

October 2, 2024

John C. May
Chairman of the Board of Directors and Chief Executive Officer
Deere & Company
One John Deere Place
Moline, IL 61265-8098

Dear Mr. May:

I am writing because Deere & Company, doing business as John Deere, appears to be evading its responsibilities under the Clean Air Act to grant customers the right to repair their own agricultural equipment — costing U.S. farmers \$4.2 billion per year and leading them to miss key crop windows on which their businesses and livelihoods rely.¹

After years of legal battles, on January 8, 2023, U.S. farmers appeared to have won the right to repair John Deere equipment. In a memorandum of understanding (MOU)² signed by the American Farm Bureau Federation (AFBF), John Deere, and four other farm equipment manufacturers, John Deere promised to provide farmers and independent repair shops with the diagnostic tools and information they need to make repairs to their machines.³ But the MOU appeared to be a veiled attempt to stave off the passage of “right-to-repair” legislation.⁴ Rather than uphold their end of the bargain, John Deere has provided impaired tools and inadequate disclosures.⁵ In addition to costing farmers time and money, this refusal to provide meaningful

¹ PIRG, “Out to Pasture: Repair restrictions lead to tractor downtime and high costs. Right to Repair would help,” Kevin O’Reilly, April 11, 2023, <https://pirg.org/resources/out-to-pasture/>; Colorado Newline, “Colorado farmers tell FTC head federal right-to-repair policy needed,” Lindsey Toomer, July 26, 2024, <https://coloradonewline.com/2024/07/26/colorado-ftc-chair-right-to-repair/>.

² American Farm Bureau Federation and John Deere, “Memorandum of Understanding,” January 8, 2023, https://www.fb.org/files/AFBF_John_Deere_MOU.pdf.

³ The Gazette, “Farmers win right to repair their own John Deere tractors,” AP, January 9, 2023, <https://www.thegazette.com/agriculture/farmers-win-right-to-repair-their-own-john-deere-tractors/>; The Gazette, “Farmers finding problems with right-to-repair agreement,” Jennifer Bamberg, April 14, 2024, <https://www.thegazette.com/business/farmers-finding-problems-with-right-to-repair-agreement/>.

⁴ American Farm Bureau Federation and John Deere, “Memorandum of Understanding,” January 8, 2023, p. 4, https://www.fb.org/files/AFBF_John_Deere_MOU.pdf.

⁵ The Gazette, “Farmers finding problems with right-to-repair agreement,” Jennifer Bamberg, April 14, 2024, <https://www.thegazette.com/business/farmers-finding-problems-with-right-to-repair-agreement/>; U.S. PIRG Education Fund, “Service Obstructor: JOHN DEERE’S REPAIR SOFTWARE PREVENTS FARMERS FROM INDEPENDENTLY FIXING THEIR OWN TRACTORS,” July 2023, <https://publicinterestnetwork.org/wp-content/uploads/2023/07/Service-Obstructor-Full-Report-1.pdf>; Letter from John Deere to customers re. “IMPORTANT EMISSIONS WARRANTY INFORMATION,” Chris Davidson, February 12, 2024, <https://drive.google.com/file/d/1gop5T0gfHMFQs1eIwSOAGcPSUfqcLp7l/view>.

right to repair likely indicates that John Deere may be violating the Clean Air Act by restricting repair of its products' emissions systems.⁶

John Deere Bars Farmers from Fixing Their Own Machines While Overcharging for In-House Repair Services, Costing Farmers Thousands of Dollars per Year

Over the past two decades, the cost of parts and labor needed to repair agricultural equipment has nearly doubled.⁷ Since 2020, these costs have spiked 41 percent.⁸ While demand for new machines goes up and down, John Deere keeps its profits streaming in by overcharging for repair services — despite labor strikes, supply disruptions, a drop in sales, and a global pandemic, the company has experienced a 270% increase in profits since 2020.⁹

These increases in repair costs coincide with a trend of “increasing amounts of software and software-linked parts in farm equipment—a major mechanism through which manufacturers restrict independent repair.”¹⁰ Deere appears to be using its control over this electronic software to force consumers to use only company-authorized repair services. As FTC Chair Lina Khan explains, “as we see more and more products become more digitized, manufacturers have more and more opportunities to restrict how [farmers] can fix [their] own products.”¹¹

While John Deere's profits spike thanks to this strategy, farmers suffer. When farmers need to repair their equipment, they are “blocked from diagnosing or fixing problems with their tractors, combines, and other equipment and are forced to wait for a John Deere technician to be available,” often forcing farmers in remote and rural areas to wait weeks and miss crop cycles, sitting on broken machinery they cannot fix themselves.¹² In Massachusetts, there are just three John Deere dealerships¹³ for 470,000 acres of farm operations, which translates to 2,400 farms per dealership.¹⁴ Farmers nationwide lose an average of \$3,348 per year “directly tied to downtime and repair restrictions imposed by equipment manufacturers.”¹⁵

⁶ Greenwire, “John Deere admits to potential repair regs violations after EPA warning,” Marcia Brown, June 3, 2024, <https://subscriber.politicopro.com/article/eenews/2024/06/03/john-deere-admits-to-potential-repair-regs-violations-after-epa-warning-ee-00161108>.

⁷ Ag Daily, “Right to Repair begins to gain traction in Deere's home state,” Jennifer Bamberg, April 17, 2024, <https://www.agdaily.com/technology/right-to-repair-begins-to-gain-traction-in-deeres-home-state/>.

⁸ *Id.*

⁹ *Id.*

¹⁰ PIRG, “Out to Pasture: Repair restrictions lead to tractor downtime and high costs. Right to Repair would help,” Kevin O'Reilly, April 11, 2023, <https://pirg.org/resources/out-to-pasture/>.

¹¹ Colorado Newslines, “Colorado farmers tell FTC head federal right-to-repair policy needed,” Lindsey Toomer, July 26, 2024, <https://coloradonewslines.com/2024/07/26/colorado-ftc-chair-right-to-repair/>.

¹² NPR, “John Deere vows to open up its tractor tech, but right-to-repair backers have doubts,” Joe Hernandez, January 10, 2023, <https://www.npr.org/2023/01/10/1147934682/john-deere-right-to-repair-farmers-tractors>.

¹³ U.S. PIRG Education Fund, “DEERE IN THE HEADLIGHTS II: How Dealership Consolidation Reduces Repair Choice for Farmers,” Kevin O'Reilly, February 2022, p. 27, <https://publicinterestnetwork.org/wp-content/uploads/2022/02/Deere-In-The-Headlights-II.pdf>.

¹⁴ USDA, “2023 STATE AGRICULTURE OVERVIEW: Massachusetts,” https://www.nass.usda.gov/Quick_Stats/Ag_Overview/stateOverview.php?state=MASSACHUSETTS.

¹⁵ The Gazette, “Farmers finding problems with right-to-repair agreement,” Jennifer Bamberg, April 14, 2024, <https://www.thegazette.com/business/farmers-finding-problems-with-right-to-repair-agreement/>.

John Deere Has Failed to Provide Farmers with the Tools Needed to Repair Their Own Equipment

All of this should have changed on January 8, 2023, when John Deere signed an MOU promising to give farmers access to the tools they need to repair their own equipment.¹⁶ But over a year later, advocates say the tools are “redacted or obfuscated,”¹⁷ John Deere continues to intentionally omit information about repair rights from its manuals, and the MOU appears to have been entirely undermined by your company.¹⁸

The MOU requires that John Deere would “make available, on Fair and Reasonable terms, Tools, Specialty Tools, Software and Documentation, inclusive of any updates to information or Embedded Software, for purposes of diagnosis, maintenance or repair of . . . Agricultural Equipment to any Farmer”¹⁹ that owns John Deere equipment. Yet, in a July 2023 report, the U.S. PIRG Education Fund compared the software tool offered to farmers, under the name Customer Service ADVISOR (SA), with those provided to Deere-affiliated dealerships, referred to as dealer-level SA.²⁰ PIRG found that the tool available to farmers “withholds, redacts or obfuscates functions and information required to independently complete many repairs.”²¹ According to PIRG, the tool promised to farmers and other independent fixers in the MOU lacks three key functions compared to the tool Deere gives to Deere-affiliated dealerships:

1. **Diagnosis.** Basic information needed to identify problems with equipment that is readily provided by the dealer tool is either withheld or difficult to find for independent fixers.
2. **Troubleshooting.** Dealer-level SA provides links to step-by-step troubleshooting guides and information on the primary Diagnostics screen that are not present in the Customer SA tool. Additionally, databases such as Dealer Technician Assistance Center (DTAC) that contain troubleshooting and repair information on manufacturing defects are not included in the materials promised by the MOUs.
3. **Repair Authorization.** Many parts must be electronically paired to modern tractors, much in the way that the installation of a driver is necessary to allow a computer to communicate with a printer. Deere calls these drivers ‘payload files’ and they can only be installed or “reprogrammed” through dealer-level SA.²²

¹⁶ American Farm Bureau Federation and John Deere, “Memorandum of Understanding,” January 8, 2023, p. 4, https://www.fb.org/files/AFBF_John_Deere_MOU.pdf.

¹⁷ The Gazette, “Farmers finding problems with right-to-repair agreement,” Jennifer Bamberg, April 14, 2024, <https://www.thegazette.com/business/farmers-finding-problems-with-right-to-repair-agreement/>.

¹⁸ Fight to Repair, “Deere Comes ‘Clean’ On Repairing Emissions Systems,” Jack Monahan and Fight to Repair Newsletter, June 6, 2024, <https://fighttorepair.substack.com/p/deere-comes-clean-on-repairing-emissions>; NPR, “John Deere vows to open up its tractor tech, but right-to-repair backers have doubts,” Joe Hernandez, January 10, 2023, <https://www.npr.org/2023/01/10/1147934682/john-deere-right-to-repair-farmers-tractors>.

¹⁹ American Farm Bureau Federation and John Deere, “Memorandum of Understanding,” January 8, 2023, p. 3, https://www.fb.org/files/AFBF_John_Deere_MOU.pdf.

²⁰ U.S. PIRG Education Fund, “Service Obstructor: JOHN DEERE’S REPAIR SOFTWARE PREVENTS FARMERS FROM INDEPENDENTLY FIXING THEIR OWN TRACTORS,” Kevin O’Reilly, July 2023, p. 5, <https://publicinterestnetwork.org/wp-content/uploads/2023/07/Service-Obstructor-Full-Report-1.pdf>.

²¹ *Id.*

²² *Id.*

John Deere May Have Unlawfully Misinformed Farmers of their Right to Repair Equipment to Stave Off Right-to-Repair Legislation

John Deere's attempts to obstruct farmers' right to repair their equipment may have violated the law. Earlier this year, John Deere admitted to omitting a legally required addendum about repair rights from its manuals.²³ On February 12, 2024, Deere sent a notice to customers alerting them that the company had "recently discovered" that the following statement may be missing from their manuals: "[a] repair shop or person of the owner's choosing may maintain, replace, or repair emission control devices and systems with original or equivalent replacement parts."²⁴

This exclusion of language informing customers of their rights not only undercuts farmers' ability to repair their equipment, but may also be illegal. The Clean Air Act, which governs emissions from all mobile sources of air pollution, including tractors and other farm equipment, directs the Environmental Protection Agency to require manufacturers to provide "any and all information needed to make use of the emission control diagnostics system . . . and such other information including instructions for making emission related diagnosis and repairs." The law specifies that "no such information may be withheld . . . by the manufacturer to franchised dealers or other persons engaged in the repair, diagnosing, or servicing of motor vehicles or motor vehicle engines."²⁵ As EPA Administrator Michael S. Regan clarified in a letter to the President of the National Farmers Union, the Clean Air Act "prohibits manufacturers from writing their service instructions (which, by separate provision, manufacturers must provide) in a way that steers end users away from independent repairers."²⁶ What is more, the same Clean Air Act provision requires manufacturers to "provide in boldface type on the first page of the written maintenance instructions notice that maintenance, replacement, or repair of the emission control devices and systems may be performed by any automotive repair establishment or individual."²⁷ As Administrator Regan noted, EPA regulations "reiterate these safeguards and directly apply them to nonroad engines."²⁸ EPA warned John Deere that its manuals were not in compliance with EPA regulations.²⁹

In the context of John Deere's apparent failure to follow federal law by withholding repair information, and its continuing refusal to provide meaningful information and tools for farmers to

²³ Fight to Repair, "Deere Comes "Clean" On Repairing Emissions Systems," Jack Monahan and Fight to Repair Newsletter, June 6, 2024, <https://fighttorepair.substack.com/p/deere-comes-clean-on-repairing-emissions>; Greenwire, "John Deere admits to potential repair regs violations after EPA warning," Marcia Brown, June 3, 2024, <https://subscriber.politicopro.com/article/eenews/2024/06/03/john-deere-admits-to-potential-repair-regs-violations-after-epa-warning-ee-00161108>.

²⁴ Letter from John Deere to customers re. "IMPORTANT EMISSIONS WARRANTY INFORMATION," Chris Davison, February 12, 2024, <https://drive.google.com/file/d/1gop5T0gfHMFQs1eIwSOAGcPSUfqcLp7l/view>.

²⁵ 42 USC 7521(m)(5).

²⁶ Letter from Administrator of the United States Environmental Protection Agency Michael S. Regan to National Farmers Union President Mr. Rob Larew, August 4, 2023, <https://files.constantcontact.com/63400020701/bfa78700-0f65-4f17-bfc8-1a9c05916b6f.pdf?rdr=true>.

²⁷ Clean Air Act, Section 207(c)(3); codified at 42 USC 7541(c)(3).

²⁸ Letter from Administrator of the United States Environmental Protection Agency Michael S. Regan to National Farmers Union President Mr. Rob Karew, August 4, 2023, <https://files.constantcontact.com/63400020701/bfa78700-0f65-4f17-bfc8-1a9c05916b6f.pdf?rdr=true> (citing 40 C.F.R. 1039.125(f)).

²⁹ Progressive Farmer, "Deere Recalls Equip Owner's Manuals," Todd Neeley, June 5, 2024, <https://www.dtnpf.com/agriculture/web/ag/equipment/article/2024/06/04/john-deere-makes-equipment-owners>.

repair the equipment they own, it appears the MOU that John Deere signed to extend repair rights is not being implemented in good faith. Rather, it merely may have been an attempt to sabotage and evade the increasingly popular right-to-repair laws that guarantee protections to consumers. In exchange for John Deere's promises to provide the information and tools needed for farmers to make repairs, the AFBF agreed to encourage state Farm Bureau organizations to "refrain from introducing, promoting, or supporting federal or state 'Right to Repair' legislation that imposes obligations beyond the commitments in [the] MOU."³⁰ John Deere extracted a politically valuable promise from AFBF — but has not upheld its side of the bargain.

John Deere has repeatedly interfered with farmers' ability to repair the equipment they own, including by blocking independent repairs to maximize profit, negotiating an MOU in bad faith, and failing to inform farmers of their rights in potential violation of the Clean Air Act. Repair restrictions like John Deere's hurt farmers and consumers across the country, who have shown overwhelming support³¹ for right-to-repair laws.³² Deere's attempts to stave off right-to-repair reforms that would save American farmers \$4.2 billion per year are disgraceful.³³ With this in mind, I request that you provide the following information by October 17, 2024:

1. Are all of John Deere's written materials now in compliance with federal laws and regulations relating to right-to-repair?
2. Recent reporting alleges that your company voluntarily recalled equipment owner's manuals in February 2024.³⁴ Have all the manuals that were potentially in violation of federal laws and regulations, including Operator's, Diagnostic, Technical, Parts, or other manuals or publications available to customers, been updated to conform to the Clean Air Act and EPA regulations? What changes were made to ensure compliance?
3. Since 2011, John Deere has submitted 362 applications³⁵ for certificates of conformity, as required by the Clean Air Act, to demonstrate conformance with all applicable emissions requirements. In each application, has John Deere "[u]nconditionally certif[ied] that all the engines in the engine family comply with . . . the Clean Air Act"?³⁶
4. EPA's General Compliance Provisions for Highway, Stationary, and NonRoad Programs require equipment manufacturers to "provide emission-related installation and maintenance

³⁰ American Farm Bureau Federation and John Deere, "Memorandum of Understanding," January 8, 2023, p. 4, https://www.fb.org/files/AFBF_John_Deere_MOU.pdf.

³¹ For example, in 2020, the people of Massachusetts approved, by a three-to-one vote, a ballot measure that would require that carmakers allow drivers to take their car to the repair shop of their choice, and an attempt to undercut the law drew a strong rebuke from Congress. *See*, WBUR, "Feds say Mass. 'Right to Repair' law can go ahead with changes," August 23, 2024, <https://www.wbur.org/news/2023/08/23/right-to-repair-car-data-massachusetts>; Office of Senator Elizabeth Warren, "Senators Warren, Markey Statement on Federal Regulators Reversing Course, Allowing Enforcement of Massachusetts' Right to Repair Law," press release, August 22, 2023, <https://www.warren.senate.gov/newsroom/press-releases/senators-warren-markey-statement-on-federal-regulators-reversing-course-allowing-enforcement-of-massachusetts-right-to-repair-law>.

³² PIRG, "Right to Repair," <https://pirg.org/campaigns/right-to-repair/>.

³³ PIRG, "Out to Pasture: Repair restrictions lead to tractor downtime and high costs. Right to Repair would help," Kevin O'Reilly, April 11, 2023, <https://pirg.org/resources/out-to-pasture/>.

³⁴ Progressive Farmer, "Deere Recalls Equip Owner's Manuals," Todd Neeley, June 5, 2024, <https://www.dtnpf.com/agriculture/web/ag/equipment/article/2024/06/04/john-deere-makes-equipment-owners>.

³⁵ United States Environmental Protection Agency, "Annual Certification Data for Vehicles, Engines, and Equipment," <https://www.epa.gov/compliance-and-fuel-economy-data/annual-certification-data-vehicles-engines-and-equipment>. *See*, "NCRI Certification Data (Model Years: 2011-Present)".

³⁶ 40 CFR §1042.201(w).

instructions” as described in the relevant sections, and prohibit manufacturers from “directly or indirectly communicating to the ultimate purchaser or a later purchaser that the emission-related warranty is valid only if the owner has service performed at authorized facilities or only if the owner uses authorized parts, components, or systems.”³⁷ Is John Deere in full compliance with this provision?

5. Please provide a complete summary of discussions John Deere has had with the EPA since October 2022 concerning compliance with the Clean Air Act and regulations.
6. Who is authorized to use John Deere’s Customer Service ADVISOR³⁸ product? Does Customer Service ADVISOR provide farmers with all of the capabilities that may be necessary for repairs, including installing “payload files”³⁹?
7. How do customers or Independent Service Organizations order “payload files”⁴⁰ for a newly installed electronic control unit?
8. How much money has John Deere spent on lobbying in the last 5 years both in Washington, D.C. and various States?
 - a. How much of this has been on lobbying efforts in opposition to right-to-repair?
 - b. What organizations has John Deere collaborated with to lobby against right-to-repair?
9. What were John Deere’s profits for each of the past five years?
 - a. How much of these profits came from equipment repairs?
10. How much does John Deere estimate the company will lose if farmers are authorized to repair the John Deere equipment they own in the manner of their choosing?
 - a. Please provide documents or communications related to John Deere’s response to right-to-repair laws, regulations, and proposed laws.
11. The Bureau of Labor Statistics has reported a 41% increase in farm equipment cost in the last 4 years.⁴¹ What actions has John Deere taken to reduce the cost of repairs for farmers?

Sincerely,



Elizabeth Warren
United States Senator

³⁷ 40 CFR §1068.101(b)(6).

³⁸ John Deere, “Customer Service ADVISOR™,” <https://www.deere.com/en/parts-and-service/manuals-and-training/customer-service-advisor/>.

³⁹ Vice, “Why American Farmers Are Hacking Their Tractors With Ukrainian Firmware,” Jason Koebler, March 21, 2017, <https://www.vice.com/en/article/why-american-farmers-are-hacking-their-tractors-with-ukrainian-firmware/>.

⁴⁰ *Id.*

⁴¹ Investigate Midwest, “GRAPHIC: Cost to repair farm equipment rose 41% in past four years,” Jennifer Bamberg, February 7, 2024, <https://investigatemitwest.org/2024/02/07/graphic-cost-to-repair-farm-equipment-rose-50-in-the-last-three-years/>.