

Dave Heineman
Governor

STATE OF NEBRASKA

DEPARTMENT OF ENVIRONMENTAL QUALITY
Michael J. Linder
Director

December 28, 2012

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Honorable Dave Heineman
Governor
State Capitol
2nd Floor N.E.
Lincoln, NE 68509-4848

Dear Governor Heineman,

In accordance with the provisions of the Nebraska Environmental Protection Act, the attached 2012 Small Business and Public Assistance Program annual report, *Nebraska Small Business Compliance Advisory Panel Annual Report to the Governor for 2012*, is submitted for your review.

The federal Clean Air Act Amendments of 1990 required all states establish a Small Business Assistance Program (SBAP) to assist small businesses in complying with provisions of the Clean Air Act. In Nebraska, the SBAP is multi-media; assisting the regulated community with air, waste, and water-related regulatory and permitting issues. As part of the SBAP, each state had to establish a Small Business Compliance Advisory Panel (SBCAP) consisting of representatives of small business and appointed by the Governor, Legislature, and Director of the state's environmental agency.

Effective compliance assistance outreach to the regulated community and the citizens of the state is one of the key tools the Nebraska Department of Environmental Quality (NDEQ) utilizes to ensure we are fulfilling our mission – the protection of Nebraska's air, land, and water. A primary function of the SBCAP is to provide input on the effectiveness of our state's environmental assistance and regulatory programs. In 2012, the NDEQ-SBCAP partnership continued, with Panel members giving the Department input where NDEQ compliance assistance efforts to the regulated community could be improved.

If you have any questions or comments, please call me, Joe Francis, Associate Director, (402) 471-6087, or Ryan Green, Small Business and Public Assistance Program Coordinator, (402) 471-8697.

We appreciate your support.

Sincerely,

Michael J. Linder
Director

Nebraska Small Business Compliance Advisory Panel Annual Report to the Governor for 2012

January 1, 2013



Nebraska Department of
Environmental Quality

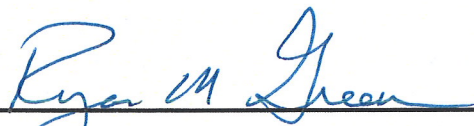


Message from the Nebraska Small Business Compliance Advisory Panel

Nebraska's Small Business Compliance Advisory Panel (SBCAP) is a valuable resource for the Nebraska Department of Environmental Quality (NDEQ) and Nebraska's small businesses. The open and honest communication and exchanges Panel members have with NDEQ personnel provide the Panel, appointed representatives for the regulated community, the chance to bring to the Department's attention issues they feel need to be addressed to create a more effective working environment between small businesses and the NDEQ. The open lines of communication also allows Panel members the opportunity to learn about new or changing regulatory issues which may impact small businesses, as well as compliance assistance efforts and outreach the Department is undertaking to keep the regulated community informed.

As stated in previous reports, "compliance assistance efforts are similar to preventative maintenance; an ounce of prevention is worth a pound of cure." With all the regulatory changes that occur, it is nearly impossible for many small businesses to be aware of the possible regulatory changes that may impact their operations. It is more efficient for all involved for a business to feel it can call the NDEQ to receive the assistance required to ensure the business is doing everything correctly in regards to environmental regulations.

Incidents occasionally arise between NDEQ and the regulated community where better communication between the two entities may have made the permitting or regulatory process more efficient. The Nebraska SBCAP and the NDEQ are dedicated to improving the Department's compliance assistance efforts; minimizing such incidents.



Ryan Green, SBCAP Secretariat

Background Information

The Clean Air Act Amendments of 1990 (Act) require each State to prepare a plan for helping small businesses to comply with provisions of the Act through the creation of compliance assistance programs. Section 507 of the Act requires states to prepare an assistance program that includes:

- plans for a small business stationary source technical and environmental compliance assistance program;
- establishment of an “ombudsman” to act as a liaison between small businesses and the associated regulatory programs; and
- formation of a Small Business Compliance Advisory Panel (Panel) of not less than seven individuals.

Nebraska was the first state in the country to have its small business assistance plan approved by the U.S. Environmental Protection Agency (EPA). In 1992, Nebraska adopted enabling legislation codified as Nebraska Revised Statute §81-1505.03 calling for the creation of the Small Business Compliance Advisory Panel (SBCAP) and outlining its responsibilities, with the Panel convening for the first time in July 1993.

While the Act was specific to air regulatory programs; the plan developed by the Nebraska Department of Environmental Quality (NDEQ) took a multi-media approach which included water quality and waste management assistance, in addition to regulatory assistance with air quality issues. The assistance program also provides aid to all in the regulatory community, regardless of business size. In the NDEQ plan, the Section 507 ombudsman’s responsibilities are fulfilled by the Small Business and Public Assistance (SBPA) Coordinator.

Following Section 507 of the Act, the Nebraska SBCAP consists of seven voting members, as well as the SBPA Coordinator, who acts as a non-voting Secretariat for the board. Four members of the Panel are selected by the Legislature and are owners or representatives of small business stationary sources of air emissions. Currently, these members include:

Jim Hellbusch (SBCAP Chair)
Duo Lift Mfg. Company, Inc
Columbus, NE 68602
(402) 564-8023
jimh@duolift.com

Steve Rexroth
Miracle Workers Auto Collision
Lincoln, NE 68509
(402) 474-7355
miracleworkers@inebraska.com

Jack Schreiner
Bruckman Rubber
Hastings, NE 68901
(402) 463-3129
jschreiner@bruckmanrubber.com

Rick Bettger
House of Muffler and Brakes
Omaha, NE 68154
(402) 496-4399
rickbettger@aol.com

Two members are selected by the Governor to represent the general public who are not small business owners or representatives of small business stationary sources of air emissions. Currently, these members include:

Sharon Hueftle
South Central Economic
Development District (SCEDD)
Holdrege, NE 68949
(308) 995-3190
sharonh@scedd.us

Joe Ferguson
Director of Economic Development
Northeast Community College
Norfolk, NE 68702
(402) 844-7236
joe@northeastcollege.com

Mr. Ferguson was on the board the majority of the year, but has sent in his resignation letter to the SBCAP. Currently, the NDEQ Legislative Liaison, Ms. Carla Felix, is working with the Governor's Office regarding the need to appoint a replacement for Mr. Ferguson.

The Director of the Nebraska Department of Environmental Quality (NDEQ) selects one member. Currently, this member is:

Tim Doyle
NDEQ Legal Division
Lincoln, NE 68509-8922
(402) 471-4603
tim.doyle@nebraska.gov

The current non-voting board Secretariat is:

Ryan Green
NDEQ SBPA Coordinator
Lincoln, NE 68509-8922
(402) 471-8697
ryan.green@nebraska.gov

As SBPA Coordinator, Mr. Green is responsible for setting SBCAP meetings and acting as liaison between the Panel and NDEQ.

SBCAP Activities for 2012

Panel members are kept informed of NDEQ outreach and assistance activities through regular e-mail, telephone, and face-to-face meetings. The SBCAP is required to submit an annual report to the Governor. This year, one SBCAP meeting was held on October 18, 2012, in Hastings, with Mr. Schreiner hosting the meeting. Summary and key findings of that meeting follow.

SBCAP Meeting – October 18, 2012

The 2012 Small Business Compliance Advisory Panel (SBCAP) annual meeting took place October 18th at the Hastings Area Chamber of Commerce building, Hastings, Nebraska. SBCAP members present at the meeting included Mr. Jim Hellbusch, Duo Lift Manufacturing Company,

Inc. (and current Panel Chairperson); Mr. Jack Schreiner, Bruckman Rubber Company; Mr. Steve Rexroth, Miracle Workers Auto Collision Center; Mr. Rick Bettger, House of Mufflers and Brakes; and Mr. Tim Doyle, Nebraska Department of Environmental Quality (NDEQ). Several NDEQ staff attended, as well two members of the public – representatives from Clean Harbors and Dutton-Lainson Company.

SBCAP members received regulatory updates from NDEQ personnel. Mr. Jay Ringenberg, NDEQ Deputy Director, provided an update on the Keystone XL Pipeline, discussed the Omaha Combined Sewer Overflow project, EPA’s review of the National Ambient Air Quality Standard for ozone and its implications for the State, and provided summaries of the Superfund National Priority List sites in Omaha, Columbus and Hastings. Mr. Blayne Renner, NDEQ Water Quality Division, and Mr. Brian Kozisek, NDEQ Air Quality Division, provided updates to the panel on new National Pollutant Discharge Elimination System (NPDES) Construction Storm Water General Permit and new air rules impacting small businesses, respectively.

Panel members, Joe Francis, NDEQ Associate Director, Ryan Green, and others present discussed assistance opportunities within NDEQ. Mr. Francis discussed that while NDEQ is a regulatory agency by statute, the Department finds great success relying on various assistance-based activities to obtain compliance with the regulated community. Mr. Green gave a presentation summarizing the Department's primary assistance activities, and SBCAP panel members and a member of the public discussed other outreach measures the Department could take to spread the word about NDEQ’s assistance activities. Panel members discussed where NDEQ’s assistance programs have been helpful, but also talked about difficulties and frustrations that arose for one Panel member as he applied for a permit for his business expansion. NDEQ staff and CAP members discussed the situation and suggestions on how improvements could be made in Department procedures.

Small Business CAP Members discussed what successful pollution prevention or sustainability efforts can mean to a small business’s bottom line; with Mr. Schreiner, Mr. Hellbusch, Mr. Rexroth, and Mr. Bettger each giving examples of things they have done at their own businesses to reduce wastes, energy costs, and improve production or service efficiencies. The meeting concluded with Mr. Schreiner hosting a tour of Bruckman Rubber Co., in Hastings.

SBCAP Goals for 2013

SBCAP members outlined the following goals for NDEQ’s Small Business and Public Assistance program for 2013:

- 1) Focus on providing the services of the Panel and NDEQ assistance programs in the members’ communities; including presenting briefings concerning the role of the Panel to various conferences and association meetings as appropriate;
- 2) Meet at least annually with the Director or Department management to inform them of issues related to the interaction of NDEQ and small businesses;
- 3) Assist the Department to implement lean techniques in areas such as compliance and permitting;

- 4) Reach out to the regulated community to gauge the satisfaction or dissatisfaction with the Department's assistance, permitting and compliance initiatives;
- 5) When appropriate, provide input to the Environmental Protection Agency (EPA) and the Nebraska Environmental Quality Council (EQC) concerning any new or changing regulations and their impact on small businesses in Nebraska; and
- 6) Continue to advise NDEQ regarding the clarity and readability of documents produced by the Department.

NDEQ Assistance Activities – The Small Business and Public Assistance Program

The SBPA Coordinator, housed within the Field Services and Assistance Division (FSAD) of NDEQ is responsible for overseeing the SBPA compliance assistance program, which includes providing telephone and on-site assistance, hosting workshops, or developing guidance to help the regulated community and others have a better understanding of environmental regulatory requirements.

The SBPA Coordinator's duties are divided into four major components: working with the Small Business Compliance Advisory Panel (SBCAP), as discussed above; managing the One-Stop Permitting program; serving as the Department's Public Advocate; and organizing meetings for the Department's Compliance Assistance Team (CAT), comprised of personnel in the Department's other divisions – Air Quality, Water Quality, and Waste Management.

- *Coordinator for NDEQ's One-Stop Permitting Assistance program.* The One-Stop program is available to the business community and is designed to help them meet their regulatory obligations by providing comprehensive guidance regarding all permits or compliance conditions they must meet. The SBPA Coordinator acts as a single point of contact at NDEQ for regulated or potentially regulated entities, bringing together appropriate NDEQ personnel to address the client's questions. This year, five different business entities or individuals took advantage of this service by requesting face-to-face or teleconference meetings with NDEQ staff, including two major Nebraska Department of Economic Development projects – Fidelity Investments in Papillion and Bell Lumber & Pole Co. in Sidney. Other individuals called the SBPA Coordinator to obtain the appropriate Department contacts for their questions and handled them separately, without requesting a One-Stop Permit meeting.
- *Public Advocate for the NDEQ.* The Coordinator, at the discretion of the NDEQ Director, is responsible for investigating situations when the public or the regulated community believes NDEQ's response to environmental issues is not appropriate. The Public Advocate serves as the ombudsman for purposes of the Clean Air Act 507 program. In this role, the SBPA Coordinator provided outreach to numerous individuals to address specific questions or concerns they had; as well as working with the citizens of Gering and Milford, regarding on-going concerns with operations at local landfills in each community.
- *Coordinator for the NDEQ's Compliance Assistance Team.* The department's Compliance Assistance Team (CAT) is composed of department staff from within the

Department's Air Quality, Water Quality, Waste Management, and Field Services and Assistance divisions. Its function is to ensure effective, consistent and meaningful help is provided to the regulated community. The CAT meets six times a year, allowing members to become better aware of assistance activities and outreach that other divisions of the Department are conducting. New NDEQ personnel who joined the Compliance Assistance Team in 2012 included: Yvonne Austin, Air Division; Erik Waiss, Waste Management Division; Dawn Martin, Water Quality Division; John Danforth; Water Quality Division, and Aaron Price; Water Quality Division.

Comprehensive Assistance Provided by NDEQ

The Small Business and Public Assistance Program is only one component of NDEQ's overall assistance program. As highlighted above, NDEQ's assistance-based efforts are pursued by all Divisions. The following summarizes these activities of NDEQ personnel:

- Ensuring that concerns and complaints by the public are addressed in a timely and appropriate manner;
- Staying abreast of emerging environmental issues and regulatory requirements in their respective programs; and
- Coordinating with the EPA, other state agencies, and organizations to provide comprehensive assistance to the regulated community and the public.

The majority of NDEQ staff provides environmental assistance in a wide variety of forms and forums. Much of this assistance occurs during inspections or when Department staff visit regulated entities to explain the requirements of newly issued permits. Businesses are often referred to the SBPA Coordinator or other Divisions' Environmental Assistance Coordinators by NDEQ inspectors for follow-up compliance assistance or to assist in areas not addressed by that inspector's program.

In the calendar year 2012, from January 1 through November 30, Department staff:

- Provided 225 on-site assistance visits; and
- Made 224 presentations at various conferences, workshops and meetings; or participated in other partnering and outreach efforts. This number does not include efforts made by the Department in regard to pipeline projects.

In addition to the on-site assistance visits and presentations or training events listed above, daily telephone and e-mails contacts with the regulated community or general public account for a significant proportion of NDEQ's assistance activities. These contacts result in researching answers to questions, mailing out information, or referring the caller to the appropriate NDEQ website page for additional guidance or proper forms.

The following is a brief summary of a portion of the Air Quality, Water Quality, Waste Management Division compliance assistance activities conducted in 2012, as well as additional significant FSAD activities this calendar year not mentioned above.

Air Quality Division

NDEQ's Air Quality Division (AQD) has devoted significant resources to assisting small businesses since the inception of the federal Small Business Assistance program in 1992. This year, the AQD conducted a series of *Air Updates* workshops at four locations across the state – Grand Island, Scottsbluff, Norfolk, and Lincoln. Attendance at these workshops exceeded 150 individuals. While the *Air Updates* sessions are not devoted specifically to small businesses, many of the topics covered are applicable to small businesses.

The AQD also developed a new information portal for the regulated community and general public – the new AirNews Page on the NDEQ website. The new page will be updated frequently and will contain information about Air Division events; the AirNews Listserv; guidance information including the Air DVD, publications, the Air Toxics Notebook, the New Source Performance Standards (NSPS) Notebook, updated federal regulatory actions, and archived information. Division contact information is also present, including a new general e-mail address, NDEQ.AirQuality@nebraska.gov, for the regulated community and general public to use for questions or submitting comments on air permits.

Ms. Yvonne Austin was hired as the new Air Quality Environmental Assistance Coordinator. Ms. Austin had been an air compliance inspector for 15 years with the NDEQ and brings a wealth of knowledge to the position. In her role, Ms. Austin assists the regulated community with interpreting and understanding federal and state regulations, emission calculations, the permitting process, and completing permit applications.

Waste Management Division

The Waste Management Division continued to work with the Nebraska Department of Health and Human Services, State Fire Marshal, and other outside groups to ensure proper waste disposal when structures are demolished. This is a continuing effort as local government agencies and sometimes other state agencies, such as the Nebraska Department of Economic Development, issue grants for the removal of structures. NDEQ also provides information to the Clerks Association in Nebraska on the topic of proper asbestos inspections and demolition waste disposal. Even though flooding was not an issue this year, the Department is still dealing with the ramifications of the 2011 flood on damaged or abandoned structures.

Mr. Erik Waiss was hired as the new Waste Management Environmental Assistance Coordinator in the latter part of September 2012. In his role, Mr. Waiss assists the regulated community with interpreting and understanding federal and state regulations regarding RCRA hazardous waste requirements; and in his short tenure with NDEQ, he has already received over 45 calls for compliance assistance.

The Waste Management Division administers NDEQ's Voluntary Cleanup Program. The origin of this program is the federal Small Business Liability Relief and Brownfields Revitalization Act. Currently there are seven active sites in the program. NDEQ finalized a total of fifteen sites, which provided environmental assessment information to the community to assist in their

economic redevelopment plans. New educational materials were developed this past year for distribution: brochures of the Brownfield and Voluntary Cleanup Programs, one-page program information of both programs and a few selected Brownfield success stories. These items are useful for the community leaders, commercial/industrial property owners and the general public to better understand how each program can be utilized as an economic development tool.

The Waste Management Division is also responsible for the administration of a number of waste-related grant programs. Portions of some of these programs are reserved for political subdivisions, but most of the funds are available to private businesses as well. In 2012, the Waste Reduction and Recycling Grant Program had over \$3,472,000 available for award and of that amount, approximately \$2,555,800 was open to all applicants – public, private or non profit. In 2012, the Litter Reduction and Recycling Grant Program had approximately \$1,554,000 available for award in three categories: recycling, public education and cleanup. All funds in this program were open to all applicants including private business.

Water Quality Division

Changes to federal regulations have required numerous changes to Nebraska regulations pertaining to concentrated animal feeding operations (CAFOs); *Title 130 – Livestock Waste Control Regulations*. NDEQ Water Quality Division's Agriculture Section staff continues Nutrient Management Plan (NMP) assistance/outreach efforts. In addition, Mr. Aaron Price was hired as the Agriculture Compliance Assistance Coordinator for the Division.

The National Pollutant Discharge Elimination System (NPDES) and Nebraska Pretreatment Program function as the regulatory authority for the administration of the Clean Water Act via NDEQ *Title 119 - Rules and Regulations Pertaining to the Issuance of Permits under the National Pollutant Discharge Elimination System* for industries and municipalities. The NPDES program is responsible for regulating discharges of pollutants from point sources to waters of the State to protect the water quality of Nebraska's streams, lakes, rivers, and groundwater. The Nebraska NPDES program encompasses a number of different types of discharges including: non-process and process wastewaters; discharges to publicly owned treatment works; land applications of wastewaters; and industrial and municipal storm water discharges. The NPDES Nebraska Pretreatment Program (NPP) functions to protect municipal wastewater collection and treatment systems from damage or overloading by industries. This program is important to small business, as it does not necessarily consider the size of a business to determine how it is regulated under the Clean Water Act. The Department offers the same level of assistance to smaller businesses that fall under the NPP as it does to large-scale operations. The Industrial Storm Water General Permit, which impacts more than 1000 facilities, was of concern to businesses in late 2011 and early 2012. On January 1, 2013, the Construction Storm Water General Permit will be renewed. For 2012, compliance assistance and outreach efforts included a Construction Stormwater Stakeholder meeting, a municipal separate storm sewer draft meeting with the City of Lincoln, a draft permit meeting with Eppley Airfield, draft permit and combined sewer overflow meetings with the City of Omaha, Omaha Public Power District, and Nebraska Public Power District. The Department also works with the Nebraska Rural Water Association and the Midwest Assistance Program to provide assistance to small municipalities to help identify wastewater infrastructure and operational problems and implement corrective actions,

where applicable, with little cost to the communities. This has shown on occasion to provide alternatives to capital projects. When Capital improvements are necessary, the Department, at the request of the communities, has attended Village Board meetings to help explain the regulatory issues and procurement of financial assistance. By assisting Nebraska communities and small municipalities, the Department assists those businesses relying on those communities' services.

The NDEQ Onsite Wastewater program affects thousands of owners of facilities addressing septic systems, domestic lagoons, wastewater holding tanks, and other onsite wastewater treatment systems. This past year, the Onsite program continued to work in cooperation with numerous local and county agencies, as well as the general public, regarding septic systems. The Onsite Program webpage underwent a major modification due to August 2012 changes to Title 124 - *Rules and Regulations for the Design, Operation, and Maintenance of On-site Wastewater Treatment Systems*. Approximately 60 forms, guidance documents and related information were created or revised to reflect the regulatory changes. The program's webpage layout and usability was also improved, including the addition of a "Just for Homeowners" section. Six different newsletters were mailed to onsite professionals and others interested to update them on the amendments, a new inspection program and other program issues. Certified professionals and others were also direct mailed copies of the revised regulations and new forms.

The NDEQ Operator Certification Program works with owners of municipal, industrial, and other large wastewater treatment facilities to ensure these sewer systems are operated by properly qualified individuals. The program administers Title 197 - *Rules and Regulations for the Certification of Wastewater Treatment Operators in Nebraska* to accomplish that task. This includes the rating of wastewater treatment facilities to determine minimum operator requirements, as well as the testing and certification of qualified operators through the use of a nationally accredited certification exam process. Out-reach for the program included two articles published in the Nebraska Water Environment Association quarterly publication "Effluent Line" as well as publishing program information on the program's webpage including exam dates, approved continuing education programs, and related program information.

In 2012, the NDEQ Petroleum Remediation Section updated one of its guidance documents, *Reasonable Rate Schedule and Reimbursement Guidance Manual* for the Title 200 Petroleum Release Remedial Action Cash Fund.

Field Services and Assistance Division

The NDEQ Field Services and Assistance Division (FSAD) participate in many departmental assistance activities; one of the primary activities is the annual *Environmental Update* workshop. The one-day conference has been an annual event of the Department for the last nine years. This year, the *2012 Environmental Update* was held in Lincoln on March 22, 2012, to inform the regulated community on a variety of environmental regulations that can affect their operations. Over 160 members from the regulated community and public attended. Workshop topics included:

- Having the NDEQ Director, Mr. Mike Linder and the Environmental Protection Agency (EPA) Acting Deputy Regional Administrator, Mr. Mark Hague, discuss what they each see as future issues in the environmental arena for each agency;
- Providing the audience the opportunity to ask questions from inspectors in the Department's three divisions – Air Quality, Water Quality, and Waste Management;
- Having an update from the Nebraska State Fire Marshal's Office on storage tank requirements;
- Discussing groundwater monitoring and monitoring protocols;
- reviewing National Pollutant Discharge Elimination System (NPDES) general permits; and
- Providing an update on a variety of air quality regulations regarding boilers, generators, as well as an update on stack testing protocols.

Survey feedback from the participants was positive. FSAD staff have already begun planning the 2013 Environmental Update workshop, which will be held in Lincoln on May 14, 2013.

A second workshop that the SBPA Coordinator and other FSAD personnel, working in partnership with the Nebraska Public Power District (NPPD), was the 2012 *Power Summit* workshop, which was hosted on November 7, 2012. A primary purpose of the Power Summit, which has been a joint annual event for NPPD and NDEQ since 2004 as part of the NPPD/NDEQ Environmental Partnership program, is to provide an opportunity for the state's regulated electric power producers and environmental regulators to come together and discuss issues of mutual interest. This year, the event had over 60 attendees, with the program covering air quality monitoring and modeling, carbon dioxide reduction partnerships, the effects of the 2012 drought on power providers and future planning, the State's ethanol industry and power needs, NPPD's sustainable plans, and perspectives of what to expect in regard to future environmental regulatory initiatives.

The SBPA Coordinator has also begun an informal effort to provide outreach to the State's ethanol industry. Objectives include discussing some of the upcoming federal regulations which may impact the sector, and learning from the ethanol industry what technological advancements and initiatives are underway that the Department should know about for permitting and compliance purposes.

The Community Right-to-Know program continued to work with Local Emergency Planning Committees in the state in planning efforts, as well as providing relevant information. In addition the NDEQ Tier II Coordinator, Mr. Mark Lohnes, also oversees the Department's efforts regarding the 2025 Safer Chemical Challenge Program (SCCP). The SCCP is an effort by the Environmental Council of the States (ECOS) and the National Pollution Prevention Roundtable (NPPR) designed to motivate business facilities to reduce the use of chemicals, especially hazardous chemicals, in their manufacturing and operating processes. Businesses can find additional information about this program by contacting Mr. Lohnes or the SBPA Coordinator at NDEQ.

Please direct any questions, comments, or suggestions to:

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