

Instructions for Completing Form FSA-153

Agricultural Foreign Investment Disclosure Act Report

Use the following instructions to complete the Agricultural Foreign Investment Disclosure Act Report (FSA-153) to meet the reporting requirements of the Agricultural Foreign Investment Disclosure Act of 1978. Details of the reporting requirements can be found in the U.S. Department of Agriculture Regulations at 7 CFR Part 781.

The following background information outlines who must report, what to report, when to report, and where to report:

Foreign Investors Who Hold Agricultural Land

Foreign investors who buy, sell, or hold a direct or indirect interest in U.S. agricultural land must report their holdings and transactions to the U.S. Department of Agriculture. The reporting requirement became law in late 1978 when the Agricultural Foreign Investment Disclosure Act (AFIDA) was enacted. The data gained from these disclosures are used to prepare annual reports to Congress, which can be accessed at: <https://www.fsa.usda.gov/programs-and-services/economic-and-policy-analysis/afida/index>.

Failure to timely file an accurate report can result in a civil penalty of up to 25 percent of the fair market value of the interest in the agricultural land.

Who Must Report

- Individuals who are not U.S. citizens or citizens of the Northern Mariana Islands or the Trust Territory of the Pacific Islands.
- Individuals who are not lawfully admitted to the United States for permanent residence or who are not paroled into the United States under the Immigration and Nationality Act.
- Any organization created under the laws of a foreign government or which has located its principal place of business outside the United States.
- Any U.S. organization in which a ***significant interest or substantial control*** is directly or indirectly held by foreign individuals, organizations, or governments.
- Any foreign governments.

Definition of Significant Interest or Substantial Control

- A direct or indirect interest of 10 percent or more held by a single foreign individual, organization, or government.
- A direct or indirect collective interest of 10 percent or more held by a group of foreign individuals, organizations, or governments, acting in concert.
- A direct or indirect collective interest of 50 percent or more held by a group of foreign individuals, organizations, or governments, not acting in concert.

What to Report

- Foreign investors must report each tract of agricultural land in the United States, its territories, the Northern Mariana Islands and the Trust Territories of the Pacific Islands for which they have significant interest or substantial control.
- Foreign investors must report leaseholds of 10 years or more.

Under the law, the term **agricultural land** means land used for forestry production¹ and land currently used for farming, ranching or timber production if tracts are more than 10 acres in size in the aggregate.

Ownership of tracts totaling 10 acres or less in the aggregate which produce annual gross receipts in excess of \$1,000 from the sale of the farm, ranch, or timber products must also be reported.

When to Report

Foreign persons, who owned land on February 1, 1979, were required to report by August 1, 1979. Those buying or selling land on or after February 2, 1979, must report the transaction within 90 days of the date of the transaction.

Where to Report

The Secretary of Agriculture designated implementation of AFIDA to the Farm Service Agency (FSA). The FSA-153 form is the mechanism to collect data on foreign agricultural land holdings. The completed form must be returned to the FSA county office where the land is located or to the headquarters office in Washington, D.C. To find the address of the applicable county FSA office, visit the FSA office locator at: <https://offices.sc.egov.usda.gov/locator/app>.

Customers who have established electronic access credentials with USDA may electronically transmit this form to the USDA servicing office, provided that (1) the customer submitting the form is the only person required to sign the transaction, or (2) the customer has an approved Power of Attorney (Form FSA-211) on file with USDA to sign for other customers for the program and type of transaction represented by this form.

Features for transmitting the form electronically are available to those customers with access credentials only. If you would like to establish online access credentials with USDA, follow the instructions provided at the USDA eForms web site.

Customers can request permission to file the FSA-153 forms directly with FSA in Washington, D.C. when complex filings are involved (such as when the land is located in more than one county) by contracting FSA in Washington, D.C. Electronic transmission is not yet available in Washington, D.C. DO NOT FAX.

¹ Land used for forestry production means land exceeding 10 acres in which 10 percent is stocked by trees of any size including land that formerly had such tree cover and will be naturally or artificially regenerated.

Assistance in completing the FSA-153 report may be obtained from the local County FSA Office or from headquarters staff. For further information, contact:

Mary Estep, Agricultural Foreign Investment Program Manager
Data Services Branch
USDA-FPAC-EPAD-DSB-AFIDA STOP-0531
Room 3112-S
1400 Independence Ave., S.W.
Washington, D.C. 20250-0531 or telephone at (202) 720-3217.

Instructions for each item number listed on the FSA-153 are discussed below to assist in completing the form. Type in black ink when providing information.

When sending an amended report (such as for a land disposition, the acquisition of additional land, or a name change), check the box at the top of Page 1 to indicate that the report is "AMENDED". Please provide a copy of the original FSA-153 when submitting the amended filing.

Submit the original and two copies of the completed form with attachments in hard copy. If additional space is needed, attach an additional sheet. DO NOT FAX.

Fld Name / Item No.	Instruction
1 Type Activity	See Page 2 of FSA-153 for an explanation of Item 1.
2A - 2D Tract Location and Description	Item 2A. Enter the legal description from the deed or the FSA farm tract number obtained from the county office. If there is insufficient space attach a copy of the legal description to each copy of the report before mailing. Item 2B. Enter the county or parish. Item 2C. Enter the total number of acres. If needed, enter up to 2 digits past the decimal point (hundredths). Item 2D. Enter the State. Item 2D. Enter the State.

Fld Name / Item No.	Instruction
3A - 3E Owner of Tract (Whoever has title to the land) or If reporting a long term lease (Whoever is the lessee)	Item 3A. Enter the name of the filing individual or entity (such as the person who has title to the land) or, if reporting a long-term lease, the lessee. Item 3B. Enter the IRS Tax Identification Number of the owner or lessee. Item 3C. Enter the complete legal address of the filer. Item 3D1. If the filer shown in Item 3A is an individual, check this box. Item 3D1a. Enter the citizenship of the individual(s) (such as husband and wife). Item 3D2.If the filing entity shown in Item 3A is a government, enter the name of the country of the government that owns or leases the land. Items 3D3a1 through 3D3a7. Check the appropriate box for the entity shown in Item 3A. Item 3D3b. Enter the name of the country under whose law the organization is created if the entity is a country. Item 3D3c. Enter the principal place of business (city, state or country) if the entity is an organization. Item 3D3d. List on a separate sheet the name, address, and country of all the foreign persons who individually hold a 10% or more interest or a group of foreign persons acting in concert who hold a collective interest of 10% or more or a group of foreign persons, not acting in concert, who hold a collective interest of 50% or more in the entity owning or leasing the land listed in Item 3A. Filing is required to the third tier of ownership.

Fld Name / Item No.	Instruction
3A 3E Owner of Tract (Whoever has title to the land) or If reporting a long term lease (Whoever is the lessee)	<i>For example:</i> The Companies in this example could be any organization included in Items 3D3a1 through 3D3a7. Company A owns or leases the land and is listed in Item 3A. Companies B and C own Company A. List Company B and C and all foreign persons in Companies B and C who meet the requirements of Item 3D3d. Companies D and E own Company B. List Companies D and E and all foreign persons in Companies D and E who meet the requirements of Item 3D3d. Companies F and G own Company C. List Company F and G and all foreign persons in Companies F and G who meet the requirements of Item 3D3d. <u>Item 3E. For Land Dispositions Only</u> Complete this section only if Item 1C, Land Disposition, is checked. This section is for the seller to list the information relating to the individual or entity who acquired the land. Item 3E1. Enter the name of the individual or entity receiving the tract(s). Item 3E2. Enter the address of the individual or entity receiving the tract(s). Item 3E3. Check the appropriate citizenship status of the individual or entity receiving the land, if known.
4A - 4D Representative of Foreign Person	Items 4A through 4D. This section is for the owner or lessee of the land listed in Item 3A to enter someone that can be contacted for further information on this filing, if necessary.
5A - 5B Type of Interest Held in the Agricultural Land	Enter the type of interest held by the filer. Item 5A-- Fee Interest Whole. Select this item when you acquire or sell 100% of the interest in the land. Item 5B-- Fee Interest Partial. Select this item when you acquire or sell less than 100% interest in the land. Enter the percentage of interest acquired or sold in the land.

Fld Name / Item No.	Instruction
	If the interests in the land are not represented by Items 5A through 5E, select Item 5F, Other, and include a brief explanation. Example - leasehold interests are reportable in Item 5F.
6 How was this Tract Acquired or Transferred?	<u>For Land Acquisitions or Holdings:</u> Enter the method used to acquire the land. If Item 6A, Cash Transaction, or Item 6B, Credit or Installment Transaction, are selected, then Item 7A, Purchase Price of Land must be completed. If Item 6C, Trade, Item 6D, Gift or Inheritance, Item 6E, Foreclosure, or Item 6F are selected, then Item 7B Non-Purchase Estimated Value of Land must be completed. All entries in Item 6 must then be followed by Item 7C, Current Estimated Value. If Item 6B is selected, Item 7D, how much of the purchase price in Item 7A remains to be paid, must be completed. If none of the above items apply, select Item 6F, Other, with a brief explanation. Example - acquisition of stock in organization or acquisition of leasehold interests. <u>For Land Dispositions:</u> If the method used to sell the land was Item 6A or Item 6B, enter the selling price of the land in Item 7C, selling price of the land. If the method used to transfer the land was Items 6C, 6D, 6E or 6F, enter the estimated value of the land at the time of transfer in Item 7C.
7A - 7D Value of Agricultural Land	<u>For Land Acquisitions or Holdings:</u> If the land acquisition or land holding (Item 1A or 1B) was acquired through a cash or credit or installment transaction, report the purchase price paid in Item 7A. If a land acquisition or land holding was acquired by trade, gift, inheritance, foreclosure or stock purchase, an estimated value of the land must be entered in Item 7B, non-purchase, estimated value at the time of acquisition. Item 7B must also be completed for long-term leasehold interests. Report the estimated current value of the land in Item 7C. If the land was acquired through a credit or installment transaction, report the amount of the purchase price (Item 7A) remaining to be paid in Item 7D. <u>For Land Dispositions:</u> When a total disposition is reported and the seller originally acquired the land through a cash or credit or installment transaction, the seller's purchase price of the land at the time of acquisition must be entered in Item 7A. When a portion of the land originally reported is sold, the seller must provide an estimated value of that portion of the land at the time of

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	acquisition in Item 7A. When a total or partial disposition is reported, and the seller originally acquired the land by trade, gift, inheritance, foreclosure or stock purchase, an estimated value of that portion of the land at the time of acquisition must be entered in Item 7B. Item 7B must also be completed for dispositions of long-term leasehold interests. Enter the selling price of the land in Item 7C. NOTE: When completing a land disposition report, the applicable acquisition report must be available for review and comparison.
8 Date of Acquisition or Transfer (See Instructions, Page 2 of FSA-153)	Enter the complete date of the transaction.
9 Current Land Use	Make an entry in 1 or more categories. Acreage must be given. The total acres in Item 9F must equal the acres in Item 2C. If needed, enter up to 2 digits past the decimal point (hundredths). NOTE: When completing a land disposition report, the land use and acreage on the acquisition report must be reviewed and compared. For Example: An acquisition report was filed to disclose a purchase of 100 acres of crop, 15 acres of pasture and 50 acres of forest land. A disposition report was later filed to disclose the sale of 100 acres of pasture and 65 acres of forest land. The person filing the disposition report did not review the acquisition report before completing the disposition report. If a comparison had been done, they would have noticed that only 15 acres of pasture and 50 acres of forest land were acquired, and it would be impossible to subtract the transferred pasture and forest land from the acquired pasture and forest land.
10 Intended Use as of This Date	Check the proper box in Item 10. One or more items can be checked. Enter NA in Item 10A when reporting Item 1C or 1E, Land Disposition or Land Use Change to Non-Agriculture.
11 Relationship of Owner to Producer	Check the box in Item 11A that describes the operator of the tract of land. One or more items can be checked. If there is no operator, enter NA. If Item 11A3, tenant or sharecropper, is marked, Item 11B must be completed. Enter NA in Items 11A and 11B when reporting Item 1C or 1E, Land Disposition or Land Use Change to Non-Agriculture.
12	An entry must be made in Item 12 when a holding or acquisition is reported and there is an operator of the tract of land. If Item 11A is not applicable,

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The producer on this tract is:	then this Item is NA. Enter NA when reporting Item 1C or 1E, Land Disposition or Land Use Change to Non-Agriculture. If the land is reported as non-agricultural in Item 9E, enter NA in Item 12A.