

percentage of shares held in such person both by persons with foreign mailing addresses and investment institutions which manage shares does not equal or exceed significant interest or substantial control in such person.

(3) If the person in paragraph (h)(2) of this section determines that the percentage of shares, which is held in it both by persons with foreign mailing addresses and investment institutions which manage shares, equals or exceeds significant interest or substantial control in such persons, then such person shall be considered to have satisfactorily attempted to determine whether it has an obligation to file a report pursuant to § 781.3 if it sends questionnaires to each such investment institution holding an interest in it inquiring as to whether the persons for which they are investing are foreign persons and the percentage of shares reflected by the affirmative responses from each such investment institution plus the percentage of shares held by persons listed on the business records with foreign mailing addresses does not reveal that foreign persons hold significant interest or substantial control in such person.

(i) Any foreign person, who submitted a report under paragraph (b), (c), or (d) of this section at a time when such land was agricultural, and such agricultural land later ceases to be agricultural, must submit, not later than 90 days after the date on which such land ceases being agricultural, a revised report from FSA-153 or a written notification of the change of status of the land to the FSA office where the report form was originally filed. The report form and notification must contain the following information:

- (1) The legal name and the address of such foreign person;
- (2) The legal description, which includes the State and county where the land is located, and the acreage of such land;
- (3) The date the land ceases to be agricultural;
- (4) The use of the land while agricultural.

(j) If any foreign person who submitted a report under paragraph (b), (c), or (d) of this section ceases to be a foreign person, such person must submit, not

later than 90 days after the date such person ceases being a foreign person, a written notification of the change of status of the person to the FSA office where the report form FSA-153 was originally filed. The notification must contain the following information:

- (1) The legal name of such person;
- (2) The legal description and acreage of such land;
- (3) The date such person ceases to be foreign.

(k) Any foreign person who submitted a report under paragraph (b), (c), or (d) of this section must submit, not later than 90 days after the change of information contained on the report, a written notification of the change to the FSA office where the report form FSA-153 was originally filed. The following information must be kept current on the report:

- (1) The legal address of such foreign person;
- (2) The legal name and the address required to be submitted under (f)(1) of this section;
- (3) The legal name and the address required to be submitted under (g)(1) of this section.

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#### § 781.4 Assessment of penalties.

(a) Violation of the reporting obligations will consist of:

- (1) Failure to submit any report in accordance with § 781.3;
- (2) Failure to maintain any submitted report with accurate information; or
- (3) Submission of a report which the foreign person knows:
  - (i) Does not contain, initially or within thirty days from the date of a letter returning for completion such incomplete report, all the information required to be in such report; or
  - (ii) Contains misleading or false information.

(b) Any foreign person who violates the reporting obligation as described in paragraph (a) of this section shall be subject to the following penalties:

- (1) Late-filed reports: One-tenth of one percent of the fair market value, as determined by the Farm Service Agency, of the foreign person's interest in the agricultural land, with respect to

which such violation occurred, for each week or portion thereof that such violation continues, but the total penalty imposed shall not exceed 25 percent of the fair market value of the foreign person's interest in such land.

(2) Submission of an incomplete report or a report containing misleading or false information, failure to submit a report or failure to maintain a submitted report with accurate information: 25 percent of the fair market value, as determined by the Farm Service Agency, of the foreign person's interest in the agricultural land with respect to which such violation occurred.

(3) Penalties prescribed above are subject to downward adjustments based on factors including:

- (i) Total time the violation existed.
- (ii) Method of discovery of the violation.
- (iii) Extenuating circumstances concerning the violation.
- (iv) Nature of the information misstated or not reported.

(c) The fair market value for the land, with respect to which such violation occurred, shall be such value on the date the penalty is assessed, or if the land is no longer agricultural, on the date it was last used as agricultural land. The price or current estimated value reported by the foreign person, as verified and/or adjusted by the County Agricultural Stabilization and Conservation Committee for the County where the land is located, will be considered to be the fair market value.

**§ 781.5 Penalty review procedure.**

(a) Whenever it appears that a foreign person has violated the reporting obligation as described in paragraph (a) of § 781.4, a written notice of apparent liability will be sent to the foreign person's last known address by the Farm Service Agency. This notice will set forth the facts which indicate apparent liability, identify the type of violation listed in paragraph (a) of § 781.4 which is involved, state the amount of the penalty to be imposed, include a statement of fair market value of the foreign person's interest in the subject land, and summarize the courses of action available to the foreign person.

(b) The foreign person involved shall respond to a notice of apparent liability within 60 days after the notice is mailed. If a foreign person fails to respond to the notice of apparent liability, the proposed penalty shall become final. Any of the following actions by the foreign person shall constitute a response meeting the requirements of this paragraph.

(1) Payment of the proposed penalty in the amount specified in the notice of apparent liability and filing of a report, if required, in compliance with § 781.3. The amount shall be paid by check or money order drawn to the Treasurer of the United States and shall be mailed to the U.S. Department of Agriculture, P.O. Box 2415, Washington, DC 20013. The Department is not responsible for the loss of currency sent through the mails.

(2) Submission of a written statement denying liability for the penalty in whole or in part. Allegations made in any such statement must be supported by detailed factual data. The statement should be mailed to the Administrator, Farm Service Agency, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC 20013.

(3) A request for a hearing on the proposed penalty may be filed in accordance with part 780 of this title.

(c) After a final decision is issued pursuant to an appeal under part 780 of this title, the Administrator or Administrator's designee shall mail the foreign person a notice of the determination on appeal, stating whether a report must be filed or amended in compliance with § 781.3, the amount of the penalty (if any), and the date by which it must be paid. The foreign person shall file or amend the report as required by the Administrator. The penalty in the amount stated shall be paid by check or money order drawn to the Treasurer of the United States and shall be mailed to the United States Department of Agriculture, P.O. Box 2415, Washington, DC 20013. The Department is not responsible for the loss of currency sent through the mails.

(d) If the foreign person contests the notice of apparent liability by submitting a written statement or a request for a hearing thereon, the foreign person may elect either to pay the penalty