



## Joint Declaration on Per- and Polyfluoroalkyl Substances (PFAS) restrictions worldwide

The global construction equipment industry, represented by the Association of Equipment Manufacturers (AEM/USA), Construction Mining Equipment Industry Group (CMEIG/Australia), Committee for European Construction Equipment (CECE/Europe), Indian Construction Equipment Association (ICEMA/India), Construction Equipment Manufacturers Association (CEMA/Japan), Korea Construction Equipment Manufacturers Association (KOCEMA), recognizes the importance of identifying and addressing risks associated with heavy-duty, off-road equipment, whether from operator safety, engine emissions, or chemical management perspectives.

In the context of unparalleled decision-making procedures covering manufacture, use, placing on the market<sup>i</sup>, reporting and recordkeeping requirements<sup>ii</sup> for Per- and Polyfluoroalkyl Substances (PFAS) all over the world, the construction equipment industry intends to put forth a joint response to the drastic restrictions being discussed in our respective regions.

Regarding our internationally intertwined supply chains, we believe a coordinated approach to regulating PFAS across regions is needed. It has become apparent that any general restriction on PFAS will have severe repercussions over both import and export of equipment, thereby threatening the quality of the trade relationships between our regions.

As regards methodology, it is our collective understanding that PFAS should not be regulated in a holistic manner. Instead, we stand for a substance-specific approach to regulating diverse PFAS as it contributes to making proportionate decisions while ensuring a level-playing field across industries. Referring to the Montreal Protocol<sup>iii</sup>, multiple authorities around the world are considering extending application of essential use criteria<sup>iv</sup> to PFAS restriction and authorization procedures. Considering our need for legal certainty, our numerous PFAS industrial applications, to which few credible alternatives can be proposed today, should remain regulated in accordance with the principle of proportionality<sup>v</sup>.

Our construction equipment manufacturers design products to effectively operate for decades mostly in harsh and demanding environments whilst satisfying safety, environmental, regulatory, durability, quality, and customer requirements. Construction equipment manufacturers use state-of-the-art and innovative technologies to meet the challenging variety of requirements, with PFAS performing a variety of essential use functions to help achieve these goals. It is crucial to understand that without the functionality provided by certain PFAS chemicals, the future construction equipment products able to meet air quality, climate, safety, durability, waste, sustainability, and alternative power goals is imperiled.

Applications of PFAS in the construction equipment industry include:

- **Coatings and Seals:** O-rings, gaskets and seals prevent fluid leaks as well as contamination of internal systems from water, dirt, dust and debris. Coatings protect the machine surfaces from premature deterioration, extending machine lifetime.
- **Cables and hoses:** Cables and hoses transfer fluids and prevent leaks.
- **Hydraulic systems:** PFAS is an additive in hydraulic fluids and lubricants.

- **Refrigerants:** The industry utilizes two PFAS substances, HFC-134a and HFO-1234yf, in their air conditioning systems to satisfy various health and safety requirements.
- **Alternative Power Technologies:** PFAS provides the functional properties that are essential for many new alternative power technologies, including batteries and hydrogen fuel cells.

Construction equipment manufacturers design products to operate with exceptionally long lifetimes and end-of-life provisions such as re-use and recycling to ensure waste products do not find their way into landfills, water bodies, or the atmosphere. Our equipment is designed to ensure products are responsibly remanufactured following their useful life, and that used oil and fluid wastes are properly captured and recycled. These widespread industry practices fulfil circular economy principles and prevent releases of unwanted pollutants to the environment.

Our industry fully supports proportionate laws and regulations that mitigate hazards from the high-risk sources of PFAS pollution. We thus extend to our respective regions' authorities the following recommendations:

- Prioritize future regulatory efforts on high-risk PFAS chemicals and end-use applications.
- Focus regulatory efforts on PFAS chemical release prevention, waste disposal, material handling, recycling, and environmental remediation as opposed to broad prohibitions.
- When defining PFAS, adopt a single worldwide harmonized list of PFAS.
- When restricting PFAS, adopt substance-specific measures based on the principle of proportionality instead of essential use criteria.
- Provide ample transition periods for OEMs to adapt to new regulatory requirements.
- Provide specific exemptions to aftermarket parts to foster circularity.
- Collaborate with industry stakeholders along the supply chains.

Ultimately, construction equipment manufacturers are committed to addressing these issues by serving as a catalyst for innovation and working to engage with policymakers and civil society on our viewpoints and solutions to these important questions.

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<sup>i</sup> <https://echa.europa.eu/documents/10162/f605d4b5-7c17-7414-8823-b49b9fd43aea>

<sup>ii</sup> <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/tsca-section-8a7-reporting-and-recordkeeping>

<sup>iii</sup> <https://ozone.unep.org/treaties/montreal-protocol/montreal-protocol-substances-deplete-ozone-layer>

<sup>iv</sup> <https://ozone.unep.org/treaties/montreal-protocol/meetings/fourth-meeting-parties/decisions/decision-iv25-essential-uses>

<sup>v</sup> <https://www.mayerbrown.com/-/media/files/perspectives-events/publications/2021/01/iclr--the-concept-of-essential-use-to-regulate-chemicals.pdf?rev=68258fd816324616a9e953af871d8309>