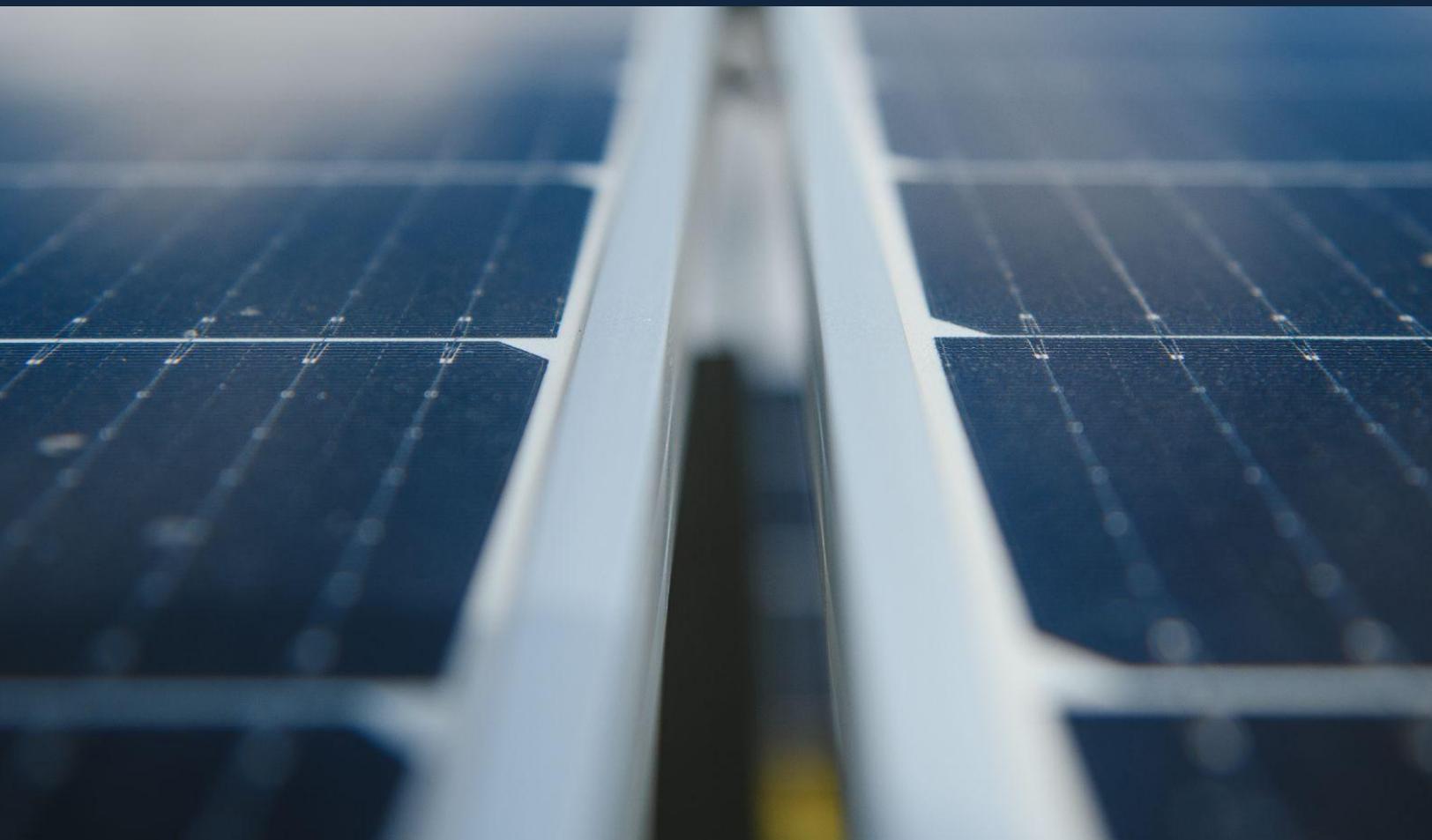


FEOC ANALYSIS

Navigating FEOC: Understanding the Impacts on Solar Projects



Informational Analysis Provided By:

Brightwell 

ABOUT THIS PUBLICATION

This publication was developed by Brightwell to provide timely, practical support for stakeholders navigating the FEOC provisions in renewable energy tax planning to help taxpayers make confident, informed decisions.

This material has been prepared for general informational purposes only and is not intended to be relied upon as tax, accounting, or other professional advice. Before taking any action, you should consult a professional advisor familiar with your particular facts and circumstances.

TAX CODE GUIDANCE

- IRS Notice 2026-15
- IRS Notice 2025-08
- IRS Notice 2024-41
- IRS Notice 2023-38



At Brightwell, we turn financial constraints into powerful acts of generosity. Our innovative approach allows investors to repurpose their tax dollars, directing them into solar projects that energize and sustain local nonprofits. This shift not only fuels these vital organizations but also sparks a chain reaction of benefits. Through solar tax credits and incentives, investments blossom into enduring support, significantly cutting energy costs for these nonprofits. This is more than just financial aid; it's a movement of transformative giving, creating a brighter, more sustainable future for our communities.

With a best-in-class team of solar tax credit experts, CPAs, legal, solar architects, structural engineers, certified electricians, and NABCEP PVIP certified professionals, the Brightwell team provides the financial, project management, and solar expertise needed to ensure the strongest impact for both investors and nonprofit organizations. Together, we unlock generosity and power our communities for decades to come.

OVERVIEW

The enactment of the One Big Beautiful Bill Act (“OBBBA”) on July 4, 2025, brought significant change to the renewable energy industry, including foreign entity of concern (“FEOC”) expanded limitations designed to prevent certain entities subject to foreign ownership, control, or influence from China, Russia, Iran, or North Korea from claiming or benefiting from U.S. renewable energy tax credits. The OBBBA also included FEOC restrictions based on material assistance from such entities. On July 7, 2025, President Trump issued an Executive Order directing the Treasury Secretary to (in part) take prompt action to enhance FEOC restrictions in the OBBBA resulting in IRS Notice 2026-15 being issued in February 2026. While FEOC has broad impacts across the renewable energy industry, the focus of this publication is on solar projects. Below are key updates from IRS Notice 2026-15 followed by illustrative examples and responses to frequently asked questions.

Material Assistance Cost Ratio

IRS Notice 2026-15 established material assistance cost ratio (“MACR”) thresholds for purposes of limiting the amount of equipment supplied by a prohibited foreign entity (“PFE”) in order to claim tax credits.

MACR is a fraction: $(A - B) / A$, where A is the direct cost of all the equipment used in the project and B is the direct cost of the equipment supplied by PFEs.

For solar projects, the applicable threshold is 40% for qualified facilities that begin construction in 2026, increasing 5% per year up to a maximum of 60%.

The guidance provides three interim safe harbors, as described below:

- **Identification Safe Harbor:** A taxpayer may elect to use the safe harbor tables from the domestic content bonus credit guidance provided in Notices 2023-38, 2024-41 and 2025-08 to establish the exclusive list of manufactured products (“MPs”) and manufactured product components (“MPCs”), and if an item is not listed in the safe harbor tables, it is disregarded for the MACR calculation.
- **Cost Percentage Safe Harbor:** Instead of tracking actual costs, a taxpayer using the identification safe harbor may use the assigned cost percentages provided in the safe harbor tables.
- **Certification Safe Harbor:** A taxpayer may rely on certifications from its direct suppliers to determine whether an item was produced by a PFE or to establish the costs attributable to non-PFE content. To be valid, a certification must be provided by the direct supplier, signed under penalties of perjury and attached to the taxpayer’s tax return (taxpayers must attach a statement to their tax returns identifying the specific safe harbors they are applying). A taxpayer may not rely on a certification if it knows or has reason to know it is inaccurate.

What Comes Next?

IRS Notice 2026-15 is an interim notice, not formal proposed regulations. Treasury and the IRS indicate they intend to issue forthcoming proposed regulations and additional guidance on PFEs and material assistance.

The notice provides reliance windows that extend through 60 days after the publication of forthcoming proposed regulations and through publication of forthcoming safe harbor tables.

Written comments are requested and are due by March 30, 2026.

See the following pages for example MACR calculations along with responses to frequently asked questions.

KEY TAKEAWAYS FROM IRS NOTICE 2026-15

- **Guidance In-Line with Expectation:** The guidance does not create any unanticipated obstacles to FEOC compliance and doesn’t seem to be the sort of backdoor way to kill the tax credits that some initially feared.
- **MACR Safe Harbors:** The guidance clarified the use of existing domestic content safe harbor tables along with the use of supplier certification letters.
- **Partial Guidance:** The guidance focused on material assistance safe harbors and suggests that Treasury will publish guidance at a later date on foreign influence and effective control.
- **Rely Now:** The Notice is considered interim guidance to be used to calculate the MACR for projects that begin construction after December 31, 2025 and within 60 days after the proposed regulations are published.

EXAMPLE MATERIAL ASSISTANCE COST RATIO (“MACR”) CALCULATIONS

Below are example MACR calculations to highlight how domestic content tables are now used to determine FEOC compliance.

■ Non-PFE
 ■ PFE
 ■ Unused

Manufactured Product (MP)	Manufactured Product Components (MPC)	GROUND MOUNT (TRACKING)		ROOFTOP (MLPE)	
		Safe Harbor Table from Notice 2025-08	Non-PFE Not Subject to FEOC	Safe Harbor Table from Notice 2025-08	Non-PFE Not Subject to FEOC
	Cells	38.0%	0.0%	4.9%	0.0%
	Frame/Backrail	6.0%	6.0%	4.9%	0.0%
	Front Glass	6.0%	6.0%	3.1%	0.0%
	Encapsulant	3.8%	3.8%	3.1%	0.0%
	Backsheet/Backglass	3.8%	3.8%	0.8%	0.0%
	Junction Box	1.0%	1.0%	0.2%	0.0%
	Edge Seals	0.3%	0.3%	0.2%	0.0%
	Pottants	0.3%	0.3%	1.2%	0.0%
	Bus Ribbons	1.5%	1.5%	0.3%	0.0%
	Bypass Diodes	0.4%	0.0%	5.8%	0.0%
	Production	4.7%	4.7%	31.1%	0.0%
	TOTAL		65.8%	27.4%	55.6%
	Printed Circuit Board Assemblies	2.4%	2.4%	7.8%	7.8%
	Electrical Parts	0.8%	0.8%	11.8%	11.8%
	Thermal Management System	0.5%	0.5%	0.0%	0.0%
	Enclosure & Skids	0.6%	0.6%	4.3%	4.3%
	Production	1.2%	1.2%	0.9%	0.9%
	TOTAL		5.5%	5.5%	24.8%
	Torque Tube	11.0%	11.0%	0.0%	0.0%
	Structural Fasteners	0.4%	0.4%	3.5%	3.5%
	Drive System	1.9%	1.9%	0.0%	0.0%
	Dampers	0.5%	0.5%	0.0%	0.0%
	Actuator	2.8%	2.8%	0.0%	0.0%
	Controller	0.7%	0.7%	0.0%	0.0%
	Rails	2.0%	2.0%	15.0%	15.0%
	Production	9.4%	9.4%	1.1%	1.1%
	TOTAL		28.7%	28.7%	19.6%
GRAND TOTAL		100.0%	61.6%	100.0%	44.4%
GRAND TOTAL USED		99.6%	99.6%	100.0%	100.0%
MACR CALCULATION		MACR % = (99.6% - 38.0%) / 99.6%		MACR % = (100.0% - 55.6%) / 100.0%	
MACR %		61.8%		44.4%	
2026 COMPLIANCE		61.8% > 40.0%		44.4% > 40.0%	
2026 COMPLIANT?		✓ YES		✓ YES	

FREQUENTLY ASKED QUESTIONS

Below are common questions and insights pertaining to FEOC rules on solar projects, structured categorically for easy navigation, with a focus on solar ITC projects.

OWNERSHIP/CONTROL/INFLUENCE

What is a prohibited foreign entity and how are specified foreign entities and foreign-influenced entities determined?

Prohibited Foreign Entity (“PFE”). A PFE is an entity with ties to China, Russia, North Korea or Iran. FEOC rules will deny tax credits to taxpayers that are themselves specified foreign entities, including where these specified foreign entities possess ownership, governance rights, contractual arrangements, or technology licenses that give the counterparties “effective control” over the taxpayer or qualifying projects. A PFE is a specified foreign entity (“SFE”) or a foreign-influenced entity (“FIE”).

Specified Foreign Entity (“SFE”). An SFE is any company that is owned (directly or indirectly) more than 50% by the Chinese, Russian, North Korean or Iranian government, by a citizen or national of one of the four countries, or by a company organized or having its principal place of business in one of the four countries and other specific locations or companies listed.

Foreign-Influenced Entity (“FIE”). An FIE is broader in reach and is triggered if an SFE has direct authority to appoint a board member or an executive-level officer, including the president, CEO, COO, CFO, general counsel, or a senior vice president. FIE status may also be triggered: (i) if a single SFE owns at least 25% of the taxpayer (directly or indirectly), (ii) if two or more such entities collectively own 40% or more, or (iii) if one or more SFEs hold at least 15% of the taxpayers outstanding debt (or otherwise exert covenants, governance, veto, or other rights coupled with debt interests to exercise influence as contemplated by forthcoming guidance). Contracts and technology licenses with any SFE counterparties that result in the SFE being deemed to have “effective control” over the taxpayer or project are problematic in that any payments by the taxpayer under such a contract or technology license will make the taxpayer technically an FIE and deny the tax credit on the project to which the contract relates.

Determination Dates. The initial determination for an SFE is made on the first day of the first taxable year that begins after the enactment of the statute (July 4, 2025). Note that FIE is dependent on interacting with an SFE so it is effectively the same date. In future years, the determination of whether a supplier is a PFE is made on the last day of the supplier’s tax year in which it paid or incurred the cost of equipment. As part of this process, you need to determine whether the taxpayer claiming (or selling) the tax credits is an SFE or an FIE as such entities are not entitled to tax credits in years beginning after July 4, 2025.

Did Notice 2026-15 offer clarity on the interpretation of the definition of a foreign-influenced entity?

Notice 2026-15 provides an important clarification on the interpretation of the FIE definition. It states that the Treasury Department and the IRS intend to issue proposed regulations providing that if a taxpayer makes a payment to an SFE under any IP licensing agreement with respect to a project, facility, or component, and the agreement was entered into or modified on or after July 4, 2025, then the SFE will be treated as exercising “effective control” over the project, and the taxpayer will be considered an FIE. If considered an FIE, the applicable project will not qualify for the IRC Section 45Y or 48E credit.

What are the penalties for being out of compliance with the ownership, control and influence FEOC rules?

The penalties for being out of compliance with the FEOC rules pertaining to ownership, control and influence are severe. PFEs, SFEs and FIEs are not entitled to tax credits in years beginning after July 4, 2025. Entities that are effectively controlled by a PFE cannot claim tax credits (or be a transferee).

If an IRC Section 48E tax credit is claimed on a project, the full tax credit would have to be repaid to the US Treasury if the taxpayer makes payments under contracts or technology licenses that give an SFE “effective control” over the taxpayer or project. Any such payment in any of the next 10 years after a project is placed in service would trigger recapture, and this recapture provision would apply to tax credits claimed in tax years starting more than two years after July 4, 2025.

MACR FAQs

How are the steel or iron products identified in the safe harbor tables treated in the MACR calculation?	Steel or iron products identified in the safe harbor tables are disregarded in calculating the MACR.
Can you combine MACR safe harbors?	Yes. The Identification, Cost Percentage and Certification safe harbors can be combined. A taxpayer may also calculate the MACR separately under each method and use the most advantageous one. Although the guidance does not expressly describe every possible combination of safe harbors, it does not prohibit combining the Cost Percentage and Certification safe harbors, and combining safe harbors addresses distinct elements of the MACR calculation (cost allocation versus PFE status).
What are the penalties for getting the material assistance calculations wrong?	The penalties for getting the material assistance calculations wrong are severe. Penalties include (i) an extended IRS audit period of six years after the tax return is filed (rather than the normal three years), (ii) an accuracy related penalty (generally 20%) may apply to any taxpayer that gets the calculation wrong if the taxpayer ends up paying more than 1% less tax than it should have as a result, and/or (iii) full disqualification of the tax credits. For corporations, the penalty would apply if the shortfall in tax payments due to a material assistance miscalculation is at least \$10 million or more than 1%, whichever is less.
Notice 2026-15 references domestic content bonus credit guidance from three prior notices - which should be used for solar projects?	Notice 2026-15 Section 2.04(3) specifically notes the “2023-2025 Safe Harbor Tables” to include “Collectively, the tables provided in sections 5.05, 5.06, 6.02, and 7.02 of Notice 2025-08 (Notice 2025-08 Tables), section 3.02 in Notice 2024-41 for a Hydropower Facility, or a Pumped Hydropower Storage Facility, and section 3.04 in Notice 2023-38 for an Offshore Wind Facility.” The latest applicable tables for solar are found in Notice 2025-08 § 5.05 and § 5.06, and these should be used rather than prior tables found in earlier Notices.
Are projects safe harbored in 2025 subject to MACR rules?	No. Projects that began construction in prior to January 1, 2026 do not have to comply with MACR rules.
Are projects safe harbored in 2026 before July 4, 2026 locked in to 2026 MACR rules?	Yes. Projects that begin construction in 2026 before July 4, 2026 (the last date on which projects can be safe harbored per the OBBBA), are locked into the 40% applicable threshold for 2026 as this required percentage is based on the year in which a project begins construction rather than when it is placed in service.
At what level must the MACR be calculated?	The MACR must be calculated by project owners separately at the level of each “qualified facility,” meaning any part of the project that can be placed in service independently of the other parts.
Does it matter where the polysilicon in solar cells was produced?	No. Project owners only have to focus on a discrete number of “manufactured products” and “manufactured product components” in an IRS table when doing the calculations. For instance, it does not matter where the polysilicon used in solar cells or solar panels was produced as polysilicon is not one of the manufactured product components that factors into the cost ratio calculation.
How do you treat items that are not present in the safe harbor tables?	If an item is not listed in the safe harbor tables, it is disregarded for the MACR calculation.
80/20 rule application	For facilities qualifying under the 80/20 rule (where used components represent no more than 20% of total value), only the direct costs of new MPs and MPCs are considered when calculating the MACR.
Are the MACR tables different for storage projects?	Yes. The thresholds are different for storage projects. They are 55% for such projects that start construction in 2026, increasing 5% per year up to a cap of 75% for storage projects starting construction after 2029. This differs from solar projects that begin at 40% for such projects that start construction in 2026, increasing 5% per year up to a cap of 60% for solar projects starting construction after 2029.

TRANSFERABILITY

If the tax credits are transferred in the future, do the utilized MACR calculations and FEOC compliance also transfer?

Yes. The tax credit amount and applicable FEOC compliance established by the taxpayer utilizing are maintained if the credit is transferred. A business taxpayer who is entitled to a solar ITC on a system that it owns can sell the ITC to another company for cash. The sale must be completed before the tax credit seller and tax credit buyer file their tax returns for the tax credit year.

RESIDENTIAL SOLAR

Do residential solar projects need to be MACR compliant?

It depends. The ITC for residential solar projects under Section 25D expired for any projects not placed in service by the end of 2025. Therefore, these projects would not need to be MACR compliant as MACR only applies to projects that begin construction in 2026 or later.

However, residential solar leasing projects under Section 48E can still receive the ITC and, therefore, will need to be MACR compliant. The One Big Beautiful Bill Act preserved the ability to continue residential solar leasing projects under Section 48E.

TAX RETURN

Do you have to state that you are in compliance with FEOC on your tax return?

Yes. You will have to attach a substantiation statement when filing for the tax credit. For example, “The qualified facility has a Clean Electricity MACR of 63.1%, exceeding the 40% threshold for facilities with beginning of construction in 2026. MACR was calculated using the Identification Safe harbor (§ 4.01), Cost Percentage Safe Harbor (§ 4.02), and Certification Safe Harbor (§ 4.03) of Notice 2026-15, relying on domestic content tables in Notice 2025-08 and supplier certifications (attached). All supporting records retained.”

APPLICABILITY DATES

When are the effective dates of the various FEOC requirements?

MACR. For Internal Revenue Code (“IRC”) Sections 45Y (production tax credit) and 48E (investment tax credit), the material assistance rules apply to projects beginning construction after December 31, 2025. Solar projects that began construction prior to 2025 under IRC Section 48 are not subject to the material assistance rules.

Ownership/Control/Influence. The effective control rules apply to taxable years beginning after July 4, 2025 for IRC Sections 45Y and 48E. The initial determination for an SPE is made on the first day of the first taxable year that begins after the enactment of the status (July 4, 2025). Note that FIE is dependent on interacting with an SPE so it is effectively the same date. For calendar year-end taxpayers, FEOC’s ownership/control/influence rules apply to projects beginning construction after December 31, 2025. In future years, the determination of whether a supplier is a PFE is made on the last day of the supplier’s tax year in which it paid or incurred the cost of equipment.

Pre-OBBBA FEOC. While FEOC rules existing before the OBBBA (i.e., FEOC provisions were contained in the Inflation Reduction Act of 2022), those FEOC rules pertained to the New Clean Vehicle Credit (Section 30D) as it could not be claimed if the battery contained critical minerals or battery components manufactured or assembled by a FEOC as well as indirect impacts on claiming other manufacturing credits. However, pre-OBBBA, FEOC (or FEOC controlled) entities could claim Section 48 or Section 48E tax credits and could provide material assistance to taxpayers. In short, the pre-OBBBA FEOC rules did not have any impact on Section 48/48E tax credits. Rather, the OBBBA expanded FEOC to impact Section 48E in both material assistance and control.

GLOSSARY OF KEY TERMS

Prohibited Foreign Entity (PFE)	An entity with ties to China, Russia, Iran, or North Korea that may not benefit from U.S. renewable energy tax credits or provide certain equipment or influence to qualifying projects. A PFE is an SFE or an FIE.
Specified Foreign Entity (SFE)	A company more than 50% owned (directly or indirectly) by the government, citizens, or businesses of China, Russia, Iran, or North Korea, or otherwise designated under FEOC rules. SFEs automatically qualify as prohibited foreign entities.
Foreign-Influenced Entity (FIE)	A broader classification triggered when a specified foreign entity has ownership, board influence, executive appointment authority, significant debt control, or effective control over a company or project.
Material Assistance Cost Ratio (MACR)	A calculation used to determine how much project equipment cost is attributable to non-prohibited sources. It measures compliance with FEOC material assistance rules and determines eligibility for tax credits.
Material Assistance	Equipment, components, or services supplied by prohibited foreign entities that may disqualify a project from claiming tax credits if thresholds are exceeded.
Qualified Facility	A discrete portion of a renewable energy project that can be placed in service independently and must be evaluated separately for FEOC compliance and MACR calculations.
Manufactured Products (MPs)	Major manufactured equipment used in a solar project (such as modules or inverters) included in MACR calculations for FEOC compliance.
Manufactured Product Components (MPCs)	Components of manufactured products that are included in safe harbor tables and used to calculate material assistance percentages.
Identification Safe Harbor	Permits taxpayers to limit the MPs and MPCs considered for MACR calculations to those listed in the domestic content safe harbor tables; any item not listed is disregarded. MACR-specific tables to be released in the future.
Cost Percentage Safe Harbor	Permits taxpayers to use predefined IRS cost percentages identified in the domestic content safe harbor tables for equipment instead of tracking actual project costs for MACR calculations. Future MACR-specific tables to be released in the future.
Certification Safe Harbor	Allows reliance on signed supplier certifications confirming whether equipment or components are sourced from prohibited foreign entities.
Effective Control	A condition where a foreign entity has contractual, licensing, ownership, or governance influence sufficient to control project or company decisions, potentially triggering FIE status.

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