

## Fire extinguishers

**Where are they required to be placed to meet the “clearly visible and readily accessible” requirements?**



The above photo shows an LPG location. No fire extinguisher is clearly visible or readily accessible from the photo.

Prior to 2017, the requirement was for fire extinguishers to be within 30 metres of the hazardous substance location (**Old Requirement**).

The requirement in the 2017 Regulations that fire extinguishers must be “clearly visible and readily accessible” imposes a much more onerous requirement which can be highly impractical for many PCBUs to meet prudently. The requirements, as applied in practice by WorkSafe, ought to apply a sensible degree of pragmatism and then consistency. In relation to the placement of fire extinguishers, we believe WorkSafe has recently created confusion and has recently applied the requirements strictly and this will create significant compliance difficulties and costs.

The following examples highlight compliance issues and important practical considerations:

- LPG is at the rear of the building to which the public has easy authorised and unauthorised access. The PCBU balances the need for proximity of the fire extinguisher with the risk of theft by keeping the 30B fire extinguisher just inside the rear locked door which is within 5 metres of the LPG.
- A school that prohibits access to unauthorised persons after school hours, places its many fire extinguishers just inside the entrance to each of its many school buildings which are locked after hours. The fire extinguishers are within 15 metres of the hazardous substance locations, but they are not accessible when the school is closed.

- A supermarket has an LPG swappa bottle cage outside the front of the shop. The owner is concerned about the theft of any fire extinguisher left outside of the shop because there is unrestricted access to the carpark in front of the shop.

Formal compliance certifier audits conducted by WorkSafe provide opportunities for its auditors to create and impose its interpretations of rules, yet these are processes which lack any appeal process and are devoid of most sensible controls and disciplines. WorkSafe truly ought to have one standard for technical requirements, including for fire extinguishers, but it doesn't. Because of this, it is inevitable that certifiers on the receiving end of strict technical interpretations through audits will be expected to follow the WorkSafe interpretations. In this way, technical decisions made in the cocoon of the Regulatory Assurance Group filter out into the real world of compliance and PCBU's can be blindsided by what they perceive to be a new requirement. When WorkSafe does this, as with this current example, it generally does not inform all affected parties – PCBU's, other certifiers and the Inspectorate. The result is significant differences in practices and confusion reigns.

We are confident that the Inspectorate does not apply the rules with the same literal approach that its Regulatory Assurance Group does. Nor is there consistency from audit to audit or from audits to recertification applications. There needs to be.

**WorkSafe management could be aware, but are likely not, that it has considerable inconsistency in the standards that are demanded in certifier audits and the standards that are applied by all other parts of WorkSafe.**

Of special note is the view from WorkSafe's Regulatory Assurance Group that fire extinguishers that are behind locked doors are not compliant. Thus, in the main photo (a location not certified by DGC) and all the examples listed above, the location does not comply with the requirements for the position of fire extinguishers, according to WorkSafe.

This WorkSafe technical view will have serious downstream implications for businesses and insurers that we suspect have not been properly considered. If WorkSafe's view is that strict technical compliance is mandatory, then additional losses which are caused by failure to meet WorkSafe's standards could well be highly problematic in the aftermath of fire damage.

The use of fire extinguishers calls for the very highest level of good judgement when emergencies occur. The last thing that should be done by a person randomly at a location after hours and unlawfully is to approach a burning LPG location and attempt to deploy a fire extinguisher. We doubt that burglars put out fires in any event. By contrast, workers lawfully at the location ought to have had training in relation to how to respond to emergencies and how and when to use a fire extinguisher. When workers are at work, they will know where the extinguishers are and will know how and when to use them.

When considering the insurance position in the aftermath of a fire, there would be a possible argument, adopting the WorkSafe technical view, that the PCBU was contributorily negligent because an untrained but conscientious burglar did not have the ability to put out the fire he caused. In this extreme example, we can see that it defeats the pragmatic and rational conclusion that HSWA is about workers and persons lawfully attending a PCBU's premises and it is their interests that must be looked after.

We are also highly aware that WorkSafe does not apply the same standards to all certifiers. Thus, for example, we have as an example the extract from a compliance certificate below which shows the certifier is firmly rooted in the Old Requirements, not the new ones. If he is rooted in Old Requirements, he will frequently breach WorkSafe's technical requirements in his current role. Six years on from implementation of the 2107 Regulations, his outdated certificates contain this content;

- This certificate is VALID while the facility uses SWAP OUT / EXCHANGE cylinders only. Cylinders must be withing test date.
- Maintain at least a 2 metre clearance to combustibile materials including leaves and vegetation.
- A compliant Fire Extinguisher (minimum 30:B capacity DRY POWDER) must be located within 30 metres of cylinders location.
- Supplier is to maintain required signage on facility at all times, including emergency numbers for Fire Service, Site Contact & Supplier emergency numbers.
- Maintain volume related separation distances in line with Schedule 12 Tables of Health and Safety at Work (Hazardous Substances) Regulations 2017.
- All staff training records to be maintained in line with requirements in Regulations 4.5 and 4.6.

For the considered readers, we have left in the entirety of the above certificate extract to provide an opportunity for a critique of the certifier's other conditions having regard to (i) what is expressly required by the Regulations and what is not (ii) to ask why regulation 4.5 applies to LPG locations where handling of the cylinders is done exclusively by the LPG supplier and (iii) the poor duplicative wording and awful spelling.

**We call on WorkSafe to:**

- **Consider anew its position with regards to the placement of fire extinguishers**
- **Publish clear guidelines on its website that are pragmatic**
- **Apply one standard consistently**

For the technical readers, we deliberately chose for the main photo an LPG location that is non-compliant, not just because of the absence of proximate, visible fire extinguishers. This location has been certified for years by another certifier and presumably has also been inspected multiple times by WorkSafe.

