



RELEASE – TRANSMISSION OF FEDERAL (EEOICPA) PROCEDURE  
MANUAL VERSION 5.0:

EEOICPA TRANSMITTAL NO. 21-01

April 2, 2021

EXPLANATION OF MATERIAL TRANSMITTED:

The Division of Energy Employees Occupational Illness Compensation (DEEOIC) is issuing this transmittal to notify staff of the publication of Federal (EEOICPA) Procedure Manual (PM) Version 5.0 (v5.0) which replaces v4.3, effective the date of publication of this transmittal.

Following are the content edits that make up PM v5.0:

• **Chapter 12 – Representative Services**

- Exhibit 12-1 has been edited to include language that complies with 29 CFR Part 71.2 regarding requests being signed as an unsworn declaration under penalty of perjury.
- Ch. 12.2c has been edited to clarify the process by which Authorized Representative (AR) and/or Power of Attorney (POA) information is validated within the Energy Compensation System (ECS). The language in v4.3 previously read:
  - c. *Authorization in Writing. Any representative appointment must be in writing. The information that is necessary for a claimant to appoint a representative is the representative's name, mailing address, and telephone number. The claimant is to date and sign the request. The claimant may appoint a representative by filling out the "Authorization for Representation/Privacy Act Waiver" (Exhibit 12-1), but use of this is not required. If the appointing document does not contain the representative's full name, telephone number and address, the CE obtains that information. Upon receipt of an AR notification, the CE or FAB staff person must enter the AR's information into the ECS.*

It has been updated in v5.0 to:

- c. *Authorization in Writing. Any representative appointment must be submitted in writing. The information that is necessary for a claimant to appoint a representative is the representative's name, mailing address, and telephone number. The claimant is to date and sign the request. The claimant may appoint a representative by filling out the "Authorization for Representation/Privacy Act Waiver" (Exhibit 12-1), but use of this form is not required. If the appointing document does not contain the representative's full name, telephone number and*

*address, the CE or FAB staff person obtains that information. The CE or FAB staff person is to determine within ECS whether DEEOIC has the AR registered with known contact information that the CE or FAB staff person can assign to the case file record or that a new AR entry is necessary. After inputting new AR contact information, a DO or FAB manager will validate the entry.*

- Chapter 12.5 has been edited to refer to the fact that a POA is to be registered in ECS with a cross-reference to the Document ID of the Solicitor’s response within the OWCP Imaging System (OIS). The language in v4.3 previously read:

*5. Authority of an Attorney-in-Fact or Legal Conservator/Guardian. A person with POA to act in the name of the claimant is an “attorney-in-fact.” There are also other types of legal designations that may exist such as a conservator or guardian. In any of these situations, a written instrument has to exist that grants legal authority for someone to act on behalf of another. The written instrument will include language that describes the specific authorities granted for one person to act on behalf of another, and can be different from one situation to another. A general POA authorizes one person to have complete authority to act on someone’s behalf on all matters, including signing documents and forms. In a special or limited POA, the authority to act may be limited to particular topics. Therefore, if an individual claims to have POA or some other legal authority to act on behalf of a claimant, the CE or FAB staff person must obtain a copy of the document conferring such authority. He or she must carefully examine the document to determine the scope of the legal authority granted. The CE or FAB staff person is to recognize any POA or other legal appointment, if the document upon which that appointment is made, conveys broad powers for the appointee to act on behalf of the claimant. Once the CE or FAB staff person receives documentation supporting the claimant has a POA, they will then update ECS with the new POA information. In those situations where the CE or FAB staff person determines that the legal authority of a person to act on behalf of a claimant is limited to a particular function that does not allow for engagement on the DEEOIC claim, he or she sends a letter to the claimant. The letter is to communicate what the concern(s) are regarding the appointment and is to specify what communication between the DEEOIC and the attorney-in-fact (or court-appointed representative) will and/or will not occur. In those situations where the CE or FAB staff person is unsure of the authority granted to a person to serve on behalf of a claimant or of the legal sufficiency of a document, he or she may consult with the Policy Branch for guidance.*

- a. *Form EN-20. In any situation where a person other than the specified payee is signing Form EN-20, the CE must submit the documents purporting to grant such power for review by the SOL to ensure that they are valid under the applicable state law.*

*When preparing documents for review by the SOL, the referring CE or staff person is to include as part of the referral package, a routine or terminal memo for review by the SOL (Exhibit 12-2). The referring CE or staff person uploads the memo to OIS and also sends a notification via*

*OIS to the designated NO staff person. Upon receiving the notification in OIS, the NO staff person verifies the information and refers a printed copy of the POA package to SOL. Once SOL processes the POA and returns the copy to the NO staff person, the NO staff person bronzes the Solicitor's response into OIS, indexing the document(s) as Category "Adjudication Documents." The Subject is "SOL opinion." The Description is "POA review memo from SOL for (payee name)." The document is to be left in an Unreviewed status in OIS for identification by the assigned CE.*

It has been updated in v5.0 to:

5. *Authority of an Attorney-in-Fact or Legal Conservator/Guardian.* *A person with POA to act in the name of the claimant is an "attorney-in-fact." There are also other types of legal designations that may exist such as a conservator or guardian. In any of these situations, a written instrument must exist that grants legal authority for someone to act on behalf of another. The written instrument will include language that describes the specific authorities granted for one person to act on behalf of another, and can be different from one situation to another. A general POA authorizes one person to have complete authority to act on someone's behalf on all matters, including signing documents and forms. In a special or limited POA, the authority to act may be limited to particular topics. Therefore, if an individual claims to have POA or some other legal authority to act on behalf of a claimant, the CE or FAB staff person must obtain a copy of the document conferring such authority. He or she must carefully examine the document to determine the scope of the legal authority granted. The CE or FAB staff person is to recognize any POA or other legal appointment, if the document upon which that appointment is made, conveys broad powers for the appointee to act on behalf of the claimant.*

*Once the CE or FAB staff person receives a legal document for a person to act on behalf of a claimant, he or she will determine if that person is already registered in ECS as an attorney-in-fact, conservator or guardian and, if found in the registry, assign that person to the case record. If the CE or FAB staff person determines that a legal instrument designates an unregistered person to act on behalf of the claimant, they are to input into ECS the contact information for that individual. ECS requires a manager to validate the accuracy of any new attorney-in-fact, conservator or guardian added to ECS.*

*In those situations where the CE or FAB staff person determines that the legal authority of a person to act on behalf of a claimant is limited to a particular function that does not allow for engagement on the DEEOIC claim, he or she sends a letter to the claimant. The letter is to communicate what the concern(s) are regarding the appointment and is to specify what communication between the DEEOIC and the attorney-in-fact (or court-appointed representative) will and/or will not occur. In those situations where the CE or FAB staff person is unsure of the authority granted to a person to serve on behalf of a claimant or of the legal sufficiency of a document, he or she may consult with the Policy Branch for guidance.*

- a. *Form EN-20. In any situation where a person other than the specified payee is signing Form EN-20, the CE must submit the documents purporting to grant such power for review by the SOL to ensure that they are valid under the applicable state law.*

*When preparing documents for review by the SOL, the referring CE or staff person is to include as part of the referral package, a routine or terminal memo for review by the SOL (Exhibit 12-2). The referring CE or staff person uploads the memo to OIS and also sends a notification via OIS to the designated NO staff person. Upon receiving the notification in OIS, the NO staff person verifies the information and refers a printed copy of the POA package to SOL. Once SOL processes the POA and returns the copy to the NO staff person, the NO staff person bronzes the Solicitor's response into OIS, indexing the document(s) as Category "Adjudication Documents." The Subject is "SOL opinion." The Description is "POA review memo from SOL for (payee name)." The document is to be left in an Unreviewed status in OIS for identification by the assigned CE. The CE will also update ECS with the OIS Document Identification Number of the Solicitor's response verifying that someone is permitted to sign the EN-20 on behalf of a claimant.*

- **Chapter 14 – Establishing Special Exposure Cohort Status**

- Ch. 14.4a(2)(a) has been edited to add clarity about the scope of Special Exposure Cohort class coverage at the Oak Ridge K-25 plant. The language in the final paragraph of Ch. 14.4a(2)(a) within v4.3 previously read:

*Documentation shows the presence or active processing of materials that emitted radiation at the sites for these dates. 2/1/1992 represents the date that DOE implemented uniform radiation protection practices consistent with current industry practices and regulations. The 12/1987 date referenced for the Oak Ridge K-25 plant corresponds to the cessation of uranium processing operations.*

It has been updated in v5.0 to:

*Documentation shows the presence or active processing of materials that emitted radiation at the sites for these dates. 2/1/1992 represents the date that DOE implemented uniform radiation protection practices consistent with current industry practices and regulations. The 12/1987 date referenced for the Oak Ridge K-25 plant corresponds to the cessation of uranium processing operations. From 12/1987 through 02/1/1992, SEC class coverage for a K-25 employee must either document his or her radiation monitoring with a dosimetry badge or establish that the employee had exposures comparable to a job that was monitored through the use of a dosimetry badge. During this period at K-25, the CE cannot assume that the employee had exposures to radiation comparable to a job that was monitored with a dosimetry badge.*

- Exhibit 14-1 has been updated to comply with the above.
- **Chapter 15 – Establishing Toxic Substance Exposure and Causation**
  - Bulletin 20-08, which updated presumption language for Asthma and Parkinsonism within Exhibit 15-4: Exposure and Causation Presumptions with Development Guidance for Certain Conditions, has been incorporated.
  - Bulletin 21-01, which added additional labor categories with significant exposure to asbestos based on their job tasks, and modified exposure criteria for the presumptive standard for non-Hodgkin’s lymphoma linked to lindane (1,2,3,4,5,6-Hexachlorocyclohexane) within Exhibit 15-4: Exposure and Causation Presumptions with Development Guidance for Certain Conditions, has been incorporated.
- **Chapter 16 – Developing and Weighing Medical Evidence**
  - Chapter 16.5a(1) has been edited to remove reference to a Contract Medical Consultant (CMC). The language in v4.3 previously read:

*(1) Establishment of a diagnosis requires that a physician interpret available clinical and diagnostic evidence to identify a disease or disorder. Alternatively, signs and symptoms are abnormalities that a physician may use to form a judgment of medical diagnosis. A claimed illness filed by a claimant that medical evidence establishes as a finding, sign or symptom is not necessarily a diagnosed condition. In those instances where unclear evidence exists whether the CE should categorize the claimed condition as a medical diagnosis or not, the CE is to seek clarification from the claimant’s physician or a CMC.*

It has been updated in v5.0 to:

*(1) Establishment of a diagnosis requires that a physician interpret available clinical and diagnostic evidence to identify a disease or disorder. Alternatively, signs and symptoms are abnormalities that a physician may use to form a judgment of medical diagnosis. A claimed illness filed by a claimant that medical evidence establishes as a finding, sign or symptom is not necessarily a diagnosed condition. In those instances where unclear evidence exists whether the CE should categorize the claimed condition as a medical diagnosis or not, the CE is to seek clarification from the claimant’s physician.*

- **Chapter 19 – Eligibility Requirements For Certain Uranium Workers**
  - Ch. 19.8a has been edited to address an incorrect Procedure Manual reference. The language in v4.3 previously read:
    - a. *Covered employment under Part E extends to RECA Section 5 workers as delineated in 2.b(1)-(3) of this chapter. When assessing a claim involving RECA*

*Section 5 coverage, the CE applies the following to his or her analysis of the evidence:*

It has been updated in v5.0 to:

- a. *Covered employment under Part E extends to RECA Section 5 workers as delineated in 2.a(1)-(4) of this chapter. When assessing a claim involving RECA Section 5 coverage, the CE applies the following to his or her analysis of the evidence:*

- **Chapter 21 – Impairment Ratings**

- Ch. 21.4d(2) has been updated to reflect the credentialing change for impairment rating physicians. The American Academy of Disability Evaluating Physicians (AADEP) no longer exists. The language in v4.3 previously read:

- (2) *Rating Physician Qualification. A physician who performs an impairment evaluation must satisfy certain criteria. In order for a CE to accept an impairment rating, the rating physician must hold a valid medical license and Board certification/eligibility in his/her field of expertise (e.g., toxicology, pulmonary, neurology, occupational medicine, etc.). In addition, the physician must meet at least one of the following criteria: certified by the American Board of Independent Medical Examiners (ABIME); certified by the American Academy of Disability Evaluating Physicians (AADEP); possess knowledge and experience in using the AMA's Guides; or possess the requisite professional background and work experience to conduct such ratings.*
  - (a) *A CE may determine the qualifications of the physician upon receipt of a letter or a resume demonstrating that the physician has a medical license and meets the requisite program requirements. There is no need to submit copies of his/her medical license or other certification.*
  - (b) *If a physician does not possess ABIME or AADEP certification, the physician must submit a statement certifying and explaining his/her familiarity and years of experience in using the AMA's Guides.*

It has been updated in v5.0 to:

- (2) *Rating Physician Qualification. A physician who performs an impairment evaluation must satisfy certain criteria. In order for a CE to accept an impairment rating, the rating physician must hold a valid medical license and Board certification/eligibility in his/her field of expertise (e.g., toxicology, pulmonary, neurology, occupational medicine, etc.). In addition, the physician must meet at least one of the following criteria: certified by the American Board of Independent Medical Examiners (ABIME); possess knowledge and experience in using the AMA's Guides; or possess the requisite professional background and*

work experience to conduct such ratings.

- (a) *A CE may determine the qualifications of the physician upon receipt of a letter or a resume demonstrating that the physician has a medical license and meets the requisite program requirements. There is no need to submit copies of his/her medical license or other certification.*
- (b) *If a physician does not possess ABIME certification, the physician must submit a statement certifying and explaining his/her familiarity and years of experience in using the AMA's Guides.*

- Exhibit 21-2 has been updated to comply with the above change.
- Exhibit 21-4, Page 3, regarding Chronic Obstructive Pulmonary Disease (COPD) [Emphysema and Chronic Bronchitis] Asbestosis, and Other Chronic Respiratory Conditions, has been updated to conform with language in Bulletin 19-02 that communicates exception options. The language in v4.3 previously read:

*Chronic Obstructive Pulmonary Disease (COPD) [Emphysema and Chronic Bronchitis] Asbestosis, and Other Chronic Respiratory Conditions must have the following reported within the past twelve months before impairment rating can take place:*

It has been updated in v5.0 to:

*Chronic Obstructive Pulmonary Disease (COPD) [Emphysema and Chronic Bronchitis] Asbestosis, and Other Chronic Respiratory Conditions must have the following reported within the past twelve months (except in limited circumstances due to the medical inability of a patient to perform the test or the unavailability of recent test results due to the death of the employee) before impairment rating can take place:*

- **Chapter 25 – FAB Review Process**

- Ch. 25.7a-d(4) has been revised in its entirety to provide information about a new FAB process for scheduling hearings. The language in v4.3 previously read:

7. *Hearing Requests. An oral hearing permits the claimant, his or her AR, and any witnesses to voice objections to a HR.*

- a. *Initial Handling of Hearing Requests. When a timely request for an oral hearing is received in the DO, action is immediately taken to forward the request to the FAB-NO. The referring office makes note of any special requests or needs of the claimant. The hearing scheduler tracks incoming requests for oral hearings and assigns the hearing to an HR in one of the five FAB offices.*

- b. *Acknowledgement. Following the assignment of a hearing request to a FAB hearing scheduler, the hearing scheduler sends an acknowledgement letter to the claimant and any AR confirming receipt of the hearing request. Each claimant party to the FD is to be sent an acknowledgment. The acknowledgement must be sent 30 days prior to the date of the hearing and includes the following notifications:*
- (1) *The hearing will be conducted within 200 miles roundtrip of the claimant's residence, absent compelling reasons to the contrary.*
  - (2) *All sworn testimony offered during the hearing will be transcribed for inclusion into the case file.*
  - (3) *The FAB, at its discretion, may schedule a telephone or video conference hearing. See paragraph d(2) below.*
  - (4) *If the claim involves multiple claimants, each is allowed to participate in the hearing.*
- c. *Hearing Assignments. The hearing scheduler may assign a hearing to an HR from any one of the five FAB offices. The hearing scheduler sends a hearing acknowledgment letter, schedules a date and time for the hearing, reserves the physical space for the proceedings, arranges for a court reporter to record the proceedings, and transmits the entire case file to the assigned HR. All pertinent information relating to the hearing and related correspondence is captured in ECS.*
- d. *Scheduling. Each claimant is provided written notice of the hearing at least 30 days prior to the scheduled date (unless waived by the claimant); advised that a one week notice must be provided to the FAB should he or she desire a person(s) other than himself or herself and his or her AR to attend the hearing; and advised that no independent video or audio recording of the hearing is allowed. See Exhibit 25-1 and Exhibit 25-2 for Sample Hearing Notice letters.*
- (1) *Travel to Hearing. While the FAB will try to set the hearing within a reasonable distance of the claimant, the claimant may be required to travel up to 200 miles roundtrip to attend the hearing. There is no reimbursement to the claimant for the expense of this travel. However, if an unusual circumstance causes the FAB to schedule a hearing that requires the claimant to travel more than 200 miles roundtrip, OWCP will reimburse him or her for reasonable and necessary travel expenses as outlined in 20 C.F.R 30.314(2).*



*In instances when multiple claimants request a hearing, the hearing is scheduled nearest the first claimant who requested a hearing. The remaining claimants are given the option to attend the hearing in person or participate via telephone.*

- (2) Telephonic and Video Conference Hearings. A hearing may be conducted by telephone or video conference at the FAB's discretion, or by claimant request. Only the hearing scheduler can schedule such a hearing, which will include all the aspects of an in-person hearing.*
- (3) Scheduling Changes. The FAB will entertain any reasonable request for scheduling the time and place of a hearing, but such requests should be made when the hearing is requested. The hearing scheduler will make every effort to accommodate the scheduling request of the claimant. An in-person hearing may be changed to a telephone hearing if a claimant or AR so requests. This change must be coordinated through the hearing scheduler.*

*Once the hearing has been scheduled and written notice has been mailed, it cannot be postponed at the claimant's request for any reason except as indicated in paragraph 4 below. However, the hearing scheduler may accommodate minor scheduling changes requested by a claimant or AR.*

*HRs may not independently make changes to the scheduled hearing time or place without supervisory approval. The change request must be made to the HRs supervisor and the supervisor will contact the hearing scheduling unit supervisor.*

*The HR contacts the claimant(s) by telephone prior to the hearing to confirm they are planning to attend the hearing at the arranged date, time and location.*

- (4) Postponing a Hearing. The FAB may grant a postponement of a hearing when the claimant or his or her AR has a medical reason that prevents attendance or when the death of the claimant's parent, spouse or child prevents attendance. The claimant or AR should provide at least a 24 hour notice. The FAB will make every effort to accommodate timely requests to postpone a hearing. In such cases, a new hearing will be set for the next hearing trip. Hearing scheduling unit supervisor approval is needed to postpone a hearing.*

It has been updated in v5.0 to:

7. Hearing Requests. *An oral hearing permits the claimant, his or her AR, and any witnesses to voice objections to a HR.*

- a. *Initial Handling of Hearing Requests. FAB management is responsible for coordinating the assignment of a case file record to an HR once a DO has issued a RD. Upon upload into OIS of a timely written request for an oral hearing in response to the issuance of a recommendation of the DO, the assigned HR becomes responsible for coordinating the scheduling of the hearing. If for whatever reason the case file requires transfer to a different HR, or if for whatever reason the case is not assigned to an HR at the time a hearing request is received, FAB management is responsible for coordinating the assignment of the case file record to an HR, who shall then be responsible for scheduling the hearing.*
- b. *Acknowledgement. Once the timely written request is uploaded into OIS, the HR assigned to the case telephones the claimant, or AR, to acknowledge receipt of the hearing request. The HR is to engage with the claimant, or AR, to settle on a mutually acceptable date and time for the hearing. As part of the communication with the claimant, the HR is to reach agreement on the hearing format (telephone, video, or in-person). If the claimant chooses to pursue an in-person hearing, the HR will discuss options available for locations for such a hearing. The HR is to record any arraignments in an ECS telephone call note. If the HR is unable to contact the claimant, or the claimant's AR, the HR is to record at least two attempted calls in the ECS telephone log. The attempted calls should occur on two different days, at different times of day. In the event that the HR is unable to make verbal arrangements for the hearing, the HR proceeds with scheduling the hearing absent input of the claimant or their AR. In the event that multiple claimants in a case request a hearing, the HR contacts the claimant who made the request first, and coordinates the date, time, and location with that claimant.*
- c. *Hearing Notification. Once the HR has arranged a hearing, the HR completes an internal referral document and forwards it to a Hearing Scheduler. Once the Hearing Scheduler receives the referral document from the HR, the Hearing Scheduler undertakes actions necessary to facilitate the hearing, arranging for a court reporter to record the proceedings, reserving physical space for the hearing if in-person or via video conferencing, or, for telephonic hearings, obtaining a single-use conference calling number. The Hearing Scheduler then prepares and mails a Notice of Hearing to the claimant and AR, updating ECS with the pertinent information relating to the scheduled hearing. The Hearing Scheduler then completes the referral document(s) received from the HR and emails a copy to the assigned HR. The Hearing Scheduler also attaches a copy of the finalized Notice of Hearing to the email. The*

*Hearing Scheduler is to upload all finalized documents, including the completed referral document from the HR, into the OIS.*

*If the Hearing Scheduler cannot accommodate the requested hearing date for whatever reason, the Hearing Scheduler is to contact the HR and explain the need for a new date for the hearing. Under this circumstance, it may be necessary for the HR to contact the claimant to ascertain a new hearing date. Once the new hearing date is determined, the HR will contact the Hearing Scheduler to notify the HR of the new hearing date. The HR will then complete an updated referral document.*

(1) *Within the hearing notice, FAB will provide each claimant written notice of the scheduled hearing including instructions for the hearing logistics (in-person, video, or telephone). The notice provides other important information about the hearing including the claimant's rights to have other participants present. See Exhibit 25-1 and Exhibit 25-2 for a Sample Hearing Notice.*

d. *Changes to the Scheduled Hearing. The assigned HR may consider a reasonable request to postpone a scheduled time and place of a hearing. The assigned HR may accommodate a scheduled hearing change; however, the claimant must document a convincing or compelling basis for any hearing postponement including the death of a close family member, documented illness, or some other justifiable explanation. The HR must receive clearance from a FAB management official to postpone a hearing.*

- **Chapter 27 – Reopening Process**

- Ch. 27.3c(5) has been updated to replace “permanent partial impairment” with “whole person impairment.” The language in v4.3 previously read:

(5) *New Medical Evidence. New medical records or documentation is submitted, which clearly establishes a diagnosis of a medical condition or the existence of a percentage of permanent partial impairment, previously denied in a FD due to insufficient medical evidence.*

It has been updated in v5.0 to:

(5) *New Medical Evidence. New medical records or documentation is submitted, which clearly establishes a diagnosis of a medical condition or the existence of a percentage of whole person impairment, previously denied in a FD due to insufficient medical evidence.*

- **Chapter 33 – Compensation Payments**

- Ch. 33.3b, regarding retention policy for EN-20s, has been deleted. As such, the remaining subsections of Ch. 33.3 have been renumbered accordingly.
- Ch. 33.8c has been updated to conform with DOLs document retention schedule. The language in v4.3 previously read:

*c. Retention of Documents. Upon completion of any payment, both DO and NO staff will retain the original payment documents (excepting the EN-20) in accordance with the document retention schedule for OIS documents. (EN-20 forms will be retained by the FO, for a period of 3 years, as previously specified in 3a.)*

It has been updated in v5.0 to:

*c. Retention of Documents. Upon completion of any payment, both DO and NO staff will retain the original payment documents in accordance with the document retention schedule for OIS documents.*

- **Chapter 35 – Overpayment Process**

- Bulletin 19-05, which updated the address to which claimants submit payments, has been incorporated into the following exhibits:
  - Exhibit 35-2: Sample Initial Overpayment Notification Letter - Without Fault
  - Exhibit 35-3: Sample Initial Overpayment Notification Letter – At Fault
  - Exhibit 35-4: Sample Letter to Non-Claimant Regarding Federal Debt
  - Exhibit 35-8: Sample Overpayment Final Decision – Preliminary At Fault Determination Correct
  - Exhibit 35-9: Sample Overpayment Final Decision – Without Fault – Waiver Denied
  - Exhibit 35-11: Sample Overpayment Final Decision – Waiver Granted (Full or Partial) Based on Violate Equity and Good Conscience

- **Chapter 36 – Debt Liquidation**

- Bulletin 19-05, which updated the address to which claimants submit payments, has been incorporated into the following exhibits:
  - Exhibit 36-1: Sample Second Demand Letter
  - Exhibit 36-2: Sample Third Demand Letter

- Exhibit 36-4: Sample Repayment Agreement

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