Legislation Details (With Text)

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Title: A Local Law to amend the administrative code of the city of New York, in relation to environmentally preferable purchasing by city agencies, and by repealing and reenacting subdivision e of section 6-306 of such code concerning power-supply standards for computer products procured by city agencies, and by repealing subdivision e of section 6-317 of such code concerning a program to recognize certain city agency contractors in connection with packaging reduction guidelines

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Indexes: Agency Rule-making Required, Report Required

Attachments: 1. Summary of Int. No. 2271-A, 2. Summary of Int. No. 2271, 3. Int. No. 2271, 4. Committee Report 4/23/21, 5. Hearing Testimony 4/23/21, 6. Hearing Testimony 4/23/21 (Con't), 7. Hearing Transcript 4/23/21, 8. April 22, 2021 - Stated Meeting Agenda with Links to Files, 9. Hearing Transcript - Stated Meeting 4-22-21, 10. Minutes of the Stated Meeting - April 22, 2021, 11. Proposed Int. No. 2271-A - 9/18/21, 12. Committee Report 9/23/21, 13. Hearing Transcript 9/23/21, 14. Committee Report - Stated Meeting, 15. September 23, 2021 - Stated Meeting Agenda with Links to Files, 16. Hearing Transcript - Stated Meeting 9-23-21, 17. Minutes of the Stated Meeting - September 23, 2021, 18. Int. No. 2271-A (FINAL), 19. Fiscal Impact Statement, 20. Legislative Documents - Letter to the Mayor, 21. Local Law 111

Date	Ver.	Action By	Action	Result
4/22/2021	*	City Council	Introduced by Council	
4/22/2021	*	City Council	Referred to Comm by Council	
4/23/2021	*	Committee on Contracts	Laid Over by Committee	
4/23/2021	*	Committee on Contracts	Hearing Held by Committee	
9/23/2021	*	Committee on Contracts	Hearing Held by Committee	
9/23/2021	*	Committee on Contracts	Amendment Proposed by Comm	
9/23/2021	*	Committee on Contracts	Amended by Committee	
9/23/2021	A	Committee on Contracts	Approved by Committee	Pass
9/23/2021	A	City Council	Approved by Council	Pass
9/23/2021	A	City Council	Sent to Mayor by Council	
10/24/2021	A	Administration	City Charter Rule Adopted	
10/25/2021	A	City Council	Returned Unsigned by Mayor	

Int. No. 2271-A

By Council Members Kallos, Barron and Gennaro

A Local Law to amend the administrative code of the city of New York, in relation to environmentally

preferable purchasing by city agencies, and by repealing and reenacting subdivision e of section 6-306 of such code concerning power-supply standards for computer products procured by city agencies, and by repealing subdivision e of section 6-317 of such code concerning a program to recognize certain city agency contractors in connection with packaging reduction guidelines

Be it enacted by the Council as follows:

Section 1. Section 6-301 of the administrative code of the city of New York, as added by local law number 118 for the year 2005, is amended to read as follows:

§ 6-301 Definitions. a. For [the] purposes of this chapter [only], the following terms [shall] have the following [meaning] meanings:

[(1) "Agricultural] Agricultural wastes. The term "agricultural wastes" means materials that remain after the harvesting or production of annual crops, including but not limited to rice, flax, wheat and rye.

[(2) "Architectural] Architectural coatings. The term "architectural coatings" means any coating to be applied to stationary structures and their appurtenances at the site of installation, to portable buildings at the site of installation, to pavements, or to curbs. This term [shall] does not include the following: marine-based paints and coatings; coatings or materials to be applied to metal structures, such as bridges; or coatings or materials labeled and formulated for application in roadway maintenance activities.

[(3) "Capital] Capital project. The term "capital project" means a capital project as defined in section 210 of the charter that is paid for in whole or in part from the city treasury.

[(4) "Carpet"] Carpet. The term "carpet" means any fabric used as a floor covering, but such term [shall] does not include artificial turf.

[(5) "Carpet] Carpet adhesive. The term "carpet adhesive" means any substance used to adhere carpet to a floor by surface attachment.

[(6) "Carpet] Carpet cushion. The term "carpet cushion" means any kind of material placed under carpet to provide softness when it is walked upon.

[(7) "Cathode] Cathode ray tube. The term "cathode ray tube" means any vacuum tube, typically found in computer monitors, televisions and oscilloscopes, in which a beam of electrons is projected on a

phosphorescent screen.

[(8) “City’s] City’s environmental purchasing standards. The term "city's environmental purchasing standards" or "city environmental purchasing standard" means any standards set forth in this chapter, and any directives, guidelines or rules promulgated by the director.

[(9) “Composite] Composite wood or agrifiber products. The term "composite wood or agrifiber products" means plywood, particleboard, chipboard, medium density fiberboard, standard fiberboard, orient strand board, glu-lams, wheatboard or strawboard.

[(10) “Construction] Construction work. The term "construction work" means any work or operations necessary or incidental to the erection, demolition, assembling or alteration of any building, but such term [shall] does not include minor repairs.

[(11) “Contractor”] Contractor. The term "contractor" means any person or entity that enters into a contract with any agency, or any person or entity that enters into an agreement with such person or entity, to perform work or provide labor or services related to such contract.

[(12) “Copier”] Copier. The term “copier" means any device that makes paper copies of text or graphic material.

[(13) “Covered] Covered electronic device. The term “covered electronic device" means: (i) any cathode ray tube, any product containing a cathode ray tube, any liquid crystal display (LCD), plasma screen or other flat panel television or computer monitor or similar video display product, any battery containing lead, cadmium, lithium or silver, any computer central processing unit that contains one or more circuit boards and includes any desktop computer or any laptop computer, any computer peripherals including, but not limited to, any keyboard, mouse and other pointing device, printer, scanner, facsimile machine and card reader, and any copier, but not including any automobile, household appliance, large piece of commercial or industrial equipment containing a cathode ray tube, a cathode ray tube product, a flat panel display or similar video display device that is contained within, and is not separate from, the larger piece of equipment, or any device

used by emergency response personnel; or (ii) any other electronic device designated by the director.

[(14) “CPG”] CPG. The term "CPG" means the Comprehensive Procurement Guideline for Products Containing Recovered Materials, as set forth in 40 CFR part 247.

[(15) “Desktop] Desktop computer. The term "desktop computer" means any personal computer or workstation designed to operate only on alternating current power and to reside on or under a desktop.

[(16) “Desktop-derived] Desktop-derived server. The term "desktop-derived server" means any computer designed to provide services to other computers on a network and that contains an EPS12V or EPS1U form factor power supply.

[(17) “Director”] Director. The term "director" means the director of citywide environmental purchasing.

Director’s website. “Director’s website” means the website required by subdivision g of section 6-304.

[(18) “Electronic] Electronic product environmental assessment tool. The term "electronic product environmental assessment tool" or “EPEAT” means a tool for evaluating the environmental performance of electronic products throughout their life cycle developed by the federal government and other stakeholders.

[(19) “End-of-life] End-of-life management. The term “end-of-life management” means promoting the recycling or reuse of a product through features of the product or materials from which the product is manufactured.

[(20) “ENERGY] ENERGY STAR labeled. The term "ENERGY STAR labeled" means a designation indicating that a product meets the energy efficiency standards set forth by the United States environmental protection agency and the United States department of energy for compliance with the ENERGY STAR program.

[(21) “Flow] Flow rate. The term "flow rate" means the volume, mass, or weight of water flowing past a given point per unit of time.

[(22) “Green] Green cleaning product. The term "green cleaning product" means any environmentally

preferable cleaning product whose use has been determined to be feasible through the pilot program established pursuant to the local law that added subchapter 6 of this chapter or through any other testing and evaluation conducted by the director.

[(23) “Hazardous] Hazardous substance. The term "hazardous substance" means any substance that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment.

[(24) “Incandescent] Incandescent lamp. The term "incandescent lamp" means any lamp in which a filament is heated to incandescence by an electric current to produce visible light.

[(25) “Lamp”] Lamp. The term "lamp" means any glass envelope with a gas, coating, or filament that produces visible light when electricity is applied, but such term shall not include automotive light bulbs.

[(26) “Local] Local area network. The term "local area network" means any two or more computers and associated devices that share a common communications line or wireless link and typically share the resources of a single processor or server within a small geographic area.

[(27) “Minor] Minor repairs. The term "minor repairs" means replacement of any part of a building for which a permit issued by the department of buildings is not required by law, where the purpose and effect of such work or replacement is to correct any deterioration or decay of or damage to such building or any part thereof and to restore same, as nearly as may be practicable, to its condition prior to the occurrence of such deterioration, decay or damage.

[(28) “Persistent,] Persistent, bioaccumulative and toxic chemicals. The term "persistent, bioaccumulative and toxic chemicals" means those chemicals that are toxic to living organisms, persist in the environment and build up in the food chain. This definition [shall include] includes any substance on the United States environmental protection agency's list of priority chemicals published under the national partnership for environmental priorities, as well as hexavalent chromium, polybrominated biphenyls and polybrominated

diphenyl ethers.

[(29) “Postconsumer] Postconsumer material. The term "postconsumer material" means a material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed its life as a consumer item. Postconsumer material is a part of the broader category of recovered materials.

[(30) "Power supply" means any device intended to convert line voltage alternating current to one or more lower voltages of direct current.

(31) “Printer”] Printer. The term "printer" means any device that prints the text or graphics output of a computer onto paper.

[(32) “Reasonably] Reasonably competitive. The term "reasonably competitive" means at a cost not exceeding that permissible under section 104-a of the general municipal law.

[(33) “Recovered] Recovered material. The term "recovered material" means waste materials and byproducts which have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process. For purposes of purchasing paper and paper products, "recovered material" includes "post-consumer recovered paper" and "recovered materials, for purposes of purchasing paper and paper products", as those terms are defined in the CPG.

[(34) “Recycled] Recycled product. The term "recycled product" [shall mean] means recycled product as defined in section 104-a of the general municipal law.

[(35) “Volatile] Volatile organic compound. The term "volatile organic compound" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions, as specified in 40 CFR part 51.100.

§ 2. Subdivision a of section 6-302 of the administrative code of the city of New York, as added by

local law number 118 for the year 2005, is amended to read as follows:

a. Except where an exemption or waiver applies pursuant to section 6-303 or as otherwise provided pursuant to this chapter, or except as otherwise mandated by section 162 of the state finance law or any other provision of law, the provisions of this chapter shall apply to any product:

(1) purchased or leased by any agency;

(2) purchased or leased by any contractor pursuant to any contract with any agency where the director has designated such contract as one subject to this chapter in whole or in part; or

(3) purchased or leased by any contractor pursuant to any contract with any agency for construction work in any building; provided that this paragraph shall only require that such contractors meet the requirements of subdivisions a, b and c of section 6-313 and subdivisions a and b of section 6-306 of this chapter. Notwithstanding the foregoing, except when otherwise determined by the director, this paragraph shall not apply to any such contract:

(i) subject to green building standards pursuant to subdivision b of section 224.1 of the charter;

(ii) subject to energy efficiency standards pursuant to subdivision c of section 224.1 of the charter; provided, however, that this exception shall only apply to the purchase of energy using products and to the extent the purchase or lease of any such products is necessary for compliance with such subdivision;

(iii) subject to water efficiency standards pursuant to subdivision d of section 224.1 of the charter; provided, however, that this exception shall only apply to the purchase of water using products;

(iv) where construction work is for a portion of a building that is less than fifteen thousand (15,000) square feet;

(v) where construction work is in any building or portion of a building leased by the city; provided, however, that this subparagraph shall not apply to any product purchased or leased by any contractor pursuant to any contract with any agency for construction work that (1) is a capital project and (2) is in a building or portion of a building that is leased for the use of a single agency where such single agency's lease is for more

than fifty thousand (50,000) square feet of space; or

(vi) where the commissioner of the department of citywide administrative services determines that the requirements of this paragraph will result in significant difficulty in finding a suitable site for an agency facility and that such a circumstance could materially adversely affect the health, safety, or welfare of city residents.

§ 3. Paragraph (8) of subdivision a of section 6-303 of the administrative code of the city of New York, as added by local law number 118 for the year 2005, is amended to read as follows:

(8) where the contracting agency finds that the inclusion of a specification otherwise required by sections 6-306 or 6-310 of this chapter would not be consistent with such agency's ability to obtain the highest quality product at the lowest possible price through a competitive procurement, provided that in making any such finding the contracting agency shall consider life-cycle cost-effectiveness and shall submit to the director a report summarizing the analysis upon which such agency has relied to make such finding; and

§ 4. Paragraph (9) of subdivision a of section 6-303 of the administrative code of the city of New York, as added by local law number 118 for the year 2005, is amended to read as follows:

(9) where the contracting agency finds that the inclusion of a specification otherwise required by subchapters 5 [or], 6 or 8 of this chapter would not be consistent with such agency's ability to obtain the highest quality product at the lowest possible price through a competitive procurement, provided that in making any such finding the contracting agency shall consider the health and safety benefits of such specification and shall submit to the director a report summarizing the analysis upon which such agency has relied to make such finding.

§ 5. Subdivision a of section 6-304 of the administrative code of the city of New York, as added by local law number 118 for the year 2005, is amended to read as follows:

a. [develop, establish, as appropriate, by promulgation of] as appropriate, promulgate rules, directives and guidance for the purpose of establishing and [implement] implementing environmental purchasing standards, in addition to those set forth in this chapter, the purpose of which shall be to promote the following

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objectives to the greatest extent possible:

[conserve energy and water] 1. Water and energy conservation;

2. Reduced use of virgin materials;

[increase the] 3. Increased use of recycled and reused materials, as well as recyclable and reusable materials;

[reduce] 4. Reduced use of hazardous substances, with an emphasis on persistent, bioaccumulative and toxic chemicals;

[decrease] 5. Decreased greenhouse gas emissions, in accordance with section 24-803;

[improve] 6. Improvement of indoor and outdoor air quality;

[promote] 7. Promotion of end-of-life management; [and

reduce] 8. Reduction of waste; and

9. Take other measures, as determined by the director, that are intended to account for and reduce the negative effects on the environment, or to generate positive effects on the environment, caused by city procurement;

§ 6. Subdivision f of section 6-304 of the administrative code of the city of New York, as added by local law number 118 for the year 2005, is amended to read as follows:

f. by October 1 of each year, submit an annual report to the speaker of the council and the mayor [by October 1 of each year], and post to the director's website, an annual report detailing the city's progress in meeting the purposes of this chapter, as specified in subdivision a of this section, and the city's environmental purchasing standards, which report shall at a minimum include:

(1) the total value of [goods] contracts entered into by any agency that comply with one or more city environmental purchasing standards and a list of corresponding solicitations that include any product that is subject to this chapter and the city environmental purchasing standard that is applicable to any such product

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specified in such solicitation;

(2) [a list of all solicitations that include any product that is subject to this chapter with an indication of the environmental purchasing specifications in each such solicitation and the city environmental purchasing standard that is applicable to any such product specified in such solicitation] reserved;

(3) a list and the aggregate dollar value of contracts exempted pursuant to subdivision a of section 6-303 of this chapter according to each type of exemption;

(4) a list and the aggregate dollar value of contracts for which a waiver has been issued pursuant to subdivision b of section 6-303 of this chapter according to each type of waiver with an explanation of the director's basis for granting each such waiver;

(4-a) the aggregate dollar value of contracts entered into by any agency that do not comply with one or more city environmental purchasing standards;

(5) [any material] all changes to the city's environmental purchasing standards since the last publication of such report, including any new, updated or revised rules established or determinations made by the director, a summary of any ongoing review pursuant to subdivision b of this section and, if no updates or revisions have been made to the city's environmental purchasing standards pursuant to such subdivision during the two years preceding such report, an explanation for the determination that such updates or revisions were not necessary;

(6) an identification of any product for which new or additional environmental purchasing standards are necessary;

(7) beginning January 1, 2008, an explanation of any determination pursuant to subdivision b of section 6-308 of this chapter not to require compliance with the CPG;

(8) a list of products considered in implementing subdivision c of section 6-308 of this chapter, including an indication of whether any such products were determined to be of inadequate quality, unavailable within a reasonable period of time, at a price that does not exceed a cost premium of seven percent (7%) above the cost of a comparable product that is not a recycled product or at a price that does not exceed a cost premium

of five percent (5%) above the cost that would apply pursuant to subdivision a of section 6-308;

(9) beginning January 1, 2008, an explanation of any determination pursuant to subdivision c or d of section 6-306 of this chapter not to require compliance with the federal energy management program;

(10) a description of the good faith efforts required pursuant to subdivision b of section 6-302 of this chapter;

(11) a description of the director's efforts pursuant to subdivision d of this section;

(12) [until October 12, 2012, a report on the implementation of section 6-307, section 6-309 and subdivision b of section 6-310 of this chapter; and] reserved;

(13) [for the annual report required in 2008, and every fourth year thereafter, for each product subject to the provisions of this chapter, the total dollar value of such products purchased or leased by any agency and the portion of such purchases that comply with the city's environmental purchasing standards; and, to the extent practicable, the total value of such products purchased or leased by any contractor pursuant to any contract with any agency, including any such contract for construction work in any building, that is subject to this chapter and the portion of such purchases that comply with the city's environmental purchasing standards.] reserved; and

(14) an appendix consisting of the annual reports submitted in the preceding 12-month period pursuant to paragraph (2) of subdivision a of section 6-305.

§ 7. Section 6-304 of the administrative code of the city of New York is amended by adding a new subdivision g to read as follows:

g. maintain a website controlled by the director that includes information about city functions related to environmentally preferable purchasing, including the annual report required by subdivision f of this section, all rules, directives and guidance promulgated by the director pursuant to this section, and any other information or materials that the director determines would inform the public of city efforts to engage in environmentally preferable purchasing.

§ 8. Paragraph (2) of subdivision a of section 6-305 of the administrative code of the city of New York,

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as added by local law number 118 for the year 2005, is amended to read as follows:

(2) submit an annual report as required by the director detailing such compliance, which report shall include all reports required for exemptions for contracts registered or otherwise made effective in the prior year pursuant to paragraphs (8) or (9) of subdivision a of section 6-303.

§ 9. Subdivision e of section 6-306 of the administrative code of the city of New York is REPEALED and a new subdivision e is added to read as follows:

e. Beginning 12 months after the effective date of the local law that added this subdivision, no agency shall purchase or lease any desktop computer, desktop-derived server, laptop, electronic notebook, computer tablet, or other such similar computer product unless it meets applicable EPEAT standards, or another standard selected by the director that is similar in function and no less restrictive. This prohibition shall not apply to a purchase or lease of such a product if:

1. no such EPEAT standard applies to such product; or

2. prior to July 1, 2022, the director determines in writing that products that meet applicable EPEAT standards, or such other similar standard selected by the director, are not available in sufficient quantities or cannot be purchased on reasonable terms.

§ 10. Subdivision f of section 6-306 of the administrative code of the city of New York, as added by local law number 118 for the year 2005, is amended to read as follows:

f. No lamp purchased or leased by any agency shall be an incandescent lamp [if a more energy efficient lamp is available that provides sufficient lumens and is of an appropriate size for the intended application], including but not limited to a halogen lamp.

§ 11. Subdivisions a and b of section 6-307 of the administrative code of the city of New York, as added by local law number 119 for the year 2005, are amended to read as follows:

a. Notwithstanding section 6-302 of this chapter, this section shall apply to [any] every computer, printer, facsimile machine [or], photocopy machine and all other office equipment owned or leased by any

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agency that contains power management software that may be calibrated to achieve energy savings.

b. The power management software options of [any] every computer, printer, facsimile machine [or], photocopy machine and other piece of office equipment that contains such software shall be calibrated to achieve the highest energy savings practicable.

§ 12. Section 6-311 of the administrative code of the city of New York, as added by local law number 120 for the year 2005, is amended to read as follows:

§ 6-311 Reuse or recycling of electronic devices. By January 1, 2008, unless otherwise directed by a subsequent local law, the city shall develop a plan for the reuse or recycling of any covered electronic device purchased or leased by any agency. The director shall post such plan and any updates thereto on the director's website.

§ 13. Subdivision b of section 6-312 of the administrative code of the city of New York, as added by local law number 120 for the year 2005, is amended to read as follows:

b. No new covered electronic device purchased or leased by any agency shall contain any hazardous substance in any amount exceeding that proscribed by the director through rulemaking. In developing such rules, the director shall consider European Union directive 2002/95/EC [and], any subsequent material directive issued by the European Parliament and the Council of the European Union, and any other standard issued by another governmental body and deemed relevant by the director.

§ 14. The section heading of section 6-315 of the administrative code of the city of New York, as added by local law number 120 for the year 2005, is amended to read as follows:

§ 6-315 [Miscellaneous] Other hazardous materials.

§ 15. Section 6-316 of the administrative code of the city of New York, as added by local law number 118 for the year 2005, is amended to read as follows:

§ 6-316 Green cleaning products. a. Beginning June 1, 2009, the city shall purchase and use green cleaning products to the maximum extent [and in the manner that such use is] practicable, as determined [to be

feasible through the pilot program established pursuant to the local law that added subchapter 6 of this chapter or through any other testing and evaluation conducted] by the director. Such green cleaning products shall meet the health and environmental criteria for the relevant product category as established by the director [under the pilot program or any such criteria as updated or revised by the director].

b. [No later than June 1, 2009, the] The director shall publish on the director's website a non-exhaustive list of categories of green cleaning products that may be purchased by the city to comply with this section. [At least once annually,] The director shall review such list [shall be reviewed and revised, if necessary] and make appropriate revisions, if any, in accordance with subdivision b of section 6-304.

§ 16. Subdivision a of section 6-317 of the administrative code of the city of New York, as added by local law number 51 for the year 2011, is amended to read as follows:

a. The director [of citywide environmental purchasing], after consultation with the mayor's office of long term planning and sustainability and other agencies as appropriate, shall establish packaging reduction guidelines for contracts entered into by city agencies for the purchase of goods. The director shall review such guidelines and make appropriate revisions, if any, in accordance with subdivision b of section 6-304.

§ 17. Subdivision c of section 6-317 of the administrative code of the city of New York, as added by local law number 51 for the year 2011, is amended to read as follows:

c. The director [of citywide environmental purchasing] shall make such guidelines available to all city agencies and publish such guidelines on the [city's] director's website.

§ 18. Subdivision e of section 6-317 of the administrative code of the city of New York is REPEALED.

§ 19. Chapter 3 of title 6 of the administrative code of the city of New York is amended by adding a new subchapter 8 to read as follows:

SUBCHAPTER 8

FURNITURE

§ 6-318 Furniture. a. Where the city purchases furniture for use in city facilities, the city shall purchase

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furniture in accordance with rules promulgated by the director that further the objectives set forth in subdivision a of section 6-304.

b. The director shall promulgate rules setting forth specifications for furniture to meet the requirements of this subchapter. Prior to promulgating those rules, the director shall consider incorporating standards and ecolabels recommended by the United States environmental protection agency and any more stringent applicable standard promulgated by a government agency or other organization concerned with the development of environmental standards for furniture or its components.

c. The director shall review the rules required by this section and shall revise them as needed in accordance with subdivision b of section 6-304.

d. The furniture specifications promulgated by rules for the purchase of furniture pursuant to this subchapter shall be in addition to any other provisions of this chapter that apply to the purchase of furniture.

§ 20. This local law takes effect 180 days after it becomes law. The director of citywide environmental purchasing, in collaboration with the commissioner of environmental protection and the director of the mayor's office of long term planning and sustainability, and in consultation with other agencies, as appropriate, shall take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

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