WESTERN REFINING
DRUG AND ALCOHOL ABUSE POLICY
FOR ALL EMPLOYEES

I. Policy

It is the policy of Western Refining (“Western” or “Employer”\textsuperscript{1}) to provide a workplace free of alcohol and illegal drugs and to take reasonable measures to ensure that employee alcohol and drug abuse does not jeopardize the safety and health of our employees and the public, the success of our operations, or adversely affect the Employer or its customers.

The dangers of alcohol or drug abuse in the workplace are far reaching. Such abuse can affect not only the abusing employees, but their fellow employees as well. As a result, Western and each employee has a right to expect that all employees are drug and alcohol free and prepared to do their jobs in as safe a manner as possible at all times. This drug and alcohol free requirement is based on the fact that any measurable amount of an illegal drug or alcohol in a person’s body can have an influence on that person, even if the impairment is not readily noticeable to other people. Western sees no reason to accept even a small risk that on-the-job or off-the-job drug or alcohol abuse by employees might cause or contribute to accidents or other job performance problems.

To implement this drug and alcohol free requirement, Western has adopted this Policy for its employees and applicants\textsuperscript{2}.

II. Rules of Conduct

The following Rules of Conduct apply to all employees, whether hourly or salaried. Violation of these rules will subject employees to severe disciplinary action, up to and including discharge:

A. The use, sale, attempted sale, manufacture, purchase, attempted purchase, possession or transfer of alcohol\textsuperscript{3} or illegal drugs while on Employer property, or in Employer vehicles, is prohibited.

\textsuperscript{1}The term “Western Refining” is used in a broad, generic sense and includes all companies in which Western Refining, Inc. or any of its subsidiaries and/or affiliated companies own a majority interest.

\textsuperscript{2}Employees and applicants covered under DOT are subject to DOT requirements and testing programs.

\textsuperscript{3}The prohibition on the sale of alcohol does not apply to the conduct of an employee in selling alcohol products to customers in the normal course of employment or the purchase of such a product if off duty and the purchase is made as a customer.
B. Being subject to the effects of alcohol or an illegal drug while on Employer property or in an Employer vehicle is prohibited.

C. Being convicted under any criminal drug statute for a violation occurring in the workplace. Employees convicted of such violations must report such conviction to the Employer within five (5) days of the conviction.

D. Taking medication of any kind, either over-the-counter or by prescription, which may affect the ability to perform the job in any way, or which may present a safety risk, without reporting such drug use to the Employer. Employees in safety sensitive positions who take such drugs must immediately report such drug use to his or her immediate human resources manager who will treat it as confidential medical information. 4

III. Alcohol and Drug Testing

A. Applicants. All applicants to whom an offer of employment is made are required to undergo examination for use of alcohol and illegal drugs. Applicants who test positive for alcohol or illegal drugs will be denied employment. Applicants who refuse to undergo an alcohol and/or drug screening test will be denied employment.

Applicants who test positive may reapply for employment no earlier than six months after taking the first test. An applicant who tests positive for alcohol or illegal drugs after applying for employment a second time will not be considered for employment again.

B. Current Employees. Employees may be required to undergo a blood test, hair testing, breath, urinalysis or other drug and/or alcohol screening test under the following circumstances:

1) During any physical examination required or conducted by the Employer;

2) Following an on-the-job injury which requires off-premises medical attention or after an accident causing substantial damage to Employer or third party property or which created a substantial safety hazard, or an incident considered by the Employer to be a “near-miss”;

3) When, in the Employer’s sole discretion, the employee exhibits unusual behavior including, but not limited to, alcohol on the breath and/or any indication of physical or mental impairment, such as lack of balance, slurred speech, glassy eyes, etc.;

4 Safety sensitive positions include any position covered under DOT, any position in a refinery, any position that includes the driving of a company vehicle or equipment, and any position that drives regularly for work purposes.
4) When any illegal drug or alcohol, or evidence indicating the presence of such drugs or alcohol, is found in an area used primarily or exclusively by such employee. The prohibition on the sale of alcohol does not apply to the conduct of an employee in selling alcohol products to customers in the normal course of employment or the purchase of such a product if off duty and the purchase is made as a customer.

5) At random times, without prior notice, during the time an employee is undergoing drug or alcohol rehabilitation or counseling and for a period of up to two (2) years following the completion of any drug or alcohol dependency program; and

6) When selected in accordance with a random selection procedure developed by the Company.\(^5\)

Employees subject to laws or regulations providing for drug and/or alcohol testing will also be subject to testing in accordance with the applicable law or regulation.

Implementation and administration of this policy will be in accordance with any applicable local, state, tribal, and federal laws.

C. **Employee Consent Required.**

1) Employees will be asked during employment to undergo a drug/alcohol screening. A form is attached to this policy in which employees acknowledge they have read this policy and understand they will be tested.

2) Employees who are asked to undergo a drug/alcohol screening test must sign a consent form at the time of the test. The employee may indicate on the consent-to-test form any over-the-counter or physician-prescribed medication currently being taken, and any other information desired by the employee which is, or may be, relevant to the reliability of a drug and/or alcohol screening test or which may explain a positive test result. In some cases, the laboratory doing the testing may require that their own consent form be used instead of or in addition to the Employer’s form. In such cases, employees are required to comply with these requests.

D. **Withholding Consent.** Employees may refuse a request by the Employer to submit to a drug and/or alcohol screening test. However, refusal to submit to a requested test will subject the employee to immediate discharge. A refusal to sign the required consent forms will be considered a refusal to submit to a test.

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\(^5\)Non-safety sensitive positions located in California are exempt from the random drug test requirement.
E. Positive Result or Tampering. Employees whose test result is positive, or who switch, dilute or in any way tamper with their specimen or attempt to do so, will be terminated. A “positive test” is a test result means the presence of alcohol at a breath alcohol concentration level of .04 or above or an illegal drug or drug metabolite in an employee’s system in any amount that is detectable by appropriate testing of a bodily specimen.

F. Inability To Produce A Specimen
If any potential applicant or employee is unable to produce a urine specimen, he/she will be given three (3) hours and up to approximately 40 ounces of water to drink during the three-hour period. If unable to produce a specimen after the three-hour period, the test will be ruled as a refusal to test unless the potential applicant or employee can provide medical documentation of a condition that would cause an inability to produce a urine specimen.

IV. Employee Assistance Program

A. Employee Rehabilitation. Any employee of the Employer having a drug or alcohol abuse problem who voluntarily comes forward and reports such a problem prior to being asked to submit to testing will be allowed to enter a drug and/or alcohol rehabilitation program. There will be no disciplinary action taken as a result of reporting such a problem. However, once this admission is made, the employee must enter a program of rehabilitation and submit to testing as described in this Policy. This opportunity to enter a rehabilitation program in lieu of discharge is available only to employees who voluntarily enter such programs prior to being asked to submit to a drug or alcohol test. Refusal to enroll, participate, and successfully complete such a program will result in termination of the employee.

B. Identification of Programs. The Human Resources Department will assist the employee in identifying appropriate rehabilitation programs available in the community. The employee will be allowed to select the rehabilitation program he or she desires, but the program must be approved by the Employer.

C. Employee Expense. All costs in connection with the rehabilitation program will be the responsibility of the employee to the extent not covered by health care insurance.

D. Leave of Absence. If able, the employee will be allowed to continue working while attending the rehabilitation program. However, if the program selected requires a period of full-time attendance or hospital admission, the employee may be granted a leave of absence without pay.

E. Documentation of Enrollment. Written confirmation of enrollment, attendance, and successful completion of the rehabilitation program must be provided to the Employer by the employee.
F. **Random Testing Upon Completion.** During the course of the rehabilitation program and for two (2) years after the successful completion of the program, the employee will be subject to random drug and/or alcohol screening tests, without prior notice, and at random times as determined by the Employer. Refusal to submit to a test or testing positive at any time following successful completion of the program will result in the immediate termination of the employee. All information concerning an employee's enrollment and participation in a drug or alcohol rehabilitation program will remain confidential.

V. **Confidentiality**

A. **No Disclosure.** Drug and/or alcohol screening test results and other information acquired during the testing process and rehabilitation program will be treated as private and confidential information, except as permitted or required by law, and will not be disclosed by the Employer or the testing laboratory to any other employer or private organization (except a drug or alcohol treatment facility for the purpose of evaluating or treating the employee) without the written consent of the employee.

B. **Retention and Access of Information.** No laboratory reports, test results, or rehabilitation program information will appear in the employee's personnel file. Information of this nature will be placed in a closeable envelope and maintained in the employee's insurance/medical file. Access to the contents of the closeable envelope is restricted to those persons having a need to know.

C. **Retention and Access of Information.** A physician will serve as our Medical Review Officer (MRO) to assist in the administration of this program. Results of all drug and alcohol tests will be sent directly by the testing laboratory to the MRO. The MRO will be responsible for interpreting positive test results and determining if the positive test result is scientifically sufficient to take further action. The MRO may interview the individual involved, review his or her medical records, or review other relevant biomedical factors. Positive test results verified by the MRO will be forwarded by the MRO to the Manager of Human Resources. Invoices from the laboratory for testing and from the MRO to the Employer will be done by number and will not identify by name the persons tested or any results.

VI. **Definitions**

A. **“Illegal drug.”** The term “illegal drug” means any substance, including alcohol, having psychological and/or physiological effects on a human being and that is not a prescription or non-prescription medication, including controlled dangerous substances and controlled substance analogs or volatile substances which produce the psychological and/or physiological effects of a controlled dangerous substance through deliberate inhalation. Examples of “illegal drugs” include, but are not limited to, marijuana; narcotics such as opium, heroin and morphine; stimulants such as cocaine;
and depressants or hallucinogenic substances such as amphetamines, barbiturates, LSD, PCP and mescaline.

B. **“Being subject to the effects of alcohol or an illegal drug”**. This phrase means the presence of alcohol at a breath alcohol concentration level of .04 or above or an illegal drug or drug metabolite in an employee’s system in any amount that is detectable by appropriate testing of a bodily specimen. This is referred to as a “positive test” or “positive screen.”

C. **“Employer property”**. As used in this policy, the term “Employer property” includes, but is not limited to, all property, land, parking lots, and buildings owned, leased, or used by the Employer, as well as automobiles, trucks, vans, and other vehicles owned, leased, or used by the Employer.

VII. **Inspection for Alcohol or Drugs**

A. **Inspections**. Employees may be required to submit to special inspections of their personal work areas (regardless of whether the lock is provided by the employee or the Employer), purses, lunch boxes, briefcases, desks, file cabinets, automobiles, or other containers or personal vehicles when on Employer property.

B. **Procedures for Inspections**. Employees who are being inspected will not be touched. If it is deemed necessary to determine what is on the employee’s person, the employee will be directed to empty the contents of his or her clothing.

C. **Withholding Consent**. Employees who refuse to consent to an inspection will not be forcibly detained or inspected. However, they will be advised that consent to such an inspection is a condition of employment. Failure to consent to such an inspection will result in immediate discharge.
ACKNOWLEDGEMENT BY EMPLOYEES
AND APPLICANTS

To help ensure a safe, healthy and productive work environment and to protect the Employer, its employees, and customers, the Employer has in effect a drug and alcohol abuse screening program.

Under this program, all employees will be required to undergo a drug and/or alcohol screening test at specified times or upon the occurrence of certain events. Employees who test positive for the use of illegal drugs or alcohol abuse, refuse to take the test, or tamper in any way with their specimen, will be terminated. Employees voluntarily admitting a drug or alcohol problem as described in the policy, prior to being asked to take an alcohol and/or drug test, will be allowed the opportunity to enter a rehabilitation program in lieu of termination. Additionally, applicants who are offered employment will, as a condition of employment, be required to undergo a drug and/or alcohol screening test. Any applicant testing positive will be given no further consideration for employment.

Prohibited drugs include, but are not limited to: alcohol, marijuana, hashish, heroin, cocaine, hallucinogens, and depressants or stimulants not prescribed for current personal treatment by a licensed physician.

Any amount of an illegal drug or alcohol which creates a positive test result is deemed sufficiently high to preclude employment or continued employment.

The actual testing will be done by an independent laboratory under conditions designed to protect employee personal privacy to the extent possible while ensuring the accuracy of the sample and test results. The actual collection may be conducted by a laboratory or by the employee himself. Test results will be treated confidentially.

I acknowledge that I have received a copy of the WESTERN REFINING DRUG AND ALCOHOL POLICY and that I have or will read the complete policy.

Date: ____________________  Signature: ____________________
(Employee or Applicant)

ID #: ____________________  ____________________
(Typed or Printed Name)

Return to your human resources representative.

6 Employees and applicants covered under DOT are subject to DOT requirements and testing programs.