

**Statement by  
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U.S. Department of Agriculture  
Before the Senate Committee on Agriculture, Nutrition and Forestry  
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Chairwoman Stabenow, Ranking Member Boozman, and Members of the Committee, thank you for the opportunity to come before you today to discuss foreign ownership of agricultural land in the United States.

I have served as the Deputy Under Secretary for the Farm Production and Conservation (FPAC) mission area since February 2021. In this role, I have the honor to work with USDA's producer-facing agencies as we partner with farmers, ranchers and forest owners to strengthen American agriculture together. FPAC includes four agencies—the Farm Service Agency (FSA), the Risk Management Agency (RMA), the Natural Resources Conservation Service (NRCS) and the FPAC Business Center (FPAC-BC). These agencies provide key support for farmers, ranchers and forest landowners through farm loans, disaster assistance, safety net, risk management, and conservation programs. The more than 20,000 staff across more than 2,900 offices help producers weather economic ups and downs as well as grow and improve their operations.

The process to report and track foreign-owned agricultural land is complex. USDA gathers information from the more than 3,000 counties and county equivalents in the United States. Each with their own county clerk and recorder's office—or none at all—feeding information into more than 50 different state systems. There are also 500 sovereign tribal nations with different laws, rules, and processes for tracking land ownership and land transfer. USDA also works with local law offices and realtors associations to ensure that land buyers are aware of the need to report their purchase if they are covered by the statute. This creates a complicated patchwork that makes continuous tracking and reporting foreign-owned agricultural land very challenging. This challenge is compounded because the group within USDA tasked with collecting foreign ownership information is under-resourced and the staff have limited authorities that are less expansive in scope than those outside of USDA may recognize. There is not currently a system at the national, state or local level that tracks deeds and leases and no automated reporting mechanism to aggregate information and contribute to the disclosure report. Any system for tracking land purchases and owners would be complicated, expensive, and create a potential risk to producer privacy, the price of agricultural land, and individual American seller interests. As Congress considers the issues around the ownership of agricultural land it will be essential for them to consider a system that balances these issues and is workable for USDA, producers, landowners, and county government staff on the ground.

### **Historical Background**

USDA's authority to report foreign agricultural land ownership is derived from the Agricultural Foreign Investment Disclosure Act of 1978, often called "AFIDA." Any foreign person who buys, sells or holds a direct or indirect interest in U.S. agricultural land must report their holdings and transactions to USDA through the Agricultural Foreign Investment Disclosure Act Report

(FSA-153). Leaseholds of 10 years or more on agricultural land—often involving wind turbine and solar panel interests—must also submit a report to USDA.

In addition to the FSA-153 form, filers must supply the legal description to the land and, if relevant, the tiers of ownership to the third tier. Failure to timely file an accurate report can result in a penalty of up to 25 percent of the fair market value of the agricultural land, per the 1978 statute. Since the beginning of the program in 1978, penalties have been imposed at less than 1 percent of the fair market value.

## **Challenges**

In addition to the complexity of recording a deed as I mentioned earlier, it is important to note that AFIDA is a self-reporting system and does not capture all potential filers. While 24<sup>1</sup> states currently have enacted restrictions on foreign ownership of agricultural land those are state laws to implement and not the jurisdiction of USDA.

Currently, the AFIDA reporting system uses a paper-based approach to data collection that has changed little since the start of the program. Companies print out legal descriptions from their internal electronic land management systems and mail their hard copy AFIDA filings in bankers' boxes to USDA, with the data on the FSA-153 form hand-entered into an AFIDA Access database. As a manual process with hard copies of legal descriptions, we currently have no way to electronically identify the geographic location of AFIDA filings more specifically than at the county level.

Absent the filing of the form and our research to find multiple level ownership, USDA does not have the capacity, tools or expertise to identify which potential owners or lessees may be of foreign nationality. It is difficult to identify companies with a complex organizational structure or companies with unclear ownership. It is also difficult to update our data for small foreign-owned companies that go bankrupt or foreign individuals who pass away, and the land is sold to a U.S. citizen.

## **USDA Work to Improve the Process**

While the challenges are significant, I want to make sure to take a moment to thank FPAC's Economic and Policy Analysis staff, who work on AFIDA and are working hard to improve outreach and filing information to ensure that we are getting the best information possible.

FPAC is striking to update the FSA-153 form, which has not been changed for many years. We anticipate that the revised form will ask questions that will help us address the impact of foreign ownership of U.S. agricultural land on farms and rural communities.

In addition, FPAC is also working to seek out individuals who may need to file, but do not. Data specialists match FSA-153 filing data with FSA Farm Programs data identifying those entities who are not U.S. citizens and not permanent residents and own agricultural land in the United

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<sup>1</sup> <https://nationalaglawcenter.org/state-compilations/aglandownership/>

States. FPAC can proactively send these entities certified letters to provide information about AFIDA and how to file.

## **Reporting**

Section 773 of the *Consolidated Appropriations Act of 2023* directs USDA to modernize the AFIDA reporting system within 3 years via an on-line electronic filing portal linked to a queryable database where interested parties could examine foreign holdings within a given county or see the array of holdings by foreigners from specific countries. Congress did not provide funding to implement these requirements.

To move forward with the Section 773 language in the absence of funding, the Department has taken several low-cost steps. In early June, FPAC posted Excel spreadsheets for each year from 2011 to 2021 with the detailed data underlying the annual report to Congress. This is a step in the direction of increasing public access to data of increasing concern and what could be done given the funding provided.

## **Conclusion**

While there are challenges to the current reporting system, we understand the task. We agree that these are incredibly important issues and look forward to working with Congress to address them.