



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

MAR 26 2013

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Steven H. Johnson  
Factory Manager  
John Deere Horicon Works  
300 N. Vine Street  
Horicon, Wisconsin 53032-1100

Dear Mr. Johnson:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves John Deere Horicon Works of Deere & Company, Docket No. CAA-05-2013-0014. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on MAR 26 2013.

Pursuant to Paragraph 26 of the CAFO, John Deere Horicon Works of Deere & Company must pay the civil penalty within 30 days of MAR 26 2013. Your check must display the case name and the docket number, CAA-05-2013-0014.

Please direct any questions regarding this case to Kathleen Schnieders, Associate Regional Counsel, at (312) 353-8912.

Sincerely,

Daniel Schaufelberger, Acting Chief  
Air Enforcement and Compliance Assurance Section (MI/WI)

Enclosure

cc: Ann Coyle Regional Judicial Officer/C-14J  
Regional Hearing Clerk/E-19J  
Kathleen Schnieders/C-14J  
Bill Baumann

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

**In the Matter of:** ) **Docket No. CAA-05-2013-0014**  
)  
**John Deere Horicon Works of** ) **Proceeding to Assess a Civil Penalty**  
**Deere & Company** ) **Under Section 113(d) of the Clean Air Act,**  
**Horicon, Wisconsin,** ) **42 U.S.C. § 7413(d)**  
)  
**Respondent** )  
\_\_\_\_\_ )

**Consent Agreement and Final Order**

**Preliminary Statement**

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is John Deere Horicon Works of Deere & Company, a corporation doing business in Wisconsin.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

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6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

**Jurisdiction and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

**Statutory and Regulatory Background**

9. On January 18, 1995, EPA approved Wisconsin's Federally Enforceable State Operating Permit (FESOP) Program as part of the federally enforceable state implementation plan (SIP) for Wisconsin. 60 Fed. Reg. 3538.

10. Wisconsin's FESOP program is codified at Natural Resources (NR) 407, Wisconsin Administrative Code.

11. A FESOP is appropriate for facilities that would be major sources of air pollution, but can voluntarily limit emissions to minor source thresholds through controls and/or operational limits.

12. The major stationary source threshold is 100 tons per year for particulate matter, volatile organic compounds, nitrogen oxides, sulfur dioxide, and carbon monoxide (CO). 40 C.F.R. § 51.21(b)(1)(i)(a), 40 C.F.R. § 70.2, NR 407.105(2)(a)1, Wis. Adm. Code.

13. On February 6, 2006, EPA approved Wisconsin's Registration Permit Program as part of the federally enforceable SIP for Wisconsin, with an effective date of March 8, 2006. 71 Fed. Reg. 6979.

14. Wisconsin's Registration Permits are provided for in the Wisconsin Statutes at Wis. Stats. § 285.60(2g), with implementing regulations found at NR 407, Wis. Adm. Code.

15. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$ 37,500 per day of violation up to a total of \$295,000 for violations that occurred after January 12, 2009, under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

16. Section 113(d)(1) of the Act limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

17. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violation alleged in this CAFO.

### **Factual Allegations and Alleged Violations**

18. John Deere Horicon Works of Deere & Company owns and/or operates a Riding Lawn and Utility Vehicle Manufacturing facility (facility) at 300 N. Vine Street in Horicon, Wisconsin.

19. On May 20, 2002, the Wisconsin Department of Natural Resources (WDNR) issued a FESOP to the facility, number 11464500-F10. WDNR renewed the FESOP in 2006.

20. The facility applied for, and WDNR issued, a Type A Registration Operation Permit (ROP) and Type A Registration Construction Permit (RCP) #114064500-ROPA on January 18, 2011.

21. Condition A.1 of the ROP requires annual actual emissions of particulate matter, volatile organic compounds, nitrogen oxides, sulfur dioxide, CO, and federally regulated hazardous air pollutants not to exceed 25% of any major source threshold set forth in NR 407.02(4), Wis. Adm. Code, on a calendar year basis.

22. For CO, 25% of the major source threshold is 25 tons per year (tpy). NR 407.02(4), Wis. Adm. Code.

23. On February 6, 2012, the facility submitted a Voluntary Disclosure to EPA reporting CO emissions of 29.9 tons per year for calendar year 2011.

24. The facility's CO emissions in 2011 constitute violations of its ROP, the CAA, and the Wisconsin SIP.

#### **Civil Penalty**

25. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case, including cooperation and prompt return to compliance, Complainant has determined that an appropriate civil penalty to settle this action is \$50,000.

26. Within 30 days after the effective date of this CAFO, Respondent must pay a \$50,000 civil penalty by sending a check, payable to "Treasurer, United States of America," which notes Respondent's name, docket number of this CAFO and the billing document number, to:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

If the check is sent by express mail (non-U.S. Postal Service which won't deliver mail to P.O. Boxes), it should be sent to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines and Penalties  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, Missouri 63101

27. Respondent must send a notice of payment that states Respondent's name, the docket number of this CAFO and the billing document number to EPA at the following addresses when it pays the penalty:

Attn: Compliance Tracker (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

Kathleen Schnieders (C-14J)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

Regional Hearing Clerk (E-19J)  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

28. This civil penalty is not deductible for federal tax purposes.

29. If Respondent's check cannot be processed due to insufficient funds (i.e., the check bounces), or if Respondent does not pay timely the civil penalty or any amount due under Paragraph 30, below, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

30. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

#### **General Provisions**

37. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

38. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

39. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 37, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

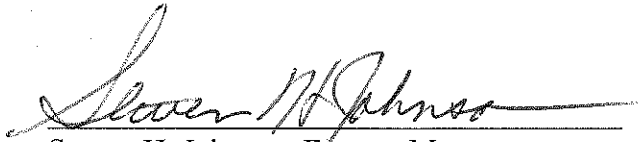
40. Respondent certifies that it is complying fully with its FESOP permit No. 11452510-F30, issued on September 5, 2012.

41. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

- 42. The terms of this CAFO bind Respondent, its successors and assigns.
- 43. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.
- 44. Each party agrees to bear its own costs and attorneys fees in this action.
- 45. This CAFO constitutes the entire agreement between the parties.

**John Deere Horicon Works of Deere & Company, Respondent**

15 March 2013  
Date

  
Steven H. Johnson, Factory Manager

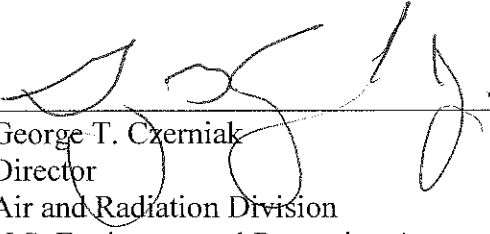


**Consent Agreement and Final Order**

**In the Matter of: John Deere Horicon Works of Deere & Company, Respondent**

**United States Environmental Protection Agency, Complainant**

3/22/13  
Date

  
George T. Czerniak  
Director  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5

**Consent Agreement and Final Order**

**In the Matter of: John Deere Horicon Works of Deere & Company, Respondent**

**Docket No. CAA-05-2013-0014**

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**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

3-22-2013

Date



Susan Hedman  
Regional Administrator  
U.S. Environmental Protection Agency  
Region 5

**Consent Agreement and Final Order**

**In the Matter of: John Deere Horicon Works of Deere & Company, Respondent**

**Docket No. CAA-05-2013-0014**



**Certificate of Service**

I certify that I filed the original and one copy of the Consent Agreement and Final Order (CAFO), docket number EPA-5-12-WI-09 with the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed the second original copy to Respondent by first-class, postage prepaid, certified mail, return receipt requested, by placing it in the custody of the United States Postal Service addressed as follows:

Steven H. Johnson  
John Deere Horicon Works  
300 N. Vine Street  
Horicon, Wisconsin 53032-1100

I certify that I delivered a correct copy of the CAFO by intra-office mail, addressed as follows:

Ann Coyle  
Regional Judicial Officer (C-14J)  
U.S. Environmental Protection Agency  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

I also certify that I mailed a correct copy of the CAFO by first-class mail to:

Bill Baumann  
Chief  
Compliance Enforcement and Emissions Inventory Section  
Bureau of Air Management  
Wisconsin Department of Natural Resources  
101 S. Webster Street  
PO Box 7921 (AM/7)  
Madison, Wisconsin 53702

Thomas J. Roushar  
Air Management Program Supervisor  
South Central Region Headquarters  
Wisconsin Department of Natural Resources  
South Central Region Air Program  
3911 Fish Hatchery Road  
Madison, Wisconsin 53711

Kristin L. Hart  
Wisconsin Department of Natural Resources  
South Central Region Air Program  
3911 Fish Hatchery Road  
Madison, Wisconsin 53711

On the 26 day of March 2013.

*Loretta Shaffer*

Loretta Shaffer, APA  
Planning and Administration Section

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