

*Passive Restraints*

## Coleman Agreements Fall Short Of Goal

Former Transportation Secretary William T. Coleman, Jr., announced shortly before leaving office that he had reached written agreement with four auto manufacturers to equip a limited number of future cars with air bags and passive belts. But the terms of the agreements disclosed by Coleman fell far short of his plans, announced in a December 6 decision, for a "voluntary" passive restraint demonstration program by auto companies. (See *Status Report*, Vol. 11, No. 19, Dec. 13, 1976.)

The new Secretary of Transportation, Brock Adams, already has stated that he will "review most carefully" Coleman's handling of the passive restraint issue.

In his December 6 decision, Coleman said he was declining to issue a federal motor vehicle safety standard requiring full-front air bags or other equivalent passive protection in future new cars, even though he stressed that such a standard would save more than 12,000 lives a year when all cars on the road were so equipped. Instead, Coleman called on the auto companies, who have resisted providing passive restraint technology for many years, to show "social and corporate" responsibility by voluntarily entering into agreements with the Department of Transportation for the demonstration program.

Under the terms of the agreements which Coleman signed with General Motors, Ford Motor Co., Mercedes-Benz and Volkswagen:

- DOT's hands are tied from using its powers under the National Traffic and Motor Vehicle Safety Act of 1966 to issue or even propose a passive restraint requirement for any or all future new cars; if it does so, the agreements provide that the auto companies may immediately cancel their demonstration programs.

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### *What Coleman Wanted . . . And What He Got*

The agreements with the four auto manufacturers provide significantly less than Coleman said he wanted in his December 6 decision on occupant crash protection. (See *Status Report*, Vol. 11, No. 19, Dec. 13, 1976.)

#### NUMBER OF CARS

**December announcement:** Coleman suggested that "a combined total of approximately one-half million automobiles" would be equipped with air bags.

**Agreement:** Under the agreements a maximum of only 442,250 cars (300,000 from General Motors, 140,000 from Ford and 2,250 from Mercedes-Benz) will be equipped with air bags.

Ford and GM are committed to the actual production of only 10,000 and 20,000 air bag equipped cars, respectively, at the beginning of each of the two model years involved; above

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- The two-year demonstration program will not begin until the 1980 model year. If DOT keeps its end of Coleman's bargain and refrains from proposing a passive restraint standard during the life of the program, it could be as late as the 1985 model year – nearly a decade away – before such a standard could take effect and air bag-type protection become standard equipment on all new cars.

- General Motors and Ford, who will produce most of the air bags involved in the agreements, are actually committed to manufacture no more than 60,000 such cars. They must only “establish the capability of manufacturing” the total of 440,000 such cars that Coleman emphasized in announcing the agreements.

## RESTRAINT ON RULEMAKING

Although Coleman claimed that “there is not one word in these contracts that prevents any future Secretary or any future Congress from ordering mandate air bags tomorrow,” the cancellation clauses of the contracts represent an unprecedented restraint on DOT's rulemaking power. It is highly unusual for a government agency to offer the industry it regulates a contract contingency limiting its own freedom to take administrative action.

The Ford contract provides that the demonstration program will terminate on the date that DOT or the National Highway Traffic Safety Administration issues either a passive restraint final standard under

## *What Coleman Wanted . . .* (Cont'd from page 1)

these numbers, their commitment is only to what the Ford agreement calls “establishing the capability of manufacturing” the larger number. The remaining 60,000 cars needed to meet Coleman's half million target will be Volkswagens equipped with passive belts.

## MODEL YEAR

**December announcement:** Coleman said the demonstration program cars should “be available for purchase beginning Sept. 1, 1978.”

**Agreement:** The agreements put off the start of the air bag car program until September 1979.

Coleman decided on the one year delay after being persuaded by the auto companies that “re-design and re-tooling necessary prior to production would require six months more” than he had anticipated. He opted for an additional six month delay in order “to assure effective marketing” by starting the program “at the beginning of the model year 1980.”

## MODEL SIZE

**December announcement:** Coleman called for air bag equipped cars “in various model sizes.”

**Agreement:** The GM cars with full-front air bags will all be intermediate size. The Ford and Mercedes-Benz driver-side only air bag equipped cars will all be compacts.

When asked why there would be no full-size cars in the program, Coleman replied, “. . . basically there are very few Cadillacs sold . . .” and that “we think more people would go to compact cars because of the energy crisis.”

standard 208 or a notice proposing that passive restraints would be required in the future. Thus, in order to preserve the demonstration program, DOT could not issue even a Notice of Proposed Rulemaking until the end of the 1981 model year. Assuming that auto manufacturers need the three years in leadtime they have previously claimed necessary (see *Status Report*, Vol. 10, No. 11, June 18, 1975), a passive restraint standard could not take effect until the 1985 model year. This is a delay of at least five years beyond the date a passive restraint standard could have taken effect had Coleman issued it now. (The GM contract contains a similar clause, though it is worded ambiguously and might be interpreted as cancelling the agreement only when a passive restraint standard, whether ordered by DOT or Congress, took effect.)

## COSTS

Coleman announced that GM's full front air bags will retail for \$100 and Ford's driver-side only air bags will cost \$50 retail. These prices follow Coleman's December opinion that "if air bags were installed as standard equipment, I believe that the additional cost should be not more than \$100 per vehicle, in 1976 dollars." The agreements, however, allow for a higher price if the General Accounting Office or a major independent accounting firm selected by DOT determines that the estimated average total unit cost, including dealer markup, would be higher if air bags were installed in all GM or Ford cars in the 1980 model year. The agreements also contain inflation provisions allowing for price increases linked to increases in the Consumer Price Index.

Coleman said he would request a GAO estimate because "price proved to be a major issue" and "I believe it is constructive and appropriate to involve Congress — through the GAO — in reviewing these estimates." Coleman said he remained "confident that such a review will confirm the Department's conclusions about full production cost."

(It is unusual for an executive branch agency to request the GAO — an arm of Congress — to undertake an audit. A GAO official said he could not recall any request "of so extensive a nature." He added that GAO has not yet received any DOT request, which the agency would study "on its own merits" before deciding how to respond.)

A DOT official involved in drafting the agreements said he was not sure what authority the Department had to make the request but they hoped GAO would undertake the study since "Congress is interested" in the air bag question. At his press conference announcing the agreements, Coleman urged Congressional committees to hold hearings on the air bag issue.

## MARKETING

Both the Ford and GM contracts commit the manufacturers to "specific measures to assure that the cars are marketed effectively," Coleman said. "Examples of these marketing measures are: providing dealers with specific quantities of air bag cars as part of their initial stock for the model year; committing to a specific rate of production for air bag cars or assuring a certain number are available for purchase in dealership each calendar quarter; and spending a specific amount on promotion — between \$5 million and \$15 million in the case of GM and at least \$2 million in the case of Ford."

In its agreement with DOT, Mercedes-Benz agreed to produce 750 cars equipped with driver-side only air bags in the 1980 model year and 1,500 similar cars in the 1981 model year. (It is understood that Mercedes-Benz had intended, even before Coleman's December announcement, to start marketing air bag cars in the United States.) Since Mercedes-Benz is committed to the actual production of a certain number of air bag cars, and since its cars are expensive, Coleman said, DOT has agreed that the retail cost of the driver-side only air bag option will be \$425.

Volkswagen agreed to produce 60,000 cars equipped with passive belts in the 1978, 1979 and 1980 model years. Volkswagen has already sold 50-60,000 Rabbits with passive belts, according to a VW official, and this agreement will merely continue its present plans to keep the passive belts in production.

## **DOT OBLIGATIONS**

As its part of the bargain, DOT agreed in each of the agreements to “establish a procedure within NHTSA to monitor the results of this demonstration program,” as the GM contract said. NHTSA will compile data on “accidents involving passenger cars equipped with the passive option, analyze the data, use the data to study the reliability and effectiveness of passive restraints . . . and furnish such data” to the manufacturers.

DOT also agreed to “familiarize the public” with the characteristics of air bags, including, in the Ford contract, “expected benefits and limitations of [these] devices.”

## **INSURANCE**

Coleman announced that three insurance companies – Allstate, Nationwide and Volkswagen Insurance – have agreed to “continue to offer premium reductions of 30 percent [on medical payments or personal injury protection coverage] for the full-front passive restraint-equipped cars and to offer appropriate reductions for the other restraint systems.” He said it was “important to the success of the program that other insurance companies come forward with similar commitments.”

Both Ford and GM, Coleman said, raised the problem of “products liability litigation growing out of the introduction of passive restraints.” GM has been offered products liability coverage for its air bag cars by Allstate Insurance Co. on the same terms as its present products liability coverage with another carrier on its non-air bag cars, according to Coleman, and Ford is close to reaching a satisfactory arrangement. Both agreements with DOT were contingent upon the auto makers finding satisfactory products liability coverage.

## **CONTRACT CONDITIONS**

Both Ford and GM have agreed to provide occupant protection that qualifies under standard 208. The GM agreement states that either a lap belt, or a three point belt with “detachable upper torso portion,” will be installed with the air bag system. Ford did not specify what type of belt, if any, will be installed but merely stated that the air bags would “conform to the Occupant Crash Protection Requirements and Injury Criteria” of standard 208. Another contingency clause, in the Ford agreement, cancels the Ford program if NHTSA even starts an enforcement proceeding involving the compliance of any Ford-built demonstration program car with the occupant protection requirements of standard 208. (A defect proceeding would probably also terminate the agreement, but DOT officials said they had not anticipated a defect recall in drafting the agreement.) GM reserved the right to produce up to 50,000 cars with driver-only air bags as part of its 300,000 production capability, if this were “desirable” to “meet market demand.”

Both agreements specify that GM and Ford don’t have to build the cars if reputable suppliers cannot produce “supplies of satisfactory quality and required quantity,” as the GM contract said. According to an attachment to the GM contract, GM plans to install “a new pyrotechnic system using the latest technology” in the demonstration program air bags, rather than the system used in the limited number of 1974-76 Cadillacs, Buicks and Oldsmobiles that were equipped with an air bag option.

## **VOLVO**

Another auto manufacturer, Volvo of America Corp., was involved in negotiations with Coleman but did not reach an agreement.

In a January 12 letter to Coleman, Volvo said that it could not answer certain “key questions concerning componentry, production, cost and, most important, marketability” in time to commit itself to taking part in the demonstration program. Volvo said it “intends to support the Department of Transportation’s efforts to bring about better restraint systems and increased restraint usage” and expressed support for the demonstration program.

### ADAMS WILL ‘REVIEW’ PLAN

Prior to announcement of the agreements, Transportation Secretary Adams, commenting on his predecessor’s demonstration program plan, told the Senate Commerce Committee that the “FMVSS 208 ‘air bag’ opinion of Secretary Coleman should be reviewed simultaneously with the question of the level of seat belt usage and methods of increasing public use of seat belts.

“Secretary Coleman has made a subjective judgment that the public would reject passive restraints and has concluded therefore that mandatory passive restraints should not be required at this time. It is that judgment which must be reviewed most carefully. It should also be pointed out that the public would have the opportunity to express its acceptance or rejection of passive restraints through the Congressional veto procedure included in the 1974 amendments to the National Traffic and Motor Vehicle Safety Act of 1966 . . .” Adams said in a written response to questions from the committee prior to his confirmation.

## NHTSA Seeks Ideas To Upgrade Belts

Suggestions for upgrading safety belt standards to improve occupant protection, comfort and durability have been requested by the National Highway Traffic Safety Administration in an Advanced Notice of Proposed Rulemaking. The notice acknowledges a number of criticisms of active belt systems, including the lack of dynamic testing requirements and injury criteria in the current belt standard, the tendency of belt systems to malfunction, and low usage rates.

The notice was issued following former Secretary of Transportation William Coleman, Jr.’s decision not to mandate passive restraints in new autos. It seeks comments on four major questions:

- “Would the establishment of injury criteria and dynamic tests for seat belt assemblies” improve effectiveness?
- Would improved convenience and comfort of safety belts increase usage?
- Should durability requirements be added to the current standards?
- Would systems such as continuous warning lights increase usage?

### INJURY CRITERIA

The current passive restraint requirements of the federal occupant protection safety standard (FMVSS 208) specify injury criteria that must be met by new cars with air bags or other passive restraint systems. The criteria are applied in crash tests of such cars with anthropomorphic dummies in the front seats. At present, there are no such requirements for active belt systems, although passive belts – such as those found on some Volkswagen Rabbits – must meet the crash test requirements.

“The agency is contemplating a requirement for a dynamic test for [active] belt systems. The test would be a frontal and frontal oblique test at 30 mph into a fixed flat barrier,” the notice states. It did not, however, specify what injury level limits would be required for the dummies. Other possible requirements

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proposed in the notice include limiting the amount of "belt load," or force restraining the dummy by the belt, in a crash; insuring locking of the retractor mechanism during precrash maneuvering and throughout the crash sequence; the use of energy-absorbing webbing; improved methods for eliminating slack in crash situations, and methods to reduce facial and abdominal injuries among belt users.

## COMFORT AND CONVENIENCE

The agency is also seeking suggestions for making safety belts more convenient and comfortable. The notice said NHTSA is considering a "jury rating" method wherein samples of individuals, representative of the range of intended users, subjectively assess qualities" of various belt systems and rate them.

The notice also asked for comments "on potential loss of seat belt effectiveness that could result from the addition of comfort and convenience features. It is evident that some improvements in design for comfort may be made at the expense of effectiveness."

## *Quoted Without Comment*

*The following are excerpts from statements by Brock Adams, the new Secretary of Transportation, submitted in connection with his Senate confirmation hearings.*

**Value of Life:** "Critics of regulation have very unwisely attempted to lump together economic with safety regulations. Although there are economic costs associated with safety regulation, these must be set against the protection of human life and property. If it is possible to set an economic value of human life, that value would be so high as to outweigh the cost of eliminating obvious safety hazards."

\* \* \*

**The Cost Issue:** "While the cost of regulation must be taken into account, I do not believe that the present techniques of 'cost analysis' are sufficiently precise to be the primary factor in making a decision on a safety regulation. In setting performance standards, which could be met by different technologies, it may not always be possible to establish a precise dollar cost figure. It obviously would make no sense to set a standard so rigorous in its requirements that it would make a vehicle so costly that it could not be sold. But it seems to me that this is a matter of good judgement and common sense rather than a mathematical equation."

\* \* \*

**Pedestrians:** "As other areas of traffic and vehicle safety are brought under better control, a growing proportion of traffic injuries and fatalities are suffered by pedestrians. I believe that NHTSA and the Federal Highway Administration should both be concerned about the pedestrian. Likely measures for investigation include the redesign of motor vehicles to remove external elements that can cause serious injury, expanded programs for pedestrian education, and design of highway and traffic systems that are sensitive to pedestrian safety."

\* \* \*

## DURABILITY

According to NHTSA, "Surveys of new car owners and rental car fleets indicate that a significant percentage (10 to 35 percent) of seat belt assembly and warning system components malfunction relatively soon after introduction into service."

"For example," said the notice, "many systems develop webbing that is twisted or folded double . . . . Use of these systems becomes difficult or impossible for the average vehicle occupant . . . . These failures stimulate negative attitudes and hostility toward belt use, the automobile manufacturers, and government regulation, and provide substance for arguments opposing seat belt use."

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The following editorial is reprinted from *The New York Times*, December 23, 1976.

### **The Air Bag Decision**

The air bag as a safety device in automobiles posed a problem for Secretary of Transportation William T. Coleman, Jr. His careful study of the evidence showed that the air bag is technologically feasible, can be mass-produced at a reasonable cost and, if used in all cars, would save an estimated 12,000 lives a year and prevent or reduce the severity of 100,000 injuries. It is this same evidence that has prompted safety and consumer groups to press for compulsory installation of air bags in all automobiles by 1980.

But Secretary Coleman also knew that imposition of the air bag might evoke hostile public reaction. Rather than risk such resistance, the Secretary has cautiously requested the automobile companies to enter into a voluntary agreement by which at least two of them will produce 250,000 air bag-equipped cars annually in the 1979 and 1980 model years. The hope is that the gradual introduction of the air bags on a limited basis will familiarize motorists with them.

Secretary Coleman, however, was ultra-cautious. Unlike seat belts or safety helmets that physically restrain the driver, the air bag is tucked away out of sight. The driver is unaware of its existence except in the emergency circumstance when it is needed. Moreover, as Secretary Coleman recognizes, repeated testing has shown there is no basis for the fear that the bags might inflate inadvertently and cause a dangerous loss of control.

In view of these facts, it is questionable whether a device that would save thousands of lives and prevent many serious injuries ought to be deferred while it receives still another limited test and, for most drivers, be postponed to the indefinite future.

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The agency asked for comments on how these systems could be made less prone to malfunction and also means of "assuring that repairs for such malfunctions are available rapidly . . ." It also asked for suggestions as to how to make belt systems "less susceptible to circumvention or defeat."

### IMPROVED WARNING SYSTEM

According to NHTSA, "Studies of seat belt usage in 1975 model vehicles indicate that a sequential logic system which incorporates a visible reminder light of continuous duration and a 4- to 8-second audible reminder could produce usage rates significantly greater than those obtained with the warning system presently specified."

NHTSA said that several auto makers told it that increased usage would result from extended warning systems, and it therefore requested "the arguments and data that underlie these suggestions."

Comments in response to the advance notice should be submitted to Docket No. 74-14, Notice 7, Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh St., S.W., Washington, D.C. 20590. The comment closing date is April 15, 1977. Ten copies are requested. The full text of the advance notice can be found on pages 54961-54964 of the *Federal Register* for Dec. 16, 1976.

### ***Passive Restraint Bill Introduced***

The chairman of the House Consumer Protection Subcommittee has introduced a bill to force DOT to issue a federal standard requiring that auto makers provide passive restraints in all new automobiles sold in the U.S.

Rep. John Murphy (D-N.Y.) said the legislation was needed because former Secretary of Transportation William Coleman's demonstration plan "did not upgrade auto safety; it simply called for more voluntary studies by the industry. To save lives, we need effective federal legislation, not administrative platitudes."

"In effect, the Secretary gave us [Congress] back the issue, and I think it is time that we take account of the clear facts and require passive restraints," Murphy said.

In his press conference announcing the agreement with auto makers, Coleman expressed a different view: ". . . certainly there are many more things more pressing in this Congress for the first 60 days than the issue of air bags and I honestly felt that this Congress would not give it the type of attention that it required and that was another reason why I suggested the demonstration program."



## NHTSA Proposes Titling Rules

The National Highway Traffic Safety Administration has proposed a new Highway Safety Program Standard which would set a uniform motor vehicle titling procedure for all states. The standard is aimed at reducing "the incidence of motor vehicle theft and the resulting operation of unsafe vehicles."

Under the proposed standard, each state would be required to:

- Issue a title for every vehicle (indicating whether the vehicle is being sold for salvage);
- Cancel the title of vehicles sold for salvage;
- Issue a special title for and require a special inspection of reconstructed vehicles;
- Record the vehicle identification number (VIN) for each vehicle titled and each vehicle for which the title has been cancelled;
- Return the title documents for salvage vehicles to the state originally issuing the title;
- Evaluate the titling program annually.

The proposed standard also includes optional provisions for, among other things, tying in the computerized National Crime Information Center to the state titling programs. (The concept of dividing Highway Safety Program Standards into mandatory and discretionary provisions was introduced by NHTSA last January. See *Status Report*, Vol. 11, No. 3, Feb. 18, 1976.)

The proposed vehicle titling and theft standard is designed to affect only theft for the purpose of resale or parts sale. Basing the estimate on 1967 and 1971 data, NHTSA said it believes it is reasonable to assume that "10 percent of vehicles stolen [are stolen] for resale." The agency estimates that if the standard reduced the number of such thefts by 20 percent, owners would save about \$29 million. The reduction in numbers of accidents and fatalities achievable through implementation of this standard is unknown.

If adopted, the standard would be included among 18 existing standards for the state and local Highway Safety Program.

The full text of the proposed standard appeared in the *Federal Register* on Nov. 22, 1976. Comments on it should be addressed to Docket No. 76-07, Notice 1, Docket Section, NHTSA, Room 5108, 400 Seventh St., S.W., Washington, D.C. 20590. Five copies are requested but not required. The closing date is Feb. 15, 1977.

### Update . . .

**HIGHWAY ENGINEER RESPONSIBILITY:** Copies of the recent speech by Howard Anderson, associate administrator for safety at the Federal Highway Administration, warning highway engineers not to "shrug off our safety responsibility" (*Status Report*, Vol. 11, No. 18, Nov. 30, 1976) are now available in pamphlet form. "Dispelling A Myth" can be obtained by writing to: Office of Public Affairs, Federal Highway Administration, 400 7th St., S.W., Washington, D.C. 20590.

## FHWA Bans Use Of Timber Barricades

A year and a half after the National Transportation Safety Board cited the timber barricades used in many street and highway work zones as "hazardous" and "inadequate," the Federal Highway Administration has decided to forbid their use on federal-aid projects.

In a recent memorandum to its field offices, FHWA reported the results of full-scale crash tests on the barricades and noted that, in each test, the barricades "failed to prevent penetration and did not adequately redirect the vehicle. The upright members splintered into many pieces and the resulting flying debris could have been a hazard to construction personnel, pedestrians or occupants of the impacting vehicle or passing vehicles."

The tests used full-sized passenger cars impacting at 38.5 miles per hour at a 7 degree angle and 35.2 m.p.h. at a 15 degree angle.

NTSB's 1975 conclusions were in a report on a three-fatality crash involving timber barricades and other traffic control violations on a 22-mile Interstate construction project in northern Virginia. The recent crash tests were undertaken as part of a settlement of a suit brought by members of the Center for Auto Safety, several motorists, and the AFL-CIO against FHWA and Virginia to force correction of the hazards. (See *Status Report*, Vol. 11, No. 17, Nov. 2, 1976.)

Virginia Highway Department memoranda, obtained by plaintiffs during the suit, revealed that state highway officials themselves regarded the timber barricades as "an extremely dangerous traffic hazard." Just two months before a young mother and her two children were killed in a fiery crash with the barricades, one state engineer wrote:

"Almost any contact between a vehicle and the barricades results in disaster for the vehicle. . . . Flying splinters of wood and vehicles out of control act as missiles to inflict injury to nearby persons. . . . The danger is ever present." Thirty days before the crash, another engineer urged his superiors to "realize the urgency to take all action possible on this matter immediately . . . ."

The FHWA directive, effective Dec. 21, 1976, bans use of the barricades as crash barriers "at any speed" on direct federal or federal-aid projects. Further, it specified that such barricades not be used as a delineation device except on city streets with operating speeds of less than 20 miles per hour and then "only on an exception basis."

The ban, however, does not require the removal of barricades presently in use or planned for use on projects already under contract.

*The photo below shows the scene after a full-sized passenger car was crash-tested for FHWA into a timber barricade at 38.5 miles per hour at a 15 degree angle. Note the barricade rail driven into the front of the vehicle and the splintered debris of the barricades in the background.*  
(FHWA photo.)



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A limited number of copies of films showing the FHWA crash tests are available for loan by contacting the FHWA Office of Public Affairs, Room 4208, 400 Seventh St., S.W., Washington, D.C. 20590.

### ***Trees Elected HLDI Board Chairman***

John S. Trees, vice president of Allstate Insurance Company has been elected chairman of the board of directors of the Highway Loss Data Institute.

Other members are:

Martin Albaum, director of research, Prudential Property and Casualty Insurance Co.; William Haddon, Jr., M.D., president, Highway Loss Data Institute, ex officio; M. Stanley Hughey, executive vice president, Kemper Insurance and Financial Companies; Henry Katz, senior vice president and general counsel, The Home Insurance Co.; Richard E. Munro, vice president-actuary, Nationwide Mutual Insurance Co.; Stephen L. Perreault, secretary, The Hartford Insurance Group; Wayne W. Sorenson, vice president of research, State Farm Mutual Automobile Insurance Co.; Frank E. Walton, senior vice president, The Travelers Insurance Companies; Roger H. Wingate, senior vice president, Liberty Mutual Insurance Co.

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### **STATUS REPORT**

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