

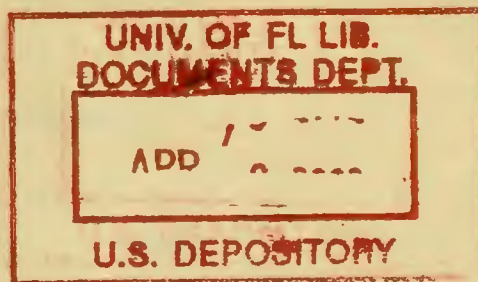
NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

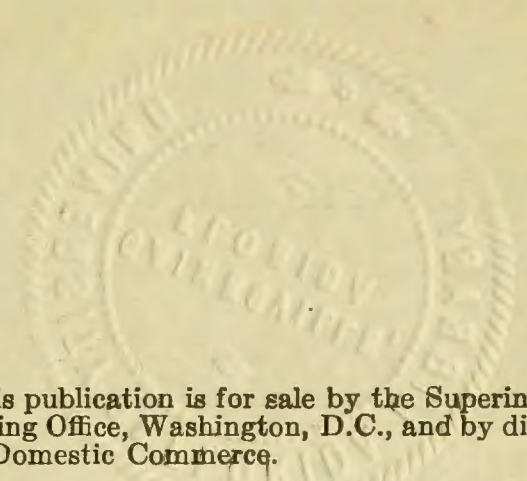
FOR THE

TAPIOCA DRY PRODUCTS
INDUSTRY

AS APPROVED ON MARCH 10, 1934



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1934



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Approved Code No. 328

CODE OF FAIR COMPETITION
FOR THE
TAPIOCA DRY PRODUCTS INDUSTRY

As Approved on March 10, 1934

ORDER

**APPROVING CODE OF FAIR COMPETITION FOR THE TAPIOCA DRY
PRODUCTS INDUSTRY**

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of a Code of Fair Competition for the Tapioca Dry Products Industry, and hearings having been duly held thereon and the annexed report on said Code, containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, I, Hugh S. Johnson, Administrator for Industrial Recovery, pursuant to authority vested in me by Executive Orders of the President, including Executive Order No. 6543-A, dated December 30, 1933, and otherwise; do hereby incorporate by reference said annexed report and do find that said Code complies in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act; and do hereby order that said Code of Fair Competition be and it is hereby approved.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval recommended:

GEO. L. BERRY,
Division Administrator.

WASHINGTON, D.C.,
March 10, 1934.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House

SIR: This is a report on the Code of Fair Competition for the Tapioca Dry Products Industry, the hearing on which was conducted in accordance with the provisions of the National Recovery Administration. The hearing was held in the Gridiron Room of the Hotel Willard on January 23.

PROVISIONS OF THE CODE AS TO WAGES AND HOURS

This Code specifies, with the exceptions indicated, that no employee shall be permitted to work in excess of eight hours in any twenty-four hour period, nor in excess of forty hours in any one week.

There are exempted from the above provisions:

(a) Traveling salesmen or persons employed in a supervisory, managerial, or executive capacity who earn not less than \$35.00 per week.

(b) Employees engaged in emergency maintenance or emergency repair work involving breakdowns or protection of life or property. In such instances at least one and one-third times the normal rate shall be paid for hours worked in excess of forty-four hours per week.

(c) Watchmen, who shall not be permitted to work in excess of fifty-six hours per week and who shall be allowed one day off in every seven days.

(d) Firemen and engineers, who shall not be permitted to work in excess of forty-four hours in any one week unless compensated by payment of one and one-third times the normal rate for hours worked in excess thereof.

(e) Chauffeurs, who shall not be permitted to work in excess of forty-eight hours in any one week.

The provision of forty hours as a maximum, in any one week and eight hours in any one day, shall not apply for eight weeks in each twenty-six week period. There is provided, however, that overtime work in these special periods shall not exceed five hours per week and that in such case, at least one and one-third times the normal rate shall be paid for hours worked in excess of eight hours in any twenty-four hour period, or in excess of forty hours in any seven day period.

The Code specifies that no male employee shall be paid less than at the rate of 40 cents per hour, nor female employee engaged in light and non-hazardous work, such as wrapping, packaging, and labelling, less than at the rate of 35 cents per hour, per week, with the following exceptions:

In clerical or office work, no person shall be paid less than \$14.00 per week except that office boys and messengers may not be paid less than \$12.00 per week but this class of employees shall not exceed 10% of the total employees in the Industry, and that each plant may have at least one such employee.

The Code provides that where female employees perform substantially the same work as male employees they shall receive the same rate of pay as male employees.

There is provided by this Code, a Labor Board to consist of two members selected by the Code Authority, two members selected by the Labor Advisory Board of the National Recovery Administration and a Chairman to be selected by the Administrator. This Board shall consider and pass upon any alleged violation, dispute, or non-observance of the labor provisions of the Code. All decisions shall, if unanimous, be final. In the event that no agreement is reached, the matter shall be referred to the appropriate Governmental Agency.

ECONOMIC EFFECTS OF THE CODE

The Code was presented by the Tapioca Products Association which was organized in 1933 to permit the Industry to function under the terms of the National Industrial Recovery Act. In membership the Association represents, it is claimed, over 92% of the volume of business in the Industry. There are eighteen concerns engaged in the manufacture of tapioca dry products. With one exception, they appear to be located along the Atlantic Seaboard. Sixteen of these firms are members of the Association.

The Tapioca Dry Products Industry includes the manufacturing, converting, and distributing at wholesale of all dry products composed wholly or chiefly of tapioca. It is claimed that because of special and desirable characteristics, tapioca products are used in many industries. A United States Tariff Commission bulletin gives their distribution in 1928 as follows:

Foods:	Percent
1. Pearl, flakes, siftings, seeds.....	6.6
2. Flour.....	13.8
Textile sizings.....	9.7
Wood glues.....	33.1
Adhesives, gums and dextrin.....	27.3
Miscellaneous.....	9.5

The aggregate capital investment for 1933 was estimated for 1933 to be \$4,297,309.32. The aggregate annual production capacity for 1933 was estimated to be 64,999 Long Tons. It has been stated that aggregate sales were estimated at 54,825 tons in 1929, 53,630 tons in 1932, and 38,994 tons in the first half of 1933.

In 1929 about 500 persons were employed in the Tapioca Dry Products Industry. Employment increased until July 1, 1933 when the number of employees was 544, or nearly 9 per cent more than in 1929. Of these, about 290 were factory workers and the remainder were engaged in office and sales work. It is estimated that not more than 10 per cent of the factory wage earners were females.

As a result of the 40-hour week, it is estimated that the number of factory employees will be about 6 per cent higher than in July, 1933.

The factory payroll will probably be increased 4 or 5 per cent due to the proposed minimum wages and additional employment.

Unemployment has apparently not been a problem in the tapioca industry, although the length of the average working week has declined. If production is maintained at the level of July, 1933, the adoption of the 40-hour week will result in the employment of about 6 per cent more factory workers. This is in addition to the 9 per cent increase in employment already noted between 1929 and July, 1933.

The Deputy Administrator in his final report to me on said Code having found as herein set forth and on the basis of all the proceedings in this matter;

I find that:

(a) Said Code is well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among the trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanctions and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) Said Industry normally employs not more than 50,000 employees; and is not classified by me as a major industry.

(c) The Code as approved complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7, and Subsection (b) of Section 10 thereof; and that the applicant association is an industrial association truly representative of the aforesaid Industry; and that said association imposes no inequitable restrictions on admission to membership therein.

(d) The Code is not designed to and will not permit monopolies or monopolistic practices.

(e) The Code is not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said Code.

For these reasons this Code has been approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

MARCH 10, 1934.

CODE OF FAIR COMPETITION FOR THE TAPIOCA DRY PRODUCTS INDUSTRY

ARTICLE I—PURPOSES

To effect the policies of Title I of the National Industrial Recovery Act, this Code is established as a Code of Fair Competition for the Tapioca Dry Products Industry, and upon approval by the President, its provisions shall be the standards of fair competition for such industry and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

The term "tapioca dry products industry" as used herein includes the manufacturing, converting, and distributing at wholesale, all dry products composed wholly or chiefly of tapioca, except packaged tapioca sold for food through retail grocery and food stores.

The term "member of the industry" includes, but without limitation, any individual, partnership, association, corporation, or other form of enterprise engaged in the industry, either as an employer or on his or its own behalf.

The term "employee" as used herein includes any and all persons engaged in the industry, however compensated, except a member of the industry.

The terms "Act" and "Administrator" as used herein mean respectively Title I of the National Industrial Recovery Act, and the Administrator for Industrial Recovery.

ARTICLE III—HOURS

SECTION 1. *Maximum Hours.*—No employee shall be permitted to work in excess of forty (40) hours in any one week or eight (8) hours in any twenty-four (24) hour period, beginning at midnight, except as herein otherwise provided.

SECTION 2. *Exceptions as to Hours.*—(a) The provisions of this Article shall not apply to traveling salesmen, or to persons employed in a supervisory, managerial or executive capacity, who earn not less than \$35.00 per week.

(b) The maximum hours fixed in the foregoing sections shall not apply to any employee engaged in emergency maintenance or emergency repair work involving breakdowns or protection of life or property, but in any such special case, at least one and one-third ($1\frac{1}{3}$) times the normal rate shall be paid for hours worked in excess of forty-four (44) hours per week.

(c) Watchmen shall not be permitted to work in excess of fifty-six (56) hours per week and they shall be allowed one (1) day off in every 7 days.

(d) Firemen and engineers shall not be permitted to work in excess of forty-four (44) hours in any one week unless they shall be compensated by payment of one and one-third the normal rate for all work in excess of forty-four (44) hours.

(e) Chauffeurs shall not be permitted to work in excess of forty-eight (48) hours in any one week.

SECTION 3. The maximum hours fixed in Section I shall not apply for eight (8) weeks in each twenty-six (26) weeks period, during which time overtime shall not exceed five (5) hours per week, provided, however, that in such case at least one and one-third times the normal rate shall be paid for hours worked in excess of eight (8) hours in any twenty-four (24) hour period, or forty (40) hours in any seven (7) day period.

SECTION 4. *Employment by Several Employers.*—No employer shall knowingly permit any employee to work for any time which when totaled with that already performed with another employer, or employers, exceeds the maximum permitted herein.

ARTICLE IV—WAGES

SECTION 1. *Minimum Wage.*—No employee shall be paid less than at the rate of forty (40¢) cents per hour, but female employees engaged in light and non-hazardous work, such as wrapping, packaging and labelling, may be paid not less than at the rate of thirty-five (35¢) cents per hour per week of forty (40) hours; except as follows:

SECTION 2. *Clerical and Office Work.*—No person employed in clerical or office work shall be paid less than \$14.00 per week except that office boys and messengers may be paid not less than \$12.00 per week but that this class of employees shall not exceed 10% of the total number of employees in the Industry, but that each plant may have at least one such employee.

SECTION 3. *Minimum Wage Rates by Locality or Occupation.*—After the approval of this Code, the Code Authority may present for approval to the Administrator, after notice and hearing, recommendations as to upward adjustments in minimum wages in general or for specified localities or occupations, in order to effectuate the purposes of the Act.

SECTION 4. *Female Employees.*—Female employees performing substantially the same work as male employees shall receive the same rate of pay as male employees.

SECTION 5. *Handicapped Persons.*—A person whose earning capacity is limited because of age or physical or mental handicap may be employed on light work at a wage below the minimum established by this Code if the employer obtains from the State Authority designated by the United States Department of Labor, a certificate authorizing his employment at such wages and for such hours as shall be stated in the certificate. Each employer shall file with the Code Authority a list of all such persons employed by him.

SECTION 6. *Piecework Compensation—Minimum Wages.*—This article establishes a minimum rate of pay which shall apply, irrespective of whether an employee is actually compensated on a time rate, piecework, or other basis.

SECTION 7. *Wages Above the Minimum.*—It shall be the policy of each employer in each establishment to make fair and equitable adjustments of all pay schedules based upon changes in minimum pay necessitated by the foregoing paragraphs in this Article.

SECTION 8. Employees shall be paid all money due for services rendered in the form of negotiable currency or checks without deduction therefrom, except with their assent or as required by Federal or State laws.

ARTICLE V—GENERAL LABOR PROVISIONS

SECTION 1. *Child Labor.*—No person under sixteen (16) years of age shall be employed in the industry. No person under eighteen (18) years of age shall be employed at operations or occupations which are hazardous in nature or dangerous to health. The Code Authority shall submit to the Administrator within thirty (30) days after the effective date hereof a list of such operations or occupations. In any State an employer shall be deemed to have complied with this provision as to age if he shall have on file a certificate or permit duly signed by the Authority in such State empowered to issue employment or age certificates or permits showing that the employee is of the required age.

SECTION 2. *Provisions from the Act.*—In compliance with Section 7 (a) of the Act it is provided:

(a) That employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) That no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing, and

(c) That employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

SECTION 3. *Reclassification of Employees.*—No employer shall reclassify employees or duties of occupations performed, or engage in any other subterfuge to defeat the purposes or provisions of the Act or of this Code.

SECTION 4. *Standards for Safety and Health.*—Every employer shall make reasonable provision for the safety and health of his employees at the place and during the hours of their employment.

SECTION 5. *State Laws.*—No provision in this Code shall supersede any State or Federal law which imposes on employers more stringent requirements as to age of employees, wages, hours of work, or as to safety, health, sanitary, or general working conditions, or insurance, or fire protection, than are imposed by this Code.

SECTION 6. *Posting.*—All employers shall post complete copies of this Code in conspicuous places accessible to employees.

ARTICLE VI—ORGANIZATION, POWERS AND DUTIES OF THE CODE AUTHORITY

ORGANIZATION AND CONSTITUTION

SECTION 1. There shall forthwith be constituted a Code Authority consisting of seven (7) persons to be selected in the following manner:

The seven (7) members who together with the representatives of the President shall comprise the Code Authority shall be the seven (7) directors comprising the Board of Directors of the Tapioca Products Association, who shall be elected at the annual meeting of the members of the Association for the term of one (1) year and until their successors shall be elected and qualify. The members of the Association shall, by resolution, decide upon the description and number of the several subdivisions of the industry comprised by the membership of the Association, and each such group shall be represented by at least one (1) member on the Board of Directors, who shall be elected from such group.

SECTION 2. In addition to membership as above provided, there may be not more than three members, without vote, to be appointed by the Administrator.

SECTION 3. Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority shall (1) impose no inequitable restrictions on membership, and (2) submit to the Administrator true copies of its articles of association, by-laws, regulations, and any amendments when made thereto, together with such other information as to membership, organization, and activities as the Administrator may deem necessary to effectuate the purposes of the Act.

SECTION 4. In order that the Code Authority shall at all times be truly representative of the industry and in other respects comply with the provisions of the Act, the Administrator may prescribe such hearings as he may deem proper; and thereafter if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection and composition of the Code Authority.

SECTION 5. Members of the industry, shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the expenses of its administration. Such reasonable share of the expenses of administration shall be determined by the Code Authority, subject to review by the Administrator, on the basis of volume of business and/or such other factors as may be deemed equitable.

SECTION 6. Nothing contained in this Code shall constitute the members of the Code Authority partners for any purpose. Nor shall any member of the Code Authority be liable in any manner to anyone for any act of any other members, officer, agent, or employee of the Code Authority. Nor shall any member of the Code Authority,

exercising reasonable diligence in the conduct of his duties hereunder, be liable to anyone for any action or omission to act under this Code, except for his own willful misfeasance or nonfeasance.

POWERS AND DUTIES

SECTION 7. The Code Authority shall have the following further powers and duties:

(a) To insure the execution of the provisions of this Code and provide for the compliance of the industry with the provisions of the Act.

(b) To adopt by-laws and rules and regulations for its procedure and for the administration and enforcement of the Code.

(c) To obtain from members of the industry such information and reports as are required for the administration of the Code. In addition to information required to be submitted to the Code Authority, all members of the Industry shall furnish such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act to such Federal and/or State agencies as he may designate; nor shall anything in this Code relieve any person of any existing obligation to furnish reports to any Government agencies.

(d) To use such trade associations and other agencies as it deems proper for the carrying out of any of its activities provided for herein, provided that nothing herein shall relieve the Code Authority of its duties or responsibilities under this Code.

(e) To make recommendations to the Administrator for the co-ordination of the administration of this Code with such other codes, if any, as may be related to the industry or affect members of the industry.

(f) To secure from members of the industry an equitable and proportionate payment of the reasonable expenses of maintaining the Code Authority and its activities.

(g) To cooperate with the Administrator in regulating the use of any N.R.A. insignia solely by those members of the industry who have assented to, and are complying with, this Code.

(h) To recommend to the Administrator further fair trade practice provisions to govern members of the industry in their relations with each other or with other industries and to recommend to the Administrator measures for industrial planning, including stabilization of employment.

(i) The Code Authority shall cause to be formulated an accounting system and methods of cost finding and/or estimating capable of use by all members of the industry. After such system and methods have been formulated and approved by the Administrator, full details concerning them shall be made available to all members. Thereafter all members shall determine and/or estimate costs in accordance with the principles of such methods.

SECTION 8. If the Administrator shall determine that any action of a code authority or any agency thereof may be unfair or unjust or contrary to the public interest, the Administrator may require

that such action be suspended to afford an opportunity for investigation of the merits of such action and further consideration by such code authority or agency pending final action which shall not be effective unless the Administrator approves or unless he shall fail to disapprove after thirty days' notice to him of intention to proceed with such action in its original or modified form.

LABOR BOARD

SECTION 9. A labor board to consist of two members selected by the Code Authority, two members selected by the Labor Advisory Board of the National Recovery Administration and a Chairman to be selected by the Administrator shall be formed to consider and pass upon any alleged violation, dispute, or nonobservance of the labor provisions of the Code. All decisions shall, if unanimous, be final. In the event that no agreement is reached, the matter will be referred to the appropriate Governmental agency.

ARTICLE VII—TRADE PRACTICES

It shall be unfair competition for any member of the Industry to engage in any of the following unfair trade practices:

1. *False Billing.*—To knowingly withhold from or insert in any quotation or invoice any statement that makes it inaccurate in any material particular.

2. *Inaccurate Labelling.*—To brand or mark or pack any goods in any manner which is intended to or does deceive or mislead purchasers with respect to the brand, grade, quality, quantity, origin, size, substance, character, nature, finish, material content, or preparation of such goods.

3. *Inaccurate Reference to Competitors, etc.*—To publish advertising which refers inaccurately in any material particular to any competitors or their goods, prices, values, credit terms, policies or services.

4. *Selling Below Cost.*—After the establishment of a system of cost accounting for the Industry as provided in Article VI, Sub-Section (i), no member shall sell the products of the Industry at such prices or upon such terms and conditions of sale as will result in the purchaser purchasing such product at less than the cost thereof to the seller determined in accordance with the aforesaid system of cost accounting, except to meet competition, not instigated directly or indirectly by the party desiring to meet such competition but to meet the price of a competitor whose price does not violate the Code.

5. *Threats of Law Suits.*—To publish or circulate unjustified or unwarranted threats of legal proceedings which tend to or have the effect of harassing competitors or intimidating their customers.

6. *Bribing Employees.*—To give, permit to be given, or directly offer to give, anything of value for the purpose of influencing or rewarding the action of any employee, agent, or representative of another in relation to the business of the employer of such employee, the principal of such agent or the represented party, without the knowledge of such employer, principal, or party. This provision shall not be construed to prohibit free and general distribution of

articles commonly used for advertising except so far as such articles are actually used for commercial bribery as hereinabove defined.

7. *Interference with Another's Contracts.*—To attempt to induce the breach of an existing contract between a competitor and his employee or customer or source of supply; nor shall any such member interfere with or obstruct the performance of such contractual duties or services.

8. *Coercion.*—To require that the purchase or lease of any goods be prerequisite to the purchase or lease of any other goods.

9. *Blacklisting.*—To join or participate with other members of the industry who with such member constitute a substantial number of members of the industry or who together control a substantial percent of the business of any specific product or products of the industry, in any transaction known in law as a blacklist, including any practice or device (such as a white list), which accomplishes the purpose of a blacklist.

10. *Guaranteeing Prices.*—To guarantee prices against decline.

11. *Contracts.*—To allow termination or modification of contracts without complete compensation for any loss resulting therefrom.

12. *Machinery as inducement of Sale.*—To give, rent, or sell any new or additional machinery or equipment to any buyer except that a seller of dry vegetable glue to the wood working industry may replace machinery or equipment heretofore installed by said seller with machinery or equipment of identical capacity.

13. *Free Samples.*—To give a free sample to any buyer in excess of approximately two hundred (200) pounds.

14. *Sales on Consignment.*—To sell or ship goods on consignment.

15. *Invoices.*—To date invoices later than the date of shipment.

16. *Terms.*—To sell on any terms more favorable than 30 days net or 2% fifteenth proximo.

ARTICLE VIII—EXPORT TRADE

SECTION 1. (a) No provision of this Code relating to prices or terms of selling, shipping, or marketing, shall apply to export trade or sales or shipments for export trade.

(b) Subject to the approval of the Code Authority, the exceptions established by this article shall apply also to sales or shipments of materials actually used in manufacture for export trade.

ARTICLE IX—MODIFICATION

SECTION 1. This Code and all the provisions thereof are expressly made subject to the rights of the President, in accordance with the provisions of subsection (b) of Section 10 of the Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under said Act.

SECTION 2. This Code, except as to provisions required by the Act, may be modified on the basis of experience or changes in circumstances, such modifications to be based upon application to the Administrator, and such notice and hearing as he shall specify, and to become effective on approval of the President.

ARTICLE X—MONOPOLIES, ETC.

No provisions of this Code shall be so applied as to permit monopolies or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.

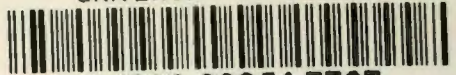
ARTICLE XI—EFFECTIVE DATE

The provisions of this Code shall become effective ten (10) days after its approval by the President.

Approved Code No. 328.
Registry No. 601-02.

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