

For: State and County Offices

Publicizing the AFIDA Program and Reviewing FSA-153's for Accuracy and Feasibility

Approved by: Associate Administrator for Operations and Management



1 Overview

A Background

EPAS, Natural Resources Analysis Group (NRAG) conducted a review of FSA-153's because of the:

- increased focus on homeland security issues
- demand for data about foreign ownership.

The review revealed deficiencies with:

- publicizing the AFIDA Program and its requirements
- reviews of agricultural land ownership changes
- FSA-153 correctness, feasibility, and reporting requirements
- AFIDA record retention.

B Purpose

This notice reminds CED's to:

- publicize the AFIDA Program
- review agricultural land transactions in their County Offices
- follow 1-AFIDA initial reporting requirements
- review FSA-153's for correctness and feasibility according to 1-AFIDA
- follow the 25-AS, Exhibit 23 retention schedule for FSA-153's and related documents
- use the current, **recently updated**, National Office address when transmitting AFIDA information to NRAG.

Disposal Date	Distribution
January 1, 2012	State Offices; State Offices relay to County Offices

Notice AFIDA-43

2 Action

A State Office Action

State Offices shall:

- followup and assist, as necessary, to ensure that County Offices carry out the provisions of this notice
- ensure that CED's promptly date stamp, review, and mail FSA-153's directly to:

EPAS, NRAG, AFIDA
1400 Independence Ave SW Rm 3733-S
STOP 0531
Washington DC 20250-0531

- publicize AFIDA Program requirements according to 1-AFIDA, paragraph 9
- conduct annual internal reviews using FSA-129 according to 1-AFIDA, Exhibit 6.

B County Office Action

County Offices shall take the following actions.

Step	Action
1	Publicize the AFIDA Program according to 1-AFIDA, paragraph 9.
2	Send a letter similar to 1-AFIDA, subparagraph 9 D to county government offices, local realtors, attorneys, and others involved in real estate transactions requesting their cooperation in assisting FSA to fulfill its AFIDA responsibilities by informing County Offices of foreign investor land transactions.
3	Annually send a letter, similar to Exhibit 1, to all foreign investors that have ASCS-153's or FSA-153's in their active file as a reminder of AFIDA's reporting requirements.
4	Send a letter, similar to Exhibit 2, to notify potential or suspected foreign investors of reporting requirements.
5	Annually review all agricultural land ownership changes according to 1-AFIDA, subparagraphs 2 C and 44 B, and Exhibit 7.
6	Check courthouse records for accurate data on ownership, if necessary.
7	Follow 1-AFIDA, paragraph 20 guidelines for foreign investors required to file FSA-153 reports.
8	Review FSA-153's for incorrect or missing data required by 1-AFIDA, paragraph 26, and Exhibits 13 through 16.
9	Notify NRAG, through the State Office, if both of the following apply: <ul style="list-style-type: none">• CED finds that the foreign investor has not complied with the reporting requirements• CED has contacted the foreign investor and has not received a response to the County Office inquiry.
10	Follow 25-AS, Exhibit 23 guidelines for retaining AFIDA active and inactive files.

AFIDA Reporting Requirements Example Letter

The following is an example letter to remind foreign investors of AFIDA reporting requirements.

	Section	,	Township	,
	Range		, Acreage	.
<i>[Name of Owner]</i>				
<i>[Street Address of Owner]</i>				
<i>[City, State, and ZIP Code of Owner]</i>				
RE: Holders of Interest in Agricultural Land				
Dear _____ :				
<p>Our records indicate that you are listed on an Agricultural Foreign Investment Disclosure Act Report, ASCS-153 or FSA-153, as holding an interest in agricultural land (see above for description of land) which was and is subject to the reporting provisions of the Agricultural Foreign Investment Disclosure Act of 1978.</p> <p>This letter is a reminder that, if additional land is acquired, land is leased for ten years or more, land is changed from agricultural to nonagricultural use, or all or part of the agricultural land is sold or title is transferred to another person, an FSA-153 is required to be filed within 90 calendar days with the Farm Service Agency (FSA) in the County Office where the land is located. It is also required that a written notification be submitted if a foreign person ceases to be foreign or information contained on a filed report changes.</p> <p>Failure to file the written notification or FSA-153 could result in a civil penalty of up to 25 percent of the fair market value of the interest held in the agricultural land on the date of the civil penalty.</p> <p>Blank copies of FSA-153 and assistance in completing the form are available from the County FSA Office.</p> <p><i>[Contact Person in County Office]</i> <i>[FSA County Office]</i> <i>[Address of County Office]</i> <i>[Telephone Number of County Office]</i></p>				

Potential or Suspected Foreign Investors Example Letter

The following is an example letter to be sent to potential or suspected foreign investors.

	Section	,	Township	,
	Range	,	Acres	.
<p><i>[Name of Owner]</i></p> <p><i>[Street Address of Owner]</i></p> <p><i>[City, State, and ZIP Code of Owner]</i></p>				
<p>RE: Holders of Interest in Agricultural Land</p>				
<p>Dear _____ :</p>				
<p>Our records suggest that on [Date] you acquired an interest in the agricultural land identified above that may be subject to the provisions of the Agricultural Foreign Investment Disclosure Act (AFIDA) of 1978.</p>				
<p>U.S. Department of Agriculture (USDA) regulations, 7 CFR Section 781.1, for AFIDA specify that when a foreign person acquires or transfers an interest in U.S. agricultural land, such transactions shall be disclosed to the Secretary of Agriculture on AFIDA Report form ASCS-153 or FSA-153. The report must be filed with the County Farm Service Agency (FSA) Office within 90 calendar days of the date of the transaction.</p>				
<p>Any differences in the activity type, title owner, State and County, type of interest acquired in the land and date of acquisition must have separate AFIDA Reports completed and filed.</p>				
<p>To assist you in determining whether your land is considered agricultural land, agricultural land is:</p>				
<p>All crop, ranch, and timberland more than 10 acres in size in the aggregate and forestland. Forestland is land that exceeds 10 acres in size and is at least 10 percent stocked by forest trees of any size, including land that formerly had such tree cover and will be naturally or artificially regenerated.</p>				
<p>Ownership of tracts totaling 10 acres or less in the aggregate must produce annual gross receipts in excess of \$1,000 for the sale of the farm, ranch, forestry or timber products to be reported.</p>				
<p>Failure to return the completed AFIDA Report within 90 calendar days of the date of the transaction could result in a civil penalty of up to 25 percent of the fair market value of the interest held in the agricultural land. The AFIDA Report shall be considered to have been filed in a timely manner if it is received at this office within 90 calendar days of the date of the transaction.</p>				
<p>To assist you, enclosed is a copy of the pamphlet titled, “Foreign Investors Who Hold Agricultural Land What They Should Know About the Agricultural Foreign Investment Disclosure Act of 1978”. Also, enclosed are copies of the AFIDA Report for your use in complying with AFIDA. You can, also, access an AFIDA Report on line at www.fsa.usda.gov under Forms and complete and print it.</p>				
<p>Please submit the AFIDA Report and direct any questions concerning AFIDA to the following:</p>				
<p><i>[Contact Person in County Office]</i></p> <p><i>[FSA County Office]</i></p> <p><i>[Address of County Office]</i></p> <p><i>[Telephone Number of County Office]</i></p>				
<p>Enclosures</p>				