



ASSISTANT ADMINISTRATOR FOR AIR AND RADIATION

WASHINGTON, D.C. 20460

May 22, 2026

Mr. Armia Guirguis
Head of Product Safety & Regulatory Affairs
Henkel Corporation
200 Elm Street
Stamford, Connecticut 06902

Via email: armia.guirguis@henkel.com

Dear Mr. Guirguis,

This letter addresses Henkel Corporation's April 4, 2025, application for an Innovative Product Exemption (IPE) from the volatile organic compound (VOC) content limits in the National Volatile Organic Compound Standards for Consumer Products (Consumer Products Rule).¹ Specifically, Henkel Corporation requested an IPE for its Green [REDACTED] Hair Finishing Spray. Based on the Consumer Products Rule's product categories and VOC content limits, Henkel Corporation's Green [REDACTED] Hair Finishing Spray is classified as a hairspray subject to an 80 percent VOC content limit.

The U.S. Environmental Protection Agency (EPA) has evaluated all documentation for the IPE request, including the original submission from April 4, 2025, and the supplemental information Henkel Corporation provided on July 7, 2025. For the reasons explained below, the EPA cannot grant this request for an IPE under 40 CFR 59.204 for the Green [REDACTED] Hair Finishing Spray.

The EPA notes that this request for an IPE from the federal VOC content limits heavily relies on the fact that California Air Resources Board (CARB) previously granted Henkel Corporation an IPE from the VOC content limits for Green [REDACTED] Hair Finishing Spray based on provisions in the CARB consumer products regulations. A prior grant of an IPE by a State is a relevant consideration, and EPA regulations allow an applicant to elect to submit the factual basis for such a prior State exemption "as part of" its supporting materials.² However, even within that provision, there arises a question of whether the State's "criteria for exemption meet or exceed those provided for in [the EPA's regulations]."³ The fact that a State has granted an IPE under applicable State regulations does not predetermine whether a product meets the requirements for an IPE under the EPA's Consumer Products Rule, especially when the State regulations are materially different.

¹ 63 FR 48819 (September 11, 1998). 40 CFR 59.201 – 214.

² 40 CFR 59.204(d)(3).

³ *Id.*

The IPE that CARB granted was based on a maximum incremental reactivity (MIR) approach, which measures the product-weighted ozone-forming potential of the VOC ingredients, as opposed to the product's VOC content limits. The EPA's Consumer Products Rule does not provide for an IPE for a product on the basis of MIR. Instead, the EPA's Consumer Products Rule provides that an IPE may be granted "if the regulated entity demonstrates that, due to some characteristic of the product formulation, design, delivery systems, or other factors, the use of the product will result in equal or less VOC emissions."⁴ The EPA's Consumer Products Rule imposes limits expressed as weight percent VOC, and the rule's IPE provision requires evaluation of a product's VOC emissions by weight, not some other measure such as the maximum incremental reactivity.

In this instance, CARB granted an IPE from the VOC content limits in its consumer products regulations based on provisions that are absent from and inconsistent with the EPA's Consumer Products Rule. Until recently, both the EPA and CARB regulations governing IPEs in the respective federal and State regulations were identical in all material ways. Both the EPA and CARB imposed limits on products based on VOC content, expressed as weight-percent VOC. In order to qualify for an IPE under both regulations, an applicant had to make the same factual showing that use of the product under consideration would "result in equal or less VOC emissions" (*i.e.*, less VOC emitted by weight). Both the EPA and CARB regulations require a comparison with a representative product and use of the same method to calculate VOC emissions (*i.e.*, whether the product under consideration would emit less VOCs by weight). These and other key provisions relevant to IPEs remain the same in both the EPA and CARB regulations at 40 CFR 59.204 and the California Code of Regulations, Title 17, Article 2, 94511, respectively.

CARB recently made revisions to its consumer products regulations pertaining to IPEs for several categories of products, and specifically those applicable to hairspray products. For State law purposes, CARB revised its regulations to include provisions that authorize an IPE based upon calculation of the product's maximum incremental reactivity.⁵ CARB's extensive revisions authorize IPEs based on criteria that did not previously exist in its consumer product regulations and that do not currently exist in the EPA's Consumer Products Rule.

The EPA evaluated Henkel's April 4, 2025, request to determine whether Green [REDACTED] Hair Finishing Spray could qualify for an IPE under the Consumer Product Rule.⁶ The EPA's Consumer Products Rule provides two pathways to obtain an IPE. Under paragraph (a)(1), the IPE application and supporting documentation must establish that, due to some characteristic of the product formulation, design, delivery systems, or other factors, the use of the product will result in equal or less VOC emissions than the emissions from a representative consumer product that complies with the 80 percent VOC content limit for the hairspray product category.⁷ Under paragraph (a)(2), the use of the product will result in equal or less VOC emissions than the calculated VOC emissions from a noncomplying representative product, if the product had been

⁴ 40 CFR 59.204(a).

⁵ California Code of Regulations, Title 17, Article 2, 94511(c) and (d)(2).

⁶ 40 CFR 59.204(a)(1) and (a)(2).

⁷ 40 CFR 59.204(a)(1).

reformulated to comply with the 80 percent VOC content limit for the hairspray product category.⁸ After a thorough evaluation, we conclude that the documentation submitted in support of an IPE for Green [REDACTED] Hair Finishing Spray fails to meet the criteria set forth in the EPA's Consumer Products Rule. Consequently, the EPA is denying Henkel's request for an IPE from the VOC content limits in the Agency's Consumer Products Rule.

We value your engagement in this matter and look forward to ongoing discussions. If you have any questions regarding this determination, please contact Jason Kuhns at (202)-564-3236 or by email at kuhns.jason@epa.gov.

Sincerely,

A handwritten signature in purple ink, consisting of a stylized 'A' followed by a series of loops and a long horizontal stroke.

Aaron Szabo
Assistant Administrator

⁸ 40 CFR 59.204(a)(2).