

Search EPA.gov

## Enforcement

CONTACT US <<https://epa.gov/enforcement/forms/enforcement-contact-us>>

# Kohler Co. Clean Air Act Settlement Information Sheet

## Settlement Resources

- Press Release <<https://epa.gov/newsreleases/epadepartment-justice-and-state-california-clean-air-act-settlement-kohler-co-will>>
- Consent Decree <<https://epa.gov/enforcement/consent-decree-kohler-co>>

(Washington, DC - January 30, 2020) - The Department of Justice, Environmental Protection Agency (EPA), and the State of California announced today a settlement with Kohler Co. (Kohler) for alleged violations of the Clean Air Act and California law. Under the terms of the settlement, Kohler will pay a \$20 million civil penalty and retire more than three million kilograms (kgs) of unlawfully generated hydrocarbon (HC) + oxides of nitrogen (NO<sub>x</sub>) emission credits. Retirement of these credits will result in approximately 3,600 tons of HC + NO<sub>x</sub> emissions reductions.

The alleged violations pertain to Kohler's manufacture and sale of millions of small, nonroad, nonhandheld spark-ignition (Small SI) engines that did not conform to the certification applications Kohler was required to submit to EPA and the California Air

Resources Board (CARB). More than 144,000 of the engines were also equipped with a fueling strategy designed to cheat emissions testing standards (commonly referred to as a “defeat device”). Small SI engines are used in lawn mowers, ride-on mowers, commercial landscaping equipment, and generators.

In addition to paying a \$20 million civil penalty and retiring over three million kgs of HC + NO<sub>x</sub> emission credits, Kohler will also implement an emissions testing validation plan that includes third-party observation and emissions verification testing, conduct annual audits, implement corporate governance reforms, and conduct annual regulatory compliance training of its employees. The injunctive relief measures are estimated to cost approximately \$3.7 million.

In a separate settlement agreement resolving California-only claims, Kohler will pay an additional civil penalty of \$200,000 and fund a program that will supply \$1.8 million worth of solar-battery generators to low-income residents in California that live in areas subject to public safety power shutoffs to mitigate wildfire risk.

- Overview
- Violations
- Injunctive Relief
- Mitigation
- Health Effects and Environmental Benefits
- Civil Penalty
- State and Regional Partners
- Comment Period
- Contact

## Overview

In addition to making bathroom, kitchen, and furniture products, Kohler is a leading, global producer of engines, generators, and power supplies for both consumer and industrial applications. In December 2015, Kohler self-disclosed to EPA and CARB that it had been using the wrong test cycle to test many of its Small SI engines. EPA and CARB’s subsequent investigation revealed that millions of additional Small SI engines were noncompliant, including some of which were equipped with a defeat device.

# Violations

The Clean Air Act (CAA) and its regulations aim to protect human health and the environment, in part, by reducing harmful emissions from mobile sources of air pollution. This CAA settlement concerns Small SI engines, which must satisfy emission standards for certain air pollutants, including HC and NO<sub>x</sub>. Pursuant to the CAA, the EPA administers a certification program to ensure that every engine introduced into United States commerce satisfies applicable emission standards. Under this program, manufacturers apply to the EPA for a certificate of conformity (COC) and must demonstrate in their applications that representative test engines meet emission standards. The EPA issues COCs to engine manufacturers based on these applications. A COC covers only those new engines that conform, in all material respects, to the design specifications described in the manufacturer's application for that COC. Manufacturers are prohibited from selling any new engine in the United States unless that engine is covered by an EPA-issued COC.

The complaint filed by the United States and California alleges that Kohler manufactured and sold millions of Small SI engines that did not conform to the certification applications Kohler submitted. The Small SI engines did not conform to their certification applications for one or more of the following reasons: (1) use of the wrong test cycle, (2) not fully complying with the test procedures Kohler certified to, (3) failure to comply with the applicable emission limits, (4) failure to age emission-related components for deterioration factor testing, (5) failure to disclose auxiliary emission control devices (AECs) and adjustable parameters equipped on the engines, and (6) making changes to the configuration of production engines without amending the certification application covering those engines.

The complaint further alleges that Kohler developed and deployed a fueling strategy on at least 144,000 electronic fuel-injected (EFI) Small SI engines that significantly reduced NO<sub>x</sub> emissions during certification testing when compared to real-world operation (i.e., ran rich during certification testing but lean during in-use operation). The fueling strategy in the calibration—a defeat device—was not disclosed in Kohler's certification applications and Kohler was aware that the fueling strategy was designed to reduce NO<sub>x</sub> emissions during certification testing even though the certification results were not representative of real-world operation.

In addition, the complaint alleges Kohler also submitted several incomplete or inaccurate certification applications, averaging, banking, and trading (ABT) reports, and production line testing (PLT) reports.

Finally, California alleges that certain engines did not conform to applicable evaporative emission standards. These California-only claims are being resolved through a separate settlement agreement between California and Kohler.

## **Injunctive Relief**

Under the decree, Kohler must take certain measures to prevent future violations like those alleged here. Specifically, Kohler must establish an independent environmental regulatory compliance team, conduct annual compliance training for engine division employees, implement and maintain an employee code of conduct and ethics helpline for employees to report noncompliance, and convene semiannual meetings with all engine division managers and regulatory personnel to discuss compliance with applicable regulatory requirements and the settlement agreement. Further, to verify that these improvements are effective, Kohler must also conduct annual audits and implement an emissions testing validation plan that includes third-party observation and emissions verification testing.

## **Mitigation**

The settlement requires that Kohler retire 3,062,090 kgs of EPA HC + NO<sub>x</sub> credits and 271,834.720 kgs of CARB HC + NO<sub>x</sub> credits, which equates to approximately 3,600 tons of HC + NO<sub>x</sub> emissions reductions.

Under a separate settlement agreement between California and Kohler, Kohler will fund a program that will supply \$1.8 million worth of solar-battery generators to low-income residents in California that live in areas subject to public safety power shutoffs to mitigate wildfire risk.

# Health Effects and Environmental Benefits

NO<sub>x</sub> pollution contributes to the formation of harmful smog and soot, exposure to which is linked to a number of respiratory- and cardiovascular-related health effects as well as premature death. Children, older adults, people who are active outdoors (including outdoor workers that use the equipment at issue in this case), and people with heart or lung disease are particularly at risk for health effects related to smog or soot exposure. Nitrogen dioxide formed by NO<sub>x</sub> emissions can aggravate respiratory diseases, particularly asthma, and may also contribute to asthma development in children.

## Civil Penalty

Kohler will pay a civil penalty of \$20 million to resolve the allegations made jointly by the United States and California. In a separate settlement agreement resolving California-only claims, Kohler will pay an additional civil penalty of \$200,000.

## State and Regional Partners

The California Air Resources Board and the California Attorney General joined the United States in this settlement on behalf of the State of California.

## Comment Period

The proposed settlement, lodged in the U.S. District Court for the Northern District of California, is subject to a 30-day public comment period and final court approval.

Information on submitting comments is available at the Department of Justice [🔗](#)

<<https://www.justice.gov/enrd/consent-decrees>> website.

# For more information, contact:

## **For Technical Questions:**

Nathan Dancher, Environmental Engineer  
Air Enforcement Office, Enforcement and Compliance Assurance Division, U.S. EPA  
Region 9  
75 Hawthorne Street (ENF-2-1)  
San Francisco, CA 94105  
(415) 972-3482  
dancher.nathan@epa.gov

## **For Legal Questions:**

Ryan Bickmore, Attorney-Advisor  
Office of Regional Counsel, U.S. EPA Region 9  
75 Hawthorne Street, 12th Floor (R9-ORC-2-2)  
San Francisco, CA 94105  
(415) 972-3058  
bickmore.ryan@epa.gov

---

Enforcement Home <<https://epa.gov/enforcement>>

---

Enforcement Basics <<https://epa.gov/enforcement/basic-information-enforcement>>

---

National Enforcement and Compliance Initiatives <<https://epa.gov/enforcement/national-enforcement-and-compliance-initiatives>>

---

Enforcement and Compliance Annual Results for FY 2022  
<<https://epa.gov/enforcement/enforcement-and-compliance-annual-results-fiscal-year-2022>>

---

Air Enforcement <<https://epa.gov/enforcement/air-enforcement>>

---

Water Enforcement <<https://epa.gov/enforcement/water-enforcement>>

---

Waste, Chemical and Cleanup Enforcement <<https://epa.gov/enforcement/waste-chemical-and-cleanup-enforcement>>

---

Criminal Enforcement <<https://epa.gov/enforcement/criminal-enforcement>>

---

---

**Enforcement at Federal Facilities** <<https://epa.gov/enforcement/enforcement-federal-facilities>>

---

**Data and Results** <<https://epa.gov/enforcement/enforcement-data-and-results>>

---

**Policy, Guidance and Publications** <<https://epa.gov/enforcement/enforcement-policy-guidance-publications>>

---

**Contact Us** <<https://epa.gov/enforcement/forms/enforcement-contact-us>> to ask a question, provide feedback, or report a problem.

LAST UPDATED ON FEBRUARY 1, 2023





# Discover.

**Accessibility Statement** <<https://epa.gov/accessibility/epa-accessibility-statement>>

**Budget & Performance** <<https://epa.gov/planandbudget>>

**Contracting** <<https://epa.gov/contracts>>

**EPA www Web Snapshot** <<https://epa.gov/utilities/wwwepagov-snapshots>>

**Grants** <<https://epa.gov/grants>>

**No FEAR Act Data** <<https://epa.gov/ocr/whistleblower-protections-epa-and-how-they-relate-non-disclosure-agreements-signed-epa>>

**Plain Writing** <<https://epa.gov/web-policies-and-procedures/plain-writing>>

**Privacy** <<https://epa.gov/privacy>>

**Privacy and Security Notice** <<https://epa.gov/privacy/privacy-and-security-notice>>

# Connect.

**Data.gov** [↗](https://www.data.gov/) <<https://www.data.gov/>>

**Inspector General** <<https://epa.gov/office-inspector-general/about-epas-office-inspector-general>>

**Jobs** <<https://epa.gov/careers>>

**Newsroom** <<https://epa.gov/newsroom>>

**Open Government** <<https://epa.gov/data>>

**Regulations.gov** [↗](https://www.regulations.gov/) <<https://www.regulations.gov/>>

**Subscribe** <<https://epa.gov/newsroom/email-subscriptions-epa-news-releases>>

**USA.gov** [↗](https://www.usa.gov/) <<https://www.usa.gov/>>

**White House** [↗](https://www.whitehouse.gov/) <<https://www.whitehouse.gov/>>

# Ask.

**Contact EPA** <<https://epa.gov/home/forms/contact-epa>>

**EPA Disclaimers** <<https://epa.gov/web-policies-and-procedures/epa-disclaimers>>

**Hotlines** <<https://epa.gov/aboutepa/epa-hotlines>>

**FOIA Requests** <<https://epa.gov/foia>>

**Frequent Questions** <<https://epa.gov/home/frequent-questions-specific-epa-programsttopics>>

## Follow.

