

NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

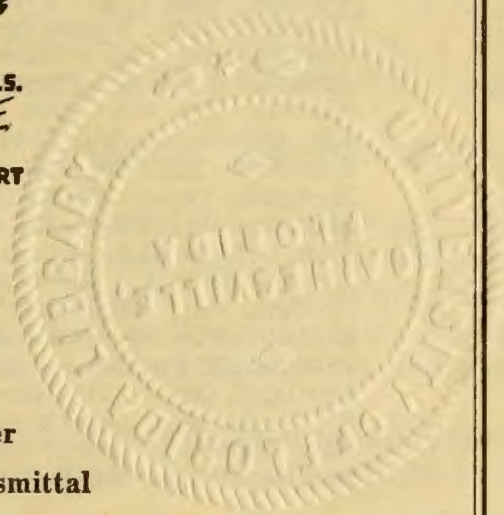
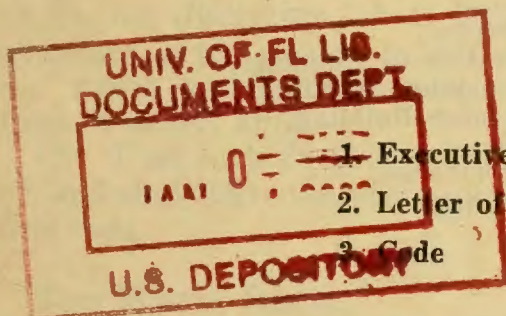
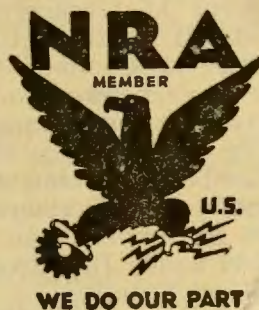
FOR THE

HOTEL INDUSTRY

AS APPROVED ON NOVEMBER 17, 1933

BY

PRESIDENT ROOSEVELT



UNITED STATES
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EXECUTIVE ORDER

CODE OF FAIR COMPETITION FOR THE HOTEL INDUSTRY

An application having been duly made, pursuant to and in full compliance with the provisions of title I of the National Industrial Recovery Act, approved June 16, 1933, for my approval of a Code of Fair Competition for the Hotel Industry, and hearings having been held thereon and the Administrator having rendered his report containing an analysis of the said code of fair competition, together with his recommendations and findings with respect thereto, and the Administrator having found that the said code of fair competition complies in all respects with the pertinent provisions of title I of said act, and that the requirements of clauses (1) and (2) of subsection (a) of section 3 of said act have been met:

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States, pursuant to the authority vested in me by title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do adopt and approve the report, recommendations, and findings of the Administrator, and do order that the said code of fair competition, excepting, however, subsection (d) of section 1 of article IV be, and it is hereby, approved, subject to the following conditions:

(1) That the aforesaid subsection (d) of section 1 of article IV be, and it is hereby, eliminated:

(2) That within 90 days from the effective date of this code, the Administrator shall hold such further hearing upon such notice as he, in his discretion, shall fix for the purpose of determining the adequacy of the minimum wages established in this code, after which his report and recommendation shall be submitted to me for my further order, and

(3) That such further order by me shall constitute a modification of, and shall have the effect of a further condition of, my approval of this code.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,
November 17, 1933.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

(III)

NOVEMBER 3, 1933.

The PRESIDENT,
The White House.

SIR: This is a report of the Hearing on the Code of Fair Competition for the Hotel Industry, conducted in accordance with the provisions of the National Industrial Recovery Act. The hearings were held in the Caucus Room of the new House Office Building, September 25, and in the large Ballroom of the Hotel Mayflower on September 26, 1933. The Code was presented by the American Hotel Association, which association is a confederation of some 40 local state hotel associations with about 4,300 members, and is said to represent more than 50 per cent of the industry by number of rooms, and more than 75 per cent of the industry by volume of business.

THE INDUSTRY

It is estimated that the industry comprises about 20,000 hotels, and that between 340,000 and 350,000 persons were employed in the hotel industry in September, 1933, as compared to about 290,000 in 1929. The increase of approximately 50,000 employees is due, to a considerable extent, to the completion for occupancy of a number of large hotels since 1929.

PROVISIONS OF THE CODE

The work hours may not be entirely satisfactory from a purely social standpoint, but they represent a substantial reduction from the hours which prevailed in the hotel industry.

The code provides for minimum wages for all employees, and will result in a very considerable increase in amounts paid to employees. The code further provides for review by the Administrator not later than June 1, 1934, to ascertain whether the provisions thereof have effectuated or will effectuate the policy and purposes of the National Industrial Recovery Act.

The code contains an interpretation of Section 7(a) of the National Industrial Recovery Act. I have consented to its submission to you only for the reason that its elimination by any other method would necessitate delaying the approval of this code until a national convention of the American Hotel Association might be held. I have not approved this interpretation, and recommend that you approve the code on condition that it be eliminated.

FINDINGS

I find that: (a) The code as recommended complies in all respects with the pertinent provisions of Title I of the Act, including subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein, and is truly representative of the Hotel Industry; and that

(c) The provisions of the code as recommended are not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them, and will tend to effectuate the policy of Title I of the National Industrial Recovery Act.

It is recommended, therefore, that this code be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION FOR THE HOTEL INDUSTRY

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are established as a Code of Fair Competition for the Hotel Industry.

ARTICLE I—APPLICATION OF CODE

SECTION 1. *Application of Code.*—The provisions of this Code, and such other provisions as may subsequently be approved and annexed hereto, and except as specifically provided hereinafter, shall apply to each member of the Hotel Industry as hereinafter defined in Article II.

ARTICLE II—DEFINITIONS

SECTION 1. *Hotel Industry.*—The term “hotel industry” as used herein shall mean the business of operating a hotel as hereinafter defined in Section 2.

SECTION 2. *Hotel.*—The term “hotel” as used herein shall include any establishment operated for profit, which

- (a) Extends lodging to the general public;
- (b) Has at least ten (10) guest rooms, available for such lodgings in one building;
- (c) Charges not less than \$0.50 per day per person in return for transient lodging.
- (d) Is equipped to provide lodging in at least twenty-five (25) percent of its rooms without prior understanding or agreement as to duration of any guest's stay.

SEC. 3. *Guest.*—The term “guest” as used herein shall mean any person duly registered in a hotel for lodging.

SEC. 4. *Guest Room.*—The term “guest room” as used herein shall mean any room offered for lodging to any duly registered guest.

SEC. 5. *Employee.*—The term “employee” as used herein shall mean any person employed by any member of the Hotel Industry.

SEC. 6. *Employer.*—The term “employer” as used herein shall mean anyone by whom any such employee is compensated or employed.

SEC. 7. *Definition of Personnel.*—

(a) *Executive.*—The term “executive” as used herein shall mean an employee responsible for the management of a business or a recognized subdivision thereof.

(b) *Clerical Employee.*—The term “clerical employee” as used herein shall mean any employee engaged in office work, such as desk clerks, cashiers, accountants, bookkeepers, and similar occupations.

(c) *Service Employee.*—The term “service employee” as used herein shall mean an employee whose duties consist chiefly in rendering direct services to guests, and who is compensated therefor in part by such guests.

(d) *Operation Employee*.—The term “operation employee” as used herein shall mean all those employees not specifically otherwise defined herein.

(e) *Watchmen and Guards*.—The term “watchmen and guards” as used herein shall mean employees engaged primarily in watching and safeguarding the premises and property of the hotel.

(f) *Hotel Detective*.—The term “hotel detective” as used herein shall mean an employee engaged exclusively in detective or protective work.

(g) *Maintenance Employee*.—The term “maintenance employee” as used herein shall mean an employee essential to the upkeep or preservation of the premises and property of a hotel.

(h) *Part-time Employee*.—The term “part-time employee” as used herein shall mean an employee who works for less than the maximum work week prescribed herein.

(i) *Night Auditor*.—The term “night auditor” as used herein shall mean any night employee whose duties consist primarily in the tabulation and verification of the daily business of the hotel.

SEC. 8. *South*.—The term “South” as used herein shall mean Virginia, West Virginia, Maryland, North Carolina, South Carolina, Georgia, Florida, Kentucky, Tennessee, Alabama, Mississippi, Arkansas, Louisiana, Oklahoma, New Mexico, Texas, and the District of Columbia.

SEC. 9. *Population*.—Population shall be determined by reference to the Fifteenth Census of the United States (U.S. Department of Commerce, Bureau of the Census, 1930).

ARTICLE III—EFFECTIVE DATE

The effective date of this Code shall be the second Monday after its approval by the President of the United States.

ARTICLE IV—GENERAL LABOR PROVISIONS

SECTION 1. *Collective Bargaining*.—(a) Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

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

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

¹(d) Hotels are and shall be open to capable workers, without regard to their membership or nonmembership in any labor organization, and the right of a hotel to employ or discharge any employee

¹ This section deleted by Executive order.

on the basis of individual merit and subject to the fluctuating conditions of the business shall not be limited or abridged.

SEC. 2. *Child Labor*.—On and after the effective date of this Code, no person under the age of sixteen (16) years shall be employed.

Where a State law prescribes a higher minimum age, this code shall not relieve any employer within such state from complying with such State laws.

ARTICLE V—HOURS OF LABOR

SECTION 1. *Basic Working Hours*.—On and after the effective date of this Code no hotel employee, not specifically exempted hereinafter, shall work more than fifty-four (54) hours per week, nor more than ten (10) hours per day, nor more than six (6) days in any one week.

No employer shall knowingly engage any employee for any time, which when totaled with that already performed with another employer, or employers, in the industry, exceeds the maximum prescribed herein.

SEC. 2. *Schedule of hours to be posted*.—On or within one week after the effective date of this Code, every hotel establishment shall post and maintain in a conspicuous place the maximum working hours for its employees.

SEC. 3. *Exceptions to maximum hours of labor*.—

(a) *Watchmen, guards and hotel detectives*.—The maximum hours of work prescribed in Section 1 of this Article shall not apply to watchmen, guards and hotel detectives.

(b) *Maintenance Employees*.—The maximum hours specified in Section 1 of this Article shall not apply to maintenance employees, provided, however, that such employees shall be paid at the rate of time and one-third for all hours worked in excess of fifty-four (54) hours in any one week.

(c) *Night Auditors*.—The maximum hours of work prescribed in Section 1 of this Article shall not apply to night auditors, provided, however, that such employees shall not be permitted to work in excess of six (6) hours in excess of the maximum hours per week prescribed in that section, and provided further that the number of hours worked by night auditors in any hotel establishment prior to June 15, 1933, shall not be increased.

(d) *Executives*.—Subject to the conditions set forth in Section 4 of this Article, executives receiving \$35.00 or more per week in cities of over 500,000 population, or receiving \$30.00 or more per week in cities of 100,000 to 500,000 population, or receiving \$27.50 or more per week in cities of 25,000 to 100,000 population, or receiving \$25.00 or more per week in cities, towns, villages, and other places under 25,000 population, may be permitted to work in excess of the maximum hours of work prescribed in Section 1 of this Article. In the South, executives paid not less than fifteen (15) percent less than the wages specified may be permitted to work in excess of such maximum periods. In Kansas and Missouri, executives paid not less than ten (10) percent less than the wages hereinbefore specified may be permitted to work in excess of the maximum periods of labor prescribed in Section I of this Article. For the purposes of this

subsection (d) of this Article, each city or place shall include the immediate trade area of such city or place.

(e) *Peak Periods*.—At peak times, for a period not to exceed three (3) weeks in the first six (6) months of the calendar year, and not to exceed three (3) weeks in the second six (6) months, an employee whose basic work week is fifty-four (54) hours may be permitted to work not more than sixty (60) hours per week and eleven (11) hours per day; provided, however, that in the event any hotel establishment is open for business for any period of not more than six (6) months in any calendar year, any such employee may be permitted to work not more than sixty (60) hours per week and eleven (11) hours per day for a period not in excess of six (6) weeks. All such work may be without the payment of overtime.

SEC. 4. *Limitation upon number of persons working unrestricted hours*.—Notwithstanding the provisions of the foregoing sections of this Article, and regardless of the number of persons otherwise permitted to work unrestricted hours, the total number of workers in any establishment (whether such workers are executives, proprietors, partners, persons not receiving monetary wages, or others) who shall be permitted to work unrestricted hours shall not exceed the following ratio: In establishments comprised of twenty (20) workers or less the total number of workers who may be permitted to work unrestricted hours (not including those workers specified in Section 3 (a) of this Article) shall not exceed one worker for every five (5) workers or fraction thereof; in establishments comprised of more than twenty (20) workers, the total number of workers who may work unrestricted hours (not including those workers specified in Section 3 (a) of this Article) shall not exceed one worker for every five (5) workers for the first twenty (20) workers, and shall not exceed one worker for every eight (8) workers above twenty (20).

SEC. 5. *Spread of working hours and number of shifts per day*.—Not more than twelve (12) consecutive hours shall elapse between the beginning and termination of the hours worked by any employee in any one day, and not more than one interval off duty shall be permitted during the course of any one day's employment.

Section 6. Extra working hour on one day a week.—On one day each week employees may be permitted to work one extra hour, but such hour is to be included within the maximum hours permitted each week.

Section 7. Conflict with state laws.—When any state law prescribes for any class of employees shorter hours of labor than those prescribed in this Article, this Article shall not relieve any employer within such State from complying with such State laws.

ARTICLE VI—WAGES

Section 1. Basis schedule of wages.—On and after the effective date of this Code the minimum weekly rates of wages which shall be paid for a work week as specified in Article V, whether such wages are calculated upon an hourly, weekly, monthly, commission, or any other basis, shall, except as hereinafter otherwise provided, be as follows:

(a) *Clerical and Operating Employees.*—

(I) Within cities of over 500,000 population, no employees shall be paid less than at the rate of \$15.00 per week for a fifty-four (54) hour work week.

(II) Within cities of from 100,000 to 500,000 population, no employee shall be paid less than at the rate of \$14.00 per week for a fifty-four (54) hour work week.

(III) Within cities of from 25,000 to 100,000 population, no employee shall be paid less than at the rate of \$13.00 per week for a fifty-four (54) hour work week.

(IV) Within cities, towns, villages of from 2,500 to 25,000 population, the wages of all classes of clerical and operating employees shall be increased from the rates existing June 15, 1933, by not less than twenty (20) percent, provided that this shall not require an increase in wages to more than the rate of \$11.00 per week and provided further that no employee shall be paid less than at the rate of \$10.00 per week.

(V) Within towns, villages, and other places with less than 2,500 population, the wages of all classes of clerical and operating employees shall be increased from the rates existing on June 15, 1933, by not less than twenty (20) percent provided that this shall not require an increase in wages to more than the rate of \$10.00 per week.

For the purposes of this subsection (a) of this Section 1 of Article VI, each city or place shall include the immediate trade area of such city or place.

(b) *Service Employees.*—The wages paid to service employees by employers shall be increased from the rates existing on June 15, 1933, by not less than twenty (20) percent of such rates, provided, however, that the increase in the wages for any such employee shall be not less than one dollar (\$1.00) per week and provided further that this section shall not require an increase in wages paid by employers to such employees to more than the minimum rates specified for each classification according to population as set forth in subsection (a) of Section 1 of Article VI, and provided further that employers shall guarantee to employees not less than the minimum rates so specified for each classification according to population as set forth in said subsection (a) of Section 1 of Article VI, irrespective of by whom or on what basis service employees are compensated.

SEC. 2. *Deductions for lodging and meals.*—When it is mutually agreed between any employer and an employee that lodging and/or meals shall constitute a part of such employee's compensation, no deductions for lodging shall be in excess of two dollars and fifty cents (\$2.50) per week and no deductions for meals shall be in excess of twenty-five cents (25¢) per meal.

SEC. 3. *Southern Wage Differential.*—The minimum rates of pay prescribed in this Article may be reduced by not more than fifteen (15) percent in the South, and by not more than ten (10) percent in the states of Kansas and Missouri.

SEC. 4. *Part-time employees.*—Part-time employees shall be paid not less than at an hourly rate proportionate to the rates prescribed in the foregoing sections of this Article.

SEC. 5. *Weekly wages above the minimum not to be reduced.*—The weekly wages of all classes of employees receiving more than the

minimum wages prescribed in this article shall not be reduced from the rates existing upon June 15, 1933, because of any reduction in the number of working hours of such employees.

SEC. 6. *Conflict with State laws.*—When any State law prescribes for any class of employees of either sex a higher minimum wage than that prescribed in this Article, this Article shall not relieve any employer within that State from complying with such State law.

SEC. 7. *Schedule of wages to be posted.*—On or within one week after the effective date of this Code, every hotel establishment shall post and maintain in a conspicuous place the minimum wages for its employees.

ARTICLE VII—TRADE PRACTICE

All members of the hotel industry shall comply with the following trade practices:

SECTION 1. *Trade Practices.*—(a) No member of the hotel industry shall use advertising, whether printed, radio, or display, or of any other nature, which is inaccurate in any material particular or misrepresents the service, accommodations, credit terms, or policies of the establishment, and no member shall use advertising methods which tend to deceive or mislead guests or prospective guests.

(b) No member of the hotel industry shall secretly give anything of value to the employee or agent of a guest or prospective guest for the purpose of securing business, nor shall he render a bill or statement of account to the employee, agent, or guest which is intentionally inaccurate in any material particular.

(c) No member of the hotel industry shall use advertising which refers inaccurately in any material particular to any competitor or his prices, values, credit terms, policies, or service.

(d) No member of the hotel industry shall advertise or charge a "day rate" for any room to be occupied earlier than seven (7) A.M., and later than eight (8) P.M.

(e) No member of the hotel industry shall induce or attempt to induce the breach of an existing oral or written contract between a competitor and his guest or employee or interfere with or obstruct the performances of any such contractual agreement or service.

(f) No member of the hotel industry shall secure or attempt to secure confidential information concerning the business of a competitor by any false or misleading statement or misrepresentation of one in authority.

(g) No member of the hotel industry shall entice employees of any competitor for the purposes of harassing such competitor or interfering with his business.

(h) No member of the hotel industry shall secretly employ or secretly compensate for the solicitation of business, public taxi drivers, public porters, or public runners, or other similar public agents.

ARTICLE VIII—ADMINISTRATION

SECTION 1. *Hotel Industry Committee.*—(a) To effectuate further the policies of the Act, a hotel industry committee, hereinafter referred to as the Code Authority, is hereby designated to cooperate with the Administrator in the administration of this Code and as a

planning and fair practice agency for the hotel industry. This Code Authority shall consist of five (5) representatives of the hotel industry, three of whom shall be selected by members of the American Hotel Association, and two of whom shall be selected by non-members of the American Hotel Association, such election to be by a fair method approved by the Administrator, and not more than three (3) members, without vote, who may be appointed by the President of the United States or the Administrative authority under the National Industrial Recovery Act. Within thirty (30) days after the approval of this Code, the American Hotel Association shall submit for the approval of the Administrator, a plan for the selection of the members of the Code Authority. After the approval of such plan, the American Hotel Association shall conduct such elections as may be approved.

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

(c) Such agency may from time to time present to the Administrator recommendations based on conditions in their industry as they may develop from time to time which will tend to effectuate the operation of the provisions of this Code and the policy of the National Recovery Act.

(d) Regional or local groups in the hotel industry may formulate exceptions or additions to or modifications of the Rules of Fair Trade Practices set forth in Article VII of this Code, applicable to such regions or localities, provided that such additions, exceptions or modifications are not inconsistent with any other provision of this Code, or with the National Industrial Recovery Act. Upon approval by the Administrator, such rules shall, in the respective regions or localities, have the same force and effect as any provision of this Code.

(e) The Code Authority is empowered and set up to cooperate with the Administrator, to make investigations as to the functioning and observance of any provisions of this Code, at its own instance, on request of the Administrator, or complaint by any persons affected, and to report the same to the Administrator.

(f) The Code Authority may require such reports as may be necessary to administer this code, in such force as may be approved by the Administrator. Any reports required by the Code Authority shall be submitted to an impartial agency designated by the Code Authority, and not a member of the industry, and shall not be revealed to any member of the industry, except in summary, provided however, that such information shall be available to the Administrator upon request and provided further that such information may be divulged if necessary to facilitate the administration of this Code. In addition to information to be submitted to the Code Authority, there shall be furnished to the Administrator, or such agency as he

may designate, such statistical information as the Administrator may deem necessary for the administration of this Code.

(g) Any member of the hotel industry shall be entitled to participate in the selection of the members of the Code Authority, and to participate in and share in the benefits of its activities by assenting to and complying with requirements of this Code, and by paying his reasonable share of the expenses of its administration. Such reasonable share shall be determined by the Code Authority subject to review by the Administrator on the basis of volume of business and/or such other factors as may be deemed equitable to be taken into consideration.

(h) This Code and all the provisions thereof are expressly made subject to the right of the President in accordance with the provisions of Section 10 (b) of the National Industrial Recovery Act, to cancel or modify from time to time any order, approval, license, rule, or regulation issued under Title I of said Act, and specifically, but without limitation, to the right of the President to cancel or modify his approval of any provision of this Code or any conditions imposed by him upon his approval thereof.

(i) Such of the provisions of this Code as are not required to be included therein by the National Industrial Recovery Act may, with the approval of the President, or his delegated authority, be modified or eliminated as changes in circumstances or experience may indicate. It is contemplated that from time to time supplementary provisions to this Code will be submitted for the approval of the President to prevent unfair competition and to effectuate the purposes and policies of Title I of the National Industrial Recovery Act.

SEC. 2. *Exceptions in cases of unusual or undue hardships.*—

(a) Where the operation of the provisions of this Code impose an unusual or undue hardship upon any member of the hotel industry or group of such members, such member or such groups of members of the hotel industry may make application for relief to the Administrator and the Administrator may, after such public notice and hearing as he may deem necessary, grant such exception to or modification of the provisions of this Code as may be required to effectuate the purpose of the National Industrial Recovery Act.

(b) The operation of this Code shall be reviewed by the Administrator not later than June 1, 1934, to ascertain whether the provisions thereof have effectuated or will effectuate the policy and purposes of the National Industrial Recovery Act.

ARTICLE IX—GENERAL

SECTION 1. *Membership in associations.*—Membership in the American Hotel Association, or any affiliated or state associations, or in any other trade or industrial association participating in the selection or activities of the Code Authority, or represented upon the Code Authority, shall be open to all members of the hotel industry, and said associations shall impose no inequitable restrictions upon admission to membership therein.

SEC. 2. *Prohibition against monopolies.*—The provisions of this Code shall not be interpreted or applied to promote monopolies or

monopolistic practices or to eliminate or oppress small enterprises or to discriminate against them.

SEC. 3. *Prohibition against use of subterfuge.*—No member of the hotel industry shall use any subterfuge to frustrate the spirit and intent of this Code, which is, among other things, to increase employment by universal covenant, to remove obstructions to commerce, to shorten hours of work and to raise wages to a living basis.

SEC. 4. *Expiration.*—This Code shall continue in effect until June 16, 1935, or the earliest date prior thereto on which the President shall by proclamation or the Congress shall by joint resolution, declare that the emergency recognized by Section I of the National Industrial Recovery Act has terminated.

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