

the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

XI. Children's Health Protection

This final rule is not subject to E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it does not involve decisions on environmental health risks or safety risks that may disproportionately affect children.

List of Subjects in 40 CFR Part 80

Environmental protection, California exemptions, Fuel additives, Gasoline, Reformulated gasoline, Imports, Labeling, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: June 17, 1998.

Carol M. Browner,
Administrator.

For the reasons set forth in the preamble, 40 CFR Part 80 is amended as follows:

PART 80—[AMENDED]

1. The authority citation for part 80 continues to read as follows:

Authority: Secs. 114, 211, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7414, 7545, and 7601(a)).

2. Section 80.81 is amended by revising paragraphs (e)(1), (e)(2) and (h) to read as follows:

§ 80.81 Enforcement exemptions for California gasoline.

* * * * *

(e)(1) The exemption provisions contained in paragraphs (b)(2), (b)(3), (c), and (f) of this section shall not apply under the circumstances set forth in paragraphs (e)(2) and (e)(3) of this section.

(2) Such exemption provisions shall not apply to any refiner, importer, or oxygenate blender of California gasoline with regards to any gasoline formulation that it produces or imports is certified under Title 13, California Code of Regulations, section 2265 or section 2266 (as amended July 2, 1996), unless:

(i) *Written notification option.* (A) The refiner, importer, or oxygenate blender, within 30 days of the issuance of such certification:

(1) Notifies the Administrator of such certification;

(2) Submits to the Administrator copies of the applicable certification order issued by the State of California and the application for certification submitted by the regulated party to the State of California; and

(3) Submits to the Administrator a written demonstration that all gasoline formulations produced, imported or blended by the refiner, importer or oxygenate blender for use in California meets each of the complex model per-gallon standards specified in § 80.41(c).

(B) If the Administrator determines that the written demonstration submitted under paragraph (e)(2)(i)(A) of this section does not demonstrate that all certified gasoline formulations meet each of the complex model per-gallon standards specified in § 80.41(c), the Administrator shall provide notice to the party (by first class mail) of such determination and of the date on which the exemption provisions specified in paragraph (e)(1) of this section shall no longer be applicable, which date shall be no earlier than 90 days after the date of the Administrator's notification.

(ii) *Compliance survey option.* The compliance survey requirements of § 80.68 are met for each covered area in California for which the refiner, importer or oxygenate blender supplies gasoline for use in the covered area, except that:

(A) The survey series must determine compliance only with the oxygen content standard of 2.0 weight-percent;

(B) The survey series must consist of at least four surveys a year for each covered area;

(C) The surveys shall not be included in determining the number of surveys under § 80.68(b)(2);

(D) In the event a survey series conducted under this paragraph (e)(2)(ii) fails in accordance with § 80.68(c)(12), the provisions of §§ 80.41(o), (p) and (q) are applicable, except that if the survey series failure occurs in a year in which the applicable minimum oxygen content is 1.7 weight percent, the compliance survey option of this section shall not be applicable for any future year; and

(E) Notwithstanding § 80.41(o), in the event a covered area passes the oxygen content series in a year, the minimum oxygen content standard for that covered area beginning in the year following the passed survey series shall be made less stringent by decreasing the minimum oxygen content standard by 0.1%, except that in no case shall the minimum oxygen content standard be less than that specified in § 80.41(d).

* * * * *

(h)(1) For the purposes of the batch sampling and analysis requirements contained in § 80.65(e)(1) and § 80.101(i)(1)(i)(A), any refiner, importer or oxygenate blender of California gasoline may use a sampling and/or analysis methodology prescribed in

Title 13, California Code of Regulations, sections 2260 *et seq.* (as amended July 2, 1996), in lieu of any applicable methodology specified in § 80.46, with regards to

(i) Such gasoline; or

(ii) That portion of its gasoline produced or imported for use in other areas of the United States, provided that:

(A) The gasoline must be produced by a refinery that is located in the state of California that produces California gasoline, or imported into California from outside the United States as California Phase 2 gasoline;

(B) The gasoline must be classified as conventional gasoline upon exportation from the California; and

(C) The refiner or importer must correlate the results from the applicable sampling and /or analysis methodology prescribed in Title 13, California Code of Regulations, sections 2260 *et seq.* (as amended July 2, 1996), with the method specified at § 80.46, and such correlation must be adequately demonstrated to EPA upon request.

(2) Notwithstanding the requirements of § 80.65(e)(1) regarding when the properties of a batch of reformulated gasoline must be determined, a refiner of California gasoline may determine the properties of gasoline as specified under § 80.65(e)(1) at off site tankage provided that:

(i) The samples are properly collected under the terms of a current and valid protocol agreement between the refiner and the California Air Resources Board with regard to sampling at the off site tankage and consistent with requirements prescribed in Title 13, California Code of Regulations, sections 2260 *et seq.* (as amended July 2, 1996); and

(ii) The refiner provides a copy of the protocol agreement to EPA upon request.

* * * * *

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180, 185, and 186

[OPP-300638; FRL-5783-6]

RIN 2070-AB78

Recodification of Certain Tolerance Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is issuing this technical amendment to consolidate parts 185 and 186 pesticide tolerance regulations into part 180. This recodification is consistent with the Food Quality Protection Act which places all pesticide tolerances under section 408 of the Federal Food, Drug, and Cosmetic Act, thus eliminating the distinction between pesticide tolerances for raw and processed foods.

DATES: This regulation becomes effective June 26, 1998.

FOR FURTHER INFORMATION CONTACT: By mail, Joseph Nevola, Special Review Branch (7508W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number and e-mail address: 3rd Floor, Crystal Station, 2800 Crystal Drive, Arlington, VA 22202, (703) 308-8037; e-mail: nevola.joseph@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Pesticide tolerance regulations promulgated under sections 408 and 409 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a and 348, appear in parts 180, 185 and 186 of title 40 of the Code of Federal Regulations. Part 180 contains pesticide tolerance regulations for pesticide chemical residues in raw agricultural commodities. Such regulations were promulgated under FFDCA section 408. Parts 185 and 186 contain food additive regulations for pesticide chemical residues in processed food. These regulations were promulgated under FFDCA section 409.

The Food Quality Protection Act (FQPA) was signed into law in August of 1996. Under section 408(j) of the FFDCA, as amended by the FQPA, all pesticide tolerances established under FFDCA section 409 were deemed to be tolerances under FFDCA section 408. Since there is no longer a statutory reason for the separation of these tolerances into different parts of the CFR, as a part of the routine process of issuing new and revised tolerances, EPA is consolidating certain sections of the regulations in parts 185 and 186 into 40 CFR part 180. Although the tolerances are being restructured to fit into part 180, no substantive changes are being made. The tolerance regulations in parts 185 and 186 are being redesignated as follows:

Old CFR section	New CFR section
185.410	180.163(a) table
185.1450	180.142(a)(13)
185.1975(a)	180.528
185.1985	180.529
185.2150	180.530

Old CFR section	New CFR section
185.2225	180.531(a)(1)
185.3450	180.276(a)(2)
185.5475	180.174(a)
186.1875	180.274(a)(2)
186.1975(a) and (b)	180.528
186.1985	180.529
186.2150(a) and (b)	180.530
186.2225	180.531(a)(2)
186.2775	180.345(a)(2)
186.4050	180.289(a) table

This action is being taken pursuant to EPA's authority under FFDCA section 408(e)(1)(C) to issue regulations implementing the requirements of section 408. Because this regulation involves a technical change to existing regulations and has no substantive impact, EPA for good cause finds that it would be in the public interest to promulgate this regulations without issuing a notice of proposed rulemaking under section 408(e)(2).

I. Regulatory Assessment Requirements

This final rule does not impose any requirements. It only implements technical amendments to the Code of Federal Regulations (CFR), by recodifying certain tolerances that have already been established under FFDCA section 408. Basically, this notice simply consolidates the tolerances, which currently appear in two separate parts of the CFR (i.e., 40 CFR parts 185 and 186), into a single part (i.e., 40 CFR part 180). As such, this action does not require review by the Office of Management and Budget (OMB) under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993), the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997). For the same reason, it does not require any action under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4), Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994). In addition, since this type of action does not require any proposal, no action is needed under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*).

II. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small

Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

40 CFR Part 185

Environmental protection, Food additives, Pesticides and pests.

40 CFR Part 186

Environmental protection, Animal feeds, Pesticides and pests.

Dated: June 3, 1998.

Lois Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

1. Section 180.163 is revised to read as follows:

§ 180.163 1,1-Bis(p-chlorophenyl)-2,2,2-trichloroethanol; tolerances for residues.

(a) *General.* Tolerances for residues of the insecticide 1,1-bis(p-chlorophenyl)-2,2,2-trichloroethanol in or on raw agricultural commodities are established as follows:

Commodity	Parts per million
Apples	5
Apricots	10
Beans (dry form)	5
Beans, lima (succulent form)	5
Beans, snap (succulent form) ...	5
Blackberries	5
Boysenberries	5
Bushnuts	5
Butternuts	5
Cantaloups	5
Cherries	5
Chestnuts	5
Cottonseed	0.1
Crabapples	5
Cucumbers	5
Dewberries	5
Eggplants	5
Figs	5

Commodity	Parts per million
Filberts	5
Grapefruit	10
Grapes	5
Hay, peppermint	25
Hay, spearmint	25
Hazelnuts	5
Hickory nuts	5
Hops	30
Kumquats	10
Lemons	10
Limes	10
Loganberries	5
Melons	5
Muskmelons	5
Nectarines	10
Oranges	10
Peaches	10
Pears	5
Pecans	5
Peppers	5
Pimentos	5
Plums (fresh prunes)	5
Pumpkins	5
Quinces	5
Raspberries	5
Spearmint hay	25
Strawberries	5
Summer squash	5
Tangerines	10
Tea, dried	45
Tomatoes	5
Walnuts	5
Watermelons	5
Winter squash	5

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

2. Section 180.174 is revised to read as follows:

§ 180.174 Tetradifon; tolerances for residues.

(a) *General.* Tolerances are established for residues of the insecticide tetradifon (2,4,5,4'-tetrachlorodiphenyl sulfone) in or on raw agricultural commodities as follows:

Commodity	Parts per million
Apples	5
Apricots	5
Cherries	5
Citrus citron	2
Crabapples	5
Cucumber	1
Figs	6
Figs, dried	10
Grapefruit	2
Grapes	5
Hops, dried	120
Hops, fresh	30
Lemons	2
Limes	2
Meat	0
Melons	1

Commodity	Parts per million
Milk	0
Nectarines	5
Oranges	2
Peaches	5
Pears	5
Peppermint	100
Plums (fresh prunes)	5
Pumpkins	1
Quinces	5
Spearmint	100
Strawberries	5
Tangerines	2
Tea, dried	8
Tomatoes	1
Winter squash	1

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

3. Section 180.274 is revised to read as follows:

§ 180.274 Propanil; tolerances for residues.

(a) *General.* (1) Tolerances are established for combined residues of the herbicide propanil (3',4'-dichloropropionanilide; CAS Reg. No. 709-98-8) and its metabolites (calculated as propanil) in or on the following raw agricultural commodities:

Commodity	Parts per million
Barley, grain2
Barley, straw75
Cattle, fat	0.1(N)
Cattle, mbyp	0.1(N)
Cattle, meat	0.1(N)
Eggs	0.05(N)
Goats, fat	0.1(N)
Goats, mbyp	0.1(N)
Goats, meat	0.1(N)
Hogs, fat	0.1(N)
Hogs, mbyp	0.1(N)
Hogs, meat	0.1(N)
Horses, fat	0.1(N)
Horses, mbyp	0.1(N)
Horses, meat	0.1(N)
Milk	0.05(N)
Oats, grain2
Oats, straw75
Poultry, fat	0.1(N)
Poultry, mbyp	0.1(N)
Poultry, meat	0.1(N)
Rice	2
Rice bran	10
Rice hulls	10
Rice mill fractions	10
Rice polishings	10
Rice, straw	75(N)
Sheep, fat	0.1(N)
Sheep, mbyp	0.1(N)
Sheep, meat	0.1(N)
Wheat, grain	0.2
Wheat, straw	0.75

(2) Tolerances are established for the combined residues of the herbicide propanil (3',4'-dichloropropionanilide; CAS Reg. No. 709-98-8) and its metabolites (calculated as the parent compound) in or on the following processed feeds when present therein as a result of application of the herbicide to the growing crops:

Commodity	Parts per million
Rice bran	10
Rice hulls	10
Rice mill fractions	10
Rice polishings	10

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

4. Section 180.276 is revised to read as follows:

§ 180.276 Formetanate hydrochloride; tolerances for residues.

(a) *General.* (1) Tolerances are established for residues of the insecticide formetanate hydrochloride (m-[[[(dimethylamino) methylene]amino]phenyl methylcarbamate hydrochloride) in or on raw agricultural commodities as follows:

Commodity	Parts per million
Apples	3
Grapefruit	4
Lemons	4
Limes	4
Nectarines	4
Oranges	4
Peaches	5
Pears	3
Plums (fresh prunes)	2
Tangerines	4

(2) A tolerance of 8 parts per million is established for residues of the insecticide formetanate hydrochloride (m-[[[(dimethylamino) methylene amino] phenyl methyl-carbamate hydrochloride) in dried prunes when present therein as a result of the application of the insecticide to growing plums (fresh prunes).

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

5. Section 180.289 is revised to read as follows:

§ 180.289 Methanearsonic acid; tolerances for residues.

(a) *General.* Tolerances are established for residues of the herbicide methanearsonic acid (calculated as As₂O₃) from application of the disodium and monosodium salts of methanearsonic acid in or on raw agricultural commodities as follows:

Commodity	Parts per million
Citrus fruit	0.35
Cottonseed	0.7
Cottonseed hulls	0.9

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

6. Section 180.345 is revised to read as follows:

§ 180.345 Ethofumesate; tolerances for residues.

(a) *General.* Tolerances are established for combined residues of the herbicide ethofumesate (2-ethoxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl methanesulfonate) and its metabolites 2-hydroxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl methanesulfonate and 2,3-dihydro-3,3-dimethyl-2-oxo-5-benzofuranyl methanesulfonate (both calculated as the parent compound) in or on the following raw agricultural commodities:

Commodity	Parts per million
Beets, sugar, roots	0.1
Beets, sugar, tops	1.00
Cattle, fat	0.05
Cattle, mbyp	0.05
Cattle, meat	0.05
Goats, fat	0.05
Goats, mbyp	0.05
Goats, meat	0.05
Grass, straw	1
Hogs, fat	0.05
Hogs, mbyp	0.05
Hogs, meat	0.05
Horses, fat	0.05
Horses, mbyp	0.05
Horses, meat	0.05
Sheep, fat	0.05
Sheep, mbyp	0.05
Sheep, meat	0.05

(2) Tolerances are established for combined residues of the herbicide ethofumesate (2-ethoxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl methanesulfonate; CAS Reg. No. 26225-79-6) and its metabolites 2-hydroxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl methanesulfonate and 2,3-dihydro-3,3-dimethyl-2-oxo-5-benzofuranyl

methanesulfonate, (both calculated as the parent compound) in or on the following processed feeds when present therein as a result of application of the herbicide to the growing crops:

Commodity	Parts per million
Sugar beet molasses	0.5

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

7. Section 180.528 is added to read as follows:

§ 180.528 Dihydro-5-heptyl-2(3H)-furanone; tolerances for residues.

(a) *General.* The food additive/feed additive dihydro-5-heptyl-2(3H)-furanone may be safely used in accordance with the following conditions:

(1) It is used in combination with the active ingredients d-limonene and dihydro-5-pentyl-2(3H)-furanone in insect-repellent tablecloths and in insect-repellent strips used in food- or feed-handling establishments.

(2) To assure safe use of the insecticide, its label and labeling shall conform to that registered by the U.S. Environmental Protection Agency, and it shall be used in accordance with such label and labeling.

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

8. Section 180.529 is added to read as follows:

§ 180.529 Dihydro-5-pentyl-2(3H)-furanone.

(a) *General.* The food additive/feed additive dihydro-5-pentyl-2(3H)-furanone may be safely used in accordance with the following conditions:

(1) It is used in combination with the active ingredients d-limonene and dihydro-5-heptyl-2(3H)-furanone in insect-repellent tablecloths and in insect-repellent strips used in food- or feed-handling establishments.

(2) To assure safe use of the insecticide, its label and labeling shall conform to that registered by the U.S. Environmental Protection Agency, and it shall be used in accordance with such label and labeling.

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

9. Section 180.530 is added to read as follows:

§ 180.530 2,2-Dimethyl-1,3-benzodioxol-4-ol methylcarbamate; tolerances for residues.

(a) *General.* (1) The insecticide 2,2-dimethyl-1,3-benzodioxol-4-ol methylcarbamate may be safely used in spot and/or crack and crevice treatments in animal feed handling establishments, including feed manufacturing and processing establishments, such as stores, supermarkets, dairies, meat slaughtering and packing plants, and canneries.

(2) The insecticide 2,2-dimethyl-1,3-benzodioxol-4-ol methylcarbamate may be safely used in spot and/or crack and crevice treatments in food handling establishments, including food service, manufacturing and processing establishments, such as restaurants, cafeterias, supermarkets, bakeries, breweries, dairies, meat slaughtering and packing plants, and canneries.

(3) To ensure safe use of the additive, its label and labeling shall conform to that registered with the U.S. Environmental Protection Agency and it shall be used in accordance with such label and labeling.

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

10. Section 180.531 is added to read as follows:

§ 180.531 O,O-Dimethyl S-[4-oxo-1,2,3-benzotriazin-3(4H)-ylmethyl] phosphorodithioate.

(a) *General.* (1) A tolerance of 1 part per million is established for residues of the insecticide O,O-dimethyl S-[4-oxo-1,2,3-benzotriazin-3(4H)-ylmethyl] phosphorodithioate in soybean oil resulting from application of the insecticide to the raw agricultural commodity soybeans.

(2) The following tolerances are established for residues of the insecticide O,O-dimethyl S-[4-oxo-1,2,3-benzotriazin-3(4H)-ylmethyl] phosphorodithioate in the indicated commodities when used for the feed of cattle, goats, and sheep. Such residues may be present therein only as a result of the application of the insecticide to the growing agricultural crop.

Commodity	Parts per million
Citrus pulp, dried	5

Commodity	Parts per million
Sugarcane bagasse	1.5

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

2. In part 185:

PART 185—[AMENDED]

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 346a and 348.

§ 185.410 [Removed]

b. Section 185.410 is removed.

§ 185.1450 [Partially Redesignated and Removed]

c. The text of § 185.1450 is transferred to § 180.142 and redesignated as follows:

i. Paragraph (a) introductory text is redesignated as § 180.142(a)(13).

ii. Paragraphs (a)(1) and (a)(2) are redesignated as § 180.142(a)(13)(i) and (a)(13)(ii).

iii. Paragraphs (a)(3) introductory text, (a)(3)(i), (a)(3)(ii) and (a)(3)(iii) are redesignated as § 180.142(a)(13)(iii) introductory text, (a)(13)(iii)(A), (a)(13)(iii)(B) and (a)(13)(iii)(C), respectively. The remainder of § 185.1450 is removed.

§ 185.1975 [Removed]

d. Section 185.1975 is removed.

§ 185.1985 [Removed]

e. Section 185.1985 is removed.

§ 185.2150 [Removed]

f. Section 185.2150 is removed.

§ 185.2225 [Removed]

g. Section 185.2225 is removed.

§ 185.3450 [Removed]

h. Section 185.3450 is removed.

§ 185.5475 [Removed]

i. Section 185.5475 is removed.

3. In part 186:

PART 186—[AMENDED]

a. The authority citation continues to read as follows:

Authority: 21 U.S.C. 342, 348, and 371.

§ 186.1875 [Removed]

b. Section 186.1875 is removed.

§ 186.1975 [Removed]

c. Section 186.1975 is removed.

§ 186.1985 [Removed]

d. Section 186.1985 is removed.

§ 186.2150 [Removed]

e. Section 186.2150 is removed.

§ 186.2225 [Removed]

f. Section 186.2225 is removed.

§ 186.2775 [Removed]

g. Section 186.2775 is removed.

§ 186.4050 [Removed]

h. Section 186.4050 is removed.

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