

Notice Number 2023-285

Rule Number Env-A 4100

1. Agency Name & Address:

**Department of Environmental Services
29 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095**

2. RSA Authority: RSA 125-C:4, I(n) & I-b

3. Federal Authority: 40 CFR Part 59, Subpart C
(§§201 et seq.)

4. Type of Action:

Adoption _____

Repeal _____

Readoption X

Readoption w/amendment X

5. Short Title: **Consumer Products**

6. (a) Summary of what the rule says and of any proposed amendments including whether the rule implements a state statute for the first time:

The Department of Environmental Services is proposing to readopt Env-A 4100, *Consumer Products*, with three minor amendments. Specifically, Env-A 4106.01 on date coding of a consumer product container or package is being readopted with an amendment in paragraph (e) to add an email address. Env-A 4107.01 on reporting requirements is being readopted with amendments in subparagraph (a)(2) and paragraph (e) to correct citations to Department rules.

The purpose of this chapter is to limit emissions of volatile organic compounds (VOCs), which contribute to ozone formation, by requiring reductions in the VOC content of consumer products that are sold, supplied, offered for sale, or manufactured by any person in New Hampshire, as required by NH Laws of 2004, 175:1, I.

Most of the rules are due to expire on February 26, 2024. The existing rules are subject to extension for the duration of this readoption proceeding pursuant to RSA 541-A:14-a, I.

6. (b) Brief description of the groups affected:

The rules affect manufacturers of consumer products.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

Rule Section(s)	State Statute(s) Implemented
Env-A 4100	RSA 125-C:6, XVII; RSA 485:16-c
Env-A 4101-Env-A 4103	RSA 125-C:2, V-c; RSA 125-C:6, XVII; RSA 485:16-c
Env-A 4104-Env-A 4109	RSA 125-C:6, XVII; RSA 125-C:4, I-b; RSA 485:16-c

2. Cite the Federal mandate. Identify the impact on state funds:

Federal regulation, 40 CFR Part 59, Subpart C (§§201 et seq.) establishes VOC limits for various categories of consumer products. New Hampshire is not specifically required by federal law to adopt corresponding state rules, but adoption of the rules will assist the State in meeting the federal air quality standard for ozone. New Hampshire is currently in compliance with the federal ozone standard. However, failure to adopt the lower VOC limits would make it more difficult for New Hampshire to remain in compliance. If the State does not achieve the federal ozone standard and fails to implement an appropriate remedy, the EPA could impose sanctions pursuant to the Clean Air Act up to and, ultimately, the temporary loss of eligibility for federal funds for transportation projects.

3. Cost and benefits of the proposed rule(s):

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

None.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The rules apply only to manufacturers of consumer products, not to political subdivisions. Further, political subdivisions are not required to enforce the standards in the rules. Thus, the rules do not mandate or assign any new, expanded, or modified programs or responsibilities to any political subdivision in such a way as to necessitate additional local expenditures by the political subdivision, and so do not violate Part I, Article 28-a of the New Hampshire Constitution.