

**DEPARTMENT OF AGRICULTURE****National Institute of Food and Agriculture****7 CFR Part 3434****RIN 0524-AA39****Hispanic-Serving Agricultural Colleges and Universities (HSACU) Certification Process****AGENCY:** National Institute of Food and Agriculture, USDA.**ACTION:** Notice of proposed rulemaking and request for comments.

**SUMMARY:** The National Institute of Food and Agriculture (NIFA) is requesting comments on the proposed process to certify a qualifying college or university as a Hispanic-Serving Agricultural Colleges and Universities (HSACU) institution. NIFA is proposing to amend our regulations in the Code of Federal Regulations to chronicle the eligibility criteria colleges and universities must satisfy in order to be certified as HSACU institutions by the Secretary of Agriculture.

**DATES:** Written comments are invited from interested individuals and organizations. To be considered in the formulation of the guidelines, comments must be received on or before August 12, 2011.

**ADDRESSES:** You may submit comments, identified by Regulatory Information Number (RIN) 0524-AA39, by any of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

*E-mail:* [hsacu@nifa.usda.gov](mailto:hsacu@nifa.usda.gov). Include RIN 0524-AA39 in the subject line of the message.

*Fax:* 202-401-7752.

*Mail:* Paper, disk or CD-ROM submissions should be submitted to Policy and Oversight Division; National Institute of Food and Agriculture; U.S. Department of Agriculture; STOP 2299; 1400 Independence Avenue, SW., Washington, DC 20250-2299.

*Hand Delivery/Courier:* Policy and Oversight Division; National Institute of Food and Agriculture; U.S. Department of Agriculture; Room 3107, Waterfront Centre; 800 9th Street, SW., Washington, DC 20024.

*Instructions:* All comments submitted must include the agency name and the RIN for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Matthew Lockhart, Senior Policy

Specialist; National Institute of Food and Agriculture; U.S. Department of Agriculture; STOP 2299; 1400 Independence Avenue, SW., Washington, DC 20250-2299; *Voice:* (202) 570-7410; *E-mail:* [mlockhart@nifa.usda.gov](mailto:mlockhart@nifa.usda.gov).

**SUPPLEMENTARY INFORMATION:****I. Background and Purpose***Authority*

Section 7101 of the Food, Conservation, and Energy Act of 2008 (FCEA) (Pub. L. 110-246) amended section 1404 of the National Agricultural Research Teaching Policy Act of 1977, 7 U.S.C. 3103, to add a definition for a new group of cooperating educational institutions known as Hispanic-serving agricultural colleges and universities (HSACUs). Section 1404 defines HSACUs as colleges or universities that qualify as "Hispanic-serving institutions," as that term is defined in Section 1101a of title 20, and that offer associate, bachelors, or other accredited degree programs in agriculture-related fields. An exception is made to the HSACU definition so that it does not include 1862 institutions as defined in Section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601).

Section 7129 of the FCEA authorizes the following five new programs for HSACUs: (1) HSACU Endowment Fund (formula-based); (2) HSACU Equity Grants Program (formula-based); (3) HSACU Institutional Capacity-Building Grants Program (competitive); (4) HSACU Extension Grants Program (competitive); and (5) HSACU Fundamental and Applied Research Grants Program (competitive). Funding for these programs is subject to the availability of appropriations. The FY 2011 President's Budget proposed \$10,000,000 to initially fund the HSACU Endowment. If the proposed budget is enacted and an appropriation is made for the Endowment Fund, it will represent the first time funds have been appropriated for a HSACU program.

In addition, the FCEA amends section 406(b) of the Agricultural Research, Extension, and Education Reform Act of 1998, 7 U.S.C. 7626, to expand the eligibility for NIFA Integrated Research, Education, and Extension Competitive Grants Programs to include HSACUs.

NIFA was delegated authority to enter into agreements necessary to administer the HSACU Endowment Fund in 7 CFR 2.66(a)(144). NIFA, formerly the Cooperative State Research, Education, and Extension Service (CSREES), distributes federal funds to land grant

colleges of agriculture to provide partial support for state-level research, education, and extension. NIFA's mission is to work with university partners to advance research, extension, and higher education in the food, agricultural, and related environmental and human sciences to benefit people, communities, and the nation.

For clarification, the rules for funds distributed to the HSACUs from the HSACU Endowment Fund shall be contained within 7 CFR part 3437. We will add and publish part 3437 shortly to provide specific administrative provisions for the HSACU Endowment Program (e.g., applicability of regulations, purpose, definitions, eligibility, use of funds, administrative duties, and other sections, as appropriate).

*Solicitation of Stakeholder Input*

On Sunday October 12, 2008, NIFA held a listening session for Hispanic-Serving Institutions (HSI) representatives at the Hyatt Regency in Denver, Colorado to discuss the Food, Conservation, and Energy Act of 2008 (FCEA) (Pub. L. 110-246) that created a new set of programs dedicated to the HSI community. NIFA solicited and welcomed commentaries on any part of these new programs including ways to interpret and implement the definition of the new category of institutions established by the FCEA. Since the term "agricultural-related fields" posed a challenge concerning its interpretation, HSI representatives also were given the opportunity to share their thoughts in written form by October 27, 2008.

During this listening session, 20 individuals, from 17 institutions and two organizations, provided public comments on the definition of Hispanic-Serving Agricultural Colleges and Universities (HSACUs). HSACUs are universities that qualify as Hispanic-Serving institutions as defined in the Higher Education Act of 1965, and offer Associate's, Bachelor's, or other accredited degree programs in agricultural-related fields. The session results can be found on the NIFA Web site at the following web page: <http://www.nifa.usda.gov/business/reporting/stakeholder/hsacu.html>.

The NIFA Assistant Administrator gave introductory remarks and explained how the session would be conducted. Dr. Jose Vicente, President of Miami-Dade North College, gave a detailed synopsis of their institution and stated that creating the Hispanic-Serving Agricultural Colleges and Universities is essential to increase and diversify the workforce in agricultural-related fields. Dr. Vicente expressed that

HSIs do not have land-grant status and only receive peripheral benefits from the FCEA. Three other universities, including a private college in Florida also shared a similar opinion. They also shared how their facilities provide services for Hispanic students in science, technology, engineering and mathematics, especially in urban settings. Lehman College of the City University of New York institutions stated that support for joint research programs and partnerships between HSIs and non-HSIs should be created.

Dr. Nora de la Garza from Laredo Community College emphasized the importance of including nontraditional agricultural colleges as the designation for HSACUs is made and that her college is historically a HSI. Laredo Community College and Houston Community College received a USDA grant to organize a Consortium of HSIs on capacity building. The Consortium has expanded to 21 members.

The Texas A&M-Kingsville representative, Mr. Frank Ureño, noted that for an institution to be eligible for this program it should currently be offering an accredited degree program in agriculture, but the most appropriate method would be to define the qualified schools as those with accredited programs in agriculture defined by the classification of instructional programs originally developed by the United States Department of Education. Ms. Maria Alvarez from El Paso Community College in Texas requested that two-year institutions be included in the HSACU definition. Dr. Ray Garza from the University of Texas at San Antonio noted that even though they are not a land-grant institution or an agriculture school, they are associated with two projects such as the Hispanic Leadership Program and the Agriculture and Natural Resources program and that they have placed students in positions throughout the USDA, particularly within the U.S. Forest Service.

Speakers from California State University-Fresno, California State Polytechnic University-Pomona, and California State University-Monterey Bay stated that they as HSIs will have representation on the national agriculture research, education—extension, education, and economics—advisory board. Dr. Charles Boyer, from CSU-Fresno, highlighted the key role CSU-Fresno plays in the richest farmland area in the country. The CSU-Monterey Bay representative, Mr. Stephen Reed, talked about the importance of innovative course offerings such as their agribusiness management concentration. Dr. Sandra Smith, the representative from Global

Learning Semesters, a partner with the Hispanic Association of Colleges and Universities (HACU) and all of the HACU institutions in internationalizing student experiences, highlighted USDA's priority in internationalizing agricultural education, research, and outreach and the opportunity to partnership with Land-Grant Institutions.

Dr. Antonio Flores, President and Chief Executive Officer of HACU, an association that represents over 250 associate members (colleges and universities) with a minimum of 25 percent Hispanic undergraduate enrollment, recommended that both two- and four-year HSIs be equitably represented in HSACU. Mr. James Herrell, from Otero Junior College in Southeastern Colorado, articulated that access to higher education is most predicted on where one lives and one's capacity to be mobile. Mr. Paul Gutierrez, from New Mexico State University, stated that demographics of professional staff and faculty teaching in colleges of agriculture across the country did not reflect diversity. He added that more focus should be put on the needs of the rural Hispanic and Native American communities and not on the traditional institutional labels that tend to direct use of the resources.

Dr. Jose Rivera, from the University of the Sacred Heart, a private university in Puerto Rico, highlighted the transformation in the job market and job creation where there is increased focus on interdisciplinary and multidisciplinary education and initiatives. Ms. Agnes Mojica from the Inter American University of Puerto Rico at San German recommended that HSACUs should be considered not by states but by regions to avoid discriminating against certain states that may have a greater number of institutions.

Rebecca Orozco, director of the Center for Life on Earth at Cochise College located in southeastern Arizona emphasized the need for their program in agriculture in this impoverished area, because they are preparing students to continue onward to a university degree in agriculture and related fields.

#### *Construction of Eligibility Criteria*

Because HSACUs are not specifically named in the authorizing statute, NIFA is required to establish a criteria to designate HSACUs based on the definition provided in the legislation, which states that HSACUs are defined as HSIs that offer "agriculture-related programs." As part of the process to determine which programs qualify as "agriculture-related", NIFA incorporated

a suggestion from the listening session to utilize the Classification of Instructional Programs (CIP) coding system developed by the U.S. Department of Education's National Center for Education Statistics as an instrument to identify agriculture-related programs.

The CIP coding system provides a taxonomic scheme that supports accurate tracking and reporting of fields of study and program completions activity. The CIP is organized on three levels: The 2-digit series represent the most general groupings of related programs, the 4-digit series are intermediate groupings of programs, and the 6-digit codes represent specific instructional programs. More information about CIP codes is available at <http://nces.ed.gov/ipeds/cipcode>.

To ensure impartiality of the parties involved in constructing the eligibility criteria, NIFA Deputy Administrators selected two National Program Leaders (NPLs) within their respective units to serve on a panel to review the CIP codes in an attempt to determine which instructional programs qualify as agriculture-related fields. The panel of 10 NPLs came from the following NIFA units: Competitive Programs, Economic and Community Systems, Families 4-H and Nutrition, Natural Resources and Environment, and Plant and Animal Systems. NIFA also asked these NPLs to provide input on a list of elements to consider for the eligibility criteria by ranking them in terms of importance (most important to least important). The elements considered were the number of agriculture-related programs, the number of Hispanic graduates, total enrollment, total Hispanic enrollment, and history of working with NIFA. Comments from the panel's review and the listening session provided the foundation in the development of the eligibility criteria for the HSACU certification process.

From the input received at the listening session, NIFA learned that there is a strong preference among stakeholders to limit the number of eligible institutions during the initial phase of the implementation process to maximize the impact of limited funding available at the outset of each HSACU program. However, there is no basis to limit the number of HSACUs if institutions otherwise meet the eligibility requirements as defined in the statute and this regulation.

Furthermore, in March 2010, the American Enterprise Institute released a report, "Rising to the Challenge," which charted graduation rates of Hispanic College students through use of data on six-year graduation rates from the U.S.

Department of Education's National Center for Education Statistics. This report noted that an institution is granted HSI designation based on enrollment numbers rather than a performance-based measure, such as student retention or graduation.

NIFA agrees that a performance-based measure will provide institutions with an incentive to take on a proactive role in increasing focus on graduating Hispanic students in agriculture-related fields in order to be certified as a HSACU. Hence, NIFA will grant HSACU certification to HSIs with agriculture-related programs where at least one Hispanic student obtained a degree in an agriculture-related field during the most recent reported academic year (i.e., the 2008–09 academic year).

HSACU certifications granted to institutions will remain valid for a period of one year.

#### *Methodology for HSACU Certification*

The certification process starts with NIFA obtaining the latest available report from the U.S. Department of Education's National Center for Education Statistics that lists all HSIs and the degrees conferred by these institutions during the most recently completed academic year. This report is used to identify Hispanic-serving Institutions that conferred a degree in an instructional program that appears in Appendix A of this Part and confirm that a degree was awarded to a Hispanic student in an agriculture-related field to form a group of institutions that are eligible to be certified as a HSACU (Appendix B).

NIFA will announce the list of schools with HSACU certification through a notice in the **Federal Register** and post the list on the NIFA Web site in September 2011. For the initial certification, HSIs with agriculture-related programs will be granted HSACU certification for a period of one year, thus the next announcement will take place in 2012 and this process will be repeated on an annual basis thereafter. NIFA expects to make these annual announcements, starting in 2012, during the month of June to allow time for appeals to take their course and be addressed by the start of the following fiscal year.

#### *Composition of HSACUs*

Based on the eligibility criteria provided in this proposed rule along with the most recent report made available to us from the U.S. Department of Education's National Center for Education Statistics (2008–09 academic year), fifty-seven (57) college and

universities meet the HSI and agriculture-related field criteria (see Appendix B for a complete list of the 57 schools). Of the 57 schools up for certification, 22 schools offer Associate's degrees (39%), 32 schools offer Bachelor's degrees (56%), 19 offer Master's degrees (33%), and four offer a doctoral degree (7%). Note that the total of schools offering each degree type adds up to more than 57 because several schools offer more than one degree type (e.g., Bachelors and Masters).

Of these 57 schools, 26 schools are in the Western region (46%), 25 schools are in the Southern region (44%), three schools are in the North Central region (5%), and three schools are in the Northeastern region (5%). With this composition, NIFA is confident that HSACUs are sufficiently represented across all regions and institution types.

We expect the complete list of HSACU institutions to be slightly different when the Final Rule is published in the **Federal Register** in September 2011 as the list will be based on data from the 2009–10 academic year report, which is expected to be available before the scheduled publication date.

NIFA will permit HSIs that are not granted HSACU certification to submit an appeal within 30 days of NIFA's announcement of HSACU institutions. The appellant must submit a request for review to the NIFA official specified in the notification with details on the nature of the disagreement and include supporting documents. The appeal procedure will consist of two levels to allow an institution to request further review on its case should the initial NIFA review result in a rejection of the appeal.

#### *Timeline for Implementing Regulations*

NIFA is publishing this rule as a proposed rule with a 60-day comment period and anticipates addressing comments and publishing a final rule by September 1, 2011.

## **II. Administrative Requirements for the Proposed Rulemaking**

#### *Executive Order 12866*

This action has been determined to be not significant for purposes of Executive Order 12866, and therefore, has not been reviewed by the Office of Management and Budget. This proposed rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; nor will it materially alter the budgetary impact of entitlements, grants, user fees, or loan programs; nor will it have an annual effect on the economy of \$100 million

or more; nor will it adversely affect the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way. Furthermore, it does not raise a novel legal or policy issue arising out of legal mandates, the President's priorities or principles set forth in the Executive Order.

#### *Regulatory Flexibility Act of 1980*

This proposed rule has been reviewed in accordance with the Regulatory Flexibility Act of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601–612. The Department concluded that the rule will not have a significant economic impact on a substantial number of small entities. The rule does not involve regulatory and informational requirements regarding businesses, organizations, and governmental jurisdictions subject to regulation.

#### *Paperwork Reduction Act (PRA)*

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501 *et seq.* NIFA has determined that the PRA does not apply because this rule does not contain any information collection requirements that require approval of the OMB.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

#### *Catalog of Federal Domestic Assistance*

This proposed regulation applies to the Federal assistance program administered by NIFA under the Catalog for Federal Domestic Assistance (CFDA) No. 10.310, Agriculture and Food Research Initiative (AFRI). New CFDA's will be established for each HSACU program as funds are appropriated.

#### *Unfunded Mandates Reform Act of 1995 and Executive Order 13132*

The Department has reviewed this final rule in accordance with the requirements of Executive Order No. 13132, 64 FR 43225 (August 10, 1999) and the Unfunded Mandates Act of 1995, 2 U.S.C. 1501 *et seq.*, and has found no potential or substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. As there is no Federal mandate contained herein

that could result in increased expenditures by State, local, or tribal governments or by the private sector, the Department has not prepared a budgetary impact statement.

*Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

The Department has reviewed this proposed rule in accordance with Executive Order 13175, 65 FR 67249 (November 9, 2000), and has determined that it does not have “tribal implications.” The proposed rule does not “have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.”

*Clarity of This Regulation*

Executive Order 12866 and the President’s Memorandum of June 1, 1998 require each agency to write all rules in plain language. The Department invites comments on how to make this proposed rule easier to understand.

**List of Subjects in Part 3434**

Administrative practice and procedure; Agricultural research, education, extension; Hispanic-Serving Institutions; Federal assistance.

For the reasons set forth in the preamble, the National Institute of Food and Agriculture proposes to add a new part 3434 to Chapter XXXIV of Title 7 of the Code of Federal Regulations to read as set forth below:

**PART 3434—HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES CERTIFICATION PROCESS**

Sec.

- 3434.1 Applicability of regulations.
- 3434.2 Purpose.
- 3434.3 Definitions.
- 3434.4 Eligibility.
- 3434.5 Agriculture-related fields.
- 3434.6 Certification.
- 3434.7 Duration of certification.
- 3434.8 Appeals.
- 3434.9 Recertification.
- 3434.10 Reporting requirements.
- Appendix A to Part 3434—List of agriculture-related fields.
- Appendix B to Part 3434—List of HSACU institutions, 2011–2012.

**Authority:** Section 7101 of the Food, Conservation, and Energy Act of 2008; Pub. L. 110–246 (7 U.S.C. 3103).

**§ 3434.1 Applicability of regulations.**

This part establishes the process to certify and designate a group of eligible

educational institutions as Hispanic-Serving Agricultural Colleges and Universities, as authorized by Section 7101 of the Food, Conservation, and Energy Act of 2008 (FCEA), 7 U.S.C. 3103; Pub. L. 110–246.

**§ 3434.2 Purpose.**

The Secretary will follow the processes and criteria established in this regulation to certify and designate qualifying colleges and universities as HSACUs. Institutions designated as a HSACU will be eligible for five new programs authorized by Congress in section 7129 of the FCEA as well as for other ongoing NIFA programs for which HSACUs are now eligible (e.g., integrated programs authorized by section 406 of the Agricultural Research, Extension, and Education Reform Act of 1998). The five new programs include the HSACU Endowment Fund (formula-based), HSACU Institutional Capacity Building Grants Program (competitive), HSACU Extension Grants Program (competitive), HSACU Applied and Fundamental Research Grants Program (competitive), and HSACU Equity Grants Program (formula-based). The administrative provisions, including reporting requirements, for the HSACU Endowment Fund will be established in a separate part (7 CFR part 3437). The administrative provisions and reporting requirements for the other four new HSACU programs will be established as subparts in 7 CFR part 3430.

**§ 3434.3 Definitions.**

*Agency* or NIFA means the National Institute of Food and Agriculture.

*Agriculture-related fields* means a group of instructional programs that are determined to be agriculture-related fields of study for HSACU eligibility purposes by a panel of National Program Leaders at the National Institute of Food and Agriculture.

*Department* means the United States Department of Agriculture.

*Hispanic-serving Institution* means an institution of higher education that is an eligible institution, as that term is defined at 20 U.S.C. 1101a; and has an enrollment of undergraduate full-time equivalent students that is at least 25 percent Hispanic students, as reported to the U.S. Department of Education’s Integrated Postsecondary Education Data System during the fall semester of the previous academic year.

*Secretary* means the Secretary of Agriculture and any other officer or employee of the Department to whom the authority involved has been delegated.

**§ 3434.4 Eligibility.**

(a) *General.* To be eligible to receive designation as a HSACU, colleges and universities must:

- (1) Qualify as Hispanic-serving institutions; and
- (2) Offer associate, bachelors, or other accredited degree programs in agriculture-related fields pursuant to § 3434.5 of this Part.

(b) *Non-eligibility.* The following colleges and universities are ineligible for HSACU certification:

- (1) 1862 land-grant institutions, as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601);
- (2) Institutions that appear in the Lists of Parties Excluded from Federal financial and nonfinancial assistance and benefits programs (Excluded Parties List System);
- (3) Institutions that are not accredited by a nationally recognized accredited agency or association; and
- (4) Institutions that did not produce a Hispanic graduate in an agriculture-related field of study during the most recent completed academic year.

**§ 3434.5 Agriculture-related fields.**

(a) The Secretary shall use the Classification of Instructional Programs (CIP) coding system developed by the U.S. Department of Education’s National Center for Education Statistics as the source of information for all existing instructional programs. This source is located at <http://nces.ed.gov/ipeds/cipcode>.

(b) A complete list of instructional programs deemed to be agriculture-related fields by the Secretary is provided in Appendix A of this part. This list will include the full six-digit CIP code and program title (or major) for each agriculture-related instructional program.

(c) The list of agriculture-related fields will be updated every five years. However, the Secretary reserves the right to make changes at any time, if deemed appropriate and necessary.

(d) Any changes made in the CIP coding system by the U.S. Department of Education may result in a review or reevaluation of the list of agriculture-related fields by the Secretary.

**§ 3434.6 Certification.**

(a) Except as provided in paragraph (c) of this section, institutions that meet the eligibility criteria set forth in § 3434.4 and offer agriculture-related programs in accordance to the criteria set forth in § 3434.5 (see list in Appendix A) shall be granted HSACU certification by the Secretary.

(b) A complete list of institutions with HSACU certification shall be provided

in Appendix B of this part and posted on the NIFA Web site at <http://www.nifa.usda.gov>.

(c) Institutions that did not produce a Hispanic graduate in an agriculture-related field of study during the most recent completed academic year shall not be granted HSACU certification by the Secretary.

(d) The list of HSACU institutions will be updated annually. However, the Secretary reserves the right to make changes at any time, when deemed appropriate and necessary.

#### **§ 3434.7 Duration of certification.**

(a) Except as provided in paragraphs (b) and (c) of this section, HSACU certification granted to an institution by the Secretary under this part shall remain valid for a period of one (1) year.

(b) Failure to maintain eligibility status at any time during the HSACU certification period shall result in an immediate revocation of HSACU certification.

(c) Failure to remain in compliance with reporting requirements or adherence to any administrative or national policy requirements listed in award terms and conditions for any of the HSACU programs may result in a suspension or an immediate revocation of HSACU certification.

#### **§ 3434.8 Appeals.**

(a) An institution not listed as a HSACU in § 3434.6 of this Part may submit an appeal to address denial of a certification made pursuant to this part. Such appeals must be in writing and received by the Appeals Officer, Policy and Oversight Division, National Institute of Food and Agriculture, U.S. Department of Agriculture, 800 9th Street, SW., Washington, DC 20024 within thirty (30) days following an announcement of institutions designated for certification. The Appeals Officer will consider the record of the decision in question, any further written submissions by the institution, and other available information and shall provide the appellant a written decision as promptly as circumstances permit. Such appeals constitute an administrative review of the decision appealed from and are not conducted as an adjudicative proceeding.

(b) Appeals involving an agriculture-related field of study must include the CIP code and program title of the field of study (or major).

(c) Appeals from non-HSI schools will not be considered.

(d) The NIFA Assistant Director of the Institute of Youth, Family, and Community shall serve as the Appeals Officer.

(e) In considering such appeals or administrative reviews, the Appeals Officer shall take into account alleged errors in professional judgment or alleged prejudicial procedural errors by NIFA officials. The Appeals Officer's decision may:

(1) Reverse the appealed decision;

(2) Affirm the appealed decision;

(3) Where appropriate, withhold a decision until additional materials are provided.

The Appeals Officer may base his/her decision in whole or part on matters or factors not discussed in the decision appealed from.

(f) If the NIFA decision on the appeal is adverse to the appellant or if an appellant's request for review is rejected, the appellant then has the option of submitting a request to the NIFA Deputy Director for Food and Community Resources for further review.

(g) The request for further review must be submitted to Policy and Oversight Division, National Institute of Food and Agriculture, U.S. Department of Agriculture, 800 9th Street, SW., Washington, DC 20024 within thirty (30) days following the Appeals Officer's decision.

(h) No institution shall be considered to have exhausted its administrative remedies with respect to the certification or decision described in this part until the NIFA Deputy Director for Food and Community Resources has issued a final administrative decision pursuant to this section. The decision of the NIFA Deputy Director for Food and Community Resources is considered final.

(i) Appellants shall be notified in writing of any decision made by NIFA in regards to the appeal.

#### **§ 3434.9 Recertification.**

(a) The recertification process for a HSACU remains the same as the process outlined in § 3434.6.

(b) There is no limit to the number of times an institution may be recertified as a HSACU.

(c) In the event an institution is not granted recertification due to noncompliance with reporting requirements for a HSACU program, the institution shall be notified in writing and given a period of ninety (90) days from the date of notification to be in compliance.

#### **§ 3434.10 Reporting requirements.**

(a) The certification process does not involve any reporting requirements.

(b) Reporting requirements for HSACU programs (e.g., HSACU Endowment Fund) shall be established in separate parts.

### **Appendix A to Part 3434—List of Agriculture-Related Fields**

The instructional programs listed in this appendix are observed to be agriculture-related fields for HSACU eligibility purposes. Programs are listed in numerical order by their six-digit CIP code followed by the full title of the instructional program, as listed by the U.S. Department of Education.

01.0000, Agriculture, General  
 01.0101, Agricultural Business and Management, General  
 01.0102, Agribusiness/Agricultural Business Operations  
 01.0103, Agricultural Economics  
 01.0104, Farm/Farm and Ranch Management  
 01.0105, Agricultural/Farm Supplies Retailing and Wholesaling  
 01.0106, Agricultural Business Technology  
 01.0199, Agricultural Business and Management, Other  
 01.0201, Agricultural Mechanization, General  
 01.0204, Agricultural Power Machinery Operation  
 01.0205, Agricultural Mechanics and Equipment/Machine Technology  
 01.0299, Agricultural Mechanization, Other  
 01.0301, Agricultural Production Operations, General  
 01.0302, Animal/Livestock Husbandry and Production  
 01.0303, Aquaculture  
 01.0304, Crop Production  
 01.0306, Dairy Husbandry and Production  
 01.0307, Horse Husbandry/Equine Science and Management  
 01.0308, Agroecology and Sustainable Agriculture  
 01.0309, Viticulture and Enology  
 01.0399, Agricultural Production Operations, Other  
 01.0401, Agricultural and Food Products Processing  
 01.0504, Dog/Pet/Animal Grooming  
 01.0505, Animal Training  
 01.0507, Equestrian/Equine Studies  
 01.0508, Taxidermy/Taxidermist  
 01.0599, Agricultural and Domestic Animal Services, Other  
 01.0601, Applied Horticulture/Horticultural Operations, General  
 01.0603, Ornamental Horticulture  
 01.0604, Greenhouse Operations and Management  
 01.0605, Landscaping and Groundskeeping  
 01.0606, Plant Nursery Operations and Management  
 01.0607, Turf and Turfgrass Management  
 01.0608, Floriculture/Floristry Operations and Management  
 01.0699, Applied Horticulture/Horticultural Business Services, Other  
 01.0701, International Agriculture  
 01.0801, Agricultural and Extension Education Services  
 01.0802, Agricultural Communication/Journalism  
 01.0899, Agricultural Public Services, Other  
 01.0901, Animal Sciences, General  
 01.0902, Agricultural Animal Breeding  
 01.0903, Animal Health  
 01.0904, Animal Nutrition  
 01.0905, Dairy Science  
 01.0906, Livestock Management  
 01.0907, Poultry Science

01.0999, Animal Sciences, Other  
 01.1001, Food Science  
 01.1002, Food Technology and Processing  
 01.1099, Food Science and Technology, Other  
 01.1101, Plant Sciences, General  
 01.1102, Agronomy and Crop Science  
 01.1103, Horticultural Science  
 01.1104, Agricultural and Horticultural Plant Breeding  
 01.1105, Plant Protection and Integrated Pest Management  
 01.1106, Range Science and Management  
 01.1199, Plant Sciences, Other  
 01.1201, Soil Science and Agronomy, General  
 01.1202, Soil Chemistry and Physics  
 01.1203, Soil Microbiology  
 01.1299, Soil Sciences, Other  
 01.9999, Agriculture, Agriculture Operations, and Related Sciences, Other  
 03.0101, Natural Resources/Conservation, General  
 03.0103, Environmental Studies  
 03.0104, Environmental Science  
 03.0199, Natural Resources Conservation and Research, Other  
 03.0201, Natural Resources Management and Policy  
 03.0204, Natural Resources Economics  
 03.0205, Water, Wetlands, and Marine Resources Management  
 03.0206, Land Use Planning and Management/Development  
 03.0207, Natural Resources Recreation and Tourism  
 03.0208, Natural Resources Law Enforcement and Protective Services  
 03.0299, Natural Resources Management and Policy, Other  
 03.0301, Fishing and Fisheries Sciences and Management  
 03.0501, Forestry, General  
 03.0502, Forest Sciences and Biology  
 03.0506, Forest Management/Forest Resources Management  
 03.0508, Urban Forestry  
 03.0509, Wood Science and Wood Products/Pulp and Paper Technology  
 03.0510, Forest Resources Production and Management  
 03.0511, Forest Technology/Technician  
 03.0599, Forestry, Other  
 03.0601, Wildlife and Wildlands Science and Management  
 03.9999, Natural Resources and Conservation, Other  
 13.1301, Agricultural Teacher Education  
 14.0301, Agricultural/Biological Engineering and Bioengineering  
 19.0501, Foods, Nutrition, and Wellness Studies, General  
 19.0504, Human Nutrition  
 19.0505, Foodservice Systems Administration/Management  
 19.0599, Foods, Nutrition, and Related Services, Other

#### Appendix B to Part 3434—List of HSACU Institutions, 2011–2012

The institutions listed in this appendix will be granted HSACU certification by the Secretary and will be eligible for HSACU programs for the period starting October 1, 2011 and ending September 30, 2012. Institutions are listed alphabetically with the

campus indicated where applicable under the state of the school's location.

#### California (19)

Allan Hancock College  
 Bakersfield College  
 California State Polytechnic University-Pomona  
 California State University-Bakersfield  
 California State University-Fresno  
 California State University-Fullerton  
 California State University-Monterey Bay  
 College of the Desert  
 College of the Sequoias  
 Fullerton College  
 Hartnell College  
 Merced College  
 Modesto Junior College  
 Mt. San Antonio College  
 Reedley College  
 Santa Ana College  
 Southwestern College  
 University of California-Merced  
 University of California-Riverside

#### Florida (3)

Barry University  
 Florida International University  
 Nova Southeastern University

#### Illinois (2)

Northeastern Illinois University  
 Triton College

#### Kansas (1)

Seward County Community College

#### New Mexico (5)

Eastern New Mexico University-Main Campus  
 Mesalands Community College  
 New Mexico Highlands University  
 University of New Mexico-Main Campus  
 Western New Mexico University

#### New York (3)

CUNY Bronx Community College  
 CUNY Lehman College  
 Mercy College-Main Campus

#### Puerto Rico (12)

Bayamon Central University  
 Inter American University of Puerto Rico-Bayamon  
 Inter American University of Puerto Rico-Metro  
 Inter American University of Puerto Rico-Ponce  
 Inter American University of Puerto Rico-San German  
 Pontifical Catholic University of Puerto Rico-Ponce  
 Universidad Del Este  
 Universidad Del Turabo  
 Universidad Metropolitana  
 University of Puerto Rico-Humacao  
 University of Puerto Rico-Rio Piedras Campus  
 University of Puerto Rico-Utuado

#### Texas (10)

Palo Alto College  
 Southwest Texas Junior College  
 Sul Ross State University  
 Texas A&M University-Corpus Christi  
 Texas A&M University-Kingsville  
 Texas State Technical College-Harlingen

University of Texas at Brownsville  
 University of Texas at El Paso  
 University of Texas at San Antonio  
 University of Texas of the Permian Basin

#### Washington (2)

Heritage University  
 Yakima Valley Community College  
 Done in Washington, DC, this 7th day of June, 2011.

#### Ralph Otto,

*Deputy Director, National Institute of Food and Agriculture.*

[FR Doc. 2011–14498 Filed 6–10–11; 8:45 am]

BILLING CODE 3410–22–P

## DEPARTMENT OF ENERGY

### 10 CFR Part 431

[Docket No. EERE–2011–BT–STD–0031]

RIN 1904–AC54

### Commercial and Industrial Pumps

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Request for Information (RFI).

**SUMMARY:** The Energy Policy and Conservation Act as amended (42 U.S.C. 6291 *et seq.*) prescribes energy conservation standards for certain commercial and industrial equipment, and requires the Department of Energy (DOE) to administer an energy conservation program for the equipment. In this notice, DOE requests information from interested parties regarding product markets, energy use, test procedures, and energy efficient product designs for commercial and industrial pumps. Additional input and suggestions relevant to this equipment are also welcome.

**DATES:** Written comments and information are requested by July 13, 2011.

**ADDRESSES:** Interested persons may submit comments in writing, identified by docket number EERE–2011–BT–STD–0031, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *E-mail:* [Pumps-RFI-2011-STD-0031@ee.doe.gov](mailto:Pumps-RFI-2011-STD-0031@ee.doe.gov). Include EERE–2011–BT–STD–0031 and/or RIN 1904–AC54 in the subject line of the message.
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, Request for Information for Commercial and Industrial Pumps, EERE–2011–BT–STD–0031 and/or RIN 1904–AC54, 1000 Independence Avenue, SW.,