

## Response ID ANON-PS6S-993U-6

Submitted to **Review of the mandatory safety standards for portable fire extinguishers**

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### Introduction

#### 1 What is your name?

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#### 3 What is your organisation?

**Organisation:**

Fire Protection Association Australia

### Key questions

#### 4 What is your preferred option and why?

**Please provide your comments:**

FPA Australia prefers Policy Option 2 from the selection provided in the Consultation paper:

Please note, however, FPA Australia believes modifications to Option 2 are necessary and this is discussed in our response to Question 5.

Option 2 is the preferred option for the following reasons:

- The current mandatory standard although useful in providing a clear regulatory framework for extinguishers, references the superseded voluntary standard for non-aerosol extinguishers (AS/NZS 1841-1997 series). The current voluntary standard (AS/NZS 1841-2007 series) counters shortcomings in the superseded version and include improvements, such as:

- o labelling;

- o filling tolerances;

- o an alternative method for determining effective discharge time of an extinguisher;

- o an alternative method for the discharge testing of carbon dioxide extinguishers after the high temperature component material test; and

- o others covered in the attached letter previously submitted to the ACCC recommending the adoption of AS/NZS 1841:2007.

To benefit from these improvements, this new voluntary standard should be referenced.

- Despite some other legislative requirements that prescribe the use of the voluntary standard (AS/NZS 1841), non-aerosol extinguishers and aerosol extinguishers are still available and provided to end users for applications that are not addressed by these other legislative requirements. This increases the importance of the mandatory standard to address this gap.

As extinguishers are provided for first attack use, by trained or untrained members of the community, a mandatory standard is vital to ensure extinguishers operate consistently and safely across all applications.

The mandatory standard provides a regulatory framework for extinguishers which applies to all extinguishers whether they are purchased voluntarily to protect against incidental home, vehicle, vessel or other fires, or purchased to comply with other established legislative requirements.

The mandatory standard imposes clear minimum requirements on manufacturers, distributors and suppliers that may supply extinguishers to domestic, commercial, industrial, mining and petrochemical end users or other sector end users.

This remains important not only for end users of extinguishers but also ensuring that extinguishers imported to Australia as the result of international manufacture, meet minimum local expectations for performance and safety.

- The mandatory standard should facilitate enhanced safety regardless of the end user by providing the following:

- o Manufacturing specifications;

- o Uniform instructions and marking specific to the type of extinguisher;
  - o Uniform identification colours specific to the type of extinguisher;
  - o Minimum performance and test criteria; and
  - o Compliance criteria for confirming that all of these requirements above have been met, which can be applied to new extinguishers, existing extinguishers or extinguishers that need repair.
- The mandatory standard represent legislative requirements which prevent extinguishers that do not meet the safety expectations of Australia being distributed to end users who may be ill informed regarding extinguisher use and safety and therefore potentially vulnerable to products with inferior performance and safety requisites.

## 5 Do you agree with our assessment of the international standards?

### Please provide your comments:

Yes.

While FPA Australia supports the adoption of international standards as per the World Trade Organization (WTO) agreement on reduction of technical barriers to trade, the information in Section 6 of the Consultation paper reflects our understanding from our members that these international standards are not suitable for use in Australia, particularly due to the differing labelling, classification and test requirements.

Unlike other products, there is no International Organization for Standardization (ISO) standard or international agreement for extinguishers.

## 6 Would option 2 change your compliance costs for non-aerosol extinguishers?

### Please provide your comments:

FPA Australia is aware that some non-aerosol extinguisher manufacturers are complying with both the mandatory standard as well as the latest voluntary standard (AS/NZS 1841:2007). Therefore, if option 2 incorporated a change to reference AS/NZS 1841:2007, the impact of compliance costs is anticipated to be minor for many extinguisher manufacturers and distributors. For this reason, the change of reference is not expected to have any significant impact on competition in this market either.

Despite this, FPA Australia recommends an optional transitional period of three (3) years so that any additional compliance costs (where applicable) can be distributed over a reasonable period. This will also allow for the implementation of the transition by manufacturers and distributors not already complying the latest voluntary standard if this is adopted by the mandatory standard as we propose. We suggest that this three (3) year transition period would allow for overlap i.e. allow for the supply of extinguishers to comply with any immediately superseded mandatory standard and any new mandatory standard from the day of its release.

The National Construction Code (NCC) is used by legislation to require the use of non aerosol extinguishers in certain types of new buildings as a deemed-to-satisfy fire safety measure. The period of three (3) years we suggest for transition to a new ACCC mandatory standard, is consistent with the NCC's cycle of review, update and re-issue that industry is familiar with.

## 7 Is there any reason the mandatory standard for non-aerosol extinguishers should not reference the latest voluntary Australian standard AS/NZS 1841:2007?

### Please provide your comments:

Where a suitable transitional period of three (3) years is applied as suggested above, we do not see any reason why the mandatory standard for non-aerosol extinguishers should not reference the latest voluntary Australian standard AS/NZS 1841:2007.

However, to avoid the necessity to update the mandatory standards in the future, FPA Australia recommends that the mandatory standard should reference the latest edition of AS/NZS 1841 with a transitional period of three (3) years permitted from the publication date of a new revision of AS/NZS 1841 or its amendments.

The mandatory standard should consider such an approach for the following reasons:

- To avoid a repeat of the current situation where the 2007 edition of AS/NZS 1841 has not been considered for adoption until 12 years after it was published;
- There is existing precedence for such an approach. One example, is how some state and territory legislation references that latest edition of the voluntary product standard for smoke alarms, AS 3786, by referring to "AS 3786 as in force from time to time" rather than limiting the legislation to the latest edition available at the time the legislation is made effective (and therefore requiring amendment of the regulation to be able to recognise a new edition of AS 3786 when published); and
- A project proposal is currently being developed to revise AS/NZS 1841. This revision will facilitate its improvement and its ability to consider the changing hazards and restrictions that non-aerosol extinguishers may need to counter. These include, application on hazards like lithium-ion batteries and polar solvent based fuel fires, and the use of fluorine free foams rather than fluorinated foams due to legislative barriers in certain states.

If the mandatory standard is unable to automatically adopt the most contemporary voluntary standard as published (i.e. "as in force from time to time"), another option would be to include a requirement prescribed in the mandatory standard for it to be reviewed every three (3) years to ensure it remains up to date.

It should be noted, that the NCC currently also references the AS/NZS 1841:1997 series as a "secondary reference document".

As such, the NCC (or both the NCC and AS 2444) need to be updated to reference AS/NZS 1841:2007 (as proposed to be referenced in the ACCC mandatory standard).

By doing so, and by adopting a 3 year review cycle for the ACC mandatory standard in line with the NCC's 3 yearly cycle, would allow for the NCC and ACCC to be aligned.

## **8 Is there any reason the mandatory standard should not be adjusted so that it only applies to the supply of new non-aerosol fire extinguishers and to avoid the current regulatory overlap for routine servicing?**

### **Please provide your comments:**

FPA Australia believes that while there is some overlap between the ACCC mandatory standard for non-aerosol extinguishers, and the legislative requirements for routine servicing, the extent of overlap is insufficient to avoid adjusting the mandatory standard to address this issue appropriately.

Figure 2 below outlines the current likely life of a non-aerosol extinguisher supplied to the Australian market for the purpose of complying with building regulation, when that regulation also requires routine servicing to be undertaken:

Figure 2 – Supply of non-aerosol extinguishers – New and Refurbished

This figure illustrates that where other regulation exists that mandates the routine servicing and rectification maintenance of extinguishers (typically state and territory based building regulation), extinguishers supplied to the market may be:

(i) New; or

(ii) Refurbished, having undergone routine servicing and any defects rectified to maintain the operating performance of the extinguisher.

The current mandatory standard is silent in this regard. It only refers to supply and does not elaborate on whether or not this supply must be a new extinguisher or can be a refurbished extinguisher as discussed above. Furthermore, FPA Australia advocates that this routine servicing is critical to maintaining the extinguishers ongoing performance.

The mandatory standard must address this directly. It must provide clarity that supply of an extinguisher that has been refurbished as a result of a requirement for routine servicing to AS 1851 is acceptable.

The mandatory standard should recognise that supplying a refurbished extinguisher is not supplying a new extinguisher to AS/NZS 1841, but is a legitimate process, subject to:

(i) The extinguisher having originally complied with the mandatory standard when new (AS/NZS 1841); and

(ii) The extinguisher having undergone best practice routine servicing to AS 1851 with any defects rectified to ensure ongoing operational performance; and

(iii) Written disclosure being provided to the person this refurbished extinguisher is supplied to, confirming this process has been applied.

Without this being clarified some contend that all extinguishers would only have a maximum 5 year life span under the mandatory standard.

To understand this dynamic further it is important to appreciate the application of AS 1851, rectifying defects and why refurbished extinguishers are supplied.

### Application of AS 1851 and rectifying defects

AS 1851 includes prescribed routine service activities to be undertaken to maintain the reliability of fire protection systems and equipment such that they continue to meet the requirements of the approved design and are likely to do so until the next scheduled activity.

As such, non-aerosol extinguishers manufactured to AS/NZS 1841 that are serviced to AS 1851 and pass all activities are likely to continue to meet the performance requirements of AS/NZS 1841.

However, it is important to note that extinguishers need to pass all activities for this to be confirmed. Where the routine service activity identifies a defect, the extinguisher's owner is informed. The defect must be rectified (and the performance of that component re-confirmed) for the extinguisher to have passed the routine service and therefore continue to meet the performance requirements of AS/NZS 1841.

If a defect is not rectified, then whether the extinguisher continues to meet the performance of AS/NZS 1841 and therefore the mandatory standard has not been confirmed.

### Refurbishing and replacement of extinguishers

It is currently common practice in the fire protection routine service industry to replace extinguishers during routine service when extinguishers need to be removed from site for testing or to rectify defects, in particular at the five yearly service, which involves hydrostatic testing. When this occurs, AS 1851 requires that the replacement unit is of the same type and size or a similar rating.

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It is not specified in AS 1851 whether this is a new, existing or refurbished extinguisher. As mentioned above, we note that the current mandatory standard is silent in relation to this issue and our interpretation concludes that it would allow a new, existing or refurbished extinguisher to be supplied but this should be clarified.

In some instances the cost of undertaking the five yearly service can outweigh the cost of supplying a new extinguisher. However, replacement with refurbished extinguishers still occurs in other instances because:

- (i) It's not financially viable or safe to hydrostatically test extinguishers on site, but this does not mean they have reached the end of their service life;
- (ii) It is financially viable to keep them in circulation by removing from one site, completing routine service testing offsite and refurbishing to rectify any defects and supplying them to a new site confident in their operating performance;
- (iii) Existing extinguishers can be serviced under AS 1851-2012 and confirmed as meeting the performance requirements of AS/NZS 1841;
- (iv) FPA Australia is not aware of any instances where applicable servicing of extinguishers under AS 1851 has resulted in inferior performance and detrimental safety outcomes.
- (v) If replaced with new extinguishers, these 5 year old extinguishers simply get disposed of, which is less environmentally responsible because existing extinguishers are sent to landfill and new extinguishers need to be produced.

FPA Australia therefore contends that the proposed mandatory standard should allow for supply of non-aerosol fire extinguishers under the following options outlined in Figure 3 below.

Any non-aerosol fire extinguisher:

- (i) Complies with current edition of AS/NZS 1841; or
- (ii) Complies with a previous edition of AS/NZS 1841 allowing for a maximum 3 year transition; or
- (iii) Is an extinguisher that was originally supplied in accordance with the ACCC Mandatory Standard and has passed appropriate routine servicing in accordance with AS 1851 where this is disclosed to the purchaser.

Figure 3 – Proposed mandatory standard options

Proposed modification to Option 2

FPA Australia agrees, as per the ACCC's option 2, that the mandatory standard for non-aerosol extinguishers should reference the latest edition of AS/NZS 1841 and that the current mandatory standard for aerosol fire extinguishers should be maintained.

However we recommend that this option be amended as follows to take account of the issues identified above:

"Option 2 Maintain the current mandatory standard for aerosol fire extinguishers and make a new mandatory standard for non-aerosol fire extinguishers allowing:

1. New non-aerosol extinguishers supplied to end users to meet AS/NZS 1841:2007; and
2. Existing or refurbished non-aerosol extinguishers supplied to end users to:
  - (i) have met AS/NZS 1841:2007 when new; and
  - (ii) have passed appropriate servicing to AS 1851; and
  - (iii) end users are provided with a disclosure statement confirming compliance with the above where the extinguisher supplied to them is not new.
3. Compliance with AS/NZS 1841:2007 for the purpose of the ACCC mandatory standard is met by the following:
  - (i) For existing extinguishers; extinguishers that complied with the ACCC mandatory standard as in force immediately prior to the current ACCC mandatory standard.
  - (ii) For extinguishers following the publication of the current ACCC mandatory standard, AS/NZS 1841 as in force from time to time with a three (3) year transition period permitted from the issue date of a new revision of, or amendment to, AS/NZS 1841.

Note, appropriate servicing is defined as:

- If the extinguisher is over 6 months old, then 6 monthly service to AS 1851
- If the extinguisher is over 12 months old, then a yearly service to AS 1851

- If the extinguisher is over 5 years old, then a 5 yearly service to AS 1851"

Examples of application of amended Option 2:

- New extinguisher to current mandatory standard

Such an extinguisher can be sold up to 3 years after implementation of new ACCC mandatory standard.

Extinguisher can be supplied after the 3 years only if appropriate servicing undertaken and disclosure statement provided.

- New extinguisher to new mandatory standard

Must meet new mandatory standard (AS/NZS 1841:2007).

If new revision or amendment made to AS/NZS 1841, can continue to be supplied up to 3 years after publication of revision or amendment but after that 3 years it can only be supplied if appropriate servicing undertaken and disclosure statement provided.

- Existing or refurbished extinguisher that met previous mandatory standard

Extinguisher met previous mandatory standard (AS/NZS 1841-1997).

Must be appropriately serviced to AS 1851 and disclosure statement provided to be able to supply to end user.

The above changes, while complex, are important to ensure:

- All extinguishers supplied in Australia meet one set of requirements (current legislative reference of AS 1851 is insufficient to cover all installations and all jurisdictions regarding routine service)

- A transition period is included for the implementation of the new mandatory standard to allow sufficient time for manufacturers and distributors to meet the new requirements and phase out existing stock.

- Allowance for the recognition of future revisions or amendments to AS/NZS 1841 is included so that a review is not required every time a revision or amendment occurs.

As part of this, a 3 year transition to the new revision or amendment is included, accordingly.

- It is specifically required that existing and refurbished extinguishers must have met the applicable mandatory standard at the time. This is essential so that only extinguishers to the applicable mandatory standard (AS/NZS 1841 are permitted). If simply "routinely serviced to AS 1851" was included, this would allow extinguishers to any standard, including international standards which, as identified by the ACCC and FPA Australia, are not suitable for Australia.

- It accounts for, and identifies, the applicable routine servicing required for extinguishers. If simply "routinely serviced to AS 1851" was included, there would be significant disputes if there were missed or out of tolerance services in an extinguishers history. The appropriate servicing is based on the most significant level of service applicable to the age of the extinguisher.

- By accounting for existing and refurbished extinguishers that originally met the applicable mandatory standard at the time and which have appropriate servicing, the ACCC mandatory standard adopts a pragmatic and practical approach to the supply of existing and refurbished extinguishers, which creates clear expectations of industry practice.

## 9 Are there any other options the ACCC should consider?

**Please provide your comments:**

See response to questions 4 and 5 above.

## 10 Do you have any other comments or suggestions?

**Please provide your comments:**

FPA Australia has received many requests over the last few years for review and the definition of products that perform the same function as portable fire extinguishers but do not meet the definition of portable fire extinguisher as per AS/NZS 1841 and are not capable of meeting AS/NZS 1841 because they operate by a different mechanism. We are also aware of such manufacturers/suppliers making similar enquiries with the ACCC.

Such things include "ball" extinguishers, extinguishers that are incorporated within other products, extinguishers using innovative technologies that differ to the stored pressure type of extinguishers covered by AS/NZS 1841, etc.

To ensure a "level playing field" whereby it is clear that all products that function as a portable fire extinguisher are fit for purpose and safe for consumers to use, we would recommend as part of the review of the mandatory standard for extinguishers that consideration is given to how to address such 'innovative' portable fire extinguisher products. This may be by developing performance-based aspects or objectives that only suitable products can meet.