

**ATTACHMENT F**

**SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**

**Attachment 1 to the Governing Board Resolution for:**

**Final Subsequent Environmental Assessment for Proposed Amended Rule 1168 - Adhesive and Sealant Applications**

**Findings and Statement of Overriding Considerations**

**October 2022**

**State Clearinghouse No. 2017081031  
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**Executive Officer**

Wayne Nastri

**Deputy Executive Officer**

**Planning, Rule Development and Implementation**

Sarah Rees, Ph.D.

**Assistant Deputy Executive Officer**

**Planning, Rule Development and Implementation**

Michael Krause

**Assistant Deputy Executive Officer**

**Planning, Rule Development and Implementation**

Ian MacMillan

---

**Author:** Sina Taghvaei, Ph.D. Air Quality Specialist

**Technical Assistance:** Mojtaba Moghani, Ph.D. Air Quality Specialist

**Reviewed By:** Barbara Radlein Program Supervisor, CEQA  
Yanrong Zhu Program Supervisor  
Heather Farr Planning and Rules Manager  
Barbara Baird Chief Deputy Counsel  
Josephine Lee Senior Deputy District Counsel

**SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT  
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**EXECUTIVE OFFICER:**

WAYNE NASTRI

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Final Subsequent Environmental Assessment for Proposed Amended Rule 1168 -  
Adhesives and Sealant Applications**

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**Findings and Statement of Overriding Considerations**

**Introduction**

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## 1.0 Introduction

Proposed Amended Rule (PAR) 1168 – Adhesive and Sealant Applications is considered a “project” as defined by the California Environmental Quality Act (CEQA). [Public Resources Code Section 21000 et seq.]. Specifically, CEQA requires: 1) the potential adverse environmental impacts of proposed project to be evaluated; and 2) feasible methods to reduce or avoid any identified significant adverse environmental impacts of this project to also be evaluated. CEQA Guidelines Section 15364 defines “feasible” as “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.”

Since the proposed project is comprised of a South Coast AQMD-proposed amended rule, the South Coast AQMD has the greatest responsibility for carrying out or approving the project as a whole, which may have a significant effect upon the environment, and is the most appropriate public agency to act as lead agency. [Public Resources Code Section 21067 and CEQA Guidelines Section 15051(b)].<sup>1</sup>

The proposed project amends the October 2017 version of Rule 1168 and proposes to: 1) prohibit the use of parachlorobenzotriflouride (pCBtF) and tertiary-Butyl Acetate (t-BAc) in Rule 1168 products due to toxicity concerns; 2) delay the effective dates of VOC emission limits or maintain the existing VOC emission limits for certain categories of adhesives and sealants; 3) create additional subcategories of regulated products to better characterize and refine VOC emission limits; 4) allow Opteon 1100 (cis-1,1,1,4,4-hexafluoro-2-butene/HFO-1336mzz-Z) as a VOC exempt compound for Two-Component Foam Sealants used in an industrial or professional setting contingent upon an OEHHA evaluation; and 5) remove definitions, and update, clarify, and streamline rule language.

The South Coast AQMD, as Lead Agency for the proposed project, prepared a Subsequent Environmental Assessment (SEA) with significant impacts to conduct an environmental review of PAR 1168 pursuant to CEQA Guidelines Section 15187. The SEA is a substitute CEQA document prepared in lieu of a Subsequent Environmental Impact Report (EIR) with significant impacts [CEQA Guidelines Section 15162], pursuant to the South Coast AQMD’s Certified Regulatory Program [Public Resources Code Section 21080.5 and CEQA Guidelines Section 15251(l); codified in South Coast AQMD Rule 110]. Pursuant to CEQA Guidelines Sections 15152, 15162, and 15385, the SEA tiers off of and is a subsequent document to the Final EA for Rule 1168 which was certified on October 6, 2017 (referred to herein as the October 2017 Final EA for Rule 1168).

Because this is a subsequent document, the baseline is the project analyzed in the October 2017 Final EA for Rule 1168. The SEA was prepared because PAR 1168 contains new information of substantial importance which was not known and could not have been known at the time the October 2017 Final EA for Rule 1168 was certified and the project will have significant effects that were not previously discussed. [CEQA Guidelines Section 15162(a)(3)(A)].

The purpose of the October 2017 amendments to Rule 1168 was to reduce emissions of VOCs by 1.38 ton per day (tpd), as well as reduce toxic air contaminants, and stratospheric ozone-depleting compounds from adhesives, adhesive primers, sealants, and sealant primers. The October 2017

<sup>1</sup> CEQA Guidelines refers to California Code of Regulations, Title 14, Section 15000 and following.

Final EA for the October 2017 amendments to Rule 1168 analyzed the environmental impacts associated with the activities manufacturers were anticipated to undertake to reformulate products and that these reformulation activities could create secondary adverse environmental impacts. However, none of the environmental topic areas previously analyzed in the October 2017 Final EA for Rule 1168 were concluded to have significant and unavoidable impacts, including the topic of air quality and greenhouse gases (GHGs). Because the October 2017 Final EA for Rule 1168 concluded that the project will not have a significant adverse impact on the environment, mitigation measures were not made a condition of the approval of the October 2017 version of Rule 1168. Thus, a Mitigation Monitoring and Reporting Plan, pursuant to Public Resources Code Section 21081.6 and CEQA Guidelines Section 15097, was not required or adopted at that time. Findings pursuant to CEQA Guidelines Section 15091 and a Statement of Overriding Considerations pursuant to CEQA Guidelines Section 15093 were also not required or adopted for the October 2017 version of Rule 1168.

The SEA, which includes a project description and analysis of potential adverse environmental impacts that could be generated from PAR 1168, concluded to have generally the same or similar environmental effects that were previously examined in the October 2017 Final EA for Rule 1168 but that the operational air quality impacts from the PAR 1168 will cause some delayed and permanent forgone VOC emission reductions, which will be more severe than what was discussed in October 2017 Final EA. Specifically, the Final SEA for PAR 1168 concluded that significant and unavoidable adverse environmental impacts may occur for air quality during operation because the delayed and permanent forgone VOC emission reductions would exceed the South Coast AQMD's daily VOC operational significance threshold of 55 pounds per day. Therefore, pursuant to CEQA Guidelines Section 15252(a)(2)(A), an alternatives analysis was required and has been included in the Final SEA. However, no feasible mitigation measures were identified that would reduce or eliminate the significant adverse impacts for the air quality during operation. Thus, mitigation measures were not made a condition of approval of PAR 1168. Further, since no feasible mitigation measures were identified, a Mitigation, Monitoring, and Reporting Plan, pursuant to Public Resources Code Section 21081.6 and CEQA Guidelines 15097 is not required.

The Draft SEA was released and circulated for a 45-day public review and comment period from September 6, 2022 to October 21, 2022 and no comment letters were received.

However, some modifications have been made to the Draft SEA to make it a Final SEA which include updates to reflect changes made to PAR 1168 after the public notice of availability of the Draft SEA. South Coast AQMD staff evaluated the modifications made to PAR 1168 after the release of the Draft SEA for public review and comment and concluded that none of the revisions constitute significant new information, because: 1) no new significant environmental impacts would result from the proposed project; 2) there is no substantial increase in the severity of an environmental impact; 3) no other feasible project alternative or mitigation measure was identified that would clearly lessen the environmental impacts of the project and was considerably different from others previously analyzed; and 4) the Draft SEA did not deprive the public from meaningful review and comment. In addition, revisions to PAR 1168 and the analysis in response to verbal or written comments during the rule development process would not create new, avoidable significant effects. As a result, these revisions do not require recirculation of the Draft SEA pursuant to CEQA Guidelines Sections 15073.5 and 15088.5. Therefore, the Draft SEA has been revised to include

the aforementioned modifications such that it is now the Final SEA. The Final SEA will be presented to the Governing Board prior to its November 4, 2022 public hearing (see Attachment I of the Governing Board package).

South Coast AQMD's certified regulatory program does not impose any greater requirements for making written findings for significant environmental effects than is required for an EIR under CEQA. When considering for approval a proposed project that has one or more significant adverse environmental effects, a public agency must make one or more written findings for each significant adverse effect, accompanied by a brief rationale for each finding. [Public Resources Code Section 21081 and CEQA Guidelines Sections 15065 and 15091]. The analysis in the Final SEA concluded that PAR 1168 has the potential to generate, significant adverse air quality impacts during operation which are more severe than what was previously analyzed in the October 2017 Final EA for Rule 1168 for air quality during operation.

For a proposed project with significant adverse environmental impacts, CEQA requires the lead agency to balance the economic, legal, social, technological, or other benefits of a proposed project against its significant unavoidable environmental impacts when determining whether to approve the proposed project. Under CEQA Guidelines Section 15093(a), "If the specific economic, legal, social, technological, or other benefits of a project outweigh the unavoidable significant adverse environmental effects, the adverse environmental effects may be considered "acceptable." Thus, after adopting findings, the lead agency must also adopt a "Statement of Overriding Considerations" to approve a proposed project with significant adverse environmental effects.

## 2.0 CEQA Provisions Regarding Findings

CEQA generally requires agencies to make certain written findings before approving a proposed project with significant environmental impacts. South Coast AQMD is exempt from some of CEQA's requirements pursuant to its Certified Regulatory Program, but complies with its provisions where required or otherwise appropriate.

Relative to making Findings, CEQA Guidelines Section 15091 provides:

- (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding.  
The possible findings are:
  - (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
  - (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
  - (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers,

make infeasible the mitigation measures or project alternatives identified in the final EIR.

- (b) The findings required by subsection (a) shall be supported by substantial evidence in the record.
- (c) The finding in subdivision (a)(2) shall not be made if the agency making the finding has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives. The finding in subsection (a)(3) shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.
- (d) When making the findings required in subdivision (a)(1), the agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.
- (e) The public agency shall specify the location and custodian of the documents or other material which constitute the record of the proceedings upon which its decision is based.
- (f) A statement made pursuant to Section 15093 does not substitute for the findings required by this section.

The “changes or alterations” referred to in CEQA Guidelines Section 15091(a)(1) may include a wide variety of measures or actions as set forth in CEQA Guidelines Section 15370, including:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (e) Compensating for the impact by replacing or providing substitute resources or environments.

### 3.0 Summary of the Proposed Project

Rule 1168 was adopted in April 1989 to reduce VOC emissions from adhesive and sealant applications. Rule 1168 contains VOC limits for 59 categories of adhesives, adhesive primers, sealants, and sealant primers and applies to products used during manufacturing at stationary sources as well as products used by consumers that are not regulated by the California Air Resources Board (CARB) in the Consumer Products Regulation (CPR). Rule 1168 has been amended 14 times with the last amendment in October 2017. The purpose of the October 2017 amendments to Rule 1168 was to primarily reduce VOC emissions by 1.38 tpd but also reduce emissions from toxic air contaminants and stratospheric ozone-depleting compounds in formulations of adhesives, adhesive primers, sealants, and sealant primers.

The October 2017 amendments to Rule 1168 also included a commitment to conduct a technology assessment for top and trim adhesives, roofing products, plastic welding cements, and foam sealants to determine if products for nine adhesive and sealant categories were available that could achieve the VOC limits by January 1, 2023. The technology assessment concluded that some of these product categories either needed more time beyond January 1, 2023 to meet the VOC limits or that achieving the lower VOC limits would not be technically feasible. In addition, due to potential toxicity concerns associated with t-BAc and pCBtF and the uncertainty of on-site exposure modeling methodologies, the Stationary Source Committee of the South Coast AQMD Governing Board recommended a precautionary approach such that compounds with a known or suspected toxic endpoint will not be exempted from the definition of VOC in Rule 102 or other South Coast AQMD Rules. In 2017, t-BAc was identified as a carcinogen after it had been previously granted a partial exemption from the definition of a VOC in certain uses in several source specific rules, e.g., Rule 1113 – Architectural Coatings and Rule 1151 – Automotive Motor Vehicle and Mobile Equipment Non-Assembly Line Coating Operations, but not Rule 1168. Further, in 2020, pCBtF was identified as a stronger carcinogen than t-BAc, after it had been previously exempted from the definition of a VOC in Rule 102 for all uses within the South Coast AQMD, including adhesives and sealants that would otherwise be subject to Rule 1168 requirements.

In consideration of the technology assessment and additional toxicity information, the Governing Board directed staff to conduct another rule development process to amend Rule 1168. Thus, the proposed project is designed to: 1) prohibit the use of pCBtF and t-BAc in adhesives and sealants due to toxicity concerns; 2) delay the effective dates of VOC limits or maintain the existing VOC limits for certain categories of adhesives and sealants where the technology assessment demonstrated the effective dates or VOC limits in the October 2017 version of Rule 1168 are not feasible; 3) create additional subcategories of regulated products to better characterize and refine VOC limits; 4) allow Opteon 1100 (cis-1,1,1,4,4,4-hexafluoro-2-butene/HFO-1336mzz-Z) as a VOC exempt compound for Two-Component Foam Sealants used in an industrial or professional setting contingent upon an OEHHA evaluation; and 5) remove definitions, update, clarify, and streamline rule language.

When comparing the types of activities and associated environmental impacts with implementing the VOC limits and compliance dates subject to the October 2017 version of Rule 1168 that was previously analyzed in the October 2017 Final EA to the currently proposed changes which comprise PAR 1168, the type and extent of the physical changes are expected to be similar and

will cause similar secondary adverse environmental impacts for the same environmental topic areas that were identified and analyzed in the October 2017 Final EA for Rule 1168. Thus, PAR 1168 is expected to have generally the same or similar effects that were previously examined in the October 2017 Final EA for Rule 1168 but that the air quality impacts from the proposed project will cause some delayed and permanent VOC emission reductions foregone, which will be more severe than what was discussed in the October 2017 Final EA. However, the proposed project will result in reducing the potential for toxic chemicals to be used in adhesives and sealants.

#### **4.0 Potentially Significant Adverse Impacts That Cannot be Reduced Below a Significant Level**

The analysis in the Final SEA independently considered whether PAR 1168 would result in new significant impacts for any environmental topic areas previously concluded in the October 2017 Final EA for Rule 1168 to have either no significant impacts or less than significant impacts. The Final SEA for PAR 1168 identified the topic of air quality during operation as the only area in which the proposed project may cause significant and unavoidable adverse environmental impacts. No other significant adverse impacts were identified. The following discussion independently considers the currently proposed project (PAR 1168) and analyzes the incremental changes for operational air quality impacts, relative to the baseline which is the project analyzed in the October 2017 Final EA for Rule 1168.

##### *Air Quality Impacts During Operation*

Implementation of PAR 1168 is expected to cause delayed VOC emission reductions for the categories of Top and Trim Adhesive, Higher Viscosity CPVC Welding Cement, Clear, Paintable, Immediately Water-Resistant Sealant, and Rubber Vulcanization Adhesive due to extending the effective date to comply with VOC limits that were adopted in the October 2017 version of Rule 1168. In addition, the proposed project is likely to cause delayed VOC emission reductions from a proposed new subcategory of foam sealants, One-Component Foam Sealant, due to a combination of increasing the VOC limit from 50 grams per liter (g/L) to with 18 percent VOC by weight and delaying the effective date by six months from January 1, 2023 to July 1, 2023. Permanent foregone VOC emission reductions are also expected if the proposed higher VOC limits for certain categories of regulated products, including One-Component Foam Sealant, CPVC Welding Cement for Life Safety Systems, All Other Roof Adhesives, Single Ply Roof Membrane Adhesive (including both subcategories of with and without EPDM/TPO), and All Other Roof Sealants, are adopted.

The analysis in the Final SEA estimated the delayed and permanent forgone VOC emission reductions to be 0.42 tpd (equivalent to 840 pounds per day), and 0.28 tpd (equivalent to 560 pounds per day), respectively, which would exceed the South Coast AQMD's daily VOC operational significance threshold of 55 pounds per day. As a result, the peak daily VOC operational impacts associated with both the delayed and permanent foregone VOC emission reductions from implementing PAR 1168 are significant.

If significant adverse environmental impacts are identified, the CEQA document shall describe feasible mitigation measures that could minimize the significant adverse impacts of the proposed project. [CEQA Guidelines Section 15126.4]. Therefore, feasible mitigation measures are required

to reduce operational VOC impacts. CEQA defines "feasible" as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors." [Public Resources Code Section 21061.1].

However, the reason PAR 1168 is proposing to revise the VOC limits and/or effective dates for certain categories of adhesives and sealants is because there are currently no other products available that can feasibly attain the current VOC limits by the effective dates adopted in the October 2017 version of Rule 1168. Based upon these technological limitations, there are no feasible mitigation measures that would eliminate or reduce the significant adverse operational air quality impacts for VOC emissions to less than significant levels. Therefore, PAR 1168 is considered to have significant adverse unavoidable project-specific and cumulative air quality impacts during operation.

It is important to note that because the focus of PAR 1168 is on the VOC content of adhesives and sealants, emissions of other criteria pollutants that are typically associated with combustion activities (e.g., NOx, CO, SOx, PM10, and PM2.5) are not affected by PAR 1168. Thus, PAR 1168 will have no significant air quality impacts associated with NOx, CO, SOx, PM10, and PM2.5 emissions.

## **5.0 Findings Regarding Potentially Significant Environmental Impacts**

Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a) provide that a public agency shall not approve or carry out a project with significant environmental effects unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. Additionally, the findings must be supported by substantial evidence in the record. [CEQA Guidelines Section 15091(b)]. Three potential findings can be made for potentially significant impacts:

**Finding 1:** Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final SEA. [Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1)].

**Finding 2:** Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency. [Public Resources Code Section 21081(a)(2) and CEQA Guidelines Section 15091(a)(2)].

**Finding 3:** Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or project alternatives identified in the Final SEA. [Public Resources Code Section 21081(a)(3) and CEQA Guidelines Section 15091(a)(3)].

As identified in the Final SEA and summarized in Section 4.0 of this attachment, PAR 1168 has the potential to create significant adverse operational air quality impacts. The South Coast AQMD Governing Board, therefore, makes the following findings regarding the proposed project. The Findings are supported by substantial evidence in the record as explained in each finding. These Findings will be included in the record of project approval and will also be noted in the Notice of

Decision. The Findings made by the South Coast AQMD Governing Board are based on the following significant adverse impact identified in the Final SEA for PAR 1168:

**Potential delayed and permanent forgone VOC emission reductions during operation exceed the South Coast AQMD's applicable significance air quality thresholds and cannot be mitigated to less than significant levels.**

**Finding and Explanation:**

When comparing the types of activities and associated environmental impacts with implementing the VOC limits and compliance dates subject to the October 2017 version of Rule 1168 that was previously analyzed in the October 2017 Final EA to the currently proposed changes, PAR 1168 is anticipated to cause delayed and permanent forgone VOC emissions reductions due to extending the effective dates and maintaining the existing VOC limits for certain categories of regulated products, respectively. The Final SEA estimated these delayed and permanent forgone VOC emission reductions to be 0.42 tpd (equivalent to 840 pounds per day), and 0.28 tpd (equivalent to 560 pounds per day), respectively, which would exceed the South Coast AQMD's daily VOC operational significance threshold of 55 pounds per day.

Due to significant adverse air quality impacts during operation, feasible mitigation measures were required in the Final SEA to minimize the significant adverse impacts of the proposed project. However, the analysis in the Final SEA identified no feasible mitigation measures that would eliminate or reduce the significant adverse operational air quality impacts for VOC emissions to less than significant levels. Therefore, operational air quality impacts for VOC emissions are found to be significant and unavoidable.

The Governing Board finds that: 1) due to technological limitations, there are currently no other products available that can feasibly attain the original VOC limits by the effective dates adopted in the October 2017 version of Rule 1168; and 2) there are no feasible mitigation measures that would eliminate or reduce the project-level or cumulative significant adverse operational air quality impacts for VOC emissions to less than significant levels. [Public Resources Code Section 21081(a)(3) and CEQA Guidelines Section 15091(a)(3)].

## **5.1 Findings For Alternatives to the Proposed Project**

### **A. Alternative A: No Project**

**Finding and Explanation:**

The Final SEA analyzes a No Project Alternative, referred to as Alternative A, which consists of what would occur if the proposed project is not approved; in this case, not proposing amendments to Rule 1168. Under Alternative A, adhesives, sealants, sealant primers and adhesive primers would have to comply with the VOC emission limits in the October 2017 version of Rule 1168. Compliance with these VOC limits was projected to result in approximately 1.38 tpd of VOC emission reductions. However, manufacturers of certain adhesives and sealants have indicated that they need more time to develop

compliant products or cannot meet the applicable VOC limits by the January 1, 2023 effective date due to technological limitations, creating potential compliance issues, and likely resulting in the originally projected VOC emission reductions not being fully achieved.

Moreover, under Alternative A, t-BAc and pCBtF would continue to be classified as VOC-exempt solvents and as such, could continue to be used in formulating adhesives and sealants that would be subject to the October 2017 version of Rule 1168 and manufacturers would have the opportunity in the future to develop additional products formulated with these toxic compounds. Therefore, under Alternative A, the potential for new formulations of adhesives and sealants containing t-BAc and pCBtF could increase the existing toxicity impacts and associated health risks when compared to PAR 1168, which would eliminate the existing and future toxicity impacts through the prohibition of products formulation with t-BAc and pCBtF.

Based on proceeding discussion, Alternative A is the most harmful alternative relative to toxic air contaminants and toxicity impacts. Furthermore, the No Project Alternative is infeasible because it neither meets the objectives of PAR 1168 nor takes into consideration the conclusions of the technology assessment and the Stationary Source Committee's direction to take a precautionary approach evaluating existing or proposed exemptions for any compound with a toxic endpoint.

Because Alternative A is not environmentally superior to PAR 1168 and does not achieve the basic project objective, the Governing Board finds that the No Project Alternative is infeasible. [Public Resources Code 21081(a)(3); California Native Plant Society v. City of Santa Cruz (2009) 177 Cal.App.4th 957, 1000- 1001 (upholding finding of infeasibility where agency determined alternative failed to achieve project objective)].

## B. Alternative B: More Stringent Proposed Project

### Finding and Explanation:

The Final SEA analyzes Alternative B, which is more stringent than PAR 1168. Under Alternative B, the required effective date to meet the proposed VOC limits would be six months earlier than the proposed project for the categories of One-Component Foam Sealant and Higher Viscosity CPVC Welding Cement while the effective date to meet the proposed VOC limit for Top and Trim Adhesive, Clear, Paintable, Immediately Water-Resistant Sealant, and Rubber Vulcanization Adhesive would need to occur twelve months earlier than the proposed project. All other elements would be the same under Alternative B as for PAR 1168. When compared to the proposed project, Alternative B may be infeasible at worst or difficult to achieve at best due to technological limitations and time constraints associated with developing and testing new formulations prior to making them commercially available for use.

With regard to toxicity impacts, PAR 1168 and Alternative B are equally beneficial in terms of reducing the public exposure to acute and carcinogenic toxic impacts of t-BAc and pCBtF due to prohibiting their usage in adhesives and sealants. Moreover, Alternative

B would result in 0.42 tpd of delayed VOC emission reductions foregone, the same as PAR 1168, but the delay would be for a shorter period of time (i.e., six to twelve months less) when compared to the proposed project. Under this alternative, the amount of permanent VOC emission reductions foregone (0.28 tpd) would be the same as PAR 1168.

The Governing Board finds that there are no feasible mitigation measures that would eliminate or reduce the project-level or cumulative significant adverse operational air quality impacts for VOC emissions to less than significant levels if Alternative B is implemented. As such, the Governing Board finds that Alternative B will not avoid or substantially lessen the significant operational air quality impacts as identified in the Final SEA. [Public Resources Code Section 21081(a)(3) and CEQA Guidelines Section 15091(a)(3)].

### C. Alternative C: Less Stringent Proposed Project

#### I. Finding and Explanation:

The Final SEA analyzes Alternative C, which is less stringent than the proposed project. Under Alternative C, the categories of Top and Trim Adhesive, One-Component Foam Sealant, Higher Viscosity CPVC Welding Cement, Clear, Paintable, Immediately Water-Resistant Sealant, and Rubber Vulcanization Adhesive would have an additional 12 months to meet the proposed VOC limits in PAR 1168. All other elements would be the same under Alternative C as for PAR 1168.

With regard to toxicity impacts, PAR 1168 and Alternative C are equally beneficial in terms of reducing the public exposure to acute and carcinogenic toxic impacts of t-BAc and pCBtF due to prohibiting their usage in adhesives and sealants. Alternative C would result in 0.42 tpd of delayed VOC emission reductions foregone, the same as proposed project, but the delay would occur over a longer period of time (e.g., twelve months longer) when compared to PAR 1168. Alternative C, however, would result in the same amount of permanent foregone VOC emission reductions (0.28 tpd) as PAR 1168.

The Governing Board finds that there are no feasible mitigation measures that would eliminate or reduce the project-level or cumulative significant adverse operational air quality impacts for VOC emissions to less than significant levels if Alternative C is implemented. Therefore, the Governing Board finds that Alternative C will not avoid or substantially lessen the significant environmental effect as identified in the Final SEA. [Public Resources Code Section 21081(a)(3) and CEQA Guidelines Section 15091(a)(3)].

### D. Alternative D: Extended Effective Dates for VOC Limits in October 2017 Version of Rule 1168

#### I. Finding and Explanation:

The Final SEA analyzes Alternative D, which purports that the following categories of adhesives and solvents would meet the VOC limits in the October 2017 version of Rule 1168, but with an effective date of January 1, 2030 instead of January 1, 2023: One-

Component Foam Sealant, Single Ply Roof Membrane Adhesive (including both subcategories of with and without EPDM/TPO), All Other Roof Sealants, All Other Roof Adhesives, and CPVC Welding Cement for Life Safety Systems. All other elements would be the same under Alternative D as for PAR 1168.

Of the alternatives analyzed, Alternative D is the lowest toxic alternative because under this alternative, in addition to prohibiting t-BAc and pCBtF, certain categories of adhesives and sealants will need to be reformulated to have lower VOC contents with potentially fewer toxic compounds by January 1, 2030. Unlike the proposed project, Alternative D would only result in delayed VOC emission reductions foregone of 0.70 tpd, without resulting in any permanent VOC emission reductions foregone because manufacturers will have an additional seven years to develop and formulate adhesives and sealants for the aforementioned categories to meet the VOC limits from the October 2017 version of Rule 1168.

Over the long-term, Alternative D would result in no permanent VOC emission reductions foregone with the least amount of potential for adhesives and sealants to be formulated with toxic compounds. Thus, relative to PAR 1168 and the other feasible alternatives, Alternative D would be considered the environmentally superior alternative. However, due to uncertainties associated with the ability of manufacturers to formulate certain categories of adhesives and sealants to meet the low VOC limits established in the October 2017 version of Rule 1168 by January 1, 2030, Alternative D depends on future technological improvements in order to achieve the desired VOC emission reductions and the outcome of these future efforts are unknown.

The Governing Board finds that there are no feasible mitigation measures that would eliminate or reduce the project-level or cumulative significant adverse operational air quality impacts for VOC emissions to less than significant levels if Alternative D is implemented. As such, the Governing Board finds that Alternative D will not avoid or substantially lessen the significant environmental effect as identified in the Final SEA. [Public Resources Code Section 21081(a)(3) and CEQA Guidelines Section 15091(a)(3)].

## **5.2 Conclusion of Findings**

The Governing Board makes the following findings:

- 1) No feasible mitigation measures have been identified in the Final SEA that would eliminate or reduce the significant adverse operational air quality impacts for VOC emissions to less than significant levels.
- 2) Alternative A, the No Project alternative, is infeasible because it is the most harmful alternative relative to toxic air contaminants, does not achieve the proposed project objectives, and it does not take into consideration the conclusions of the technology assessment and the Stationary Source Committee's direction to take a precautionary approach evaluating existing or proposed exemptions for any compound with a toxic endpoint. Because Alternative A is not environmentally superior to PAR 1168 and does not achieve the basic project objective, the Governing Board finds that the No Project Alternative is infeasible. [Public Resources Code 21081(a)(3); California Native Plant Society v. City of Santa Cruz (2009) 177 Cal.App.4th 957, 1000- 1001 (upholding finding of infeasibility where agency determined alternative failed to achieve project objective)].
- 3) For Alternatives B and C, the Governing Board finds that there are no feasible mitigation measures that would eliminate or reduce the project-level or cumulative significant adverse operational air quality impacts for VOC emissions to less than significant levels As such, the Governing Board finds that neither Alternative B nor Alternative C will avoid or substantially lessen the significant operational air quality impacts as identified in the Final SEA. [Public Resources Code Section 21081(a)(3) and CEQA Guidelines Section 15091(a)(3)].
- 4) Alternative D was identified in the Final SEA as the environmentally superior alternative. However, the Governing Board finds that there are no feasible mitigation measures that would eliminate or reduce the project-level or cumulative significant adverse operational air quality impacts for VOC emissions to less than significant levels if Alternative D is implemented. Therefore, Alternative D will not avoid or substantially lessen the significant operational air quality impacts identified in the Final SEA. [Public Resources Code Section 21081(a)(3) and CEQA Guidelines Section 15091(a)(3)].

The Governing Board further finds that the Final SEA considered alternatives pursuant to CEQA Guidelines Section 15126.6, but there is no alternative to PAR 1168 that would reduce to insignificant levels the significant operational air quality impacts identified for the proposed project and still achieve the objectives of the proposed project.

The Governing Board further finds that the findings required by CEQA Guidelines Section 15091(a) are supported by substantial evidence in the record. The record of approval for this project may be found in the South Coast AQMD's Clerk of the Board's Office located at South Coast AQMD headquarters in Diamond Bar, California.

## 6.0 Statement of Overriding Considerations

If significant adverse impacts of a proposed project remain after incorporating mitigation measures, or no measures or alternatives to mitigate the adverse impacts are identified, the lead agency must make a determination that the benefits of the project outweigh the unavoidable adverse environmental effects if it is to approve the project. CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. [CEQA Guidelines Section 15093(a)]. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable” [CEQA Guidelines Section 15093(a)]. Accordingly, a Statement of Overriding Considerations regarding potentially significant adverse operational VOC air quality impacts resulting from PAR 1168 has been prepared. This Statement of Overriding Considerations is included as part of the record of the project approval for PAR 1168. Pursuant to CEQA Guidelines Section 15093(c), the Statement of Overriding Considerations will also be noted in the Notice of Decision for PAR 1168.

Despite the inability to incorporate changes into PAR 1168 that will mitigate potentially significant adverse operational air quality impacts to a level of insignificance, the South Coast AQMD Governing Board finds that the following benefits and considerations outweigh the significant unavoidable adverse environmental impacts:

1. The analysis of potential adverse environmental impacts incorporates a “worst-case” approach. This entails the premise that whenever the analysis requires that assumptions be made, those assumptions that result in the greatest adverse impacts are typically chosen. This method likely overestimates the actual adverse environmental impacts from PAR 1168.
2. The potential adverse impacts from implementing PAR 1168 consist of delayed VOC emission reductions and permanent VOC emission reduction foregone, not emission increases.
3. In consideration of the total net accumulated emission reductions projected overall, the delayed and permanent VOC emission reductions forgone from PAR 1168 would not interfere with the air quality progress and attainment demonstration in the 2016 Air Quality Management Plan (AQMP). The 2016 AQMP identified ambient air pollutant levels relative to federal and state ambient air quality standards (AAQS), established baseline and future emissions, and developed control measures to ensure attainment of the AAQS. Specifically, the October 2017 amendments to Rule 1168 were adopted to partially implement Control Measure CTS-01 - Further Emission Reductions from Coatings, Solvents, Adhesives, and Sealants from the 2016 AQMP, which targeted one tpd of VOC emission reductions by 2023. Since the October 2017 version of Rule 1168 estimated VOC emission reductions of 1.38 tpd, even with the 0.28 tpd foregone emission reductions from the proposed project, PAR 1168 would still exceed the commitment to achieve one tpd of VOC emission reductions in the 2016 AQMP.

Moreover, the 2016 AQMP established a set-aside account for NOx and VOC emissions,

in the event that not all of the control measures proposed at that time would achieve the entire amount of desired emission reductions. At the time, the state implementation plan (SIP) set-aside account had an initial balance of 2.0 tpd of NOx and 0.5 tpd of VOC for each year from 2017 to 2030, and 0.5 tpd of NOx and 0.2 tpd of VOC in 2031, to accommodate projects with a positive conformity determination (i.e., emissions that exceed the de minimis threshold). In addition, the Revised Draft 2022 AQMP has a revised SIP set-aside reserve of 4.0 tpd VOC emissions specifically designated for the potential technology assessment and phaseout of toxics for VOC-based rules as targeted by Control Measure CTS-01. Thus, any delayed or permanent VOC emission reductions foregone from amending the various VOC-based rules, including but not limited to PAR 1168, will be offset by the VOC emissions in the SIP set-aside account. In addition, other opportunities for reducing VOC emissions from product formulations are expected to continue to occur over the long-term due to future VOC limits that are currently in Rules 1113, 1151 and 1168 that have not yet gone into effect. Therefore, cumulative air quality impacts from PAR 1168 and all other AQMP control measures when considered together, are not expected to be significant because implementation of all AQMP control measures, and in particular, this project, is expected to result in net emission reductions and overall air quality improvement.

4. The prohibition of t-BAc and pCBtF in PAR 1168 is consistent with the Stationary Source Committee recommendation in April 2017 to take a precautionary approach when considering an exemption for any compound with a toxic endpoint and removing the exempt status for any compound that has an established toxic endpoint. The cancer potency factors for t-BAc and pCBtF are 0.0047 and 0.03 (mg/kg-day)<sup>-1</sup>, respectively which are higher or within the same order of the cancer potency factor for some Group II compounds such as dimethyl carbonate (0.0035) and perchloroethylene (0.021). It should be noted that Group II compounds are those that are already restricted or will be restricted in the future because they are either toxic, potentially toxic, upper atmospheric ozone depleters, or cause other environmental impacts.
5. Although PAR 1168 would allow higher VOC limits for certain categories of adhesives and sealants due to prohibiting t-BAc and pCBtF, the long-term health benefit and reduced exposures from prohibiting these toxic compounds with substantial adverse carcinogenic health effects, would outweigh the permanent forgone VOC emission reductions.
6. PAR 1168 will provide relief for manufacturers of certain categories of adhesives and sealants which are technologically unable to meet the VOC limits in the October 2017 version of Rule 1168 by the effective date of January 1, 2023.
7. Although PAR 1168 would still cause significant operational air quality impacts for VOC emissions, it is considered to provide the best balance in achieving the project objectives while minimizing the significant adverse environmental impacts to operational air quality.

The South Coast AQMD Governing Board finds that the above-described considerations outweigh the unavoidable significant effects to the environment as a result of PAR 1168.

## 7.0 Mitigation

CEQA requires an agency to prepare a plan for reporting and monitoring compliance with the implementation of measures to mitigate significant adverse environmental impacts. When making findings as required by Public Resources Code Section 21081 and CEQA Guidelines Section 15091, the lead agency must adopt a reporting or monitoring program for the changes to the project which it has adopted or made a condition of project approval in order to mitigate or avoid significant effects on the environment [Public Resources Code Section 21081.6 and CEQA Guidelines Section 15097(a)]. The provisions of CEQA Guidelines Section 15097 and Public Resources Code Section 21081.6 are triggered when the lead agency certifies a CEQA document in which mitigation measures changes, or alterations have been required or incorporated into the project to avoid or lessen the significance of adverse impacts identified in the CEQA document.

However, no feasible mitigation measures were identified for PAR 1168 that would eliminate or reduce the significant adverse operational air quality impacts for VOC emissions to less than significant levels. Since no feasible mitigation measures were identified, mitigation measures and a corresponding mitigation, monitoring and reporting plan are not required and have not been prepared.

## 8.0 Record of Proceedings

For purposes of CEQA, including the Findings and Statement of Overriding Considerations, the Record of Proceedings for PAR 1168 consists of the following documents and other evidence, at a minimum:

- The Final SEA for PAR 1168, including appendices and technical studies included or referenced in the Final SEA, and all other public notices issued by South Coast AQMD for the Final SEA.
- The Draft SEA for the proposed project including appendices and technical studies included or referenced in the Draft SEA, and all other public notices issued by South Coast AQMD for the Draft SEA.
- All written and verbal public testimony presented during a noticed public hearing for PAR 1168.
- All documents, studies, EAs, or other materials incorporated by reference and tiered-off in the Draft SEA and Final SEA.
- The Resolution adopted by South Coast AQMD in connection with PAR 1168, and all documents incorporated by reference therein.
- Matters of common knowledge to South Coast AQMD, including but not limited to federal, state, and local laws and regulations.
- Any documents expressly cited in the Findings and Statement of Overriding Considerations.
- Any other relevant materials required to be in the record of proceedings by Public Resources Code Section 21167.6(e).

- The Notice of Decision, prepared in compliance with Public Resources Code Section 21080.5(d)(2)(E), CEQA Guidelines Section 15252(b), and South Coast AQMD Rule 110(f), if the Governing Board certifies the Final SEA and approves PAR 1168.

To comply with CEQA Guidelines Section 15091(e), the South Coast AQMD specifies the Deputy Executive Officer of the Planning, Rule Development, and Implementation Division as the custodian of the administrative record for PAR 1168, which includes the documents or other materials which constitute the record of proceedings upon which the South Coast AQMD's actions related to the proposed project is based, and which are located at the South Coast AQMD headquarters, 21865 Copley Drive, Diamond Bar, California 91765. Copies of these documents, which constitute the record of proceedings, are and at all relevant times have been and will be available upon request. This information is provided in accordance with Public Resources Code Section 21081.6(a)(2) and CEQA Guidelines Section 15091(e).