, verify El Aguila has granted me access to review and obtain copies of my own drug and alcohol records as required.


\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*



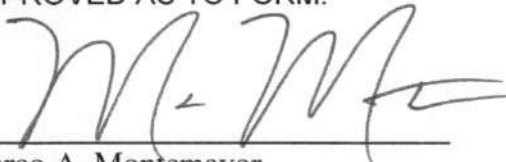
ATTEST:

  
\_\_\_\_\_  
Danny Valdez  
Webb County Judge

  
\_\_\_\_\_  
Margie Ramirez Ibarra  
Webb County Clerk



APPROVED AS TO FORM:

  
\_\_\_\_\_  
Marco A. Montemayor  
Webb County Attorney

**\*By law, the county attorney's office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval of their own respective attorney(s).**