

Authorised Version No. 002
**Victorian Energy Efficiency Target (Project-
Based Activities) Regulations 2017**

S.R. No. 46/2017

Authorised Version incorporating amendments as at
10 December 2018

TABLE OF PROVISIONS

<i>Regulation</i>	<i>Page</i>
Part 1—Preliminary	1
1 Objectives	1
2 Authorising provision	2
3 Commencement	2
4 Definitions	2
Part 2—Project-Based Activities	5
5 Prescribed activity	5
6 Scoping approval	5
7 Project plan approval	9
8 Scoping approval and project plan approval variations	12
9 Cancel and relinquish	13
Part 3—Methods and variables	14
10 Methods and variables	14
11 Project impact report	14
12 When a certificate may not be created	16
13 Time at which prescribed activity is undertaken and reduction in greenhouse gas emissions occurs	17
14 Conditions and circumstances under which a certificate cannot be created	17
Part 4—ESC functions	18
15 Matters to be specified by the ESC	18
16 Public register of approved project plans	20
17 Approved Measurement and Verification Professional	21
Part 5—Secretary's functions	23
18 Matters to be specified by the Secretary	23

<i>Regulation</i>	<i>Page</i>
Endnotes	26
1 General information	26
2 Table of Amendments	28
3 Amendments Not in Operation	29
4 Explanatory details	46

Authorised Version No. 002

Victorian Energy Efficiency Target (Project-Based Activities) Regulations 2017

S.R. No. 46/2017

Authorised Version incorporating amendments as at
10 December 2018

Part 1—Preliminary

1 Objectives

The objectives of these Regulations are to—

- (a) prescribe activities that are undertaken as part of a project that will reduce greenhouse gas emissions; and
- (b) prescribe the requirements by which a proponent of a project may obtain scoping and project plan approval for a project; and
- (c) entitle a project that has a scoping and project plan approval to create certificates following approval, by the ESC, of a project impact report; and
- (d) make provision in relation to the approval of Measurement and Verification Professionals;
- (e) provide for the register of approved project plans and approved Measurement and Verification Professionals; and
- (f) make consequential and related amendments to the Victorian Energy Efficiency Target Regulations 2008; and
- (g) prescribe other matters for the purposes of the **Victorian Energy Efficiency Target Act 2007**.

2 Authorising provision

These Regulations are made under section 75 of the **Victorian Energy Efficiency Target Act 2007**.

3 Commencement

These Regulations come into operation on 19 June 2017.

4 Definitions

In these Regulations—

approved Measurement and Verification

Professional means a person approved under regulation 17 that is on the register maintained by the ESC;

Association of Energy Engineers, is a non-profit professional society located in Atlanta, Georgia of the United States of America with a Taxpayer Identification Number of 58-1306354 issued by the Internal Revenue Service of the United States of America;

Building Code means the Building Code of Australia within the meaning of section 3(1) of the **Building Act 1993**;

Department means the Department of Environment, Land, Water and Planning;

energy consuming product means a product that consumes electricity, gas or renewable energy;

implementation start time, in relation to a project, means the date, and optionally the time, normal operations are capable of commencing after all changes to be implemented by the project, including any testing and commissioning, are completed;

native forest has the same meaning as in the Code of Practice for Timber Production 2014 published by the Department of Environment and Primary Industries under Part 5 of the **Conservation, Forests and Lands Act 1987**;

renewable energy means an energy source that is—

- (a) hydro;
- (b) wave;
- (c) tide;
- (d) ocean;
- (e) wind;
- (f) solar;
- (g) geothermal-aquifer;
- (h) hot dry rock;
- (i) energy crops;
- (j) wood waste unless it is from a native forest;
- (k) wood waste from a native forest provided it is a waste product from the construction of buildings or furniture, including timber off-cuts and timber from demolished buildings;
- (l) agricultural waste;
- (m) waste from processing of agricultural products;
- (n) food waste;
- (o) food processing waste;
- (p) bagasse;
- (q) black liquor;

(r) biomass-based components of municipal solid waste;

(s) landfill gas;

(t) sewage gas and biomass-based components of sewage—

but does not include an energy source that is—

(a) fossil fuels; or

(b) materials or waste products derived from fossil fuels;

Secretary means Secretary to the Department;

service means an output or amenity, such as heating, cooling, steam, transportation, compressed air, water pumping and lighting, that is produced by an energy-consuming system.

Part 2—Project-Based Activities

5 Prescribed activity

For the purposes of section 15 of the Act the following activities are prescribed—

undertaking, in accordance with a scoping approval and a project plan approval, the project that is described in the applications for the scoping approval and project plan approval if it will result in a reduction in greenhouse gas emissions that would not otherwise have occurred if the project was not undertaken.

6 Scoping approval

- (1) An accredited person may apply to the ESC for a scoping approval in respect of a project.
- (2) The application must be—
 - (a) in the manner and form and contain information and documents specified by the ESC under regulation 15(1)(a); and
 - (b) accompanied by any relevant fee fixed under section 73 of the Act.
- (3) The following information must be provided with an application for scoping approval—
 - (a) the name and address of the accredited person;
 - (b) the address of the premises where the project will be undertaken;
 - (c) the indicative date when the project will commence;

- (d) a description of the kinds of activities to be undertaken as part of the project, including the following—
 - (i) the energy consuming products to be installed or removed or modified;
 - (ii) modifications to the way an existing energy consuming product is used;
 - (iii) products to be installed or removed that affect the energy consumption of an energy consuming product;
 - (iv) the service or services affected;
 - (v) energy sources affected, such as electricity, natural gas, LPG or renewable;
 - (vi) if any lighting equipment is removed in carrying out the activity, an undertaking in the form specified by the ESC under regulation 15(1)(a)(i) that the removed equipment will be decommissioned;
 - (vii) if any new lighting equipment is to be installed in carrying out the activity, an undertaking in the form specified by the ESC under regulation 15(1)(a)(ii) that the equipment is listed on the register kept by the ESC in accordance with regulation 29 of the Victorian Energy Efficiency Target Regulations 2018;
- (e) a nominated project name;
- (f) an undertaking in the form specified by the ESC under regulation 15(1)(a)(iii) that the project is not undertaken to comply with energy efficiency or greenhouse gas emissions requirements in any minimum standard or mandatory requirement under any legislation.

Reg.
6(3)(d)(vii)
amended by
S.R. No.
145/2018
reg. 49(1).

- (4) The ESC may grant or refuse a scoping approval.
- (5) The ESC may not grant a scoping approval if work for the purposes of the project has commenced at the premises.
- (6) For the purposes of determining whether work for the purposes of the project has commenced, the ESC may disregard the following activities that have been, or are being, undertaken in relation to the project—
 - (a) conducting a feasibility study for the project;
 - (b) planning or designing the project;
 - (c) obtaining regulatory approvals for the project;
 - (d) obtaining consents relating to the project;
 - (e) obtaining advice relating to the project;
 - (f) conducting negotiations relating to the project;
 - (g) measurement or analysis to establish a baseline energy model as defined by the Secretary under regulation 18(1)(a) for the project, including the installation or modification of metering equipment;
 - (h) an activity required to support the application for scoping approval;
 - (i) an activity that is ancillary or incidental to any of the above activities.
- (7) For the purposes of subregulation (5), the following activities are examples of when work has commenced—
 - (a) installing or modifying an asset, other than for the purposes of metering, that is for use wholly or mainly for the purposes of the project;

- (b) commencing construction work for the purposes of the project.
- (8) The ESC may grant a scoping approval if it is satisfied that—
- (a) the project will be undertaken at—
 - (i) a business premises or a non-residential premises; or
 - (ii) a building classified under Part A3 of the Building Code as Class 2 or Class 3 if the project does not relate to services supplied exclusively to a sole-occupancy; and
 - (b) the project described in the application, if undertaken, will reduce greenhouse gas emissions; and
 - (c) the project does not propose to reduce greenhouse gas emissions by reducing production capacity or by reducing service levels, except if service levels are being reduced to correct over-servicing.
- (9) The ESC may require that an applicant for a scoping approval—
- (a) provide further information in relation to the application; or
 - (b) facilitate an inspection, by a staff member of the ESC or a representative of the ESC nominated by the ESC, of the premises where the project will be undertaken.
- (10) The ESC must determine an application for a scoping approval—
- (a) within the period of 60 days after the day the ESC receives the application; or

- (b) if, before the end of that period, the ESC requires the applicant to give further information in relation to the application, within the period of 60 days after the applicant gave the ESC the information.
- (11) As soon as practicable after granting or refusing the application, the ESC must notify the applicant in writing of the ESC's decision.

7 Project plan approval

- (1) An accredited person may apply to the ESC for a project plan approval in respect of a project that is—
- (a) the subject of a current scoping approval; or
 - (b) the subject of an application for a scoping approval.

Note

Applications for scoping and project plan approval may be made at the same time.

- (2) The application must be—
- (a) in the manner and form and contain information and documents specified by the ESC under regulation 15(1)(b); and
 - (b) accompanied by any relevant fee fixed under section 73 of the Act.
- (3) The following information must be provided with an application—
- (a) a cost estimate for the project;
 - (b) an estimate of the carbon dioxide equivalent of greenhouse gases to be reduced by the project;

- (c) a measurement and verification plan—
 - (i) that is consistent with the Principles in Chapter 4 of EVO 10000—1:2014 International Performance Measurement and Verification Protocol (IPMVP) Core Concepts published by the Efficiency Valuation Organisation in June 2014; and
 - (ii) in the manner and form and contain information and documents specified by the ESC under regulation 15(1)(b);
- (d) the methods intended to be used to calculate the reduction in greenhouse gases, where the method is specified by the Secretary under regulation 18(1)(b);
- (e) a risk management plan which—
 - (i) specifies the responsibilities, accountabilities and authority levels of personnel with respect to the various aspects of the project; and
 - (ii) describes the relevant skills, qualifications and experience required for each project role to be undertaken;
- (f) indicative timings for the project, including the following—
 - (i) the commencement of project works;
 - (ii) the implementation start time;
 - (iii) the baseline period start and end date as defined by the Secretary under regulation 18(1)(c);
 - (iv) the operating period start and end date (if any) as each date is defined by the Secretary under regulation 18(1)(d);

- (v) if the implementation is to be carried out in stages, an indicative schedule of works to be implemented by the project;
 - (vi) the completion date of the project.
- (4) The ESC must determine an application for a project plan approval—
 - (a) within the period of 180 days after the day the ESC receives the application; or
 - (b) if, before the end of that period, the ESC requires the applicant to give further information in relation to the application, within the period of 180 days after the applicant gave the ESC the information.
- (5) The ESC may grant or refuse a project plan approval.
- (6) The ESC must not grant a project plan approval—
 - (a) in respect of a project unless there is also a scoping approval for that project; or
 - (b) in respect of a project where the application for project plan approval was received after the implementation start time of the project.
- (7) The ESC may grant a project plan approval if it is satisfied that the application has demonstrated that the applicant holds or can access the knowledge, skills or capacity to deliver the project described in the application.
- (8) As soon as practicable after granting or refusing the application, the ESC must notify the applicant in writing of the ESC's decision.

8 Scoping approval and project plan approval variations

- (1) An accredited person may apply to vary—
 - (a) a scoping approval; or
 - (b) a project plan approval; or
 - (c) both the scoping approval and the project plan approval.
- (2) The application must be—
 - (a) in the manner and form and contain information and documents specified by the ESC under regulation 15(1)(c); and
 - (b) accompanied by any relevant fee fixed under section 73 of the Act.
- (3) The ESC may approve an application under subregulation (1) if it is satisfied as to the following—
 - (a) the address of the premises where the project will be undertaken has not changed;
 - (b) the description of the activities to be undertaken as part of the project included in the scoping approval application under regulation 6(3)(d)(i), (ii) and (iii) has not substantially changed;
 - (c) the scope of the service or services as described under regulation 6(3)(d)(iv) has not expanded;
 - (d) the scope of the energy sources as described under regulation 6(3)(d)(v) has not expanded;
 - (e) the application has demonstrated that the applicant holds or can access the knowledge, skills or capacity to deliver the project described in the application.

- (4) As soon as practicable after granting or refusing the application, the ESC must notify the applicant in writing of the ESC's decision.

9 Cancel and relinquish

- (1) The ESC may cancel a project plan approval, by instrument in writing, following 28 days' written notice of the ESC's intention to cancel the approval.
- (2) The notice must request reasons why the approval should not be cancelled.
- (3) The ESC may cancel the approval at the end of the 28 days if the ESC is satisfied that there has been an unreasonable delay in the work commencing to undertake the activities specified in the application for project plan approval.
- (4) An accredited person may apply in writing to relinquish a project plan approval.
- (5) As soon as practicable after granting or refusing the application, the ESC must notify the applicant in writing of the ESC's decision.
- (6) A project plan that has been cancelled or relinquished cannot be varied.
- (7) The ESC must update the register of approved project plans if the project plan approval has been cancelled or relinquished.

Part 3—Methods and variables

10 Methods and variables

For the purposes of section 18(2) of the Act, the methods and variables to be used to calculate the carbon dioxide equivalent of greenhouse gases to be reduced by the prescribed activity are specified in a project impact report approved by the ESC under regulation 11.

11 Project impact report

- (1) An accredited person that has received project plan approval may apply to the ESC for approval of a project impact report.
- (2) An application must be—
 - (a) in the manner and form and contain information and documents specified by the ESC under regulation 15(1)(f); and
 - (b) accompanied by any relevant fee fixed under section 73 of the Act.
- (3) The following information must be provided with an application—
 - (a) a project impact report that—
 - (i) complies with the regulations and with the ESC Guidelines; and
 - (ii) is consistent with the measurement and verification plan submitted with the project plan approval; and
 - (iii) is prepared in accordance with the matters specified by the Secretary under regulation 18(1)(e); and

- (iv) includes the information, methods, variables and calculations as specified by the Secretary under regulation 18(1)(f);
- (b) a report from an approved Measurement and Verification Professional that advises that the project impact report—
 - (i) complies with the regulations and with the ESC Guidelines; and
 - (ii) is consistent with the measurement and verification plan submitted with the project plan approval; and
 - (iii) is prepared in accordance with the matters specified by the Secretary under regulation 18(1)(e); and
 - (iv) includes the information, methods, variables and calculations as specified by the Secretary under regulation 18(1)(f);
- (c) a declaration from the approved Measurement and Verification Professional that they are independent from the accredited person and from the project, in accordance with the requirements specified by the ESC under regulation 15(1)(h);
- (d) if any lighting equipment was removed in carrying out the project, evidence that the removed lighting equipment was decommissioned;
- (e) if any lighting equipment was installed in carrying out the project, evidence that the lighting equipment at the time the equipment was installed was listed on the register kept by the ESC in accordance with regulation 29 of the Victorian Energy Efficiency Target Regulations 2018.

Reg. 11(3)(e)
amended by
S.R. No.
145/2018
reg. 49(1).

- (4) The ESC may require the accredited person to provide further information in relation to the application or to facilitate an inspection of the premises where the project is undertaken.
- (5) The ESC must determine an application for approval of a project impact report—
 - (a) within the period of 120 days after the day the ESC receives the application; or
 - (b) if, before the end of that period, the ESC requires the applicant to give further information in relation to the application, within the period of 120 days after the day the applicant gave the ESC the information.
- (6) The ESC may approve a project impact report if it is satisfied that, having regard to the report from an approved Measurement and Verification Professional, the project impact report demonstrates a reasonably accurate and reliable estimate of greenhouse gas emission reduction.
- (7) If the ESC believes on reasonable grounds that the accredited person has breached an undertaking made under either regulation 6(3)(d)(vi) or (vii), the ESC must issue the accredited person with a notice.
- (8) Despite subregulation (6), the ESC may not approve a project impact report if it has issued a notice under subregulation (7).

12 When a certificate may not be created

For the purposes of section 17(3)(d) of the Act, an accredited person cannot create a certificate with respect to a prescribed activity if the ESC has issued a notice under regulation 11(7) that an undertaking was breached.

13 Time at which prescribed activity is undertaken and reduction in greenhouse gas emissions occurs

- (1) For the purposes of section 17(1) of the Act, a prescribed activity is to be taken to have been undertaken at the time specified by the Secretary under regulation 18.
- (2) For the purposes of section 17(2) of the Act, the reduction in greenhouse gas emissions is to be taken to have occurred at the time specified by the Secretary under regulation 18.

14 Conditions and circumstances under which a certificate cannot be created

For the purposes of section 17(3)(d) of the Act—

- (a) the Secretary may specify, under regulation 18, the conditions and circumstances under which a certificate cannot be created; and
- (b) despite paragraph (a), a certificate cannot be created in respect of a reduction in greenhouse gas emissions if a valid certificate has previously been created in respect of that reduction.

Part 4—ESC functions

15 Matters to be specified by the ESC

- (1) The ESC may specify the following—
- (a) the manner and form and information and documents to be included in an application for a scoping approval, including the form of an undertaking regarding the following—
 - (i) lighting equipment to be removed and decommissioned;
 - (ii) lighting equipment to be installed that is listed on the register kept by the ESC in accordance with regulation 29 of the Victorian Energy Efficiency Target Regulations 2018;
 - (iii) that the project is not undertaken to comply with energy efficiency or greenhouse gas emissions requirements in any minimum standard or mandatory requirement under any legislation;
 - (b) the manner and form and information and documents to be included in an application for a project plan approval, including the manner and form of a measurement and verification plan;
 - (c) the manner and form and information and documents to be included in an application for a variation to a scoping approval or a project plan approval or both a scoping approval and a project plan approval;
 - (d) the requirements regarding competence and experience that must be met before a person may be registered as an approved Measurement and Verification Professional;

Reg.
15(1)(a)(ii)
amended by
S.R. No.
145/2018
reg. 49(1).

- (e) the manner and form and information and documents to be included in an application to be registered as an approved Measurement and Verification Professional;
 - (f) the manner and form and information and documents to be included in an application for approval of a project impact report;
 - (g) the form of undertaking by an applicant for an approved Measurement and Verification Professional to avoid conflicts;
 - (h) the declaration requirements regarding independence that must be met by an approved Measurement and Verification Professional providing an assessment of a project impact report for a specific project.
- (2) The ESC must take reasonable steps to ensure that the information referred to in subregulation (3) is published on the ESC's Internet site.
- (3) For the purposes of subregulation (2), the information the ESC must publish is the following—
- (a) the manner and form and information and documents specified by the ESC under subregulation (1)(a), of an application for a scoping approval;
 - (b) the manner and form and information and documents specified under subregulation (1)(b), of an application for a project plan approval including a measurement and verification plan;
 - (c) the manner and form and information and documents specified under subregulation (1)(c), of an application for a variation to a scoping approval or a project plan approval or both a scoping approval and a project plan approval;

- (d) the manner and form and information and documents specified under subregulation (1)(d) and (e), of an application for registration as an approved Measurement and Verification Professional;
- (e) the manner and form and information and documents specified under subregulation (1)(f), of an application for a project impact report;
- (f) the form of undertaking specified under subregulation (1)(g) by an applicant for an approved Measurement and Verification Professional;
- (g) the declaration requirements specified under subregulation (1)(h), of an approved Measurement and Verification Professional providing an assessment of a project impact report.

Note

The relevant fees must be published in the Government Gazette and on the Internet site of the ESC in accordance with section 73 of the Act.

16 Public register of approved project plans

- (1) The ESC must maintain a register of approved project plans.
- (2) The register of approved project plans must contain the following—
 - (a) the name of each project that has received project plan approval;
 - (b) the name of each accredited person for each project;
 - (c) the location of each project;

- (d) the method or methods intended to be used to calculate the reduction in greenhouse gases;
 - (e) any other information that the ESC considers appropriate.
- (3) The ESC may vary details in the register to reflect any variation approved under regulation 8(3).

17 Approved Measurement and Verification Professional

- (1) A person may apply to the ESC to be registered as an approved Measurement and Verification Professional.
- (2) The application must be—
- (a) in the manner and form and contain information and documents specified under regulation 15(1)(e); and
 - (b) accompanied by any relevant fee fixed under section 73 of the Act; and
 - (c) accompanied by an undertaking, specified under regulation 15(1)(g), to avoid conflicts.
- (3) The ESC may approve a person under this regulation to be registered as an approved Measurement and Verification Professional if the ESC is satisfied that the person—
- (a) is currently certified by the Association of Energy Engineers as a Certified Measurement and Verification Professional; and
 - (b) meets the requirements relating to competence and experience in measurement and verification set by the ESC under regulation 15(1)(d).
- (4) The ESC must publish a register of persons approved under subregulation (3).

- (5) The ESC may remove a person from the register under the following circumstances—
 - (a) the person's certification by the Association of Energy Engineers as a Certified Measurement and Verification Professional is suspended or has expired;
 - (b) the person no longer meets the requirements relating to competence and experience in measurement and verification specified by the ESC under regulation 15(1)(d);
 - (c) the person has breached any undertaking provided to the ESC under regulation 15(1)(g).
- (6) The ESC must give 28 days' written notice of the ESC's intention to remove a person from the register.
- (7) The notice must request reasons why the ESC should not remove the person from the register.
- (8) A person removed from the register under this regulation is no longer an approved Measurement and Verification Professional.

Part 5—Secretary's functions

18 Matters to be specified by the Secretary

- (1) The Secretary may specify the following—
 - (a) for the purposes of regulation 6(6)(g), a definition of a baseline energy model;
 - (b) for the purposes of regulation 7(3)(d), the description to be included in the application for project plan approval of the methods intended to be used to calculate the reduction in greenhouse gases as one of—
 - (i) a forward projection of savings using a baseline energy model and operating energy model; or
 - (ii) annual reporting of savings using a baseline energy model and measured energy consumption; or
 - (iii) a combination of the methods described in subparagraphs (i) and (ii), comprising a forward projection followed by annual reporting of savings;
 - (c) for the purposes of regulation 7(3)(f)(iii), a definition of a baseline period start and end date;
 - (d) for the purposes of regulation 7(3)(f)(iv), a definition of an operating period start and end date;
 - (e) for the purposes of regulation 11(3)(a)(iii), the matters to be included in a project impact report;
 - (f) for the purposes of regulation 11(3)(a)(iv), the information, methods and variables to calculate the carbon dioxide equivalent of

- greenhouse gases to be reduced by the prescribed activity;
- (g) the time at which the prescribed activity is undertaken and reduction in greenhouse gas emissions occurs for the purposes of regulation 13 and section 17(1) and (2) of the Act;
 - (h) the conditions and circumstances under which a certificate cannot be created for the purposes of regulation 14 and section 17(3)(d) of the Act.
- (2) In exercising the powers conferred under subregulation (1), the Secretary—
- (a) may leave any matter or thing to be from time to time determined or dispensed with by any government department, municipal council or public authority or any officer thereof specified by the Secretary; and
 - (b) may confer powers or impose duties in connection with the matters referred to under subregulation (1) on any government department, municipal council or public authority specified by the Secretary; and
 - (c) may apply, adopt or incorporate, with or without modification, the provisions of any Act or of any regulations made under any Act as in force at a particular time specified by the Secretary; and
 - (d) may apply, adopt or incorporate, with or without modification, any matter specified by the Secretary contained in any document, code, standard, rule, specification or method formulated, issued, prescribed or published by any authority or body whether—

Victorian Energy Efficiency Target (Project-Based Activities)
Regulations 2017
S.R. No. 46/2017
Part 5—Secretary's functions

- (i) as formulated, issued, prescribed or published at the time when the Secretary specifies the matter; or
 - (ii) as formulated, issued, prescribed or published from time to time.
- (3) The Secretary must take reasonable steps to ensure that the matters referred to in subregulation (1) are published in the Government Gazette and on the Department's Internet site.

* * * * *

Pt 6
(Heading and
regs 19–22)
revoked by
S.R. No.
145/2018
reg. 49(2).



Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

The Victorian Energy Efficiency Target (Project-Based Activities) Regulations 2017, S.R. No. 46/2017 were made on 14 June 2017 by the Governor in Council under section 75 of the **Victorian Energy Efficiency Target Act 2007**, No. 70/2007 and came into operation on 19 June 2017: regulation 3.

The Victorian Energy Efficiency Target (Project-Based Activities) Regulations 2017 will sunset 10 years after the day of making on 14 June 2027 (see section 5 of the **Subordinate Legislation Act 1994**).

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided regulation, rule or clause of a Schedule is amended by the insertion of one or more subregulations, subrules or subclauses the original regulation, rule or clause becomes subregulation, subrule or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original regulation, rule or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in a Statutory Rule which is made on or after 1 January 2001 form part of that Statutory Rule. Any heading inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, forms part of that Statutory Rule. This includes headings to Parts, Divisions or Subdivisions in a Schedule; Orders; Parts into which an Order is divided; clauses; regulations; rules; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A)(2B).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in a Statutory Rule which is made on or after 1 January 2001 form part of that Statutory Rule. Any examples, diagrams or notes inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, form part of that Statutory Rule. See section 36(3A).

- **Punctuation**

All punctuation included in a Statutory Rule which is made on or after 1 January 2001 forms part of that Statutory Rule. Any punctuation inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, forms part of that Statutory Rule. See section 36(3B).

- **Provision numbers**

All provision numbers included in a Statutory Rule form part of that Statutory Rule, whether inserted in the Statutory Rule before, on or after 1 January 2001. Provision numbers include regulation numbers, rule numbers, subregulation numbers, subrule numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of a Statutory Rule is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of a Statutory Rule. See section 36(3)(3D)(3E).

Victorian Energy Efficiency Target (Project-Based Activities)
Regulations 2017
S.R. No. 46/2017
Endnotes

2 Table of Amendments

This publication incorporates amendments made to the Victorian Energy Efficiency Target (Project-Based Activities) Regulations 2017 by statutory rules, subordinate instruments and Acts.

Victorian Energy Efficiency Target Regulations 2018, S.R. No. 145/2018

Date of Making: 2.10.18

Date of Commencement: Reg. 49 on 10.12.18: reg. 3(1)

3 Amendments Not in Operation

This publication does not include amendments made to the Victorian Energy Efficiency Target (Project-Based Activities) Regulations 2017 by the following Statutory Rules.

Victorian Energy Efficiency Target (Project-Based Activities) Amendment
Regulations 2018, S.R. No. 175/2018

Date of Making: 23.10.18
Date of Commencement: 11.12.18: reg. 3

At the date of this publication, the following provisions amending the Victorian Energy Efficiency Target (Project-Based Activities) Regulations 2017 were Not in Operation:

Amending Statutory Rule/s:

Victorian Energy Efficiency Target (Project-Based Activities)
Amendment Regulations 2018, S.R. No. 175/2018

5 Definitions

In regulation 4 of the Principal Regulations
insert the following definitions—

"benchmark administrator means a person
approved under regulation 17A(1);

benchmark process means a process that
produces a benchmark rating calculated
without including energy consumption that
is attributed to the purchase of a GreenPower
Product;

benchmark rating means a rating that—

- (a) represents the energy efficiency of
particular premises; and
- (b) is calculated using energy consumption
measurements that account for a
12 month period;

BR project means a project involving the use
of a benchmark process, being a project
that is the subject of—

- (a) an application for a scoping approval that includes a nomination of a benchmark administrator under regulation 6(2A); or
- (b) a scoping approval granted on an application referred to in paragraph (a);

GreenPower Product has the same meaning as in the National GreenPower Accreditation Program: Program Rules Version 10, published by the National GreenPower Steering Group on 9 May 2016;

MV project means a project involving the use of measurement and verification, being a project that is the subject of—

- (a) an application for a scoping approval that does not include a nomination of a benchmark administrator under regulation 6(2A); or
- (b) a scoping approval granted on an application referred to in paragraph (a);".

6 Scoping approval

(1) For regulation 6(2) of the Principal Regulations **substitute—**

"(2) The application must—

- (a) be in the manner and form specified by the ESC under regulation 15(1)(a); and
- (b) include the information and documents specified by the ESC under regulation 15(1)(a); and
- (c) include the information and documents specified in subregulation (3); and

- (d) if the application does not include a nomination under subregulation (2A), include the information and documents specified in subregulation (3A); and
 - (e) be accompanied by any relevant fee fixed under section 73 of the Act."
- (2) After regulation 6(2) of the Principal Regulations **insert**—
- "(2A) An application for a scoping approval may nominate a benchmark administrator for the project."
- (3) In regulation 6(3) of the Principal Regulations, for "The following information must be provided with an application for scoping approval" **substitute** "The information and documents required to be included under subregulation (2)(c) are the following".
- (4) Regulation 6(3)(d)(i), (ii) and (iii) of the Principal Regulations are **revoked**.
- (5) For regulation 6(3)(d)(vii) of the Principal Regulations **substitute**—
- "(vii) if any lighting equipment is to be installed in carrying out the activity, an undertaking in the form specified by the ESC under regulation 15(1)(a)(iv);".
- (6) After regulation 6(3) of the Principal Regulations **insert**—
- "(3A) The information and documents required to be included under subregulation (2)(d) are the following—
- (a) a description of the energy consuming products to be installed or removed or modified;

- (b) a description of modifications to the way an existing energy consuming product is used;
 - (c) a description of products to be installed or removed that affect the energy consumption of an energy consuming product."
- (7) After regulation 6(4) of the Principal Regulations **insert**—
 - "(4A) The ESC must not grant a scoping approval on an application that includes a nomination under subregulation (2A) unless the premises where the project will be undertaken are of the type for which the administrator is approved to administer a benchmarking process."
- (8) For regulation 6(5) of the Principal Regulations **substitute**—
 - "(5) Except in the circumstances specified in subregulation (5A), the ESC must not grant a scoping approval if work for the purposes of the project has commenced at the premises where the project will be undertaken."
- (9) After regulation 6(5) of the Principal Regulations **insert**—
 - "(5A) The circumstances in which the ESC may grant a scoping approval in respect of a project despite work having commenced at the premises where the project will be undertaken are where—
 - (a) the application for the scoping approval includes a nomination under subregulation (2A); and
 - (b) the work did not commence before the application was submitted."

(10) In regulation 6(6)(i) of the Principal Regulations, for "activities." **substitute** "activities;" .

(11) After regulation 6(6)(i) of the Principal Regulations **insert**—

"(j) calculating the benchmark rating for the baseline period, as defined by the Secretary under regulation 18(1)(i), using a benchmark process."

7 Project plan approval

(1) For regulation 7(2) of the Principal Regulations **substitute**—

"(2) The application must—

- (a) be in the manner and form specified by the ESC under regulation 15(1)(b); and
- (b) include the information and documents specified by the ESC under regulation 15(1)(b); and
- (c) include the information specified under regulation 7A(1); and
- (d) if the application is in respect of an MV project, include the information and documents specified in regulation 7A(2); and
- (e) be accompanied by any relevant fee fixed under section 73 of the Act."

(2) Regulation 7(3) of the Principal Regulations is **revoked**.

8 New regulation 7A inserted

After regulation 7 of the Principal Regulations
insert—

"7A Information required in an application for a project plan approval

- (1) The information required, under regulation 7(2)(c), to be included with an application for a project plan approval is the following—
 - (a) a cost estimate for the project;
 - (b) an estimate of the carbon dioxide equivalent of greenhouse gases to be reduced by the project;
 - (c) indicative timings for the project, including the following—
 - (i) the commencement of project works;
 - (ii) the implementation start time;
 - (iii) if the implementation is to be carried out in stages, an indicative schedule of works to be implemented by the project;
 - (iv) the completion date of the project.
- (2) The information and documents required, under regulation 7(2)(d), to be included with an application for a project plan approval in respect of an MV project are the following—

- (a) a measurement and verification plan that—
 - (i) is consistent with the Principles in Chapter 4 of EVO 10000—1:2014 International Performance Measurement and Verification Protocol (IPMVP) Core Concepts published by the Efficiency Valuation Organization in June 2014; and
 - (ii) is in the manner and form specified by the ESC under regulation 15(1)(b); and
 - (iii) contains the information and documents specified by the ESC under regulation 15(1)(b);
- (b) the method to be used to calculate the reduction in greenhouse gases, specified by the Secretary under regulation 18(1)(b);
- (c) a risk management plan which—
 - (i) specifies the responsibilities, accountabilities and authority levels of personnel with respect to the various aspects of the project; and
 - (ii) describes the relevant skills, qualifications and experience required for each project role to be undertaken;
- (d) indicative timings for the project, including the following—
 - (i) the baseline period start and end date, as defined by the Secretary under regulation 18(1)(c);

- (ii) if the project has an operating period start date, as defined by the Secretary under regulation 18(1)(d), that date;
- (iii) if the project has an operating period end date, as defined by the Secretary under regulation 18(1)(d), that date."

9 Scoping approval and project plan approval variations

For regulation 8(3)(b) of the Principal Regulations
substitute—

- "(b) if the project is an MV project, the description of the activities to be undertaken as part of the MV project included in the scoping approval application under regulation 6(3A)(a), (b) and (c) has not substantially changed;"

10 Regulation 10 substituted

For regulation 10 of the Principal Regulations
substitute—

"10 Method and variables

For the purposes of section 18(2) of the Act, the method and variables to be used to calculate the carbon dioxide equivalent of greenhouse gases to be reduced by an activity prescribed by regulation 5 are those specified by the Secretary under regulation 18(1)(da)."

11 Project impact report

(1) For regulation 11(2) of the Principal Regulations **substitute**—

"(2) An application must—

- (a) be in the manner and form specified by the ESC under regulation 15(1)(f); and
- (b) include the information and documents specified by the ESC under regulation 15(1)(f); and
- (c) include the information and documents specified in regulation 11A(1); and
- (d) if the application is in respect of an MV project, include the information and documents specified in regulation 11A(2); and
- (e) if the application is in respect of a BR project, include the documents specified in regulation 11A(3); and
- (f) be accompanied by any relevant fee fixed under section 73 of the Act."

(2) Regulation 11(3) of the Principal Regulations is **revoked**.

(3) For regulation 11(6) of the Principal Regulations **substitute**—

"(6) The ESC may approve a project impact report on an application under subregulation (1) if the ESC is satisfied that the project impact report demonstrates a reasonably accurate and reliable calculation of the carbon dioxide equivalent of greenhouse gases to be reduced by the project."

(4) After regulation 11(6) of the Principal Regulations
insert—

"(6A) In determining whether to approve a project impact report on an application in respect of an MV project, the ESC must have regard to the report from the approved Measurement and Verification Professional that is included with the application."

(5) In regulation 11(7) of the Principal Regulations, for "either regulation 6(3)(d)(vi) or (vii)," **substitute** "regulation 6(3)(d)(vi), (vii) or (3)(f),".

12 New regulation 11A inserted

After regulation 11 of the Principal Regulations
insert—

"11A Information and documents required in an application for approval of a project impact report

- (1) The information and documents required, under regulation 11(2)(c), to be included with an application for approval of a project impact report are the following—
 - (a) a project impact report that—
 - (i) complies with the regulations and with the ESC guidelines; and
 - (ii) includes the matters specified by the Secretary under regulation 18(1)(e); and
 - (iii) includes the method and variables that are specified by the Secretary as applicable to the type of project under regulation 18(1A)(a); and

- (iv) includes the values for the variables specified by the Secretary in accordance with regulation 18(1A)(b); and
 - (v) sets out the calculation under section 18(2) of the Act in respect of the project;
 - (b) if any lighting equipment was removed in carrying out the project, evidence that the removed lighting equipment was decommissioned;
 - (c) if any lighting equipment was installed in carrying out the project, evidence that the lighting equipment installed is listed on the register kept by the ESC in accordance with regulation 29 of the Victorian Energy Efficiency Target Regulations 2018¹.
- (2) The information and documents required, under regulation 11(2)(d), to be included with an application for approval of a project impact report in respect of an MV project are the following—
- (a) a project impact report that is consistent with the measurement and verification plan submitted with the project plan approval;
 - (b) a report from an approved Measurement and Verification Professional that advises that the project impact report—
 - (i) complies with the regulations and with the ESC guidelines; and

- (ii) is consistent with the measurement and verification plan submitted with the project plan approval;
 - (c) a declaration from the approved Measurement and Verification Professional that they are independent from the project, in accordance with the requirements specified by the ESC under regulation 15(1)(h).
- (3) The documents required, under regulation 11(2)(e), to be included with an application for approval of a project impact report in respect of a BR project are the following—
 - (a) a document produced by the benchmark administrator in respect of the baseline period, as defined by the Secretary under regulation 18(1)(i), that—
 - (i) specifies the address of the premises where the project will be undertaken; and
 - (ii) includes the information specified in subregulation (4) in respect of the baseline period;
 - (b) a document produced by the benchmark administrator in respect of the reporting period, as defined by the Secretary under regulation 18(1)(i), that—
 - (i) specifies the address of the premises where the project will be undertaken; and
 - (ii) includes the information specified in subregulation (4) in respect of the reporting period.

- (4) The information to be included in the benchmark administrator's document in respect of a particular period is the following—
- (a) the benchmark rating produced for that period by the nominated benchmark administrator;
 - (b) the variables used to calculate the benchmark rating;
 - (c) the values for the variables used to calculate the benchmark rating;
 - (d) the start and end date of the period;
 - (e) details of the electricity and gas consumption for that period at the premises;
 - (f) details of any purchases of GreenPower Products in respect of that period."

13 Matters to be specified by the ESC

After regulation 15(1)(a)(iii) of the Principal Regulations **insert**—

- "(iv) that a person will not create a certificate in respect of a project that involves the installation of lighting equipment unless and until that lighting equipment is listed on the register kept by the ESC in accordance with regulation 29 of the Victorian Energy Efficiency Target Regulations 2018;"

14 New regulation 17A inserted

After regulation 17 of the Principal Regulations
insert—

"17A Benchmark administrator

- (1) The Secretary may approve a person to administer, for the purposes of these Regulations, a benchmark process in relation to premises of a specified type if the Secretary is satisfied that—
 - (a) the person administers a benchmark process that—
 - (i) is suitable for that type of premises; and
 - (ii) is explained in documents published on a website and available free of charge; and
 - (b) the person provides an electronic mechanism for calculating the maximum energy that the type of premises that the person is approved for can consume for a given benchmark rating; and
 - (c) the person has experience in building performance benchmarking; and
 - (d) the person undertakes audits of the benchmark ratings produced using the process referred to in paragraph (a).
- (2) The Secretary must publish and keep a list of benchmark administrators.
- (3) The list of benchmark administrators must include the following information for each benchmark administrator—
 - (a) the name of the benchmark administrator;

- (b) the type of premises for which the benchmark administrator is approved to administer a benchmark process."

15 Matters to be specified by the Secretary

- (1) In regulation 18(1)(b) of the Principal Regulations, for "7(3)(d)" **substitute** "7A(2)(b)".
- (2) In regulation 18(1)(c) of the Principal Regulations, for "7(3)(f)(iii)" **substitute** "7A(2)(d)(i)".
- (3) In regulation 18(1)(d) of the Principal Regulations, for "7(3)(f)(iv)" **substitute** "7A(2)(d)(ii) and (iii)".
- (4) After regulation 18(1)(d) of the Principal Regulations **insert**—

"(da) for the purposes of regulation 10, the method and variables to be used to calculate the carbon dioxide equivalent of greenhouse gases to be reduced by an activity prescribed by regulation 5;"
- (5) In regulation 18(1)(e) of the Principal Regulations, for "11(3)(a)(iii)" **substitute** "11A(1)(a)(ii)".
- (6) Regulation 18(1)(f) of the Principal Regulations is **revoked**.
- (7) In regulation 18(1)(h) of the Principal Regulations, for "Act." **substitute** "Act;"
- (8) After regulation 18(1)(h) of the Principal Regulations **insert**—

"(i) for the purposes of regulations 6(6)(j) and 11A(3), the definition of the baseline period and the reporting period for benchmark ratings."

(9) After regulation 18(1) of the Principal Regulations **insert**—

"(1A) The specification of method and variables under subregulation (1)(da) may provide for the following—

- (a) different methods and variables that are applicable to different types of projects;
- (b) variables the values for which are required to be included with an application for approval of a project impact report;
- (c) the specification of variables that are also used to calculate a benchmark rating."

(10) In regulation 18(2) of the Principal Regulations, for "In exercising the powers conferred under subregulation (1), the Secretary" **substitute** "The specifications referred to in subregulation (1)".

(11) Regulation 18(2)(a) and (b) of the Principal Regulations are **revoked**.

Victorian Energy Efficiency Target (Project-Based Activities)
Regulations 2017
S.R. No. 46/2017
Endnotes

Table of Applied, Adopted or Incorporated Matter

The following table of applied, adopted or incorporated matter was included in S.R. No. 175/2018 in accordance with the requirements of regulation 5 of the Subordinate Legislation Regulations 2014.

Statutory rule provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
Regulation 5 which amends regulation 4 the Victorian Energy Efficiency Target (Project-Based Activities) Regulations 2017	National GreenPower Accreditation Program: Program Rules Version 10, published by the National GreenPower Steering Group on 9 May 2016	Meaning of GreenPower Product
Regulation 8 which inserts new regulation 7A(2)(a) into the Victorian Energy Efficiency Target (Project-Based Activities) Regulations 2017	EVO 10000—1:2014 International Performance Measurement and Verification Protocol (IPMVP) Core Concepts published by the Efficiency Valuation Organization in June 2014	Principles in Chapter 4

4 Explanatory details

Table of Applied, Adopted or Incorporated Matter

The following table of applied, adopted or incorporated matter was included in S.R. No. 46/2017 in accordance with the requirements of regulation 5 of the Subordinate Legislation Regulations 2014.

Statutory rule provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
Regulation 4	Code of Practice for Timber Production 2014 published by the Department of Environment and Primary Industries under Part 5 of the Conservation, Forests and Lands Act 1987	Definition of native forest
Regulations 4 and 6(8)	Building Code	Clause A3.2—Classifications
Regulation 7(3)	EVO 10000—1:2014 International Performance Measurement and Verification Protocol (IPMVP) Core Concepts published by the Efficiency Valuation Organisation in June 2014	Principles in Chapter 4