

2023 -- H 5345

LC001157

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO AGRICULTURE AND FORESTRY -- AGRICULTURAL FUNCTIONS OF DEPARTMENT

Introduced By: Representatives Fogarty, Handy, Cortvriend, Carson, McEntee, Azzinaro, Messier, Kazarian, Edwards, and Hull

Date Introduced: February 03, 2023

Referred To: House Environment and Natural Resources

(Dept. of Environmental Management)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 2-1-10.1 of the General Laws in Chapter 2-1 entitled "Agricultural
2 Functions of Department of Environmental Management" is hereby amended to read as follows:

3 **2-1-10.1. Assent to food safety modernization act.**

4 (a) The state of Rhode Island assents to the provisions of the act of Congress entitled "FDA
5 Food Safety Modernization Act," 21 U.S.C. § 2201 et seq., and the director of environmental
6 management is authorized, empowered, and directed to perform those acts relating to produce on
7 the farm that may be necessary for the modernization of the safety of the food supply, as defined
8 in that act of Congress, in compliance with that act and with the rules and regulations promulgated
9 by the Food and Drug Administration that are consistent with that act.

10 (b) The State of Rhode Island assents to the provisions of the act of Congress entitled "FDA
11 Food Safety Modernization Act," 21 U.S.C. § 2201 et seq., and the director of environmental
12 management is authorized, empowered, and directed to perform those acts relating to the Preventive
13 Controls for Animal Food (PCAF) regulation in compliance with that act and with the rules and
14 regulations promulgated by the Food and Drug Administration that are consistent with that act.

15 SECTION 2. Sections 2-7-4 and 2-7-6 of the General Laws in Chapter 2-7 entitled
16 "Commercial Fertilizer" are hereby amended to read as follows:

17 **2-7-4. Registration.**

18 (a) Each brand and grade of commercial fertilizer shall be registered by the manufacturer

1 or by that person whose name appears upon the label before being distributed in this state. The
2 application for registration shall be submitted to the director on a form furnished by the director,
3 and shall be accompanied by a fee of one hundred dollars (\$100) per brand or grade registered.

4 (1) All revenues received from registration fees shall be deposited as general revenues.

5 (2) All applications for registration shall be accompanied by a label or true copy of the
6 label.

7 (3) Upon approval by the director, a copy of the registration shall be furnished to the
8 applicant.

9 (4) All registrations expire on December 31 of each year.

10 (5) The application shall include the following information:

11 (i) The brand and grade;

12 (ii) The guaranteed analysis; and

13 (iii) The name and address of the registrant.

14 (b) A distributor is not required to register any commercial fertilizer that is already
15 registered under this chapter by another person, providing the label does not differ in any respect.

16 (c) A distributor is not required to register each grade of commercial fertilizer formulated
17 according to specifications that are furnished by a consumer prior to mixing.

18 (d) The plant nutrient content of each and every brand and grade of commercial fertilizer
19 must remain uniform for the period of registration.

20 (e) The director may require that the registration and fees required by this section be paid
21 electronically.

22 (f) In addition to the registration fees, the director may charge a processing fee. The
23 department shall set the amount of such fees through rules and regulations, with processing fees
24 not to exceed five percent (5%) of the registration surcharge per application.

25 **2-7-6. Tonnage reports, tonnage fees.**

26 (a) There shall be paid to the department of environmental management for all commercial
27 fertilizers distributed in this state a tonnage fee at the rate of fifteen cents (15¢) per ton: provided,
28 that sales or exchanges between manufacturers are exempted. Tonnage fees of less than one dollar
29 (\$1.00) are waived. All registration and tonnage fees received by the director under the provisions
30 of this chapter shall be deposited into the general fund as general revenue.

31 (b) Every person who distributes a commercial fertilizer in this state shall file with the
32 director, on forms furnished by the director, an annual tonnage report, under oath, for the twelve
33 (12) month period ending June 30th. The report shall set forth the net tons of each grade of
34 commercial fertilizer distributed in this state during the twelve (12) month period.

1 (c) The tonnage report and tonnage fee are due on or before July 15th following the close
2 of the annual period. The tonnage fee is at the rate stated in subsection (a).

3 (d) If the tonnage report is not filed and/or the tonnage fee not made on or before August
4 1st, following the close of the annual period, a collection fee amounting to ten percent (10%) (ten
5 dollars (\$10.00) minimum) of the amount shall be assessed against the registrant, and the amount
6 of fees due shall constitute a debt and become the basis of a judgment against the registrant. The
7 director, however, in his or her discretion, may grant a reasonable extension of time. No information
8 furnished the director under this section shall be disclosed in a way as to divulge the operation of
9 any person.

10 (e) When more than one person is involved in the distribution of a commercial fertilizer,
11 the last person who has the fertilizer registered and who distributes to a non-registrant (dealer or
12 consumer) is responsible for reporting and paying the tonnage fee, unless the report and payment
13 is made by a prior distributor of a fertilizer.

14 (f) All moneys for the commercial fertilizer program shall be made available to the director
15 for the following purposes:

16 (1) To support the feed and fertilizer testing laboratory for the testing and analysis of
17 commercial fertilizers distributed within this state for the expressed purpose of detection of
18 deficiency; and

19 (2) For payment of ancillary services, personnel and equipment incurred in order to carry
20 out the purposes of quality assurance defined by this chapter.

21 (g) The director may require that all reports and fees required by this section be submitted
22 electronically.

23 (h) In addition to the tonnage fees, the director may charge a processing fee. The
24 department shall set the amount of such fees through rules and regulations, with processing fees
25 not to exceed five percent (5%) of the registration fee per report.

26 SECTION 3. Sections 2-21-6 and 2-21-7 of the General Laws in Chapter 2-21 entitled
27 "Agricultural Liming Materials" are hereby amended to read as follows:

28 **2-21-6. Registration.**

29 (a) Each separately identified product shall be registered before being distributed in this
30 state. The application for registration shall be submitted to the director on forms furnished by the
31 director and shall be accompanied by a fee of twenty dollars (\$20.00) per product. Upon approval
32 by the director, a copy of the registration shall be furnished to the applicant. All registrations expire
33 on December 31st of each year.

34 (b) A distributor is not required to register any brand of agricultural liming material which

1 is already registered under this chapter by another person, providing the label does not differ in any
2 respect.

3 (c) The director may require that the registration and fees required by this section be paid
4 electronically.

5 (d) In addition to the registration fees, the director may charge a processing fee. The
6 department shall set the amount of such fees through rules and regulations, with processing fees
7 not to exceed five percent (5%) of the registration surcharge per application.

8 **2-21-7. Reporting of tonnage.**

9 (a) Within thirty (30) days following the expiration of registration, each registrant shall
10 submit on forms furnished by the director an annual statement under oath for the twelve (12) month
11 period ending the calendar year, setting forth the number of net tons of each agricultural liming
12 material sold by him for use in the state during that calendar year. No tonnage fee is required on
13 agricultural liming materials being offered for sale in this state.

14 (b) The director shall publish and distribute annually, to each agricultural liming material
15 registrant or other interested persons a composite report showing the tons of agricultural liming
16 material sold in the state. This report shall in no way divulge the operation of any registrant.

17 (c) The director may require that the report required by this section be submitted
18 electronically.

19 SECTION 4. Section 2-22-5 of the General Laws in Chapter 2-22 entitled "Soil
20 Amendments" is hereby amended to read as follows:

21 **2-22-5. Registration — Tonnage report and fee.**

22 (a) Each separately identified product shall be registered before being distributed in this
23 state. The application for registration shall be submitted to the director of environmental
24 management on forms furnished or approved by the director and be accompanied by a fee of fifty
25 dollars (\$50.00) per product. Upon approval by the director, a certified copy of the registration shall
26 be furnished to the applicant. All registrations expire on December 31st of each year. Each
27 manufacturer shall submit to the director a copy of labels and advertising literature with the
28 registration request for each soil amendment.

29 (b) A distributor is not required to register any brand of soil amendment which is already
30 registered under this chapter by another person, providing that the label does not differ in any
31 respect.

32 (c) Before registering any soil amendment, the director may require evidence to
33 substantiate the claims made for the soil amendment and proof of the value and usefulness of the
34 soil amendment and of any process step during composting deemed essential to the safety of the

1 soil amendment as provided in subsections (c) and (d) of § 2-22-4.

2 (d) The director may by regulation set the minimum amount of a soil amending ingredient
3 and soil amending ingredients that must be present before a soil amendment can be registered and
4 sold.

5 (e) The director may through promulgation of regulations require a tonnage fee and/or
6 tonnage report annually. If required, the tonnage fee and tonnage report may be made on a
7 calculated equivalent of volume to tons on brands labeled by volume rather than weight.

8 (f) The composter is required to register the operation with the director and shall identify
9 their organic and any inorganic inputs and processes used in the making of their compost. The
10 director shall set forth rules and regulations delineating the organic inputs allowed under the
11 following compost designations and shall collect the appropriate registration fee for the compost
12 operation. Compost classes are:

13 (1) Horticultural grade, general use, one hundred fifty dollars (\$150) per year;

14 (2) Horticultural grade, mixed source general use, three hundred dollars (\$300) per year;

15 (3) Non-food crop use, one thousand dollars (\$1,000) per year; and

16 (4) Limited landscape use, two thousand five hundred dollars (\$2,500) per year.

17 (g) The director may require that all fees and registrations required by this section be
18 submitted electronically.

19 (h) In addition to the registration fees, the director may charge a processing fee. The
20 department shall set the amount of such fees through rules and regulations, with processing fees
21 not to exceed five percent (5%) of the registration surcharge per application.

22 SECTION 5. Section 4-7-16 of the General Laws in Chapter 4-7 entitled "Livestock
23 Dealers" is hereby amended to read as follows:

24 **4-7-16. ~~License plate fees~~ License fees.**

25 The fee for the ~~first~~ license issued to any one individual or corporation in accordance with
26 this chapter is fifty dollars (\$50.00), ~~which entitles the licensee to one set of number plates. The fee~~
27 ~~for each additional license and set of number plates is twenty five dollars (\$25.00).~~

28 SECTION 6. Section 4-11-2 of the General Laws in Chapter 4-11 entitled "Psittacine
29 Birds" is hereby amended to read as follows:

30 **4-11-2. Importation permits.**

31 ~~(a) No psittacine birds shall be shipped into Rhode Island unless a permit is obtained from~~
32 ~~the director of environmental management prior to shipment~~ certificate of veterinary inspection
33 accompanies the shipment of birds. The certificate of veterinary inspection must be compliant with
34 rules and regulations governing the importation of domestic animals (250-RICR-40-05-1).

1 ~~(b) Permits shall be issued only if a request for one is accompanied by a certificate issued~~
2 ~~by a graduate, licensed veterinarian certifying that all birds on the premises from which the~~
3 ~~shipment originates are free from any symptoms of any infectious, contagious or communicable~~
4 ~~disease.~~

5 ~~(c) Requests for permits to import psittacine birds must contain the number and kind of~~
6 ~~bird to be imported, origin and date of shipment, and destination of shipment.~~

7 SECTION 7. Sections 4-12-2 and 4-12-8 of the General Laws in Chapter 4-12 entitled
8 "Apiculture" are hereby amended to read as follows:

9 **4-12-2. Definitions.**

10 As used in §§ 4-12-2 — 4-12-17 unless the context clearly requires otherwise, the
11 following terms mean:

12 (1) "Abandoned colony or apiary" means any colony or apiary which is not currently
13 registered and has not been registered within the preceding two (2) years and/or which the inspector
14 is unable to locate the owner and is unable to inspect due to conditions within the colony which
15 render the colony or apiary uninspectable.

16 (2) "Apiary" means any place or location where one or more colonies or nuclei of bees are
17 kept.

18 (3) "Authorized official" means the state official authorized to inspect apiaries in the state
19 of origin of bees being transported into or through the state.

20 (4) "Beekeeper" means any individual, person, firm, association or corporation owning,
21 possessing, or controlling one or more colonies of bees for the production of honey, beeswax, or
22 byproducts, or for the pollination of crops for either personal or commercial use.

23 (5) "Beekeeping equipment" means all hives, hive bodies, supers, frames, combs, bottom
24 boards, covers, excluders, screens, escape boards, feeders, hive tools, slatted racks, or other devices
25 or boxes or other containers which may have been used in the capturing or holding of swarms, and
26 including honey which may be or may have been used in or on any hive, colony, nuclei or used in
27 the rearing or manipulation of bees or their brood.

28 (6) "Bees" means any stage of the common honey bee, *apis mellifera*, or other bees kept
29 for the production of honey, wax or pollination.

30 (7) "Colony" means the bees inhabiting a single hive, nuclei box or dwelling place.

31 (8) "Director" means the director of the Rhode Island department of environmental
32 management.

33 (9) "Disease" means American foulbrood and any other infectious, contagious or
34 communicable disease affecting bees or their brood.

1 (10) “Eradicate” means the destruction and/or disinfection of infected and/or infested bees,
2 equipment and/or pests by burning or by treatment approved by the state inspector.

3 (11) “Feral colony” means an unowned or unmanaged colony of bees existing naturally.

4 (12) “Hive” means any man-made domicile with removable frames for keeping bees.

5 (13) “Inspector” means a person appointed by the director to check for diseased conditions
6 or pest infestations in one or more apiaries as authorized by law.

7 (14) “Pests” means the honey bee tracheal mite, Acarapis woodi; ~~and the Varroa mite,~~
8 ~~Varroa jacobsoni~~, and any other arthropod pests detrimental to honey bees; and genetic strains of
9 the Africanized sub species, Apis mellifera adansonii and/or Apis mellifera scutellata.

10 (15) “Swarms” means a natural division of a colony in the process of becoming a feral
11 colony.

12 **4-12-8. Movement permit required — When — Form — Issuance — Fee — Verbal**
13 **authorization.**

14 (a) It is unlawful to move, carry, transport, or ship bees, bees on comb, combs or used
15 beekeeping equipment into the state unless accompanied by a valid permit issued by the director of
16 environmental management. Applications for a permit to transport bees or used beekeeping
17 equipment into the state shall be submitted on a form approved by the director. This application
18 form shall be accompanied by a certificate of health issued by the authorized official of the state
19 from which the bees are to be moved, certifying that the bees and used beekeeping equipment have
20 been inspected by an authorized official during a period of active brood rearing, within fifteen (15)
21 days prior to the proposed date of movement, and that these bees and used beekeeping equipment
22 were found apparently free from any diseases or pests. Each application shall disclose the number
23 of colonies of bees to be transported and a description of the location or locations where the bees
24 are to be kept. Upon receipt of an application for a permit to move bees or used beekeeping
25 equipment into the state, accompanied by a proper certificate of health ~~and application fee of fifty~~
26 ~~dollars (\$50.00) per application~~, the director shall issue the desired permit. This shall not apply to
27 honey bees from quarantined areas outside the state. These quarantines shall include all federal,
28 state or Rhode Island exterior quarantines. Importation of honey bees from quarantined areas shall
29 be in accordance with regulations made pursuant to this law.

30 (b) Regardless of the provisions in subsection (a) of this section, the director has the
31 authority to issue a permit without inspection to the person or persons owning these bees and
32 equipment providing these bees and beekeeping equipment were certified and moved from the state
33 within fifteen (15) days prior to the desired date of reentry and if the director is satisfied these bees
34 and equipment have not been exposed to diseased bees, pests, or equipment. This section shall not

1 apply to bees or beekeeping equipment returning from quarantined areas.

2 (c) A verbal authorization may be allowed by the director if the written permit outlined
3 above has been submitted and received in a timely manner but has not been returned by the time
4 the bees are to be moved.

5 (d) Combless packages of bees or queens, or both, may be admitted into Rhode Island
6 without a Rhode Island permit, when accompanied by a valid certificate of inspection from the state
7 of origin stating that they are free of diseases and pests. This shall not apply to honey bees from
8 quarantined areas outside the state. These quarantines shall include all federal, state or Rhode Island
9 exterior quarantines. Importation of honey bees from quarantined areas shall be in accordance with
10 regulations made pursuant to this law.

11 SECTION 8. Sections 23-25-6 and 23-25-6.1 of the General Laws in Chapter 23-25 entitled
12 "Pesticide Control" are hereby amended to read as follows:

13 **23-25-6. Registration.**

14 (a) Every pesticide that is distributed in the state shall be registered with the director subject
15 to the provisions of this chapter and shall be categorized for registration purposes. These categories
16 shall be: "consumer protection and health benefits products," which means all disinfectants,
17 sanitizers, germicides, biocides and other pesticides labeled for use directly on humans or pets or
18 in or around household premises, and "agricultural and other pesticides," which means restricted-
19 use pesticides and other pesticides that are not consumer protection and health benefits products.
20 That registration shall be renewed annually prior to January 31; provided, that registration is not
21 required if a pesticide is shipped from one plant or warehouse to another plant or warehouse
22 operated by the same person and used solely at the plant or warehouse as a constituent part to make
23 a pesticide that is registered under the provisions of this chapter or if the pesticide is distributed
24 under the provisions of an experimental use permit issued under § 23-25-7 or an experimental use
25 permit issued by the EPA.

26 (b) The applicant for registration shall file a statement with the director that shall include:

27 (1) The name and address of the applicant and the name and address of the person whose
28 name will appear on the label, other than the applicant's;

29 (2) The name of the pesticide;

30 (3) Other necessary information required for completion of the department of
31 environmental management's application for registration form. The director may, upon receipt of
32 an application, designate a pesticide product as a "statewide minor use" product. Such products
33 will be those which, due to limited distribution within the state, do not, in the opinion of the director,
34 warrant payment of the registration fee and surcharge required to register a product within Rhode

1 Island. Upon designating a product as a “statewide minor use” the director shall register the product
2 for sale or distribution while waiving both the registration fee and surcharge. The applicant wishing
3 to have a product so designated shall submit a completed application containing the following
4 information:

5 (i) The product name;

6 (ii) EPA registration number, if applicable;

7 (iii) Description of pest to be controlled, and applicable sites;

8 (iv) Documentation that the product is not registered due to limited market; and

9 (v) Explanation as to why there are not effective, reasonable alternative products currently
10 registered.

11 (4) A complete copy of the labeling accompanying the pesticide and a statement of all
12 claims to be made for it, including the directions for use and the use classification as provided for
13 in the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136a et seq.

14 (c) The director, when he or she deems it necessary in the administration of this chapter,
15 may require the submission of the complete formula of any pesticide, including the active and inert
16 ingredients.

17 (d) The director may require a full description of the tests made and the results of the tests
18 upon which the claims are based on any pesticide not registered pursuant to § 3 of FIFRA, 7 U.S.C.
19 § 136a, or on any pesticide on which restrictions are being considered. In the case of renewal of
20 registration, a statement shall be required only with respect to information that is different from
21 that furnished when the pesticide was registered or last reregistered.

22 (e) The director may prescribe other necessary information by regulation.

23 (f) The applicant desiring to register a pesticide shall, unless the director has determined
24 the subject product is a “statewide minor use” product pursuant to subsection (b)(3), pay an annual
25 registration fee of fifty dollars (\$50.00) to the general treasurer for each pesticide registered for the
26 applicant which shall be credited by the general treasurer to the pesticide relief fund. Annually, on
27 November 1, the general treasurer shall notify the director of the amount of funds contained in the
28 pesticide relief fund. If the pesticide relief fund shall exceed one million dollars (\$1,000,000) on
29 that date, the annual registration fee for the next following year commencing December 1 shall be
30 twenty-five dollars (\$25.00), which shall become part of the general fund. All registrations shall
31 expire on November 30, of any one year, unless sooner cancelled; provided, that a registration for
32 a special local need pursuant to this section that is disapproved by the administrator, EPA, shall
33 expire on the effective date of the administrator’s disapproval.

34 (g) Any registration approved by the director and in effect on the 31st day of January, for

1 which a renewal application has been made and the proper fee paid, shall continue in full force and
2 effect until any time that the director notifies the applicant that the registration has been renewed,
3 or denied, in accord with the provisions of § 23-25-8. Forms for re-registration shall be mailed to
4 registrants at least thirty (30) days prior to the due date.

5 (h)(1) Provided the state of Rhode Island is certified by the administrator of EPA to register
6 pesticides pursuant to § 24(c) of FIFRA, 7 U.S.C. § 136v(c), the director shall require the
7 information set forth under subsections (b), (c), (d), and (e) and shall, subject to the terms and
8 conditions of the EPA certification, register the pesticide if he or she determines that:

9 (i) Its composition is such as to warrant the proposed claims for it;

10 (ii) Its labeling and other material required to be submitted comply with the requirements
11 of this chapter;

12 (iii) It will perform its intended function without unreasonable adverse effects on the
13 environment;

14 (iv) When used in accordance with widespread and commonly recognized practice, it will
15 not generally cause unreasonable adverse effects on the environment; and

16 (v) A special local need for the pesticide exists.

17 (2) Prior to registering a pesticide for a special local need, the director shall classify the use
18 of the pesticide for general or restricted use in conformity with § 3(d), 7 U.S.C. § 136a(d), of
19 FIFRA; provided, that the director shall not make any lack of essentiality a criterion for denying
20 registration of any pesticide. Where two (2) pesticides meet the requirements of this subdivision,
21 one should not be registered in preference to the other.

22 (3) The director may develop and promulgate any other requirements by regulation that are
23 necessary for the state plan to receive certification from EPA.

24 (i) The director may require that all registrations and fees required by this section be
25 submitted electronically.

26 (j) In addition to the registration fees, the director may charge a processing fee. The
27 department shall set the amount of such fees through rules and regulations, with processing fees
28 not to exceed five percent (5%) of the registration surcharge per application.

29 **23-25-6.1. Registration fee — Surcharge.**

30 (a) In addition to the annual registration fee of fifty dollars (\$50.00) as required by § 23-
31 25-6, an additional two hundred fifty dollars (\$250) registration surcharge fee shall be imposed
32 upon each pesticide to be sold or used within the state, unless the director has determined the subject
33 product is a “statewide minor use” product pursuant to § 23-25-6(b)(3). The registration surcharge
34 fee shall be deposited as general revenues. The director may require that the registration surcharge

1 required by this section be paid electronically.

2 (b) In addition to the registration surcharge, the director may charge a processing fee. The
3 department shall set the amount of such fees through rules and regulations, with processing fees
4 not to exceed five percent (5%) of the registration surcharge per application.

5 SECTION 9. Section 4-7-14 of the General Laws in Chapter 4-7 entitled "Livestock
6 Dealers" is hereby repealed.

7 ~~**4-7-14. Vehicle number plates.**~~

8 ~~The director shall furnish for each vehicle to be used by a licensee in the business of buying,~~
9 ~~selling, and/or transporting livestock, two (2) number plates. These plates shall be displayed~~
10 ~~prominently on the vehicle used in the buying, selling and/or transporting of livestock under this~~
11 ~~chapter.~~

12 SECTION 10. Title 4 of the General Laws entitled "ANIMALS AND ANIMAL
13 HUSBANDRY" is hereby amended by adding thereto the following chapter:

14 CHAPTER 28

15 ELECTRONIC PAYMENTS AND APPLICATIONS

16 **4-28-1. Electronic payment of fees.**

17 (a) The director of the department of environmental management may require that any fee
18 owed to the department, pursuant to any chapter of title 4, be paid electronically.

19 (b) In addition to specific fees owed to the department of environmental management,
20 pursuant to any chapter of title 4, the director of the department of environmental management may
21 charge a processing fee. The department shall set the amount of such fees through rules and
22 regulations, with processing fees not to exceed five percent (5%) of the original fee owed to the
23 department.

24 **4-28-2. Electronic submission of applications and reports.**

25 The director of the department of environmental management may require that any
26 application or report required to be submitted to the department, pursuant to title 4, may be
27 submitted electronically.

28 SECTION 11. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO AGRICULTURE AND FORESTRY -- AGRICULTURAL FUNCTIONS OF
DEPARTMENT

1 This act would provide that Rhode Island assents to the provisions of the FDA Food Safety
2 Modernization Act relative to the Preventive Controls for Animal Food Regulation (PCAF)
3 regulations and would allow for the electronic submission of reports, registrations and fees to the
4 department of environmental management from various agencies and/or dealers relative to the
5 distribution of certain products, and would also amend the provision for importation of psittacine
6 birds, and would amend the definition of "pests" for purposes of agriculture.

7 This act would take effect upon passage.

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