**Victorian Energy Efficiency Target Amendment (Prescribed Customer and Targets) Regulations 2020**

**S.R. No. XX/2020**

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S.R. No. XX/2020

***Victorian Energy Efficiency Target Act 2007***

**Victorian Energy Efficiency Target Amendment** **(Prescribed Customer and Targets) Regulations 2020**

The Lieutenant-Governor as the Governor's deputy, with the advice of the Executive Council, makes the following Regulations:

Dated: DATE 2020

Responsible Minister:

LILY D'AMBROSIO

Minister for Energy, Environment and Climate Change

Pieta Tavrou

Clerk of the Executive Council

 1 Objectives

The objectives of these Regulations are to amend the Victorian Energy Efficiency Target Regulations 2018—

 (a) to prescribe the VEET scheme target for each year of the period beginning 1 January 2021 and ending 31 December 2025; and

 (b) to prescribe customers for the purposes of the definition of ***scheme acquisition*** in the **Victorian Energy Efficiency Target Act 2007**; and

 (c) to prescribe circumstances under which an energy efficiency certificate cannot be created.

 2 Authorising provision

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

 3 Commencement

 (1) Subject to subregulation (2), these Regulations come into operation on 31 May 2020.

 (2) Regulations 5, 6, 7, 9 and 12 come into operation on 1 January 2022.

 4 Principal Regulations

In these Regulations, the Victorian Energy Efficiency Target Regulations 2018[[1]](#endnote-2) are called the Principal Regulations.

 5 Revocation of definition of scheduled activity premises

 In regulation 5 of the Principal Regulations, the definition of ***scheduled activity premises*** is **revoked**.

 6 New regulation 26A inserted

 After regulation 26 of the Principal Regulations, **insert**—

 **“26A Certificate cannot be created in relation to the consumption of the operation of facilities of certain prescribed customers**

 A certificate cannot be created in relation to a prescribed activity that would offset the energy consumption of the operation of facilities under the operational control of a person who is not a prescribed customer as the result of the operation of regulation 40(2).".

 7 Revocation of regulations 27 and 28 of the Principal Regulations

 Regulations 27 and 28 of the Principal Regulations are **revoked**.

 8 Secretary may publish Specifications

 In regulation 35(4)(a) of the Principal Regulations **omit** "in the Government Gazette and".

 9 Prescribed customers

 (1) For regulation 40(2) of the Principal Regulations **substitute**—

 “(2) A person is not a prescribed customer during a calendar year in relation to purchases specified in subregulation (2A) if—

 (a) the person is a controlling corporation that is required, or is a member of a group whose controlling corporation is required, to apply to be registered in relation to meeting a threshold under Division 3 of Part 2 of the National Greenhouse and Energy Reporting Act 2007 of the Commonwealth; and

 (b) for the purposes of section 13 of that Act, the controlling corporation or the controlling corporation’s group met a threshold in the previous financial year, by the person carrying on an emissions intensive activity in that previous financial year; and

 (c) the person has, by 31 October of the previous calendar year, provided the ESC with—

 (i) evidence that satisfies the ESC that the person undertook a specified review during that previous financial year; and

 (ii) written notice that the person does not wish its purchase of electricity or gas from relevant entities during the calendar year to count as scheme acquisitions for the purposes of the Act.

 (2A) A purchase is specified for the purposes of subregulation (2) if—

 (a) the purchase acquits the energy consumption of the operation of facilities under the operational control of the person during the previous financial year; and

 (b) that consumption is taken into account when determining whether the controlling corporation’s group has met a threshold under section 13 of the National Greenhouse and Energy Reporting Act 2007 of the Commonwealth.

 (2B) The ESC must publish and maintain a current list of those persons who are not prescribed customers as the result of the operation of subregulation (2), and premises on which facilities under the operational control of those persons are located, on the ESC Internet site.

 (2C) For the purposes of subregulation (2B), premises may be identified by their address or their national metering identifier (within the meaning of the National Electricity Rules) or by any other means.”.

 (2) Regulation 40(3) of the Principal Regulations is **revoked**.

 (3) In regulation 40(4) of the Principal Regulations—

 (a) for “sells gas” **substitute** “sells gas or electricity or gas”; and

 (b) for “a gas-fired” **substitute** “an”.

 (4) After regulation 40(4) of the Principal Regulations **insert**—

 "(5) A customer to whom a relevant entity sells gas in Victoria is not a prescribed customer if the customer—

 (a) is engaged in the activity of owning, controlling or operating a pipeline or gas storage facility connected to the interconnected national gas system; and

 (b) is, for the purposes of the National Gas (Victoria) Law—

 (i) a Registered participant in relation to that activity; or

 (i) an exempted participant in relation to that activity.

 (6) In this regulation—

***controlling corporation*** means a constitutional corporation that does not have a holding company incorporated in Australia;

***emissions intensive activity***, in relation to a previous financial year,means—

 (a) the occupation of premises on which over 100 terajoules of electricity was consumed during that previous financial year for the purposes of carrying on an emissions-intensive trade-exposed activity within the meaning of the Renewable Energy (Electricity) Act 2000 of the Commonwealth; or

 (b) the occupation of premises on which over 100 terajoules of gas was consumed during that previous financial year for the purposes of carrying on an activity classified in Division B, C or D of the Australian and New Zealand Standard Industrial Classification issued on 26 June 2013;

***facility*** has the same meaning as in section 9 of the National Greenhouse and Energy Reporting Act 2007 of the Commonwealth;

***group*** has the same meaning as in section 8 of the National Greenhouse and Energy Reporting Act 2007 of the Commonwealth;

***operational control*** has the same meaning as in section 11 of the National Greenhouse and Energy Reporting Act 2007 of the Commonwealth;

***previous financial year***, in relation to a calendar year, means the financial year that ends 6 months prior to the commencement of the calendar year;

***specified review*** means a reporting or management program for assessing the energy performance of a premises that complies with—

 (a) the standard and requirements set out in the Secretary’s specifications; or

 (b) if no standard or requirements are set out in the Secretary's specifications, ISO 50001:2019.”.

 10 Shortfall penalty rate

 In regulation 41(1)(a) of the Principal Regulations, for "$50" **substitute** "$112".

 11 New regulation 41A inserted

 After regulation 41 of the Principal Regulations, **insert**—

"**41A VEET scheme target**

 For the purposes of section 30(f) of the Act, the prescribed target is—

 (a) in 2021, 6.5 million tonnes of carbon dioxide equivalent; and

 (b) in 2022, 6.7 million tonnes of carbon dioxide equivalent; and

 (c) in 2023, 6.9 million tonnes of carbon dioxide equivalent; and

 (d) in 2024, 7.1 million tonnes of carbon dioxide equivalent; and

 (e) in 2025, 7.3 million tonnes of carbon dioxide equivalent.".

 12 Revocation of Schedule 5

 Schedule 5 to the Principal Regulations is **revoked**.

Endnotes

1. Reg. 4: S.R. No 145/2018.

**Table of Applied, Adopted or Incorporated Matter**

The following table of applied, adopted or incorporated matter was included in S.R. No. XX/2020 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 9 | ISO 50001:2019 – Energy management systems - Requirements with guidance for use | The definition of ***specified review*** |

 [↑](#endnote-ref-2)