

Tuesday November 28, 1995

Part XXXV

Office of Government Ethics

Semiannual Regulatory Agenda

OFFICE OF GOVERNMENT ETHICS (OGE)

OFFICE OF GOVERNMENT ETHICS

5 CFR Ch. XVI

Semiannual Regulatory Agenda, October 1995

AGENCY: Office of Government Ethics. **ACTION:** Semiannual agenda of regulations.

SUMMARY: The following Office of Government Ethics (OGE) substantive and procedural regulations are scheduled for development or review during the period from October 1, 1995, through September 30, 1996. This agenda fulfills OGE's responsibility to publish a semiannual regulatory agenda "Regulatory Planning and Review" and has been prepared in accordance with guidance received from the Office of Management and Budget. None of the OGE regulations in this October 1995 agenda will have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. chapter 6. In addition, none of the listed OGE regulatory actions is procurement-

under Executive Order 12866

This publication in the Federal Register does not impose a binding obligation on the Office of Government

Government Ethics rulemakings are not

related. Furthermore, the Office of

included in The Regulatory Plan.

Ethics with respect to any particular item on its agenda. The dates shown for the future steps of each action are estimates and not commitments to act by the date shown. Moreover, other OGE regulatory actions, in addition to the entries listed, are not precluded.

FOR FURTHER INFORMATION CONTACT:

William E. Gressman, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917; telephone: 202-523-5757, extension 1110; FAX: 202-523-6325.

Approved: September 25, 1995.

Stephen D. Potts,

Director, Office of Government Ethics.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3969	Privacy Act Rules	3209-AA18
3970	Standards of Ethical Conduct for Employees of the Executive Branch	3209-AA04
3971	Limitations on Outside Employment and Prohibition of Honoraria; Confidential Reporting of Payments to Charities in Lieu of Honoraria	3209-AA13
3972	Interpretation, Exemptions, and Waiver Guidance Concerning 18 USC 208 (Acts Affecting a Personal Financial Interest)	3209-AA09

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3973 3974 3975	Public Financial Disclosure, Conflicts of Interest, and Certificates of Divestiture for Executive Branch Officials Executive Agency Ethics Training Programs	3209-AA06 3209-AA07 3209-AA14

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3976	Financial Disclosure, Qualified Trusts, and Certificates of Divestiture for Executive Branch Employees	3209-AA00
3977	Executive Agency Supplemental Financial Disclosure Regulations Issued Jointly With the Concurrence of the Office of Government Ethics	3209-AA16
3978	Executive Agency Supplemental Standards of Ethical Conduct Regulations Issued Jointly With the Concurrence of the Office of Government Ethics	3209-AA15
3979	Interpretation of 18 USC 209, the Constraint Against Private Supplementation of Salaries of Executive Branch Officials and Employees	3209-AA12

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3980	Implementation of the Equal Access to Justice Act	3209-AA19

OFFICE OF GOVERNMENT ETHICS (OGE)

Proposed Rule Stage

3969. PRIVACY ACT RULES

Priority: Other Significant

Legal Authority: 5 USC 552a; 5 USC app (Ethics in Government Act of 1978)

CFR Citation: 5 CFR 2606 (New)

Legal Deadline: None

Abstract: This proposed rule would establish for the Office of Government Ethics (OGE) regulatory procedures to implement the Privacy Act of 1974, including requests for access and amendment and appeals, and would reference certain OGE systems of records (which will also be updated and revised).

Timetable:

Action	Date	FR Cite
NPRM	03/00/96	
NPRM Comment	05/00/96	
Period End		

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Heather N. Sigrist, Attorney Advisor, Office of Government Ethics, 1201 New York Avenue NW., Washington, DC 20005-3917 Phone: 202 523-5757

RIN: 3209-AA18

3970. STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE BRANCH

Priority: Other Significant

Legal Authority: 5 USC 7301; 5 USC 7351; 5 USC 7353; 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

CFR Citation: 5 CFR 2635 Legal Deadline: None

Abstract: Regulation implementing certain provisions of Executive Order 12674 on Principles of Ethical Conduct, as modified by EO 12731, and the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. Effective February 3, 1993, this new ethical conduct standards regulation superseded executive branch employee conduct and gifts rules, as well as pertinent portions of agency-specific conduct regulations issued thereunder. For certain existing agency regulatory standards setting forth financial interest prohibitions and prior approval for outside employment/activities, an extended grace period is in effect until

January 3, 1996, or until individual concerned agencies issue supplemental regulations, with Office of Government Ethics concurrence.

Timetable:

Action	Date	FR	Cite
NPRM	07/23/91	56 FR	33778
NPRM Comment Period End	09/20/91		
Final Overall Regulation on Standards of Ethical Conduct	08/07/92	57 FR	35006
Correction	10/27/92	57 FR	48557
Correction	11/04/92	57 FR	52583
5 CFR 2635.403(a) and 2635.803 Grace Period Extension	02/02/94	59 FR	4779
Additional 5 CFR 2635.403(a) and 2635.803 Grace Period Extension	02/02/95	60 FR	6390
NPRM on Widely Attended Gatherings	06/15/95	60 FR	31415
NPRM on Gifts From Political Organizations	04/00/96		
NPRM on Participation in Professional Associations	04/00/97		

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stuart D. Rick, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917

Phone: 202 523-5757 **RIN:** 3209–AA04

3971. LIMITATIONS ON OUTSIDE EMPLOYMENT AND PROHIBITION OF HONORARIA; CONFIDENTIAL REPORTING OF PAYMENTS TO CHARITIES IN LIEU OF HONORARIA

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); EO 12674;

EO 12671

CFR Citation: 5 CFR 2636 Legal Deadline: None

Abstract: Regulation implemented, effective January 1, 1991, the prohibition on honoraria (now declared unconstitutional by the courts as to most rank and file executive branch employees), as well as the new

limitations on outside employment as provided in the 1989 Ethics Reform Act revisions to the Ethics in Government Act, as amended. A separate provision (not yet effective) of the regulation will govern reports by certain executive branch officials of payments, in lieu of honoraria, donated on their behalf to charities. The regulation will be amended in light of the above-noted litigation and any other pertinent developments.

Timetable:

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Action	Date	FR Cite
Interim Final Rule	01/17/91	56 FR 1721
Deferral of Effective Date of 5 CFR 2636.205	05/10/91	56 FR 21589
Deferral of Effective Date of 5 CFR 2636.205	10/11/91	56 FR 51319
Revision of Honorarium Definition in 5 CFR 2636.203(a)	01/08/92	57 FR 601
Deferral of Effective Date of 5 CFR 2636.205	02/14/92	57 FR 5369
Technical Correction to Interim Final Rule	12/30/93	58 FR 69176
Technical (Paperwork) Amendments to Interim Final Rule	07/07/94	59 FR 34755
Make 5 CFR 2636.205 Effective and Revise Section	12/00/95	

Small Entities Affected: None

Final Action

Agency Contact: Stuart D. Rick, Associate General Counsel, Office of Government Ethics, Suite 500, 1201

Government Levels Affected: Federal

06/00/96

New York Avenue NW., Washington, DC 20005-3917 Phone: 202 523-5757 **RIN:** 3209–AA13

3972. INTERPRETATION, EXEMPTIONS, AND WAIVER GUIDANCE CONCERNING 18 USC 208 (ACTS AFFECTING A PERSONAL FINANCIAL INTEREST)

Priority: Other Significant

Legal Authority: 18 USC 208; 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731 **CFR Citation:** 5 CFR 2640 (New)

Legal Deadline: None

OGE Proposed Rule Stage

Abstract: Proposed regulation will interpret section 208(a) of title 18, U.S.C., which prohibits officers and employees of the executive branch from officially participating personally and substantially in a particular matter in which there is a personal financial interest or a financial interest of a related person or organization (absent a waiver under 18 U.S.C. 208(b)). It will also list and describe interests which are considered to be too remote or too inconsequential to affect the integrity of the services of executive branch officers or employees, in accordance with 18 U.S.C. 208(b)(2). Such interests will be exempt from the restrictions of 18 U.S.C. 208(a), generally requiring disqualification. The proposed regulation will also provide guidance to executive branch agencies as to the

kinds of interests that are not so substantial as to be deemed likely to affect the integrity of the services the Government may expect from an employee and which, therefore, may be waived from the general rule of disqualification under 18 U.S.C. 208(a) pursuant to 18 U.S.C. 208(b)(1). In addition, guidance will be provided concerning the issuance of waivers to special Government employee advisory committee members pursuant to 18 U.S.C. 208(b)(3). A separate interim final rule has been published exempting certain Financial interests arising from Federal Government executive branch employment as well as from Social Security or veterans' benefits, from the general prohibition in Section 208(a).

Timetable:		
Action	Date	FR Cite
Govt. Interests and Social Security or veterans' benefits exemptions	08/28/95	60 FR 44706
NPRM	09/11/95	60 FR 47208
NPRM Comment Period End	11/13/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Marilyn L. Glynn, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington,

DC 20005-3917 Phone: 202 523-5757

RIN: 3209–AA09

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OFFICE OF GOVERNMENT ETHICS (OGE)

Final Rule Stage

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3973. PUBLIC FINANCIAL DISCLOSURE, CONFLICTS OF INTEREST, AND CERTIFICATES OF DIVESTITURE FOR EXECUTIVE BRANCH OFFICIALS

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); 26 USC 1043

CFR Citation: 5 CFR 2634.1001 to

2634.1004

Legal Deadline: None

Abstract: Regulation implementing a provision of the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended by Pub. L. 101-280, providing for tax deferral if sale of property by an executive branch official (or related person) is deemed necessary to comply with conflict of interest requirements pursuant to a certificate of divestiture issued by the Office of Government Ethics.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/18/90	55 FR 14407
Final Action	09/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Norman B. Smith, Senior Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917 Phone: 202 523-5757 RIN: 3209–AA06

3974. EXECUTIVE AGENCY ETHICS TRAINING PROGRAMS

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); EO 12674;

EO 12731

CFR Citation: 5 CFR 2638.701 to

2638.704

Legal Deadline: None

Abstract: Regulation specifying the responsibilities of executive branch agencies and their designated agency ethics officials to develop and implement orientation and annual ethics training courses and to distribute appropriate guidance materials to their employees under sections 301(b) and (c) of E.O. 12674, as modified by E.O. 12731.

Timetable:

Action	Date	FR Cite
NPRM	09/18/90	55 FR 38335
NPRM Comment Period End	11/17/90	
Final Rule on Executive Agency Ethics Training Programs	04/07/92	57 FR 11886
Correction	04/27/92	57 FR 15219
Amendment	12/10/92	57 FR 58399
Correction	12/28/92	57 FR 61612

Action	Date	FR Cite
Interim Amendments to Liberalize Certain Training		59 FR 12145
Requirements Interim Final Rule Comment Period End	05/16/94	59 FR 12145
Final Amendments to Liberalize Certain Training Requirements	02/00/96	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: John C. Condray, Attorney Advisor, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917

3917

Phone: 202 523-5757 **RIN:** 3209-AA07

3975. POST-EMPLOYMENT CONFLICT OF INTEREST RESTRICTIONS

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); 18 USC 207;

EO 12674; EO 12731

CFR Citation: 5 CFR 2641; 5 CFR 2637 (Continuation)

Legal Deadline: None

Abstract: Interpretive regulation giving guidance for the executive branch on the various substantive restrictions of

OGE Final Rule Stage

the current version of the post-Government employment conflict of interest statute 18 U.S.C. 207, which became effective January 1, 1991, pursuant to title I of the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. Parts of the regulation, dealing with procedures for waivers by the Office of Government Ethics of certain senior official constraints (based on executive agency hardship), designated senior employees, and separate agency designations, have already been published in the Federal Register; such designations are periodically updated by the Office of Government Ethics. The Office of Governments Ethics also has continued to publish in the CFR the interpretive regulation, 5 CFR part 2637 (but now without the no-longer-effective former Senior Employee and old agency component designation listings), under the lifetime bar of the prior version of

the post-employment law which still applies to executive branch employees who left the Government before January 1, 1991. Once a complete current postemployment law regulation is published, the old part 2637 regulation will be removed from the CFR.

Timetable:

Action	Date	FR	Cite
Interim Final Rule	02/01/91	56 FR	3951
Designation of Senior	01/28/92	57 FR	3115
Employees and			
Separate Agency			
Components			
Designation of	04/07/92	57 FR	11673
Additional Separate			
Agency Component			
Amendment to Prior	12/31/92	57 FR	62467
Post-employment			
Regulation (Part			
2637)			
Amendment to Interim	06/21/93	58 FR	33755
Final Rule (Part			
2641)			

Action	Date	FR	Cite
Technical Amendmento Authority Citation of 5 CFR Part 263	n	58 FR	69176
Technical Amendments to Interim Final Rule	07/07/94	59 FR	34755
Agency separate component designations update	12/00/95 te		
Interim Final Rule	08/00/96		

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Julia Loring Eirinberg, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917

Phone: 202 523-5757 RIN: 3209-AA14

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Long-Term Actions

OFFICE OF GOVERNMENT ETHICS (OGE)

3976. FINANCIAL DISCLOSURE, **QUALIFIED TRUSTS, AND** CERTIFICATES OF DIVESTITURE FOR **EXECUTIVE BRANCH EMPLOYEES**

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); 26 USC 1043;

EO 12674; EO 12731

CFR Citation: 5 CFR 2634

Legal Deadline: None

Abstract: Regulation revising the executive branch public and confidential financial disclosure report systems for high-level officials and certain mid-level employees, respectively, in light of the changes to the Ethics in Government Act effected by the Ethics Reform Act of 1989 (Pub. L. 101-194), as amended. These disclosure provisions apply to public reports filed since January 1, 1991. Subpart I of the regulation, effective October 5, 1992, superseded prior executive branchwide and agencyspecific regulations and established a revised system of confidential reporting, modeled generally on the public reporting system, for executive branch agency mid-level employees with sensitive duties and special Government employees.

Timetable:

Action	Date	FR Cite
NPRM	12/02/86	51 FR 43359
Interim Final Rule	04/07/92	57 FR 11800
Correction	05/22/92	57 FR 21854
Correction	12/31/92	57 FR 62605
Revised Interim Final Rule	07/21/93	58 FR 38911
Proposed Amendmen to Interim Final Rule	t09/01/93	58 FR 46096
Technical Amendments to Interim Final Rule	11/30/93	58 FR 63023
Technical (Paperwork) Amendments to Interim Final Rule	07/07/94	59 FR 34755
Final Action	02/00/97	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: G. Sid Smith, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917

Phone: 202 523-5757

RIN: 3209-AA00

3977. EXECUTIVE AGENCY SUPPLEMENTAL FINANCIAL **DISCLOSURE REGULATIONS ISSUED** JOINTLY WITH THE CONCURRENCE OF THE OFFICE OF GOVERNMENT **ETHICS**

Priority: Substantive, Nonsignificant Legal Authority: 5 USC 7301; 5 USC app (Ethics in Government Act of 1978); 26 USC 1043; EO 12674; EO 12731; 5 CFR 2634.103

CFR Citation: 5 CFR 2634; 5 CFR ch

XXI et seq

Legal Deadline: None

Abstract: The supplemental executive agency financial disclosure regulations, once issued jointly with the concurrence of the Office of Government Ethics (OGE) at agency expense in new chapters at the end of 5 CFR, after OGE approval, supplement for each individual agency concerned the new OGE executive branch financial disclosure regulations, as codified in 5 CFR part 2634. The supplemental regulations, as they are issued in accordance with sections 201(d) and 301(a) of EO 12674, as modified by EO 12731, will set forth those agency-specific provisions as are needed under particular laws and regulations for certain agencies in order to complement the executive

OGE Long-Term Actions

branchwide financial disclosure provisions.

Timetable:

Action	Date	FR Cite
Final Action	12/00/97	
FDIC Employees	(5 CFR Ch. XXI	I)
Interim Final F	Rule 07/26/93 (5	8 FR 39625

Small Entities Affected: None Government Levels Affected: Federal

Agency Contact: G. Sid Smith, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917

Phone: 202 523-5757 RIN: 3209–AA16

3978. EXECUTIVE AGENCY SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT REGULATIONS ISSUED JOINTLY WITH THE CONCURRENCE OF THE OFFICE OF GOVERNMENT ETHICS

Priority: Substantive, Nonsignificant **Legal Authority:** 5 USC 7301; 5 USC app (Ethics in Government Act of

1978); EO 12674; EO 12731; 5 CFR 2635.105

CFR Citation: 5 CFR 2635; 5 CFR ch XXI et seq

Legal Deadline: None

Abstract: The supplemental executive agency standards of ethical conduct regulations, once issued jointly with the concurrence of the Office of Government Ethics (OGE) at agency expense in new chapters at the end of 5 CFR, after OGE approval, supplement for each individual agency concerned the new OGE executive branch standards of ethical conduct, as codified at 5 CFR part 2635. The supplemental regulations, as they are issued in accordance with section 201(a) and 301(a) of EO 12674, as modified by EO 12731, set forth those agency-specific provisions under applicable law and regulation, such as regulatory restrictions on holding

certain financial interests and designation of departmental subunits, which are needed for certain agencies to round out the executive branchwide ethical standards for employees of particular departments and agencies.

Timetable:

Date	FR Cite		
02/02/94	59 FR 4779		
09/28/94	59 FR 49335		
10/06/94	59 FR 50816		
01/30/95	60 FR 5816		
02/02/95	60 FR 6390		
03/27/95	60 FR 15700		
04/07/95	60 FR 17625		
04/25/95	60 FR 20171		
05/05/95	60 FR 22249		
06/12/95	60 FR 30778		
06/12/95	60 FR 30773		
06/30/95	60 FR 34420		
07/21/95	60 FR 37555		
09/11/95	60 FR 47240		
(5CFR Ch. LX) Final Action 12/00/97 CFTC Employees (5 CFR Ch. XLI) Final Rule 10/12/93 (58 FR 52637) DoD Employees (5 CFR Ch. XXVI)			
Interim Final Rule 09/10/93 (58 FR 47619) FDIC Employees (5 CFR Ch. XXII)			
NPRM 07/12/94 (59 FR 35480) FTC Employees (5 CFR Ch. XLVII)			
Interim Final Rule 05/27/93 (58 FR 30695) IAF Employees (5 CFR Ch. LXIII)			
Final Rule 01/27/94 (59 FR 3771) ICC Employees (5 CFR Ch. XL)			
Final Rule 08/06/93 (58 FR 41989) NRC Employees (5 CFR Ch. XLVIII)			
	02/02/94 09/28/94 10/06/94 01/30/95 02/02/95 03/27/95 04/07/95 04/25/95 06/12/95 06/12/95 06/12/95 06/30/95 12/00/97 CFR Ch. XX 09/10/93 CFR Ch. XX 05/27/93 CFR Ch. XX 03/3 (58 FR CFR Ch. XX 04/3 (59 FR CFR C		

Final Rule 04/13/94 (59 FR 17457)

Final Rule 03/07/95 (60 FR 12396)

OMB Employees (5 CFR Ch. LXXVII)

OPIC Employees (5 CFR Ch. XXXIII)
Interim Final Rule 06/17/93 (58 FR 33319)
PRC Employees (5 CFR Ch. XLVI)
Final Rule 08/12/93 (58 FR 42839)
Treasury Employees (5 CFR Ch. XXI)
NPRM 08/03/93 (58 FR 41193)

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stuart D. Rick, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917

Phone: 202 523-5757 **RIN:** 3209–AA15

3979. INTERPRETATION OF 18 USC 209, THE CONSTRAINT AGAINST PRIVATE SUPPLEMENTATION OF SALARIES OF EXECUTIVE BRANCH OFFICIALS AND EMPLOYEES

Priority: Other Significant

Legal Authority: 5 USC app (Ethics in Government Act of 1978); EO 12674; EO 12731

EU 12/31

CFR Citation: 5 CFR 2639 (New)

Legal Deadline: None

Abstract: Proposed regulation to interpret section 209 of title 18, U.S.C., prohibiting the private supplementation of the Government salary of executive branch officers and employees.

Timetable:

Action	Date	FR Cite
NPRM	12/00/96	
NPRM Comment	02/00/97	
Period End		

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Stephen J. McCleary, Associate General Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917

Phone: 202 523-5757 RIN: 3209–AA12

OFFICE OF GOVERNMENT ETHICS (OGE)

Completed Actions

3980. IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT

Priority: Other Significant

Legal Authority: 5 USC 504; 5 USC app (Ethics in Government Act of 1978)

CFR Citation: 5 CFR 2610 Legal Deadline: None

Abstract: This rulemaking corrected one typographical error in adopting as

final the interim rule of the Office of Government Ethics (OGE), implementing for OGE the Equal Access to Justice Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/28/92	57 FR 33267
Final Action	07/28/95	60 FR 38665
Final Action Effective	09/26/95	

Small Entities Affected: None

Government Levels Affected: Federal

Agency Contact: Janet K. Roell, Attorney Advisor, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-

3917

Phone: 202 523-5757

RIN: 3209–AA19

[FR Doc. 95-25090 Filed 11-24-95; 8:45 am]

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