

Los Angeles County Solid Waste Management Committee/
Integrated Waste Management Task Force

Minutes of October 21, 2010

County of Los Angeles Department of Public Works
900 South Fremont Avenue
Alhambra, California

COMMITTEE MEMBERS PRESENT:

Margaret Clark, League of California Cities-Los Angeles Division
Betsey Landis, Environmental Organization Representative
Mary Ann Lutz, League of California Cities-Los Angeles Division
Mike Mohajer, General Public Representative
Sam Perdomo, Business/Commerce Representative
Ron Saldana, Los Angeles County Disposal Association (Formerly GLASWMA)
Eugene Sun, League of California Cities-Los Angeles Division

COMMITTEE MEMBERS REPRESENTED BY OTHERS:

Gail Farber, rep. by Carlos Ruiz, County of Los Angeles Department of Public Works
Stephen Maguin, rep. by Charles Boehmke, County Sanitation Districts of Los Angeles County
Enrique Zaldivar, rep. by Reina Pereira, City of Los Angeles Bureau of Sanitation
Dr. Jonathan Fielding, rep. by Cindy Chen, County of Los Angeles Department of Public Health
Dr. Barry Wallerstein, rep. by Jay Chen, South Coast Air Quality Management District

COMMITTEE MEMBERS NOT PRESENT:

Carl Clark, Institute of Scrap Recycling Industries, Inc.
Michael Conway, City of Long Beach
David Kim, City of Los Angeles
Gerry Miller, City of Los Angeles
Greig Smith, City of Los Angeles

OTHERS PRESENT:

Kelly Astor, LACWMA
Becky Bendikson, Sunshine Canyon Landfill CAC
Russell Bukoff, County of Los Angeles Department of Public Works
Latoya Cyrus, Charles Abbott Assoc.
Rafael Garcia, Republic/Sunshine
Wayde Hunter, NVC/GHNNC
Armine Kesablian, County of Los Angeles Department of Public Works
Jennifer Lao, HDR
Linda Lee, County of Los Angeles Department of Public Works
Toby Mitchell, County of Los Angeles Department of Public Works
Pat Proano, County of Los Angeles Department of Public Works
Steve Uselton, CalRecycle

I. CALL TO ORDER

Meeting called to order at 1:09 p.m.

Mr. Mike Mohajer made a motion to consider hearing, as an emergency item to the agenda, an update on the Waste by Rail project by the County Sanitation Districts since comments on the project are due before the next Task Force meeting. The motion was seconded by Ms. Betsey Landis and passed with one abstention from Mr. Charles Boehmke.

II. APPROVAL OF MINUTES OF AUGUST 19, 2010

A motion was made to approve the minutes of August 19, 2010. The motion passed with one abstention from Chris Salomon. Mr. Mike Mohajer informed staff that there were two incorrect attachments linked to the electronic minutes that should be corrected.

III. REPORT FROM THE ALTERNATIVE TECHNOLOGY ADVISORY SUBCOMMITTEE (ATAS)

Ms. Tobie Mitchell reported that subcommittee welcomed Ron Goodman of Southern California Gas Company as a new member to the subcommittee replacing Kevin Chen of Southern California Edison.

The subcommittee discussed the preliminary siting assessment that Public Works submitted to the Board of Supervisors on October 20, 2010. As requested by the Board of Supervisors, the assessment identified sites throughout the County that could potentially host a conversion technology facility. They worked with stakeholders throughout the County such as the Sanitation Districts, cities, and solid waste facility owners and operators to identify sites for consideration.

Ms. Mitchell also reported the subcommittee discussed the results of the conversion technology workshop hosted by the Department of Public Works on September 23. She stated about 150 people attended and several others participated via webinar. There was good discussion and interest from cities to move forward with siting a facility in Los Angeles County and looking for legislative opportunities since AB 222 wasn't able to pass through legislature.

Lastly, Ms. Mitchell reported they discussed recently released biofuels reports on the State and Federal levels.

Mr. Mike Mohajer acknowledged and thanked staff for their diligent and hard work on getting a letter with a stringent deadline out on time.

IV. REPORT FROM THE FACILITY PLAN REVIEW SUBCOMMITTEE

Ms. Betsey Landis gave an update on the Sunshine Canyon Landfill. She stated there were a number of inspections on their odor problems. AQMD got involved and ordered a study of the patterns and sources of the odors. The County also required the Landfill to start using soil instead of tarps on their active faces. The City and the County continue to work together on getting an independent monitor contract that should be selected in the next month or two. The independent monitor will provide quarterly reports on the activities at the Landfill.

Ms. Landis thanked the staff for working hard to get all the facts and information together, which allowed the Task Force and the community to have a clearer picture of what's going on at the Landfill.

V. SAFER CONSUMER PRODUCT ALTERNATIVES REGULATIONS

Mr. Matt Suska reported that in response to the California Department of Toxic Substances Control's (DTSC) Green Chemistry Initiative and draft of the Safer Consumer Product Regulations, the Task Force recommended revising the "End-of-Life Management Regulatory Response" to correspond with the Waste Board/CalRecycle adopted "Overall EPR Framework," initially decreasing the broad scope of targeted chemicals, and fully delineating the roles and responsibilities of each stakeholder group as well as incorporating minimum collection rate percentages in take-back programs. DTSC implemented the Task Force's recommendations by requiring a responsible entity to submit a comprehensive Product Stewardship Plan that explicitly includes the roles and responsibilities of the various stakeholders throughout the life-cycle of the product.

The regulations provide for a three-step science-based, iterative process to develop safer consumer products. DTSC must first evaluate and prioritize chemicals and consumer products, in order to develop priority lists. Placement on a priority list compels the *Responsible Entity* to perform an alternatives analysis with the objective of identifying and selecting a viable safer alternative. Subsequently, DTSC can identify and impose an appropriate regulatory response that will limit the public health and/or environmental threats. The initial scope of chemicals to be regulated is in line with the Task Force's recommendation to limit the types of chemicals to ones where the science is undisputed and data is readily specified by various regulatory bodies including the USEPA and EU.

The regulations also provide DTSC the authority to impose an EPR-style Product Stewardship Plan in certain instances. The "End-of-Life Management Regulatory Response" is either self-implementing if the product/chemical is considered hazardous waste at end-of-life or can be triggered at DTSC's determination and discretion if (1) there is a significant potential for end-of-life mismanagement, (2)

end-of-life reclamation is needed to conserve resources and mitigate damages resulting from virgin material extraction, or (3) there would be significant waste management costs borne by local government, ratepayers or taxpayers.

The Safer Consumer Product Alternatives Regulations have been submitted to the Office of Administrative Law (OAL) to begin the state's formal and legally mandated Administrative Procedures Act (APA) rulemaking process. Final comments are due by November 1, and the regulations are on schedule to go into effect and meet the deadline of January 1, 2011.

DTSC will utilize information provided by the responsible entity to establish take-back programs on a case-by-case basis and unfortunately the regulations do not clearly stipulate that DTSC may set either a minimum or ultimate collection rate. Staff recommends sending a letter to DTSC thanking them for the inclusion of the Task Force's comments and recommendations and recommend adding language that DTSC may specify minimum or ultimate product collection rates.

Mr. Mike Mohajer made a motion to send a letter to DTSC thanking them for including the Task Forces comments and recommendations in development of the regulations and suggest they use language that states DTSC may specify minimum or ultimate product collection rates. The motion was seconded by Ms. Betsey Landis. After a brief discussion, the motion passed unanimously.

VI. DRAFT AIR QUALITY GUIDANCE DOCUMENT FOR SITING BIOREFINERIES

Low Carbon Fuel Standard Resolution 09-31, directed the California Air Resources Board (ARB) to develop a best practices guidance document for the use by stakeholders when they are considering the siting of biofuels production facilities in California. ARB worked with local air districts, regulated parties, environmental and public health groups, and other stakeholders to develop a best practices guide that was released for public comment in October 2010. This guidance document identifies most current stringent limits for air emissions from individual pieces of stationary process equipment and provides general guidance on available options for mitigating mobile source emissions associated with biorefineries. This report can be used as a starting point in conducting air quality evaluations, but is not intended to substitute for the case-by-case permitting decisions conducted by local air quality, environmental, or planning agencies. ARB will be accepting stakeholder comments on the draft guidance document until December 1, 2010.

Regarding the Draft Air Quality Guidance Document, Mr. Eugene Sun made a motion for the Task Force to send a letter requesting ARB to work collaboratively on future reports and clarify the definition of biomass. The motion was seconded by Mr. Mike Mohajer. The motion passed unanimously.

VII. EMERGENCY ITEM – UPDATE ON WASTE BY RAIL PROJECT

This item was added to the agenda as an emergency item due to a November 15, 2010, deadline for stakeholders to submit comments on the Waste-by-Rail System Progress Report (Report), dated October 2010 ([see attached](#)).

Ms. Janet Coke of the Los Angeles County Sanitation Districts provided a presentation summarizing the Report ([see attached](#)). Ms. Coke discussed the history of the project, up-to-date milestones, and the next steps.

After the Task Force's discussion on Ms. Janet's presentation, Mr. Mike Mohajer made a motion for the Task Force to send a letter of support for the Waste-by-Rail System and offer the Task Force's assistance if needed in the future. The motion was seconded by Mr. Ron Saldana. The motion passed with one abstention from Mr. Charles Boehmke.

VIII. LEGISLATIVE UPDATE

Mr. Rogelio Gamiño reported on legislative bills that were either signed or vetoed by the Governor or President since the last Task Force meeting ([see attachment](#)):

The following bills have been signed:

1. AB 1004 (Portantino)

This bill will extend deadlines imposed by the State Solid Waste Postclosure and Corrective Action Trust Fund (Trust Fund) enacted with the passage of AB 274 (Portantino, 2009) by six months and apply those requirements to owners rather than operators. The voluntary Trust Fund allows an operator of a landfill facility in operation on and after July 2011 to pay into the Trust Fund to be used by the state for postclosure and corrective action at any in-state landfill, should the landfill operator not be able to conduct the required postclosure activities. The Task Force opposed AB 274 unless amended as it did not sufficiently protect local governments and did not address how the Trust Fund would recover its expenditures if a private operator files for bankruptcy. The Task Force opposed AB 1004 unless amended for similar reasons.

2. AB 1343 (Huffman)

This bill will create an architectural paint recovery program and require architectural paint manufacturers to develop and implement strategies to reduce the generation, promote the reuse, and manage the end-of-life

impacts of post consumer paint through collecting, transporting, and processing. It would also prohibit manufacturers or retailers from selling architectural paint in this state, unless the manufacturer is in compliance with this bill. The Task Force supported AB 1343.

3. AB 2398 (Perez)

This bill will require a manufacturer of carpets sold in California, or a carpet stewardship organization, to submit a carpet stewardship plan to CalRecycle. The bill requires a carpet manufacturer to add a \$0.05 assessment per square yard to the purchase price of all carpet sold in the state and require CalRecycle to post a listing of manufacturers that are in compliance with the bill's requirements on its Website. The Task Force supported AB 2398.

4. AB 2565 (Ammiano)

This bill will authorize a public agency to charge and collect a reasonable fee from members of the public for a copy of an "environmental document", as defined, that does not exceed the cost of reproducing the document. The bill will also authorize the public agency to provide the document in an electronic format. The Task Force Supported AB 2565.

5. SB 390 (Kehoe)

This bill will extend the sunset date for the Recycling Market Development Revolving Loan Program from July 1, 2011 until July 1, 2021. The bill will also delete the \$5,000,000 transfer limitation from the general Integrated Waste Management Account to the dedicated Recycling Market Development Revolving Loan Subaccount. The Task Force supported SB 390.

6. S. 3397 (Klobuchar [MN-D])

This bill would allow an entity who has lawfully obtained a controlled substance, such as prescribed medications, to deliver that substance to another person for the purpose of disposal if that person is authorized to do so by the Attorney General. The Task Force supported S. 3397.

The following bills have been vetoed:

1. AB 737 (Chesbro)

This bill would have required CalRecycle, by January 1, 2013, to report to the Legislature on the current diversion rate in the state and potential

strategies to increase the diversion rate to 75 percent by 2020. It would also require all jurisdictions implement a mandatory commercial recycling program by requiring any owner or operator of a business that contracts for solid waste services and generates more than four cubic yards of material per week arrange for recycling services. The bill would have also authorized a local agency to charge and collect a fee from a commercial waste generator to recover the local agency's estimated costs incurred in complying with the commercial recycling program requirements. The term 'business' included all commercial entities, multi-family residential dwellings of five or more units, and self-haulers. Additionally, the bill would have authorized a local enforcement agency to approve permits through a pro-forma process when significant changes are made in the design or operation of the solid waste facility, regardless if those changes were authorized by the existing permit or if they were consistent or in conflict with the local jurisdiction's land use permit. Further, this bill would have eliminated current provisions in State law for the local task force to comment and review updates of Non-Disposal Facility Elements. The Task Force opposed AB 737.

2. AB 1793 (Saldana)

This bill would have provided that a provision of any of the governing documents of a common interest development would be void and unenforceable if it prohibits, or includes conditions that have the effect of prohibiting, the use of artificial turf or any other synthetic surface that resembles grass. The bill would have not prohibited an association from applying landscape rules and regulations established in governing documents that establish design and quality standards for the installation of said materials. The Task Force supported AB 1793 if amended.

3. AB 1858 (Blumenfield)

This bill would have permitted the State Department of Public Health (department) to authorize certain entities to provide hypodermic needle and syringe (sharps) exchange services in any location where the department determines that the conditions exist for the rapid spread of any potentially deadly or disabling infection spread through the sharing of used sharps. The bill would have also required the department to maintain on its website the address and contact information of programs providing sharps exchange services. Amendments requested related to local land use encroachment and the need to ensure the proper collection and management of the sharps provided at exchange service locations. The Task Force supported AB 1858 if amended.

4. SB 1029 (Yee)

This bill would have, among other things, permitted a physician or pharmacist to furnish 30 or fewer hypodermic needles and syringes to an individual without a prescription. This bill also required pharmacies to provide consumers with prescribed options for the disposal of hypodermic needles and syringes. Amendments requested related to making the disposal options free of charge to customers by participating physicians and pharmacists. The Task Force supported SB 1029 if amended.

IX. CALIFORNIA'S MODEL DRUG COLLECTION PROGRAM WORKSHOP

Ms. Armine Kesablyan gave a report on California's model drug collection program workshop. The purpose of the workshop was to evaluate existing programs in California based on the criteria of safety, accessibility, cost effectiveness, and efficacy and to present preliminary analysis of potential options for the implementation of a statewide program and statutory changes to legislature.

As part of the workshop, CalRecycle presented the following four options for state action:

1. Continue current practices, which would mean that following the criteria for model programs will remain voluntary. Safety will still be of issue, accessibility will remain low and funding sustainability will not be addressed.
2. Improve guidelines and enforcement. This would mean developing regulations based on improved guidelines. Safety will rise, accessibility may not rise if programs are costly, collection rates may increase, but collection levels may remain low, costs may rise, but sustainable funding sources will still be inadequate.
3. Implement Product Stewardship which would mean a shared responsibility approach with primary responsibility on the manufacturers and consumers, rather than local government and taxpayers. Safety and accessibility will rise, cost effectiveness will improve and efficacy will increase.
4. Establish a statewide collection program through Advanced Disposal Fee. This would mean that consumers pay a fee at the time of purchase, which is deposited into a fund managed by the state government and paid to service providers. Safety and accessibility will improve, efficacy will improve, collection costs will not improve, awareness will improve, and sustainable funding will improve.

Stakeholders were given an opportunity to submit comments to CalRecycle until August 13, 2010.

After a brief discussion, Mr. Mike Mohajer made a motion for the Task Force to send a letter to CalRecycle requesting they have an open discussion on the impact of AB 3397 and actively participate with the Federal Government to develop the regulations. Ms. Mary Ann Lutz seconded the motion. The motion passed with one abstention from Eugene Sun.

X. CALRECYCLE'S PROPOSED CLOSURE, POSTCLOSURE MAINTENANCE, AND FINANCIAL ASSURANCE FEE

Ms. Linda Lee provided a PowerPoint presentation on the new Landfill Closure, Postclosure, Maintenance, and Financial Assurance Fee proposed by CalRecycle. During a workshop on October 11, 2010, CalRecycle explained the Fee is necessary due to the recently revised landfill postclosure financial assurance requirements, which has significantly increased the amount of resources and staff time spent on reviewing plans for landfill compliance with regulations. CalRecycle indicated the Fee would be included in its 2011/12 budget.

According to CalRecycle, the authorization for CalRecycle to recover costs incurred in reviewing landfill compliance with closure, postclosure, and financial assurance requirements is provided for in Public Resource Code 43508. The Integrated Waste Management Fee (IWMF) has remained at the rate of \$1.40 for several years. CalRecycle indicated the IWMF derived from waste disposal is CalRecycle's only source of funds. CalRecycle is currently running a number of programs that were enacted without raising the IWMF, such as Minimum Content Regulatory Programs, Landfill Closure Loan Program, Environmental Education Program, and Long-Term Threats to Solid Waste Landfills. Approximately half of the landfills utilizing the programs do not contribute to the IWMF because they are closed. In addition, due to the recent economic downturn, the disposal amounts have declined, resulting in a 30 percent decrease in the IWMF since 2005.

The proposed Fee would apply to landfills operating on or after January 1, 1988, currently 288 sites. Landfill sites operating on or after this date are legally required to demonstrate solid waste landfill financial assurance. The total CalRecycle review cost would depend on its enacted budget. The initial CalRecycle estimate of all costs associated with closure, postclosure maintenance, and financial assurance activities is approximately \$3 million. Larger landfills will contribute approximately 2.5 times the contribution from smaller landfills.

During the workshop, stakeholders repeatedly indicated that the economic downturn prompted the private industry to cut back on spending. Stakeholders believe CalRecycle should take similar measures to improve its efficiency instead of asking for additional funds. They believe the proposed air-space method to calculate individual landfill's contribution is too simplistic. The proposal should consider that the time and costs associated with reviewing plans for a closed landfill is much less than an active site. Stakeholders believe a two-tier fee system differentiating active and closed sites would be more appropriate.

The Solid Waste Industry Group, comprised of private and public landfill operators, has requested CalRecycle to delay the implementation of the proposed Fee until the concerns are addressed. In response to stakeholders' concerns, CalRecycle indicated that the more complex the regulations become the more difficult and costly the implementation will be.

Mr. Mike Mohajer made a motion for the Task Force to send a letter to CalRecycle requesting they conduct a public workshop providing information on how the IWMF is allocated and how much of it is currently spent on landfill-related programs. The motion was seconded by Mr. Eugene Sun. The motion passed unanimously.

XI. CALRECYCLE'S PAINT PRODUCT STEWARDSHIP WORKSHOP & AB 1343

Mr. Rogelio Gamiño reported on the CalRecycle's Paint Product Stewardship Workshop that took place October 14, 2010, as a result of the recent passage of AB 1343, which will mandate manufacturers of paint to establish a product stewardship program. According the bill, the Paint Stewardship Program should reduce the generation of postconsumer paint, promote the reuse of postconsumer architectural paint, and manage the end-of-life of postconsumer architectural paint including collection, transportation, processing, and disposal.

According to the workshop presenter, program components in California shall include; a plan to reduce the generation of postconsumer paint [Education Campaign]; promote the reuse of postconsumer architectural paint; and manage the end-of-life of postconsumer architectural paint including collection, transportation, processing, and disposal. The program component portion of the workshop was based on Oregon's Paint Program. However, given that AB 1343 was modeled after Oregon's legislation, the broad nature of the program requirements were similar and applicable to the program requirements California will be facing.

Subsequent regulations will be needed to set a per-can fee and specify a program management fee for CalRecycle.

The product stewardship organization will probably contract with haulers and recyclers already doing this work as they will most likely be familiar with HHW practices in California. Other costs to local government are planning, providing the collection function, operating, event promotion, and insurance.

After a brief discussion, Mr. Mike Mohajer moved that the staff to the Task Force, in concert with the City Los Angeles, County Sanitations Districts, and Public Works, shall prepare a letter to CalRecycle recommending coordination with these agencies on development of policies/guidelines/regulations to implement AB 1343, the paint stewardship program. The motion was seconded by Ms. Betsey Landis. The motion passed unanimously.

XII. PROPOSITION 26 REQUIREMENTS FOR REGULATORY FEES

Mr. Rogelio Gamiño outlined the details of the proposition first stating the proposition would define a “tax” as any levy, charge [fee], or exaction, unless it fits within certain exceptions. The Proposition expands Prop 13 requirements to increase or establishment of new fees.

The proposition would repeal any State law adopted between January 1, 2010, and November 2, 2010, that conflicts with Proposition 26. The repeal would not take effect if the law is reenacted within one year and with the approval of two-thirds of each house of the Legislature. Mr. Gamiño stated that if the proposition passed then the recently passed paint and plastic bill may be repealed.

The proposition was introduced by the proponents because they stated tax payers are currently being subjected to new and/or higher fees, and those fees are used to fund services that benefit public broadly instead of the fee payer. Under Prop 26 the burden of proof to defend fees would be placed on local government, and the basis for defense would be a higher standard of the preponderance of evidence, making it easier for fees to be contested. The result would likely increasing legal costs to local governments.

Some of the fees exempt from the definition of a tax include:

- Charges imposed for the entrance, use, lease, or purchase of government property;
- Fines or penalties imposed by a judge, the State or a local government;
- Charges imposed for the reasonable regulatory costs incident to issuing licensing and permits, performing investigations, inspections and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof;
- Charges imposed for a specific benefit or government service provided directly to the payer that is not provided to those not charged, and that does not exceed the reasonable cost of providing the service or benefit;

Local Governments will be exempt for charges imposed as a condition of property development and charges covered by Prop 218.

The fees collected that provide the funding for solid waste management planning activities may be susceptible to Prop 26 requirements should the proposition pass.

XIII. REPORT FROM CALRECYCLE

Mr. Steve Uselton reported CalRecycle conducted a Mandatory Commercial Recycling workshop on September 21, 2010, in conjunction with the Air Resources Board. Stakeholders received information on the cost of commercial programs, economic evaluation of post regulation; supplemental economic analysis on local government cost survey; recycling, and composting, green house gas emission reduction factors as well as tools that would go along with the roll out on the commercial propriety. Mr. Uselton stated there was good dialogue at the workshop and thanked Public Works and the Task Force for their comment letters. The next meeting will take place in December to update the cost flow discussed at the last workshop. An updated report will be made based on the comments made, additional information will be given on the calculator to estimate climate financial and diversion benefits of commercial recycling, and revisions to the draft commercial regulatory language will be presented. The December workshop will be the fourth workshop to receive comments. In January 2011, an additional stakeholder workshop will take place, at which time additional comments will be taken. In spring 2011, a hearing will be held to consider adoption of the Draft Mandatory Commercial Recycling Regulations.

Mr. Mike Mohajer stated the Task Force sent a letter questioning the Lifecycle analysis and the estimated 5 million metric tons of CO₂ reduction. The letter also stated CalRecycle is not considering the impact of the facilities in the Pacific Rim and China and are assuming those facilities operate as though they're in California. He also stated some of the requirements in the regulations that require local governments to quantify the amount to be recycled by each business, their bin size, and participation rates would cause significant cost to local governments. The Task Force hasn't received a response to the letter and it seems CalRecycle isn't taking those issues into consideration. Mr. Uselton responded the draft document that will come out in December will indicate which comments they are taking heed to, and there will be another opportunity to make comments to the Air Resources Board at the informal workshop in January.

Mr. Uselton also reported on the CalRecycle newsletter that was inadvertently sent out by staff referencing the Jurisdictional Review Tool (JRT). He stated the newsletter wasn't reviewed by management and should not have been sent out. In response to the Task Force's letter questioning the newsletter, CalRecycle

management has agreed to attend the November Task Force meeting to address any questions regarding the JRT and other points of concerns brought up in the letter. CalRecycle sent a response to the Task Force's letter in on September 14. A copy will be provided to each Task Force member (see attached). Mr. Mohajer will compile a list of points for CalRecycle to address when they attend the next meeting.

Mr. Uselton concluded with that since combining the old waste board and the beverage recycling programs, some deficiencies have been identified. They are working on how to merge both departments and better utilize staff in the needed areas. The rollout has been structured and will be implemented November 1, 2010. The new org chart has been posted on their website.

XIV. NEXT MEETING DATE

The next meeting will be held Thursday, November 18, 2010.

XIII. OPEN DISCUSSION/PUBLIC COMMENT

Mr. Wayde Hunter thanked and gave appreciation to the Task Force and the County of Los Angeles Departments of Public Works and Regional Planning for their involvement and interceding on behalf of the surrounding community of Sunshine Canyon Landfill.

The meeting adjourned at 3:33 p.m.

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