

MAY 2, 2022



The Honorable Gina Raimondo
Secretary
U.S. Department of Commerce
1401 Constitution Avenue, NW
Washington, DC 20230

PUBLIC DOCUMENT

Case No.: A-570-979, C-570-980
CIRC-Anti-Circumvention Inquiry
CIRC-From Cambodia 2022
CIRC-From Malaysia 2022
CIRC-From Thailand 2022
CIRC-From Vietnam 2022
ITA/E&C/AD/CVD Operations

RE: Request for a Negative Preliminary Determination

Dear Secretary Raimondo:

As several parties articulated, the U.S. Department of Commerce had clear legal authority and a factual basis to reject Auxin Solar's anti-circumvention petition because (i) Commerce has already determined that solar cell manufacturing is not minor or insignificant, and (ii) initiation of an investigation would not be appropriate given the foreseeable adverse impact on the domestic solar industry and our nation's ability to address climate change. Having now initiated an investigation, Commerce can limit the damage by issuing a negative preliminary determination once the period for providing comments, new factual information, and rebuttal has transpired. By that time, it will be even more clear that solar cell manufacturing greatly exceeds minor or insignificant processing and that continuing this case would not be appropriate.

Importantly, Commerce has explicit authority to issue a preliminary determination as early as the day an anti-circumvention investigation is initiated, i.e., "[t]he Secretary may publish notice of a preliminary determination concurrently with the notice of initiation of a circumvention inquiry under paragraph (b) or (d) of this section," see 19 C.F.R. § 351.226(g)(1). Thus, Commerce's regulations authorize the issuance of a preliminary determination based solely on information contained within the petition. In this case, however, Commerce will have significantly more information, including not only the petition but also detailed factual information submitted by several respondents and any rebuttal information submitted by petitioner. Commerce's authority to issue a preliminary determination once the comment and rebuttal period has closed in this case is thus unassailable.

Regarding appropriateness, the Department must also be aware of the severe damage this investigation is having on the U.S. solar industry. As a result of this case, solar installation forecasts for 2022 and 2023 are being cut by 46%. SEIA also anticipates a loss of 24 gigawatts of planned solar capacity over the next two years, which will lead to an additional 364 million metric tons of carbon emissions by 2035.

MAY 2, 2022



In addition, based on the attached SEIA Solar Industry Impact Survey (**Attachment A**),¹ including responses from more than 730 American solar companies, a total of 318 projects accounting for 51 GW of solar capacity and 6 GWh of attached battery storage are being cancelled or delayed. Fully \$52 billion of private sector investment is at risk, and more than 80% of survey respondents expect severe or devastating impacts from this investigation. SEIA also estimates that imposition of anti-circumvention tariffs will result in the loss of 100,000 American solar jobs, with more than 16,000 of these jobs in manufacturing.

The U.S. solar industry is already suffering greatly because of the mere initiation of this circumvention inquiry. The uncertainty regarding potential duty liability and Commerce's regulations authorizing the collection of cash deposits retroactive to the date the initiation notice was published has caused a freezing of much of the module supply, leading to project delays and cancellations. It is thus imperative that Commerce quickly issue a negative preliminary determination, to restore at least some level of certain to the market, which is necessary for solar projects to move forward and the U.S. solar industry to thrive.

We urge you to exercise your clear legal authority and, based on a factual record which will significantly exceed the minimum requirements, render a negative preliminary determination once the comment and rebuttal period has closed. This will avoid catastrophic and unnecessary harm to both the U.S. solar industry and our nation's ability to address climate change.

Thank you in advance for your consideration of this critically important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Abigail Ross Hopper", is written over a light blue horizontal line.

Abigail Ross Hopper
President and CEO

Attachment

¹ Available at https://www.seia.org/sites/default/files/2022-04/FINAL%20Auxin%20Impact%20Analysis%202022-04-26_0.pdf.

Attachment A

Impact of the Auxin Solar Tariff Petition

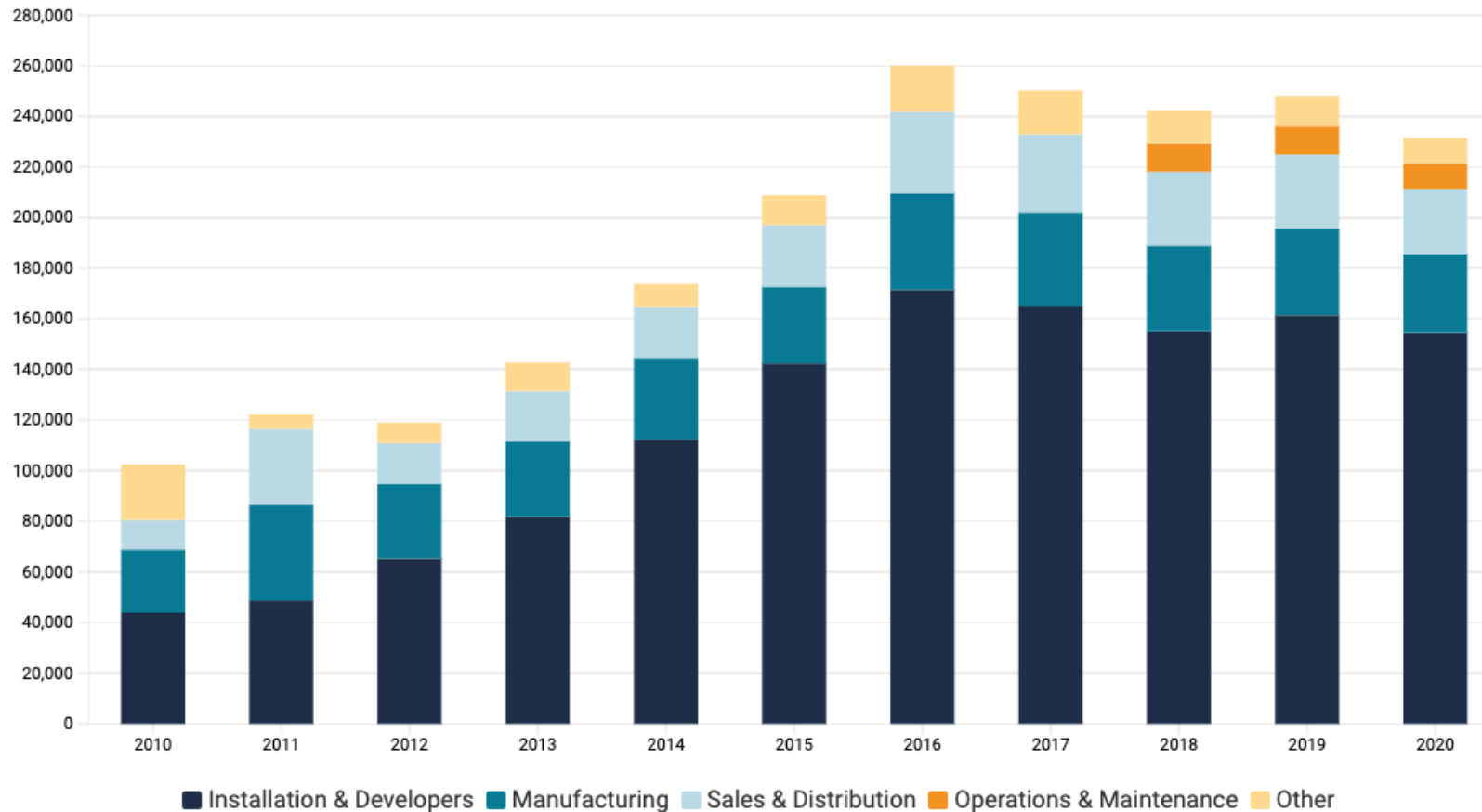
Solar Industry Impacts from U.S. Department of Commerce Investigation into Imports of Crystalline Silicon Photovoltaic Modules and Cells from Cambodia, Malaysia, Thailand and Vietnam

April 26, 2022



Background: Solar is an Economic Engine

U.S. Solar Workers by Job Category



- As of 2020, more than **230,000 Americans** work in solar at more than **10,000 companies** in every U.S. state.
- In 2021, the solar industry generated nearly **\$33 billion of private investment** in the American economy.

Source: National Solar Jobs Census 2020

Methodology

- Content that follows is based on results from two surveys and a separate impacts analysis.
- **General Survey**
 - This survey seeks to measure impacts of Dept. of Commerce's decision to take up the Auxin anti-circumvention petition on solar companies' business and employment expectations in 2022.
 - 730 responses collected between March 31 and April 21 from SEIA member and non-member companies.
 - From the 730 responses, we matched 596 business locations from SEIA's database of companies active in the U.S. solar industry. These responses make up all state-level impact analysis presented.



Methodology

Project-Level Survey

- This survey focuses on impacts to specific utility-scale projects (generally larger than 1 MWac).
- Responses for this survey were collected between March 31st and April 21st from SEIA members and non-members.
- Multiple responses concerning the same project were identified and deduplicated such that the results represent impacts to 318 projects across 39 states.
- Projects reported as complete, or that had modules delivered or that will receive modules not covered by this proceeding were filtered out of this analysis.
- Of the 318 projects reported as impacted, 85 were matched to projects reported by the Energy Information Administration (EIA) as of the end of March 2022.

Impacts Analysis

- SEIA's Research team conducted this analysis the week of April 18 – 22.
- The analysis aims to assess the impacts of constrained module supply on previously-expected U.S. solar deployment, represented by the baseline forecast presented in SEIA/Wood Mackenzie *US Solar Market Insight 2021 Year in Review*, released in early March 2022.
- The analysis assumes an affirmative decision on the Auxin petition, with tariffs imposed in the 50% - 250% range.
- Imported module supply from the named countries is sharply restricted (though not entirely eliminated), with global capacity outside the named countries expanding over time, in line with previously planned factory construction/expansion timelines.
- Existing and future module and cell supply data sourced from U.S. Customs and Border Protection, SEIA/Wood Mackenzie *US Solar Market Insight* and public announcements.



Survey Results

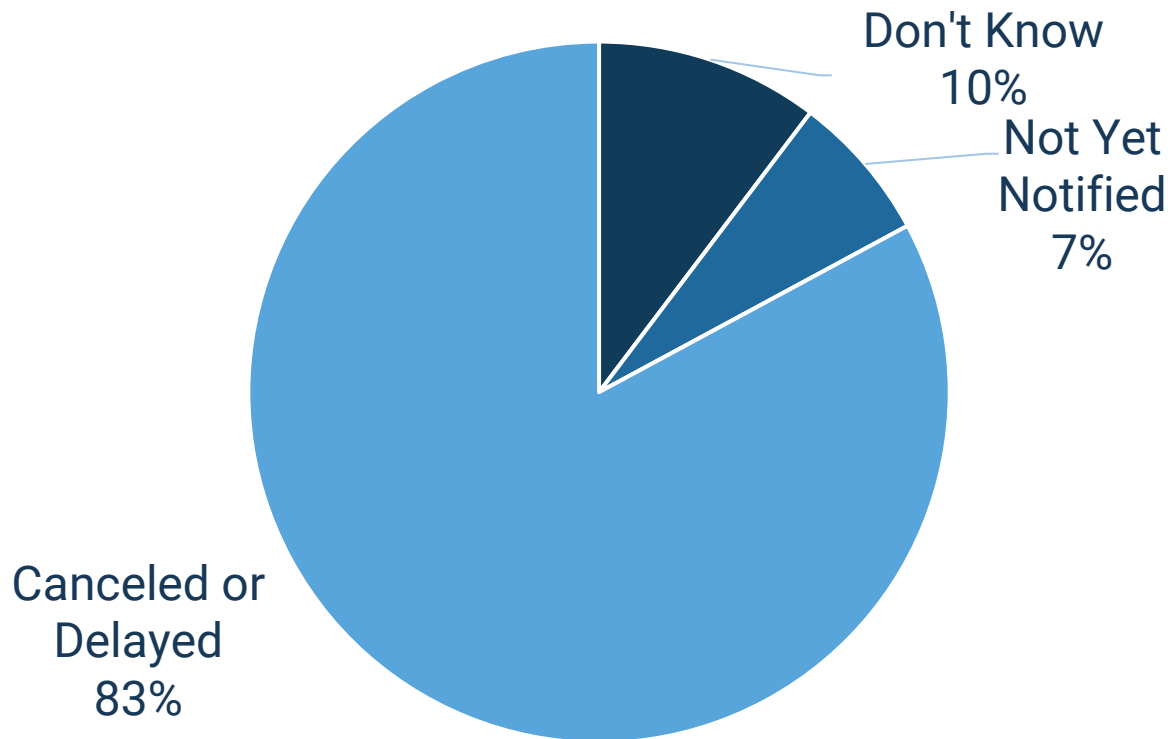
Data as of 4/21/2022

730 survey responses from solar energy and energy storage companies

596 company locations matched to survey responses

If your company purchases or uses PV modules, have you received indication that your expected module supply has been delayed or canceled?

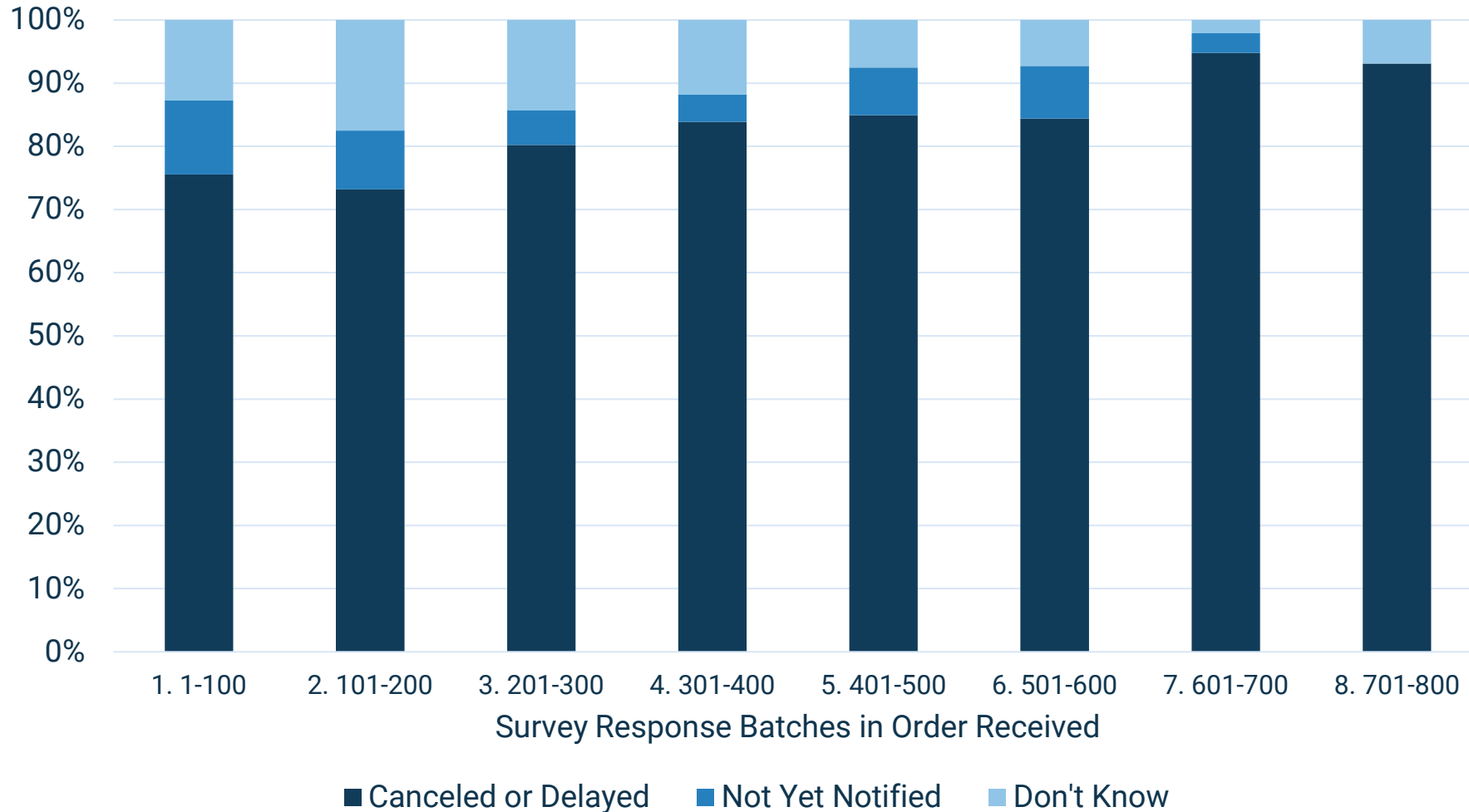
Current Module Supply Status



Four-fifths

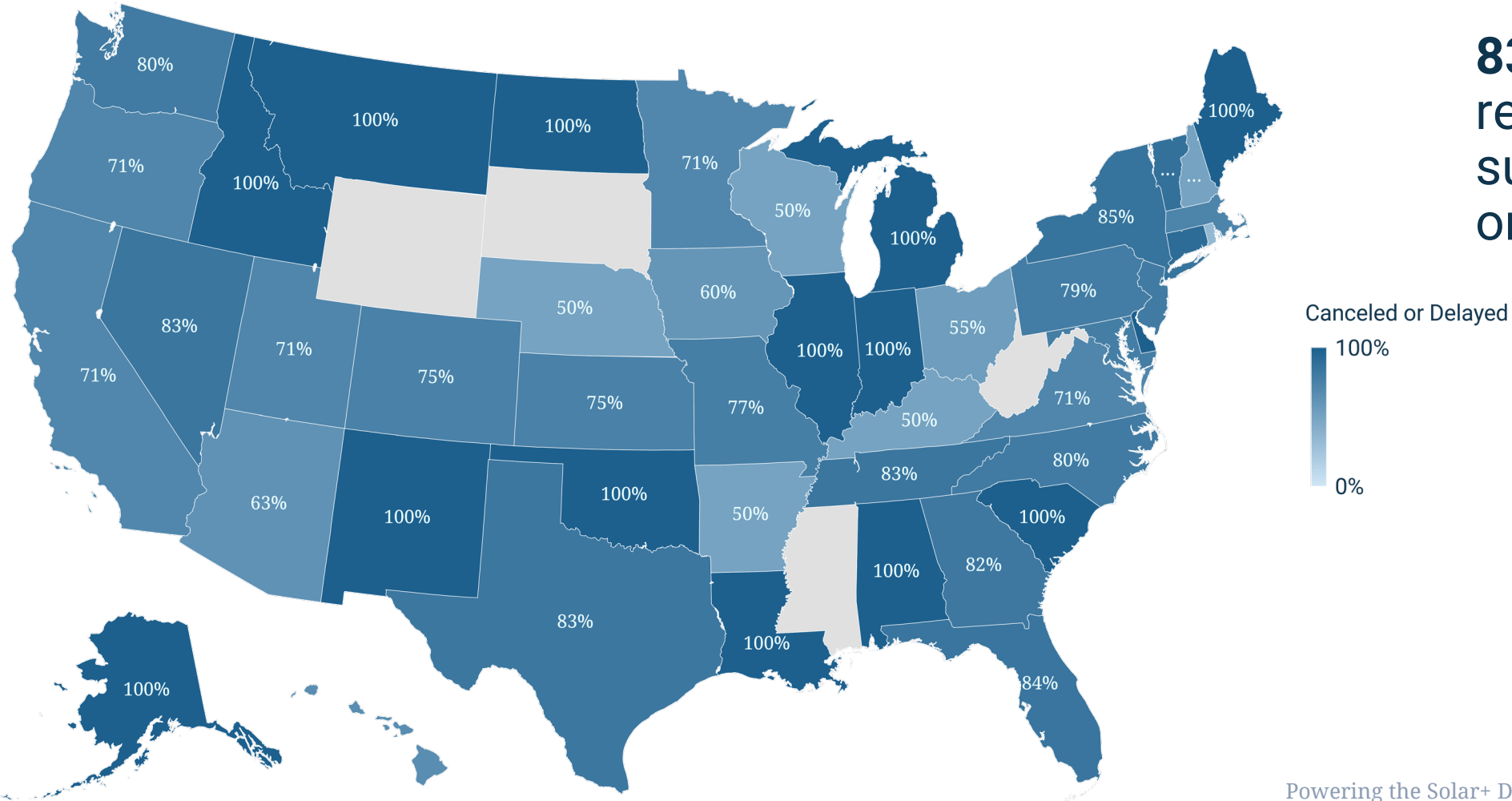
of respondents that purchase or use modules report canceled or delayed module supply.

If your company purchases or uses PV modules, have you received indication that your expected module supply has been delayed or canceled?



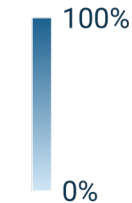
Reported
cancellations
and delays
increasing
over time

Percent of Respondents Reporting Delayed or Canceled Module Supply



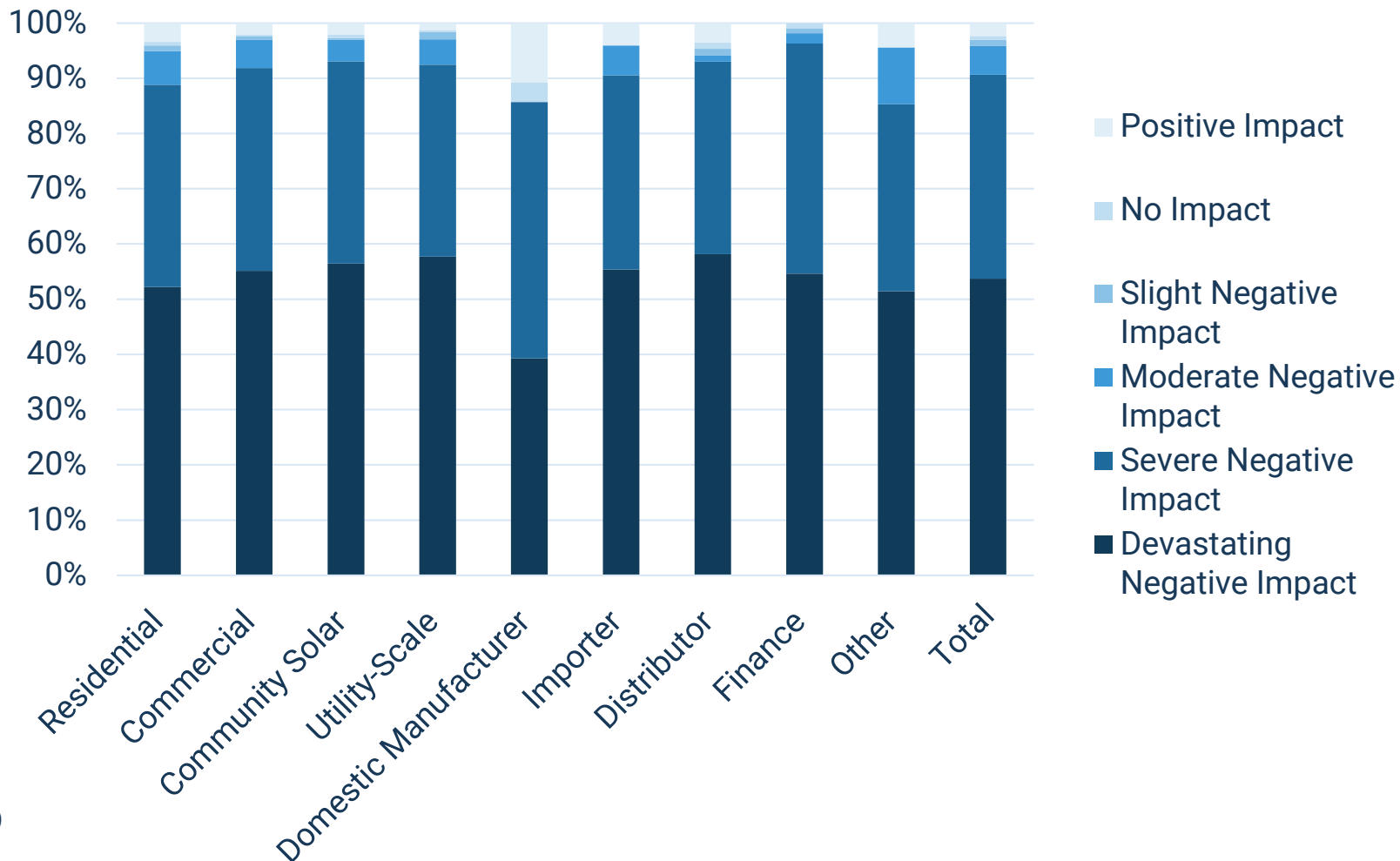
83% of respondents report module supply cancellation or delay

Canceled or Delayed



How do you expect this investigation into imports from Cambodia, Malaysia, Thailand and Vietnam to impact your U.S. business in 2022?

Expected Impact on Solar Business by Company Type



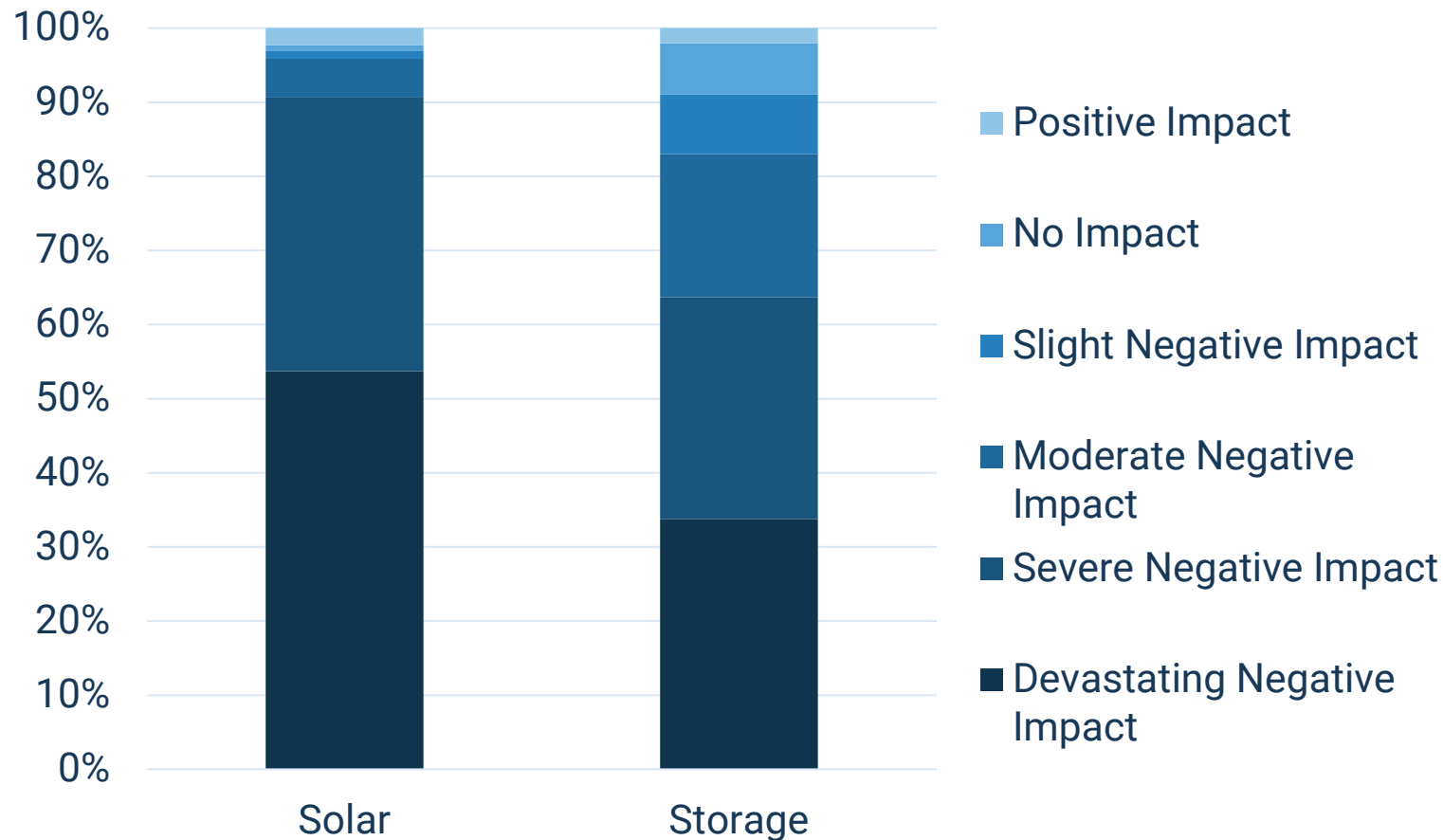
Companies expect damage across the value chain.

80% of domestic manufacturers

responding to the survey expect severe or devastating impacts.

How do you expect this investigation into imports from Cambodia, Malaysia, Thailand and Vietnam to impact your U.S. business in 2022?

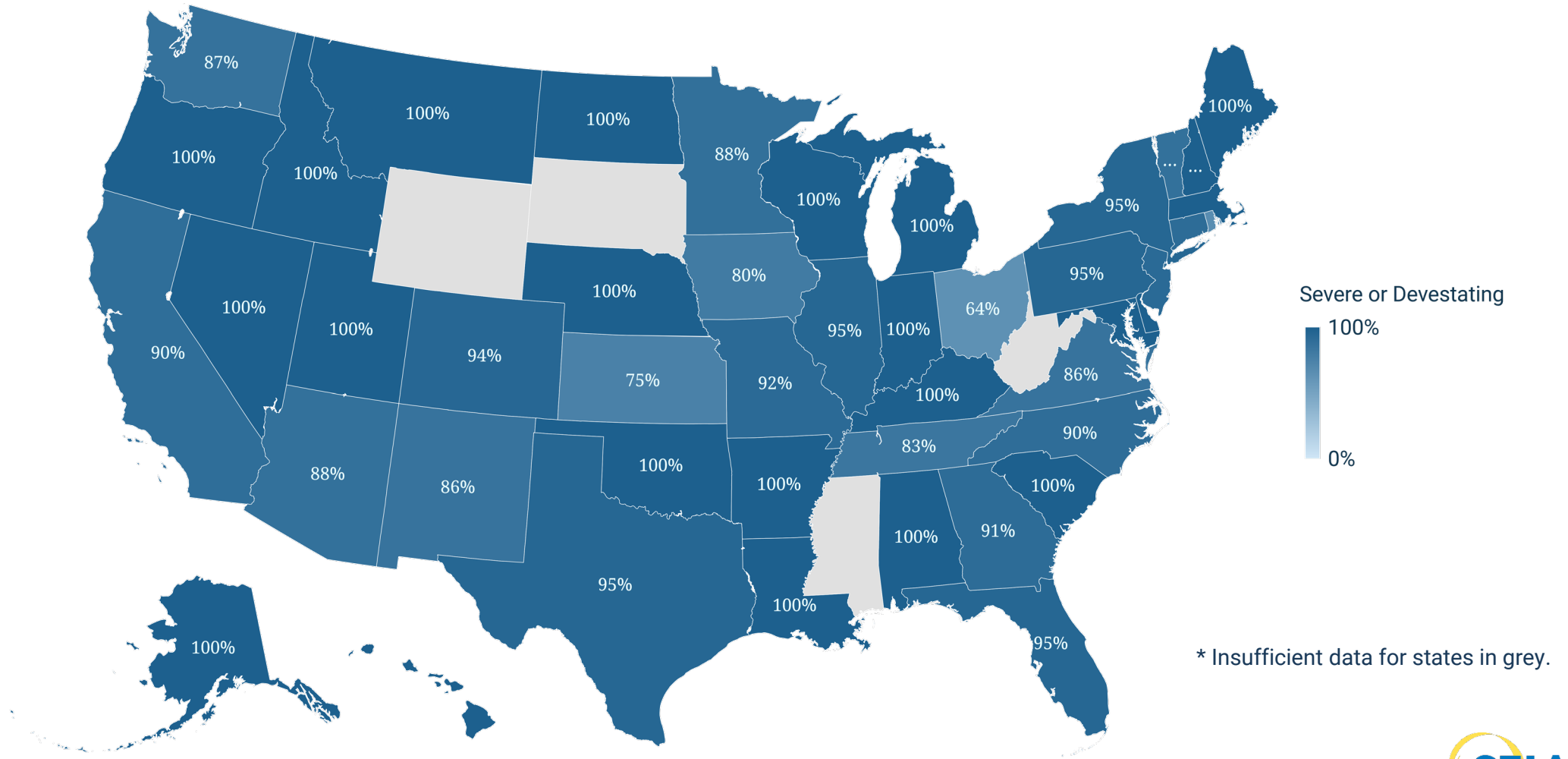
Auxin Petition Impact on U.S. Solar and Storage Industries



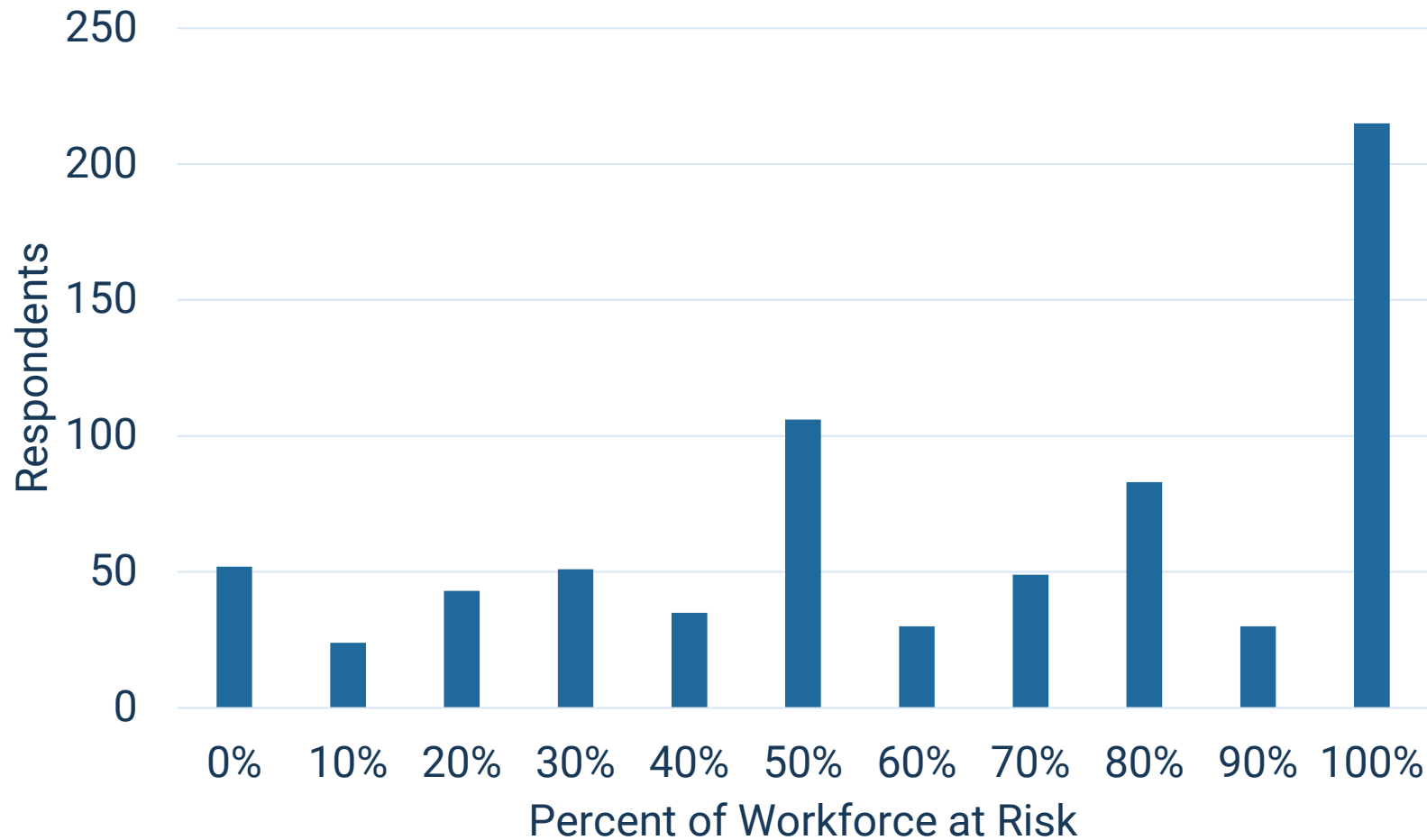
Massive impact on solar *and* energy storage industries

Most energy storage projects are paired with solar. Without the solar components, the energy storage components are likely to become uneconomical. Putting aside the economics, moving forward would require renegotiation of all project financing agreements.

Percent reporting “severe” or “devastating” negative impact to solar business from Department of Commerce action on solar imports

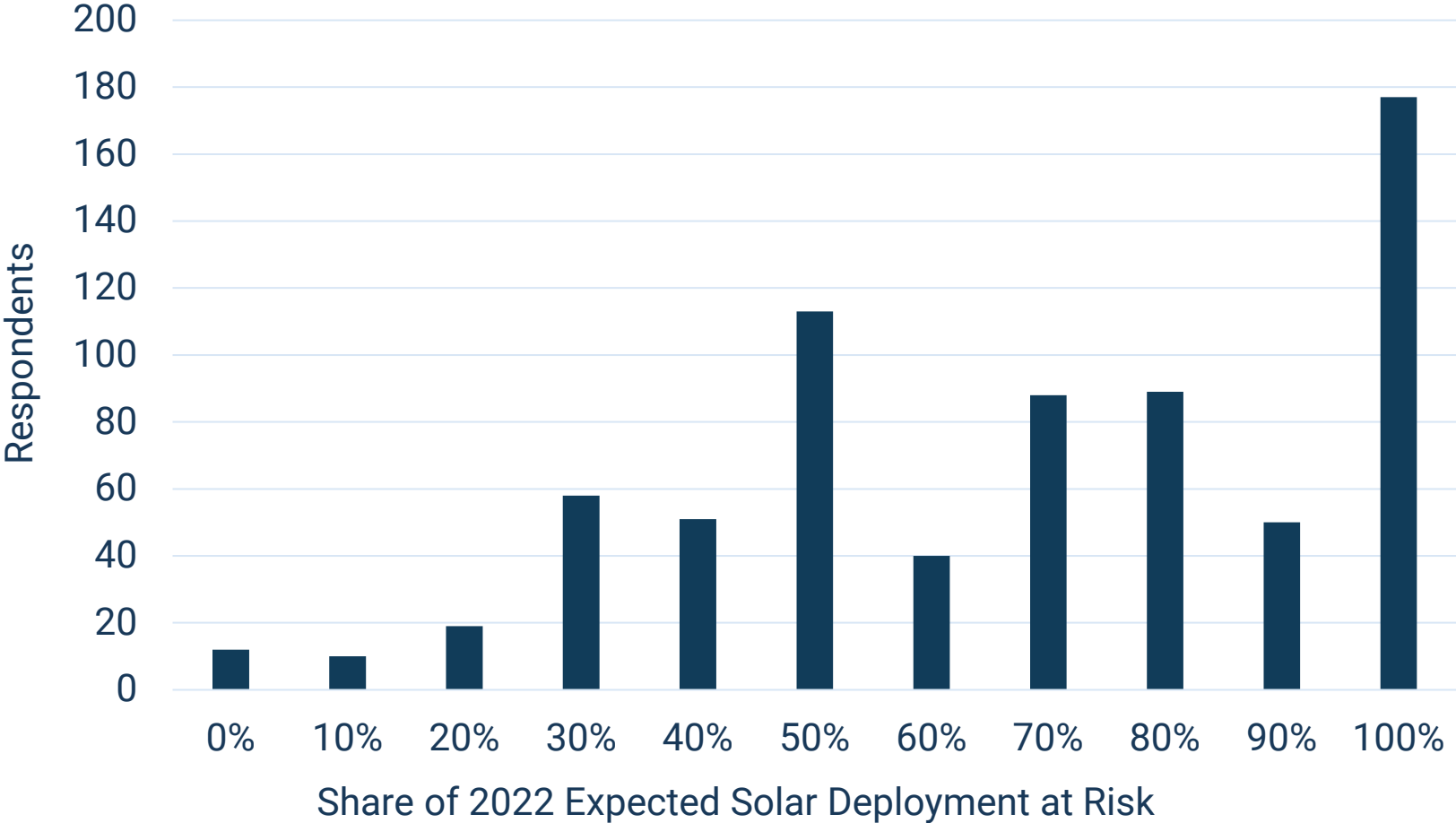


What percent of your company's U.S. solar and storage workforce is at risk due to this tariff investigation?



- 70% of respondents report that **at least half** of their **solar and storage workforce** is at risk
- Over 200 respondents, report that **their entire solar and storage workforce** is at risk

What percent of that business volume is now at risk?



4/5 of respondents report at least **half** of their current-year **solar pipeline at risk**.

Many report larger risk to their 2023 pipeline.



Utility-Scale Project Impacts

Data as of 4/21/2022

318 specific projects in 39 states identified based on voluntary reporting

Utility-Scale Project Developers Reporting Massive Disruption



Projects reporting:

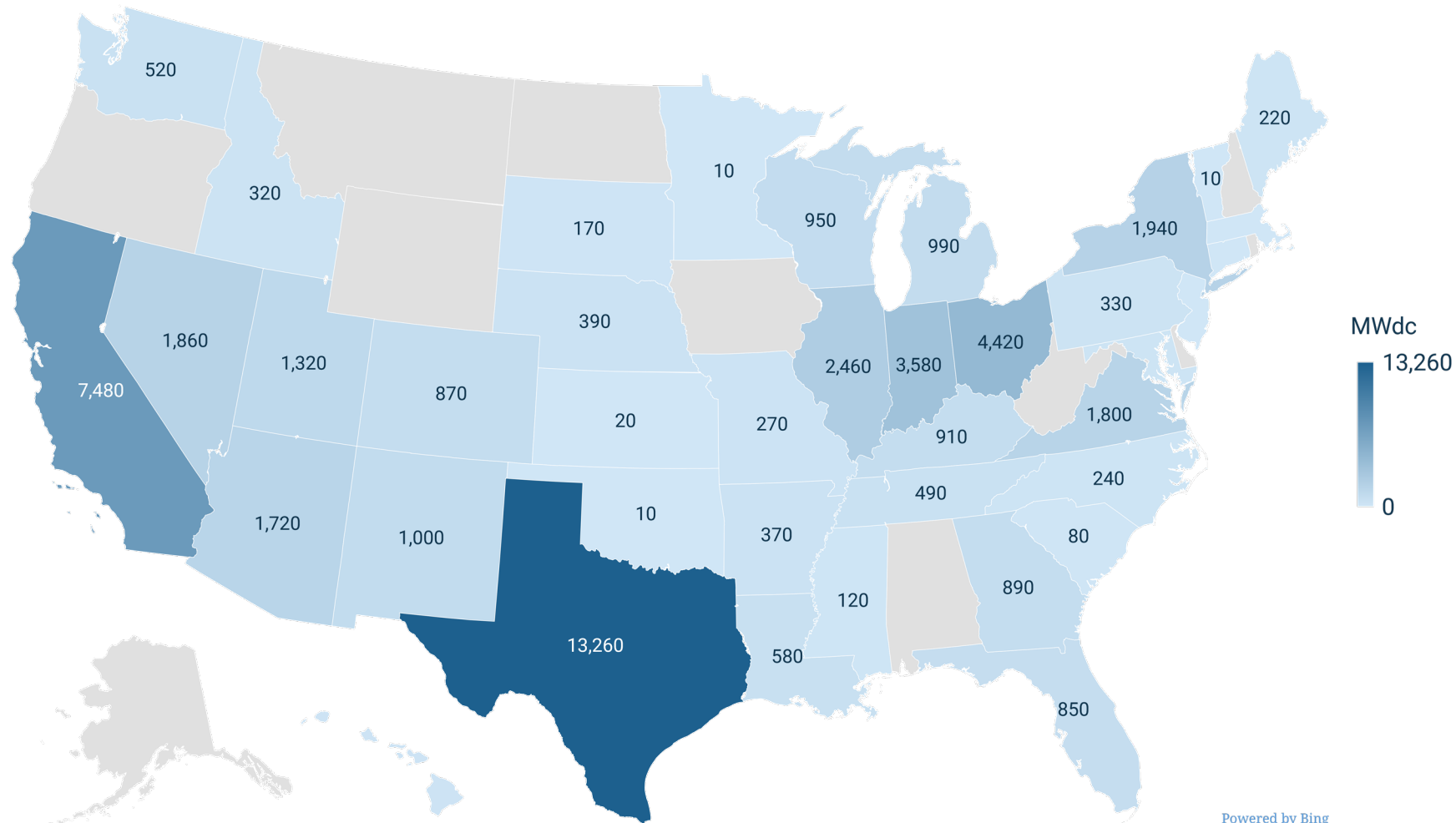
- Delays
- **Layoffs**
- Hiring freezes
- **Massive cost increases** (often untenable)
- **Project cancelations**
- **Projects with complete racking but no modules**
- Projects with only some of the modules needed to finish
- **Extreme uncertainty**
- **New project development on hold**



Blurry distinction between delayed and canceled:

- Developers don't know when they might be able to get modules and some delays may drag on to the point of project failure.
- Projects pushed to later years eat into what is possible from new projects.
- Brain drain from industry as those laid off seek employment elsewhere, abandoning project development potential.

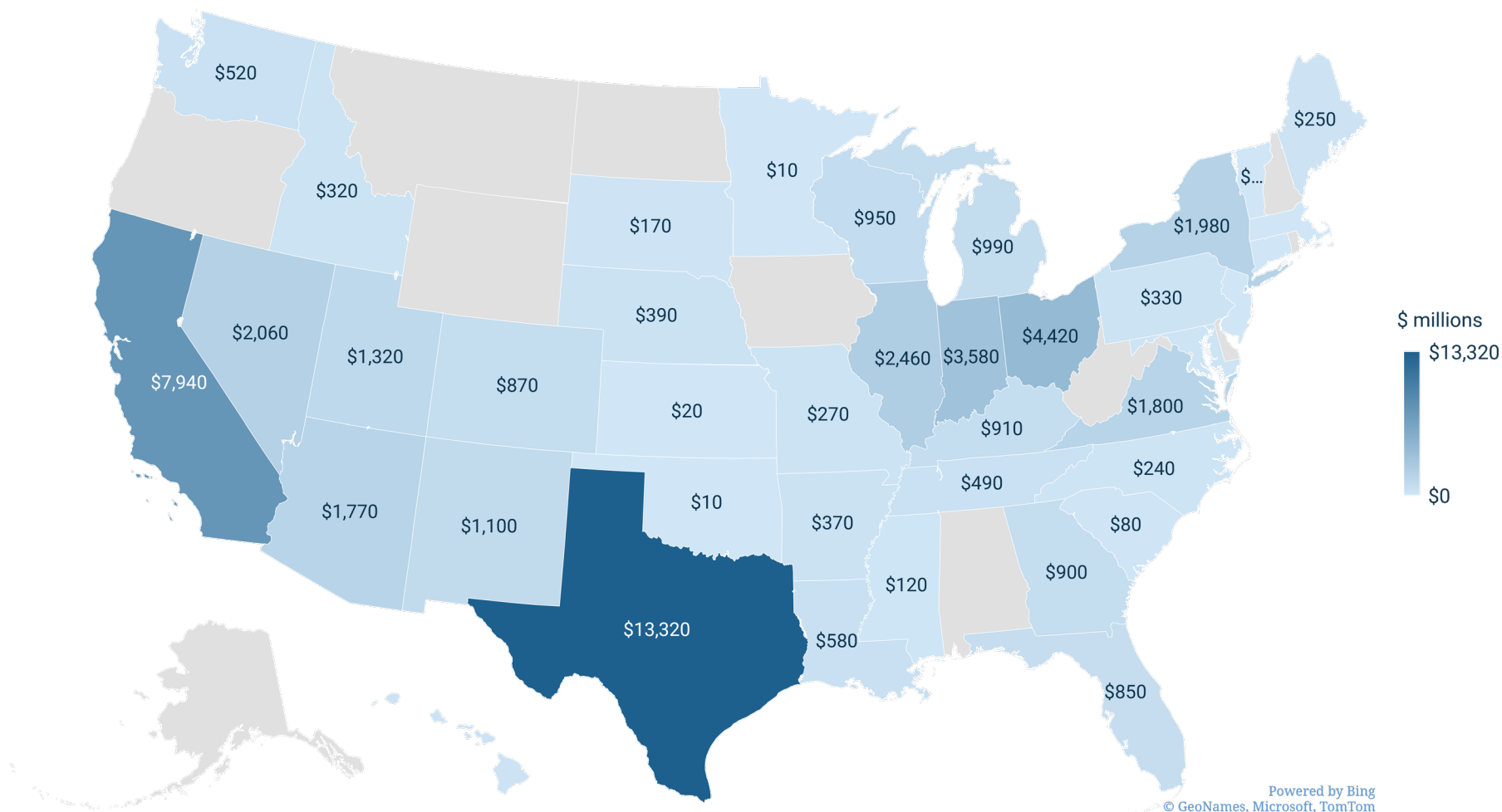
Currently Reported Impacts (Canceled or Delayed) on Utility-Scale Solar Projects: Solar Capacity Impacted (Megawatts-direct current, MWdc)



- 318 projects
- 50,800 MWdc of solar
- 5,800 MWh of attached battery storage
- Represents only a fraction of likely impacts.

*State figures rounded to 10 MWdc to help ensure anonymity.

Currently Reported Impacts on Utility-Scale Solar Projects: Solar and Storage Investment at Risk (\$ millions)

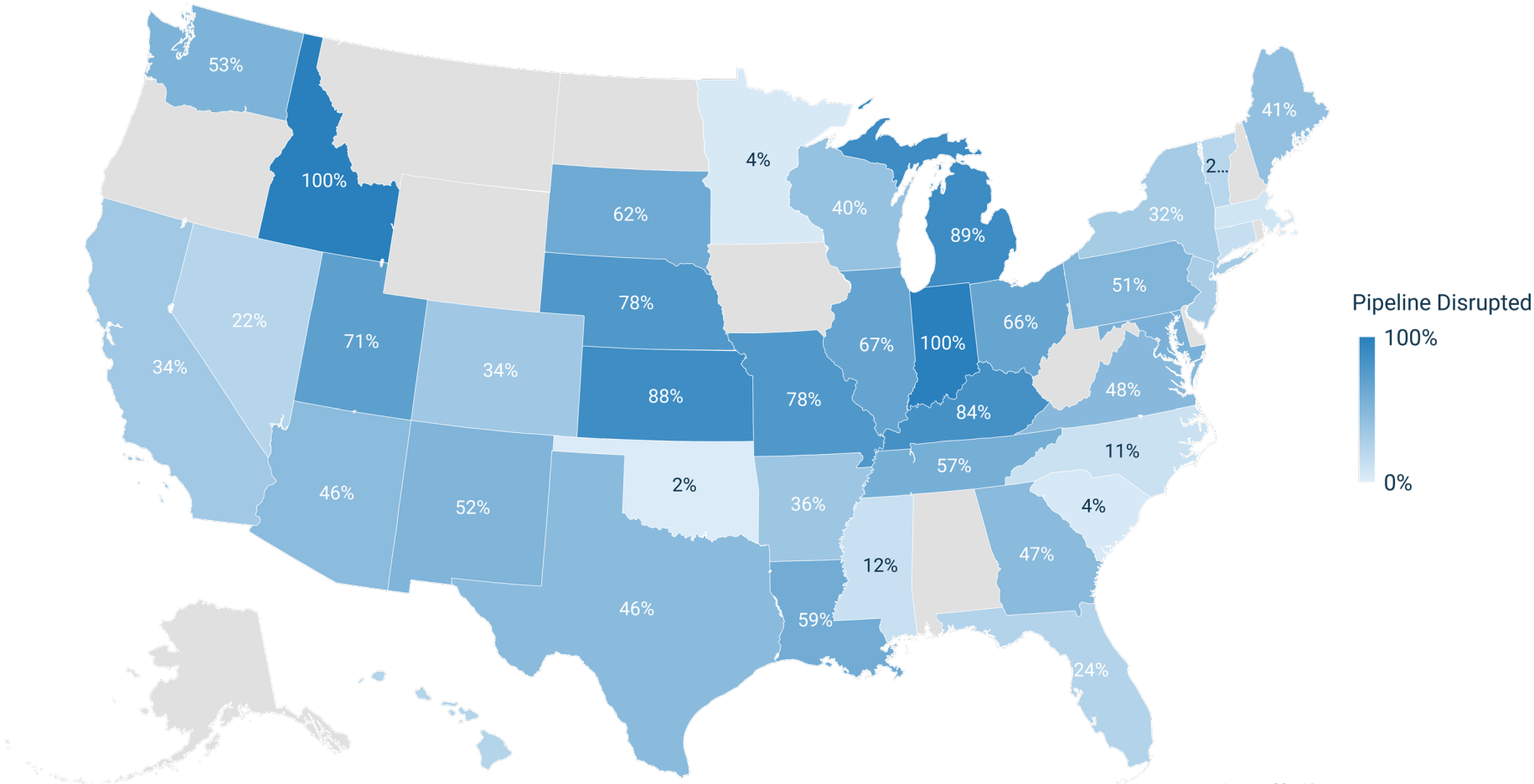


- \$52 billion utility-scale investment at risk
- 318 projects
- 50,800 MWdc of solar
- 5,800 MWh of attached battery storage
- Represents only a fraction of likely impacts.

*State figures rounded to \$10 million to help ensure anonymity.

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42% of Known Utility-Scale Solar Pipeline Disrupted



- 318 projects
- 50,800 MWdc of solar
 - 122,000 MWdc known pipeline
- 5,800 MWh of attached battery storage
- Represents only a fraction of likely impacts.

*State figures rounded to 10 MWdc to help ensure anonymity.

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Deployment, Employment and Climate

Baseline and Auxin Tariffs

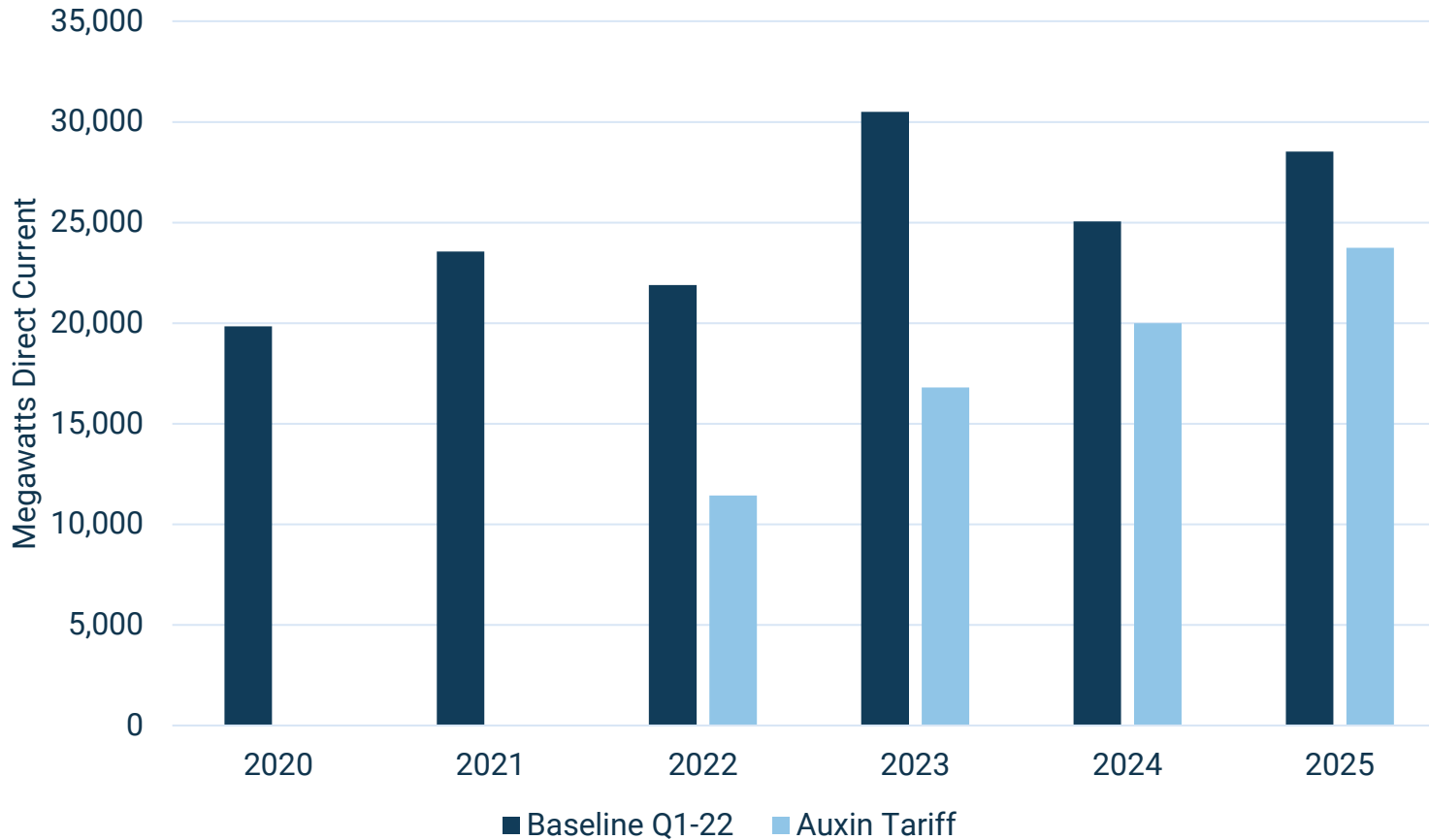
Baseline Q1-22 Scenario

- Prior to the initiation of the Auxin proceeding, Wood Mackenzie Power and Renewables produced a baseline forecast for annual solar deployment in the U.S.
- This forecast was published in the U.S. Solar Market Insight 2021 Year in Review report in early March 2022.
- As part of this baseline, deployment was expected to dip by 7% due to supply chain issues exacerbated by a previously rejected anticircumvention petition.
- Further, the baseline accounts for the expected expiration of the federal solar investment tax credit in 2024 under current law.

Auxin Tariffs/Auxin Effect Scenario

- This scenario restricts supply to existing manufacturing capacity available to serve the U.S. market without the potential for massive tariffs resulting from the Auxin petition. Only China has sufficient existing manufacturing capacity to replace lost supply from southeast Asia but imports from China are subject to high and uncertain AD/CVD tariffs *and* section 301 tariffs making them largely untenable.
- New factories take years to site, permit, construct and ramp. This scenario accounts for previously planned manufacturing capacity expansions outside of Cambodia, Malaysia, Thailand and Vietnam. That capacity will be insufficient to meet baseline U.S. demand for the next several years.

Annual Solar Deployment



We can expect forecasted installations to be cut in half this year and next if tariffs are applied

With the Auxin petition forecasted 2022 deployment will **drop 48%.**

*Annual deployment was expected to drop in 2024 in the baseline scenario due to expiration of the federal solar investment tax credit.

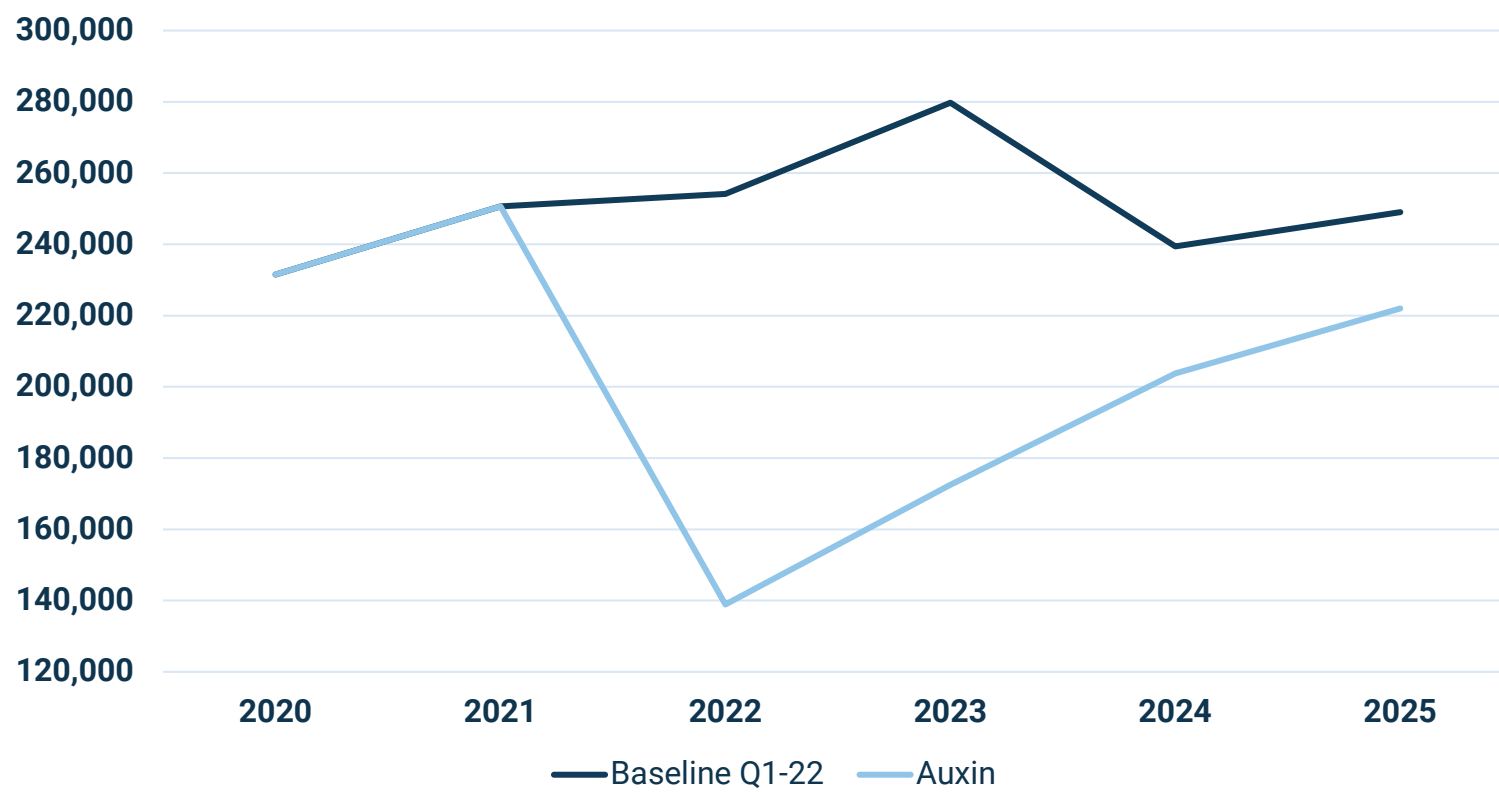
Proceeding with the Auxin petition would lead to 34 GW of lost deployment over next 4 years

Solar Employment Under Auxin Tariffs

- More than **100,000 jobs** could be lost if the Auxin tariffs are imposed.
- While some of these jobs would be new jobs not added, the vast majority would be layoffs of existing workers
- **16,000–18,000 solar manufacturing jobs** would be not realized between 2022-2023 due to the imposition of tariffs, the majority of which would be layoffs.
- Roughly **31,000 were employed in solar manufacturing in 2020**, the most recent year for which survey data is available.

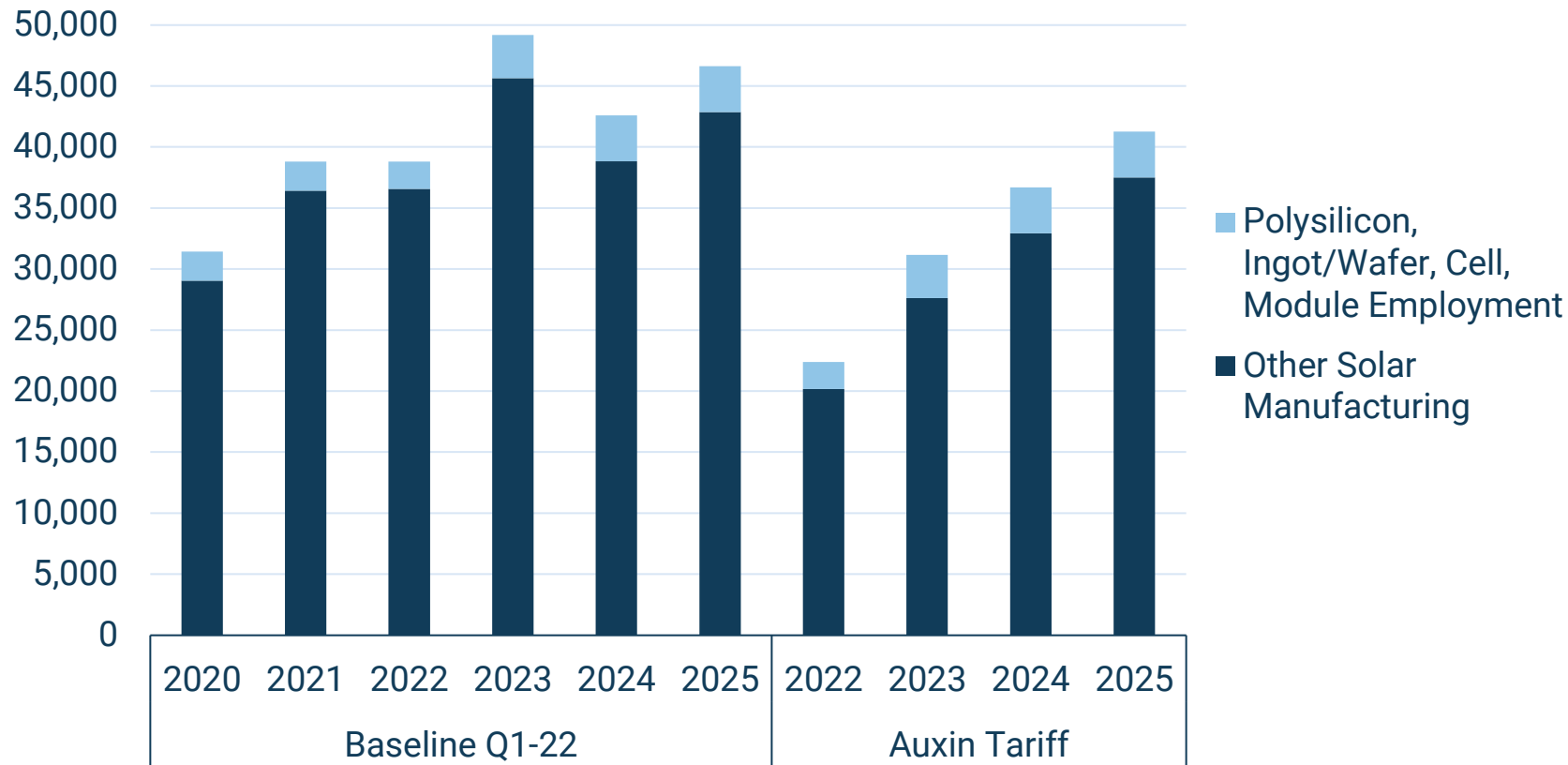
*Employment was expected to drop in 2024 in the baseline scenario due to expiration of the federal solar investment tax credit.

Solar Industry Employment



Auxin Tariffs Could Cost 18,000 Manufacturing Jobs

Solar Manufacturing Employment



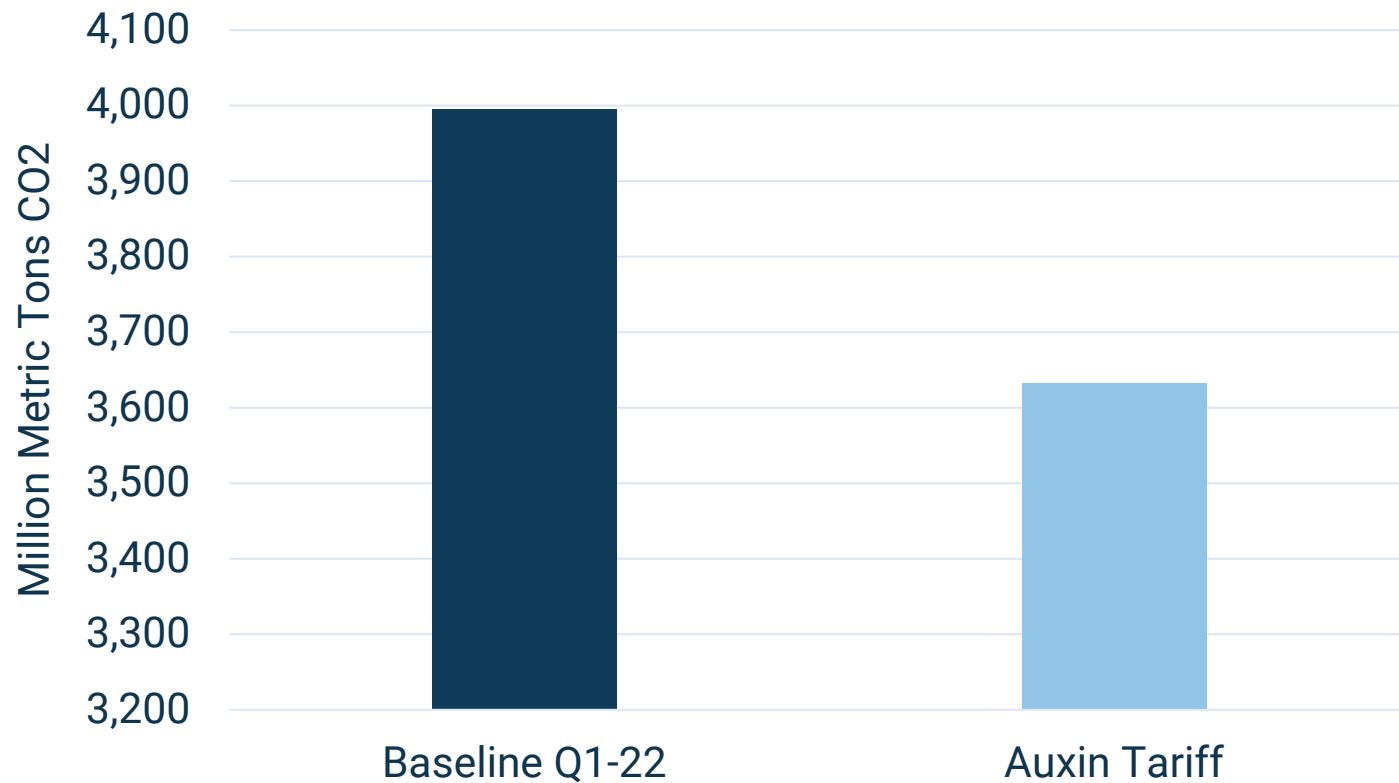
- Most solar manufacturing jobs in the U.S. are not related to module supply chain.
- Mounting, racking, trackers, and other balance of system components comprise the overwhelming majority of domestic solar manufacturing employment.

*Employment was expected to drop in 2024 in the baseline scenario due to expiration of the federal solar investment tax credit.

Proceeding with the Aixin petition will mean an increase of 364 million metric tons of CO₂



2020-2035 CO₂ Emissions Avoided by Solar



364 million metric tons of CO₂ emissions is equivalent to the annual emissions of **97 coal plants**

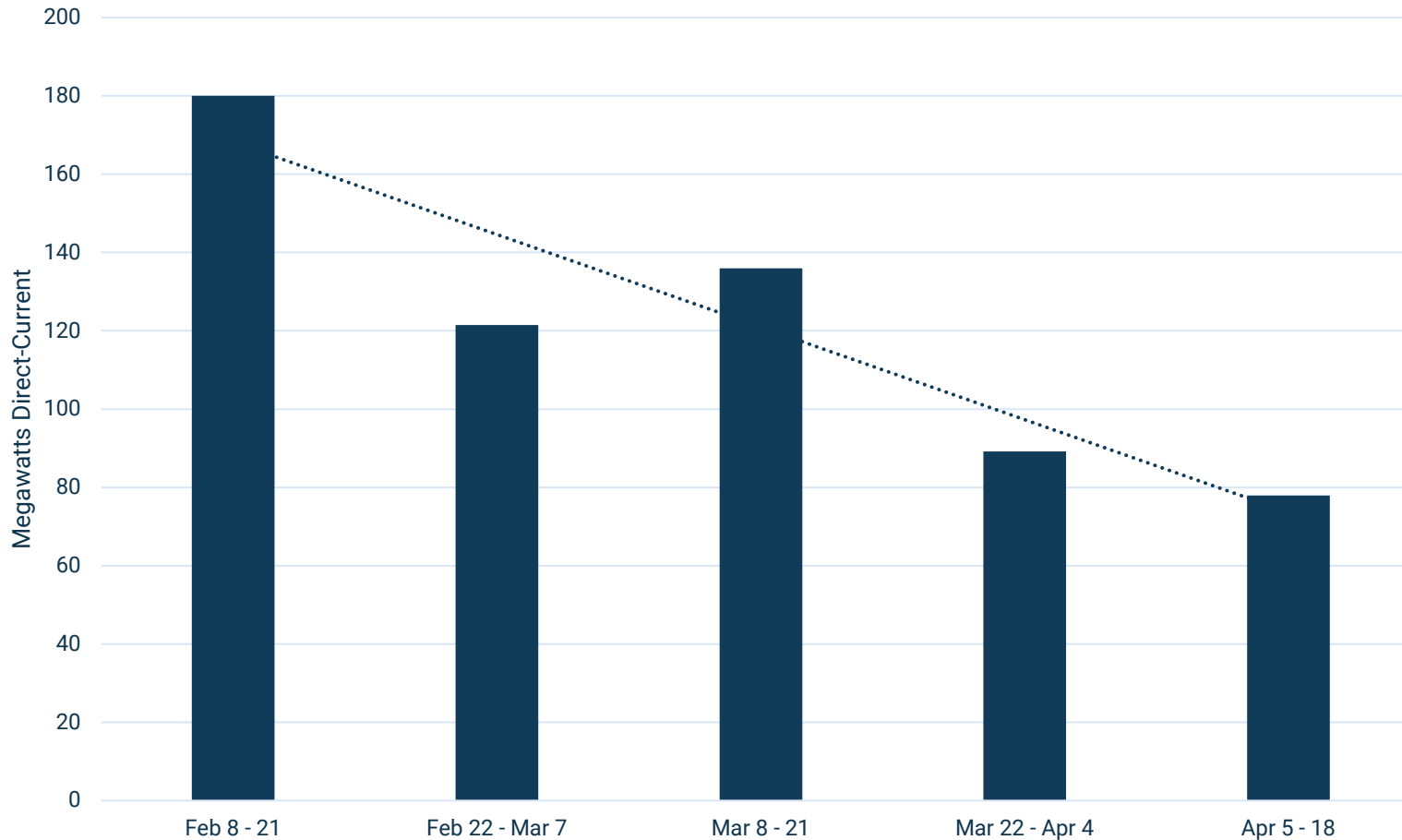
The difference between the Aixin Scenario and Biden goal is equivalent to **two full years of electricity-sector emissions**



Additional Background

U.S. Panel Production Threatened by Falling Cell Imports

Weekly Crystalline Silicon Solar Cell Imports



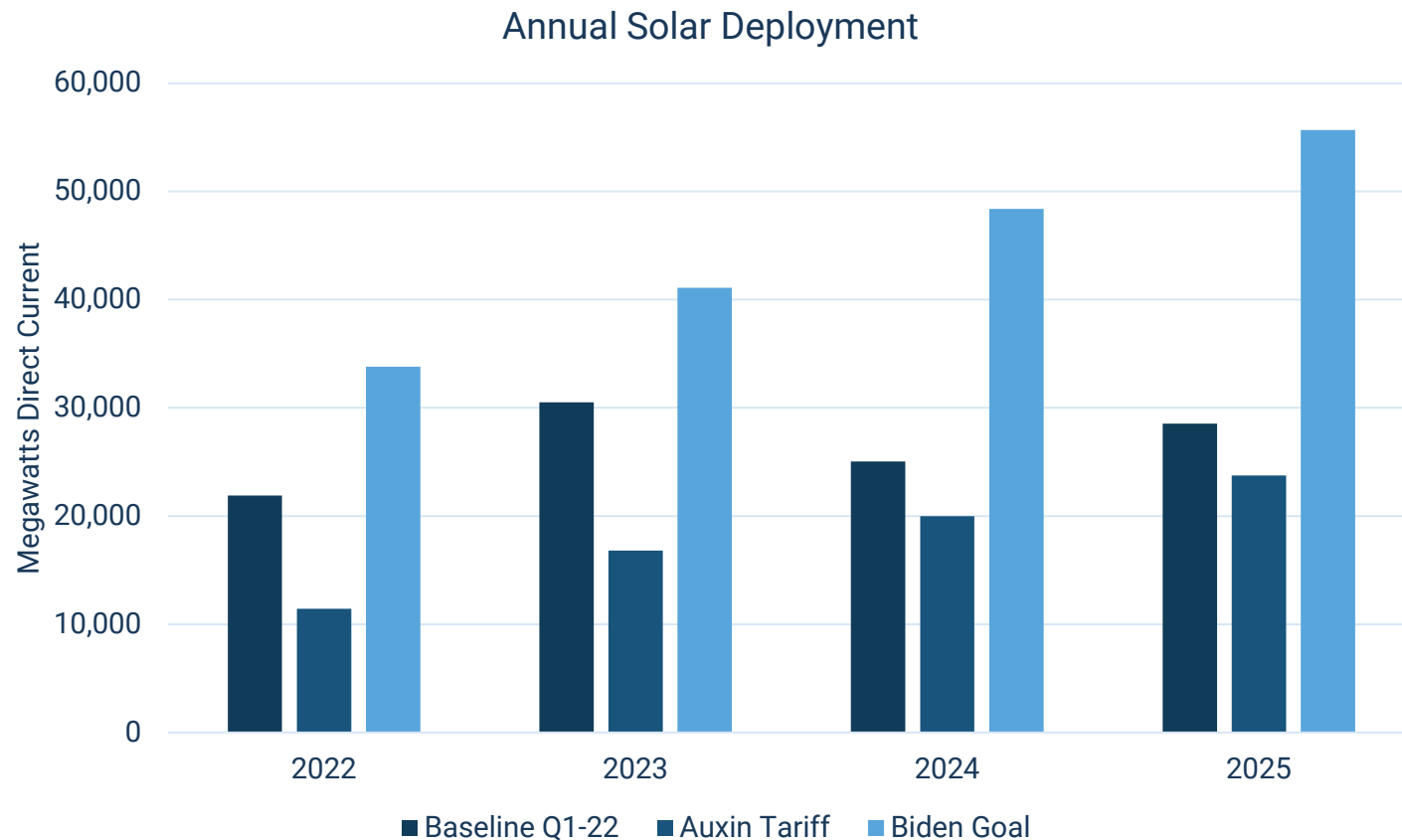
U.S. Customs and Border Protection (Corrected)

- Domestic crystalline silicon module/panel production is dependent on imported cells.
- In 2021, nearly half of all cell imports came from the four target countries.
- Cell imports have fallen since the Department of Commerce initiated its anticircumvention proceeding.
- Solar Cell imports have dropped from a 4-week moving average of 75 MW on March 7th to 42 MW on April 18th.
- This is despite a cell quota that doubled from 2.5 GW in 2021 to 5 GW this year.

More Aggressive Growth Needed to Reach Climate Goals



U.S. Solar Market Forecasts Under Various Policy Scenarios & Goals



The baseline forecast is now scrapped and the prospect of achieving climate goals grows dimmer each day this investigation continues.

*Annual deployment was expected to drop in 2024 in the baseline scenario due to expiration of the federal solar investment tax credit.

Bringing Supply Chain to the U.S. Would Take Years

- Even siting and permitting a U.S. plant could take a year or more.
 - Construction and production ramp could take an additional 2-3 years.
- Interim devastation to the downstream industry would reduce the domestic customer base for prospective domestic manufactures.
 - As experienced workforce leaves the industry, recovery could take years.
- Without manufacturing incentives and the right policy environment, these tariffs (like tariffs before them) are not enough to draw billions of investment in new domestic manufacturing. It is simply still too risky for many manufacturers.





Take SEIA's market impact survey:

seia.org/AuxinImpacts

Submit Data on Impacts from the Auxin Tariff Petition

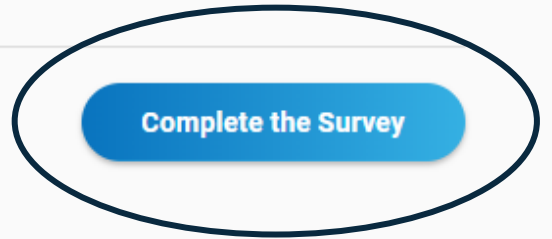
[Complete the Survey](#)



For anyone engaged in the U.S. solar or storage industries

Companies of all sizes, including those that work on everything from residential to utility-scale projects, should complete this form to provide a holistic and qualitative sense of how they expect the anti-circumvention investigation to impact their businesses and workforce.

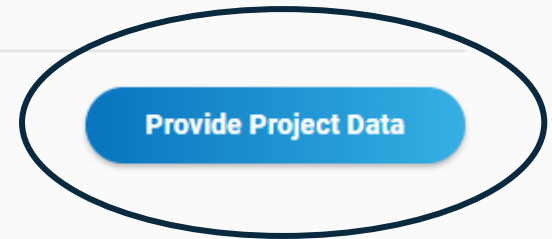
#1



For those with project-level impact data

Project-level data for large projects will be extremely valuable to show policymakers detailed and concrete impacts of the anti-circumvention investigation. In addition to completing the general survey above, those with information about specific large-scale solar projects can use a map tool to find their projects and submit basic information about the impacts from the Auxin petition.

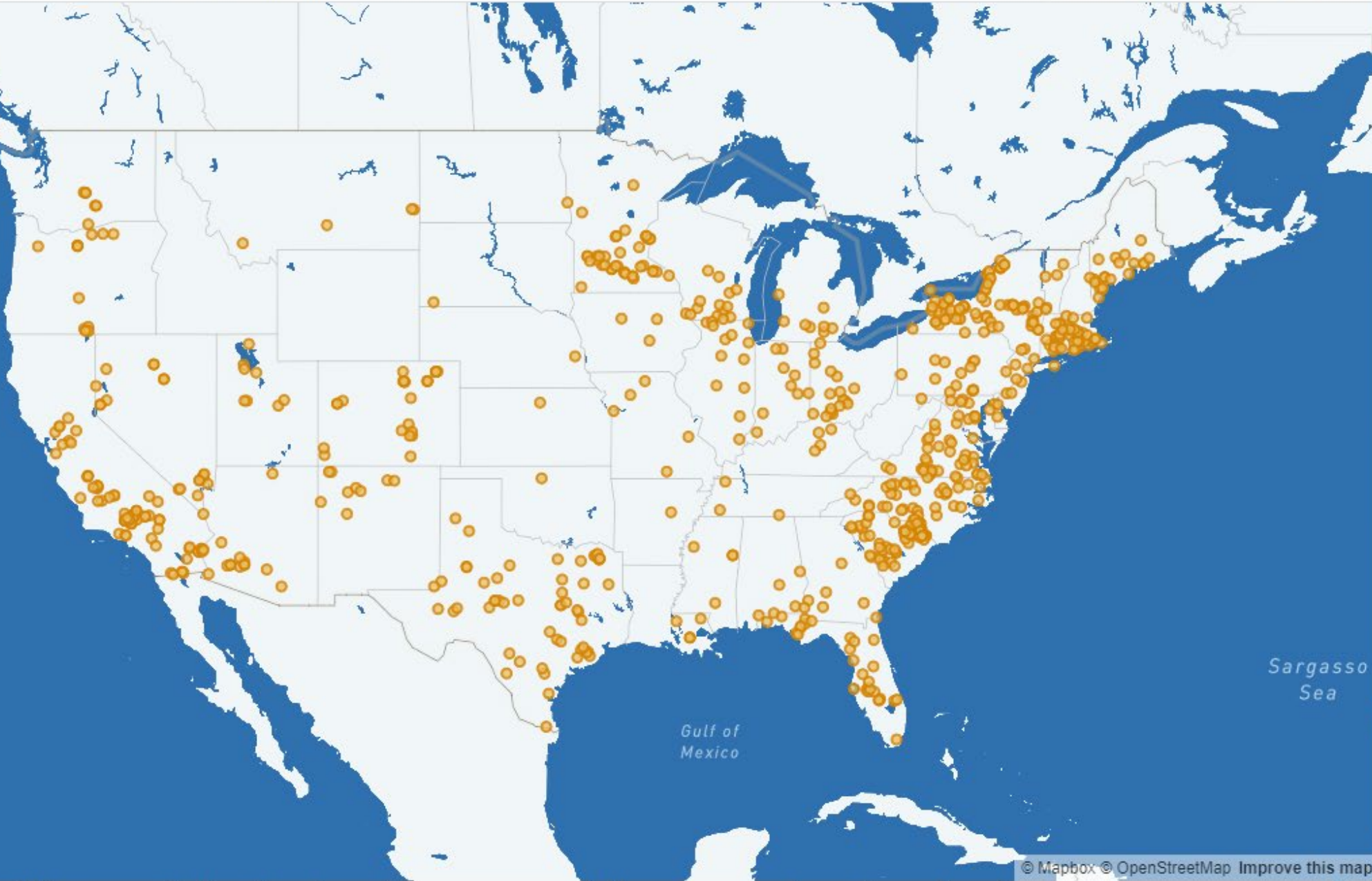
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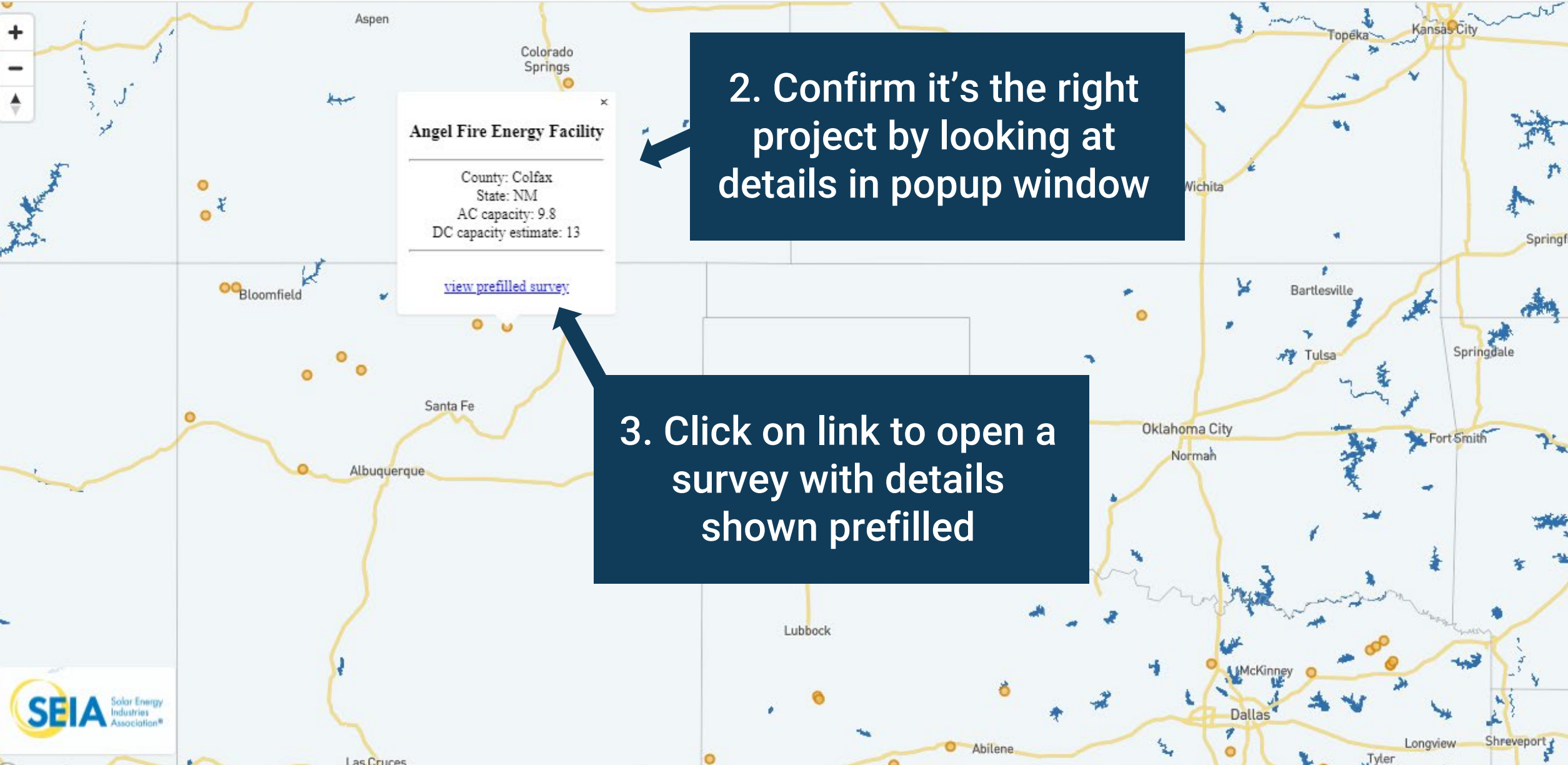


Large projects



1. Find your projects on the map





2. Confirm it's the right project by looking at details in popup window

3. Click on link to open a survey with details shown prefilled



^ Required

Project Name and project ID (if applicable). *

Note this information will be auto-populated if you opened this survey from the survey map.

Angel Fire Energy Facility (64695)

Project State *

Note this information will be auto-populated if you opened this survey from the survey map.

NM

Project County

Note this information will be auto-populated if you opened this survey from the survey map.

Colfax

Prefilled data allows alignment with other databases



Submit Data on Impacts from the Auxin Tariff Petition



[Complete the Survey](#)

For impacts to solar projects 1 megawatt (MW) and above:

Project-level data for large projects will be extremely valuable to show policymakers detailed and concrete impacts of the anti-circumvention investigation. All these projects must report delays and cancellations to the Energy Information Administration (EIA) via monthly Form 860m filings. While the data becomes public 2+ months after the forms are filed, we need the data ASAP to fight this existential threat. In addition to completing the general survey above, we have two asks for you:

1. Submit data on impacts to the large solar projects in your portfolio

Submit Project-level Data

-  Find Your Project & Submit Data
-  **Submit Project-level Data Manually**



If you don't see your project on the map

Ensure EIA Receives Accurate Project Updates

- The Energy Information Administration (EIA) is the source of official government statistics on energy.
- Projects larger than 1 MWac submit EIA form 860 annually and EIA form 860m monthly if they are within 12 months of beginning construction.
- Find the person responsible for submitting these forms for your projects (often developer or owner).
 - Make sure the person is fully aware of supply chain challenges ASAP.
 - Forms typically submitted within two weeks of the close of a month.
- This data is on a two-month delay so make sure March 2022 submissions reflect the current situation.
- Still complete the SEIA survey so we can get the data faster!

