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**DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT**

**NO. 6397** **4 July 2025**

## NATIONAL ENVIRONMENTAL MANAGEMENT: INTEGRATED COASTAL MANAGEMENT ACT, 2008 (ACT NO. 24 OF 2008)

## CONSULTATION ON THE DRAFT REGULATIONS FOR THE ENVIRONMENTAL MANAGEMENT OF OFFSHORE SHIP-TO-SHIP TRANSFER

I, Dion Travers George, Minister of Forestry, Fisheries and the Environment, hereby publish the draft Regulations for the environmental management of offshore ship-to-ship transfer for public comment (the Draft Regulations) in terms of section 83(1) of the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008). The draft Regulations are set out in the Schedule to this notice.

The draft Regulations seek to create a risk based regulatory framework to ensure that the actual and potential impacts of offshore ship-to-ship transfer including bunkering, on the coastal environmental are mitigated and avoided, or where avoidance is not possible, are minimised and remedied.

The first iteration of the Draft Regulations was published for public comment on 21 February 2025. As a result of public comments received and further consultations with affected organs of state, various amendments were made to the Draft Regulations. The amendments include the following:

- The title of the regulations was amended and the word "bunkering" was replaced with "ship-to-ship transfer" so as to avoid confusion as to what the Draft Regulations seek to cover.
- Various definitions were clarified and additional definitions inserted.
- It was made clear that the Draft Regulations bind all persons and organs of state.
- The prohibitions were amended to remove reference to "a critical biodiversity area", include reference to an aquaculture development zone and not only five nautical miles from an aquaculture development zone as well as to change 5 nautical miles from the highwater mark to three nautical miles. Critical biodiversity areas were removed as these are not a legislatively enabled concept, there is no way of objectively determining exactly where these are and there are no clear maps with GPS coordinates publicly available. Reference to the concept could be vague, indeterminate and potentially unfair to those affected by the regulations.
- It has been made clear that operations in Algoa Bay are able to continue subject to the cap on the number of ship-to-ship operators that may operate as well as a limitation during African penguin breeding season in anchorage area 2, which is the closer of the two anchorage areas to the breeding colonies.
- The ban on nighttime bunkering was removed subject to certain requirements being fulfilled by operators, noting the nature of the operations as well as the risks if operations are to stop and start.
- While noise mitigation remains a requirement in terms of the required ship-to-ship environmental management plan, the Draft Regulations no longer require a ship-to-ship bunker operator to comply with the International Maritime Organisation Guidelines for the Reduction of Underwater Noise from Commercial Shipping as this was noted as an extremely costly exercise for vessels that have already been constricted and are in service. The environmental management plan was

therefore considered a more appropriate tool to phase in noise mitigation measures that could be tailored to the specific operations and area.

- Certain requirements relating to vessel speed have been removed.
- The regulation on wildlife monitoring and mitigation has been amended and hydrophones have been selected in favour of sonobuoys, as the latter can cause additional noise and stress to animals within the area.
- The regulation which deals with weather conditions has been amended to set weather conditions only for Algoa Bay and to empower the Minister to determine specific weather conditions for other areas where ship-to-ship transfer may take place as and when required.
- The requirement to deploy a static towing tug has been removed as this would have created a safety hazard and the requirement to have an oil spill response vessel on site has been amended to require that vessel to be in proximity and be able to respond within thirty minutes.
- Training requirements remain but it must be noted that the training programme is now to be developed by an independent specialist, as defined.
- In respect of the ship-to-ship environmental management plan, the Minister now has 90 days to take a decision on the draft plan submitted and may require an operator to amend their plan when necessary.
- Provision has been made to provide for ship-to-ship transfers without complying with these Draft Regulations in circumstances of *force majeure* as authorised by the South African Maritime Safety Authority.
- Notification of a spill to the relevant management authority of an affected marine protected area is now included.
- To avoid duplication, it has been made clear that if ship-to-ship transfer in future becomes an activity listed as requiring an environmental authorisation in terms of the National Environmental Management Act, 1998 or requires authorisation in terms of any Specific Environmental Management Act, and that authorisation requires the development of an environmental management plan or programme, that the plan or programme will be regarded as a ship-to-ship environmental management plan.

Members of the public are invited to submit written comments within 30 days from the date of the publication of this notice in the *Government Gazette* or newspaper advert, whichever date is later, to any of the following addresses:

Department of Forestry, Fisheries and the Environment
**Attention**: Directorate: Coastal Pollution Management, Ms. Lona Nondaka
By hand: 2nd floor, East Pier Building 2, East Pier Road, V and A Waterfront, Cape Town
By email: bunkeringregs@dffe.gov.za
Telephone queries – Lona Nondaka - 021 493 7061

Comments or inputs received after the closing date may be disregarded. The Department of Forestry, Fisheries and the Environment complies with the Protection of Personal Information Act, 2013 (Act No. 4 of 2013). Comments received from the public and the departmental responses to those comments are collated into a comments and response report. If a commenting party has any objection to their name, or the name of the represented company or organisation being made publicly available in the comments and responses report, that objection should be highlighted in bold as part of the comments submitted in response to this notice.

**DR DION TRAVERS GEORGE**
**MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT**

## SCHEDULE

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6. Minimum requirements to avoid or mitigate oil spills
7. Training requirements
8. STS environmental management plan
9. Algoa Bay
10. Force majeure
11. Notifications
12. Ship-to-ship transfer authorisation

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## CHAPTER 1

## DEFINITIONS AND SCOPE

### 1. Definitions

In these Regulations, any word or expression to which a meaning has been assigned in the Act has the meaning so assigned, and unless the context indicates otherwise—

**"aquaculture development zone"** means sea space set aside for dedicated aquaculture use in terms of—

*(a)* an environmental authorisation;

*(b)* an environmental management instrument as defined in section 1 of the National Environmental Management Act; or

*(c)* a designation by the Minister responsible for aquaculture;

"**bunkering**" means the supply of fuel to a vessel at sea outside an operational harbour area;

**"harbour"** means a port or harbour proclaimed in terms of any law and managed by an organ of State;

**"independent specialist"** means that—

*(a)* the person possesses knowledge and skills in the subject matter detailed in regulation 7(1) or 8;

*(b)* the person has no business, financial, personal or other interest in the maritime industry, including ship-to-ship transfer, and in any business that operates in the maritime industry; and

*(c)* there are no circumstances that may compromise the objectivity of that person in performing such work;

**"management authority"** has the meaning assigned to it in terms of section 1 of the Protected Areas Act;

**"marine protected area"** has the meaning assigned to it in terms of section 1 of the Protected Areas Act;

"**National Oil Spill Contingency Plan**" is an oil spill response and removal plan prepared by the Department of Transport and updated periodically that addresses controlling, containing, and recovering oil in the event of an oil spill;

"**operational harbour area**" means the area within the boundaries of the breakwaters of a harbour, which area has been physically modified from its original natural state;

**"ship-to-ship transfer"** or **"STS"** means the transfer at sea of liquid bulk cargo, including chemicals, oil, petroleum products, liquified petroleum gas or liquified natural gas from one vessel to another outside an operational harbour area and includes bunkering;

**"STS environmental management plan"** means a plan referred to in regulation 8;

**"ship-to-ship transfer operator"** means the holder of an approval granted by the South African Maritime Safety Authority to undertake ship-to-ship transfer;

**"ship-to-ship transfer tanker"** means a vessel that supplies fuel or liquid bulk cargo to other vessels;

**"the Act"** means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008); and

**"these Regulations"** means the Regulations for the environmental management of offshore ship-to-ship transfer.

## 2. Scope

(1) These Regulations prescribe environmental management measures for offshore ship-to ship-transfer.

(2) These Regulations bind all persons and organs of state.

## CHAPTER 2
## ENVIRONMENTAL MANAGEMENT

**3. Prohibitions**

(1) No person may undertake ship-to-ship transfer within—

*(a)* a marine protected area;

*(b)* five nautical miles of the boundary of a marine protected area;

*(c)* an aquaculture development zone;

*(d)* five nautical miles of an aquaculture development zone; or

*(e)* three nautical miles of the high-water mark.

(2) No person may undertake ship-to-ship transfer between the hours of sunset and sunrise unless—

*(a)* the South African Maritime Safety Authority approves that the ship-to-ship operator is able to detect, manage and respond to a spill at night, which must include a nighttime emergency spill response drill; and

*(b)* a nighttime spill detection and recovery plan has been approved as part of the STS environmental management plan required in terms of regulation 8(2)*(k)*.

(3) The master of a vessel waiting to undertake ship-to-ship transfer may not be present in, drift into or anchor in a marine protected area.

(4) A ship-to-ship operator must inform the master of any vessel waiting to undertake ship to-ship transfer that they may not be present in, drift into or anchor in a marine protected area.

**4. Wildlife monitoring and mitigation**

(1) A ship-to-ship transfer operator must appoint a person, in writing, to keep a constant watch for marine mammals and penguins for a period of thirty minutes prior to the intended commencement of ship-to-ship transfer and during ship-to-ship transfer.

(2) A ship-to-ship transfer operator must, prior to commencing ship-to-ship transfer, install an active hydrophone system with live streaming capabilities capable of detecting the presence of marine mammals within 500 meters of the operation.

(3) The hydrophone must be deployed into the water from the ship-to-ship transfer tanker thirty minutes prior to the intended commencement of, and during, ship-to-ship transfer operations.

(4) A ship-to-ship transfer operator may not commence with ship-to-ship transfer if a marine mammal or penguin is sighted within 500 meters of the intended ship-to-ship transfer site or detected through a hydrophone.

(5) The ship-to-ship transfer operator must, in writing, report any sightings or hydrophone detection of a marine mammal or penguin during ship-to-ship transfer to the Department on a monthly basis.

(6) A ship-to-ship transfer operator must immediately report the following to the Department through the most effective means reasonably available:

*(a)* any injured or deceased marine mammal, turtle or seabird and the extent of any injury to the animal as well as the cause of the injury or death if known; and

*(b)* any entangled, oiled or disorientated marine mammal, turtle or seabird.

(7) A ship-to-ship transfer operator must, at its expense—

*(a)* collect and transport oiled wildlife to a facility which is authorised to accept the wildlife; or

*(b)* contact an authorised wildlife facility to collect and transport oiled wildlife,

if the Minister instructs the operator to do so.

**5. Weather conditions**

(1) Ship-to-ship transfer in Algoa Bay may not commence unless a suitable weather window contemplated in subregulation (2) is available which covers the full period of a specific individual ship-to-ship transfer operation including mooring and unmooring.

(2) Ship-to-ship transfer may only be undertaken—

*(a)* where the wind force is below 22 knots; and

*(b)* where the average wave height is below 2 meters; and

*(c)* in compliance with the South African bunkering code of good practice and ship-to-ship cargo transfer code of good practice as updated from time to time.

(3) The Minister may, by written notice to any ship-to-ship transfer operator that undertakes ship-to-ship transfer in any area other than Algoa Bay, determine the weather conditions for operation in that area.

**6. Minimum requirements to avoid or mitigate spills**

(1) A ship-to-ship transfer operator must—

*(a)* use drip trays to collect any fuel or other run-off from equipment that is not contained within a bunded area and direct the contents of those trays to a closed drainage system;

*(b)* implement leak detection and repair programmes;

*(c)* only use low-toxicity biodegradable detergents for the cleaning of the deck and any spillages;

*(d)* ensure that an inflatable curtain boom is deployed prior to each ship-to-ship transfer operation in such manner and position as to afford the best mitigation for any spill;

*(e)* regularly monitor the inflatable curtain boom deployed in accordance with paragraph *(d)* throughout the duration of ship-to-ship transfer to ensure that the structural integrity and positioning of the boom has not been compromised;

*(f)* ensure that secondary booms are kept on standby to reinforce existing booms in the event of boom failure occurring; and

*(g)* ensure that the ship-to-ship transfer tanker is equipped with gas detection equipment that is capable of sounding an alarm when the presence of flammable gas or vapour is detected.

(2) A ship-to-ship transfer operator may not undertake ship-to-ship transfer unless a spill response vessel is on standby in proximity to the operation and able to respond within 30 minutes of an incident occurring.

**7. Training requirements**

(1) A ship-to-ship transfer operator must ensure that all crew members receive environmental awareness training prior to participating in ship-to-ship transfer and that training must include training on the following issues:

*(a)* marine wildlife awareness and avoidance, including identification of marine mammals and seabirds common to the area in which ship-to-ship transfer takes place;

*(b)* understanding the significant actual or potential environmental impacts related to ship-to-ship transfer;

*(c)* understanding the mitigation measures to be implemented during ship-to-ship transfer;

*(d)* emergency preparedness and response procedures;

*(e)* overview of the ship-to-ship transfer operator's STS environmental management plan and each crew member's personal responsibility; and

*(f)* overview and understanding of all roles and responsibilities in terms of the National Oil Spill Contingency Plan and any relevant local oil spill contingency plan.

(2) A copy of the training programme that meets the requirements of subregulation (1) must be provided to the Minister for approval prior to commencement of the environmental awareness training.

(3) The environmental awareness training programme must be developed by an independent specialist.

(4) A ship-to-ship transfer operator authorised at the time of commencement of these Regulations must comply with subregulations (1), (2) and (3) within a period of three months after approval of the STS environmental management plan in terms of regulation 8(1).

**8. STS environmental management plan**

(1) A ship-to-ship transfer operator may not undertake ship-to-ship transfer without an STS environmental management plan that has been—

*(a)* developed by an independent specialist; and

*(b)* approved by the Minister.

(2) An STS environmental management plan must include the following:

*(a)* identification of all site-specific environmental and ecological risks;

*(b)* an operational ocean forecast which must be undertaken as part of the risk assessment in paragraph *(a)* to model any potential spill and inform the response to such an incident within the specific area of operation;

*(c)* environmental management and mitigation measures to avoid or minimise the identified risks;

*(d)* an outline of the key role-players responsible for the implementation of measures identified in paragraph *(c)*;

*(e)* incorporate a wildlife preparedness and response strategy based on the International Petroleum Industry Environmental Conservation Association's guidelines and a wildlife response program to be implemented by a reputable and experienced organisation;

*(f)* a contingency plan that incorporates a wildlife contingency plan which includes—

(i) a risk assessment which determines the risk of a spill and the expected consequences;

(ii) a strategic plan defining roles and responsibilities and a summary of the spill response policies, techniques and priorities for response;

(iii) operational protocols which establish procedures to be followed when a spill occurs; and

(iv) an information directory collating supporting data, including contact details of relevant authorities, inventory of response equipment, list of priority areas for protection, as well as storage and disposal sites;

*(g)* an underwater noise mitigation and management plan that includes the following:

(i) a range of noise reduction and mitigation options;

(ii) best practices for noise mitigation; and

(iii) operating procedures for the mitigation of both acute and chronic noise-generating activities for ship-to-ship transfer;

*(h)* details of the spill response vessels and role players on site or within proximity;

*(i)* an emergency response procedure for the reporting and management of collisions with, and entanglements of, marine mammals, turtles or seabirds including relevant contact details;

*(j)* a monitoring programme, including methods, to—

(i) measure parameters including surface currents, spills and noise;

(ii) assess the impact of the operations on benthic and other fauna including oiled/injured seabirds; and

(iii) monitor the effectiveness of the STS environmental management plan; and

*(k)* a nighttime spill detection and recovery plan where operations are to take place between the hours of sunset and sunrise.

(3) The Minister may—

*(a)* approve the STS environmental management plan;

*(b)* refer the STS environmental management plan back to the ship-to-ship transfer operator for review which may contain proposed amendments; or

*(c)* reject the STS environmental management plan,

within 90 days of receipt of the STS environmental management plan inclusive of all relevant information.

(4) A ship-to-ship transfer operator must submit any data, results and information obtained from implementing an STS environmental management plan approved in terms of subregulation (3) to the Department quarterly or as otherwise instructed by the Minister.

(5) A ship-to-ship transfer operator must appoint an independent specialist to monitor compliance with the approved STS environmental management plan.

(6) The independent specialist referred to in subregulation (5) must submit a written report about the STS operation and its compliance with the management plan to the Minister quarterly.

(7) Despite subregulation (1), a ship-to-ship transfer operator authorised to undertake ship-to-ship transfer when these regulations commence must submit an STS environmental management plan contemplated in subregulation (1) within six months of the date of commencement of these Regulations.

(8) The Minister may require a ship-to-ship transfer operator to review an approved STS environmental management plan when necessary.

**9. Algoa Bay**

(1) Despite the prohibitions in regulation 3(1)*(b), (d)* and *(e)*, and subject to subregulations (2), (3) and (4), a ship-to-ship transfer operator that is authorised to undertake ship-to-ship transfer in Algoa Bay may only operate within anchorage areas 1 and 2 as detailed in Annexure 1 to these Regulations.

(2) A maximum of three ship-to-ship transfer operators may operate within Algoa Bay.

(3) No more than six ship-to-ship transfer tankers may operate within Algoa Bay at any one time.

(4) Ship-to-ship transfer may not take place in anchorage 2 in Algoa Bay, as set out in annexure 1, from 1 April to 31 August in any given year except in an emergency or as a result of force majeure.

**10. Emergency or Force majeure**

Any person authorised by the South African Maritime Safety Authority to undertake ship-to-ship transfer for reasons of *force majeure* or in response to an emergency does not have to comply with the requirements of these Regulations.

**11. Notifications**

In the event of any spill, the ship-to-ship transfer operator must comply with the provisions of section 30 of the National Environmental Management Act and in addition notify the relevant management authority.

**12. Ship-to-ship transfer authorisation**

If a ship-to-ship transfer is listed as an activity requiring environmental authorisation in terms of the National Environmental Management Act or requires authorisation in terms of any Specific Environmental Management Act, and that authorisation requires the development of an environmental management plan or programme, that plan or programme must be regarded as a STS environmental management plan in terms of regulation 8 of these Regulations.

## CHAPTER 3
## GENERAL

**13. Offences and penalties**

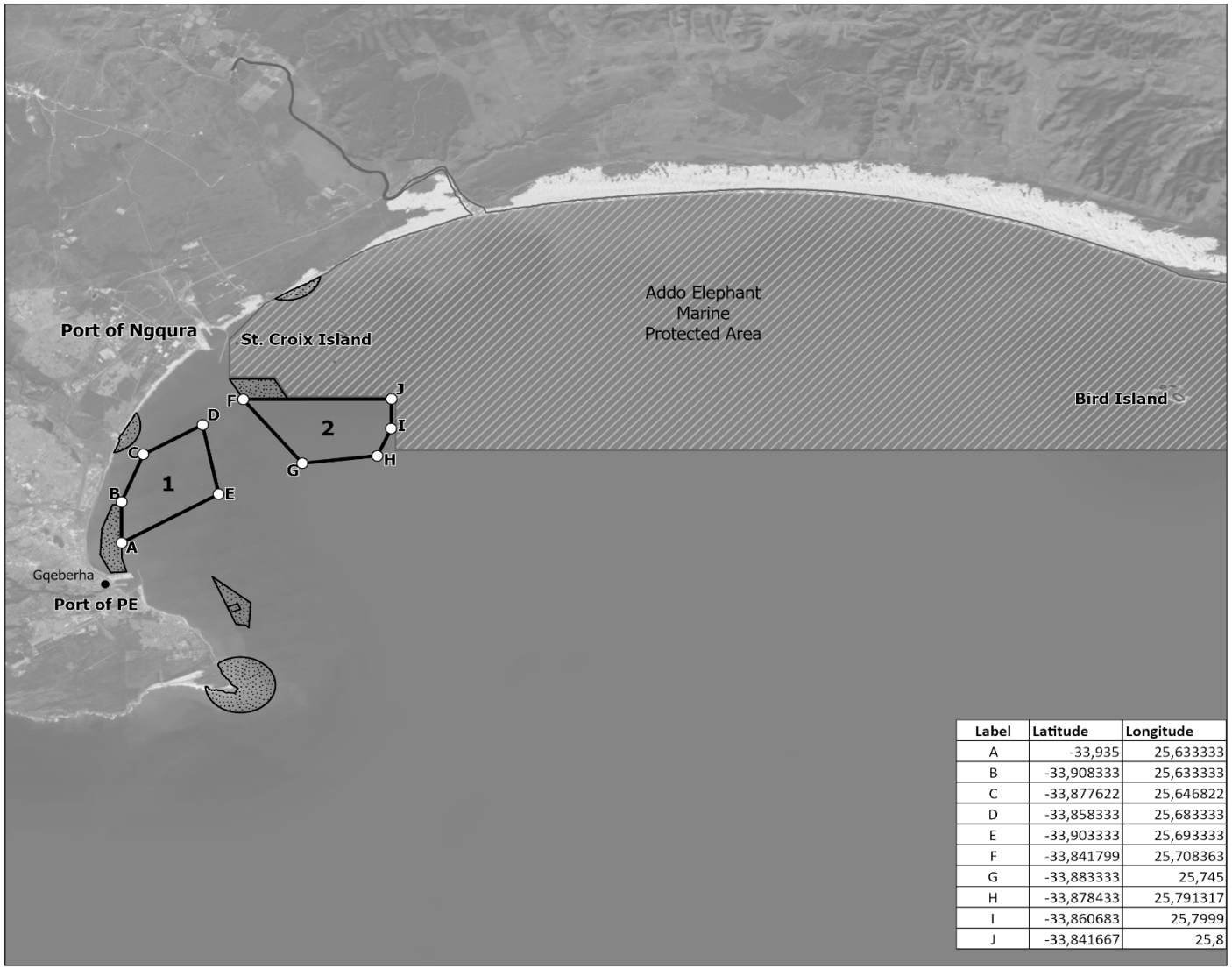
(1) A person commits an offence if that person contravenes regulations 3, 4, 5(1), 5(2), 6, 7, 8(1), 8(4), 8(5), 8(6), 8(7), 9 or 11.

(2) A person who is convicted of an offence referred to in subregulation (1) may be sentenced to a maximum fine of two million Rand or to imprisonment for a maximum period of 5 years or to both a fine and imprisonment.

## 14. Short title and commencement

These Regulations are called the Regulations for the environmental management of ship-to-ship transfer, 2025 and commence on the date of publication in the *Gazette*.

# ANNEXURE 1




| Label | Latitude | Longitude |
|---|---|---|
| A | -33,935 | 25,633333 |
| B | -33,908333 | 25,633333 |
| C | -33,877622 | 25,646822 |
| D | -33,858333 | 25,683333 |
| E | -33,903333 | 25,693333 |
| F | -33,841799 | 25,708363 |
| G | -33,883333 | 25,745 |
| H | -33,878433 | 25,791317 |
| I | -33,860683 | 25,7999 |
| J | -33,841667 | 25,8 |

**Algoa Bay Anchorage Sites**

**Legend**

- Town
- Anchorage point
- Anchorage
- Marine Protected Area
- Aquaculture Development Zones

N

0 2 4 6 8 10

Kilometres

**Reference scale:** 1:350 000
**Date created:** 2025/06/13
**Data source(s):** DFFE
**File Reference.:** AlgoaB v2
**Map No.:** 202506_12

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