

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

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THE UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	No.: 2:19-cv-231
)	
v.)	
)	CIVIL COMPLAINT
TRIDENT SEAFOODS CORP.,)	
Royal Viking, Inc., Golden Dawn, LLC)	
)	
Defendants.)	
_____)	

18 Defendants Trident Seafoods Corporation (“Trident”), Royal Viking, Inc., and Golden
19 Dawn, LLC (collectively, “Defendants”) own and/or operate fishing and seafood processing
20 vessels off the coast of Alaska and the Pacific Northwest, and Trident owns and operates seafood
21 processing and cold storage facilities and vessels throughout Alaska and the continental United
22 States. Defendant Trident’s facilities and Defendants’ vessels employ refrigeration appliances
23 that use an ozone-depleting Refrigerant gas known as chlorodifluoromethane or HCFC-22, also
24 known as R-22. As alleged herein, Defendants failed to comply with Title VI of the Clean Air
25 Act (“Stratospheric Ozone Protection”), 42 U.S.C. §§ 7671-7671q, and the regulations set forth
26 in 40 C.F.R. Part 82, Subpart F, because they failed to repair and test leaking refrigeration
27 appliances, failed to maintain adequate records and equipment, and used uncertified technicians
28 to service refrigeration appliances.

NATURE OF THIS ACTION

29
30 1. The United States brings this civil action for injunctive relief and the imposition
31 of civil penalties under Section 113(b) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(b), for

1 Defendants' violations of Section 608 of the CAA and the implementing regulations set forth at
2 40 C.F.R. Part 82, Subpart F. These violations occurred at Defendant Trident's seafood
3 processing facilities located in Alaska, and on board Defendants' vessels operating off the coast
4 of Alaska and the Pacific Northwest.

5 JURISDICTION AND VENUE

6 2. This Court has jurisdiction over the subject matter of this action pursuant to
7 Section 113(b) of the CAA, 42 U.S.C. § 7413(b), and 28 U.S.C. §§ 1331, 1345, and 1355.

8 3. Venue is proper in the Western District of Washington pursuant to 28 U.S.C.
9 §§ 1391(b) and (c) and 1395(a), and Section 113(b) of the CAA, 42 U.S.C. § 7413(b), because
10 Defendants Trident and Royal Viking, Inc. reside and maintain corporate headquarters in this
11 judicial district and all Defendants are doing business in this judicial district.

12 NOTICE TO THE STATE OF WASHINGTON

13 4. The United States has notified the State of Washington of the commencement of
14 this action pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b).

15 PARTIES

16 5. Plaintiff is the United States of America, by authority of the Attorney General of
17 the United States and through the undersigned attorneys, acting at the request of the
18 Administrator of the United States Environmental Protection Agency ("EPA").

19 6. Defendant Trident is a seafood processing company. It is incorporated in the state
20 of Washington, and its corporate headquarters is in Seattle, Washington.

21 7. Defendant Trident operates a fleet of over thirty seafood processor, catcher, and
22 tender vessels off the coast of Alaska and the Pacific Northwest, as well as about twenty onshore
23 processing plants throughout Alaska and the continental United States.

1 12. Refrigerant as used herein means “any substance consisting in part or whole of a
2 class I or class II ozone-depleting substance that is used for heat transfer purposes and provides a
3 cooling effect.” 40 C.F.R. § 82.152 (2016).

4 Requirement to Repair Leaks Within Thirty Days – Commercial Refrigeration

5 Appliances

6 13. “Commercial refrigeration” appliances are refrigeration appliances utilized in the
7 retail food and cold storage warehouse sectors. 40 C.F.R. §§ 82.152 (2016).

8 14. 40 C.F.R. § 82.156(i)(1) (2016) provides that owners and operators of commercial
9 refrigeration equipment normally containing more than fifty pounds of Refrigerant must have
10 leaks repaired if the leak rate of the appliance exceeds thirty-five percent on an annual basis (i.e.,
11 if the appliance is leaking at a rate such that it would lose more than thirty-five percent of its full
12 charge in a twelve-month period), except as described in 40 C.F.R. §§ 82.156(i)(6) and (10)
13 (2016). The repairs must bring the leak rate to below thirty-five percent on an annual basis. 40
14 C.F.R. § 82.156(i)(1) (2016).

15 15. 40 C.F.R. § 82.156(i)(9) (2016) requires that owners and operators must repair
16 leaks pursuant to 40 C.F.R. § 82.156(i)(1) (2016) within thirty days of when the leak is
17 discovered, or, if the owners intentionally shielded themselves from information which would
18 have revealed a leak, within thirty days after when the leaks should have been discovered, unless
19 granted additional time pursuant to 40 C.F.R. §§ 82.156(i)(6) and (10) (2016).

20 Requirement to Repair Leaks Within Thirty Days – Industrial Process Refrigeration

21 Appliances

22 16. “Industrial process refrigeration” appliances are, among other things, complex
23 customized appliances used in chemical, pharmaceutical, petrochemical and manufacturing

1 industries, including industrial ice machines. These appliances are directly linked to the
2 industrial process. 40 C.F.R. § 82.152 (2016).

3 17. 40 C.F.R. § 82.156(i)(2) (2016) provides that owners and operators of industrial
4 process refrigeration equipment normally containing more than fifty pounds of Refrigerant must
5 have leaks repaired if the leak rate of the appliance exceeds thirty-five percent on an annual basis
6 (i.e., if the appliance is leaking at a rate such that it would lose more than thirty-five percent of
7 its full charge in a twelve-month period), except as described in 40 C.F.R. §§ 82.156(i)(6), (7),
8 and (10) (2016), and 40 C.F.R. §§ 82.156(i)(2)(i) and (i)(2)(ii) (2016). The repairs must bring
9 the leak rate to below thirty-five percent on an annual basis.

10 18. 40 C.F.R. § 82.156(i)(9) (2016) requires that owners and operators must repair
11 leaks pursuant to 40 C.F.R. § 82.156(i)(2) (2016) within thirty days of when the leak is
12 discovered, or, if the owners intentionally shielded themselves from information which would
13 have revealed a leak, within thirty days after when the leaks should have been discovered, unless
14 granted additional time pursuant to 40 C.F.R. §§ 82.156(i)(6), (7), and (10) (2016), and 40
15 C.F.R. §§ 82.156(i)(2)(i) and (i)(2)(ii) (2016).

16 Requirement to Perform Initial and Follow-up Verification Tests on Leaking Industrial
17 Process Refrigeration Appliances

18 19. 40 C.F.R. § 82.156(i)(3) (2016) provides that if an industrial process refrigeration
19 appliance is leaking at a rate exceeding thirty-five percent on an annual basis, then the owner or
20 operator is required to repair the leak and verify the adequacy of the repair. An initial
21 verification test must be conducted at the conclusion of repairs, and a follow-up verification test
22 must be conducted within thirty days of the initial verification test, or no later than thirty days
23 after startup of the appliance.

1 20. Owners or operators of refrigeration appliances undergoing leak repair are
2 required to maintain records of initial and follow-up verification tests. The owner or operator is
3 required to record the date, method, and result of each verification test. 40 C.F.R. § 82.166(n)(3)
4 (2016).

5 Requirement to Maintain Adequate Service and Maintenance Records

6 21. 40 C.F.R. § 82.166(k) (2016) requires that owners and operators of refrigeration
7 appliances normally containing fifty or more pounds of Refrigerant must keep records of any
8 service to the appliance. These records must document the date and type of service, as well as
9 the quantity of Refrigerant added.

10 Requirement to Have Certified Recovery or Recycling Equipment

11 22. 40 C.F.R. § 82.156(b) (2016) requires that all persons opening appliances except
12 for small appliances, motor-vehicle air conditioners (“MVACs”) and MVAC-like appliances for
13 maintenance, service, or repair must have at least one piece of certified, self-contained recovery
14 or recycling equipment available at their place of business.

15 23. “Self-contained recovery equipment” means Refrigerant recovery or recycling
16 equipment that is capable of removing the Refrigerant from an appliance without the assistance
17 of components contained in the appliance. 40 C.F.R. § 82.152 (2016).

18 Requirement to Have Certified Technicians Perform Maintenance, Service, and Repairs

19 24. 40 C.F.R. § 82.161(a) (2016) requires that all Refrigerant technicians must be
20 certified by an approved technician certification program.

21 25. A “technician” is “any person who performs maintenance, service, or repair, that
22 could be reasonably expected to release refrigerants from appliances, except for MVACs, into
23 the atmosphere.” 40 C.F.R. § 82.152 (2016). Technician includes “installers, contractor

1 employees, in-house service personnel, and in some cases owners and/or operators.” Id.
2 Activities “could be reasonably expected to release refrigerants only if the activity is reasonably
3 expected to violate the integrity of the refrigerant circuit,” such as “attaching and detaching
4 hoses and gauges to and from the appliance to add or remove refrigerant or to measure pressure
5 and adding refrigerant to and removing refrigerant from the appliance.” Id.

6 Enforcement and Penalties

7 26. Section 113(b)(2) of the CAA, 42 U.S.C. § 7413(b)(2), authorizes the United
8 States to commence a civil action for a permanent or temporary injunction, and to assess civil
9 penalties of not more than \$25,000 per day for each violation, whenever a person has violated or
10 is in violation of any requirement or prohibition of Title VI of the CAA, including, but not
11 limited to, a requirement or prohibition of any rule, order, waiver or permit promulgated, issued
12 or approved under the CAA.

13 27. Section 113(b) of the CAA, 42 U.S.C. § 7413(b), as modified by the Debt
14 Collection Improvements Act of 1996, 31 U.S.C. § 3701, as implemented by the Civil Monetary
15 Penalties Inflation Rule, 40 C.F.R. Part 19, establishes maximum civil penalties for violations of
16 the CAA. The maximum civil penalty per day per violation of the CAA is \$37,500 for violations
17 occurring after January 12, 2009 and on or before November 2, 2015, and effective January 16,
18 2018, \$97,229 per day per violation of the CAA for violations occurring after November 2, 2015.
19 42 U.S.C. § 7413(b) and 40 C.F.R. § 19.4.

20 GENERAL ALLEGATIONS

21 28. Chlorodifluoromethane or HCFC-22, also known as R-22, is a Class II ozone-
22 depleting substance within the meaning of Section 601(4) of the CAA, 42 U.S.C. § 7671(4), and
23 is listed at 40 C.F.R. Part 82, Subpart A, Appendix B.

1 29. Pursuant to an Information Request issued under CAA Section 114, 42 U.S.C.
2 § 7414, EPA obtained information from Trident concerning its compliance with Subchapter VI
3 of the CAA, 42 U.S.C. §§ 7671-7671q, at its vessels and facilities, through March 31, 2016.

4 Defendants' Vessels and Facilities

5 30. Defendant Trident owns and operates at least ten seafood processing plants in
6 Alaska, and additional plants in the continental United States. These plants include facilities
7 located in Kodiak, Petersburg, and Sand Point in Alaska, and a facility in Everett, Washington.

8 31. The Kodiak, Petersburg, and Sand Point facilities contain industrial process
9 refrigeration appliances that employ R-22 as a Refrigerant. The Petersburg industrial process
10 refrigeration appliance that uses R-22 normally contains a full charge of approximately 100
11 pounds of Refrigerant and is a closed refrigeration system, the operation of which does not
12 consume Refrigerant.

13 32. During all or most of the time period between March 1, 2009 and the present,
14 Defendant Trident owned and operated at least thirty-three vessels off the coast of Alaska and
15 the Pacific Northwest, including, as relevant here, the following twenty-seven vessels: the *Alaska*
16 *Packer*, the *Arcturus*, the *Balaena*, the *Barbara J*, the *Billikin*, the *Brittany*, the *Cape Calm*, the
17 *Cape St. John*, the *Eastern Wind*, the *Entrance Point*, the *Farwest Leader*, the *Four Daughters*,
18 the *Hallo Bay*, the *Independence*, the *Island Enterprise*, the *Kodiak Enterprise*, the *Last Frontier*,
19 the *Majesty*, the *Northern Ram*, the *Northern Patriot*, the *Pacific Ram*, the *Perseverance*, the
20 *Pribilof*, the *Seattle Enterprise*, the *Southern Wind*, the *Sovereignty*, and the *Wide Bay*.

21 33. During all or most of the time period between March 1, 2009 and the present,
22 Defendant Royal Viking, Inc. owned, and Trident operated at least five vessels off the coast of
23 Alaska and the Pacific Northwest, including, as relevant here, the *Columbia*, the *Pacific Viking*,

1 the *Royal Viking*, and the *Viking Explorer*.

2 34. During all or most of the time period between March 1, 2009 and the present,
3 Defendant Golden Dawn, LLC. owned, and Trident operated the vessel *Golden Dawn* off the
4 coast of Alaska and the Pacific Northwest.

5 35. The *Alaska Packer* and *Pribilof* are no longer part of Defendant Trident's fleet;
6 the rest of the vessels listed in the preceding Paragraphs 32 through 34 remain in service.

7 36. During all or most of the time period between March 1, 2009, and the present, all
8 of the thirty-two vessels listed in Paragraph 32 through 34 carried one or more industrial process
9 refrigeration appliances, within the meaning of 40 C.F.R. §§ 82.152 and 82.156(j) (2016), that
10 were owned or operated by Defendants and that normally contained a full charge of at least fifty
11 pounds of R-22. In addition, the *Pribilof* vessel also carried a commercial refrigeration appliance
12 that normally contained at least fifty pounds of R-22.

13 37. On information and belief, subject to a reasonable opportunity for further
14 investigation and discovery, all of the industrial process refrigeration appliances in the preceding
15 Paragraphs 32 through 34 operated as closed refrigeration systems, the operation of which does
16 not consume Refrigerant.

17 38. On information and belief, subject to a reasonable opportunity for further
18 investigation and discovery, during all times relevant to this Complaint, Defendants did not
19 submit plans to retrofit or retire any of the refrigeration appliances at any of the vessels or
20 facilities described in the preceding paragraphs, and did not subject any of the appliances to an
21 industrial process shutdown or mothballing, as defined in 40 C.F.R. § 82.152 (2016). Therefore,
22 during all times relevant to the Complaint each of the appliances referenced herein was thus
23 subject to the regulations codified at 40 C.F.R. Part 82, Subpart F, 40 C.F.R. §§ 82.150-82.169

1 (“Recycling and Emissions Reduction”).

2
3 **FIRST CLAIM FOR RELIEF**

4 **Failure to Repair Leaks on Commercial and Industrial Process Refrigeration Appliances**
5 **in Violation of 40 C.F.R. §§ 82.156(i)(1), (i)(2), and (i)(9) (2016), against Defendant Trident**

6 39. Paragraphs 1 through 38 of the Complaint are incorporated by reference as if fully
7 set forth herein.

8 40. On various occasions between March 1, 2009 and March 31, 2016, Defendant
9 Trident added Refrigerant to the *Pribilof*'s commercial refrigeration appliance and should have
10 discovered that the appliance was leaking at a rate such that the loss of Refrigerant would exceed
11 35 percent of its total charge during a twelve-month period.

12 41. On numerous occasions between March 1, 2009, and the present, Defendant
13 Trident added Refrigerant to industrial process refrigeration appliances on board the *Alaska*
14 *Packer*, the *Brittany*, the *Entrance Point*, the *Four Daughters*, the *Independence*, the *Island*
15 *Enterprise*, the *Kodiak Enterprise*, the *Last Frontier*, the *Seattle Enterprise*, and the *Wide Bay*,
16 and should have discovered that the relevant appliance was leaking at a rate such that the loss of
17 Refrigerant would exceed thirty-five percent of its total charge during a twelve-month period.

18 42. On the occasions noted in Paragraphs 40 and 41, Defendant Trident did not repair
19 the leaks in such a way as to bring the leak rate below thirty-five percent within thirty days of
20 when the leak was or should have been discovered, as required by 40 C.F.R. §§ 82.156(i)(1),
21 (i)(2), and (i)(9) (2016).

22 43. As a result of Defendant Trident's failure to repair the leaks as described above,
23 the leak rate remained above thirty-five percent at the *Pribilof* vessel for at least fifty-eight days
24 beyond the thirty-day repair period prescribed by 40 C.F.R. § 82.156(i)(9) (2016), and the leak
25 rate in the nine vessels listed in Paragraph 41 remained above thirty-five percent for a total of at

1 least 3,234 days beyond the thirty day repair period. Each day beyond the thirty day repair
2 period that Defendant Trident failed to bring the annual leak rate of an appliance below thirty-
3 five percent is a violation of 40 C.F.R. §§ 82.156(i)(1) and (i)(9) (2016) (for commercial
4 appliances) and 40 C.F.R. §§ 82.156(i)(2) and (i)(9) (2016) (for industrial process refrigeration
5 appliances).

6 44. Defendant Trident is liable for injunctive relief and the assessment of civil
7 penalties in an amount up to the level set forth at 40 C.F.R. § 19.4 per day for each violation of
8 Section 112(r)(7) of the Act, 42 U.S.C. § 7412(r)(7). The maximum civil penalty per day per
9 violation of the CAA is \$37,500 for violations occurring after January 12, 2009 and on or before
10 November 2, 2015, and effective January 16, 2018, \$97,229 per day per violation of the CAA for
11 violations occurring after November 2, 2015.

12 **SECOND CLAIM FOR RELIEF**

13 **Failure to Perform Initial and Follow-up Verification Tests on Leaking Industrial Process**
14 **Refrigeration Appliances, in Violation of 40 C.F.R. § 82.156(i)(3) (2016), against**
15 **Defendants Trident and Royal Viking, Inc.**

16 45. Paragraphs 1 through 38 of the Complaint are incorporated by reference as if fully
17 set forth herein.

18 46. On at least sixty-six occasions between March 1, 2009 and March 31, 2016,
19 Defendants Trident and/or Royal Viking, Inc. repaired a leak to an industrial process
20 refrigeration appliance without conducting an initial verification test or without conducting a
21 follow-up verification test. These failures to conduct verification tests occurred at the following
22 facilities or vessels: the *Alaska Packer*, the *Balaena*, the *Brittany*, the *Cape Calm*, the *Cape St*
23 *John*, the *Entrance Point*, the *Four Daughters*, the *Hallo Bay*, the *Independence*, the *Island*
24 *Enterprise*, the *Kodiak Enterprise*, the *Last Frontier*, the *Majesty*, the *Northern Patriot*, the
25 *Seattle Enterprise*, the *Southern Wind*, the *Wide Bay*, and the Petersburg facility (all owned and

1 operated by Trident), and the *Viking Explorer* (owned by Royal Viking, Inc. and operated by
2 Trident).

3 47. On each of the occasions alleged in Paragraph 46, at the time of the repair the
4 relevant appliance was leaking at a rate such that the loss of Refrigerant would exceed thirty-five
5 percent of the total charge during a twelve-month period.

6 48. Each such failure by Defendants Trident and Royal Viking, Inc. to conduct an
7 initial verification test or follow-up verification test is a violation of 40 C.F.R. § 82.156(i)(3)
8 (2016).

9 49. Defendants Trident and Royal Viking, Inc. are liable for injunctive relief and the
10 assessment of civil penalties in an amount up to the level set forth at 40 C.F.R. § 19.4 per day for
11 each violation of Section 112(r)(7) of the Act, 42 U.S.C. § 7412(r)(7). The maximum civil
12 penalty per day per violation of the CAA is \$37,500 for violations occurring after January 12,
13 2009 and on or before November 2, 2015, and effective January 16, 2018, \$97,229 per day per
14 violation of the CAA for violations occurring after November 2, 2015.

15 **THIRD CLAIM FOR RELIEF**

16 **Failure to Maintain Servicing Records, in Violation of 40 C.F.R. § 82.166(k) (2016), against**
17 **all Defendants**

18 50. Paragraphs 1 through 38 of the Complaint are incorporated by reference as if fully
19 set forth herein.

20 51. On at least 289 occasions between March 1, 2009 and March 31, 2016,
21 Defendants performed service on appliances normally containing fifty or more pounds of
22 Refrigerant and failed to maintain a complete record documenting the date and type of service, as
23 well as the quantity of Refrigerant added. These failures to maintain complete records occurred
24 in the Everett facility, as well as on board the following vessels: the *Alaska Packer*, the *Arcturus*,
25 the *Balaena*, the *Barbara J*, the *Billikin*, the *Brittany*, the *Cape Calm*, the *Cape St John*, the

1 *Eastern Wind*, the *Entrance Point*, the *Farwest Leader*, the *Four Daughters*, the *Hallo Bay*, the
2 *Independence*, the *Island Enterprise*, the *Kodiak Enterprise*, the *Last Frontier*, the *Majesty*, the
3 *Northern Patriot*, the *Northern Ram*, the *Pacific Ram*, the *Perseverance*, the *Pribilof*, the *Seattle*
4 *Enterprise*, the *Southern Wind*, the *Sovereignty*, and the *Wide Bay* (all owned and operated by
5 Trident); the *Columbia*, the *Pacific Viking*, the *Royal Viking*, and the *Viking Explorer* (all owned
6 by Royal Viking, Inc. and operated by Trident); and the *Golden Dawn* (owned by Golden Dawn,
7 LLC and operated by Trident).

8 52. On each of the occasions alleged in Paragraph 51, Defendants' failure to maintain
9 complete service records was a violation of 40 C.F.R. § 82.166(k) (2016).

10 53. Defendants are liable for injunctive relief and the assessment of civil penalties in
11 an amount up to the level set forth at 40 C.F.R. § 19.4 per day for each violation of Section
12 112(r)(7) of the Act, 42 U.S.C. § 7412(r)(7). The maximum civil penalty per day per violation of
13 the CAA is \$37,500 for violations occurring after January 12, 2009 and on or before November
14 2, 2015, and effective January 16, 2018, \$97,229 per day per violation of the CAA for violations
15 occurring after November 2, 2015.

16 **FOURTH CLAIM FOR RELIEF**

17 **Failure to Have Certified Recovery or Recycling Equipment, in Violation of 40 C.F.R.**
18 **§ 82.156(b) (2016), against Defendant Trident**

19 54. Paragraphs 1 through 38 of the Complaint are incorporated by reference as if fully
20 set forth herein.

21 55. On at least one occasion between March 1, 2009 and March 31, 2016, Defendant
22 Trident performed repairs and service to the *Alaska Packer*'s industrial refrigeration appliance
23 while the vessel was not in port, and without at least one piece of certified, self-contained
24 recovery equipment on board, and while its industrial refrigeration appliance was not equipped
25 with a pump-out unit, in violation of 40 C.F.R. § 82.156(b) (2016).

1 penalties in an amount up to the level set forth at 40 C.F.R. § 19.4 per day for each violation of
2 Section 112(r)(7) of the Act, 42 U.S.C. § 7412(r)(7). The maximum civil penalty per day per
3 violation of the CAA is \$37,500 for violations occurring after January 12, 2009 and on or before
4 November 2, 2015, and effective January 16, 2018, \$97,229 per day per violation of the CAA for
5 violations occurring after November 2, 2015.

6 PRAYER FOR RELIEF

7 WHEREFORE, Plaintiff, the United States of America, prays that this Court will:

8 A. Order Defendants Trident Seafoods Corporation, Royal Viking, Inc., and Golden
9 Dawn, LLC to immediately comply with the CAA statutory and regulatory requirements cited in
10 this Complaint;

11 B. Assess civil penalties against Defendants for up to the maximum amounts
12 provided in the applicable statutes;

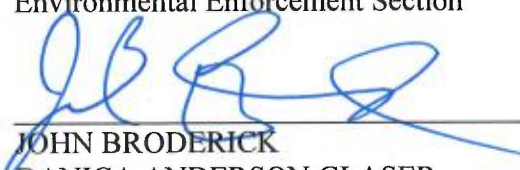
13 C. Impose such injunctive relief on Defendants as may be appropriate to mitigate the
14 effects of Defendants' violations, and prevent any future violations of same;

15 D. Award the United States its costs and expenses incurred in this action; and

16 E. Grant such other relief and further relief as this Court may deem appropriate.

17 Respectfully submitted,

18 NATHANIEL DOUGLAS
19 Deputy Chief
20 Environmental Enforcement Section
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22 
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24 JOHN BRODERICK
25 DANICA ANDERSON GLASER
26 Trial Attorneys
27 Environmental Enforcement Section
28 Environment and Natural Resources Division
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