buckles, seals, and similar metal fastening devices may not be used.

* * * * *

3.0 STACKING PALLETS

[*Revise the heading of 3.1 to read as follows:*]

3.1 Physical Characteristics

Pallets may be stacked two, three, or four tiers high if:

[*Revise item d to read as follows:*]

* * * * *

d. The stack of pallets is secured with at least two straps or bands of appropriate material to maintain the integrity of the stacked pallets during transport and handling. Wire or metal bands, straps, buckles, seals, and similar metal fastening devices may not be used. The stack of pallets may not be secured together with stretchable or shrinkable plastic.

* * * * *

4.0 PALLET BOXES

* * * * *

4.3 Securing

[*Revise the introductory text in 4.3 to read as follows:*]

Pallet boxes must be secured to the pallet with strapping, banding, stretchable, plastic, shrinkwrap, or other material (Wire or metal bands, straps, buckles, seals, and similar metal fastening devices may not be used.) that ensures that the pallet can be safely unloaded from vehicles, transported, and processed as a single unit to the point where the contents are distributed with the load intact if:

* * * * *

An appropriate amendment to 39 CFR 111 to reflect the changes will be published if the proposal is adopted.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 02–18732 Filed 7–23–02; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[Docket OR–01–006b; FRL–7241–1]

Approval and Promulgation of State Implementation Plans and Designation of Areas for Air Quality Planning Purposes: Oregon; Medford Carbon Monoxide Nonattainment Area

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve revisions to Oregon's State Implementation Plan (SIP) which were submitted on May 31, 2001. These revisions consist of: the 1993 carbon monoxide (CO) base/attainment year emissions inventory for Medford, Oregon and the revised Medford CO maintenance plan. EPA also proposes to approve Oregon's request for redesignation of Medford from nonattainment to attainment for CO.

DATES: Written comments must be received by August 23, 2002.

ADDRESSES: Written comments should be addressed to Connie Robinson, EPA, Region 10, Office of Air Quality (OAQ–107), at the address listed below.

Copies of the State's request and other information supporting this action are available for inspection during normal business hours at the following locations: EPA, Region 10, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101, and State of Oregon Department of Environmental Quality, 811 SW Sixth Avenue, Portland, Oregon 97204–1390.

FOR FURTHER INFORMATION CONTACT: Connie Robinson, EPA, Region 10, Office of Air Quality (OAQ–107), Seattle, Washington, (206) 553–1086.

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, the EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. If no adverse comments are received in response to this action, no further activity is contemplated.

If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the Direct Final rule which is located in the Rules section of this **Federal Register**.

Dated: June 25, 2002.

Ronald A. Kreizenbeck,

Acting Regional Administrator, Region 10.

[FR Doc. 02–18585 Filed 7–23–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 70 and 71

[CA080–OPPS; FRL–7250–6]

Proposed Partial Withdrawal of Approval of 34 Clean Air Act Title V Operating Permits Programs and Implementation of a Partial Part 71 Federal Operating Permits Program in California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to our authority at 40 CFR 70.10(b)(2)(i), EPA is proposing to withdraw, in part, approval of the following 34 Clean Air Act title V Operating Permits Programs in the State of California: Amador County Air Pollution Control District (APCD), Bay Area Air Quality Management District (AQMD), Butte County AQMD, Calaveras County APCD, Colusa County APCD, El Dorado County APCD, Feather River AQMD, Glenn County APCD, Great Basin Unified APCD, Imperial County APCD, Kern County APCD, Lake County AQMD, Lassen County APCD, Mariposa County APCD, Mendocino County APCD, Modoc County APCD, Mojave Desert AQMD, Monterey Bay Unified APCD, North Coast Unified AQMD, Northern Sierra AQMD, Northern Sonoma County APCD, Placer County APCD, Sacramento Metro AQMD, San Diego County APCD, San Joaquin Valley Unified APCD, San Luis Obispo County APCD, Santa Barbara County APCD, Shasta County APCD, Siskiyou County APCD, South Coast AQMD, Tehama County APCD, Tuolumne County APCD, Ventura County APCD, and Yolo-Solano AQMD. Our proposed partial title V program

withdrawal is based upon EPA's finding that the State's agricultural permitting exemption at Health and Safety Code 42310(e) unduly restricts the 34 local districts' ability to adequately administer and enforce their title V programs, which have previously been granted full approval status. Therefore, EPA is proposing to withdraw approval of those portions of the 34 district title V programs that relate to sources that would be subject to title V but for the state agricultural exemption (''state-exempt major stationary agricultural sources''). EPA is also today proposing to implement a partial federal operating permits program under 40 CFR part 71 (''Part 71 program'') for state-exempt major stationary agricultural sources.

DATES: Comments on this proposed action must be received in writing by September 3, 2002.

ADDRESSES: Written comments on this proposed action should be addressed to Gerardo Rios, Chief, Permits Office, Air Division (AIR–3), EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105.

FOR FURTHER INFORMATION CONTACT: Gerardo Rios, EPA Region IX, at (415) 972–3974 or *rios.gerardo@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' or ''our'' means EPA.

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I. Background

Title V of the CAA Amendments of 1990 required all state permitting authorities to develop operating permits programs that met certain federal criteria codified at 40 Code of Federal Regulations (CFR) part 70. Where a state operating permits program substantially, but not fully, meets the 40 CFR part 70 criteria, section 502(g) of the Act authorizes EPA to grant interim approval to the state program, and requires EPA to identify the changes that must be made before the program can receive full approval.

In California, we granted interim approval to all 34 local operating permits programs initially submitted by the State. Our interim approvals, granted in 1994 and 1995, identified, among other things, the removal of the agricultural permitting exemption in California's Health and Safety Code (HSC) section 42310(e), as a change that had to occur before we could grant full approval. This section of California's HSC exempts from the requirement to obtain a permit ''any equipment used in agricultural operations in the growing of crops or the raising of fowl or animals.'' We stated in each of our interim approval rulemakings that the State's permitting exemption was a program deficiency and that the exemption needed to be eliminated in order for us to grant full approval to the 34 operating permits programs.

On November 30, 2001, we promulgated final full approval of the 34 districts' title V operating permits programs, despite the State of California's failure to eliminate the agricultural permitting exemption. *See* 66 FR 63503 (December 7, 2001).[1] In granting full approval, we decided to defer title V permitting of state-exempted agricultural operations for a brief period, not to exceed three years.[2]

Subsequent to EPA's final rulemaking approving the 34 title V programs, EPA made a formal determination that all 34 local permitting authorities in California that have fully approved title V operating permit programs are not adequately administering or enforcing their programs because state law at Health and Safety Code 42310(e) exempts from permitting, ''equipment used in agricultural operations in the growing of crops or the raising of fowl or animals.'' In other words, this exemption hinders the ability of the local districts to issue, administer or enforce title V permits for any major sources covered by the exemption.[3] Title V of the Act does not allow any exemptions for major sources, and requires that all permitting authorities have the authority to ''issue permits and assure compliance by all sources required to have a permit under this subchapter with each applicable standard, regulation or requirement under this chapter.'' CAA 502(b)(5)(A). These requirements are echoed in the operating permit program approval regulations promulgated at 40 CFR part 70. *See* 40 CFR 70.4(b)(3)(i).

40 CFR 70.10(b) and 70.10(c) provide that EPA may withdraw a 40 CFR part 70 program approval, in whole or in part, whenever the permitting authority's legal authority does not meet the requirements of part 70 and the permitting authority fails to take corrective action. 40 CFR 70.10(b) sets forth the procedures for program withdrawal, and requires as a prerequisite to withdrawal that the permitting authority be notified of any finding of deficiency by the Administrator and that the notice be published in the **Federal Register**.

40 CFR 70.10(b) also provides that EPA may promulgate and administer a federal program under title V of the Act in the event that a permitting authority is not adequately administering or enforcing a part 70 program, or portion thereof. This action must also be preceded by notification to the permitting authority of EPA's finding of inadequate program administration, and is contingent upon a failure of the permitting authority to take significant action within 90 days of such notification.

Our determination regarding the inadequacy of the 34 districts' title V programs was published in a Notice of Deficiency (NOD). *See* 67 FR 35990 (May 22, 2002). Publication of the NOD fulfilled our obligation under 40 CFR 70.10(b)(1), which provides that EPA shall publish in the **Federal Register** a notice of any determination that a title V permitting authority is not adequately administering or enforcing its title V operating permits program. Pursuant to 40 CFR 70.10(b)(2), publication of the NOD commenced a 90-day period during which the State of California must take significant action to assure adequate administration and enforcement of the local districts' programs.[4]

II. Description of Proposed Action

We are proposing to withdraw, in part, approval of the 34 fully approved Clean Air Act title V Operating Permits Programs in the State of California. We are proposing to withdraw only the portions of the programs that relate to state-exempt major stationary agricultural sources; because they have the ability to adequately administer and enforce their part 70 programs for non-

[1] Although there are 35 separate permitting authorities in California, one permitting authority, Antelope Valley APCD, was not included in our final action because it only recently obtained its authority to issue part 70 permits and is still under tis initial interim approval status granted on December 19, 2000 (65 FR 79314).

[2] Our final rulemaking was challenged by several environmental and communiy groups alleging that the full approval was illegal based, in part, on the exemption of major agricultural sources from title V permitting. EPA entered into a settlement of this litigation which requires, in part, that the Agency propose the actions contained in today's notice.

[3] We are not identifying every source covered by the California HSC exemption as a ''major source'' under title V. Rather, we are acknowledging that any stationary agricultural sources that are ''major sources'' are covered by title V, even if they are exempt from permitting under the California HSC.

[4] EPA has determined that ''significant action'' in this instance means the revision or removal of Health and Safety Code 42310(e) so that local air pollution control districts have the required authority to issue title V permits to stationary agricultural sources that are major sources of air pollution.

exempt major stationary sources, each of the 34 local air districts will continue to administer their existing title V program for all other title V sources. In addition, we are proposing to implement a partial federal operating permits program under 40 CFR part 71 for state-exempt major stationary agricultural sources. EPA's action is necessary because the local districts cannot issue, administer or enforce operating permits for these sources, which are required to obtain permits under title V of the Act.

Although the 90-day period for the State to take significant action in response to EPA's Notice of Deficiency does not expire until August 19, 2002, we are today proposing to partially withdraw title V program approval and to implement a partial part 71 program for state-exempt major stationary sources in each of the 34 California districts where we are proposing partial program withdrawal. We are proposing these actions now in anticipation that the State of California will not effect the necessary change in state law prior to the end of the 90-day period on August 19. However, consistent with 40 CFR 70.10(b)(2), final action on this proposal will occur only after the 90 days for the State to take significant action has fully elapsed.

III. Effect of EPA's Rulemaking

Our proposal, if finalized, would result in EPA administering and enforcing a part 71 federal operating permit program for state-exempt major stationary agricultural sources within the jurisdiction of the 34 California air districts listed at the beginning of this proposal. Pursuant to 40 CFR 71.5(a)(1)(i), major stationary sources which do not have an existing operating permit issued by a State (or local permitting authority) under an approved part 70 program, and which are applying for a part 71 permit for the first time, must submit an application within 12 months after becoming subject to the permit program or on or before such earlier date as the permitting authority may establish. Section 71.5(a)(1)(i) further provides that sources required to submit permit applications earlier than 12 months after becoming subject to part 71 shall be notified of the earlier submittal date at least 6 months in advance of the date.

In the event we finalize this rule as proposed and implement a part 71 program for state-exempt major stationary agricultural sources, we are proposing to establish the following permit application deadlines: (1) state-exempt agricultural stationary sources that are major sources, as defined in 40 CFR 71.2, due to emissions from diesel-powered engines [5] must submit part 71 permit applications to the EPA Region IX Permits Office no later than 6 months after the effective date of the partial part 71 program or May 1, 2003, whichever is later; and (2) any remaining state-exempt major stationary agricultural sources must submit part 71 permit applications to the EPA Region IX Permits Office no later than August 1, 2003, or 6 months after the effective date of the partial part 71 program, whichever is later.

IV. Request for Public Comment

We are soliciting public comment on all aspects of this proposal. Written comments will be considered before taking final action. To comment on today's proposal, you should submit comments by mail (in triplicate if possible) as described in the **ADDRESSES** section listed in the front of this document. We will consider any written comments received by September 3, 2002. We are establishing a longer comment period than the 30 days required under the Administrative Procedure Act (APA) so that the public comment period on today's proposal extends beyond the end of the 90-day period for the State to take significant action. This time frame will provide the public with an opportunity, in commenting on today's proposal, to also fully consider and address any action taken by the State during the 90-day period.

V. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866, Regulatory Planning and Review.

B. Executive Order 13211

This proposed rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

C. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13132

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it does not alter the relationship or the

[5] Emissions from stationary diesel-powered engines are considered when determining a source's applicability to title V permitting requirements. Emissions from motorized vehicles and from diesel-powered engines (or other types of engines) that meet the 40 CFR 89.2 definition of ''nonroad engine'' are not counted in title V applicability determinations.

distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this proposed rule.

E. Executive Order 13175

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this proposed rule. In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

F. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This rule will not have a significant impact on a substantial number of small entities. In developing the original part 70 regulations and the proposed revisions to part 70, the Agency determined that they would not have a significant economic impact on a substantial number of small entities. *See* 57 FR 32250, 32294 (July 21, 1992), and 60 FR 45530, 45563 (August 31, 1995). Similarly, the same conclusion was reached in an initial regulatory flexibility analysis performed in support of the 1996 part 71 rulemaking. *See* 61 FR 34202, 34227 (July 1, 1996); see also 64 FR 8262 (February 19, 1999). Only a small subset of sources subject to the part 71 rule would be affected by today's action. The prior screening analyses for the part 70 and part 71 rules were done on a nationwide basis without regard to whether sources were located within California and are, therefore, applicable to sources in California. Accordingly, EPA believes that the screening analyses are valid for purposes of today's action. And since the screening analyses for the prior rules found that the part 70 and 71 rules as a whole would not have a significant impact on a substantial number of small entities, today's action, which would affect a much smaller number of entities than affected by the earlier rules, also will not have a significant impact on a substantial number of small entities.

EPA believes that few if any small businesses involved in the production of crops or animals in California would be subject to part 71 as a result of this rule. First, EPA notes that the Small Business Administration, pursuant to its authority under 15 U.S.C. 632(a) and 634(b)(6), has established thresholds for various business sectors to be used in the determination of whether a business is ''small.'' *See,* 13 CFR part 121. For most businesses involved in the production of crops or animals (those that would most likely be subject to part 71 because of this rule), the SBA has set the ''small business'' threshold as $750,000 in annual receipts. (The threshold for cattle feedlots is $1.5 million; the threshold for chicken egg production is $9 million.) *See* 13 CFR 121.201; see also, 13 CFR 121.104. Businesses that have annual receipts in excess of that threshold are not ''small businesses.'' Second, EPA's rule would require only major sources of air pollution to obtain a part 71 operating permit. For instance, in the San Joaquin Valley, the threshold for major sources of oxides of nitrogen or volatile organic compounds is 25 tons per year; the threshold for major sources of particulate matter is 70 tons per year. Most other air districts in California have higher thresholds and consequently fewer sources in those districts would be subject to part 71. Furthermore, EPA does not include a source's fugitive emissions of criteria pollutants in determining whether part 71 applies to it. In addition, for sources that might have the potential to emit above the major source threshold, but have actual emissions below the threshold, the Agency has issued several policy memoranda explaining mechanisms for these sources to become ''synthetic minors.'' These sources are recognized as not emitting pollutants in major quantities and may avoid the requirement to obtain a part 71 permit. Moreover, to the extent there is any impact, it will not be significant because part 71 imposes few if any additional substantive requirements. EPA intends to provide assistance to all sources that would become subject to part 71 as a result of this rulemaking.

Consequently, I hereby certify that this action will not have a significant economic impact on a substantial number of small entities.

G. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to today's proposed action because it does not require the public to perform activities conducive to the use of VCS.

I. Paperwork Reduction Act

The OMB has approved the information collection requirements contained in this action under the

provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et. seq.* and has assigned OMB control number 2060–0336. The information is planned to be collected to enable EPA to carry out its obligations under the Act to determine which sources are subject to the Federal Operating Permits Program and what requirements should be included in permits for sources subject to the program. Responses to the collection of information will be mandatory under § 71.5(a) which requires owners or operators of sources subject to the program to submit a timely and complete permit application and under §§ 71.6 (a) and (c) which require that permits include requirements related to recordkeeping and reporting. As provided in 42 U.S.C. 7661b(e), sources may assert a business confidentiality claim for the information collected under section 114(c) of the Act.

In the Information Collection Request (ICR) document for the July 1996 final part 71 rule (ICR Number 1713.02), EPA estimated that 1,980 sources in 8 states would potentially be subject to part 71. EPA also estimated that the annual burden per source would be 329 hours, and the annual burden to the Federal government is 243 hours per source. EPA believes that these burden estimates are significantly higher than the burdens associated with the rule proposed today. First, EPA estimates that the number of agricultural sources in California will be significantly less than the number on which the July 1996 estimates were based. In addition, State and local laws have traditionally exempted agricultural sources from many air pollution regulations. Therefore, agricultural sources will have fewer applicable requirements than the average part 71 source; accordingly, the burdens associated with permit applications and recordkeeping and reporting requirements should be minimal and far less than those for the typical part 71 source. Today's action would impose no burden on State or local governments and no burden on Tribal agencies. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information; processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

List of Subjects 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 71

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: July 17, 2002.

Keith Takata,

Acting Regional Administrator, Region 9.

[FR Doc. 02–18715 Filed 7–23–02; 8:45 am]

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