

April 2020

OnSite

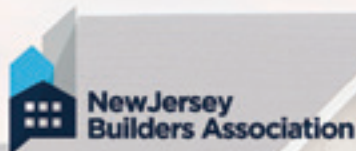
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OnSite / April 2020

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Mission Statement: Metro is a professional organization that shall serve to protect and advance the rights and interests of builders, remodelers and associates in all matters affecting the building and remodeling industries. Metro shall support the business interests of all its member firms, support safe and affordable shelter, and foster the American dream of home ownership.

Vision Statement: Metro is the leading trade association for the construction industry. Metro inspires active membership through professional development and advocacy. We embrace free markets to promote cost effective housing in NJ.

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President's Message

April 2020

Dear Friends,

The mission of Metro BCA is clear. Our foundational priority is to our members' and their family's health and safety. Our thoughts and prayers go out to you, your employees, and your families during this national pandemic.

The world as we knew it has changed dramatically with the outbreak of the virus Covid-19 and the regulatory responses on society. On March 9th, 2020, Governor Murphy declared a State of Emergency and a Public Health Emergency that would lead to the closure of schools, most businesses, parks, and more. In the following days, additional Executive Orders would require New Jersey residents to shelter in place, restrict gatherings, exercise "social distancing", restrict and close more businesses, and change societal behaviors perhaps for generations. On Friday, April 10th, 2020 at 8PM, Governor Murphy stopped all non-essential construction in New Jersey due to the Covid-19 outbreak. Multiple members have been struck with the virus. To my knowledge, all have recovered.

With COVID-19 (coronavirus) hitting all sectors of the economy, Metro has been working diligently with the New Jersey Builders Association and the other local chapters to mitigate its effects on the construction sector.

Metro's leadership response has been to get timely information out to our members including assistance with the various federal and state grant and loan programs.

- We have produced daily Zoom Meetings to deliver our information and to stay in touch with our membership. We have hosted experts, professionals, and policy wonks to guide the presentations. The information is solid, though updates are frequent. The social benefit of being in this together has been a crutch for many of us as the uncertainty can be unsettling. We have had as many as 120 participants in the live 4:00 p.m. Zoom Meetings and briefings.
- We created a resource page (MetroCovidRecovery.com) for our members to access the latest information about the federal, state and local response, grants, as well as critical job-site safety tips and anything that would help our members.
- We have maintained all office services and redoubled our legislative efforts to help shape policy that works best for our members.

This is a time for resolve within businesses and within our families.

The newly crafted **crisis vision statement** puts it in perspective:

"Metro BCA endeavors to provide members with tangible crisis solutions in the American spirit of entrepreneurship."

I have never been more proud of this Association than I am now. We have a fabric of great people and solid honorable businesses. The quilt of the building industry is made of our patches stitched in hard times. The warmth of the current efforts and depth of passion to succeed is inspiring and forms the future of your association.

It is a privilege to serve our industry and members. I am thankful for your confidence and will continue to work for all of us to come out of this healthy, safe, and productive once again serving the housing needs of our citizens.



Metropolitan Builders & Contractors
Association of New Jersey

Ronnie Glomb
2020 Metro President



Bob's EO Perspective



What a difference a month makes, since Gov. Murphy instituted a total lifestyle change to slow the spread of COVID-19. Shelter in place, construction sites must be classed as "essential construction" and office staffs working from home. Our children are being home schooled by parents or by video conferencing with their teachers. Could you ever have imagined?

As much as there have been hurdles to climb, there have been some good changes in how the work place is evolving and being successful during this pandemic. Employers and employees are working as a team, with an exchange of ideas and a watchful eye for one another. Employers are doing what they can to protect job security; employees are working hard to be productive on the job, discovering new ways to get the job done, safely.

I have seen what an amazing Association we have! Everyone is working hard in the face of adversity.

We must show our gratitude to Ronnie Glomb (Pres.) and Frank Coppola (VP Treasurer) who have organized the Zoom Crisis Education Meetings which are keeping our members and others up to date with the latest information regarding Unemployment, Family Leave, Federal and State Grant & Loan programs.

Each member should have received an email on or about April 8th – 10th providing you with your assigned NAHB Company and Personal PIN #. Save these numbers and log into either NAHB or NJBArebates.com. to register your company for savings and service benefits from a large selection of brand name companies. Check it out at NAHB.org NAHB-Community/Member/Benefits, or NJBArebates.com.

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METRO'S COVID-19 INFORMATION HUB

The Crisis Information Hub provides tangible information to help our members during this difficult time. The Hub shares useful links to federal, state and local resources along with job site safety links, banking, insurance and real estate updates and more.



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Executive Order 122 Recap - Ceases All Non-Essential Construction Projects

As previously reported, Governor Murphy signed [Executive Order #122](#) that directs all non essential construction activity to cease indefinitely by 8:00 pm on Friday, April 10th.

The following is a more in- depth overview of EO 122 as it relates to the homebuilding industry, including information on requirements for essential construction and general requirements for certain businesses that maintain permissible in person operations. NJBA appreciates that there are instances where the language in the EO may be vague or unclear. In the absence of further guidance from the Governor's Office and Administrative Agencies, we urge all members to consult with their attorneys if they are questioning how the EO may or may not apply to them.

What is Considered Essential Construction?

Paragraph 2. of EO 122 directly prohibits non essential construction activity and specifically defines "essential construction projects". NJBA fought diligently to ensure, at a minimum, projects with already contracted closings would continue and that is provided for in the EO, as well as other NJBA requested exclusions. "Essential construction projects" shall be defined as the following:

- d. Residential projects that are exclusively designated as affordable housing;
- f. Projects already underway involving individual single-family homes, or an individual apartment unit where an individual already resides, with a construction crew of 5 or fewer individuals. This includes additions to single-family homes such as solar panels;
- g. Projects already underway involving a residential unit for which a tenant or buyer has already entered into a legally binding agreement to occupy the unit by a certain date, and construction is necessary to ensure the unit's availability by that date;
- m. Any work on a non-essential construction project that is required to physically secure the site of the project, ensure the structural integrity of any buildings on the site, abate any hazards that would exist on the site if the construction were to remain in its current condition, remediate a site, or otherwise ensure that the site and any buildings therein are appropriately protected and safe during the suspension of the project;

- n. Any emergency repairs necessary to ensure the health and safety of residents.

What are the Requirements for Essential Construction?

For any construction that is considered essential per paragraph 2, key policies will need to be enacted per paragraphs 3 and 4 of the EO which deal with worker safety. Per paragraph 3, essential construction businesses will need to:

- a. Prohibit non-essential visitors from entering the worksite;
- b. Limit worksite meetings, inductions, and workgroups to groups of fewer than ten individuals;
- c. Require individuals to maintain six feet or more distance between them wherever possible;
- d. Stagger work start and stop times where practicable to limit the number of individuals entering and leaving the worksite concurrently;
- e. Stagger lunch breaks and work times where practicable to enable operations to safely continue while utilizing the least number of individuals possible at the site;
- f. Restrict the number of individuals who can access common areas, such as restrooms and breakrooms, concurrently;
- g. Require workers and visitors to wear cloth face coverings, in accordance with CDC recommendations, while on the premises, except where doing so would inhibit the individual's health or the individual is under two years of age, and require workers to wear gloves while on the premises. Businesses must provide, at their expense, such face coverings and gloves for their employees. If a visitor refuses to wear a cloth face covering for non-medical reasons and if such covering cannot be provided to the individual by the business at the point of entry, then the business must decline entry to the individual. Nothing in the stated policy should prevent workers or visitors from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if the businesses is otherwise required to provide such worker with more protective equipment due to the nature of the work involved. Where an individual declines to wear a face covering on the premises due to a medical condition that inhibits such usage, neither the business nor its staff shall require the individual to produce medical documentation verifying the stated condition;
- h. Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;

- i. Limit sharing of tools, equipment, and machinery;
- j. Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to workers and visitors; and
- k. Require frequent sanitization of high-touch areas like restrooms, breakrooms, equipment, and machinery.

Per paragraph 4:

- a. Immediately separate and send home workers who appear to have symptoms consistent with COVID-19 illness upon arrival at work or who become sick during the day;
- b. Promptly notify workers of any known exposure to COVID-19 at the worksite, consistent with the confidentiality requirements of the Americans with Disabilities Act and any other applicable laws;
- c. Clean and disinfect the worksite in accordance with CDC guidelines when a worker at the site has been diagnosed with COVID-19 illness; and
- d. Continue to follow guidelines and directives issued by the New Jersey Department of Health, the CDC and the Occupational Health and Safety Administration, as applicable, for maintaining a clean, safe and healthy work environment.

What other requirements are in the EO?

- Paragraph 5 - Installs additional requirements where a business is authorized to maintain in-person operations pursuant to Executive Order No. 107 (2020) and subsequent Administrative Orders. Residential buildings with at least 50 units will need to adopt minimum cleaning policies.
- Paragraph 6 - Providers for waivers to the EO by State Director of Emergency Management.
- Paragraph 7 - Requires every person and governmental entities to cooperate fully in all matters concerning this Executive Order.
- Paragraph 8 – Provides that penalties for violations of this EO may include imprisonment for up to 6 months and a fine not to exceed \$1,000.00.



Recently Enacted Employment Tax Credits

With the Payroll Protection Program dominating the headlines, businesses may not be paying as much attention to some other provisions of the recently passed tax acts. Here is a quick highlight of the employment tax credits recently enacted.

Families First Coronavirus Response Act:

The Families First Coronavirus Response Act went into effect on April 1 and continues until December 31, 2020 for employers with less than 500 employees.

There are two main provisions in the act:

- The first provision expands the Family Medical Leave Act and provides employees up to 10 weeks of paid Family Medical Leave (FML) if they can't work because they must care for children whose schools or daycares have closed due to COVID-19. Eligible employees can earn up to a maximum of \$10,000 under this program.
- The second provision provides employees 80 hours of Paid Sick Leave (PSL) if they are unable to work for one of the following six COVID-19 related reasons:
- They are subject to a governmental quarantine or isolation order;
- They have been advised by a doctor to self-quarantine;
- They are experiencing symptoms of COVID-19 and seeking a medical diagnosis;
- They are caring for a family member subject to a quarantine order or self-quarantine;
- They are caring for children if schools are closed or their caregiver is unavailable because of COVID-19; or
- They are experiencing substantially similar conditions as specified by the Secretary of Health and Human Services.

Eligible employees can earn up to a maximum of between \$2,000 and \$5,110, depending on the reason for their leave.

There is an exemption for businesses with fewer than 50 employees if they can prove that providing the above leave benefits would risk them going out of business.

To help employers afford the new FML and PSL benefits, companies can seek reimbursement through payroll tax credits. The tax credits mirror the benefits paid for a maximum credit of \$10,000 for the FML and between \$2,000 and \$5,110 for the PSL, per eligible employee. The application of these credits should be applied through your payroll providers.

CARES Act - Employee Retention Credit:

Under the more recently passed CARES act, eligible employers can qualify for a refundable credit against the employer's 6.2% portion of Social Security tax for wages paid to employees during the COVID-19 crisis.

The credit is provided for 50% of eligible wages paid between March 13 and December 31, 2020, for up to a maximum of \$10,000 in wages (maximum credit of \$5,000 per employee).

The credit is available for businesses and non-profits (but not government entities) if they fall into one of two categories:

- The employer's business is fully or partially suspended by government order due to COVID-19 during the calendar quarter; or
- The employer's gross receipts are below 50% of the comparable quarter in 2019. Once the employer's gross receipts go above 80% of a comparable quarter in 2019, they no longer qualify after the end of that quarter.

Qualifying wages are based on the average number of a business's employees in 2019:

Employers with less than 100 employees: If the employer had 100 or fewer employees on average in 2019, the credit is based on wages paid to all employees, regardless if they worked or not.

Employers with more than 100 employees: If the employer had more than 100 employees on average in 2019, then the credit is allowed only for wages paid to employees who did not work during the calendar quarter.

Wages don't include (1) wages taken into account for Families First credit discussed above, (2) wages taken into account for other credits like the family and medical leave credit or work opportunity credit

Important: The credit is not available to employers receiving Payroll Protection Loan.

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Green Cleaning and the Coronavirus

If your cleaning teams use bleach to disinfect buildings from Coronavirus, will you put your LEED certification at risk?

By Amanda Cunningham

First: a note about your cleanser – Hydrogen Peroxide kills corona and is more environmentally friendly than bleach. Consider using hydrogen peroxide, if it's an option. But if you must use bleach, here are the implications for your LEED certification:

We are not aware of any official ruling about a pandemic, but we also don't think you should be concerned that using bleach during the national emergency will threaten your LEED certification.

Here's why: If your properties are certified as LEED for New Construction, the certifications are based on how the buildings were designed and constructed, not operated. In this case, your certification will not be at risk if you use bleach to disinfect.

If your properties are certified as LEED for Existing Buildings and you want to continue using the traditional EB O&M path, it matters if you use non-green cleaners somewhat. Only 75% of your cleaning materials, by cost, need to meet LEED requirements. Temporarily using bleach is unlikely to put your LEED certification at risk if you use greener products most of the time. We also suspect (but can't confirm) that even if you fall a little short of 75%, that GBCI would be lenient here.

If you're using Arc to recertify your LEED O+M buildings, then you will only use the five performance-based categories, which do not include tracking your cleaning product purchases. In this case, using non-green cleaners will not put your LEED certification at risk.

Bottom line: Do what you need to do to disinfect your spaces. Your LEED certification should be fine. The EPA has released a list of cleaners that kill coronavirus, and some are greener than others – if possible, go as green as possible while prioritizing safety. "Using the correct disinfectant is an important part of preventing and reducing the spread of illnesses along with other critical aspects such as hand washing," EPA administrator Andrew Wheeler said in a news release.

Hydrogen Peroxide kills corona and is more environmentally friendly than bleach. Consider using hydrogen peroxide, if it's an option.

We hope this helps! Let us know if you have any questions. And in the meantime, keep practicing social distancing, and let's work together to flatten the curve.

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2) Follow our page by pressing the **'Follow'** button under the main picture, and in between the **'Like'** and **'Share'** buttons. This will give you access to all of our most recent updates.

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Accessory Dwelling Units

REALTOR Party Hot Topic Alerts Part 2: by Wendy Penn

THE TYPES OF ADUs

Not all ADUs are the same. According to HUD there are three main types of ADU: interior, detached, and attached. The difference between the three is the proximity of each one to the main dwelling unit. An interior ADU is one that is located within the primary dwelling place. Usually, they are built through conversion of existing space. Examples would be attics or basement areas that are converted into apartments. Detached units are those that are physically separated from the primary dwelling. They may take the form of a building constructed or converted on the property, or they may be living space added to an existing building, such as an apartment added to a detached garage. An attached ADU is one that is added to the primary dwelling without being inside the existing building, such as a room added over an attached garage.

Local ordinances and state statutes set out some things that all ADUs will have to have in common. While some laws may say only that an ADU is a “habitable” unit contained on one lot, the usual definition is that an ADU must have its own cooking, sleeping, and sanitation facilities. A room that is rented without its own bathroom and kitchen will thus not be an ADU. Some laws require that an ADU must have its own legal means of ingress and egress, while others say that an ADU “may” have a separate entrance.

STATE ADU LAWS

State governments have begun to recognize the importance of ADUs and their potential to help ease critical shortages of affordable rental housing. Many states have adopted new legislation in recent years that is designed to promote ADUs.

Local zoning and land use codes represent the most significant barriers to the expansion of ADUs. States have responded by enacting laws that prohibit direct or indirect prohibitions against ADUs in local zoning codes. For example, an Oregon law, effective August 8, 2019, strengthens that state’s existing prohibition against city or county charters that ban ADUs. The new law states that local or county charters may not impose owner occupancy requirement “of either the primary or accessory structure,” and may not require the construction of additional off-street parking. Effective January 1 2020, the Oregon law will also forbid enforcement of a “provision in a recorded instrument



affecting real property” that would allow the development of a single-family home on the property but prohibit the construction of an ADU on the property.

New Hampshire law provides that a municipality with a zoning ordinance must allow ADUs “as a matter of right or by either conditional use permit... or by special exception, in all zoning districts that permit single-family dwellings.” The units that must be allowed (one per single-family dwelling) must be attached to the single family dwelling by an interior door (the municipality may not, however, require that the interior door remain unlocked). Note that municipalities in New Hampshire may allow detached ADUs, but are not required to do so.

Other state laws take a less prescriptive course. California law recognizes ADUs as an essential component of the state’s housing supply, so the state allows local agencies to provide by ordinance for the creation of ADUs. The ordinances must designate areas in which ADUs will be allowed, and must impose standards on ADUs “that include, but are not limited to, parking, height, setback, lot coverage, landscape, architectural review, maximum size of unit, and standards that prevent adverse impacts on real property that is listed in the California Register of Historic Places.” Florida law permits the adoption of an ordinance to allow ADUs “in any area zoned for single-family residential use.” Such an ordinance may be adopted “upon finding by a local government that there is a shortage of affordable rentals within its jurisdiction.

In North Carolina, every municipality with a population of at least 90,000 is required to prepare a report on affordable housing that details the strategies being employed to limit the cost of privately developed housing, including the extent to which municipalities are engaged in “creating or allowing for, and reducing regulations related to accessory dwelling units in residential zones.” The report must be submitted to the Joint Legislative Oversight Committee on General Government and the Fiscal Research Division on or before October 1, 2019.

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After COVID-19, There Will Be a New Normal for Construction Safety

By Brad Tabone

Real talk. It's something our company is currently working on as we build on our company culture. And I find it particularly fitting for construction in relation to safety. Now more than ever.

Real talk: if we want to achieve higher standards for our safety culture in the U.S, we need to make it an operational priority. If there is anything to learn from the current pandemic it's that our safety practices require more than siloed checklists, incidents and injury tracking, or reactive analysis of lagging indicators.

More than talks and taglines, safety is operational. It needs to be embedded in all processes, led from the top down, empowering teams to do what's right and supporting proper habits on the ground.

COVID-19 & Construction: Protect Your Teams

Using touchless registration, virtual orientations, touchless sign-on, and automated health checklists, learn how technology can reduce risk of transmission.

Currently our construction industry is responding to the measures required to operate a site safely during the outbreak of COVID-19. Management of personnel, safety processes, and access to information in real-time is now a requirement and no longer a "nice to have".

Those who have not put stringent and comprehensive safety processes in place - those who haven't woven safety into their field operations at every step- are scrambling to come up with solutions to keep their sites open and to keep their workers safe.

In contrast, those that have evolved their processes are the ones providing safer job-sites for workers in this pandemic. They are merely adjusting and implementing minor changes to keep up with best practices and mandatory guidelines. They are the companies that will continue to lead after our country recovers from this pandemic.

With the times requiring fast and furious evolution of practices to keep teams healthy and safe, we could learn from this pandemic and in turn, create a safer tomorrow. This moment should be a catalyst for our industry.

By improving standards to protect our most important assets, our people, we can 'grab the bull by the horn' and

revolutionize ourselves, coming out the other end more efficient, with safer, healthier job sites.

More than ever, let's focus on prevention. Let's use leading indicators to focus on what we're doing right. Let's give our field teams, or an anonymous worker, the ability to record near misses, and report on unsafe practices without fear of repercussions. Let's utilize the wealth of data that if captured electronically, could spark a conversation or determine an informed decision that leads to improvements. Let's provide our teams with proper facilities to support better hygiene and reduce the possibility of future virus transmissions, or sickness resulting from inadequate facilities.

It all starts with one. Whether it is a global pandemic, or catalyzing positive change, it begins with one.

So, what can we all do moving forward?

- **Start with the end in mind.** What do you want to stand for? What do you want your workers and trade partners to think of you? What data do you need access to, to truly make a difference and lift your company to the next level?
- **Embrace change, analyze your processes, find areas for improvement and then search for the best possible solution.** There is something for everyone out there, the speed in which technology solutions are being applied to construction over the past decade is breathtaking.
- **Data... data... data.** Get SME's from across all functions of your company, collate what everyone believes to be the critical information (information that if they had access to, they could make true data-backed decisions), tie it to processes ensuring the data can be captured, then prioritize and start your journey.
- **Come together and share our best thoughts, ideas, practices.** Mind sharing and creating industry-wide, data-driven safety baselines for measuring our true safety numbers is paramount. At HammerTech, we are creating a **Global Construction Safety Coalition**, bringing together the best minds in construction design, safety, operations and change management from around the world to develop a wealth of education and research to improve our industry's safety processes, and give organizations global resources to advance their safety operations.

When we all do our part to advance this industry, when we all have real talk with ourselves and others in the industry, we will come out the other side better for having done so. Safety is not something to be negotiated, or siloed, or ignored. Moving forward, safety should be the foundation of our practices.

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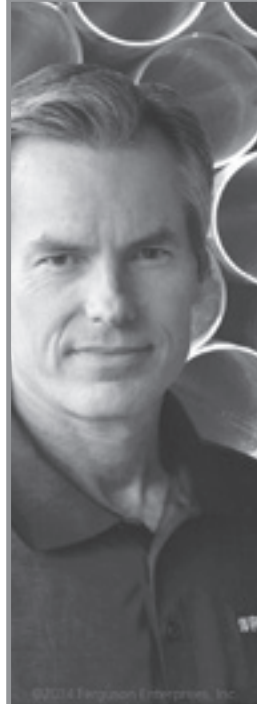


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New OSHA Guidance: COVID-19 Illnesses Not Recordable for Construction

On April 10, the Occupational Safety and Health Administration (OSHA) revised its guidance on whether employers are required to record cases of COVID-19 in their Form 300 Logs for reporting occupational injuries and illnesses. OSHA's memo is in direct response to significant concerns raised by NAHB and construction industry partners in a letter to OSHA regarding its position on the recordability of COVID-19 cases.

OSHA states that in areas where there is ongoing community transmission, employers may have difficulty making determinations about whether workers who contracted COVID-19 did so due to exposures at work. Until further notice, OSHA will not enforce its recordkeeping requirements to require these employers to make work-relatedness determinations for COVID-19 cases, except where: (1) There is objective evidence that a COVID-19 case may be work-related; and (2) The evidence was reasonably available to the employer.

OSHA recordkeeping requirements required covered employers record certain work-related injuries and illnesses on their OSHA 300 log.

However, employers of workers in the healthcare industry, emergency response organizations and correctional institutions must continue to make work-relatedness determinations.

OSHA's guidance takes effect immediately and remains in effect until further notice, which is intended to be time-limited to the current national public health emergency.

Access the latest NAHB news and business resources to respond to this challenge in the Coronavirus Preparedness and Response section on nahb.org.

NAHB Legal Action Fund Still Taking Applications

Amid the coronavirus crisis, NAHB continues to advocate for and support our members — including their legal battles. The NAHB Legal Action Fund is currently accepting applications from state and local home builders associations (HBAs), as well as their builder/developer members, for financial assistance in litigation that has the potential to significantly affect the industry.

Applications are due May 15. This round will be considered in June at the 2020 Spring Board of Directors Meeting in Washington, D.C.

The NAHB Legal Action Committee administers the fund,



giving priority to nationally significant cases or those that address issues commonly faced by builders or developers. Recent examples include environmental issues, impact fees and sewer connection fees, and zoning regulations.

Where possible, cases should be brought to the committee early in the litigation process. The fund should be used primarily in a proactive role, encouraging and supporting the filing of high-quality litigation that addresses major industry issues.

The Legal Action Committee considers applications during each of the NAHB Board of Directors meetings and makes recommendations for grants for NAHB Executive Board approval. For additional information, contact Thomas Ward at tward@nahb.org.

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