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Marketing and
Regulatory
Programs

Agricultural
Marketing
Service

Livestock and
Seed Program

Items of Interest in Seed Control

November 2004

Annual Meeting of the Association of Official Seed Analysts	1
Association of American Seed Control Officials Meeting	1
Association of Seed Control Officials of the Northeastern States.....	2
North Central States Seed Control Officials of the Northeastern States	3
Southern Seed Control Officials Association	4
Western Association of Seed Control Officials	5
Biotechnology Workshops.....	6
New Germination Tolerances.....	6
Creeping Red Fescue under the Federal Seed Act.....	7
False Relabeling Equals False Advertising	8
Administrative Changes	8
Directory of Services.....	9
Reserve Seed Collection Information	10
Address and Personnel Changes Requested.....	10
Suggestions for the Items of Interest in Seed Control	10
Federal Seed Act Cases Settled	11
Ryegrass Fluorescence List	12
Plant Variety Protection Certificate Status.....	12

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ANNUAL MEETING OF THE ASSOCIATION OF OFFICIAL SEED ANALYSTS

Botanists Patsy Jackson and Steve Michalisko and Agronomist Michael Lovelace represented the Seed Regulatory and Testing Branch (SRTB) at the joint annual meeting of the Association of Official Seed Analysts (AOSA) and Society of Commercial Seed Technologists (SCST) held in Tunica, MS, June 10-16, 2004. The main topics of discussion were distinguishing between referee/proficiency testing, laboratory accreditation, testing methods for herbicide resistant varieties, and voting by SCST members on revisions to the AOSA Rules for Testing Seeds.

On June 10, a genetic technology workshop was sponsored by the AOSA and SCST organizations. Dr. Lovelace attended the workshop and presented "Interpreting Results of Biotechnology Derived Seed Testing as Related to the Federal Seed Act." The workshop focused on testing and evaluation of biotechnology-derived seeds. Dr. Lovelace was appointed to the AOSA GMO committee and Patsy Jackson replaced Laboratory Supervisor Susan Maxon as the SRTB representative on the AOSA Standing Rules Committee. Twelve of 13 proposed changes to the AOSA Rules for Testing Seeds were adopted and became effective October 1. The rejected proposal dealt with removing "Fresh and Dormant" instructions from the "Additional Directions" for *Panicum virgatum* (switchgrass) testing.

Patsy Jackson and Steve Michalisko also attended the International Seed Testing Association (ISTA) Tetrazolium (TZ) Workshop from June 14-16, which followed the AOSA/SCST Annual Meeting. Speakers presented techniques for using ISTA TZ methods for determining dormancy in seeds of many species and attended hands on activities. Discussions for harmonization between ISTA and AOSA TZ rules were also addressed.

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ASSOCIATION OF AMERICAN SEED CONTROL OFFICIALS MEETING

Seed Regulatory and Testing Branch (SRTB) Chief Richard Payne and Seed Marketing Specialists Roger Burton and Kevin Robinson attended the Association of American Seed Control Officials (AASCO) meeting, in Ottawa, Ontario, Canada, July 25-29, 2004.

The following presentations were made:

- Fusarium in Corn/Transgenic Approaches—Dr. Linda Harris, Agriculture and Agri-Food Canada;
- Biopharmaceuticals—Paul Arnison, FAAR Biotechnology;
- Soybeans as Bioreactors—Dr. Doug Johnson, University of Ottawa;
- Adventitious Presence—Michael Scheffel, Canadian Food Inspection Agency (CFIA);
- Quality Systems in Seed—Jim McCullagh, Executive Director, Canadian Seed Institute;
- Bioterrorism—Harry Gardiner, CFIA, Charles Divan, USDA-Animal and Plant Health Inspection Service;
- Task Force Presentations—Variety Name Registration;

- Regional Meetings;
- New Member Orientation—Larry Nees (IN), David Svik (NE), Chuck Dale (MN), Richard Payne, USDA-SRTB;
- Federal Seed Act—Richard Payne, USDA-SRTB;
- Invasive Species, Tropical Soda Apple—George Hayslip (FL);
- Fines and Penalties—Roger Burton, USDA-SRTB;
- Seed Inspector Certification Canada’s System—Louise Duke, CFIA;
- NCRS and State Seed Laws—David Buckingham (KY);
- Bulk Bin Sampling—David Svik and Larry Nees;
- New Technologies Entering the Marketplace—John Gerrard, Access Plant Technology President;
- Process Verified Task Force Meeting;
- Business Meeting; and
- Executive Board Meeting.

Open discussions were held on the following:

- ASTA Packet Seed Issues—Joe Garvey (PA), RUSSL Chairperson;
- Variety Information Task Force—Mary Smith (AR), AASCO President;
- Quality Management Systems Task Force—Task Force Committee; and
- AOSA/SCST Voting—Wayne Guerke (GA).

For information regarding this article contact Seed Marketing Specialist Kevin Robinson (704) 810-7264; kevin.robinson2@usda.gov.

State officials provided the following reports from the four AASCO regional meetings. (Views expressed are those of the writers and may not reflect Seed Regulatory and Testing Branch (SRTB) policy.)

Association of Seed Control Officials of the Northeastern States (Submitted by Joe Garvey, PA)

The Association of Seed Control Officials of the Northeastern States (ASCONES) met at the regional meetings held July 27, 2004. ASCONES had a quorum; this is the first to occur in many years at AASCO’s annual meeting. Member States present included Delaware, Maryland, New Hampshire, New Jersey, New York, and Pennsylvania, as well as USDA. Guests included Anita Hall, Society of Commercial Seed Technologists (SCST), Megan Muldoon, Canada, and Vince Snyder, The Scotts Company. Most members are still concerned with budgetary issues and vacancies.

There was discussion on the adoption of the latest Recommended Uniform State Seed Law (RUSSL) amendments. Two States, New Hampshire and New York, have adopted most of the RUSSL changes. Pennsylvania is half way through the process of amending its State seed law. The other members present indicated that the review of their laws would be a high priority in the coming months. ASCONES urges all of its members strongly to consider adopting these latest changes.

As a result of the vegetable/flower seed packet roundtable discussion held at this year's meeting, there will be an amendment to RUSL introduced at next year's meeting. The industry members explained to AASCO members their concerns on the packet labeling amendment adopted in 2001. The use of a "Test Date mm/yy" would severely hamper their ability to package their products. A compromise method was agreed on and will be submitted as an amendment to RUSL at next year's meeting. The labeling, for example, will consist of: "Packed for (2005) Sell by 12/05." The test date requirement will be dropped. Packed for (Year) will be re-instituted. The germination period will revert to the calendar year. ASCONES voted to support this proposed change.

ASCONES also agreed to support the proposed change in voting procedures in the Association of Official Seed Analysts (AOSA). This proposal will allow SCST members the privilege to vote on any rules to be added to "The AOSA Rules for Testing Seed." Some members indicated they would have to have this change reviewed by their legal offices to determine what, if any, affect this would have on their seed laws.

The AOSA approved a change in the "Rules for Testing Seed" at the meeting in Tunica, MS, that altered the tolerance table on germination; it is in conflict with the Federal Seed Act (FSA). USDA indicated that for the purpose of uniformity, they would consider the new tolerance table in the rules when taking FSA action on germination complaints.

The proposed variety name registration program that AASCO has been trying to establish, hit a roadblock. It had been proposed to establish this program at the USDA, Agricultural Marketing Service office. USDA's legal department said that this type of program was not covered under the FSA. This ruling made it necessary to re-evaluate how AASCO wanted to proceed. An educational program seems to be the main avenue to continue to try to improve variety and brand name labeling problems. The American Seed Trade Association (ASTA) has indicated they will cooperate in educating their members on this issue. It has also been recommended that a "members only" password-protected database of variety names be established on AASCO's Web site. ASCONES also supported studying whether a requirement on font size should be introduced into the RUSL. For example, studying whether the font size on an analysis label for a brand name may be no larger than the variety name.

ASCONES fully supported AASCO continuation in developing a quality management system in support of the process verified program developed by USDA. This will be very similar to an International Organization for Standardization 9001-2000 system when in place.

Richard Goerger (DE) and Floyd Yoder (NJ) will serve on the nominating committee for next year's upcoming election. .

We want to thank ASCONES President Joe Garvey for submitting this report.

North Central States Seed Control Officials Association (Submitted by David F. Svik, NE)

The North Central States Seed Control Officials Association (NCSSCOA) met at the regional meetings held July 27, 2004. Member States present included Indiana, Kansas, Minnesota, Missouri, Nebraska, North Carolina, North Dakota, and Wisconsin, as well as Canada and

USDA. Leslie Cahill, ASTA and Vince Snyder, The Scotts Company also attended. The following topics were discussed:

- Mid-Year Regional Meetings;
- Current Updates to North Central Seed Laws;
- Adopting RUSSEL to State Seed Law; and
- Summary of Seed Count testing in Indiana.

The following national legislative issues were discussed:

- Seed Saving Bill introduced into Ohio Legislature;
- GMO Seed Labeling Law passed in Vermont;
- California Ballot initiatives proposed to ban biotech crops;
- Marshall ryegrass amendment; and
- Proposed germination tolerance.

Benefits of AASCO Quality Management System (QMS) are as follows:

- More consistency between States;
- National and international recognition of State programs;
- Better data and records management;
- Improved training for seed enforcement staff;
- Improved reliability of state efforts in seed law enforcement;
- Improvement in compliance; and
- Ongoing review and improvement.

A motion was approved unanimously for NCSSCOA to support the efforts of the task force of the AASCO in developing the QMS for seed sampling including the costs of this effort.

We want to thank NCSSCOA President David F. Svik for submitting information for this report.

Southern Seed Control Officials Association (Submitted by Mary Smith, AR)

The Southern Seed Control Officials Association (SSCOA) met July 27, 2004. Member States present were Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Maryland, North Carolina, Oklahoma, Pennsylvania, and Texas, as well as USDA.

The following topics were discussed:

- Native Grasses and Forbs - How does everyone deal with these?;
- Soybean Variety Name/Brand list;
- Invasive plant bill in Kentucky;
- Regulatory Testing Responses and Information for Seedsmen/Labelers/Retailers;
- AOSA Rule Change – Germination tolerance table different from FSA table;
- Quality Management System Proposal for seed sampling verification; and
- AOSA/SCST Rules Voting Procedure.

In the SSCOA business session, members voted to:

- 1) Support the development of the proposed quality management system;
- 2) Support the development of a brochure on variety/brand labeling for placement on the AASCO Web site;
- 3) Explore the possibility of putting variety/brand lists on a database housed on a controlled access section (for members only) on the AASCO Web site;
- 4) Endorse, in the form of a resolution, the recommended AOSA/SCST Rules Voting Procedure Committee's report as published in the May 2004 issue of the Seed Technology Newsletter;
- 5) Elect Eddie Martin of North Carolina as SSCOA 2nd Vice President; and
- 6) Help fund hospitality for next year's AASCO meeting being held in Austin, TX.

We want to thank AASCO President Mary Smith for submitting information for this report.

Western Association of Seed Control Officials (Submitted by Ron Pence, OR)

The Western Association of Seed Control Officials (WASCO) meeting held July 27, 2004, was attended by Stephen Burningham (UT), Roger Burton (USDA), Tim Gutormson (SCST), Larry Krum (MT), Greg Lowry (AOSCA), Ron Pence (OR), and Mitch Yergert (CO).

Quality Management System: Sampling, clarifying role, and purpose of the process verified program was discussed. Ron Pence stated that the Oregon seed industry does not wish to participate in the program; the Oregon Department of Agriculture has an infrastructure in place that should be able to react quickly should members of the industry desire this or similar services. The real value (to the association) would be in the development of a quality management system allowing the association to participate in a variety of verification programs at the request of the industry. Meeting participants discussed the value of the process verified program and USDA's stated intent of providing a market advantage and value-added services to the seed industry. Seed laboratory accreditation was also discussed. Concern was expressed over maintenance of a quality management system even with a narrow scope.

Larry Krum made a motion that WASCO members present recommend that AASCO proceed with the quality management system project to move the AASCO organization forward and allow States to provide services at industry request.

Recommended Uniform State Seed Law (RUSL): The question was asked if the RUSL review committee would address seed packet issues as presented by the industry panel during this meeting.

AOSA Germination Rule Change Proposal on tolerances: Members present were made aware of changes.

Other Issues: SCST and AOSA voting and discussion of current WASCO situations were discussed. Mitch Yergert proposed e-mailing members to vote for new president.

We want to thank Ronald R. Pence (OR) for submitting this report.

BIOTECHNOLOGY WORKSHOPS

The Seed Regulatory and Testing Branch (SRTB) held biotechnology workshops (Tuesday through Thursday) for three weeks, beginning August 10. SRTB presenters Plant Physiologist Rich Glick, Agronomist Mike Lovelace, Plant Pathologist Sandra Walker, and AMS Science and Technology Program Molecular Biologist Michael Sussman provided background information on technologies for detection of genetically engineered seed. Participants worked through activities involving those technologies. The activities included immunological-based methods, bioassay methods, and the polymerase chain reaction. Roughly 18 State seed control officials participated in each session.

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NEW GERMINATION TOLERANCES

In June 2003, the Association of Official Seed Analysts (AOSA) membership approved a rule proposal that replaced the germination tolerances in Table 2a of the AOSA Rules with the germination tolerances from Table 5.1 from the International Rules for Testing Seeds. These tolerances are used when comparing the results from two germination tests conducted on samples drawn from the same seed lot that are conducted in either the same or different seed laboratories. The effective date for the use of the new germination tolerances was October 1.

Section 201.63 of the Federal Seed Act (FSA) Regulations contains germination tolerances identical to those that used to be in Table 2a of the Association of Official Seed Analysts (AOSA) rules prior to October 1. State seed control officials have expressed concern that they will have to calculate germination tolerances using the revised Table 2a for State regulatory action and also according to Section 201.63 in the FSA Regulations when evaluating complaints of possible FSA mislabeling.

To alleviate this concern, we suggest that State seed control officials use the new AOSA tolerances when submitting complaints of germination mislabeling to the Seed Regulatory and Testing Branch (SRTB) for regulatory action under the FSA. The SRTB staff will evaluate the submitted complaints using the tolerances in the FSA Regulations. The new AOSA tolerances will also be considered when taking FSA regulatory action.

The new AOSA germination tolerances are smaller than those in the FSA Regulations for germination averages of 87 percent and higher (except for 90 percent) and 31 percent and lower. On the other hand, for average germination percentages between 86 percent and 32 percent, the AOSA tolerances are either equal to or 1 percent larger than those in the FSA Regulations.

Tolerances by both sets of rules are presented below for comparison. Enter the tolerance table at the average germination percentage of the two tests that are being compared and find the tolerance appropriate to the testing rules being followed.

Average Germination Percentage			
<u>FSA Regulations</u>	<u>AOSA Rules</u>		<u>Tolerance</u>
-----	99	2	2
-----	97 to 98	3 to 4	3
-----	94 to 96	5 to 7	4
96 and over	91 to 93	8 to 10	5
90 to 95	87 to 90	11 to 14	6
80 to 89	82 to 86	15 to 19	7
70 to 79	76 to 81	20 to 25	8
60 to 69	70 to 75	26 to 31	9
less than 60	60 to 69	32 to 41	10
-----	51 to 59	42 to 50	11

For information regarding this article contact Chief Richard Payne (704) 810-8884; richard.payne2@usda.gov.

CREEPING RED FESCUE AND THE FEDERAL SEED ACT

Creeping red fescue is not listed as a kind of seed under the Federal Seed Act (FSA). The appropriate kind designation for this seed, as listed in Table 1 of the FSA Regulations, is red fescue. In the past when enforcing the FSA, the Seed Regulatory and Testing Branch (SRTB) has considered creeping red fescue as a type of red fescue. The use of creeping red fescue as a kind designation on the seed label has been cited as a minor technical violation in conjunction with serious violations involving purity, germination, and noxious-weed seeds.

It appears to be a common practice for seed companies that sell grass seed to use creeping red fescue as the kind designation when labeling seed of creeping type red fescue varieties. The AOSA Rules list both red and creeping red fescue as common names for *Festuca rubra* subsp. *rubra*. The AOSA Rules are used when testing seed for labeling purposes and by State Seed Control Programs when testing seed for regulatory purposes. In conversations with several State seed control officials, it was determined that they would not take regulatory action against red fescue seed labeled as creeping red fescue, provided the variety was a creeping type red fescue.

Therefore, the SRTB has made the administrative decision no longer to cite the use of creeping red fescue as a kind designation on seed labels as a technical violation of the FSA, provided the labeled seed is a creeping type of red fescue. The SRTB intends to add creeping red fescue to the lists of kinds in Table 1 of the FSA Regulations when the regulations are revised.

For information regarding this article contact Chief Richard Payne (704) 810-8884; richard.payne2@usda.gov.

FALSE RELABELING EQUALS FALSE ADVERTISING

A recent Federal Seed Act (FSA) case involved a grass seed mixture shipped in interstate commerce to several locations in 2001 and 2002. The remainder of the seed eventually was reshipped to one location where it was sampled in August 2003. At the time of sampling, the seed bore labels showing germination rates of 80 to 95 percent on the components and a test date of July 2003. These were replacement labels that the shipper had sent to the consignee for relabeling the carryover seed. The germination rates after relabeling were identical to those on the original labels based in some cases on analyses performed two to three years earlier. The kinds in the official sample were found to have germination rates of 10 to 90 percent when tested in December 2003. Most of the germination rates shown on the replacement labels were false.

If there is false or incorrect information on the labels, it misrepresents the quality of the seed and, if it is the result of relabeling, it is considered false advertising. Such misinformation can occur when companies ship replacement labels without retesting the seed or when tests are based on samples retained in the shipper's files rather than taken from the consignee's inventory. Information on replacement labels should accurately reflect the quality of the seed. When it fails to do so, it performs a serious disservice to the consumer.

We warned the shipper that the replacement labels constituted a false advertisement as that term is defined in the FSA. Under the Act, a labeling violation has occurred only if the labeling was false at the time of interstate shipment of the seed; whereas, an "advertisement" is in violation if false at the time the advertisement itself is disseminated. Under State seed law, action can be taken against the consignee who tries to sell seed with false relabeling, but under the FSA, action can be taken against the interstate supplier of replacement labels.

For information regarding this article contact Seed Marketing Specialist Gene Wilson (704) 810-8888; gene.wilson@usda.gov.

ADMINISTRATIVE CHANGES

Todd Erickson was selected for a vacant botanist position. Some of his duties include testing agricultural and vegetable seed for germination, purity, and noxious-weed seeds. Previously, Todd was a biological laboratory technician for this branch. He received a B.S. in Botany from Northern Arizona University in 2001 and a B.S. in Anthropology from the University of Oregon in 1996. The vacant biological laboratory technician position will be announced shortly.

Dr. Richard Glick left the SRTB in October. Rich has been a plant physiologist with the branch since September 2003, developing protein electrophoresis procedures for use in distinguishing varieties. A plant physiologist position has been announced and will be filled in the near future. Vacancies, which have been announced, may be viewed on the AMS Web site at <http://www.ams.usda.gov/human/vacancy.htm>.

For information regarding this article contact Seed Marketing Specialist Jeri Irwin (704) 810-8878; jeri.irwin@usda.gov.

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RESERVE SEED COLLECTION INFORMATION

Our Reserve Seed Collection (RSC) consists of more than 700 different seed species. The list of seed species, available through the RSC, is on our Web site at <http://www.ams.usda.gov/lsg/seed.htm> under "Seed Resource."

To request seed samples from the RSC, enclose envelopes labeled with the number and corresponding scientific names you are requesting and arrange in numerical order. For a quicker response, send no more than 150 requests at a time. Instructions are also on our Web site for your convenience.

Requests should be mailed to:

Reserve Seed Collection Coordinator
Seed Regulatory and Testing Branch
LS, AMS, USDA
801 Summit Crossing Place, Suite C
Gastonia, NC 28054-2193

For information regarding this article contact Laboratory Supervisor Susan Maxon (704) 810-8877; susan.maxon@usda.gov.

ADDRESS AND PERSONNEL CHANGES REQUESTED

Although the "Items of Interest in Seed Control" is now an electronic only publication, paper correspondence still is our primary means of communication with our customers. If you receive other information from us, please keep us informed of any name, title, personnel, mailing address, or e-mail address changes you might have so that we can keep our records current.

Seed control officials: Please tell us when higher-level personnel (*i.e.*, Secretaries, Commissioners, Directors, *etc.*) changes are made, including address and title changes, so we can promptly update our records and mailing lists.

Contact Branch Secretary Karen Sussman with any changes (704) 810-8871; karen.sussman@usda.gov.

SUGGESTIONS FOR THE ITEMS OF INTEREST IN SEED CONTROL

We welcome ideas or articles you feel should be included in this publication. If you wish to submit an article, please e-mail to Jeri Irwin as an attachment jeri.irwin@usda.gov or by fax to (704) 852-4109. We reserve the right to delete, edit, or fabricate any or all parts of submitted articles as necessary to comply with our formatting.

FEDERAL SEED ACT CASE SETTLED

The following cases were settled administratively under the Federal Seed Act between April 1 and September 30, 2004. Under the administrative settlement procedure, the Seed Regulatory and Testing Branch and the firms agreed to settle the cases for the amount specified, with the firms neither admitting nor denying the charges. Official Program Announcements on each of these cases is accessible on the following Web site:

<http://www.ams.usda.gov/news/newsrel.htm>:

- Allied Seed, L.L.C., Nampa, ID, has paid \$1,925 for a case involving three seed shipments. The alleged violations, while not the same for all shipments, were false labeling as to variety name, test date, origin, germination, and noxious-weed seed; shipping seed void of required labeling and failure to keep or supply required records. Seed regulatory officials in Missouri and Virginia cooperated in the initial sampling and inspection.
- Barenbrug USA, Tangent, OR, has paid \$5,775 for a case involving twenty-four seed shipments. The alleged violations, while not the same for all shipments, were false labeling as to kind name, pure seed, other crop seed, inert matter, test date, noxious-weed seed; failure to show the name, percentage, and germination percentage of seed present in an amount greater than five percent; failure to test within required time and test prior to shipment; and failure to keep or supply required records. Seed regulatory officials in Kentucky, Maryland, Missouri, and Virginia cooperated in the initial sampling and inspection.
- Grassland-Oregon, Keizer, OR, has paid \$2,125 for a case involving four seed shipments. The alleged violations, while not the same for all shipments, were false labeling as to pure seed, other crop seed, inert matter, noxious-weed seed, and germination test date; germination test not conducted within five months of interstate shipment; and failure to show the name, percentage and germination percentage of seed present in an amount greater than five percent. Seed regulatory officials in Kentucky, Maryland, and Missouri cooperated in the initial sampling and inspection.
- Pennington Seed, Inc., Madison, GA, has paid \$10,150 for a case involving twenty shipments from their locations in Missouri, Oregon, and South Carolina. The alleged violations, while not the same for all shipments, were false labeling as to purity, variety name, germination percentage, test date, noxious-weed seeds and their presence in excess of state's limits, and presence of prohibited noxious-weed seeds; failure to test for germination prior to interstate shipment; failure to show the presence of noxious-weed seeds and the rate of occurrence and the required information for a seed component in a mixture; and failure to keep required records including those establishing the variety name. Seed regulatory officials in Georgia, Kentucky, Nebraska, Pennsylvania, Texas, and Virginia cooperated in the initial sampling and inspection.

- Richardson Seeds, Inc., Vega, TX, has paid \$1,250 for a case involving three shipments. The alleged violations, while not the same for all shipments, were false labeling as to variety name, pure seed, inert matter, and germination percentage; and failure to show the name, percentage, and germination percentage of seed present in an amount greater than five percent. Seed regulatory officials in Georgia and Nebraska cooperated in the initial sampling and inspection.

RYEGRASS FLUORESCENCE LIST

The current ryegrass fluorescence list by the National Grass Variety Review Board is available on the following Web site:

<http://www.oscs.orst.edu/publications/specialreports/vfl.pdf>

PLANT VARIETY PROTECTION CERTIFICATE STATUS

Check the status of certification and search for expired certificates by accessing the Plant Variety Protection Office's Web site and entering their Public Access Database:

<http://www.ams.usda.gov/science/pvpo/PVPindex.htm>.

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