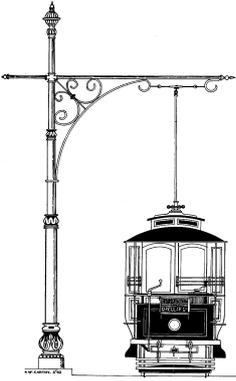


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D&A DOCUMENT KIT FOR D&A TESTING OFFICERS

AUGUST 2013

D&A Guidelines To Assist D&A Testing Officers

1. Purpose

This document is to assist the STM Drug and Alcohol (D&A) Testing Officers, who are authorised persons to conduct D&A testing, in their duties by providing guideline documentation for their activities

2. Scope

This document applies to the authorised STM D&A Testing Officers.

3. Responsibilities

STM D&A Testing Officers are required to follow the suggested guidelines and to use the forms in this document where necessary.

4. References

Alcohol and Other Drugs Policy (STM6130)

AS 4308 - Procedures for specimen collection and the detection and quantitation of drugs of abuse in urine

Drug and Alcohol Program (STM6066)

Health & Safety Act 2000,

Rail Safety (Adoption of National Law) Act

Rail Safety (Adoption of National Law) Regulation 2012 No. 662

5. Definitions

ONRSR - Office of National Rail Safety Regulator

RSW - Rail Safety Worker as defined by the *Rail Safety National Law*.

STM - Sydney Tramway Museum, a trading name of South Pacific Electric Railway Co-Operative Society Limited.

6. Actions

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6.1 General Information.

6.1.1 General Approach

The requirements of the drug and alcohol management programs (DAMPs) according to the *clause 28 of the Rail Safety National Law National Regulations 2012* in NSW comprises:

- Rail Safety National Law (NSW) No.82a;
- Rail Safety National Law National Regulations 2012 (the National Regulations); and
- Rail Safety (Adoption of National Law) Regulation 2012 (the NSW Regulations).

As an authorised testing officer, you should know of STM's Drug and Alcohol Program (STM6066) and the relevant sections of the *Rail Safety National Law (NSW)* almost "parrot fashion" as you need to be able to give correct and appropriate answers when you are in the field and when possibly challenged about your actions, the process or the lawfulness of testing. You also need good communication skills to explain testing and have the ability to understand and communicate with rail safety workers at all levels and from different backgrounds.

Whilst STM does not have any D&A testing equipment, a D&A Testing Officer will require a STM Rail Safety Worker to undertake some tests for drug and/or alcohol at an external site such as the police station or hospital.

It should be noted that under the *Rail Safety National Law*, Tourist and Heritage organisations such as the Sydney Tramway Museum are exempt from conducting random testing of its RSW members.

Things to remember:

- All tram crews must have a ZERO alcohol level when on Traffic duty at STM;
- Testing must be conducted within 3 hours of the occurrence or if a crew member is suspected of being under the influence;
- Testing for breath analysis can be done by the Police; and
- Testing for drugs can be done at a hospital or, for us, at Miranda Pathology Centre (if within operating hours of the Centre).

6.1.2 Types of Testing

There are three approaches to testing an authorised person can undertake:

- random testing;
- targeted (e.g. "for cause/on suspicion") testing; and
- post-incident testing.

The three approaches can be used for:

- Breath testing for alcohol;
- Blood testing for drugs;
- Urine testing for drugs; and
- Sobriety testing.

What are the procedures for assessment of sobriety if a breath testing device is not available - clause 10 of the NSW Regulation?

- If an authorised person requires a rail safety worker to undergo a breath test and the device to carry out the breath test is not readily available, the authorised person may require the rail safety worker to submit to a sobriety assessment.
- The requirement to submit to such an assessment is not open to challenge in any proceedings on the basis that the device was readily available.

A template for the conduct of a sobriety assessment is shown in Appendix B.

6.1.3 Planning and Organising Issues for Authorised Persons

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What are some of the key issues that can arise with the planning and organising of drug or alcohol testing?

- ✓ Communication with managers to gain their co-operation and commitment to the testing process.
- ✓ Tests need to be conducted thoroughly and in accordance with required testing procedures.
- ✓ Providing an adequate explanation to rail safety workers about why and how they are to be tested.
- ✓ The privacy and confidentiality of the rail safety worker being tested needs to be safeguarded at all times. The cubicle facilities being used for drug testing need to ensure complete privacy.
- ✓ Cubicle toilets also need to be set up adequately for each test to ensure there is no opportunity to alter or interfere with urine samples being provided.
- ✓ Being sensitive to gender and cultural issues, for example, ensuring where possible that there are female authorised persons available to conduct drug testing of female rail safety workers.
- ✓ If a female authorised person is not available the presence of another female should be considered.
- ✓ Ensuring adequate protocols and agreed arrangements are in place to work with the police providing breath analysis or other forms of testing. The nearest suitable police station location(s) for breath testing or breath analysis needs to be confirmed and appropriate and safe transport arrangements need to be put in place.
- ✓ Questioning rail safety workers appropriately to encourage them to self-identify where they are on prescription drugs.
- ✓ Undertaking sobriety assessments, if a breath or drug testing device is not available, and collecting as much information about the rail safety worker as possible in order to make a valid and fair assessment of their condition.

PRACTICE HINTS FOR AUTHORISED PERSONS

- ✓ A co-ordinated approach to the planning and organising of alcohol and drug testing is required which ensures that commitment to testing is achieved through:
 - ♦ Management and rail safety workers being adequately briefed on the rationale and the procedures to be implemented for drug and alcohol testing.
 - ♦ Appropriate arrangements being established with managers and third party providers to undertake testing.

Random testing

- ✓ The need for authorised persons to establish fair procedures for random testing which ensure the appropriate selection of rail safety workers.
- ✓ The program needs to consider the best ways to conduct random testing in terms of managing and assessing safety risks and balancing operational requirements.
- ✓ Check with managers whether it is rail safety workers who perform rail safety work who are being tested and also that operational requirements can be met during testing without disruption to services.

Targeted (“for cause/on suspicion”) testing

- ✓ Authorised persons need to be responsive to situations where managers or other rail safety workers have a reasonable belief that a rail safety worker is under the influence of drugs and/or alcohol.
- ✓ They need to carefully assess all the information they have been given and establish appropriate and discrete testing procedures.
- ✓ They also need to inform the rail safety worker being tested of their rights and obligations under the *Rail Safety National Law (NSW) No82a*.

Post-incident testing

- ✓ Authorised persons need to establish contingency plans for the conduct of post-incident. This should include awareness of breath analysis devices at designated police stations, an agreement with the police on testing to be provided and arrangements in place with local hospitals and third party testing service providers.

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- ✓ Authorised persons also need to be aware of the required procedures when dealing with medical practitioners or registered nurses at hospitals.

THIRD PARTY PROVIDERS

In working in partnership with third party testing service providers, ensure the following:

- ✓ The third party provider(s) is fully compliant with the Australian Standards for urine testing (AS/NZS 4308:2008) and breath testing devices (AS 3547-1997) NB breath testing devices may also be of a type approved by the Governor by order published in the Gazette for the purposes of the *Road Transport (Safety and Traffic Management) Act 1999*.
- ✓ The provider is able to ensure full coverage of working locations, including remote locations and outside of normal working hours, if possible on a 24 hour 7 day a week basis.
- ✓ The provider is equipped to meet requirements for the conduct of random, targeted testing and post-incident testing.
- ✓ All persons conducting blood or urine testing are fully qualified in pathology collection processes.
- ✓ The provider and their staff are trained in the *Rail Safety National Law (NSW) No82a*, the role and responsibilities of the authorised person, and in the rail operator's drug and alcohol management program.
- ✓ Appropriate arrangements are in place for the safe transport and analysis of samples.
- ✓ Checking that the paperwork and documentation being completed meets the rail operator's drug and alcohol management program as well as the ONRSR's notification and monthly statistical reporting requirements.
- ✓ Where a series of third party service providers are involved, co-ordinating arrangements need to be agreed by all the parties involved, particularly where after hours servicing may be required.

6.1.4 Privacy and Confidentiality

It is generally accepted that employees have a right to confidentiality when addressing personal or sensitive issues. This means that information relating to results of testing activities or personal health information is shared with other people only for lawful purposes. It is important that rail safety workers are given clear information about the drug and alcohol management program and how testing occurs from the beginning of the program. This should include information about the way the rail transport operator and the authorised person deal with employee information and also the limits on confidentiality. In this regard, it should be noted that rail transport operators are required to notify ONRSR of any of the matters specified in clause 28(2)(b) of the *National Regulations*, including positive tests, and that this information could ultimately lead to prosecution. In addition, under section 244 of the *Rail Safety National Law (NSW)*, it is an offence to disclose without lawful authority any information or document obtained while exercising any power or function under the RSNL.

6.1.5 Duty of Care

Rail transport operators and rail safety workers need to be aware of their responsibility to take reasonable steps to prevent injury and to ensure the safety of railway operations. They have a duty of care to other employees, customers and the public.

6.1.6 Provision of information

It is important that rail safety workers are given clear information about the drug and alcohol management program and how testing occurs.

6.1.7 Fairness

Fairness means taking into account the interests of all parties, treating them impartially and giving due weight and consideration to the individual's rights, interests and legitimate expectations.

6.1.8 Gender and cultural sensitivity

Gender and cultural sensitivity takes into account the diversity in the workplace to provide services which enable all employees to be treated equitably, in a non-discriminatory, non-threatening manner and with respect. For rail transport operators, their drug and alcohol management programs need to take into

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account religious, cultural and gender issues and authorised persons must conduct their testing in ways that reflect these requirements.

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6.2 Suggested Scripts To Be Used During Any D&A Testing.

6.2.1 Some suggested actions when approaching a STM RSW for the purpose of doing a D&A test are:

- Opening meeting:** Non-threatening in approach
Established the purpose of the discussion
Encouraged clarification by the worker
- Physical behaviour:** Maintained eye contact
Used positive body language that encouraged the worker to be open and relaxed
Used active listening techniques
- Vocal behaviour:** Maintained calm, audible and well-paced discussions
- Language:** Used understandable and clear language
Used positive language to get the worker to focus on the positives and responsibilities of testing
Answered any questions the worker had
- Feedback behaviour:** Checked regularly for understanding and agreements
Summarised the outcome of the discussion and the next step to be taken.

Any D&A testing of members must be documented, by the testing officer, on the form in APPENDIX C. The recording of details of tests will allow records to be kept of all RSW tests undertaken by STM for any future reference and for the monthly statistics required by ONRSR.

6.2.2 Scripts for Informing a Rail Safety Worker about Conducting a Test.

Authorised persons approaching a rail safety worker who performs rail safety work where they believe that the rail safety worker may be under the influence of drugs or has the prescribed concentration of alcohol in breath or blood can use the following scripts.

6.2.2.1 Sample script when approaching a rail safety worker “for cause or on suspicion” testing.

A rail safety worker who performs rail safety work and who may have the prescribed concentration of alcohol in breath or blood.

“My name is.....and I am an authorised Drug and Alcohol testing officer for STM.

I have reason to believe you may be intending to carry out or have carried out rail safety work with the prescribed concentration of alcohol in your breath or blood.

I require that you submit to a test in accordance with my directions and the provisions of the *Rail Safety National Law (NSW)*.

Do you understand these directions?”

A rail safety worker who performs rail safety work and may be under the influence of a drug

“My name is.....and I am an authorised Drug and Alcohol testing officer for STM.

I have reason to believe you may be intending to carry out/ have carried out rail safety work whilst under the influence of drugs.

As a result you will be removed from rail safety work immediately and will be required to provide a sample of urine. I require that you do that test in accordance with my directions and the provisions of the *Rail Safety National Law (NSW)*.

Do you understand these directions?”

6.2.2.2 Sample Script for the Collecting Relevant Information for Drug Testing

“My name is.....and I am an authorised Drug and Alcohol testing officer for STM.

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Have you carried out rail safety work today?

What time did you commence your shift **or** what time are you due to commence work today?

What kind of rail safety work have you done or do you intend to do?

I will now ask you to proceed to the next step which will involve going through the collection procedures with a trained collector”.

6.2.2.3 Sample script for the Introduction to requiring a breath test

“My name is.....and I am an authorised Drug and Alcohol testing officer for STM.

I am requiring you to undergo a breath test in accordance with the provisions of the *Rail Safety National Law (NSW)* and STM’s drug and alcohol management program. I require you to undergo a breath test for the purpose of indicating the concentration of alcohol present in your breath or blood.

I am directing you to attend the Sutherland Police Station to have a breath test.

Have you performed rail safety work during your shift?

Are you aware of STM’s drug and alcohol management program?

Is there anything you want to ask?

Are you ready to start testing?”

6.2.2.4 Sample script for informing a rail safety worker about a urine test

“My name is.....and I am an authorised Drug and Alcohol testing officer for STM.

I am requiring you to undergo a urine test in accordance with the provisions of the *Rail Safety National Law (NSW)* and our organisation’s drug and alcohol management program. I require you to undergo a urine test for the purpose of testing for the presence of a drug.

The procedure will involve completing some relevant details about yourself, entering a private cubicle and providing a sample of urine in the container so that it can be sent away to an approved laboratory for analysis.

The testing will be undertaken by a collecting agency that our organisation has engaged to undertake the testing.

Do you understand my directions?

Have you performed rail safety work during your shift?

Are you aware of STM’s drug and alcohol management program?

Is there anything you want to ask?

Are you ready to start testing?”

6.2.2 Sample Scripts For Informing a Rail Safety Worker of a Positive Test

Informing a rail safety worker who performs rail safety work of a positive result on a breath test, sobriety assessment or drug test.

“My name is.....and I am an authorised Drug and Alcohol testing officer for STM.

I have carried out an assessment of your sobriety and I have reason to believe there may be present in your breath or blood, the prescribed concentration of alcohol.

In accordance with the provisions of the *Rail Safety National Law (NSW)*, I direct you to attend the Sutherland police station with me for the purpose of a breath analysis.”

OR

I have carried out an assessment of your sobriety and I have reason to believe there may be drugs present in your blood.

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In accordance with the provisions of the *Rail Safety National Law (NSW)*, I direct you to supply a sample of your urine in accordance with the directions which will be given to you by the Sutherland Hospital or from another collecting agency.”

6.2.3 Sample scripts for responding to refusal or failure to undergo testing

“You have refused (or failed) to undergo a drug or alcohol test by an approved device in accordance with my directions. I will give you one further chance to comply with my direction.

I want you to understand that under the *Rail Safety National Law (NSW)*, refusal or failure to comply with my direction, as an authorised Drug and Alcohol testing officer, is an offence which is subject to prosecution.

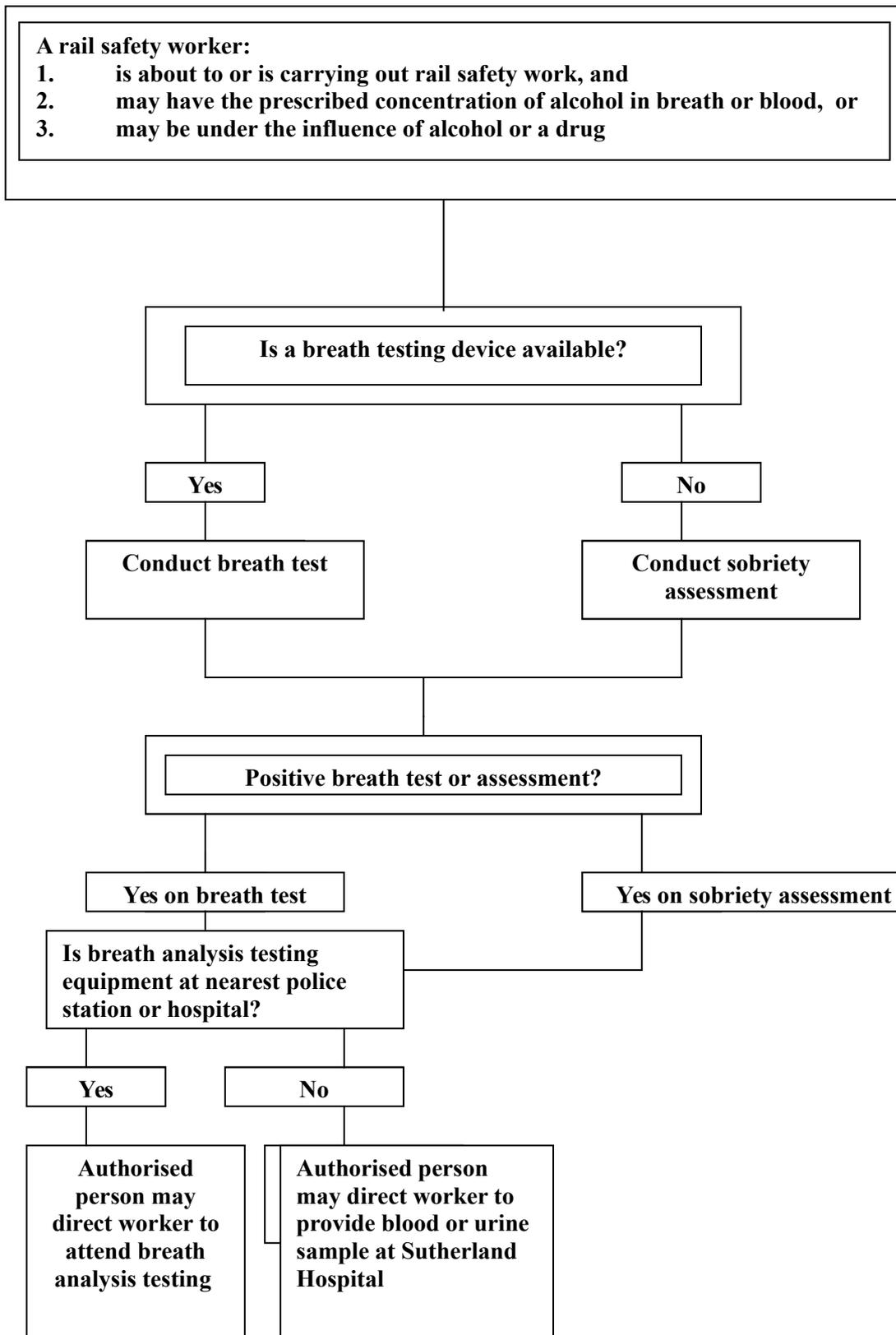
I want you to understand that if a breath test is not undertaken, as directed, I will be reporting the refusal or failure to comply to management and you may be subject to disciplinary action. You will also be removed from rail safety work until you comply.

OR

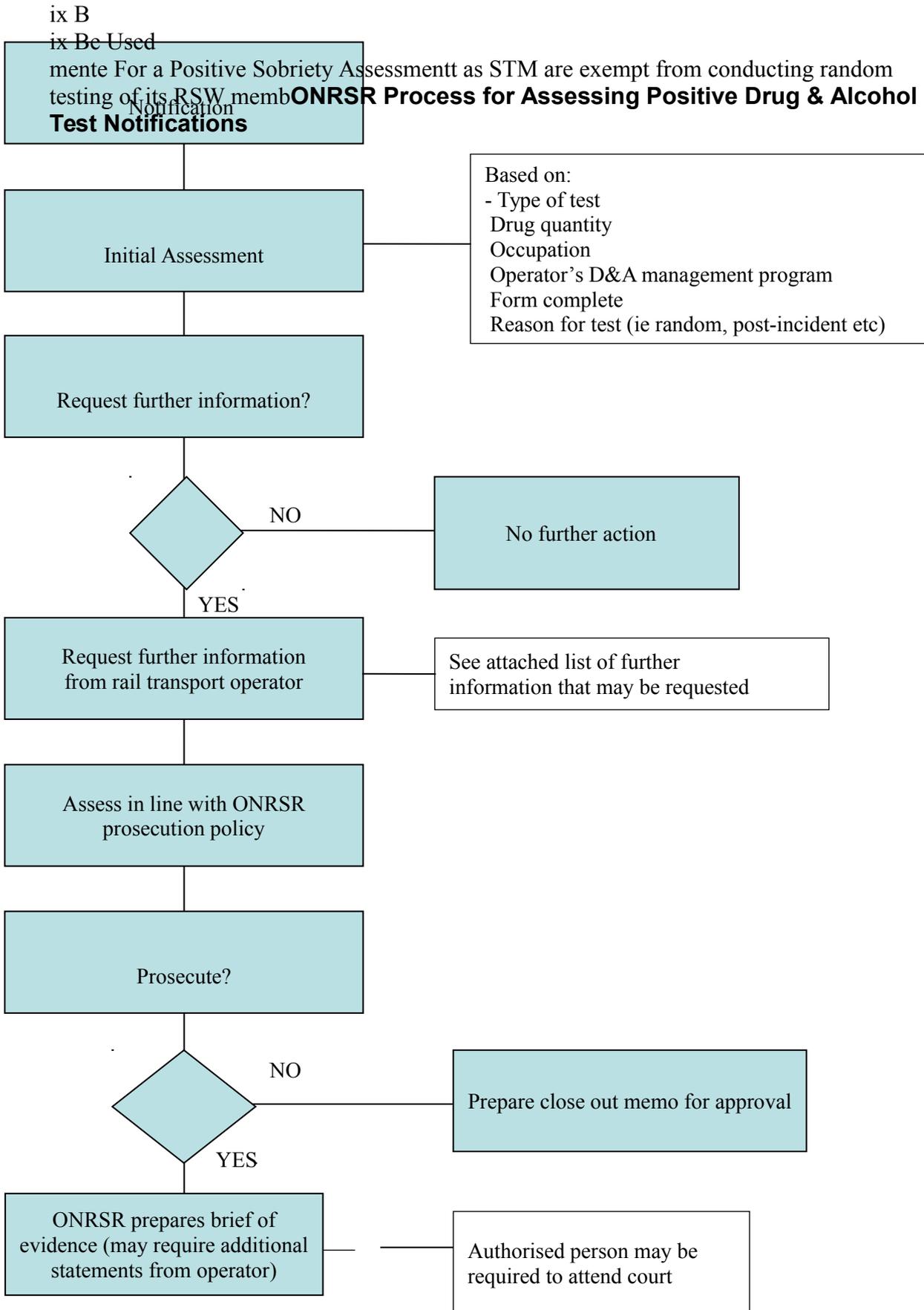
I want you to understand that if the sample is not provided, as directed, I will be reporting the refusal or failure to comply to management and you may be subject to disciplinary action. You will also be removed from rail safety work until you comply.

Do you understand?

6.3 Flowchart of The Procedure For a Positive Sobriety Assessment.



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6.4 What to do during an incident of violence and aggression

The following checklist has been developed for authorised persons and has been based on the WorkCover NSW Guidelines for managing violence and aggression.

Despite preventative measures, incidents of workplace violence can and do occur. An essential part of your plan is to be prepared. All employees likely to be exposed to violence and aggression must be aware of the types of situations which may arise and be trained in (i.e.: practice) the prevention controls in place.

General guidelines

✓ Violent situations do not usually “just happen”.
✓ They often follow a pattern of escalating aggression: <ul style="list-style-type: none">• annoyance;• raised voice;• verbal threats, physical gestures;• actual physical violence
✓ Avoid physical violence by recognising these signs and try to de-escalate the aggressive behaviour.
✓ People affected by drugs or alcohol, are under the influence of mind-altering substances or the absence of a substance (withdrawal syndrome) may become violent.
✓ It is possible to have strategies to prevent these incidents, as well as having procedures to handle such violent situations should they occur.
✓ Violence from aggressors may be immediate and unpreventable. Be prepared to take escape action as soon as possible.
✓ Where the aggressor threatens violence but has not yet become physically violent, do not do anything to aggravate them.
✓ Withdraw from the situation immediately. Do not put yourself at risk or make the situation worse.
✓ Summon help and call police (if appropriate).
✓ Record details after the incident, notify or report the incident to your manager/supervisor.
Your manager/supervisor should ensure post-incident support is provided as required (including first aid, reporting, debriefing, counselling, compensation or legal assistance).
✓ Acknowledge the incident and take steps to prevent a repeat occurrence. This includes investigating the causes of the incident and looking to see why your prevention measures, if any, did not work.

7 Details of Rail Safety Act and Regulations.

The following are excerpts from the *Rail Safety (Adoption of National Law) Regulation 2012* regarding the use of the police for breath testing. The reference in the Regulation is:

- **Part 2 Drug and alcohol testing**

- **Division 2 Testing for alcohol or other drugs**

- **11 Breath analysis of rail safety workers following breath testing**

- (1) An authorised person may require a rail safety worker to submit to a breath analysis in accordance with the directions of the authorised person only if:
 - (a) it appears to the authorised person, as a result of a preliminary breath test or an assessment of sobriety under this Regulation, that the prescribed concentration of alcohol may be present in a rail safety worker's breath or blood, or
 - (b) a rail safety worker who is required by an authorised person to undergo a preliminary breath test, or to submit to an assessment of sobriety under this Regulation, refuses or fails to do so in accordance with the directions of the authorised person.
- (2) If a **police officer** is entitled to require a rail safety worker to submit to a breath analysis, the officer may:
 - (a) arrest the worker without a warrant, and
 - (b) take the worker with such force as may be necessary to a police station or such other place as the officer considers desirable and there detain the worker for the purposes of the breath analysis.
- (3) If an authorised person (other than a **police officer**) is entitled to require a rail safety worker to submit to a breath analysis, the authorised person may direct the worker to attend the nearest police station, or such other place as the authorised person may require, and there submit to a breath analysis.
- (4) A breath analysis must be carried out by:
 - (a) an authorised person (other than a **police officer**), or
 - (b) a **police officer** authorised by the Commissioner of Police to operate breath analysing instruments, at or near a police station or such other place as the authorised person or **police officer** considers desirable.
- (5) As soon as practicable after a rail safety worker has submitted to a breath analysis the authorised person or **police officer** operating the breath analysing instrument must deliver to the worker a statement in writing signed by the authorised person or **police officer** specifying:
 - (a) the concentration of alcohol determined by the analysis to be present in the worker's breath or blood and expressed in grams of alcohol in 210 litres of breath or 100 millilitres of blood, and
 - (b) the day on which and time of the day at which the breath analysis was completed.
- (6) A rail safety worker who is required to submit to a breath analysis may request the authorised person or **police officer** making the requisition to arrange for the taking by a medical practitioner (in the presence of an authorised person or a **police officer**) of a sample of the worker's blood for analysis, at the worker's own expense.
- (7) The making of any such request or the taking of a sample of a rail safety worker's blood does not relieve the worker from the obligation imposed on the worker to submit to a breath analysis in accordance with this clause.

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Appendix A

Drug and Alcohol Sobriety Assessment

Worker Details

Page 1 of 2

<i>Family Name</i>	
<i>Given name(s)</i>	
<i>Job Title</i>	
<i>Location (Time, date and Place)</i>	
<i>ID card or Driver licence details</i>	

Breath test result

Positive or Negative:
If positive reading, what was the reading?:

Breath Analysis result

Location Analysis conducted	
Date Time analysis conducted	
Name of person conducting test	
Analysis Results	

Drug Urine

Location Urine Analysis conducted	
Date Time Urine analysis conducted	
Name of person conducting test	
Sample reference	

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Drug and Alcohol Sobriety Assessment (cont.)

Record of observed characteristics

Page 2 of 2

Breath	<i>Smell of intoxicating liquor</i>	Nil	Slight	Moderate	Strong	N/A
Face & Skin Colour	Pale	Flushed		N/A		Other
Attitude	Cooperative, talkative, anxious, excited, dreamy, relaxed, sedated, antagonistic, hostile, irritable, cocky, unable to follow instructions, depressed, aggressive, difficulty staying awake, restless, alert, responsive, vague, argumentative, agitated, other (describe)					
Actions	Swearing, hiccupping, belching, vomiting, fighting, drooling, restless, runny nose, loss of emotional control, itching scratching, repetitive behaviours, disorganised, chaotic, other (describe)					
Eyes	Watery, glazed, bloodshot, eyelids drooping, pupils pinpointed, pupils wider than normal, glassy, other (describe)					
Breathing	Normal, short, jerky, shallow, slow, other (describe)					
Speech	Incoherent, clear, slurred, confused, fast, slow, repetitious, difficulty with pronunciation or forming sentences, other (describe)					
Balance	Unsteady, swaying, sagging, falling, staggering, needing support, stumbling, other (describe)					
Movements	Clumsy, jerky, sluggish, tremor, running or jumping around, slow, fidgeting, other (describe)					
Level of sobriety	Slightly affected	Moderately affected	Well affected			
	By alcohol or other substances					
Additional indicators	<ul style="list-style-type: none"> • Presence of drug paraphernalia (such as syringes, swabs, tourniquets and/or devices for smoking drugs); • Admission of consumption of alcohol or drug-taking; • In the case of other symptoms suggesting drug use, a negative breath-test; • Clinical dehydration; • Other (describe). 					
Observation or comments						
Testing Officer Name		Date	/	/		
Testing Officer's Signature						

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APPENDIX B



NSW Police Force

Certificate Number

CERTIFICATE UNDER CLAUSE 28 OF THE RAIL SAFETY (ADOPTION OF NATIONAL LAW) REGULATION 2012

I, **(Name of Police Officer)** certify as follows:

- i. I am a police officer authorised by the Commissioner of Police to operate breath analysing instruments.
- ii. **(Name of Subject)** of **(Address of Subject)**, submitted to a breath analysis.
- iii. The apparatus used by me to make the breath analysis was a breath analysing instrument within the meaning of the Road Transport (Safety and Traffic Management) Act 1999.
- iv. The breath analysis was made by me on the **(number)** day of **(Month)** **(Year)** and completed at **(HH:MM)**; at **(Location)**.
- v. The concentration of alcohol in the breath of **(Name of Subject)** as determined by the breath analysing instrument at the aforesaid time and date was **(reading)** grammes of alcohol in 210 litres of breath.
- vi. A statement in writing signed by me as required by Clause 11(5) of the above Regulation was delivered to **(Name of Subject)** by me in accordance with that Subclause.

Authorised Police Officer

Rank/Grade: _____

Station: _____

Date: _____

