Congressional Research Service
Informing the legislative debate since 1914

IN FOCUS

November 18, 2021

Foreign Farmland Ownership in the United States

Legislation introduced in the 117th Congress seeks to restrict foreign investment and ownership of U.S. agricultural land. In 2019, foreign persons and entities held an interest in 2.7% of U.S. privately owned agricultural land—covering crop, grazing, and forest land—according to the U.S. Department of Agriculture (USDA). Other related legislation seeks to limit the eligibility of foreign persons and entities for USDA farm program benefits.

Existing Federal Requirements

Current law imposes no restrictions on the amount of private U.S. agricultural land that can be foreign owned. Federal law, however, requires foreign persons and entities to disclose to USDA information related to foreign investment and ownership of U.S. agricultural land.

The Agricultural Foreign Investment Disclosure Act of 1978 (AFIDA; P.L. 95-460, 7 U.S.C. §§3501-3508) and its federal regulations (7 C.F.R. Part 781), implemented by USDA, established a nationwide system for the collection of information pertaining to foreign ownership of U.S. *agricultural land* (as defined at 7 C.F.R. §781.2). AFIDA defined a *foreign person* as "any individual, corporation, company, association, partnership, society, joint stock company, trust, estate, or any other legal entity" (including "any foreign government") under the laws of a foreign government or with a principal place of business outside the United States. The regulations require foreign persons who buy, sell, or gain interest in U.S. agricultural land to disclose their holdings and transactions to USDA directly or to the Farm Service Agency county office where the land is located. Failure to disclose this information may result in penalties and fines. After the original disclosure (Form FSA-153), each subsequent change of ownership or use must be reported. USDA compiles these data, with the most recent AFIDA report covering 2019.

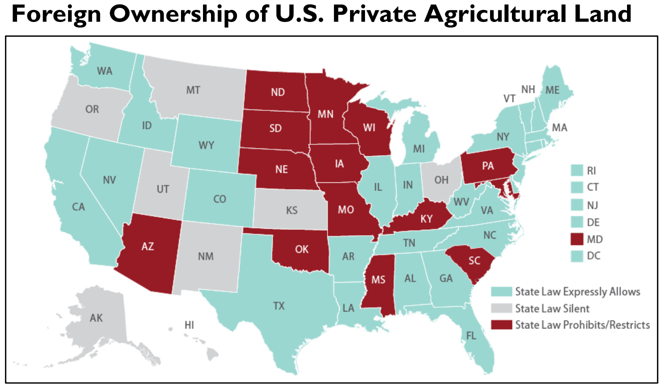
Foreign persons or entities may be eligible for certain USDA farm program benefits if they meet the same requirements as domestic persons or entities. Specifically, they must be either farming the land or landlords renting land under a crop-share agreement, have the requisite U.S. taxpayer ID, and meet the program's eligibility and other requirements. All persons or legal entities also must be *actively engaged in farming* (7 U.S.C. §1308–1). Other criteria may apply, such as limits on the entity's adjusted gross income. For background, see CRS Report R46248, *U.S. Farm Programs: Eligibility and Payment Limits*.

Current law imposes no restrictions on foreign persons or entities with respect to eligibility for crop and livestock insurance premium subsidies. Other programs, such as the Dairy Margin Coverage program, make no distinction about a producer's or owner's citizenship. Similarly, no citizenship requirement exists for a sugar processor, or a cane or beet producer, operating under the U.S. sugar program. However, foreign persons or entities are not eligible for permanent disaster assistance programs, such as the Emergency Assistance for Livestock, Honey Bees, and Farm-Raised Fish Program; Livestock Forage Disaster Program; Livestock Indemnity Program; and Tree Assistance Program. The Noninsured Crop Disaster Assistance Program also explicitly prohibits payments to foreign entities other than resident aliens.

Existing State Requirements

Some states and localities have instituted restrictions but do not significantly inhibit foreign farmland ownership. An overview of state laws by researchers at the University of Arkansas's National Agricultural Law Center shows that no U.S. state has instituted an absolute prohibition on foreign ownership. However, several states have imposed certain prohibitions or restrictions on foreign ownership, while most states expressly allow foreign ownership (**Figure 1**). Several states require reporting or registration (Arkansas, Illinois, Iowa, Kansas, Maine, Minnesota, Missouri, Nebraska, North Carolina, North Dakota, Ohio, and Wisconsin). There is no single uniform approach under state law to addressing foreign ownership. Some general categories include restrictions on the amount of land that can be owned or the duration of ownership; distinctions involving private versus public land or how *agricultural land* is defined; distinctions involving resident and nonresident aliens; inheritance considerations involving land ownership; restrictions on ownership of foreign corporations (e.g., corporate farming laws or requirements corporations are subject to in order to obtain license or register); and differences related to enforcement and penalties.

Figure 1. Overview of Selected State Laws Related to Foreign Ownership of U.S. Private Agricultural Land



Source: CRS using data from the National Agricultural Law Center, https://nationalaglawcenter.org/state-compilations/aglandownership/.

USDA Data on Foreign Ownership

USDA reports foreign persons and entities held an interest in 35.2 million acres of U.S. agricultural land in 2019, accounting for 2.7% of all privately owned agricultural land. USDA reports that foreign holdings of U.S. agricultural land have increased by an average of 2.3 million acres per year since 2015. Most acreage increases were in forestland, cropland, and pasture. These data cover both foreign-owned and U.S. subsidiary-owned land. Forestland accounted for 49% of all foreign-owned private land in 2019, cropland accounted for 25%, and pasture and other agricultural land for 24%. Nonagricultural land, such as homesteads and roads, accounted for 2%.

Individuals and entities in five countries accounted for more than 62% of all foreign-owned agricultural land in 2019 (**Table 1**). As a share of all foreign-owned acres, these were Canada (29%, mostly forestland), the Netherlands (14%), Italy (7%), the United Kingdom (6%), and Germany (6%). Other countries with foreign investments of more than 500,000 acres were Portugal, Denmark, Luxembourg, Mexico, the Cayman Islands, Switzerland, and Japan.

All 50 states report foreign investment/ownership in U.S. private agricultural land (**Figure 2**). In 2019, states with the highest number of foreign-owned acres were Texas (4.4 million acres), Maine (3.3 million acres), Alabama (1.8 million acres), and Washington and Colorado (1.5 million acres each). Other states with more than 1 million foreign-owned acres were Arkansas, California, Florida, Georgia, Louisiana, Michigan, New Mexico, Oklahoma, and Oregon.

Table 1. Foreign Holdings of Agricultural Land, 2019

	Ag. Acres (millions)	Share Foreign-Owned Ag. Land	Share All U.S. Private Ag. Land
Canada	10.4	29.6%	0.81%
Netherlands	4.8	13.7%	0.37%
Italy	2.5	7.2%	0.20%
United Kingdom	2.1	6.1%	0.17%
Germany	2.0	5.7%	0.16%
Portugal	1.5	4.2%	0.11%
Denmark	0.8	2.3%	0.06%
Luxembourg	0.8	2.2%	0.06%
Mexico	0.7	1.9%	0.05%
Cayman Islands	0.6	1.8%	0.05%
Switzerland	0.6	1.7%	0.05%
Japan	0.5	1.5%	0.04%
China (excl. Hong Kong)	0.2	<0.7%	<0.02%
Russian Federation	<0.1	<0.01%	<0.02%
Iran	<0.1	<0.01%	<0.02%
Top 5 Countries	21.9	62.3%	1.70%
Top 10 Countries	26.3	74.7%	2.04%
All Other Countries	5.0	16.55%	0.39%
Country Not Listed	2.1	6.1%	—
Total Foreign-Held	**35.2**	**100.0%**	**2.72%**

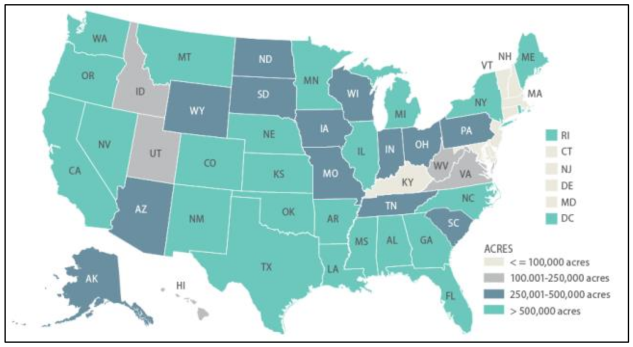
Source: CRS from USDA, *Foreign Holdings of U.S. Agricultural Land through December 31, 2019*. Data are from Report 6, covering sole foreign and joint U.S. ownership (excluding nonagricultural land). "Country Not Listed" covers reporting codes 998 and 999. All private held agricultural land totaled 1,290.5 million acres in 2019.

Note: USDA's data are self-reported and may include errors and omissions, as reported by the Midwest Center for Investigative Reporting (http://apps.investigatemidwest.org/afida/).

Introduced Legislation in Congress

Legislation before Congress seeks to increase oversight of foreign investment and ownership of U.S. agricultural land. Several bills would amend the Defense Production Act of 1950 (50 U.S.C. 4565(k)(2)) to include the Secretary of Agriculture as a member of the Committee on Foreign Investment in the United States (CFIUS). USDA is not currently a member of CFIUS. CFIUS is an interagency committee authorized to review certain transactions involving foreign investment in the United States and real estate transactions by foreign persons, in order to determine the effect of such transactions on U.S. national security.

Figure 2. Foreign Holdings of Agricultural Land, 2019



Source: CRS from USDA data available at USDA, *Foreign Holdings of U.S. Agricultural Land Through December 31, 2019*.

Bills that would include USDA as a member of CFIUS include H.R. 5490 (Foreign Adversary Risk Management Act); H.R. 3413/S. 1755 (Agricultural Security Risk Review Act); and S. 3089 (Food Security Is National Security Act of 2021). S. 3089 also would include the Secretary of Health and Human Services as a CFIUS member. None of these bills would otherwise modify CFIUS rules that might require under certain circumstances a CFIUS review of most agricultural land transactions. However, S. 3089 would require consideration of the "potential effects of the proposed or pending transaction on the security of the food and agriculture systems of the United States, including any effects on the availability of, access to, or safety and quality of food" in a CFIUS determination. H.R. 5490 also would require USDA and the Government Accountability Office to each conduct an analysis and report to Congress on the extent of foreign influence in the U.S. agriculture industry.

In addition, the House-passed FY2022 Agriculture appropriations bill would require USDA to take actions to "prohibit the purchase" of agricultural land by "companies owned, in full or in part, by China, Russia, Iran, or North Korea" (§777 of Division B in H.R. 4502). Similar provisions were not taken up in the Senate. USDA reports China, Russia, and Iran accounted for a combined total of 0.2 million acres in 2019, or less than 0.7% of all foreign-owned agricultural land (**Table 1**). China accounted for nearly all of this reported acreage (98%), most of which (about 60%) was attributable to the purchase of U.S. pork producer Smithfield Food by Chinese firm WH Group (formerly Shuanghui Int'l). USDA does not report any foreign-owned agricultural acres attributable to North Korea. The House Agriculture appropriations provision would further restrict such foreign-owned agricultural land owned by China, Russia, Iran, or North Korea from being eligible to participate in programs administered by USDA.

Renée Johnson, Specialist in Agricultural Policy

IF11977

Disclaimer