

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE FILLED OUT BY ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: JIM HEENRAN 7/13/11
Name of Contact person Date

in the EPA-3 ORC at 215-814-2640
Office Phone number

Non-SF Jud. Order/Consent Decree. DOJ COLLECTS Administrative Order/Consent Agreement FMD COLLECTS PAYMENT

SF Jud. Order/Consent Decree. FMD COLLECTS

This is an original debt This is a modification

Name of Person and/or Company/Municipality making the payment
C + L RIVET COMPANY, INC.

The Total Dollar Amount of Receivable \$ 6,800
(If in installments, attach schedule of amounts and respective due dates)

The Case Docket Number EPCRA-03-2011-0278

The Site-Specific Superfund Acct. Number _____

The Designated Regional/HQ Program Office EPA-3 LAND + CHEMICALS DIVISION
TOXICS PROGRAMS BRANCH

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
Name of Contact Date

in the Financial Management Office, phone number: _____

JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final judicial order should be mailed to:

1. Rosemarie Pacheco
Environmental Enforcement Section
Lands Division, Room 130044
1425 New York Avenue, N.W.
Washington, D.C. 20005

2. Originating Office
3. Designated Program Office

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2011 SEP 21 PM 2:38
REGIONAL HEARING CLERK
EPA REGION III PHILADELPHIA

ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the administrative order should be sent to:

1. Originating Office
3. Regional Hearing Clerk

2. Designated Program Office
3. Regional Counsel

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

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In the Matter of:	:	
	:	
C & L Rivet Company, Inc.	:	Docket No. EPCRA-03-2011-0278
220 Jacksonville Rd.	:	
Hatboro, PA 19040	:	
	:	
Respondent	:	CONSENT AGREEMENT
	:	
C & L Rivet Company, Inc.	:	
220 Jacksonville Rd.	:	
Hatboro, PA 19040	:	
	:	
Facility	:	Proceeding under EPCRA § 325(c), 42 U.S.C. § 11045(c)
	:	

CONSENT AGREEMENT

Preliminary Statement

This Consent Agreement is entered into by the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("Complainant"), and C & L Rivet Company, Inc. ("Respondent"), pursuant to Sections 313 and 325(c) of the Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA"), 42 U.S.C. §§ 11023 and 11045(c), the regulations implementing EPCRA Section 313, as set forth at 40 C.F.R. Part 372, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. Pursuant to 40 C.F.R. §§ 22.13(b) and .18(b)(2) and (3), this Consent Agreement and the accompanying Final Order (collectively, "CAFO") simultaneously commence and conclude this proceeding to resolve violations of EPCRA § 313, 42 U.S.C. § 11023, as alleged herein, by Respondent at its facility located at 220 Jacksonville, Road, Hatboro, PA 19040.

General Provisions

1. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
 2. Except as provided in Paragraph 1, above, Respondent neither admits nor denies the specific factual allegations and legal conclusions set forth in this CAFO.
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3. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.
4. For purposes of this proceeding only, Respondent hereby expressly waives any right to contest any issue of law or fact set forth in this Consent Agreement and any right to appeal the accompanying Final Order.
5. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.
6. Each party shall bear its own costs and attorney's fees in connection with this proceeding.

Findings of Fact and Conclusions of Law

7. In accordance with Sections 22.13(b) and .18(b)(2) of the Consolidated Rules, Complainant adopts the following findings of fact and conclusions of law.
8. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372 require, *inter alia*, that the owner or operator of a facility that: 1) has 10 or more employees; 2) has a primary Standard Industrial Classification ("SIC") Code of 20 [2000] through 39 [3999] (as in effect on July 1, 1985), or other SIC or industry code as set forth in 40 C.F.R. Section 372.22(b); and 3) manufactured, processed or otherwise used a toxic chemical listed in 40 C.F.R. § 372.65, in excess of the threshold quantities established under Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), during the calendar year for which the form is required, to complete and submit a toxic chemical release form ("Form R") or appropriate alternative threshold report ("Form A") for each such toxic chemical to EPA and the state in which the facility is located, by July 1 of the following calendar year.
9. Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 372.3 define "facility" to mean, in relevant part, all buildings, equipment, structures, and other stationary items that are located on a single site and that are owned or operated by the same person.
10. Section 329(7) of EPCRA, 42 U.S.C. § 11049(7), defines "person" to include any corporation.
11. Respondent is incorporated in the Commonwealth of Pennsylvania and is a "person" as defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).
12. During calendar years 2007 and 2008, and at the time of the violations alleged herein, Respondent owned and operated a manufacturing plant located at 220 Jacksonville, Road, Hatboro, PA 19040 ("Facility").
13. Respondent's Facility is a "facility" as defined in Section 329(4) of EPCRA, 42 U.S.C. § 11049(4), and 40 C.F.R. § 372.3.

14. During calendar years 2007 and 2008, Respondent employed 10 or more full-time employees at the Facility.
15. During calendar years 2007 and 2008, the Facility had a primary SIC code of 3452.
16. Respondent was required to complete and submit a Form R or Form A for each toxic chemical listed in 40 C.F.R. § 372.65 which was manufactured, processed, or otherwise used at the Facility in excess of the threshold quantity set forth in Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), during any calendar year, to EPA and the Commonwealth of Pennsylvania by July 1 of the following calendar year.

Count I – Copper 2007

17. “Copper” is a “toxic chemical” as defined in EPCRA §§ 313(c) and 329(10), 42 U.S.C. §§ 11023(c) and 11049(10), 40 C.F.R. § 372. 3, and is listed in 40 C.F.R. § 372.65.
18. As set forth in Section 313(f)(1)(B)(iii) of EPCRA, 42 U.S.C. § 11023(f)(1)(B)(iii), and 40 C.F.R. § 372.25, the reporting threshold amount for copper which is processed at a facility is 25,000 pounds.
19. Respondent processed more than 25,000 pounds of copper at the Facility during the 2007 calendar year.
20. Pursuant to EPCRA § 313(a), 42 U.S.C. § 11023(a), and 40 C.F.R. §§ 372.27 and .30, Respondent was required to submit to the Administrator of EPA and the Commonwealth of Pennsylvania by July 1 of 2008, a completed Form A or Form R for the copper processed at the Facility during calendar year 2007.
21. Respondent filed the required Form R for the toxic chemical copper processed at the Facility during calendar year 2007 with the Administrator of EPA and the Commonwealth of Pennsylvania on or about October 14, 2010. Respondent never filed a Form A for copper processed at the Facility during calendar year 2007 with the Administrator of EPA and the Commonwealth of Pennsylvania.
22. Respondent’s failure to file with the Administrator of EPA and the Commonwealth of Pennsylvania by July 1, 2008 a Form A or Form R for the toxic chemical copper processed at the Facility during calendar year 2007 constitutes one violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. §§ 372.27 and .30.

Count II – Copper 2008

23. “Copper” is a “toxic chemical” as defined in EPCRA §§ 313(c) and 329(10), 42 U.S.C. §§ 11023(c) and 11049(10), 40 C.F.R. § 372. 3, and is listed in 40 C.F.R. § 372.65.

24. As set forth in Section 313(f)(1)(B)(iii) of EPCRA, 42 U.S.C. § 11023(f)(1)(B)(iii), and 40 C.F.R. § 372.25, the reporting threshold amount for copper which is processed at a facility is 25,000 pounds.
25. Respondent processed more than 25,000 pounds of copper at the Facility during the 2008 calendar year.
26. Pursuant to EPCRA § 313(a), 42 U.S.C. § 11023(a), and 40 C.F.R. §§ 372.27 and .30, Respondent was required to submit to the Administrator of EPA and the Commonwealth of Pennsylvania by July 1 of 2009, a completed Form A or Form R for the copper processed at the Facility during calendar year 2008.
27. Respondent filed the required Form R for the toxic chemical copper processed at the Facility during calendar year 2008 with the Administrator of EPA and the Commonwealth of Pennsylvania on or about October 14, 2010. Respondent never filed a Form A for copper processed at the Facility during calendar year 2008 with the Administrator of EPA and the Commonwealth of Pennsylvania.
28. Respondent's failure to file with the Administrator of EPA and the Commonwealth of Pennsylvania by July 1, 2009 a Form A or Form R for the toxic chemical copper processed at the Facility during calendar year 2008 constitutes one violation of Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. §§ 372.27 and .30.

Civil Penalty

29. Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), provides that any person who violates EPCRA § 313, 42 U.S.C. § 11023, shall be liable to the United States for a civil penalty of up to \$25,000 per violation. Pursuant to the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. Part 19, as revised (73 Fed. Reg. 75340-46 (December 11, 2008)), violations of Section 313 of EPCRA, 42 U.S.C. § 11023, which occurred between March 16, 2004 and January 12, 2009, are subject to an increased statutory maximum penalty of \$32,500 per violation and the maximum inflation-adjusted penalty for violations occurring after January 12, 2009 is \$37,500 per violation.
30. In settlement of EPA's claims for civil monetary penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of SIX THOUSAND EIGHT HUNDRED DOLLARS (\$6,800.00), which Respondent agrees to pay in accordance with the terms set forth below. Such civil penalty shall become due and payable immediately upon Respondent's receipt of a true and correct copy of this CAFO, fully executed by all parties, signed by the Regional Administrator or the Regional Judicial Officer, and filed with the Regional Hearing Clerk, subject to Paragraph 32 below.
31. The aforesaid civil penalty set forth above in Paragraph 30, above, is based upon Complainant's consideration of a number of factors, including, but not limited to, the facts and circumstances of this case, the statutory factors set forth in EPCRA § 325(b)(1)(C), 42

U.S.C. § 11045(b)(1)(C), and the penalty criteria set forth in EPA's *Enforcement Response Policy for Section 313 of the Emergency Planning and Community Right-to-Know Act (1986)* (August 10, 1992), as amended. Complainant has also considered the Adjustment of Civil Penalties for Inflation, 40 C.F.R. Part 19, the June 6, 2006 memorandum by Acting EPA Toxics and Pesticides Enforcement Division Director Stephanie P. Brown entitled *Penalty Policy Supplements Pursuant to the 2004 Civil Monetary Inflation Adjustment Rule* ("Brown Memorandum") and the November 16, 2009 memorandum by EPA Waste and Chemical Enforcement Division Director Rosemarie A. Kelley *Adjusted Penalty Policy Matrices Based on the 2008 Civil Monetary Penalty Inflation Adjustment Rule* ("Kelly Memorandum"). The settlement in this proceeding is consistent with the provisions and objectives of EPCRA § 313, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.

32. The civil penalty of six thousand eight hundred dollars (\$6,800.00) set forth in Paragraph 30, above may be paid in six (6) installments with interest at the rate of one percent (1%) per annum on the outstanding principal balance in accordance with the following schedule:

- a. 1st Payment: The first payment in the amount of one thousand one hundred and thirty-five dollars and seventy cents (\$1,135.70), consisting of a principal payment of \$1,135.70 and an interest payment of \$0.00, shall be paid within thirty (30) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
- b. 2nd Payment: The second payment in the amount of one thousand one hundred and thirty-five dollars and seventy cents (\$1,135.70), consisting of a principal payment of \$1,130.98 and an interest payment of \$4.72, shall be paid within sixty (60) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
- c. 3rd Payment: The third payment in the amount of one thousand one hundred and thirty-five dollars and seventy cents (\$1,135.70), consisting of a principal payment of \$1,131.92 and an interest payment of \$3.78, shall be paid within ninety (90) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
- d. 4th Payment: The fourth payment in the amount of one thousand one hundred and thirty-five dollars and seventy cents (\$1,135.70), consisting of a principal payment of \$1,132.87 and an interest payment of \$2.83, shall be paid within one hundred and twenty (120) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
- e. 5th Payment: The fifth payment in the amount of one thousand one hundred and thirty-five dollars and seventy cents (\$1,135.70), consisting of a principal payment of \$1,133.81 and an interest payment of \$1.89 shall be paid within one hundred and fifty (150) days of the date on which this CAFO is mailed or hand-delivered to Respondent;
- f. 6th Payment: The sixth payment in the amount of one thousand one hundred and thirty-five dollars and sixty-seven cents (\$1,135.67), consisting of a principal payment of \$1,134.72 and an interest payment of \$0.95, shall be paid within one hundred and eighty (180) days of the date

on which this CAFO is mailed or hand-delivered to Respondent.

Pursuant to the above schedule, Respondent will remit total principal payments for the civil penalty in the amount of six thousand eight hundred dollars (\$6,800.00) and total interest payments in the amount of fourteen dollars and seventeen cents (\$14.17).

33. If Respondent fails to make one of the installment payments in accordance with the schedule set forth in Paragraph 32, above, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, and Respondent shall *immediately* pay the entire remaining principal balance of the civil penalty along with any interest that has accrued up to the time of such payment. In addition, Respondent shall be liable for and shall pay administrative handling charges and late payment penalty charges as described in Paragraphs 36, 37, 38 and 39, below, in the event of any such failure or default.
34. Notwithstanding Respondent's agreement to pay the assessed civil penalty in accordance with the installment schedule set forth in Paragraph 32, above, Respondent may pay the entire civil penalty of six thousand eight hundred dollars (\$6,800.00) within thirty (30) calendar days after the date on which a copy of this Consent Agreement and Final Order is mailed or hand-delivered to Respondent and, thereby, avoid the payment of interest pursuant to 40 C.F.R. § 13.11(a) as described in Paragraph 37, below. In addition, Respondent may, at any time after commencement of payments under the installment schedule, elect to pay the entire principal balance, together with accrued interest to the date of such full payment.
35. Respondent shall remit each installment payment for the civil penalty and interest, pursuant to Paragraph 32, above, and/or the full penalty, pursuant to Paragraphs 33 or 34, above, plus any interest, administrative fees and late payment penalties owed, in accordance with Paragraphs 36, 37, 38, and 39, below, by either cashier's check, certified check, or electronic wire transfer, in the following manner:
 - a. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, *i.e.*, EPCRA-03-2011-0278;
 - b. All checks shall be made payable to "**United States Treasury**";
 - c. All payments made by check and sent by regular mail shall be addressed to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Customer service contact: 513-487-2105

- d. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines & Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

Contact: 314-418-1028

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

- f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account No. = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

- g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No.: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 - Checking

Physical location of U.S. Treasury facility:

5700 Rivertech Court
Riverdale, MD 20737

Contact: 866-234-5681

- h. On-Line Payment Option:

WWW.PAY.GOV/paygov/

Enter **sfo 1.1** in the search field. Open and complete the form.

- i. Additional payment guidance is available at:

http://www.epa.gov/ocfo/finservices/make_a_payment.htm

- j. Payment by Respondent shall reference Respondent's name and address, and the EPA Docket Number of this CAFO.

A copy of Respondent's check or a copy of Respondent's electronic fund transfer shall be sent simultaneously to:

James Heenehan
Senior Assistant Regional Counsel
U.S. EPA, Region III (3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029

and

Ms. Lydia Guy
Regional Hearing Clerk
U.S. EPA, Region III (3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

36. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment as specified herein shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

37. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a true and correct copy of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
38. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
39. A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
40. Respondent agrees not to deduct for federal tax purposes the civil monetary penalty assessed in this CAFO.

Certification

41. The individual who signs this Consent Agreement on behalf of Respondent certifies that the Facility referred to in this Consent Agreement is currently in compliance with all applicable requirements of EPCRA Section 313, 42 U.S.C. § 11023.

Other Applicable Laws

42. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations.

Reservation of Rights

43. This Consent Agreement and the accompanying Final Order resolve only EPA's claims for civil penalties for the specific violations of EPCRA Section 313, 42 U.S.C. § 11023, alleged herein. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under EPCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional

Hearing Clerk

Scope of Settlement

44. The settlement set forth in this CAFO shall constitute full and final satisfaction of Complainant's civil claims for penalties for the specific violations alleged herein. Compliance with the CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

Parties Bound

45. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents, and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the party represented to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

Effective Date


46. The effective date of this Consent Agreement and the accompanying Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his designee, the Regional Judicial Officer, is filed with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

Entire Agreement

47. This Consent Agreement and the accompanying Final Order constitute the entire agreement and understanding of the parties regarding settlement of all claims pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the parties other than those expressed in this CAFO.


For Respondent:

Date: 9/2/11

By: 
Arthur Newcomb, President
C & L Rivet Company, Inc.

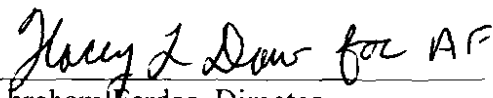
For Complainant:

Date: 9/7/11

By: 
James Heenehan
Senior Assistant Regional Counsel

Accordingly, I hereby recommend that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 9/16/2011

By: 
Abraham Ferdas, Director
Land and Chemicals Division

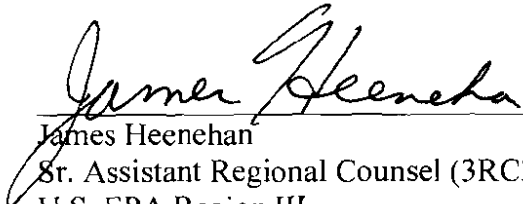
CERTIFICATE OF SERVICE

I certify that on the date noted below, I hand-delivered the original and one true and correct copy of the Consent Agreement and Final Order for *In the Matter of: C & L Rivet Company, Inc.* (Docket No. EPCRA-03-2011-0278), to the Regional Hearing Clerk (3RC00), U.S. EPA Region III, 1650 Arch St., Philadelphia, PA, 19103, and that I sent a true and correct copy of same to the below Party via UPS:

Respondent: Michael L. Roberson, Assistant Secretary/Director
Arthur Newcomb, President
C & L Rivet Company, Inc.
220 Jacksonville Road
Hatboro, PA 19040

9/21/11

Date


James Heenehan
Sr. Assistant Regional Counsel (3RC30)
U.S. EPA Region III

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