

1.14 Drug & Alcohol Policy

1. PURPOSE

McCarthy is committed to maintaining safe, healthful and efficient working conditions for its Employees and believes the work environment is safer and more productive without the presence or effects of Illegal Drugs, Alcohol and Inhalants.

This Policy restricts certain substances from being present on Company Property. It also prohibits Employees from being Under the Influence of Illegal Drugs, Alcohol or Inhalants while working, operating or being present on Company Property (whether or not on duty), or being present in any other location performing services for or on behalf of McCarthy, unless Alcohol consumption is otherwise approved by McCarthy for an event or function. In addition, this Policy offers the opportunity for an Employee to obtain professional rehabilitative treatment through McCarthy's Employee Assistance Program (EAP).

This Policy replaces and supersedes any separate or prior drug or alcohol policies of McCarthy, except policies implemented by collective bargaining agreements, project specific agreements, or policies dictated by location specific requirements, in which case such collective bargaining agreements, project specific agreements, or location specific policies of McCarthy shall govern where there is a conflict. For projects that are starting in States in which McCarthy is not currently working, Project Supervision should consult with their Regional Safety Leader and Legal for guidance on potential State and/or local specific requirements.

2. DEFINITIONS

Refer to the [Introduction Section](#) of the Safety Guidelines Manual for standard Definitions applied throughout this Section.

- **"Alcohol"** - The intoxicating agent in beverage alcohol or any low molecular weight alcohols such as ethyl, methyl, or isopropyl alcohol. The term includes without limitation beer, wine, spirits, and medications such as cough syrup that contain alcohol.
- **"Company Property"** - Includes all property owned, leased, used or under the control of McCarthy, its affiliates, related entities and subsidiaries, including, but not limited to, the Project Site of a client, structures, buildings, offices, facilities and installations, automobiles and equipment, and any location at which an Employee is performing duties for or on behalf of McCarthy.
- **"Detectable Levels of Identifiable Trace Quantities" or "Detectable Levels"** - The measurable presence, as determined by Gas Chromatography/Mass Spectrometry (GC/MS) or other acceptable analytical methods used by the testing laboratory, of Illegal drugs (as defined below) found in the body of a person at levels above the cutoff levels as established by the testing laboratory or McCarthy.
- **"Employee"** - Means all employees, both craft and non-craft, employed by McCarthy Holdings, Inc., and its affiliates, subsidiaries, and related entities.
- **"Employee Applicant"** - An individual being considered for employment.
- **"Illegal Drugs"** - Means all controlled substances, controlled substance analogs, cannabinoids (including cannabidiol (CBD) and CBD products that contain unlawful amounts of THC), marijuana extracts, designer drugs, synthetic drugs, and other drugs or substances (1) which are unlawful to use or possess under the Federal Controlled Substances Act (as listed in Schedules I-V of 21 U.S.C. § 812 and 21 C.F.R. Part 1308) or (2) which are legally obtainable but have not

been legally obtained or which are not being used in the prescribed or indicated manner or amount. The term "Illegal drugs" includes, without limitation: marijuana extracts, cannabinoids (including CBD and CBD products that contain unlawful amounts of THC), amphetamines, cocaine, Tetrahydrocannabinol (THC), opiates, Phencyclidine (PCP), barbiturates, benzodiazepines, propoxyphene, methaqualone, methadone, and other mind-altering substances or chemicals.

- **“Inhalants”** - Means volatile solvents, aerosols, gases and nitrites, such as paint thinners or removers, gasoline, lighter fluid, butane lighters, glue, hair or deodorant sprays, nitrous oxide, or other similar substances that are inhaled intentionally to produce feelings of intoxication, euphoria or stupefaction.
- **“Legal Drugs”** - Includes prescribed drugs and over-the-counter drugs which have been legally obtained and are being used in the manner and amounts for which they have been prescribed or manufactured.
- **“Medical Review Officer” or “MRO”** - A person who is a licensed physician and who is responsible for receiving and reviewing laboratory results in accordance with McCarthy’s Drug and Alcohol Policy and evaluating medical explanations for test results.
- **“Possession”** - Actual or constructive care, custody, control or immediate access.
- **“Positive Test Result”** - Laboratory evidence of Detectable Levels of Illegal drugs or Alcohol in the body.

The following are examples, as established at the time of issuance of this Policy, of cutoff levels above which will result in a Positive Test Result:

Amphetamines	500 ng/mL	Cocaine	150 ng/mL
Marijuana (THC)	15 ng/mL	Opiates	2000 ng/mL
Phencyclidine (PCP)	25 ng/mL	Barbiturates	300 ng/mL
Propoxyphene	300 ng/mL	Benzodiazepines	300 ng/mL
Methadone	300 ng/mL	Ethanol (Alcohol)	50 mg (urine)
		Ethanol (Alcohol)	0.04% (BAC)

- Alcohol BAC from 0.02% to 0.039% will result in temporary removal from the project. Any additional disciplinary action will be based on the facts and circumstances. The Employee may return to work with approval from Project Supervision.

- The foregoing examples are not intended to be a complete listing of Illegal Drugs subject to testing, or their actual cutoff levels, which are subject to change based on McCarthy's discretion and applicable technology.

- **“Reasonable Suspicion”** - Reasonable suspicion that an Employee is using or Under the Influence of Illegal Drugs, Alcohol or Inhalants based on specific, contemporaneous, objective and articulable observations that concern the appearance, behavior, speech or body odors of the Employee (including indications of the chronic or withdrawal effects of drugs).
- **“Under the Influence”** - To test positive for Illegal Drugs, Inhalants or Alcohol or an Employee’s actions, appearance, speech, or body odors that reasonably cause the Company to conclude that the Employee is impaired because of Illegal or Legal Drug use or Alcohol or Inhalant misuse.

3. PROCEDURES

3.1 Prohibited Items and Practices

- a. Whenever Employees are working, operating Company vehicles, machinery or equipment, present on Company Property, or present in any other location performing services for or on behalf of McCarthy, they are prohibited from:
 - i. Using, possessing, selling, manufacturing, distributing, dispensing, concealing, receiving, transporting, or being Under the Influence of Illegal Drugs;
 - ii. Being Under the Influence of Alcohol, or consuming Alcohol, (unless otherwise allowed at a Company-approved event or function). Employees behaving in an unprofessional manner or in a manner that conflicts with the Company's code of conduct will be subject to disciplinary action up to and including termination.
 - iii. In advance of alcohol being brought onto a Project Site, solely for a Company-approved event or function, approval from the VP Ops for the project must be received. Additionally, approval from the project client, including review as to whether it is prohibited by the owner contract, must also be obtained prior to any alcohol being consumed at the project site. VP Ops is responsible for ensuring that all client approvals have been received.
 - iv. Being Under the Influence of Inhalants or using Inhalants.
- b. Any violation of this Policy, including the failure to fully cooperate with Illegal Drug and Alcohol testing, will subject the Employee to disciplinary action up to and including termination of employment.

3.2 Uniform Drug and Alcohol Testing/Screening

- a. McCarthy may require an Employee to submit to a medical or physical examination or test as a condition of employment or continued employment including, but not limited to, a urine test, blood test, saliva test, breathalyzer test, hair test, or other examination (as allowed by applicable law), in the following instances:
 - i. **Pre-Employment** - All applicants for employment (Employee Applicants), unless exempt by collective bargaining agreements, and all applicants for re-employment (if not tested within the prior six (6) month period and subject to that Employee Applicant not having a previous Positive Test Result), will be required to pass a drug test upon acceptance of an offer of employment and prior to reporting to work. In either case, employment is conditional upon not having a Positive Test Result. Regional transfers will not be considered reemployment.
 - ii. **Post-Accident/Near Miss** – Drug and Alcohol Testing will be required immediately following an on-the-job injury requiring off-site medical treatment or following an accident including, but not limited to, near misses or an accident where vehicles /equipment/property was or were damaged or an accident resulting in death or injury requiring off-site medical treatment. Employees involved or who may have contributed to the incident may be tested. If it is impossible or impractical, because of the physical condition of the individual(s) involved in the accident, to give a urine, breathalyzer and/or blood sample, and if in subsequent medical treatment that person(s) blood or other bodily fluid will be drawn, then the blood or other bodily fluids will be analyzed for Illegal Drugs or Alcohol (as allowed by applicable law).
 - iii. **Reasonable Suspicion** - If McCarthy has Reasonable Suspicion to believe that an Employee is Under the Influence or is using Illegal Drugs, Inhalants or Alcohol while working or present on Company Property, or present in any other location performing services for or on behalf of McCarthy, McCarthy may require the Employee to submit to an Illegal Drug and Alcohol test. In assisting in determining whether Reasonable Suspicion exists, a McCarthy supervisor should complete and sign the attached [Exhibit 1.14-A – Reasonable Suspicion Checklist](#). If practical, the Reasonable Suspicion Checklist should also be signed by another McCarthy representative, preferably another supervisor who has also personally observed the Employee. If Reasonable Suspicion testing is to be performed on an Employee

covered by a collective bargaining agreement, such testing must be completed in accordance with this Policy and the applicable collective bargaining agreement. In the event of a conflict, the requirements of the applicable collective bargaining agreement shall govern.

- iv. **Random** - Employees may be subject to unannounced random Illegal Drug and Alcohol testing, as allowed by law. Random selections will be made at a rate of at least ten percent (10%) of the total affected Employee population annually.
- v. **Site Specific** - All Employees working at a single Company Property location, including Project Sites and office locations, may be subject to unannounced Illegal Drug and Alcohol Testing, as allowed by law.
- vi. **Owner Required Testing** - An Employee may be subject to Illegal Drug and Alcohol testing pursuant to the terms of applicable agreements between McCarthy and its clients (e.g. hospitals, school districts, etc.). In the event that a client requires an Illegal Drug and Alcohol test different than what is required by this policy, Employees working on the Project Site of the client must comply with the client's Illegal Drug and Alcohol testing requirements and criteria as instructed by McCarthy.

3.3 Drug and Alcohol Testing Procedure/Protocol

- a. Testing will be conducted by a testing facility designated by McCarthy and may include, but is not limited to, testing of blood, urine, breath, saliva, hair or other sample or specimen. Employees shall submit to the testing facility immediately upon request.
- b. The procedures for specimen collection are designed to protect the dignity and privacy of the Employee while maintaining the integrity of the specimen and the preservation of the "Chain of Custody" of the specimen.
- c. Results of testing under this Policy will be held in confidence and information regarding such results will be limited to those persons who McCarthy deems have a "need to know," including McCarthy's insurance carriers.
- d. McCarthy will provide the Employee, upon request, written test results.
- e. Any Positive Test Result will be confirmed by a second test performed by Gas Chromatography/Mass Spectrometry (GC/MS) or other appropriate confirmatory test. No test will be considered positive unless or until it has been confirmed. Employees and Employee Applicants will have the opportunity to provide the Medical Review Officer with a list of prescription drugs that the Employee is taking if the GC/MS or other appropriate confirmatory test indicates a Positive Test Result. Employees and Employee Applicants may, at their own expense, arrange for a retest from the same sample. McCarthy will consider the results of any such retest.
- f. If testing conducted pursuant to this policy is considered unsuitable or inconclusive by McCarthy for any reason, the Employee or Employee Applicant may be immediately retested. Examples of unsuitable or inconclusive test results include, but are not limited to, specimens that have been adulterated or are considered diluted or specimens that have a low urine specific gravity.
- g. Failure of an Employee or Employee Applicant to promptly follow instructions regarding testing or to fully cooperate in providing a suitable specimen may be treated by McCarthy as a refusal to be tested or a Positive Test Result, and may subject an Employee to disciplinary action up to and including termination of employment or the withdrawal of a job offer.
- h. An Employee or Employee Applicant who tampers with a sample or otherwise intentionally impedes the testing process or result will be subject to disciplinary action up to and including termination of employment or the withdrawal of a job offer.

- i. If an Employee Applicant has a confirmed Positive Test Result, any offer of employment to the Employee Applicant will automatically be rescinded. The Employee Applicant will not be eligible to apply for employment again for one (1) year from the date of the test providing the Positive Test Result.
- j. If a current Employee both craft and/or non-craft, tests positive for Illegal Drugs or Alcohol once and employment has not been otherwise terminated, the following will occur if such Employee has been employed for at least 90 days:
 - i. He/she will be offered the option to participate in a Company-approved rehabilitation program as coordinated with the EAP.
 - ii. The Employee's employment status will remain active if the employee elects to participate in a rehabilitative program.
 - iii. Non-participation or incomplete participation in a rehabilitation program will result in immediate termination of employment. Failure to complete rehabilitation within 45 days of a Positive Test Result will result in termination, unless otherwise approved by Regional Safety, HR and Legal, and in consideration of any guidance received from the EAP.
 - iv. Completion of treatment does not guarantee the Employee continued employment. Job assignment will be subject to work availability.
 - v. Employees will be responsible for the cost of such treatment above and beyond that available from any Company provided benefits.
 - vi. The Employee will not be compensated during this period, however, the Employee will be allowed to use accrued PTO, or other leave, to the extent the Employee is eligible.
 - vii. Employees requesting to return to work after completion of a rehabilitation program must provide satisfactory evidence of successful completion of the rehabilitation program and the Employee shall be required to submit to testing at any time requested by McCarthy, regardless of lack of Reasonable Suspicion, for a period of up to 1 year from the Positive Test Result. As such, continuation of employment will be subject to the Employee agreeing to and signing the [Exhibit 1.14-B – Return to Work Agreement](#). A second confirmed Positive Test Result will result in termination of employment with no further opportunity to participate in a rehabilitation program through the Company.

3.4 Medical Review Officer

- a. The MRO will determine if the laboratory evidence indicating the use of Illegal Drugs is justified. In brief, the MRO determines whether some reason other than Illegal Drug use explains a Positive Test Result.
- b. If the MRO verifies that no other valid reason exists for the Positive Test Result, the case is referred to the appropriate management official and/or EAP.
- c. If a Positive Test Result for Illegal Drugs is not verified by the MRO, the test result is deemed negative, McCarthy is informed of the negative result, and no further action is taken.
- d. In reviewing the laboratory results, the MRO may conduct a medical interview with the individual, review the individual's medical history, or review any other relevant biomedical factors. Cooperation with the MRO is a condition of employment.

3.5 Employee Assistance Program

- a. McCarthy maintains an EAP, which provides resources related to drug and/or Alcohol abuse and other personal problems. This program is available to all Employees. It is the responsibility of each Employee to seek assistance from the EAP.

3.6 Voluntary Rehabilitative Leave

- a. McCarthy encourages any Employee struggling with Illegal Drug Use or Alcohol misuse to seek professional help. Employees shall have the right to participate, without disciplinary action, in a rehabilitation program subject to the terms of the Voluntary Rehabilitative Leave described herein so long as the request for such Voluntary Rehabilitative Leave is made prior to any event triggering a request to Employee to submit to Illegal Drug and Alcohol testing. However, if the Employee provides a confirmed Positive Test Result after participation in the rehabilitation program, the Employee's employment will be terminated.
- b. Voluntary Rehabilitative Leave will be granted on a onetime basis as provided in this Policy and shall be for a maximum of 45 days unless extended by mutual agreement.
- c. Voluntary Rehabilitative Leave may be extended if required under the Family Medical Leave Act (FMLA) or other applicable laws.
- d. The Employee will have the option to participate in a Company-approved rehabilitation program as coordinated with the EAP.
- e. The Employee's employment status will remain active while the Employee participates in a rehabilitative program.
- f. Completion of treatment does not guarantee the Employee continued employment. Job assignment will be subject to work availability.
- g. Employees will be responsible for the cost of such treatment above and beyond that available from any Company provided benefits.
- h. The Employee will not be compensated during this period, however they will be allowed to use accrued PTO, sick leave, or other leave, to the extent the Employee is eligible.
- i. Employees requesting to return to work after completion of a rehabilitation program must provide satisfactory evidence of successful completion of the rehabilitation program and the Employee shall be required to submit to testing at any time requested by McCarthy, regardless of lack of Reasonable Suspicion. As such, continuation of employment will be subject to the Employee agreeing to and signing the [Exhibit 1.14-B – Return to Work Agreement](#).

3.7 Compliance with Marijuana Law

- a. It is the policy of McCarthy to prohibit the use or possession of marijuana to the fullest extent permitted by law. Any Employee or Employee Applicant who uses, possesses or tests positive for marijuana will be subject to discipline unless such discipline is prohibited by applicable law.
- b. Marijuana is illegal under federal law and under many State laws. While some State and/or local laws permit the use of marijuana for medicinal, or even recreational, purposes, these state and local laws vary in the employment protections afforded to Employees and Employee Applicants who legally use medicinal or recreational marijuana. McCarthy reserves the right to discipline any Employee or refuse employment to any Employee Applicant who uses marijuana unless the discipline or refusal to employ violates applicable law. In other words, McCarthy will accommodate an Employee's off-duty use of marijuana only when such accommodation is required by law. Consult your Regional Safety, Human Resources and/or Legal Department for further guidance on applicable law, if needed.
- c. Under no circumstance shall any Employee possess, use or be Under the Influence of marijuana while working, while operating a Company vehicle, machinery or equipment, while present on McCarthy property or while performing services for or on behalf of McCarthy. Any Employee who possesses, uses or is Under the Influence of marijuana while working, while operating a Company vehicle, machinery or equipment, while present on McCarthy property or while performing services for or on behalf of McCarthy is subject to discipline. Any Employee demonstrating symptoms of being Under the Influence of marijuana is subject to Reasonable Suspicion testing.

3.8 Legal Drugs

- a. Proper use of prescription drugs, in their original container, prescribed by a licensed physician as medication for use by the person using the medication is allowed. Any Employee taking a prescription drug or over-the-counter medication which may adversely affect judgment, coordination or the ability to safely perform assigned job duties, must notify his/her supervisor before starting work that his/her judgment or coordination may be impaired as a result of the prescription drug or over the counter medication. McCarthy may, in its discretion, require a medical release from the Employee's licensed physician to confirm the ability of Employee to perform all job duties safely and accurately. McCarthy, after review, shall decide whether to allow the Employee to remain at work or to make other suitable arrangements as authorized by law.

3.9 Savings Clause

- a. This Policy replaces and supersedes any separate or prior drug or alcohol policies of McCarthy, except policies implemented by collective bargaining agreements, project specific agreements, or policies adopted by Regions of McCarthy, in which case such collective bargaining agreements, project specific agreements, or policies adopted by Regions of McCarthy shall govern where there is a conflict. For projects that are starting in States in which McCarthy is not currently working, Project Supervision should consult with their Regional Safety Director and Legal for guidance on potential State and/or local specific requirements. Please see the Resources below for applicable jurisdictional Addenda for review.
- b. If any part of this Policy is held invalid by a competent authority, such invalid part shall be deemed stricken and the balance of the Policy shall continue in full force and effect. In the event that any provision of this Policy is inconsistent with McCarthy's obligations under applicable law, McCarthy will conduct its actions in accordance with such law.

3.10 No Contractual Rights Established

- a. Nothing contained in this Policy guarantees an Employee Applicant or Employee any right to employment or continued employment by McCarthy, or hours of work, or requires McCarthy to keep its facilities or operations open for business, and nothing contained in this Policy shall create any contractual or other rights on the part of any Employee Applicant or Employee. This Policy is subject to revision, addition, amendment or elimination, at any time, with or without prior notice, as is deemed appropriate by McCarthy in its sole discretion.

4. RESOURCES

Additional Resources	
Boulder, Colorado Addendum	Louisiana Addendum
California Addendum	Nebraska Addendum
Iowa Addendum	Oklahoma Addendum
Oregon Addendum	Maryland Addendum
North Carolina Addendum	

5. REFERENCES

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Exhibit ID	Exhibit Title
Exhibit 1.14-A	Return To Work Agreement
Exhibit 1.14-B	Reasonable Suspicion Checklist