United States Senate

WASHINGTON, DC 20510

August 10, 2026

The Honorable Brooke L. Rollins
Secretary
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

Dear Secretary Rollins:

On June 25, 2026, the U.S. Department of Agriculture (USDA) published a proposed rule (Docket No. USDA-2026-0001)[1] to update the regulations governing the Agricultural Foreign Investment Disclosure Act of 1978 (AFIDA). If finalized, the proposed rule could have damaging consequences for national and energy security. We urge USDA to make changes to the proposed rule to address these serious impacts.

We have a strong interest in ensuring that AFIDA effectively supports transparency about foreign ownership of U.S. agricultural land and provides policymakers with accurate information necessary to protect America's food security and national security interests. We also recognize the legitimate need to ensure that foreign adversaries cannot exploit weaknesses in federal oversight of investments involving agricultural land and critical infrastructure.

However, we are concerned that USDA's proposed rule may exceed what is necessary to address those objectives, have unintended national security consequences, and may create substantial new compliance burdens on agricultural producers, landowners, infrastructure operators, energy developers, and investors that could undermine efforts to address rising energy and food prices without a corresponding national security benefit.

At the foundation of the proposed rule is a dramatic expansion of the definition of "agricultural land" that goes well beyond the scope envisioned statutorily by AFIDA or the plain commonsense understanding of the phrase. The proposed rule would expand "agricultural land" to include renewable energy facilities, pipeline corridors, warehousing activities, conservation lands, agricultural research facilities, easements, leases, and rights-of-way. The underlying statute defines "agricultural land" as land "used for agricultural, forestry or timber production purposes."[2] Current definitions of agricultural production in the Code of Federal Regulations are narrowly focused on the plain understanding of the term, "the cultivation, growing, or harvesting of plants and crops (including farming) breeding, raising, feeding, or housing of livestock (including ranching); forestry products, hydroponics, or nursery stock; or aquaculture."[3] It stretches credibility to suggest that, in enacting AFIDA in 1978, Congress envisioned something beyond this narrow commonsense definition to something so expansive

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1 https://www.federalregister.gov/documents/2026/06/25/2026-12808/agricultural-foreign-investment-disclosure-act-of-1978

2 https://www.govinfo.gov/content/pkg/COMPS-10258/pdf/COMPS-10258.pdf

3 7 C.F.R. § 4279.2(a); 7 C.F.R. § 5001.3; 7 C.F.R. § 1980.412(e); 7 C.F.R. § 701.2(b)

as to include renewable energy production, pipeline corridors, warehousing, supply-chain facilities, or land that is currently under conservation.

The proposed rule also reduces the “significant interest or substantial control” threshold regarding what transactions need to be reported from 50% to 10% aggregate non-U.S. equity interests, in any direct or indirect combination. Further, the rule redefines beneficial ownership to include any foreign person with decision-making authority over agricultural land under the expanded categorical definitions.

The 10% aggregate equity interest threshold is especially unworkable for a publicly traded company, because ordinary institutional trading could trigger AFIDA reporting without the company knowing the threshold has been crossed. Real-time foreign equity ownership is not something a public company can verify with accuracy, let alone within the 90-day window before penalties begin.

Even more troubling is that the aggregate ownership test and the beneficial owner test contain no carve-out for allied capital. A Canadian pension fund or a European infrastructure investor triggers the same 10% threshold and the same no-floor beneficial owner standard as a known adversary-linked entity, despite posing none of the risk the rule is meant to address.

Rather than improving national security, we believe the proposed rule creates new serious vulnerabilities and national security risks by imposing significant new geospatial mapping compliance obligations. Companies would be required to provide detailed boundary mapping, land-use information, and amended filings within 90 days of assignments, transfers, ownership changes, or land-use conversions. The expansion of who must report and the requirement to disclose geospatial mapping information about energy production infrastructure and food processing facilities into a central online database essentially provides our adversaries with targeting information for critical infrastructure and unnecessarily exposes business sensitive information.

The cumulative impact of expanding who must report and what filers must disclose, along with increased penalties for compliance errors and delays will have a chilling effect on investment in both energy production and food processing at a time when families and small businesses are already struggling with high energy and food prices.

The United States should continue to protect its agricultural land, food supply, and critical infrastructure from threats posed by foreign adversaries. At the same time, regulatory policy should be carefully calibrated to ensure that federal resources remain focused on genuine national security risks and that compliance burdens do not unnecessarily discourage lawful investment that supports American farmers, rural communities, and affordable energy and food.

We respectfully request a briefing from USDA on the proposed rule, including its anticipated impacts on the energy, infrastructure, and agricultural sectors, the legal basis for expanding the definition of "agricultural land," and how the Department intends to protect sensitive infrastructure and investor information collected under the rule. We also request a written response addressing the concerns raised in this letter.

We appreciate your attention to this matter and look forward to your response.

Sincerely,

Martin Heinrich
United States Senator

John Fetterman
United States Senator

Chris Van Hollen
United States Senator

Sheldon Whitehouse
United States Senator

Angus S. King, Jr.
United States Senator