



FOR WASHINGTON EMPLOYERS

Non-DOT Drug Testing Requirements Checklist

A practical guide for Washington State employers building a defensible, voluntary drug and alcohol testing program.

If your business is not regulated by the U.S. Department of Transportation, your testing program is voluntary, which means it is governed by what your written policy says, by Washington State law, and by the requirements your insurance carrier or contract partners impose on you. A voluntary program is only as strong as its documentation. This checklist walks through the elements of a defensible non-DOT program in Washington, with the legal references behind each one. Work through it section by section. Every box you can check is one less gap in your compliance posture.

Who this is for: Washington employers in manufacturing, staffing, construction, marine and boatyard operations, equipment repair, and similar fields where testing is driven by insurance requirements, contract terms, or safety policy rather than by a federal mandate.

1. Written policy foundation

A written, distributed, acknowledged policy is the single most important document in a voluntary program. Without it, every testing decision is exposed.

- ✓ **Written policy statement.**
A clear, dated drug and alcohol policy that defines prohibited conduct and the consequences of a violation.
- ✓ **Purpose and scope.**
States who the policy covers (all employees, safety-sensitive roles, applicants) and why the program exists.
- ✓ **Distributed and acknowledged.**
Each employee receives a copy and signs an acknowledgment that is retained in their file.
- ✓ **Confidentiality commitment.**
Spells out that test results are handled confidentially, consistent with Washington requirements for the confidential treatment of results.

2. Cannabis and Washington's pre-employment rule



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This is where Washington diverges sharply from other states, and where most non-DOT employers are out of date. As of January 1, 2024, state law restricts how cannabis can factor into hiring.

✓ **Pre-employment cannabis screening reviewed.**

Under RCW 49.44.240, an employer generally cannot refuse to hire an applicant because a pre-employment test detected non-psychoactive cannabis metabolites, which indicate past use rather than current impairment.

✓ **Cannabis results separated.**

If you test applicants for a panel that includes cannabis, the cannabis result is handled so it does not drive the hiring decision, as the statute requires.

✓ **Exempt positions identified.**

The pre-employment cannabis restriction does not apply to certain roles, including positions requiring a federal background check or security clearance, law enforcement, fire and first-responder roles, and safety-sensitive positions defined by federal or state law. Confirm which of your roles are exempt.

✓ **Post-hire testing preserved.**

The cannabis rule applies to pre-employment screening only. It does not limit reasonable-suspicion, post-accident, or impairment-based testing of current employees, and it does not affect your right to maintain a drug-free workplace.

3. Testing circumstances and triggers

Define every situation in which a test can occur. Ambiguity here is what gets programs challenged.

✓ **Pre-employment.**

Defined conditions for applicant testing, accounting for the cannabis rule above.

✓ **Reasonable suspicion.**

Testing permitted when there are specific, objective grounds to believe an employee's performance is impaired by a controlled substance. Document the observations every time.

✓ **Post-accident.**

Testing tied to a workplace accident or incident as defined in your policy. Note that federal OSHA guidance discourages blanket post-incident testing used in a way that deters injury reporting, so tie it to objective criteria.

✓ **Random testing (optional).**

If you run a random program, it must be administered without advance notice and on a genuinely random basis.

✓ **Return-to-duty and follow-up.**

If an employee returns after a positive result or a treatment program, define the follow-up testing schedule in advance.



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4. Testing integrity and result handling

Even voluntary programs should mirror the scientific safeguards of the federal model: it is the difference between a result that holds up and one that does not.

✓ **Certified laboratory.**

Specimens are analyzed by a laboratory certified under the federal Mandatory Guidelines (HHS / SAMHSA certified).

✓ **Medical Review Officer review.**

A licensed Medical Review Officer interprets results, evaluating a non-negative against the employee's medical history before it is reported as positive.

✓ **Defined testing panel.**

Your panel (for example 5, 9, 10, or 12 substances) is specified in the policy so it is consistent and disclosed.

✓ **Split-specimen / retest right.**

Employees who receive a verified positive are given the right to have a second portion of the specimen retested by another certified laboratory. SAMHSA recommends every employer build this right into its program.

✓ **Chain of custody.**

A documented chain of custody accompanies every specimen from collection through result.

5. The insurance and liability angle

For most non-DOT Washington employers, the real driver is not a government mandate: it is the workers' compensation system and the requirements of insurers and contract partners.

✓ **Post-injury benefit position understood.**

Washington does not automatically deny workers' compensation benefits for a positive test, but substance use can become central to whether it was the proximate cause of an injury. A documented program and a post-accident test create the record that question is decided on.

✓ **Carrier and contract requirements gathered.**

Many general contractors, staffing clients, and commercial insurers require a documented testing program as a condition of the contract or the policy. Collect those requirements and confirm your program meets each one.

✓ **Certificate-of-insurance readiness.**

If your clients require proof of a compliant program, make sure your documentation can be produced on request.



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One myth to retire: Washington once offered a 5 percent workers' compensation premium discount for drug-free workplace programs, and some vendor websites still cite it. That statutory program (chapter 49.82 RCW) expired in 2001 and is no longer available. Build your program on the reasons that are still true: post-injury liability, carrier and contract requirements, and workplace safety, not on a discount that no longer exists.

6. Program administration and recordkeeping

- ✓ **Supervisor training.**
Supervisors who make reasonable-suspicion determinations are trained to recognize and document the signs of impairment.
- ✓ **Employee education.**
Employees receive information on the policy and the consequences of a violation.
- ✓ **Secure records.**
Test results and related records are stored securely and separately from general personnel files.
- ✓ **Annual review.**
The policy is reviewed at least annually and whenever state law changes, which in Washington has been frequent.

How Skyside Compliance fits in

Skyside Compliance is a Consortium and Third-Party Administrator (C/TPA). We own and run the program elements in this checklist on your behalf: the consortium and random pool, certified laboratory access, included MRO review of results, and the documentation that makes a voluntary program defensible. You stay focused on running your business. We make sure the compliance side holds up.

Ready to talk it through? (425) 476-7197 | info@skysidecompliance.com | skysidecompliance.com

Sources and references

1. RCW 49.44.240, Discrimination based upon cannabis use: exceptions. Washington State Legislature. Effective January 1, 2024.
2. WAC 357-37-200, Under what circumstances may an employer require an employee to submit to drug or alcohol testing. Washington State Legislature.
3. Chapter 49.82 RCW (Dispositions), Drug-Free Workplace Programs. Washington State Legislature. Program provisions expired January 1, 2001.



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4. Mandatory Guidelines for Federal Workplace Drug Testing Programs. U.S. Substance Abuse and Mental Health Services Administration (SAMHSA), Department of Health and Human Services.
5. Workplace Drug Testing Resources, including guidance on Medical Review Officers and split-specimen retesting. SAMHSA.
6. Model Plan for a Comprehensive Drug-Free Workplace Program. SAMHSA, Division of Workplace Programs.
7. Washington State Department of Labor & Industries (L&I), workers' compensation program and employer resources.
8. OSHA guidance on post-incident drug testing under 29 CFR 1904.35(b)(1)(iv). U.S. Occupational Safety and Health Administration.

Provided by Skyside Compliance LLC for general informational purposes only; not legal advice. Washington testing law changes frequently and varies by industry and role. Consult qualified legal counsel when designing or revising a program. Prepared June 2026.