6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2019-0210; FRL-9997-56-OAR]

Proposed Determinations of Light-duty Vehicle Alternative Greenhouse Gas Emissions Standards for Small Volume Manufacturers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is requesting comment on proposed determinations of alternative light-duty vehicle greenhouse gas emissions standards for small volume manufacturers. The alternative standards are proposed pursuant to small volume manufacturer provisions in EPA's light-duty vehicle greenhouse gas regulations. Four small volume manufacturers have applied for alternative standards: Aston Martin, Ferrari, Lotus and McLaren. The alternative standards in these determinations cover model years 2017-2021.

DATES: Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-HQ-OAR-2019-0210, by any of the following methods:

- Federal eRulemaking Portal: https://www.regulations.gov/ (our preferred method). Follow the online instructions for submitting comments.
- E-mail: a-and-r-Docket@epa.gov. Include Docket ID No. EPA-HQ-OAR-2019-0210 in the subject line of the message.
- Fax: (202) 566-9744 Include Docket ID No. EPA-HQ-OAR-2019-0210 on the cover of the fax.

- Mail: U.S. Environmental Protection Agency, EPA Docket Center, OAR, Docket EPA-HQ-OAR-2019-0210, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- Hand Delivery / Courier: EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m. – 4:30 p.m., Monday – Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to https://www.regulations.gov/, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Christopher Lieske, Office of Transportation and Air Quality, Assessment and Standards Division, U.S. Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105. Telephone: (734) 214–4584. Fax: (734) 214–4816. Email address: lieske.christopher@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2019-0210, at https://www.regulations.gov (our preferred method), or the other methods identified in the ADDRESSES section. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the

official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit https://www.epa.gov/dockets/commenting-epa-dockets.

II. Background

EPA's light-duty vehicle greenhouse gas (GHG) program for model years (MYs) 2012-2016 provided a conditional exemption for small volume manufacturers (SVMs) with annual U.S. sales of less than 5,000 vehicles due to unique feasibility issues faced by these SVMs.[1] The exemption was conditioned on the manufacturer making a good faith effort to obtain credits from larger volume manufacturers. For the MY 2017-2025 light-duty vehicle GHG program, EPA proposed, took public comment on, and finalized specific regulations allowing SVMs to petition EPA for alternative standards, again recognizing that the primary program standards may not be feasible for SVMs and could drive these manufacturers from the U.S. market.[2] EPA acknowledged that SVMs may face a greater challenge in meeting CO_2 standards compared to large manufacturers because they only produce a few vehicle models, mostly focused on high performance sports cars and luxury vehicles. SVMs have limited product lines across which to average emissions, and the few vehicles they produce often have very high CO_2 levels on a per vehicle basis. EPA also noted that the total U.S. annual vehicle sales of SVMs are much less than 1 percent of total sales of all manufacturers and contribute minimally to total vehicular GHG emissions, and foregone GHG reductions from SVMs likewise are a small percentage of total industry-wide reductions. EPA received only supportive public comments on allowing

[1] 75 FR 25419-25421, May 7, 2010.
[2] 77 FR 62789-62795, October 15, 2012.

alternative standards for SVMs, including from SVMs, their trade associations, and dealers.[3] EPA adopted a regulatory pathway for SVMs to apply for alternative GHG emissions standards for MYs 2017 and later, based on information provided by each SVM on factors such as technical feasibility, cost, and lead time. [4]

The regulations outline eligibility criteria and a framework for establishing SVM alternative standards. Manufacturer average annual U.S. sales must remain below 5,000 vehicles to be eligible for SVM alternative standards.[5] The regulations specify the requirements for supporting technical data and information that a manufacturer must submit to EPA as part of its application.[6] The regulations specify that an SVM applying for an alternative standard provide the following technical information:

- The CO_2 reduction technologies employed by the manufacturer on each vehicle model, or projected to be employed, including information regarding the cost and CO_2-reducing effectiveness. Include technologies that improve air conditioning efficiency and reduce air conditioning system leakage, and any ''off-cycle'' technologies that potentially provide benefits outside the operation represented by the Federal Test Procedure (FTP) and the Highway Fuel Economy Test (HFET).
- An evaluation of comparable models from other manufacturers, including CO_2 results and air conditioning credits generated by the models.
- A discussion of the CO_2-reducing technologies employed on vehicles offered outside of the U.S. market but not available in the U.S., including a discussion as to why those

[3] Docket No. EPA–HQ–OAR–2010–0799
[4] 40 CFR 86.1818-12(g).
[5] 40 CFR 86.1818-12(g)(1).
[6] 40 CFR 86.1818-12(g)(4).

vehicles and/or technologies are not being used to achieve CO_2 reductions for vehicles in the U.S. market.

- An evaluation, at a minimum, of the technologies projected by the EPA in a final rulemaking as those technologies likely to be used to meet greenhouse gas emission standards and the extent to which those technologies are employed or projected to be employed by the manufacturer.
- The most stringent CO_2 level estimated to be feasible for each model, in each model year, and the technological basis for this estimate.
- For each model year, a projection of the lowest feasible sales-weighted fleet average CO_2 value, separately for passenger automobiles and light trucks, and an explanation demonstrating that these projections are reasonable.
- A copy of any application, data, and related information submitted to the National Highway Traffic Safety Administration (NHTSA) in support of a request for alternative Corporate Average Fuel Economy standards filed under 49 CFR Part 525.

SVMs may apply for alternative standards for up to five model years at a time. The GHG standards that EPA establishes for MY 2017 may optionally be met by the manufacturers in MYs 2015-2016.[7] SVMs may use the averaging, banking, and trading provisions to meet the alternative standards, but may not trade credits to another manufacturer.[8] The process for approving an SVM application includes a public comment period of 30 days after which EPA will issue a final determination establishing alternative standards for the manufacturer, as appropriate.[9]

[7] See 40 CFR 86.1818-12(g). Manufacturers may opt to comply with their MY 2017 standard in MYs 2015 and 2016 retroactively in lieu of the Temporary Leadtime Alternative Allowance Standards used in these model years.
[8] 40 CFR 86.1818-12(g)(6).
[9] 40 CFR 86.1818-12(g)(5).

SVMs have applied for alternative standards due to continued concern regarding their abilities to meet the primary program GHG standards. Given that the current production MY for most manufacturers is 2019, with MY 2020 starting soon, these alternative standards, if adopted, will provide immediate relief for SVMs as authorized under the regulation. The GHG program also allows for a 3-year carry-back provision, which is within the timeframe of this notice and the MYs under consideration.

The Energy Policy and Conservation Act (EPCA), governing the establishment of Corporate Average Fuel Economy (CAFE) standards, contains separate small volume manufacturer alternative standards provisions that are administered by the National Highway Traffic Safety Administration (NHTSA) independent of EPA's SVM alternative standards provisions.[10] Under EPCA's CAFE provisions, SVMs meeting the CAFE eligibility criteria may petition NHTSA for less stringent alternative CAFE standards. Manufacturers generally are also able to pay fines in lieu of meeting the CAFE standards, which is not an option in EPA's GHG program under the Clean Air Act. While eligible SVMs may apply for alternative standards under the CAFE program, and some of the SVMs covered by this decision document have applied for alternative CAFE standards, none of those SVMs have been granted alternative CAFE standards for MYs 2017-2021.[11]

III. Manufacturer Requested GHG Standards

Four manufacturers have applied for SVM alternative standards: Aston Martin, Ferrari, Lotus and McLaren.[12] Each manufacturer provided an application to EPA that contains confidential

[10] 49 U.S.C. 32902(d). Implementing regulations may be found in 49 CFR Part 525. EISA limits eligibility to manufacturers with worldwide production of fewer than 10,000 passenger cars.

[11] See https://one.nhtsa.gov/cafe_pic/CAFE_PIC_Mfr_LIVE.html

[12] Ferrari was previously owned by Fiat Chrysler Automobiles (FCA) and petitioned EPA for operationally independent status under 40 CFR 86.1838-01(d). In a separate decision EPA granted this status to Ferrari starting with the 2012 model year, allowing Ferrari to be treated as an SVM under EPA's GHG program. Ferrari has since become an independent company and is no longer owned by FCA.

business information (CBI). Each manufacturer also provided a public version of its application with the CBI removed, which EPA has placed in the public docket established for this proceeding. As part of their applications, the SVMs requested specific alternative GHG standards for five model years starting with MY 2017 based on their unique projected product mix. Table 1 below provides the standards requested by the manufacturers.

Table 1: Manufacturer Requested GHG Standards (g/mile)

Manufacturer	MY 2017*	MY 2018	MY 2019	MY 2020	MY 2021
Aston Martin	431	396	380	374	376
Ferrari	421	408	395	386	377
Lotus	361	361	344	341	308
McLaren	372	372	368	360	334

* Manufacturers may optionally meet MY 2017 standards in MYs 2015-2016 (40 CFR 86.1818-12(g).

In May 2017, subsequent to submitting a request for SVM alternative standards, Lotus was acquired by Zhejiang Geely Holding Group (Geely) which also owns Volvo Car Company. Under the SVM regulations regarding eligibility,[13] Lotus remains eligible for alternative standards for MY 2017. However, it is possible that Lotus will no longer be eligible for SVM standards starting in MY 2018 as Lotus may exceed the 5,000 vehicles eligibility threshold under

[13] 40 CFR 86.1818-12(g)(1)(i).

the aggregation provisions of the regulations, based upon sales volume figures and other information provided by the manufacturer for MY 2018 which has not yet been finalized. While EPA is proposing alternative standards for Lotus through MY 2021, in order to use the alternative standards for MYs 2018-2021 Lotus would need to either demonstrate that they remain eligible for SVM alternative standards under the aggregation provisions or apply and be granted operational independence status.[14] EPA is not including any determination of SVM eligibility for Lotus for MY 2018 and beyond in this proposed determination notice.

The regulations require SVMs to submit information, including cost information, to EPA as part of their applications, as detailed above. Each SVM provided its technical basis for the requested standards including a discussion of technologies that could and could not be feasibly applied to their vehicles in the time frame of the standards. As noted above, the non-CBI information provided by the SVMs is included in the docket for this proceeding. However, much of the data and information provided by the manufacturers regarding future vehicles and technology projections is claimed as CBI and not included in the public versions of the applications.[15]

The MY 2017-2025 light-duty GHG program includes opportunities to generate air conditioning and off-cycle emissions reduction credits that can be used as part of a manufacturer's strategy in meeting standards. Each SVM provided EPA with an estimate of its plans for use of air conditioning and off-cycle credits in addition to their CO_2 emissions measured over the 2-cycle compliance test (FTP and HFET) for each model year and these credits are reflected in the performance levels each manufacturer has projected. The breakdown of each manufacturer's use of credits was submitted as CBI by the manufacturers and not included in the public materials.

[14] 40 CFR 86.1838-01(d).

[15] For more information about how EPA addresses claims of Confidential Business Information, see 40 CFR part 2, subpart B.

The alternative standards would be unique for each manufacturer and the regulations providing for 5-year credit carry-forward and 3-year credit carry-back provisions would apply. As noted above, SVMs would not be able to trade (i.e., sell) credits to other manufacturers but would be able to purchase credits from other manufacturers not in the SVM alternative standards program. The standards would be manufacturer fleet averages, but not footprint based, as manufacturers did not request footprint-based standards and EPA believes the level of complexity added by making the unique SVM standards footprint based is not warranted given the manufacturers' limited product offerings. For example, the number of base vehicle models in SVMs' fleets range from one to four models. Also, in setting unique standards for SVMs, the product plans of each manufacturer are necessarily considered by EPA in the standard setting and so footprint-based standards are unnecessary.

IV. EPA Proposed Determinations of SVM Alternative Standards

The SVM alternative standards provisions in the MY 2017-2025 rule provide for a case-by-case approach reflecting the unique product offerings of each manufacturer. The preamble to the 2012 final rule discusses how EPA would set SVM standards, including several factors to consider in determining what CO_2 standards are appropriate for a given SVM's fleet. These factors include the level of technology applied to date by the manufacturer, the manufacturer's projections for the application of additional technology, CO_2 reducing technologies being employed by other manufacturers including on vehicles with which the SVM competes directly and the CO_2 levels of those vehicles, cost information, and the technological feasibility and reasonableness of employing additional technology not projected by the manufacturer in the time-frame for which standards are being established. EPA also considers opportunities to generate A/C and off-cycle credits that are available to the manufacturer. Lead time is a key consideration both for the initial

years of the SVM standard, where lead time would be shorter (or in fact has passed, as discussed below), and for the later years where manufacturers would have more time to achieve additional CO_2 reductions.[16]

The goal of the program is to ensure that SVMs make continued improvements to reduce GHG emissions, while recognizing that they might not be able to meet the primary program standards due to their limited product lines and the types of vehicles they produce.[17] With this program goal in mind, EPA has considered the technical, cost, and other information provided by each SVM regarding its unique product plan strategy, and the alternative standards requested by the SVMs.

The CO_2 emissions for vehicles produced by SVMs are currently well above their primary program GHG targets but they are not out of step with some other vehicles produced by large volume manufacturers, as shown in Figure 1 below. As we discussed above, although emissions may be comparable in some cases to vehicles produced by other manufacturers, SVMs have the additional challenge of not being able to average emissions across a diverse product line, as is the case for larger manufacturers. The SVM alternative standards help provide a level playing field between the SVMs and large manufacturers that produce vehicles in the same market segments. The SVM models are indicated by the "+" markers. Given their higher baseline CO_2 emissions, these high performance and luxury vehicles are likely to continue to have higher CO_2 levels relative to the industry-wide fleet average as the fleetwide standards become more stringent.

[16] 77 FR 62792, October 15, 2012.
[17] 77 FR 62790, October 15, 2012.

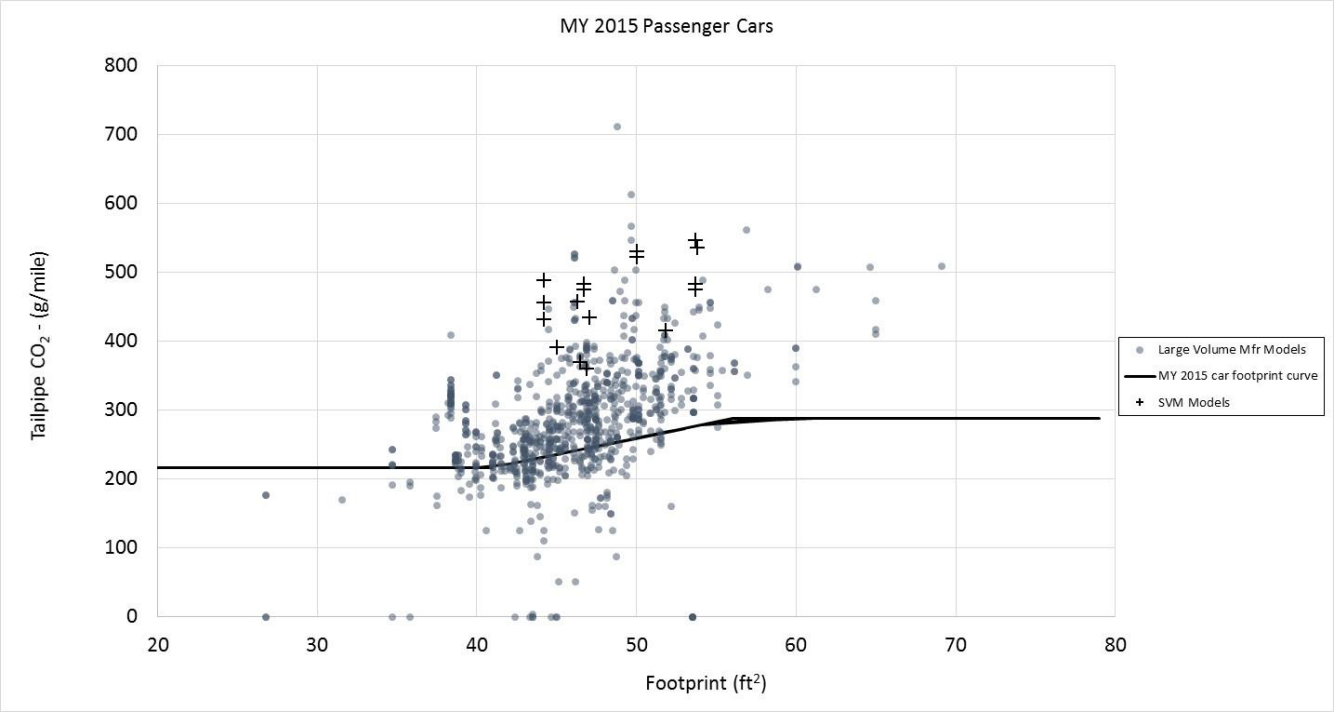

Figure 1: Model Year 2015 Tailpipe CO_2 Emissions Levels for Passenger Cars

For the first four model years of the program, MYs 2017-2020, EPA is proposing to adopt the manufacturers' requested alternative standards. These model years are completed, underway, or close to underway (MY 2020 can start as early as January 2, 2019) and therefore lead-time is a primary consideration. Based on the absence of or very minimal lead-time available for these model years and EPA's review of the manufacturers' submissions and assessment of the capability of each product and its associated technology adoption, EPA believes this approach is appropriate for MYs 2017-2020.

For MY 2021, EPA considered the levels requested by the manufacturers and compared them to levels each SVM would achieve under an approach where the manufacturers achieved year-over-year reductions from their MY 2017 baseline through MY 2021, analogous to the overall declining fleetwide standards in the primary program. The primary program standards for

passenger cars are equivalent to approximately five percent year-over-year improvements. Although the regulations do not mandate a specific year-over-year percent reduction for SVMs, EPA considered an approach based on a minimum level of steady improvement of three percent year-over-year emissions reduction from each SVM's baseline CO_2 levels. This pace of change is not as aggressive as the annual improvement in the passenger car standards in the primary program, but EPA believes it represents a reasonable minimum pace of meaningful improvements for SVMs, given the SVMs' limited product lines and limited ability to average among high and low emitting vehicle models. Historically, EPA has set standards designed to reduce emissions while providing vehicle manufacturers compliance flexibility through averaging. Table 2 below provides the projected CO_2 levels for each manufacturer based on three percent annual improvements, using MY 2017 as the baseline or starting model year.

Table 2: Three Percent Annual Improvement from MY 2017 Baseline (g/mile)

Model year	Aston Martin	Ferrari	Lotus	McLaren
2017 Baseline	431	421	361	372
2018	418	408	350	361
2019	406	396	340	350
2020	393	384	329	340
2021	382	373	320	329

Table 3 below compares the levels projected for MY 2021 under the three percent per year reductions with the levels requested by the manufacturers. For Aston Martin and Lotus, their requested standards for MY 2021 are more stringent than the levels represented by the three percent year-over-year reductions, as shown in Table 3. EPA believes that the requested MY 2021 standards for Aston Martin and Lotus are appropriate, and no adjustment is needed. For Ferrari and McLaren, EPA believes that the MY 2021 standards should reflect the 3 percent year-over-year reductions shown in Table 3. This approach would require Ferrari and McLaren to achieve a MY 2021 standard that is minimally more stringent than that requested by the manufacturers. The differences are small, 5 g/mile or less, and based on EPA's review of the information provided by the manufacturers, EPA believes this additional emissions reduction can be achieved through the use of credits, including air conditioning and off-cycle credits, and the use of program flexibilities including credit carry-forward and credit carry-back within the lead-time available. EPA believes that MY 2021 standards based on 3 percent year-over-year reductions represent reasonable progress over time for SVMs as discussed above and a reasonable balance between the program goal of GHG reductions and the degree of challenge the standards pose to SVMs, based on EPA's assessment of the information, including cost information, provided to the agency.

Table 3: Comparison of Three Percent per Year Reductions with SVM's Projections for MY 2021 (g/mile)

Model year	Aston Martin Requested Standards	Aston Martin 3% per year reduction	Ferrari Requested Standards	Ferrari 3% per year reduction	Lotus Requested Standards	Lotus 3% per year reduction	McLaren Requested Standards	McLaren 3% per year reduction
2021	**376**	382	377	**373**	**308**	320	334	**329**

In the proposed "Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021-2026 Passenger Cars and Light Trucks" issued by EPA and the National Highway Traffic Safety Administration, EPA proposed revised less stringent GHG standards for MYs 2021-2026; the agencies also took public comment on a wide range of alternative stringencies.[18] EPA recognizes that the three percent annual improvement approach for SVM alternative standards for MY 2021 described above differs from the approach for the primary program for MY 2021 in the SAFE Vehicles proposed rule where EPA has proposed to retain the MY 2020 standards for MYs 2021-2026. However, the proposed SVM alternative standards for MY 2021 would remain significantly less stringent than the primary program standards the SVMs would be required to meet under the proposed SAFE Vehicles standards and represent significant relief for the SVMs even if the SAFE Vehicles proposal is adopted. EPA acknowledges that the standard requested by Aston Martin for MY 2021 is 2 g/mile less stringent than the standard requested for MY 2020, but believes the standard requested for MY2021 is appropriate since the MYs 2017-2021 standards represent steady progress overall for Aston Martin with total reductions of 55 g/mile over those five model years. For Aston Martin, similar to the SAFE proposal, we are not proposing more stringent standards, or even flatlined standards for MY 2021, because of the significant reductions projected by Aston Martin to occur prior to MY 2021.

V. Summary of Draft Alternative SVM Standards

A summary of the draft case-by-case alternative SVM standards and associated per-manufacturer GHG reductions is provided in Table 4. As discussed above, the draft MY 2017-2020 standards are the manufacturers' requested alternative standards due to lead time concerns. For Aston Martin and Lotus, the draft MY 2021 standards also are their requested standards. The MY 2018-2021 standards for Lotus are conditional based on its ability to either demonstrate that it remains

[18] 83 FR 42986, August 24, 2018

eligible for SVM alternative standards under the program's aggregation provisions or apply and be granted operational independence status, as discussed in Section III above. For Ferrari and McLaren, the draft MY 2021 standards are based on three percent year-over-year reductions from their respective MY 2017 baseline. EPA requests comment on the draft standards shown in Table 4 and the approach used to derive the standards discussed in Section IV above.

Table 4: Summary of Draft Standards and Per-Manufacturer GHG Reductions (g/mile)

	Aston Martin	Ferrari	Lotus	McLaren
MY 2017	431	421	361	372
MY 2018	396	408	361	372
MY 2019	380	395	344	368
MY 2020	374	386	341	360
MY 2021	376	373	308	329
g/mile Reduction	55	48	53	43
% Reduction (MY2017 to MY2021)	12.8%	11.4%	14.7%	11.6%

EPA notes that in the SAFE Vehicles proposed rule referenced above, the agencies proposed to eliminate credits based on air conditioning refrigerant controls and requested comment on eliminating off-cycle credits beginning in MY 2021. If EPA finalizes any program changes that would restrict the use of those credits in MY 2021 where the SVM compliance is predicated on

the use of those credit provisions, SVMs would have the option of applying for a further revised alternative standard for MY 2021.

Dated: July 24, 2019.

Andrew R. Wheeler,

Administrator.

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