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# Relevant Entity Guide

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# Introduction

## About this guide

Victorian energy retailers with a liability under the Victorian Energy Upgrades (VEU) program are known as relevant entities and are subject to certain obligations in relation to calculating 'scheme acquisitions'.

This guide explains those obligations and liabilities, as well as the VEU program processes and requirements.

A relevant entity is liable under the Victorian Energy Efficiency Target Act 2007 (the VEET Act) in respect of scheme acquisitions that it makes during a calendar year.

A relevant entity that makes a scheme acquisition during the year has a statutory obligation under the VEET Act to provide us with an audited annual energy acquisition statement.

This guide is divided into the following sections:

Section 1 helps you to determine if you are a relevant entity.

Section 2 explains how to calculate scheme acquisitions.

Section 3 explains scheduled activity premises and how to account for them.

Section 4 outlines relevant entity annual energy acquisition statement obligations.

Section 5 outlines the audit process.

Section 6 outlines our reconciliation process to assess your liability under the program.

## Who should use this guide

You should use this guide if you are a Victorian energy retailer and:

- need to determine if you are a relevant entity under the VEET Act
- need assistance with relevant entity processes and requirements.

## Legal context for this guide

We have prepared this guide as a general summary of relevant parts of:

- Victorian Energy Efficiency Target Act 2007 (the VEET Act)
- Victorian Energy Efficiency Target Regulations 2018 (the VEET Regulations)
- Victorian Energy Efficiency Target Guidelines (the ESC guidelines)

View these documents at [www.esc.vic.gov.au/veu-legislation](http://www.esc.vic.gov.au/veu-legislation)

This guide should not be relied upon as substitute for legal advice and should be read in conjunction with the above source documents. You should seek your own legal advice in relation to

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your obligations as a relevant entity under the VEET Act. In the event of inconsistency between this guide and the source documents, the content in the source documents applies.

# 1. Are you a relevant entity?

A Victorian energy retailer is deemed to be a relevant entity under the VEU program for a compliance year (1 January – 31 December) if they meet any of the following three criteria:

## Criterion 1

If at any time from 1 January a licensed energy retailer has 5,000 electricity and/or gas customers, it is deemed to be a relevant entity.

The calculation of the retailer's liability will include a proportion of those scheme acquisitions made by the retailer, based pro rata on the number of days remaining in the compliance year from the day on which the retailer's customer base reached 5,000.

## Criterion 2

If at any time from 1 January a licensed energy retailer has less than 5,000 electricity and/or gas customers, achieves a scheme acquisition of at least 30,000 MWh of electricity or 350,000 GJ of gas in the compliance year.

The relevant entity will be liable for all MWh/GJ Victorian scheme acquisitions made for the compliance year (not only the scheme acquisitions made after reaching 30,000MWh/350,000GJ).

## Criterion 3

If an energy retailer is licensed on or after 1 January and has less than 5,000 electricity and/or gas customers but achieves a scheme acquisition of at least 30,000 MWh or electricity or 350,000 GJ of gas for the compliance year on or after the date of being licensed.

The relevant entity will be liable for all MWh/GJ Victorian scheme acquisitions made for the compliance year (not only the scheme acquisitions made after reaching 30,000MWh/350,000GJ).

## 2. Calculation of scheme acquisitions

### 2.1. Review Australian Energy Market Operator data

You must use data generated by the Australian Energy Market Operator (AEMO) in mid-February after the compliance year in question to calculate your scheme acquisitions.

You must implement relevant processes to help ensure your gas and electricity acquisitions accurately reflect the AEMO data for the compliance year in question.

In mid-February, we will provide relevant entities with the details of bill runs for the compliance year being audited.

Relevant entities must ensure that the correct bill run is used to calculate its obligation. For settlement data daily should not be used if weekly bill run data has been specified by the ESC.

### 2.2. Calculation of scheme acquisitions

Calculation of scheme acquisitions for a compliance year must include:

- the purchase of **electricity** from AEMO for on-supply to the relevant entity's **electricity customers** in Victoria, other than the purchase of electricity for on-supply to:
  - customers in respect of premises that are scheduled activity premises<sup>1</sup> (excluding premises listed as a prescribed customer).
- the purchase of **gas** from AEMO for on-supply to all of the relevant entity's **gas customers** in Victoria, other than the purchase of gas from AEMO for on-supply to:
  - customers in respect of premises that are scheduled activity premises (excluding premises listed as a prescribed customer);
  - customers who owns, control or operate a gas-fired electricity generator.

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<sup>1</sup> Scheduled activity premises are defined in Regulation 5 of the Victorian Energy Efficiency Target Regulations 2018 (the VEET Regulations). See Section 3 for further information regarding scheduled activity premises.

## 3. Scheduled activity premises

### 3.1. Definition of 'scheduled activity premises'

Regulation 5 of the VEET Regulations defines scheduled activity premises as:

- the premises at the addresses specified in column 2 of the Table in Part 1 of Schedule 5 of the VEET Regulations
- the premises specified in column 2 of the Table in Part 2 of Schedule 5 of the VEET Regulations
- any other premises in relation to which there was, on 29 June 2014, an entry on the register of scheduled activities kept under section 26G of the Environment Protection Act 1970 (commonly known as Environment and Resource Efficiency Plans (EREP) premises).

These premises are excluded from the VEU program unless the occupier opts in by providing us with written notice. These premises become a 'prescribed customer' (pursuant to Regulation 40(2) of the VEET Regulations) on 1 January of the second calendar year in which a Victorian energy efficiency certificate (VEEC) is first registered for the premises. A prescribed customer is determined (under section 33(1) of the VEET Act) for the purposes of the definition of scheme acquisition.

Once the scheduled activity premises becomes a 'prescribed customer', a relevant entity liability exemption no longer applies and you must include the electricity and/or gas acquisitions from the premises in your annual energy acquisition statement calculation.

For a list of these premises, view the Register of Scheduled Activity Premises, available at: [www.veu-registry.vic.gov.au/register-saps](http://www.veu-registry.vic.gov.au/register-saps).

### 3.2. Identifying non-residential customers on the Register of Scheduled Activity Premises

When a non-residential customer is on our Register of Scheduled Activity Premises, the following steps must be taken:

- Notify us of your customers who occupy scheduled activity premises and who are not prescribed customers further to Regulation 40(2) of the VEET Regulations (i.e. premises who are not listed as a 'prescribed customer' on our Register of Scheduled Activity Premises). These customers are to be detailed on your annual energy acquisition statement.
- Ensure that your exemption claims match the customer names and associated scheduled activity premises address details as listed on our Register of Scheduled Activity Premises. We will reconcile and verify exemptions in accordance with the premises listed on our Register of Scheduled Activity Premises.



- Ensure that exemptions are not claimed for scheduled activity premises where the customer is defined as being a prescribed customer in relation to those premises pursuant to Regulation 40(2) of the VEET Regulations (i.e. exemption claims are not made for premises with the status of 'prescribed customer' on the commission's Register of Scheduled Activity Premises).

### **3.3. Reviewing the Register of Scheduled Activity Premises**

It is your responsibility to review our Register of Scheduled Activity Premises and determine whether any of your customer's premises have had VEECs registered and/or have become a prescribed customer during the year.

You must ensure that:

- any changes to the status of a scheduled activity premises are accounted for when completing the annual energy acquisition statement process
- you collate and retain sufficient evidence in relating to acquisitions of electricity and/or gas for on-supply to customers who occupy scheduled activity premises listed on our Register of Scheduled Activity Premises.

While we make every effort to ensure that the Register of Scheduled Activity Premises is free from error, you are responsible for making your own assessment of the information and for verifying such information. All information on the register is subject to changes without notice. If you are aware of any inaccuracies in the register, contact us on [veu@esc.vic.gov.au](mailto:veu@esc.vic.gov.au).

### **3.4. Where to get help**

For further information regarding scheduled activity premises, please refer to the Large Energy Users' Scheduled Activity Premises Guide, available at: [www.esc.vic.gov.au/veu-sap](http://www.esc.vic.gov.au/veu-sap).

If you have any additional questions regarding the calculation of scheme acquisitions contact us on (03) 9032 1310 or [veuaudits@esc.vic.gov.au](mailto:veuaudits@esc.vic.gov.au).

## 4. Annual energy acquisition statements

Any relevant entity that makes a scheme acquisition during the calendar year must provide us with an annual energy acquisition statement on or before 30 April of the following year (section 33(1) of the VEET Act).

Your annual energy acquisition statement needs to demonstrate that you have calculated your scheme acquisitions and corresponding relevant entity liability for the 1 January – 31 December compliance year and each subsequent year in accordance with the procedures set out in this document.

### 4.1. Key information to be included

Ensure your statement includes:

- the amount of electricity and gas acquired under scheme acquisitions during the compliance year
- exemptions claimed during the calendar year for customers who occupy scheduled activity premises who are not defined as a prescribed customer under the VEET Regulations
- the value, in tonnes of carbon dioxide equivalent of greenhouse gas emissions, of VEECs in possession to be surrendered for that year
- any carried forward VEEC surplus for the previous year
- any carried forward VEEC surplus for the current year.

### 4.2. Audits of annual energy acquisition statements

#### Audit purpose

The primary purpose of the annual energy acquisition statement audit is to:

- confirm the amount of electricity and/or gas acquired by the relevant entity under scheme acquisitions during the compliance year. This includes verifying scheduled activity premises exemptions (deducted from total scheme acquisitions) who are not a prescribed customer pursuant to Regulation 40(2) of the VEET Regulations<sup>2</sup>
- determine the amount (if any) of the relevant entity's VEEC shortfall.

The audit will ensure that the information presented in the annual energy acquisition statement is correct and accurate and presented in accordance with the requirements of the VEET Act, VEET Regulations and ESC guidelines.

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<sup>2</sup> A person who occupies scheduled activity premises becomes a prescribed customer on 1 January of the second calendar year in which a VEEC is first registered for the premises.

## **Approved auditors**

Annual energy acquisition statements must be audited by an independent third-party auditor before you lodge your statement with us (as specified in section 33(6) of the VEET Act).

You must select an auditor from the list of approved auditors published on our [website](#). If your preferred auditor is not on the list, they can apply via our [website](#).

The framework for the administration of the audit requirements is set out in section 15 of the [ESC guidelines](#) (these are also referred to as the VEET Guidelines). It includes the minimum requirements for the independence and expertise of auditors, including the conduct and reporting of audits, to ensure independent, rigorous and consistent audits. By taking a risk-based approach to defining the audit scope, which maximises the cost-effectiveness of the process, the framework provides incentives for program participants to achieve compliance.

Using the ESC guidelines will assist you to achieve compliance and minimise the chances of significant non-compliance going undetected.

## 5. Audit process

The relevant entity compliance process is carried out over multiple months, as specified in the ESC guidelines.

The audit process for annual energy acquisition statements is divided into six key steps:

1. Confirmation of audit scope
2. Nomination of auditor by relevant entity
3. Completion of audit
4. Lodgement of the AEAS and audit report to the ESC
5. Invoice for the Lodgement fee and VEEC holding
6. Review of annual energy acquisition statement and audit report.
7. Issue of VEEC surrender s35(1) notice.

### 5.1. Step 1: Confirmation of audit scope (due 1 October)

Your annual energy acquisition statement audit must be conducted in accordance with clause 15.4 of the ESC guidelines, unless we have issued a specific audit scope that applies to you for that compliance year.

We may issue a specific audit scope for your audit at any time prior to 1 October.

When deciding whether to issue a specific audit scope, we will consider:

- the obligations of the relevant entity under the VEET Act
- the risks associated with the relevant entity, including the likelihood and consequences of non-compliance
- other relevant matters.

A specific audit scope may include additional or fewer audit requirements than what is specified in clause 15.5 of the [ESC guidelines](#).

If you receive a specific audit scope, it will apply to the audit of your annual energy acquisition statement due in the following calendar year and all subsequent audit years until we vary or withdraw it by 1 October in any given year.

### 5.2. Step 2: Nomination of auditor by relevant entity (due 30 November)

You must nominate and inform the commission, by 30 November in the compliance year, of the independent auditor who will conduct the audit of your annual energy acquisition statement.

You must either nominate an auditor from our 'List of approved auditors' or have the auditor that you propose to use apply to be assessed and added to the list of approved auditors.

You can view the approved independent auditors list at this webpage [VEU Audits | Essential Services Commission](#) under the Approved Auditor List link .

We established the List of approved auditors to reduce the costs of identifying and nominating auditors that meet our key selection criteria, and to improve the timeliness and efficiency of the auditing process.

If you nominate an auditor who is not on the auditor list. The auditor must make an application to be on the list of approved auditors, we will evaluate the nominated auditor to determine whether they meet our key selection criteria (see clause 15.1 of the [ESC guidelines](#)).

### **5.3. Step 4: Completion of audit (due 30 April)**

Relevant entities and auditors are responsible for ensuring that sufficient time is allowed to complete and lodge the annual energy acquisition statement and audit prior to the lodgement date of the annual energy acquisition statement.

The audit approach may vary depending on the auditor you nominate, but at a minimum must meet the ESC guidelines requirements (including any applicable audit scope document issued).

The auditor is responsible for understanding and adhering to the requirements of the ESC guidelines when assessing information and preparing the audit report.

Your primary role during the audit will be to make your staff available to the auditor to answer questions and provide information to the auditor as requested.

It is also in your interest to read and understand the ESC guidelines. They will provide you with a greater understanding of the audit process, including the objectives of the audit and the information being audited.

You may ask to review a draft audit report. Reviewing the draft report may provide an opportunity to identify any factual inaccuracies. However, the auditor is not obliged to provide a draft audit report to you and may choose to do so at its discretion.

Relevant entities and auditors must provide details of the certificates holding that they propose to surrender.

Note: Relevant entities can provide an extract of the eligible VEEC holdings at the time of submitting their annual energy acquisition statement. Relevant entities must ensure they are holding certificates that are valid to be surrendered for that compliance year.

## 5.4. Step 5: Invoice for the Lodgment fee and VEEC Holdings

You must submit your annual energy acquisition statement, audit report and details of all certificates being offered for surrender for the relevant compliance year to us by 30 April of the following year.

VEECs offered for obligatory surrender that exceed the VEEC liability of the relevant entity will not be returned. In accordance with section 29(2)(c) of the Act, any surplus VEECs will be carried forward for use in the following compliance year.

For the 2024 compliance year we are modifying the surrender process. The change is that following the review of your audited annual energy acquisition statement, the commission will issue you a notice informing you of your 2024 liability and the date by when it must be offered for surrender. With this change in process is no need to surrender more VEECs that your liability as outlined in the notice to surrender

### VEEC holding

Relevant entities must hold sufficient VEECs to meet their surrender obligation at the time of submitting their annual energy acquisition statement. VEECs do **not** need to be surrendered by 30 April.

The commission will issue a surrender notice once it has completed its review of the annual energy acquisition statement.

If you are not holding sufficient VEECs to meet your obligation at the time for submission of the annual energy acquisition statement, this may lead to a shortfall statement being issued.

### Lodgment Fee

Once the commission has received the annual energy acquisition statement and audit report, the commission will issue an invoice for the lodgment fee to be paid by the relevant entities. Lodgment fees were introduced for lodging annual energy acquisition statement in 2023 and came into effect for the 2023 compliance year.

## 5.5. Step 6: Review of annual energy acquisition statement and audit report

We will evaluate your annual energy acquisition statement and accompanying audit report. If we are not satisfied with the statement or findings in the audit report, we may require further investigation or actions.

For example, we may:

- obtain and analyse the auditor's record of its contacts with the relevant entity in order to obtain further detail of reported non-compliance, misrepresentation of data, or to investigate whether any significant changes have been made to drafts of the audit report
- require further auditing to be undertaken if we consider the final report is, or may be, materially unsatisfactory
- require that further auditing be undertaken by another approved auditor
- request in writing, further written or oral information (pursuant to Part 8 of the VEET Act)
- have authorised officers enter premises of a relevant entity to acquire information (pursuant to Part 7 of the VEET Act). Under the VEET Act, authorised officers may only exercise their powers to enter a relevant entity's premises if it is reasonably necessary to do so to substantiate information it has provided, or to determine whether the VEET Act has been complied with.

## **5.6. Step 7: Issue of VEEC surrender s35(1) notice.**

Following review of your AEAS statement and your audit report, we will issue a surrender notice. This notice will outline how many VEECs you must surrender to the commission and set out a date by which the surrender must be made.

NOTE: This is a change to the previous process and aims to avoid the over-surrender of VEECs.

## 6. Reconciliation

### 6.1. Reconciliation of relevant entity liability against AEMO figures

Each year we review and assess the annual energy acquisition statements provided by each relevant entity. In particular, we review and assess:

- the relevant entity stated liability
- the reasonableness of the stated liability
- the methodology used to calculate the liability and demonstrated in the annual energy acquisition statement.

### 6.2. Reconciliation of scheduled activity premises exemptions

We will review and assess exemptions claimed during the calendar year for relevant entity customers who occupy a scheduled activity premises and are not defined as a 'prescribed customer' under the VEET Regulations.

We will reconcile and verify scheduled activity premises exemption claims in accordance with the premises listed on our Register of Scheduled Activity Premises.

You should ensure that your exemption claims match the customer's name and associated scheduled activity premises address details listed on our Register of Scheduled Activity Premises.

Relevant entities must ensure the details of the scheduled activity premises, and the supply period claimed are true and accurate.

### Document version control

The RM reference for this document is: C/18/18896

Version	Updates	Date published
1.0	Two explanatory notes ( <i>Relevant entities: calculation of scheme acquisitions</i> and <i>Relevant entities: preparation and audit of annual energy acquisition statements</i> ) consolidated into one relevant entity guide and updated.	8 November 2018
2.0	Updated to reflect new Victorian Energy Efficiency Target Regulations 2018.	10 December 2018
3.0	Updated dates to reflect 2019 compliance year	31 October 2019
4.0	Updated dates to reflect 2020 compliance year	30 October 2020
4.1	Updated dates to reflect 2023 compliance year and treatment of over-surrendered certificates.	31 October 2023



5.0

Update to reflect significant change to surrender process. Relevant entities are now required to hold sufficient VEECs to meet their obligation as at 30 April. A notice to surrender the VEECs will be issued once the commission has reviewed the audit report and AEAS.

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