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Proposed USDA Rules Could Expand Reporting Requirements for Data Center Projects: What Developers Need to Know

Key Takeaways

- The U.S. Department of Agriculture's (USDA) proposed overhaul of the Agricultural Foreign Investment Disclosure Act (AFIDA) — the federal law that requires reporting certain foreign interests in U.S. agricultural land — would subject more data center projects to national security scrutiny, particularly those involving foreign capital, agricultural land or utility easements and infrastructure.
- Expanded coverage would reach certain agricultural land, leases, easements and rights of way, while lower ownership thresholds will require disclosure of upstream foreign investors and those in violation to substantial monetary penalties.
- Data center developers, owners and investors should assess landholdings, financing structures and utility access arrangements now to identify potential AFIDA obligations before advancing current or planned projects.
- Given the significantly higher penalties for noncompliance and the elimination of the agency's discretion to reduce them, those required to file are strongly encouraged to achieve and maintain AFIDA compliance before the new rules are planned to take effect in December 2026.

The U.S. Department of Agriculture (USDA) has proposed a sweeping overhaul of the regulations implementing the Agricultural Foreign Investment Disclosure Act (AFIDA). Enacted in 1978, AFIDA requires certain foreign persons and entities to report the purchase, sale or holding of U.S. agricultural land to the USDA within 90 days of the acquisition or lease. The June 2026 proposal, available here, would significantly expand the law's reporting requirements, increase penalties for noncompliance and shift its administration to the USDA's Office of Homeland Security.

This may significantly impact data center development, in addition to renewable energy development, other agribusinesses and independent power producers. Frequently, data center developers lease or buy rural land intended for commercial rezoning. Pursuant to the proposed rules, if a parcel was used for farming, ranching, crops or forestry at any time within the last five years, it qualifies as “agricultural land” subject to AFIDA reporting obligations. AFIDA disclosure obligations remain in effect regardless of the underlying zoning classification.

Related People

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The June 2026 overhaul of AFIDA shifts the rules from mere data collection into a national security enforcement tool, which may introduce major regulatory hurdles for data center projects with international investors or owners. The current data center boom relies in part on substantial global capital, international joint ventures, institutional real estate funds and other funding mechanisms. The proposed rules lower reporting thresholds to 10% foreign "significant interest or substantial" control and drastically expand the definition of beneficial ownership in an effort to deter noncompliance by entities that have foreign investors or partners. If a U.S.-based developer has upstream foreign investors, the identities of those foreign investors must be disclosed.

The administration of AFIDA is moving from the Farm Service Agency to the USDA's Office of Homeland Security. OHS is tasked with cross-referencing land data with national security review bodies such as CFIUS. Because data centers house critical infrastructure and commercially sensitive data, foreign-based data center sites located near military installations or critical agricultural corridors will face substantial scrutiny. Further, data centers require dedicated high-voltage power lines, substantial water infrastructure and fiber optic corridors. The new AFIDA rules require, for the first time, the reporting of easements and rights of way, and they lower the leasehold interest reporting requirement to leases of one year or more. As a result, utility infrastructure feeding data centers may now trigger additional AFIDA reporting and compliance duties.

Penalties for noncompliance with AFIDA are significant and made more so by the proposed rules. Entities that violate AFIDA's reporting and compliance obligations face civil penalties of up to 25% of the FMV of the property. For data center facilities planned in path-of-growth or rural and agricultural areas, developers, owners and investors are strongly urged to assess current and planned real estate holdings to ensure AFIDA compliance. Additional information on the AFIDA rulemaking can be found **here**.