

KOHLER®
PRODUCT ENVIRONMENTAL POLICY
RESTRICTED MATERIAL LIST
(PEP-RML-001)

21 March 2022
Version 5.0

[REPORT A CONCERN ►](#)

[FEEDBACK ►](#)

1.0 Policy

No products or materials are to be designed, developed, manufactured, sold, purchased, or distributed worldwide by or for Kohler Co. and its affiliates (“Kohler”) without adherence to applicable product composition regulations in effect including all applicable product environmental laws such as those regulating toxic materials, air emissions, wastewater discharge, waste treatment and disposal.

2.0 Purpose

The purpose of this Product Environmental Policy is to identify applicable product chemical and product chemical composition regulations and requirements.

3.0 Scope

This Product Environmental Policy - Restricted Material List, applies to all products and materials, both direct and indirect, that are designed, manufactured, or purchased worldwide by or for any Kohler business and all Kohler brands, including but not limited to all subassemblies, parts, materials, components, batteries, merchandise, and packaging.

Outside the scope of this policy are Mobile Source and Stationary Source exhaust emission regulations and other material-based specifications, such as plating specifications.

4.0 Responsibilities

Product Compliance Team Responsibility

A Kohler team comprised of Legal and Product Compliance personnel with authority to manage, enforce and/or revise this policy as required.

Kohler Responsibility

Kohler businesses and associates have the responsibility to ensure:

- All Material Specifications meet applicable regulatory requirements
- Only approved suppliers are used
- All contractual requirements are met prior to working with any supplier

Supplier Responsibility

Suppliers must comply with this policy and all relevant applicable law. Suppliers must provide all applicable supporting documentation for direct materials, such as:

- Full Material Disclosure (see section 7.0)
- Supplier Declarations for RoHS (see section 8.2; declarations must meet the minimum requirements shown in Appendix A)
- Supplier Declaration for REACH SVHC and Restricted List Substances (see section 8.1)
- Supplier Declaration for California Proposition 65 (see section 8.7)
- Supplier Declaration for US TSCA PBT's (see section 8.7)

Upon request, suppliers must also provide:

- Additional information required to comply with EU SCIP Database submissions
- Test reports demonstrating formaldehyde or radiation emissions are below restricted limits
- Conflict Minerals Reporting Template
- Safety Data Sheets for substances, mixtures, or batteries

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- Declarations of Conformity (European Union, United Kingdom, Australia, etc.)
- Other test results, etc. as necessary to support Kohler product compliance obligations

Suppliers may be contacted by a third-party data collector on behalf of Kohler Co. Suppliers are expected to cooperate by providing requested information through data collection portals, subject to receiving a letter of authorization from Kohler Co.

Suppliers must maintain awareness of all applicable regulations and immediately notify Kohler if supplied materials contain any newly regulated substances.

Suppliers must immediately notify Kohler if they make design changes to subassemblies, parts, materials, components, batteries, merchandise, and/or packaging which could impact the compliance status of the materials, including regarding material composition.

5.0 Appendices

- Appendix A – Minimum Requirements for Supplier Declarations
- Appendix B – Template for an EU/UK RoHS Declaration
- Appendix C – Template for EU REACH Declaration
- Appendix D – Template for CA Proposition 65 Declaration
- Appendix E – Template for US TSCA PBT Declaration
- Appendix F – Formaldehyde Certification Requirements

6.0 Definitions and Acronyms

Article	An object which during production is given a special shape, surface or design which determines its function to a greater degree than its chemical composition. (Defined by EU REACH Article 3 and UK REACH)
Battery	Any source of electrical energy generated by direct conversion of chemical energy and consisting of one or more primary battery cells (non-rechargeable) or consisting of one or more secondary battery cells (rechargeable). (Defined by the EU Batteries Directive)
Candidate List	A list of substances identified in the EU REACH Regulation that have been identified as Substances of Very High Concern (SVHC) and which may become subject to authorization.
Chemical Abstracts Service (CAS) and Chemical Abstracts Service Registry No. (CAS No.)	The CAS is a division of the American Chemical Society for research in chemical and related sciences. The CAS No. is a unique identifier assigned for each chemical substance described in open scientific literature.
Complex Object	More than one Article joined or assembled together in various manners make a Complex Object. (Defined by the ECHA "Guidance on requirements for substances in articles")
Conflict Minerals	A mineral mined in an area of armed conflict and traded illicitly to finance fighting.
European Community No. (EC No.)	A unique identifier assigned to substances for regulatory purposes within the European Union by the European Commission.
Homogeneous Material	One material of uniform composition throughout or a material, consisting of a combination of materials, that cannot be disjointed or separated into different materials by mechanical actions such as unscrewing, cutting, crushing, grinding and abrasive processes. (Defined by RoHS 2011/65/EU)
International Living Future Institute (ILFI) Red List	The "worst in class" materials prevalent in the building industry as defined by the International Living Future Institute.
Material Specification	A formal Kohler requirement pertaining to the design and chemical composition of a component, subassembly, or product.

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Mixture	A mixture or solution composed of two or more substances. (Defined by EU REACH Article 3 and UK REACH)
Packaging	Products used for the containment, protection, handling, delivery, and presentation of raw materials to processed goods.
Products	Final assemblies or service parts, including manufactured and branded products. For purposes of product chemical compliance, Products are considered separately from Packaging.
Prohibited	May not be present in any concentration.
Restricted	Must not exceed the specified maximum concentration limits.
Reportable	Not currently restricted by applicable regulations, but presence must be reported to Kohler if it exceeds the specified maximum concentration limits where applicable.
SCIP	SCIP is the European Union database for information on S ubstances of C oncern I n articles as such or in complex objects (P roducts) established under the Waste Framework Directive. Parts and products containing EU REACH SVHC's must be registered in this database prior to being placed on the market in the European Union.
Substance	A chemical element and its compounds in the natural state or obtained by any manufacturing process. (Defined by EU REACH Article 3 and UK REACH)
Substance of Very High Concern (SVHC)	A chemical substance (or part of a group of chemical substances) for which it has been proposed that the use within the EU be subject to authorization under REACH. Often referred to in conjunction with the "Candidate List" from the EU REACH Regulation. (Defined by EU REACH)
Very Complex Object	A combination of simpler complex objects plus further articles. (Defined by the ECHA "Guidance on requirements for substances in articles")

7.0 Full Material Disclosure (FMD)

Kohler collects composition information for items it purchases from suppliers to minimize the need to reach out for each new restriction and to allow for proactive management of substances of concern, as well as product transparency communications with customers. Kohler will collect "Full Material Disclosure" including the following information:

- The complete chemical composition of all materials provided to Kohler including the trade name, supplier name, and concentration of each substance.
- Upon request, supplier will provide additional documentation and data including certifications, compliance declarations, and test data to demonstrate or verify compliance.
- Supplier is also expected to notify Kohler of any changes to the material composition in the future.

Multiple formats for providing "Full Material Disclosure" are accepted. Common Extensible Markup Language (XML) templates for providing "full material disclosure" include IPC-1752A, IPC-1754, and IEC 62474.

By providing FMD, Kohler can quickly assess the status of materials against newly-restricted substances rather than continually querying our suppliers and will greatly reduce the number of times suppliers are contacted to provide new information on existing materials.

8.0 Restricted / Controlled / Reportable Substance Regulations

No products or materials are to be designed, developed, manufactured, sold, purchased, or distributed worldwide by or for Kohler without, at a minimum, adherence to the following regulations.

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8.1 European Union REACH Regulation (1907/2006) and United Kingdom REACH

The title of the EU REACH Regulation (1907/2006) is “Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)”. EU REACH applies both to substances on their own, and to “articles” composed of substances (see definitions).

<https://echa.europa.eu/regulations/reach/understanding-reach>

Suppliers are required to provide information about the presence of EU REACH substances in materials provided to Kohler, referencing the most current revision of the EU REACH Regulation.

As of January 2021, the United Kingdom REACH regulation took effect. It is expected that suppliers will ensure compliance to both EU and UK REACH regulations.

<https://www.hse.gov.uk/reach/index.htm>

Note that the EU and UK REACH Regulations change frequently. Suppliers are expected to monitor the changing requirements and provide Kohler with updated information for the materials they provide to Kohler whenever the regulations change. For a list of current substances regulated by EU REACH, please reference the European Chemicals Agency website (links below).

REACH Regulation = “Registration, Evaluation, Authorisation and Restriction of Chemicals”

- EU REACH Restricted List – Annex XVII:
 - <https://echa.europa.eu/substances-restricted-under-reach>
 - Substances on the “Restricted List” may only be restricted from certain applications. If the supplier utilizes any of the substances on this list, for example Pb (lead), they are expected to review the specific REACH Annex XVII entry to ensure that the usage is allowed for the items they supply to Kohler.
- EU REACH Authorisation List – Annex XIV:
 - <https://echa.europa.eu/authorisation-list>
 - Suppliers who provide substances or mixtures to Kohler (see definitions in section 5.0) for use or sale within the European Economic Area (EEA) or United Kingdom must notify Kohler of the presence of any of the substances on the REACH Authorisation List (Annex XIV). This list does NOT apply to “articles” supplied to Kohler Co.
- EU REACH Candidates for Authorisation List – “Substances of Very High Concern” (SVHC)
 - <https://echa.europa.eu/candidate-list-table>
 - SVHC’s are listed on the “Candidates for Authorisation” list within the REACH Regulation. While the use of these substances is not restricted, other requirements are mandated. Therefore, **suppliers must notify Kohler if they are utilizing any of the Candidate List substances in concentrations greater than 0.1% weight by weight.**
 - The substance concentration threshold of 0.1% (w/w) applies to **every article** (see definition in section 5.0) or substance supplied. This threshold applies to each individual article of a “complex object” or “very complex object” made up of more than one article, which were joined or assembled together.

As of 5 January 2021, under the revised “**Waste Framework Directive**” (Directive (EU) 2018/851) of the European Union, companies that produce, import, or supply articles containing Candidate List substances must submit information on these articles placed on an EU market to the SCIP database. These articles can be produced in the EU or imported from non-EU countries. Suppliers delivering parts to Kohler EU locations must provide SCIP registration numbers for purchased items that contain EU REACH SVHC’s.

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Additionally, ALL suppliers globally are expected to provide additional information as required to enable Kohler Co. to prepare and submit dossiers for products that Kohler businesses place on the market in the European Union.

<https://echa.europa.eu/scip>

8.2 European Union RoHS Directive (2011/65/EU) and United Kingdom RoHS Regulation (2012 No. 3032) – “Restriction of Hazardous Substances”

The full title of the EU RoHS Directive is “Restriction of the use of certain hazardous substances in electrical and electronic equipment”.

RoHS applies to all components, subassemblies, and products used in the final product that is within the scope of the Directive. This is required even if the component, subassembly, or product by itself is outside of the scope of the Directive (for example, a gasket or fastener). Kohler Co. requires RoHS information for all purchased materials regardless of whether or not the purchased item is “electronic”.
http://ec.europa.eu/environment/waste/rohs_eee/legis_en.htm

In the absence of providing “full material disclosure” (see section 7.0) for the materials provided to Kohler, suppliers are required to provide an “absence declaration” (see appendices A and B) which reflects the status of the materials to the most current version of the EU RoHS Directive (2011/65/EU as well as subsequent amendments, including 2015/863 which adds substances to the list of restricted substances).

RoHS thresholds for the restricted materials must be evaluated at the “homogeneous” level for the items covered by the declaration, not at the “finished goods” level (see definition in section 6.0). RoHS declarations MUST include disclosure of any approved RoHS exemptions that are being utilized to allow the presence of RoHS substances.

The Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations (2012 No. 3032) – also known as UK RoHS, is the UK transposition of the EU RoHS Recast 2011/65/EU. As such the requirements are currently aligned and declarations for EU RoHS will also be utilized to determine compliance to UK RoHS and support UK Conformity Assessment (UKCA) product certifications for products in-scope of the requirements as of January 2021.

<https://www.gov.uk/guidance/rohs-compliance-and-guidance>

Other countries and states where Kohler sells products have also implemented RoHS-like restrictions. Suppliers are expected to provide EU RoHS declarations regardless of the market to meet the requirements of these similar regulations. Some additional markets of interest include:

China	GB/T-26573
EAEU / Russia	TR CU 037/2016
Korea	Act on Resource Circulation of Electronic Products
Saudi Arabia	Technical Regulation for Restriction of Hazardous Substances in Electrical and Electronic Equipment, July 2021
Thailand	TIS 2368-2551, 2008
United Arab Emirates (UAE)	Regulation No. 10, 2017

8.3 Formaldehyde

All suppliers of composite wood products that are affected under [Title VI of the United States EPA Toxic Substances Control Act \(TSCA\)](#), [Canada’s Formaldehyde Emissions from Composite Wood Products Regulations \(SOR/2021-148\)](#) and/or the [California Air Resources Board \(CARB\) Airborne Toxic Control Measure](#) (ATCM) must acknowledge that they are compliant with the three previous

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regulations during the supplier registration process on the Kohler Supplier Management Platform. This may apply to manufacturers, importers, distributors, retailers, panel producers, fabricators, third party certifiers, and accreditation bodies. More details are provided in Appendix F.

8.4 Supplier Radiation Requirements

All purchased materials must satisfy current governmental and safety requirements for hazardous materials such as Class 7 Radioactive Materials. To prevent radioactive contamination into Kohler Co. processes and products, all incoming metallic materials and components, including scrap being recycled for new uses, must not emit ionizing radiation at levels above 0.05 mrem/hr (0.5 uSv/hr) beyond background levels in the location of production.

If any of the materials and components supplied to Kohler Co. are found to not meet this requirement, the Supplier will at minimum be responsible for proper disposal and immediately providing Kohler Co. with nonhazardous replacement product, at the expense of the Supplier.

8.5 Biocidal Products

Some products and materials sold to Kohler Co. contain substances with biocidal properties. These substances are also referred to as pesticides, disinfectants, antibacterials, or antimicrobials. Many countries where Kohler sells products require registration and authorization to use these substances, both on their own and as incorporated into other products, and therefore Kohler Co. requires suppliers to use registered and authorized materials for the markets where the products will be sold. Additionally, Kohler Co. requires suppliers to provide information about any biocidal products in use and provide registration and/or authorization details.

Some of Kohler's key markets with these types of regulations include:

Regulation	Description	Link
Canada Pest Control Products Act (S.C. 2002, c.28)	Provides for national regulation of pesticide distribution, sale, and use. All pesticides, including biocides, distributed, or sold in Canada must be registered (licensed) by PMRA	https://www.canada.ca/en/health-canada/services/consumer-product-safety/pesticides-pest-management/public/protecting-your-health-environment/pest-control-products-acts-and-regulations-en.html
EU Biocidal Properties Regulation (BPR) (Regulation (EU) 528/2012)	All biocidal products require an authorization by European Chemicals Agency (ECHA) before they can be placed on the EU market, and the active substances contained in that biocidal product must be previously approved.	https://echa.europa.eu/regulations/biocidal-products-regulation/understanding-bpr
US Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) 7 U.S.C. §136 et seq. (1996)	Provides for federal regulation of pesticide distribution, sale, and use. All pesticides distributed or sold in the United States must be registered (licensed) by EPA.	https://www.epa.gov/laws-regulations/summary-federal-insecticide-fungicide-and-rodenticide-act

8.6 Glaze and glazed ceramics material restrictions

The use of Lead and Cadmium, and their associated compounds, in materials purchased by Kohler Co. used for glaze mixtures, overlays applied to ceramics, or in already-glazed products, are strictly prohibited. This includes ceramic sanitary ware, kitchen sinks, and ceramic tiles.

8.7 Additional hazardous substance regulations

There are many other hazardous substance regulations emerging globally which regulate other "substances of concern". Suppliers will be cooperative in assessing the status of Kohler products in

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relation to these regulations. As indicated in the description, some regulations only require notification of the presence of certain substances while others require restriction of specific substances.

Regulation	Description	Link
California Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65)	Notification required. Businesses are required to provide “clear and reasonable” warning before exposing anyone to a listed chemical.	https://oehha.ca.gov/proposition-65
Canada Products Containing Mercury Regulations (SOR/2014-254)	Restriction required. Restricts the amount of mercury allowed in most types of products that are manufactured or imported to Canada.	https://gazette.gc.ca/rp-pr/p2/2014/2014-11-19/html/sor-dors254-eng.html
EU Batteries Directive (2006/66/EC)	Restriction required. Includes restrictions for hazardous substances in batteries (mercury, cadmium)	http://ec.europa.eu/environment/waste/batteries/index.htm
EU Food Contact Materials Regulation (1935/2004/EC)	Restriction required. Ceramic articles intended to come into contact with foods, including kitchen sinks, are also in the scope of the directive 84/500/EEC (lead and cadmium).	https://ec.europa.eu/food/safety/chemical_safety/food_contact_materials_en
EU Packaging Directive (94/62/EC)	Restriction required. Includes restrictions for substances in packaging.	http://ec.europa.eu/environment/waste/packaging/legis.htm
EU Ozone Depleting Substances (ODS) (Regulation (EC) 1005/2009)	Restriction required. Prohibits / restricts use of Ozone Depleting Substances (ODS) in accordance with the Montreal Protocol.	https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISUM:ev0021
EU Persistent Organic Pollutants (POPs) (Regulation (EC) 850/2004)	Restriction required. Prohibits/restricts the use of Persistent Organic Pollutants (POPs) in accordance with the UNECE Protocol and the Stockholm Convention	http://ec.europa.eu/environment/chemicals/international_conventions/index_en.htm
United States Toxic Substances Control Act (TSCA) Section 6(h)	Restriction required. Prohibits/restricts the use of 5 Persistent, Bioaccumulative and Toxic Chemicals (PBT's)	https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/persistent-bioaccumulative-and-toxic-pbt-chemicals

9.0 Additional hazardous substance compliance and notification requirements

Kohler closely monitors for the presence of substances that may pose health and/or environmental concerns whether they are currently restricted or have the potential to be regulated in the future. Suppliers must adhere to existing regulatory requirements that prohibit or restrict specific substances as indicated below and inform Kohler if substances listed as “reportable” are contained in the items they are providing.

All substances listed in the table are either categorically **prohibited**, **restricted** at a specific threshold, or **reportable** (not restricted, but supplier must inform Kohler of the presence of these substances).

Substance	CAS Registry Number	Control Level
Antimony Trioxide	1309-64-4	Reportable
Asbestos, including brown, blue and white asbestos, Tremolite <i>Materials supplied to Kohler may not contain or be exposed to asbestos.</i>	Multiple	PROHIBITED
Bis (2-ethylhexyl)phthalate (DEHP)	117-81-7	Restricted
Bisphenol A (BPA) – 4,4' -isopropylidenediphenol	80-05-7	Reportable
Brominated Flame Retardants	Multiple	Reportable

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Butyl benzyl phthalate (BBP)	85-68-7	Restricted
Cadmium and its compounds	7440-43-9 and others	Restricted
Chlorinated hydrocarbons	Several	PROHIBITED
Cobalt metal	7440-48-4	Reportable
Cyanide and its compounds	57-12-5	Restricted
Diarsenic trioxide	1327-53-3	Restricted
Dibutyl phthalate (DBP)	84-74-2	Restricted
Diisobutyl phthalate (DIBP)	84-69-5	Restricted
Fluorinated greenhouse gases (PFC, SF6, HFC)	Several	PROHIBITED
Halogenated materials	Multiple	Reportable
Chromium VI compounds	Multiple	Restricted
ILFI Red List and Watch List Materials (definition in section 6.0) See https://living-future.org/declare/declare-about/red-list	Multiple	Reportable
Lead and its compounds	7439-92-1 and others	Restricted
Mercury and its compounds	7439-97-6 and others	Restricted
Nickel and its compounds	7440-02-0 and others	Reportable
Perchlorates	Multiple	Restricted
Phenol, Isopropylated Phosphate (3:1) (PIP (3:1))	68937-41-7	PROHIBITED
Polybrominated biphenyls (PBB)	Multiple	Restricted
Polybrominated diphenyl ethers (PBDE) (Includes DecaBDE)	Multiple	Restricted
Polychlorinated Biphenyls (PCB's)	1336-36-3, 11097-69-1, 2437-79-8, 11096-82-5, 53469-21-9	PROHIBITED
Poly- and perfluoroalkyls (PFAS including PFOA and PFOS)	335-67-1, 1763-23-1 There are over 5000 PFAS substances – Kohler requires knowledge of any being used	Restricted or Reportable
Polychlorinated naphthalenes (PCN)	Several, for example 70776-3-3	Restricted
Polyvinyl Chloride (PVC)	9002-86-2	Reportable
Short chain and medium chain chlorinated paraffins (Alkanes C10-13 and C14-17, chloro)	85535-84-8, 85535-85-9	Restricted
Silicones	Multiple	Reportable
Tetrabromo-Bisphenol A (TBBPA)	79-94-7	Reportable

10.0 Conflict Minerals

While these minerals are not “restricted, controlled or hazardous substances”, their sourcing is regulated under US SEC Dodd-Frank Act requirements as well as Regulation (EU) 2017/821 of the European Parliament.

Under both the US and EU regulations for so-called “conflict minerals”, the current minerals of concern are:

- Cassiterite (tin) – CAS No. 7440-31-5
- Wolframite (tungsten) – CAS No. 7440-33-7
- Coltan (tantalum) – CAS No. 7440-25-7
- Gold – CAS No. 7440-57-5

Suppliers must provide Kohler with information regarding whether these minerals are present and the original source, if applicable. The reporting should be completed using the industry-standard “Conflict Minerals Reporting Template” which can be completed at the supplier level (CMRT).

<http://www.responsiblemineralsinitiative.org/conflict-minerals-reporting-template/>

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Other countries and US states have additional responsible supplier requirements regarding Conflict Minerals sourcing. Suppliers may be requested to provide documentation to comply with developing declaration requirements for Conflict Minerals.

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HISTORY

VERSION	DATE	DESCRIPTION
1.0	13-May-2019	Initial release drafted by Cally Edgren <ol style="list-style-type: none"> 1. Establishing Kohler Co. product environmental requirements 2. Include product chemical and composition regulations and substances of concern 3. Clarifies expectations from suppliers 4. Clarifies documentation requirements.
2.0	6 September-2019	Initial draft revised by Cally Edgren, Michael Read & Chelsie Warner: <ol style="list-style-type: none"> 1. Refined Kohler Co. functional areas impacted by this policy 2. More granularly defined the Scope of this policy 3. Updated reference date of REACH SVHC list in Appendix F to reflect July 2019 update 4. Removed references to Quality responsibilities as this is managed differently by various Kohler Co. business groups 5. Final Legal review modifications accepted
3.0	24 April 2020	Revision by Cally Edgren <ol style="list-style-type: none"> 1. Clarified Supplier Responsibilities in section 4.0 to address requirements for formaldehyde and radiation requirements, submission of composition data through third-party data collection activities, and design change management notifications 2. Clarified Supplier Radiation Requirements and renumbered remaining sections accordingly 3. Added section 7.0 outlining Full Material Disclosure requirements 4. Added RoHS substances to section 8.0 5. Added US EPA Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) to section 8.5 6. Added reference to EU "Conflict Minerals" requirements in section 9.0 7. Added references to the United Kingdom in addition to European Union 8. Added clarification for "Full Material Disclosure" in definitions instead of as Appendix A 9. Created a separate section for formaldehyde requirements and added an appendix with specific requirements 10. Removed Appendices A, E and F and relabeled others accordingly 11. Other minor points for clarification
4.0	6 April 2021	Revision by Cally Edgren <ol style="list-style-type: none"> 1. Added reference to the EU SCIP Database in regard to EU REACH SVHC reporting in both the definitions section 6.0 and EU REACH section 8.1. 2. Created section 8.5 for "Biocidal products" and moved references to use of authorized materials under EU Biocidal Products Regulation and US FIFRA to this section. Added requirement for compliance to Canadian Pest Control Products Act. All subsequent sections renumbered accordingly. 3. Created section 8.6 for "Glaze material restrictions". 4. Added EU Food Contact Materials Regulation to the "Additional hazardous substance regulations" in section 8.7. 5. Added Phenol, Isopropylated Phosphate (3:1) to section 9.0 due to US TSCA prohibition. 6. United Kingdom requirements added in conjunction with European Union requirements to reflect the end of the transition period of the UK exit from the EU. 7. Added Appendices C & D for EU REACH and CA Prop 65 templates to be utilized with Assent data collection program if needed. Moved Formaldehyde requirements to Appendix E.
5.0	21 March 2022	Revision by Cally Edgren. Key updates include: <ol style="list-style-type: none"> 1. Separated "Supplier Responsibilities" to distinguish declarations required for ALL purchased direct materials from those that may only be required upon request. 2. Added reference to other key RoHS regulations beyond the EU/UK. 3. Added references to new Canadian requirements for Formaldehyde. 4. Added reference to Canadian restrictions on mercury in products. 5. Added references and declaration template for US TSCA section 6(h) PBT's.

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Appendix A - Requirements for Supplier Declarations

In most situations, a supplier-provided “Certificate of Conformity” (CoC) declaration is acceptable documentation for the technical file to support compliance. Guidance for a Certificate of Conformity is provided below, with examples following in the appendices.

Depending on the component and supplier risk, additional documentation, including a “Full Material Disclosure” (FMD) and/or analytical test report may also be requested by Kohler in order to meet our obligations under harmonized standards IEC 63000:2016 / EN IEC 63000:2018 *“Technical documentation for the assessment of electrical and electronic products with respect to the restriction of hazardous substances”*.

Supplier Declaration “Certificate of Conformance” must include (at a minimum) the following:

- A reference to the regulation that is the subject of the declaration:
 - EU RoHS: EU RoHS Directive 2011/65/EU and UK RoHS 2012 No. 3032.
 - The declaration should also include a reference to Commission Delegated Directive (EU) 2015/863 (“phthalates”) and any subsequent amendments that change the substances listed in the EU RoHS Directive Annex II.
 - EU REACH: A reference to Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH).
 - US TSCA: A reference to the actual legislation title, “Regulation of Persistent, Bioaccumulative, and Toxic Chemicals under TSCA Section 6(h)”.
 - California Proposition 65: A reference to the Safe Drinking Water and Toxic Enforcement Act of 1986.
- Part numbers and description of the item(s) provided to Kohler.
 - The declaration shall cover a specific material, part, and/or sub-assembly, or a specific range of materials, parts, and/or subassemblies.
 - It is acceptable to list multiple parts on the same certificate using a table format.
- A declaration stating whether any of the listed substances from the regulation that is the subject of the declaration are contained in the purchased materials above the listed thresholds
 - Specific listed substances and composition must be included.
 - For EU/UK RoHS, if a substance is present above the level permitted, an allowable (and non-expired) application exemption from Annexes III or IV of the EU RoHS Directive **should** be identified on the declaration.
 - For US TSCA PBT, if a substance is present above the level permitted and an applicable exemption is available, it should be identified on the declaration.
- Signature of an authorized company representative including their name, contact details and position.
- Date of issue for the declaration.
 - The declaration will be assumed to address the regulation in effect as of that date, including the list of “substances of concern” as of that date.
 - If the regulation has changed since the date of the declaration, it will be rejected by Kohler as “outdated” and a new declaration will be requested.
- The declaration must be on company letterhead (company name, address, phone).
- The declaration must be provided in English or another approved language of a European Union Member State.
 - However, suppliers have the option of utilizing the Kohler-formatted declarations available in Appendices B – E in the translations provided by Kohler, as long as the information in the table is provided in English or another language of the European Union.

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Other suggested information:

- Suggested alternatives for parts that do not meet restrictions.
- Method used to determine compliance of parts (i.e. third-party material testing or supply chain and manufacturing process evaluation).
 - If analytical testing has been completed (preferably in accordance with IEC/EN 62321), it is requested that a dated copy of results be included with the documentation.

Analytical Test Results

Analytical test results using methods described or referenced in IEC 62321:2008 and subsequent updates may be requested for certain components or commodities.

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Appendix B – Template for an EU/UK RoHS Declaration

Below is an example that can be used for an EU/UK RoHS declaration. It is not mandatory that suppliers use this template, but information shown in the table, and reference to the specific regulation and amendment 2015/863, is required. It is acceptable to include multiple parts on the same declaration using the table format.

(Insert Company Letterhead)

Company Name: _____

Date: _____

Declaration of EU/UK RoHS Compliance

The table below indicates the status of parts in regard to the European Union Directive 2011/65/EU – Restriction of Hazardous Substances (RoHS) Directive, and its subsequent amendments, including 2015/863 amending Annex II of the Directive, as well as the requirements of The Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations (2012 No. 3032) – also known as UK RoHS.

Quantity limits are calculated at the homogeneous material level:

1. Lead (Pb) – 0,1% (1000 ppm)
2. Mercury (Hg) – 0,1% (1000 ppm)
3. Cadmium (Cd) – 0,01% (100 ppm) *this is a lower threshold than other restricted substances*
4. Hexavalent Chromium (Cr VI) – 0,1% (1000 ppm)
5. Polybrominated Biphenyls (PBB) – 0,1% (1000 ppm)
6. Polybrominated Diphenyl Ethers (PBDE) – 0,1% (1000 ppm)
7. Bis(2-Ethylhexyl) phthalate (DEHP) – 0,1% (1000 ppm)
8. Benzyl butyl phthalate (BBP) – 0,1% (1000 ppm)
9. Dibutyl phthalate (DBP) – 0,1% (1000 ppm)
10. Diisobutyl phthalate (DIBP) – 0,1% (1000 ppm)

If the amount of a substance exceeds the allowable limit and a RoHS exemption **is** applicable, **the appropriate EU RoHS exemption must be listed** in the RoHS Compliant Parts List below. If a part contains more than one RoHS listed substance, list each one on a separate line.

Part Number(s)	Description	RoHS Status	RoHS Substance Name (if present)	Homogeneous Concentration	EU RoHS exemptions used
A2X33	Plastic housing	Compliant	NONE		
SNJ401	Aluminum mounting frame	Compliant by use of exemption	Lead	0.2%	6(b)
PLJ804	Standoff Insulator	Not Compliant	Lead	4.1%	N/A

Print Name: _____

Signed: _____

Title: _____

Date: _____

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Appendix C – Template for EU REACH Declaration

Below is an example that can be used for an EU REACH declaration. It is not mandatory that suppliers use this template, but information shown in the tables, and the declaration being against the most current EU REACH SVHC list, is required. It is acceptable to include multiple parts on the same declaration using the table format.

(Insert Company Letterhead)

Company Name: _____

Date: _____

Declaration of European Union REACH Candidate List Substances (Substances of Very High Concern – SVHC’s)

The table below indicates the status of parts in regard to the European Union Regulation (EC) 1907/2006 – “Registration, Evaluation, Authorization and Restriction of Chemicals (REACH)” **“Candidates for Authorisation List”** (Substances of Very High Concern, also known as SVHC’s) published and updated by the European Chemicals Agency (ECHA). <https://echa.europa.eu/candidate-list-table>.

Per Article 33(1) of EU REACH, any SVHC present above 0,1% w/w at the article level (as defined by the regulation) must be reported to the recipient of the article.

This declaration is against the **most current Candidate List published** as of the date of the declaration, as shown on the website referenced above.

If a part contains more than one SVHC, each is listed on a separate line.

Part Number(s)	Description	SVHC Name (if present)	CAS Number or EC Number	Concentration (w/w%)	EU SCIP Database Number (if submitted)
A2X33	Plastic Housing	NONE			
SNJ401	Aluminum Mounting Frame	Lead	7439-92-1	0.2%	4a8e4a91-733z-5bje-m01
PLJ804	Standoff Insulator	Lead	7439-92-1	4.1%	21jc525-e096-4kl1230

None of the product(s) provided to Kohler Co. contain substances restricted by the **EU REACH Annex XVII, “The Restricted List”**, above allowable thresholds or for applications that are prohibited by the regulation.

Print Name: _____

Signed: _____

Title: _____

Date: _____

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Appendix D – Template for California Prop 65 Declaration

Below is an example that can be used for a CA Prop 65 substance declaration. It is not mandatory that suppliers use this exact template, but information shown in the tables, and the declaration being against the most current CA Proposition 65 substances list, is required. It is acceptable to include multiple parts on the same declaration using the table format.

(Insert Company Letterhead)

Company Name: _____

Date: _____

Declaration of California Proposition 65 Listed Substances
(Safe Drinking Water and Toxic Enforcement Act)

The table below indicates the status of parts in regard to the US State of California Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65), published and updated by the California Office of Environmental Health Hazard Assessment (OEHHA). <https://oehha.ca.gov/proposition-65/proposition-65-list>

This declaration is against the **most current list published** as of the date of the declaration, as shown on the website referenced above.

If a part contains more than one listed substance, list each one on a separate line.

Part Number(s)	Description	CA Prop 65 Listed Substance Name (if present)	CAS Number	Concentration (w/w%)
A2X33	Plastic Housing	NONE		
SNJ401	Aluminum Mounting Frame	Lead	7439-92-1	0.2%
PLJ804	Standoff Insulator	Lead	7439-92-1	4.1%
PLJ804	Standoff Insulator	Styrene	100-42-5	3.2%

Print Name: _____

Signed: _____

Title: _____

Date: _____

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Appendix E – Template for US TSCA PBT Declaration

Below is an example that can be used for a US Toxic Substances Control Act (TSCA) substance declaration against Section 6(h) pertaining to “Persistent, Bioaccumulative and Toxic Chemicals” (PBTs). It is not mandatory that suppliers use this exact template, but information shown in the table is required. It is acceptable to include multiple parts on the same declaration using the table format.

(Insert Company Letterhead)

Company Name: _____

Date: _____

Declaration of Toxic Substances Control Act (TSCA) Substances

The table below indicates the status of parts in regard to the following section of the United States Toxic Substances Control Act (TSCA):

Title I – Control of Toxic Substances

Section 6(h) – Chemicals that are Persistent, Bioaccumulative, and Toxic (PBT)

A list of regulated substances, including common uses, is available from the US Environmental Protection Administration:

<https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/persistent-bioaccumulative-and-toxic-pbt-chemicals>

Quantity limits are available on the website referenced above. Substances covered by this declaration include:

- Decabromodiphenyl ether (DecaBDE) – CAS 1163-19-5
- Phenol, isopropylated phosphate (3:1) (PIP(3:1)) – CAS 68937-41-7
- 2,4,6-Tris(tert-butyl)phenol (2,4,6-TTBP) - CAS 732-26-3
- Hexachlorobutadiene (HCBd) - CAS 87-68-3
- Pentachlorothiophenol (PCTP) - CAS 133-49-3

If a part contains more than one listed substance, list each one on a separate line.

Part Number(s)	Description	TSCA Listed Substance Name (if present)	CAS Number	Concentration (w/w%) if known
A2X33	Plastic Housing	NONE		
SNJ401	Aluminum Mounting Frame	NONE		
PLJ804	Cable Harness	PIP (3:1)	68937-41-7	0.41%
B15E03	Plastic Standoff	PIP (3:1)	68937-41-7	Unknown

Print Name: _____

Signed: _____

Title: _____

Date: _____

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Appendix F – Formaldehyde Certification Requirements

United States Toxic Substances Control Act Title VI (40 CFR Part 770)

Formaldehyde Emission Standards for Composite Wood Products.

The purpose of this final rule is to reduce formaldehyde emissions from composite wood products, and finished goods containing these products, that are sold, supplied, offered for sale, or manufactured (including imported) in the United States. The composite wood products covered by this final rule include hardwood plywood, medium-density fiberboard and particleboard, and finished goods containing these products.

TSCA Title VI is applicable but not limited to manufacturers, importers, distributors, retailers, panel producers, fabricators, third party certifiers, and accreditation bodies of composite wood products and finished goods containing these products that are sold, supplied, offered for sale, or manufactured (including imported) in the United States.

<https://www.epa.gov/formaldehyde/formaldehyde-emission-standards-composite-wood-products>

REGULATION REQUIREMENTS INCLUDE:

- Panels or bundles of panels must be labelled with the panel producer's name, the lot number, the number of the EPA TSCA Title VI TPC, and a statement that the products are TSCA Title VI certified.
- Fabricators of finished goods must label every finished good they produce, or every box or bundle containing finished goods.
- Product labelling shall be applied as a stamp, tag, or sticker.
- The labelling must include, at a minimum, in legible English text; the fabricator's name, the date the finished good was produced (in month/year format), and a statement that the finished goods are TSCA Title VI compliant.
- All applicable invoices must include a statement that the composite wood products, component parts, or finished goods are TSCA Title VI compliant.
- For imports, be prepared to produce upon request records identifying the panel producer and the date the composite wood products were produced.

Canada Regulations (SOR/2021-148)

Formaldehyde Emissions from Composite Wood Products Regulations

Under this regulation, a person (or company) must not import, sell or offer for sale a composite wood product that contains formaldehyde unless

- formaldehyde emissions from the composite wood panel or laminated product, or from every composite wood panel and laminated product incorporated into the component part or finished good, do not exceed the applicable limits in subsections 6(1) and 6(2)
- the person retains a copy of a declaration of certification in respect of the product type; and
- the person provides the information to the Minister

More specific details on limits and documentation are available directly in the text of the regulation:

<https://gazette.gc.ca/rp-pr/p2/2021/2021-07-07/html/sor-dors148-eng.html>

State of California Code of Regulations §93120 through 93120.12

Airborne Toxic Control Measure (ATCM) to Reduce Formaldehyde Emissions from Composite Wood Products

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The purpose of this airborne toxic control measure is to reduce formaldehyde emissions from composite wood products and finished goods that contain composite wood products that are sold, offered for sale, supplied, used, or manufactured for sale in California. The composite wood products covered by this regulation are hardwood plywood, medium density fiberboard, and particleboard.

The ATCM applies to manufacturers, distributors, importers, fabricators, retailers, and third-party certifiers of composite wood products and finished goods that contain composite wood products, which are destined for use in California market.

<https://www.arb.ca.gov/toxics/compwood/compwood.htm>

REGULATION REQUIREMENTS INCLUDE:

- Kohler Co. suppliers/vendors must certify the composite wood products and finished goods supplied are compliant with the regulation including the applicable emissions standards, third-party certification, and the applicable record keeping requirements.
- Each panel or bundle of composite wood products must be clearly labelled to indicate compliance with the emission standards. The label should include, at a minimum:
 - Manufacturer name;
 - Product lot number or batch produced;
 - A marking to denote that the composite wood product complies with the emission standards or was made using ULEF or NAF resins; and
 - Where applicable, the ARB assigned number of the approved third-party certifier.
- The manufacturer for each composite wood product must include on the bill of lading or invoice, along with:
 - The ARB assigned number of the approved third-party certifier, if applicable; and
 - A statement that the composite wood products comply with the emission standard and, if applicable, were made using ULEF or NAF resins.
- Distributors, fabricators, and importers must label their finished goods. (If a finished good is not modified by a distributor or importer, no additional labelling is required.) Product labelling shall be applied as a stamp, tag, sticker, or bar code on every finished good produced, or on every box containing finished goods. The label shall include, at a minimum:
 - The fabricator's name;
 - The date the finished good was produced; and
 - A marking to denote that the product complies with CARB Phase 2 emission standards.
- Distributors, fabricators, and retailers must document the precautions taken to ensure the composite wood products and composite wood products contained in finished goods comply with applicable emission standards.
- Be prepared to produce all records upon request.