



U.S. DEPARTMENT OF
ENERGY

Interpretive Guidance on Foreign Entities of Concern

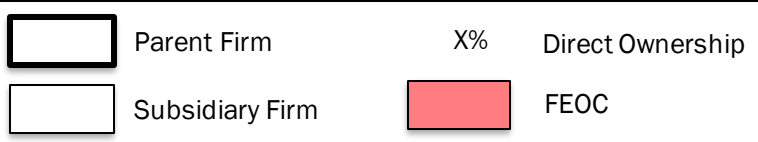
May 2024



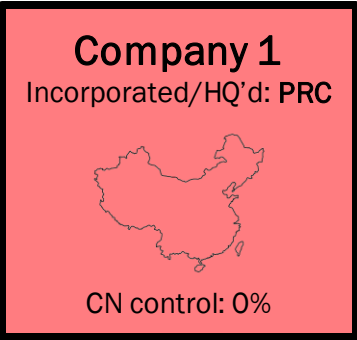
FEOC Guidance

- On May 3, 2024, DOE released final [interpretive guidance](#) on the definition of a Foreign Entity of Concern (FEOC).
- Treasury and the IRS simultaneously released [final regulations](#) on clean vehicle credits, which in part implements the FEOC requirements of the §30D Clean Vehicle Tax Credit. In addition, Treasury and IRS have previously released related sub-regulatory guidance.
- Guidance aims to encourage diversified and resilient supply chains, support growth of the clean vehicle industry, and provide clarity and certainty to U.S. manufacturers.
- In response to public comments, DOE's final guidance expounds on key definitions, such as those for "senior political officials," clarifies the process for calculating control, and provides edits to the licensing and contracting provisions.

FEOC status of U.S.-incorporated subsidiaries

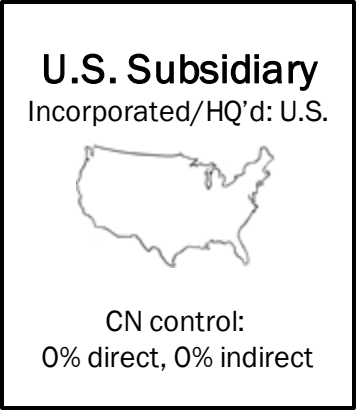


Scenario 1: U.S. subsidiary of firm incorporated in covered nation (CN) but with no CN government control at any level



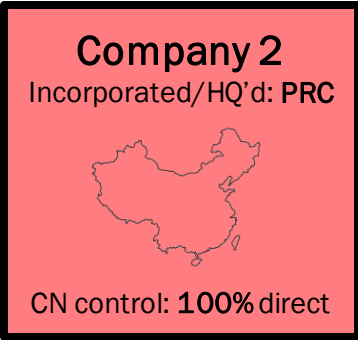
FEOC by jurisdiction

100%



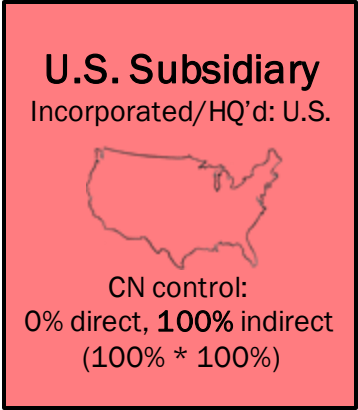
Non-FEOC

Scenario 2: U.S. subsidiary of firm incorporated in CN and controlled by government of CN



FEOC by jurisdiction
and gov't control

100%



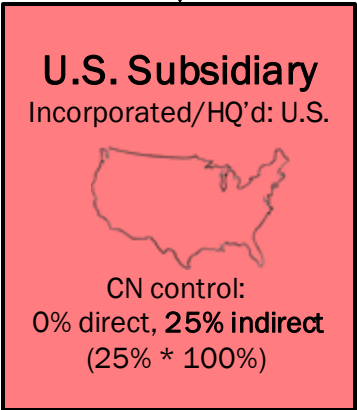
FEOC by gov't control

Scenario 3a: U.S. subsidiary wholly-owned by firm outside of CN jurisdiction, but controlled by CN government



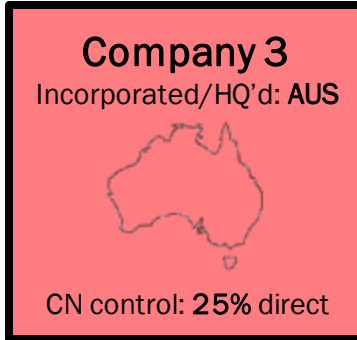
FEOC by gov't control

100%



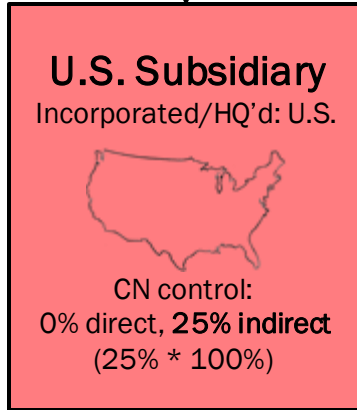
FEOC by gov't control

Scenario 3b: Same U.S. subsidiary, but controlled with a majority stake, which is treated as equivalent to 100% ownership and does not dilute control



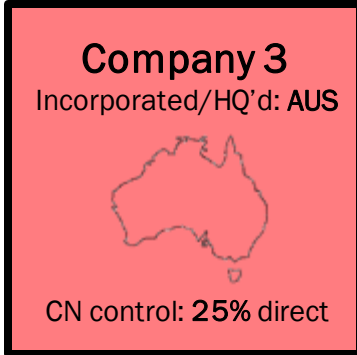
FEOC by gov't control

50%+



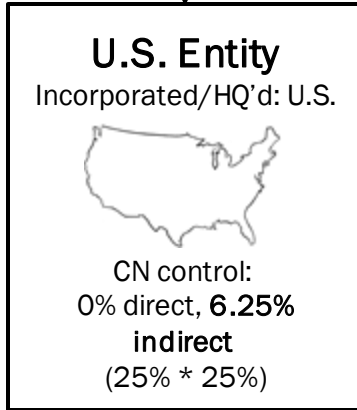
FEOC by gov't control

Scenario 3c: Same U.S. entity, but controlled with a minority stake, diluting indirect government control



FEOC by gov't control

25%



Non-FEOC

DOE's FEOC guidance is as follows:

1. That an entity **incorporated in, headquartered in, or performing** the relevant activities in a covered nation (PRC, Russia, Iran, N. Korea) be classified as a FEOC.
2. That a company with **at least 25 percent voting rights, board seats, or equity interests held—directly or indirectly—**by the government of a covered nation be classified as a FEOC, regardless of where the relevant activities occur.
 - DOE proposes rules and provides examples for calculating control
 - Government of a covered nation includes national and subnational governments, government agencies or instrumentalities, dominant or ruling political parties (e.g., CCP), and current and former senior political officials
3. That if a company operating outside a covered nation enters into a contract with or licenses technology from a FEOC, they **must retain certain rights over their operations** for their vehicles to qualify under 30D.

<https://www.federalregister.gov/documents/2024/05/06/2024-08913/interpretation-of-foreign-entity-of-concern>