

Publications

June 26, 2026 • Updates

USDA Proposes Changes to AFIDA Rules and Enforcement - Are You In Compliance?

Key Takeaways:

- The USDA has proposed changes to AFIDA rules and enforcement, including stricter penalty provisions that would eliminate its discretion to reduce civil penalties for late or missed filings.
- The proposal reflects increasing federal scrutiny of foreign ownership in U.S. agricultural land, with potential penalty exposure expected to rise as USDA and Congress continue to focus on AFIDA reporting, enforcement and data collection.
- Foreign-owned agribusinesses, investors and companies should review current and planned U.S. agricultural land interests for potential AFIDA filing obligations, including acquisitions, dispositions, leases and other holdings that may require reporting within 90 days.

On June 25, the United States Department of Agriculture (USDA) released a new proposed rule updating the Agricultural Foreign Investment Disclosure Act (AFIDA) and its reporting obligations. Notably, the proposed rule eliminates the USDA's discretion to adjust proposed civil penalties downward for late-filers and those who failed to file — a mitigation historically enjoyed by AFIDA filers based on the method of discovery of the violation, extenuating circumstances and the nature of the information misstated or not reported. Although the proposed rule remains subject to comment, the message behind the rule is clear: the USDA will no longer tolerate lackluster compliance with reporting obligations.

For foreign-owned agribusinesses, investors and companies holding or leasing U.S. agricultural land, that means achieving and maintaining compliance with AFIDA's reporting obligations is more important than ever. Comments on the proposed rule are requested no later than Aug. 10.

Who Must Report Under AFIDA and Why the Proposed Changes Matter

Any U.S. entity with an ultimate foreign parent that owns or leases agricultural land in the United States must comply with AFIDA's reporting obligations. Any entity that holds an

Related People

- Anne Bos Callenbach
- Alan Claus Anderson

Related Capabilities

- Energy
- Agribusiness

interest in U.S. agricultural land, either through ownership or a leasehold interest, must report their holdings and transactions to the USDA pursuant to AFIDA and its implementing regulations. This reporting is required by AFIDA and is applicable every time land is acquired or transferred. Reporting must be filed within 90 days of the transaction (acquisition or disposition).

Failure to timely file an accurate report can result in a penalty of up to 25% of the fair market value of the agricultural land. Often, these penalties are in the millions to tens-of-millions of dollars, which substantially increases the cost of doing business.

Other highlights of the proposed changes to AFIDA include: (1) the creation of three penalty schemes for late reports, depending on whether the report in question is an acquisition, transfer or inheritance, or newly reportable holding; (2) increasing the penalty accrual rate for late reports; (3) removing entirely the USDA's discretion to employ downward adjustments to penalties; (4) and increased penalties for filers designated as a Foreign Adversary or Foreign Adversary Controlled Entity.

Federal Scrutiny of Foreign Ownership in U.S. Agricultural Land Continues to Intensify

National security and foreign investment in United States agricultural land are now clearly a priority for the current administration, as a new Senate bill was also just released.

On the heels of the House of Representatives' April 2026 vote to pass the *Farm, Food, and National Security Act of 2026* (H.R. 7567), on June 23, the U.S. Senate released its draft 2026 Farm Bill, known as the *Agricultural Act of 2026*. The 900-page farm bill proposal is similar to legislation passed by the House in April.

Designed to protect food supplies and national security, the *Agricultural Act of 2026* seeks to modernize and bolster the Agricultural Foreign Investment Disclosure Act. This modernization is designed to help ensure compliance with AFIDA reporting requirements and provides a sharper picture of the goals of such reporting requirements. Highlights of the bill include:

- Expanding AFIDA reporting requirements to include security interests.
- Codifying the Consolidated Appropriations Act of 2023 direction to establish an electronic filing process and disclosure database and directing the USDA to make the necessary data public.
- Lifting the cap on penalties for the untimely filing of AFIDA reports and setting a 15% Fair Market Value minimum civil penalty.
- Allowing the Secretary to use the funds collected from penalties for AFIDA enforcement.
- Strengthening USDA outreach efforts to enhance public awareness of AFIDA reporting requirements.
- Bolstering training for USDA state and county level staff on AFIDA.
- Requiring annual reports to Congress on AFIDA data and foreign influence in agricultural and a report to assess Committee on Foreign Investment in the United States (CFIUS) referral capacity.
- Directing the Secretary to implement several GAO recommendations on strengthening the integrity and precision of AFIDA data and monitoring processes, as well as coordination with CFIUS member agencies.

What Foreign-Owned Entities Should Do Now

In light of the USDA's proposed penalty changes and increased federal scrutiny, foreign-owned entities with interests in U.S. agricultural land may want to assess whether current

or planned holdings, leases, acquisitions or dispositions trigger AFIDA reporting obligations. Bear in mind that "foreign-owned" is defined by AFIDA as an interest of ten percent or more, so the ownership threshold is very slim. As USDA enforcement and congressional attention continue to increase, proactive review may help reduce penalty exposure and avoid costly compliance gaps.

For additional information regarding AFIDA and its reporting requirements, please contact Anne Bos Callenbach, Alan Claus Anderson or your preferred Polsinelli attorney.