

What Is Causing Material Delays and Price Increases?

During the height of the COVID-19 pandemic, many of us felt the volatile effects of the supply chain disruption. As the virus spread, some manufacturers were forced to close temporarily, prices went up, and travel restrictions made distribution challenging. When 2021 arrived, we may have believed that the worse was behind us. However, additional factors are now coming into play. Among them are a lack of truck drivers and a rising price for diesel fuel.

Higher Construction Costs

From January 2020 to January 2021, we saw a variety of construction materials increase in price. For example, fabricated structural metal products went up by 3.2%, while steel mill products increased by 7.4%. In that same time period, iron and steel prices jumped by 15.6%, while softwood lumber prices escalated by 75%. Costs also swelled for insulation materials, copper and brass, gypsum products, asphalt, concrete production, and many other materials.

Costs have risen so sharply this year that the Associated General Contractors of America issued a Construction Inflation Alert, noting a 12.8% acceleration in construction project prices since the beginning of the pandemic. Unfortunately, that trend does not show any signs of slowing down.

The Driver Shortage

As you may know, more than 70% of all freight in the United States is transported and delivered by the trucking industry. That is a remarkable percentage, one that relies on the daily efforts of some 3.5 million truck drivers. However, the trucking industry is facing a driver shortage, estimated to be about 60,800 this year but expected to balloon to 160,000 by 2028.

This trucker deficit has been creeping up for the past several years. The industry is seeing that experienced drivers are getting older and beginning to retire, while fewer younger people are choosing that career. The issue has been exacerbated as online shopping has increased and consumer demand for goods is growing. To make matters worse, during the pandemic, many DMV offices and driving schools closed for a time, which brought about delays in training new drivers.

The driver shortfall is playing a role in increasing freight costs, which lead to higher prices for all types of goods and materials. To keep up with demand, according to the American Trucking Associations, the industry will need to hire some 1.1 million new truck drivers over the next ten years.

Rising Diesel Prices

Another challenge that the trucking industry must face is the rising cost of diesel fuel. The per-gallon price was \$3.07 in March 2021, which is 22 cents higher than it was in spring 2020. And experts expect that the cost will keep going up in the months ahead. This is bad news for trucking companies as fuel is their greatest expense, accounting for 39% of all operating costs.

Why are fuel costs rising? Experts are not in agreement, but some blame lower oil production around the world. Saudi Arabia, for example, has reported a 20% lower production. And even the United States has produced less oil in recent months, due in part to extreme winter weather that damaged equipment and limited output in Texas and other areas.

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Increased Material Prices

When you sign a contract, you base your price not only on labor but also on the cost of the materials you will be using. So, when those materials go up in price, your profit margin is in jeopardy. Given the driver shortage and the increased fuel costs, you can expect that your materials will become more costly in the coming months. So how can you combat that?

One solution is to include a price acceleration clause in your contract. This clause stipulates that if the cost of materials increases after the original agreement is signed, you are allowed to raise your price. With a standard price acceleration clause, you can increase your price if your material costs go up, by 5% for example, but that will not require a change order. However, the language likely will require you to provide the owner with documentation of the material price increase.

If you are a subcontractor, you can benefit from a price acceleration clause because it will permit you to increase your price to the prime contractor as needed. In turn, it would be wise for the prime contractor to include such a clause so it can raise its price to the owner as well.

Keep in mind that some owners will not agree to a price acceleration clause. In that case, you will have to state fixed prices in your contract. To make that work, you may want to consider buying and storing materials that you often need. This process would guarantee that you have an inventory purchased at a set price, and you will not be surprised by cost increases.

Material Availability and Delays

Given all the issues with the supply chain, you may suddenly find that certain materials you need are not available. To protect yourself from that scenario, you might want to add a material substitution clause to your contract. This provision will allow you to make a reasonable substitution if the specified material is unavailable due to matters beyond your control. It should also state that any price increase will be passed along to the customer.

You should also review your contract for stipulations regarding delays. Many kinds of delays, such as those caused by severe weather, are considered excusable and warrant time extensions for you to complete work. However, material delays may not be regarded as excusable, so you would need to accelerate your schedule. And paying your workers for those increased hours can be costly. If possible, include provisions in your contract that permit extensions for material delays.

Ongoing Advice

As you prepare for the coming months, there are a few steps you can take to protect yourself from increased prices and delays. Make sure to review your contracts and include the provisions discussed earlier. In addition, build good relationships with your vendors. A trusted partnership with your suppliers will put you in a better

position to get the materials you need. In addition, keep an open line of communication with your customers. Let them know when you anticipate delays and update them with your solutions. By managing their expectations, you have a better chance of successfully completing your projects and keeping your company viable for many years to come.

Disclaimer: The information contained in this article is for general educational information only. This information does not constitute legal advice, is not intended to constitute legal advice, nor should it be relied upon as legal advice for your specific factual pattern or situation.

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Cotney - Attorneys & Consultants is an advocate for the roofing industry and General Counsel of the National Roofing Contractors Association (NRCA). For more information, please visit www.cotneycl.com or call 866.303.5868.

Roofers Union Local #149/RIPF 36th Annual Scholarship Grant Program

In an effort to promote excellence in the roofing industry, Roofers Union Local #149 and the Roofing Industry Promotion Fund are working together to offer scholarship grants to worthy individuals.

This year the program offered four scholarship grants in the amount of \$1,000.00 each, to those eligible individuals who are attending or planning to enroll at an accepted college or university.

Scholarship Grants are possible through contributions by Roofers Union Local #149, the Roofing Industry Promotion Fund and the participating roofing contractor employer of the recipient's parent or guardian.

The 36th Annual Scholarship Grant Program winners are:

- Eloise Emery - Lake Orion, MI
Major: Human Biology
- Samantha Kirk - Taylor, MI
Major: Business Technology
- Julianna Lauzon - Rochester Hills, MI
Major: Undetermined
- Katelyn McFall - Flat Rock, MI
Major: Communications



Congratulations!

Birthday Wishes



Mike Mass - Roofing Products of Michigan, Inc.
July 23

Marie Schena - Schena Roofing & Sheet Metal Co., Inc.
July 31

Bret Pienkosz- T.F. Beck Company
August 5

Ed Karpinski - Lifetime Member
August 8

Jason Emery - Schreiber Corporation
September 4

Heather Hadley - SMRCA
September 21

Anthony Schena - Schena Roofing & Sheet Metal Co., Inc.
October 7

Pat Fritsch - Roofing Products of Michigan, Inc.
October 16

Stacy Foley - Crane Roofing, Inc.
October 20

Joe Bieszki - Architectural Building Specialties
October 26

Happy Retirement



Thomas E. Brown, Jr. - J.D. Candler Roofing Co., Inc.
Congratulations on your retirement!

After over 50 years as a prominent figure in the Southeast Michigan Roofing community, Mr. Brown has sold his interest in JD Candler to his groomed successors. Tom Brown and his family have been an integral part of the roofing industry since the 1900 when his grandfather, Bill Brown, opened the Detroit office of the Philip Carey Co, which later became CeloTex. Uncle Dick Brown formed Wright-Brown Roofing with Philo Wright in 1952. Tom began his career in 1967 at the age of 20 as a helper on the Clark Street Cadillac Motor manufacturing plant when his uncle Dick hired him. Tom eventually purchased Wright-Brown from his uncle and presided over the business until he sold it in 1999. In 1984 he purchased JD Candler with Kenneth Kreichelt who retired several years ago. Brown remained president until the sale in May 2021 to his successors.

Mr. Brown has served the industry and community as past President of the Southeastern Michigan Roofing Contractors Association; past President and Director of the Detroit Executives Association; past member of the Engineering Society of Detroit and still an active Rotarian. He formerly served as Vice Chairman of the Construction Association of Michigan; Chairman/member of the apprentice committee Roofing Industry Promotion Fund. As a former two-term Director for the National Roofing Contractors Association, he has served in various capacities on numerous committees. He was Co-Chair of the first NRCA committee, Elasto Plastics Committee that recognized the Single Ply industry. He co-authored the first Single Ply repair manual. As a 20-year faculty member at Roofing Industry Educational Institute of Denver, Colorado, he has co-authored coursework and taught single-ply application, repair courses and seminars.

A native of Michigan, Brown studied automotive marketing at Northwood University and served in the Army Reserves Military Police.

We wish Tom the best in retirement as he looks forward to spending more time on his love for golf, cars, and snow skiing with his wife Pam and son Tommy.

Happy Anniversary



Joe & Allison Bieszki - Architectural Building Specialties
September 21

Mary Jo Casey & Ken Dietrich - T.F. Beck Company
September 26

Anthony & Kristy Schena - Schena Roofing & S/M Co., Inc.
September 12

Chuck and Dee Rosa - Lifetime Member
October 16

Steve & Lisa Yontz - Roofing Products of Michigan, Inc.
October 17

Deepest Sympathy



Our deepest sympathy's are extended to the family and friends of:

Roger Lee - Royal Roofing Company

Michael Smelser - Smelser Roofing

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Infrastructure negotiations continue. President Biden and leaders in Congress continue efforts to negotiate a bipartisan infrastructure package. Although both sides have moved from their initial positions, the two parties are still far apart regarding the size and scope of any final package. Details of President Biden's opening offer can be found [here](#), and a recent Republican counteroffer can be found [here](#). Chairman Peter DeFazio of the House Transportation and Infrastructure Committee will lead a markup of his legislation, H.R. 3684, the Investing in a New Vision for the Environment and Surface Transportation in America Act, this week in committee. Many deadlines are coming up in late summer and fall, including a plan to address the debt ceiling, an expiration of current highway funding and other self-imposed deadlines of delivering a bill to the American people "soon." NRCA continues to monitor negotiations and advocate for a strong buildings component in any final infrastructure legislation.

H-2B seasonal guest worker program. The Department of Homeland Security released its temporary final rule that provides an additional 22,000 visas for the H-2B Temporary Non-Agricultural Worker program, as originally announced April 20, for the second half of fiscal year 2021 (April 1-Sept. 30). The rule opened the application process for visas when it was published May 25. Of the 22,000 additional visas, 16,000 will be available to returning H-2B workers who worked in the U.S. during at least one of the previous three fiscal years (2018, 2019 or 2020). The remaining 6,000 visas will be reserved initially for individuals from Guatemala, Honduras and El Salvador and individuals who are exempt from the returning worker requirement. If the 6,000 visas are not depleted by July 8, the unused visas will be made available to employers seeking H-2B workers regardless of the recipient's home country. DHS requires employers to comply with recruitment and other requirements to hire individuals with the visas in addition to complying with all applicable labor laws. The DHS action comes in response to pleas from NRCA and other organizations for the agency to provide additional visas given ongoing workforce shortages. The rule has been published in the *Federal Register* [here](#).

Occupational Safety and Health Administration guidance regarding employee vaccinations. On April 20, the Occupational Safety and Health Administration released new [FAQs](#) for employers who recommend or require their employees to receive COVID-19 vaccinations. Under the original FAQs, if an employer requires employees to be vaccinated, OSHA considered adverse reactions to the vaccines as "work-related," and employers must notify the agency within 24 hours of an employee's inpatient hospitalization (or within eight hours of an employee's death) resulting from an adverse reaction. Employers who recommend vaccination do not need to record or report adverse reactions or hospitalizations. On May 21, OSHA changed its policy with respect to the employer requirement to record adverse reactions if the employer requires employees to be vaccinated. As a result, OSHA will not enforce this recording requirement through May 2022 because it does not want to be viewed as discouraging vaccinations.

NRCA supports the continuation of stepped-up basis for capital gains taxes. NRCA recently sent a [letter](#) as a member of the Family Business Estate Tax Coalition, with more than 100 other associations, to leadership of the Senate Finance Committee and House Ways and Means Committee to outline support for the continuation of stepped-up basis for capital gains taxes when an individual who is a member of a

family-owned business dies. This letter comes as President Biden has proposed repealing stepped-up basis as part of his American Families Plan for purposes of capital gains taxes when assets transfer ownership at death, which could force many family-owned businesses to liquidate assets or lay off employees to cover the tax burden. Biden's proposal would be imposed on top of any existing estate tax liability, further compounding the negative effects. The letter references a recent [Ernst & Young report](#) that forecasts 80,000 jobs would be lost in each of the first 10 years and GDP would decrease by \$100 billion over 10 years if stepped-up basis were repealed. Further, the study found for every \$100 of revenue raised by repeal via taxing capital gains at death, \$32 would come out of the paychecks of workers.

Temporary Protected Status for Haiti renewed. The Department of Homeland Security announced the extension of [Temporary Protected Status for qualifying individuals from Haiti](#), effective May 21, given ongoing adverse conditions in the island nation. Under federal law, a country may be designated for TPS because of ongoing armed conflict, environmental disasters or extraordinary and temporary conditions. Individuals eligible for TPS under Haiti's new designation must file an application with U.S. Citizenship and Immigration Services within the registration period that will begin with a forthcoming Federal Register notice. NRCA supports the extension of TPS for countries as conditions warrant given the many individuals working within the roofing industry under TPS. Failure to do so would exacerbate ongoing workforce shortages and cause severe disruption for many hardworking individuals and families who have been contributing to their communities for many years. NRCA also recognizes the need for reform of TPS as a component of the immigration system Congress urgently needs to address. NRCA supports the Dream and Promise Act (H.R. 6), which would allow individuals with TPS who have a demonstrated employment record and meet other criteria to adjust to permanent legal status. This legislation was approved by the House in March and is pending before the Senate. NRCA urges lawmakers to continue working to develop bipartisan legislative solutions that can be enacted into law. Given a June 7 Supreme Court ruling holding those recipients of TPS are not eligible to obtain permanent legal status if they entered the U.S. illegally—despite being granted temporary legal status via TPS subsequently—it is now more urgent than ever Congress address this issue with a legislative solution.

The Clean Energy for America Act. The [Clean Energy for America Act](#) (S. 1298) recently passed on a party-line vote out of the Senate Finance Committee. This legislation is a major overhaul of energy-related tax incentives, including reform of several energy-efficiency tax credits of interest to the roofing industry, such as the Energy Efficient Commercial Building Tax Deduction (179D), the Energy Efficient Home Improvement Credit (25C) and the Energy Efficient New Home Credit (45L). NRCA believes these enhanced and expanded energy-efficiency tax provisions would benefit the roofing industry. However, NRCA believes Chairman Ron Wyden should add the Energy Efficient Qualified Improvement Property (E-QUIP) Act (H.R. 2346) to better incentivize retrofits of nonresidential roofs. Additionally, the Wyden bill contains prevailing wage requirements, as well as a requirement to use at least a percentage of employees enrolled in federally registered apprenticeship programs to receive the 179D nonresidential tax credit, which would exclude many NRCA members from participating in projects that would be eligible to receive these tax credits. NRCA outlined its views in a letter to Wyden and Ranking Member Mike Crapo, which can be found [here](#).

Employment Eligibility Verification compliance flexibility extended.

On May 26, U.S. Immigration and Customs Enforcement [announced an extension](#) of the flexibilities in rules for Employment Eligibility Verification (Form I-9) compliance initially granted in 2020. Because of COVID-19 precautions, the Department of Homeland Security will extend this policy until Aug. 31. This extension includes a temporary exemption from the physical inspection requirements associated with Form I-9 until they move to non-remote employment on a regular, consistent, predictable basis or until these flexibilities are ended. Employers are required to monitor the DHS and ICE websites for additional updates regarding when the extensions will be terminated and normal operations will resume.

Joint Employer Standard.

Rep. James Comer (R-Ky.) and Sen. Roger Marshall (R-Kan.) reintroduced the Save Local Business Act, legislation to codify a “direct” control joint employer standard in the Fair Labor Standards Act and National Labor Relations Act. This legislation comes at a critical time in the economic recovery when many small businesses are emerging from the COVID-19 pandemic and seek clarity in the law to help them better grow their businesses, create jobs, serve their communities and meet local, state and federal obligations to their employees, customers and the general public. A previous version of the bill was approved by the House in 2017 with bipartisan support; however, it faces an uphill battle given the Democrat-controlled chambers of Congress. NRCA joined more than 60 organizations in a [letter](#) supporting this legislation.

Don't miss these upcoming events benefitting ROOFPAC.

ROOFPAC will host “An Aperitivo in Italy” reception during Midyear Meetings in Chicago at Francesca’s on Chestnut July 7 from 6-7:30 p.m. A ROOFPAC contribution of \$125 per person and \$175 per couple is requested, and members of NRCA’s Political Insiders Council and their guests receive complimentary admission. In August, NRCA members can support ROOFPAC during the 2021 International Roofing Expo® in Las Vegas. NRCA is partnering with National Women in Roofing for ROOFPAC’s “An Evening in Las Vegas” Aug. 9 from 4-7 p.m. After the reception, there will be a live auction of unique items such as trips and art. A ROOFPAC contribution of \$150 per person and \$250 per couple is requested, and members of NRCA’s Political Insiders Council and their guests receive complimentary admission. For more information or to register for these ROOFPAC events, please contact NRCA’s Washington, D.C., office at (800) 338-5765 or tdorn@nrca.net. If you are not attending NRCA’s Midyear Meetings and/or the 2021 IRE but are interested in supporting ROOFPAC, please contact the Washington, D.C., office or visit nrca.net/advocacy/ROOFPAC.

Enhanced unemployment benefits exacerbate workforce shortages.

In a move to address worsening workforce shortages, 25 states have announced plans to end enhanced federal unemployment benefits before they expire Sept. 6. Several Republicans in Congress have introduced bills to reduce the current \$300 per week of enhanced benefits while moving up the expiration date to earlier in the summer, but the outlook is uncertain. The Biden administration recently lauded May job gains and indicated the president would not try to extend the enhanced unemployment insurance benefits beyond Sept. 6, reiterating these were always meant to be temporary until vaccinations were widely available and the economy gained its footing.

If you have any questions or would like more information regarding any of the issues discussed here, please contact NRCA’s Washington, D.C., office at 800-338-5765.

Newly Elected RIFP Trustees

May 1, 2021—April 30, 2022

The election results are as follows:



RIFP Trustees

President	Dan Casey	T.F. Beck Company
Vice-President	Roger LaDuke	LaDuke Roofing & Sheet Metal
Treasurer	Brian Sylvain	North Roofing Company
Secretary	Brian Moore	Schreiber Corporation

Newly Elected SMRCA Board of Directors

May 1, 2021—April 30, 2022

The election results are as follows:



SMRCA Board of Directors

President	Paul Schick	Newton Crane Roofing, Inc.
Vice-President	Anthony Schena	Schena Roofing & S/M
Treasurer	Roger LaDuke	LaDuke Roofing & Sheet Metal
Secretary	Dan Casey	T.F. Beck Company
Director	Brian Sylvain	North Roofing Company
Director	Brian Moore	Schreiber Corporation

**** SAVE THE DATES **
For Upcoming 2022 Events**

SMRCA Annual Golf Outing will be held on
Monday, May 23, 2022
at Twin Lakes Golf Club



MiRCA Annual Convention will be held
July 28-31, 2022
at Boyne Mountain Resort

JATC Training Center Information

The next term for all Detroit Apprentices will be as follows:

Apprentice 2 & Single Ply 1	Monday, July 19
Apprentice 1 & Single Ply 2	Tuesday, July 20
BUR 1 & Steep Slope 1	Wednesday, July 21
BUR 2 & Steep Slope 2	Thursday, July 22
Apprentice 7 & 8	Thursday, July 22
Hands On + Safety & Health	

Journeyworkers upgrade classes to improve your skills, your worth, and our Brotherhood/Sisterhood is available at no cost to all Detroit LU 149 members.

Dues must be current in order to enter the Training Center.

If you are interested in any of these classes, contact Thomas Jaranowski at the Training Center, 248-543-3847, or TJaranowski@DetroitRoofers.org to make arrangements.

The first step - ICC's 2024 code development process has begun

From April 11 to May 5, NRCA's technical services staff participated in the International Code Council's Group A committee action hearings for development of the 2024 I-Codes. More than 1,250 code change proposals were considered during 200 hours of virtual committee hearings. Of these, 32 proposals directly applied to roof assembly design and installation. The following highlights some of the roofing-related proposals and an explanation of the next steps in the ICC's process.

Group A changes

ICC split its development process for the 2024 I-Codes into two groups with Group A occurring this year and Group B occurring in 2022. Although most of the roofing-related content in the International Building Code's Chapter 15-Roof Assemblies and Rooftop Structures and International Residential Code's Chapter 9-Roof Assemblies falls within Group B, several roofing-related topics were addressed this year, including attic ventilation, rooftop occupancy requirements, the plumbing code's roof drainage requirements and the fire code.

ICC's General Committee approved Code Changes G159 and G160 relating to IBC's requirements for attic ventilation. Code Change G159 establishes minimum percentages of air-impermeable insulation in unvented attics. Code Change G160 corrects the minimum required vapor diffusion port area in unvented attics using air-permeable insulation installed in Climate Zones 1, 2 and 3 from 1:600 to 1:150. The code change proposal's proponent indicated the 1:600 ratio in IBC 2021 technically is incorrect and a minimum of four times more diffusion port area is needed.

ICC's Fire Committee approved two changes relating to attic ventilation in the International Wildland-Urban Interface Code. Code Change WUIC14 establishes an attic vent's maximum screen opening size of 1/8 of an inch to resist the entry of burning embers through attic vents.

Code Change WUIC15 requires attic vent openings be tested according to ASTM E2886, "Standard Test Method for Evaluating the Ability of Exterior Vents to Resist the Entry of Embers and Direct Flame Impingement," to resist burning embers and flames from entering attic spaces through attic vents. One concern with WUIC15 is ASTM E2886 only applies to intake vents. As a result, attic exhaust vents, such as ridge vents, may be interpreted as not being code-compliant.

ICC's General Committee also approved Code Change G20, which establishes occupant load, exit and egress requirements in IBC for occupiable roofs. Examples of occupiable roofs include vegetative roofs with assembly areas and rooftop patios and terraces. Previously, IBC had limited requirements applicable to occupied roofs and, as a result, interpretations varied.

ICC's Fire Committee approved Code Changes F15 and F16, which differentiate between vegetative roofs and landscaped roofs. With these code changes, a landscaped roof is a localized area on a roof that includes landscape planters, vegetation and hardscape. A vegetative roof is a roof assembly with vegetation throughout. IBC previously used the two terms interchangeably, which sometimes resulted in confusion and inconsistent implementation.

The Fire Committee also approved Code Changes S10, which adds specific performance, drainage, and fire- and wind-resistance

requirements to IBC for raised deck walkways on roof systems. An example of a raised deck walkway would be concrete pavers on pedestal supports over a membrane roof system. IBC previously did not specifically address raised deck walkways.

In addition, ICC's Fire Committee approved Code Changes F197, which adds a new section to the International Fire Code, Section 5003.13-Outdoor Rooftop Storage, Use and Handling addressing storage of hazardous materials and LP gas tanks on rooftops. Since IBC 2009, rooftop storage of materials was classified as outdoor storage; however, some IBC requirements contained minimum separation distances from buildings, which made rooftop storage impractical. This new section provides rooftop-specific guidance.

No code changes affecting roof drains, gutters or roof drainage systems were approved by ICC's Plumbing Committee.

Next steps

On May 24, ICC published its report of the committee action hearings, which includes the committee comments about the individual code changes and any modifications to the code change language from what was originally submitted. This report is accessible on ICC's website, iccsafe.org.

ICC will accept public comments until July 2.

From Sept. 22-29, ICC will hold a public comment hearing on Group A code changes in Pittsburgh. The public comments and an agenda for the public comment hearing will be posted on ICC's website by Aug. 13.

ICC's final action on Group A code changes will take place during ICC's online governmental consensus vote, which occurs after the September hearing.

ICC has established the deadline of Jan. 10, 2022, for submission of Group B code change proposals. ICC's Group B committee action hearing will be held March 27-April 6, 2022, in Rochester, N.Y. ICC's Group B public comment hearing will be held Sept. 14-21, 2022, in Louisville, Ky.

Code change proposals approved through ICC's Group A and B processes first will appear in the 2024 I-Codes, likely in late 2023.

NRCA will remain actively involved in ICC's code development process and will keep you apprised of developments.

Mark S. Graham is NRCA's vice president of technical services.

Upcoming Industry Trade Shows 2021

July 21-23	Florida Roofing & Sheet Metal Expo Kissimmee, FL	www.floridarooft.com
Aug. 10-12	IRE Las Vegas, NV	www.theroofingexpo.com
Sept. 15-20	2021 IIBEC International Convention and Trade Show Phoenix, AZ	www.iibec.org

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