SUBSTANTIVE POLICY STATEMENT

This substantive policy statement is advisory only. A substantive policy statement does not include procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona administrative procedures act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under Arizona Revised Statutes § 41-1033 for a review of the statement.

GUIDANCE DOCUMENT FOR LARGE MUNICIPAL PROVIDERS ENTERING THE MODIFIED NON-PER CAPITA CONSERVATION PROGRAM

I. Background

On December 13, 1999, the director of water resources ("Director") adopted the management plans for the Phoenix, Pinal, Prescott, Santa Cruz and Tucson Active Management Areas for the third management period, 2000-2010 ("Third Management Plans"). At the time the Third Management Plans were adopted, A.R.S. § 45-566.01 required the Director to include in the plans a Non-Per Capita Conservation Program ("NPCCP") for large municipal providers as an optional alternative to the conservation program requiring large municipal providers to achieve reasonable reductions in per capita use. The statute required large municipal providers accepted for regulation under the NPCCP to implement specific conservation measures within their service area and to limit their groundwater use to a specified volume. Chapter 5 of the Third Management Plans included a NPCCP consistent with these requirements.

Legislation enacted during the 2007 legislative session (S.B. 1557) amended A.R.S. § 45-566.01 to provide that the Director shall modify the NPCCP in the Third Management Plans to eliminate the groundwater use limitation requirement and to require large municipal providers regulated under the program to implement a public

education program, a metering program and one or more additional water conservation measures ("Best Management Practices" or "BMPs") to be selected from a list of BMPs adopted in the plan. All large municipal providers that are not designated as having an assured water supply and that are not regulated as a large untreated water provider or as an institutional provider are required to submit a provider profile to the Arizona Department of Water Resources ("Department") by July 1, 2009 and are required to be regulated under the modified NPCCP beginning January 1, 2010 or the date the Director approves the provider profile, whichever is later. A.R.S. § 45-566.01. A large municipal provider designated as having an assured water supply is not required to be regulated under the modified NPCCP, but may elect to be regulated under the program. *Id.*

On April 1, 2008, the Director issued orders modifying the Third Management Plans to include a modified NPCCP consistent with A.R.S. § 45-566.01. The modifications became effective on May 20, 2008.

The Director is required by statute to prepare a guidance document to assist municipal providers entering into the modified NPCCP. A.R.S. § 45-566.01(P). The guidance document must "inform municipal providers of the requirements of the program as adopted in the management plan and the manner in which the director will implement the program." *Id.* The director is required to "cooperate with municipal providers in developing the guidance document." *Id.*

II. Development of Guidance Document for Modified NPCCP

Department staff prepared a draft guidance document for the modified NPCCP and then met with an advisory committee consisting of representatives of municipal water providers and the Arizona Corporation Commission ("Municipal BMP Advisory

Committee") to review the draft guidance document and receive input on its contents. Meetings were held on October 29, 2008, November 12, 2008 and December 15, 2008. Based on comments received from the Municipal BMP Advisory Committee members during those meetings, Department staff made several changes to the draft guidance document and then finalized the document. The final version of the guidance document is attached.

III. Adoption of Guidance Document as a Substantive Policy Statement

This attached document, entitled "Modified Non-Per Capita Conservation Program, Guidance Document," is hereby adopted as a substantive policy statement effective immediately. The Director may modify or revoke this policy statement at any time.

Dated this 22nd day of December, 2008.

Karen Smith
Deputy Director
Arizona Department of Water Resources

Modified Non-Per Capita Conservation Program Guidance Document

Purpose of the Guidance Document

This guidance document is intended to assist municipal water providers entering the Modified Non-Per Capita Conservation Program by informing them of the program's requirements and by including instructions and suggestions for completing the documentation necessary for program compliance. The program's legal requirements, adopted in May 2008 as modifications to the Third Management Plan for each Active Management Area, are available from the Department of Water Resources and are posted on its website[1] in the section on Laws, Rules and Substantive Policy Statements.

Introduction

In April 2007, legislation was passed to add a new regulatory program to the Arizona Department of Water Resources (Department) Third Management Plan for Active Management Areas (AMAs). The new program, called the Modified Non-Per Capita Conservation Program (Modified NPCCP), addresses large municipal water providers (cities, towns and private water companies serving more than 250 acre-feet per year) and was developed in conjunction with stakeholders from all AMAs. Participation in the program is required for all large municipal water providers that do not have a Designation of Assured Water Supply (DAWS) and that are not regulated as a large untreated water provider or an institutional provider.

The Modified NPCCP is a performance-based program that requires participating providers to implement water conservation measures that result in water use efficiency in their services areas. A water provider regulated under the program must implement a required Public Education Program and choose one or more additional Best Management Practices (BMPs) based on its size, as defined by its total number of water service connections. The provider must select the additional BMPs from the list included in the Modified NPCCP Program.[2] The BMPs are a mix of technical, policy, and information efforts.

General Framework of the Modified NPCCP

1. All large municipal water providers that do not have a Designation of Assured Water Supply (DAWS), except large untreated water providers or institutional providers, are required to be regulated under the Modified NPCCP. Large municipal providers are

[1] http://www.azwater.gov/dwr/Content/Find_by_Category/Laws_and_Rules/default.htm

[2] A description of the Best Management Practices can be found in the attached document, "Required Public Education Program and BMPs in the Modified NPCCP" and in the May 2008 Modifications to Chapter 5 of the Third Management Plan where they are described as "Water Conservation Measures".

those that serve more than 250 acre-feet of water per year. For providers that must participate in the program, Provider Profiles are due by July 1, 2009 and programs must be in place by January 1, 2010. The TMP program requirements for small providers (those providers serving 250 acre-feet per year or less), large untreated water providers and institutional providers have not changed.

2. Participation in the program is optional for large providers that have a DAWS. Throughout the duration of the Third Management Plan, these providers have the following options:

   - If currently regulated under the Total GPCD Program, they may continue in that program or, at any time, elect to be regulated under the Alternative Conservation Program or the Modified NPCCP.
   - If currently regulated under the Non-Per Capita Conservation Program (NPCCP), they may continue in that program or elect to be regulated under the Total GPCD Program, the Alternative Conservation Program or the Modified NPCCP.
   - If currently regulated under the Alternative Conservation Program, they will continue to be regulated under that program.

   Once the Fourth Management Plan is adopted, large providers with a DAWS will have only two options: participate in the Total GPCD Program or participate in the Modified NPCCP.

3. Conservation requirements for individual users have not changed. These pertain to turf-related facilities, large-scale cooling facilities, and landscaping in publicly owned rights-of-way receiving water from a large municipal provider.

4. Distribution system requirements (lost and unaccounted for water must be 10% or less) have not changed.

5. Metering requirements have not changed.

6. Monitoring and reporting requirements for large municipal providers have not changed, except that providers regulated under the Modified NPCCP are required to report additional information in their annual Conservation Efforts Report.

7. Providers in the Modified NPCCP will be placed in tiers based on the providers' combined total of residential and non-residential service connections. The number of BMPs that providers must implement is based on which tier they are in:

   - Tier 1 – up to 5,000 service area connections: one additional BMP
   - Tier 2 – 5,001 – 30,000 service area connections: five additional BMPs
   - Tier 3 – more than 30,000 service area connections: ten additional BMPs

   For private water companies with multiple systems, each system having a separate Service Area Right will be treated separately and only the service connections within that system will be counted to determine the system's tier.

8. An annual water use measurement (GPCD) will be tracked for each large provider and for each Active Management Area as a whole. GPCD values will not be used as a

compliance point for providers participating in either the NPCCP or the Modified NPCCP. However, water use trends may be used to evaluate the effectiveness of some BMPs and will be used to evaluate the overall effectiveness of the Modified NPCCP.

9. The Department will initiate periodic evaluations of specific BMPs and overall program effectiveness. The Department has established a Municipal BMP Advisory Committee, consisting of a mix of policy staff and conservation practitioners, who will assist in program evaluation activities. The Department also may choose to contract with an independent researcher to assist with evaluation activities. If the Department chooses to obtain the services of an independent evaluator, the advisory committee will be asked to participate in discussions regarding project scope and research methods. Evaluation activities will be conducted as a means to consider ways to improve the program.

Program Requirements

The general requirements for the program include the following:

- Timely submittal of Provider Profiles.
- Implementation of a Public Education Program.
- Implementation of the appropriate numbers of BMPs.
- 100% metered connections (except for situations where estimates are approved as per the Third Management Plan).
- Timely submittal of Conservation Efforts Reports.

The Provider Profile

Purpose

Modified NPCCP participants begin by preparing and submitting a Provider Profile (Profile) to the Department for review and approval.

The Profile requires the following information:

- Service area characteristics and water use patterns.
- Whether the metering requirements are met.
- Conservation measures already implemented.
- The Public Education Program that will be implemented.
- The additional BMPs that will be implemented.
- A justification of how each BMP is relevant to the provider's service area characteristics and/or water use patterns.

The Profile is intended to assist providers in an assessment of their water service areas for the purpose of choosing relevant BMPs with a high potential for improving water use efficiencies. A provider must select the BMPs it will implement from the list of BMPs adopted as part of the Modified NPCCP. The minimum number of BMPs that must be selected is based on the number of service connections to the provider's water distribution system. Because each water service area is different, the basis for choosing BMPs may vary from provider to provider. The Profile will be reviewed by the Department to

determine whether it meets the requirements of the program. A copy of the Profile form will be available on the Department website.

Time Frame for Submittal of the Provider Profile

1. For Providers Required to Participate in the Program

- **Provider Profile:** The provider must submit a Provider Profile to the Department by July 1, 2009 (180 days prior to the effective date of the program) and begin complying with the Modified NPCCP on January 1, 2010 or the date the Department approves their Profile, whichever is later. The July 1, 2009 due date allows for the Department's review of the Profiles and for revisions to be made by the provider, if warranted, prior to January 1, 2010, the program's effective date. Providers may enter the Modified NPCCP prior to January 1, 2010 by submitting a Profile to the Department before July 1, 2009 and requesting early participation in the program.
- **Approval Process:** The Department will review and approve or disapprove a Profile within ninety days of submittal. The Department must approve a Profile if the Profile demonstrates that the provider will implement the required number of BMPs, and that the BMPs are reasonably relevant to the provider's existing service area characteristics or water use patterns. Providers with incomplete or inadequate Profiles will be contacted by the Department within 90 days of the submittal date. The provider must revise the Profile to correct the deficiencies and submit the revised Profile to the Department within 90 days after receiving the notice, or if the provider appealed the Department's decision, within 90 days after the decision is final. If the provider fails to submit a revised Profile by the due date, or if it submits a revised Profile that is disapproved by the Department, the provider is out of compliance with its Third Management Plan requirements until it submits a Profile that is approved by the Department. If the Department does not contact a provider within 90 days after the submittal date, the Profile will automatically be approved.

2. For Transitioning Providers

- **Provider Profile:** New large providers that do not have a DAWS and that receive written notice of the Modified NPCCP from the Department must submit a Profile to the Department within six months after the date of the written notice, and must begin complying with the Modified NPCCP on the date the Department approves the Profile.

  If the total number of service connections to a provider's water distribution system increases to a higher tier level after the provider's Profile has been approved, the provider must submit a new Profile to the Department for review and approval within sixty days after the provider becomes aware that it serves at least the minimum number of service connections specified in the higher tier level.
- **Approval Process:** Same as for providers required to participate in the program.

3. For Providers that have a DAWS and Elect to Participate in the Program

- **Provider Profile:** The provider may elect to be regulated under the Modified NPCCP by submitting a Profile to the Department. The provider will remain in their current program (Total GPCD Program or NPCCP) until the Profile is approved by the Department.
- **Approval Process:** The Department will review and approve or disapprove a Profile within ninety days of submittal. A provider with an incomplete or inadequate Profile will be contacted by the Department within 90 days of the submittal date. The provider may revise the Profile to correct the deficiencies and submit the revised Profile to the Department within 90 days or it may elect to remain regulated under its existing conservation program.

Required Public Education Program

All providers participating in the Modified NPCCP program, regardless of size, must implement a basic water conservation education program. This program requires the provider to 1) communicate to its customers twice per year the importance of water conservation and the types of water conservation information available from the provider and how the information can be obtained, and 2) provide customers with free written water conservation information on request. The information must be available in the provider's office, and the provider is encouraged to distribute materials at other locations as well.

The Public Education Program requires the following information:

- A description of each communication channel (i.e., the way messages are provided) and the number of times it was used. Examples of communication channels include newsletters, water bills or bill inserts, brochures, letters, websites, etc. Providing information on websites containing water conservation information is encouraged if the provider has no web site or has no water conservation information on their web site. Providers are asked if they are going to continue the communication channel, and if not, why not. For example, customers may have indicated their preference for one communication channel over another, or the provider may have experiences with the communication channels that influence their decisions.
- The number of customers reached (or an estimate).
- A description of the written water conservation material provided free to customers.
- How customers obtain the free written water conservation materials. The materials must be available in the provider's office and the provider must send information to customers on request. The provider is encouraged to distribute water conservation information at other locations as well, such as libraries, chambers of commerce, community events, etc.

Best Management Practices (BMPs)

BMP Requirements

The required number of additional BMPs is based on the provider's combined total of residential and non-residential service connections. Providers with a larger number of service connections must implement a greater conservation effort.

Total Number of Service Connections	Required BMPs
Tier 1: Up to 5,000	Basic water conservation education program plus selection of **one** additional BMP appropriate for service area.
Tier 2: 5,001 – 30,000	Basic water conservation education program plus selection of **five** additional BMPs appropriate for service area.
Tier 3: Over 30,000	Basic water conservation education program plus selection of **ten** additional BMPs appropriate for service area.

If the total number of service connections to a provider's water distribution system increases to a higher tier level after the provider's Profile has been approved by the Department, the provider must submit a new Profile to the Department for review and approval within sixty days after the provider becomes aware that it serves at least the minimum number of service connections specified in the higher tier level.

Providers may choose to implement any of the BMPs included on the list below as long as they are justified in their Profile. Providers should assess and select BMPs that meet their service area characteristics and water use patterns.

List of Best Management Practices (For more information, see May 2008 Modifications to the Third Management Plan, Chapter 5.)	
Category 1: Public Awareness/Public Relations	
1.1	Local and/or regional messaging program
1.2	Special events/programs and community presentations
1.3	Market surveys to identify information needs/assess success of messages
Category 2: Conservation Education and Training	
2.1	Adult education and training programs
2.2	Youth conservation education program
2.3	New homeowner landscape information
2.7	Xeriscape demonstration garden
2.5	Distribution plan for water conservation materials
Category 3: Outreach Services	
3.1	Residential audit program
3.2	Landscape consultations (residential and/or non-residential)
3.3	Water budgeting program (non-residential)
3.4	Residential interior retrofit programs
3.5	Non-residential interior retrofit programs
3.6	Customer high water use inquiry resolution
3.7	Customer high water use notification
3.8	Water waste investigations and information
Category 4: Physical System Evaluation and Improvement	
4.1	Leak detection program

4.2	Meter repair and/or replacement program
4.3	Comprehensive water system audit program
Category 5: Ordinances / Conditions of Service / Tariffs	
5.1	Low water use landscaping requirements for residential, multi-family, non-residential and/or common areas
5.2	Water tampering/water waste ordinances
5.3	Plumbing code requirements if they are more restrictive than the 1990 Uniform Plumbing Code
5.4	Limitations on water features and/or water intensive landscaping and turf
5.5	Ordinance for model home landscapes in new residential developments
5.6	Required on-site gray water/water harvesting features at residences and/or businesses
5.7	Requirements for car wash water recycling
5.8	Landscape watering restrictions (time of day, etc.)
5.9	Requirements for hot water recirculation devices for residential, multi-family and or non residential sectors
5.10	Retrofit on resale
5.11	Irrigation efficiency standards for non-residential users
5.12	Conservation tariff (private water companies)
5.13	Water use plan for new large non-residential users
Category 6: Rebates/Incentives	
6.1	Toilet rebate (residential and/or multifamily homes)
6.2	High efficiency flush toilet rebate (residential and/or multifamily homes)
6.3	Toilet replacement (residential and/or multifamily homes)
6.4	Indoor water fixture replacement/rebate/incentive (residential and/or multifamily homes)
6.5	Hot water recirculating system or instant hot water system rebate (residential, multifamily, or non-residential)
6.6	Water efficient appliances rebate/incentive
6.7	Gray water retrofit/rebate/incentive
6.8	Water harvesting retrofit/rebate/incentive
6.9	Landscape conversion rebate/incentive
6.10	Xeriscape installation rebate in new landscapes
6.11	Commercial and industrial program, e.g. audits, incentives, rebates, etc.
6.12	Large landscape conservation program (non-residential)
6.13	No/low interest loans for implementing water conservation measures (non-residential)
Category 7: Research/Innovation Program	
7.1	Implement an emerging technology
7.2	Initiate or support applied research to enhance decision making
7.3	Evaluate new and emerging technologies and practices
7.4	Conduct quantitative analysis of a conservation measure (for water savings results)
7.5	Implement smart irrigation technology
7.6	Develop industry partnerships to save water
7.7	Support the development of new technologies and products
7.8	Pilot a new initiative, project or program

Credit for BMPs

Credit will be given for implementation of a BMP if: 1) it is included on the list of BMPs contained in the Modified NPCCP, 2) the provider can explain how the BMP is relevant to its service area and/or water use patterns and 3) the provider is able to explain how implementation has led to or may lead to improved water use efficiencies in its service area.

To receive credit for a BMP, the provider must provide staff time and/or fund its implementation. Providers may receive credit for a BMP that is sponsored by another organization or co-sponsored by multiple organizations (partnerships) by providing staff time, funding, and/or information necessary for implementation of the BMP. To receive credit for a BMP through participation in a partnership, a provider must provide documentation regarding the nature of its participation.

Indicators of Relevance to a Provider's Service Area

To determine if a BMP is appropriate for a service area, one or more of the following indicators should apply:

- The BMP is applicable to the majority or a large portion of customers.
- The BMP is directed toward a provider's highest water users or water use categories.
- Customers in the service area are able to take advantage of the BMP.
- The BMP is implemented to improve a provider's existing water conservation effort.
- The BMP is implemented to reduce or eliminate excessive water use or water waste.

To facilitate the selection process and to increase the likelihood that a Profile will be approved by the Department, the following documents are available:

- A listing of BMPs that are relevant to all water service areas.
- A matrix that matches service area characteristics with BMPs.

Providers may be able to develop a rationale not included in the listings that can serve to justify their selection of a specific BMP. Department staff may be contacted regarding questions about whether or not a BMP is relevant in a water service area.

Procedure for Discontinuing a BMP and Substituting a New One

At any time during the year, a provider may choose to discontinue implementation of a selected BMP indicated in its Profile (other than the required Public Education Program) and implement one or more substitute BMP instead. The substitute BMP must be on the list of approved BMPs and the provider must determine that the substitute BMP is reasonably relevant to its existing service area characteristics or water use patterns as identified in its Profile, and to comply with the program. A provider that substitutes a BMP must notify the Director of the substitution in its next Conservation Efforts Report.

Procedure for Adding New BMPs

A provider may apply to the Director to add a BMP to the list of BMPs in the Modifications to Chapter 5 of the Third Management Plan. The Director may request

additional information from the applicant and/or review other sources to determine whether the BMP should be added. If the Director approves the addition, the modified list will be posted on the Department's web site and be on file at each Active Management Area office.

The Conservation Efforts Report

Purpose

The Conservation Efforts Report will be used on an annual basis to determine a provider's compliance with the Modified NPCCP. It should also serve as a tool for the provider to review its programs and plan for program improvements. A copy of the Conservation Efforts Report form will be available on the Department website.

The Conservation Efforts Report includes the following components:

- A description of the Public Education Program and BMPs implemented during the previous calendar year.
- The results of the activities implemented.
- An assessment of the efforts made.
- Plans for the current year's conservation efforts.
- A copy of the provider's current rate structure, unless no changes have been made to the rate structure since it was last submitted to the Department.

It is not necessary for the Conservation Efforts Report to be a lengthy document. Instead, it should provide accurate but concise descriptions of the effort, activities, results, assessment and plans for each BMP implemented. Following are definitions of the terms contained in the instructions for this section of the Conservation Efforts Report. The terms and definitions are adapted from the Logic Model, a tool frequently used for program development and evaluation:

- **Effort**: the required Public Education Program or the BMP being implemented. Examples: Free written materials for public education, BMP 1.1 – Messaging Program, BMP 1.2 – Special Event, BMP 1.3 – Market Survey, and so on.
- **Activities:** the specific processes, methods, and/or events undertaken to carry out the effort; what was done to achieve results. A description of activities also includes the participants and/or target audience; where/how a program was made available, description and level of provider's participation.

  Examples: workshops, audit program, training program; development of resources, materials, and/or programs, sponsorship/partnering for a conference; etc.
- **Results:** the accomplishments of the activities; the quality, quantity and/or improvement of activities.

  Examples: the impressions or numbers reached, participant response, quantitative data, materials created, programs developed; etc.
- **Assessment**: a description of what worked and what needs modification or improvement; reasons for continuing or discontinuing an activity; etc.

Examples: whether or not a target audience was reached; the effectiveness of materials/activities; adequacy of the level of participation; etc.

- **Plans for next year**: whether or not a program/activity will be continued, discontinued, increased, decreased, and/or modified.

The Conservation Efforts Report must contain an explanation for any BMP that a provider substitutes for one selected in its Profile. The provider must describe the substitution and explain how the substituted BMP is relevant to the provider's service area characteristics and/or water use patterns. A provider that implements a BMP substitution that is not relevant to the provider's service area as determined by the Department will be contacted within 90 days after the deadline for submittal of the Conservation Efforts Report.

Time Frame for Submittal and Review

The Conservation Efforts Report must be submitted to the Department each year along with the provider's Annual Water Withdrawal and Use Report on or before March 31. The Conservation Efforts Report will cover the provider's Modified NPCCP activities for the previous calendar year. If a provider enters the Modified NPCCP at some time other than the beginning of the calendar year, the provider will submit a Conservation Efforts Report for the partial year. (This situation could apply to a provider entering the program early, to a provider with a DAWS that chooses to switch from the Total GPCD program to the Modified NPCCP part way through the year, and to a new large provider that receives written notice of the Modified NPCCP after January 1, 2009.)

Records Retention

For a period of five years after a year in which a provider is regulated under the Modified NPCCP, the provider must retain accurate records verifying that it implemented the required water conservation education program and the additional required BMPs during that year.

Compliance with the Modified NPCCP

Compliance information will be available on the Department website.

Technical Assistance and Outreach Activities

The Department will assist providers participating in the Modified NPCCP. Assistance will be offered well in advance of required due dates to help providers complete their planning activities and program documentation. In addition, the Department will initiate activities designed to support and publicize the water conservation efforts made by all large municipal providers in Active Management Areas.

Provider Profiles/Conservation Efforts Report. Several months prior to the due date for submittal of Profiles, the Department will hold a series of workshops for municipal providers to provide them with guidance for completing their Profiles and their Conservation Efforts Reports. AMA staff will be available prior to the workshops to work individually with providers who want to enter the program early.

BMP Substitutions. AMA staff will be available throughout the year to assist providers wishing to make BMP substitutions. Consultations and resource information about BMPs will be made available to providers on request.

Reference Materials. Each year, the Conservation Efforts Reports submitted by municipal providers will be posted on the Department's website. Municipal providers may access this information to get a better understanding of the programs offered and implemented by other providers in Active Management Areas. If interested, they can contact the providers directly for additional information about their water conservation programs. The Department also will compile a Summary of Water Conservation Programs in Active Management Areas on a regular basis. The summary will be based on information contained in the Conservation Efforts Reports and will be presented in a concise, user-friendly format. Contact information for each provider will be included in the summary. The summary will be posted on the Department's website.

Publicity and Promotional Activities. The Department will recognize and publicize the efforts of highly successful participants in the Modified NPCCP, including posting descriptions of successful programs on the Department's website. Examples of the outcomes of exemplary water conservation programs include:

- Substantial improvements to a provider's water conservation program.
- Implementation of innovative approaches to water conservation.
- Exemplary assistance to other water providers.
- Research to further advance the field of water conservation.
- Exceeding BMP requirements.

All activities sponsored by the Department will be publicized through local and regional media.

Acknowledgements

Arizona Department of Water Resources wishes to thank all those who participated in the stakeholder process that resulted in the program framework, the list of BMPs, and sample Provider Profiles and Conservation Efforts Reports. In addition, the Department would like to thank the Municipal BMP Advisory Committee for their guidance and recommendations regarding the program and related materials.

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