action for violations of Performance Standard 2 as follows:

* * * * *

(iv) *Performance-based cash assistance.* In addition to fiscal action described in paragraphs (m)(2)(i) through (iii) of this section, school food authorities may not earn performance-based cash assistance authorized under § 210.4(b)(1) unless immediate corrective action occurs. School food authorities will not be eligible for the 6 cents per lunch reimbursement, as adjusted, with the beginning of the month following the administrative review and, at State discretion, for the month of review. Performance-based cash assistance may resume beginning in the first full month the school food authority demonstrates to the satisfaction of the State agency that corrective action has taken place.

* * * * *

■ 7. Amend § 210.19 by revising the second sentence of paragraph (c)(1) as follows:

§ 210.19 [Amended]

* * * * *

(c) * * *

(1) * * * Fiscal action also includes disallowance of funds for failure to take corrective action to meet the meal requirements in parts 210 and 220 of this chapter, including the disallowance of performance-based cash assistance described in § 210.4(b)(1). * * *

* * * * *

Dated: April 20, 2012.

Kevin Concannon,

Under Secretary, Food, Nutrition and Consumer Services.

[FR Doc. 2012–10229 Filed 4–26–12; 8:45 am]

BILLING CODE 3410–30–P

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: Final rule.

SUMMARY: This final rule establishes the process and procedures to certify a qualifying college or university as a Hispanic-Serving Agricultural Colleges and Universities (HSACU) institution. NIFA will publish 7 CFR part 3434 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. The Food, Conservation, and Energy Act of 2008 (FCEA) amended section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 to add a definition for a new group of cooperating educational institutions known as Hispanic-Serving Agricultural Colleges and Universities. Section 1404 defines HSACUs as colleges and universities that qualify as Hispanic-serving Institutions (HSIs) and offer associate, bachelors, or other accredited degree programs in agriculture-related fields. HSACUs do not include 1862 land-grant institutions, as defined in the Agricultural Research, Extension, and Education Reform Act of 1998.

A separate part, 7 CFR part 3437, will be published in the future 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).

DATES: This final rule is effective April 27, 2012.

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) 559–5088; Email: *mlockhart@nifa.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background and Purpose

Section 7101 of the Food, Conservation, and Energy Act of 2008 (FCEA) (Pub. L. 110–246) amended section 1404 of the National Agricultural Research, Extension, and 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.

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'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.

The rules for funds distributed to the HSACUs from the HSACU Endowment Fund shall be contained within 7 CFR part 3437.

Solicitation of Stakeholder Input and Publication of the Proposed Rule

Because HSACUs were not specifically named in the authorizing statute, NIFA was required to establish the eligibility criteria to designate HSACUs based on the definition provided in the legislation, which stated that HSACUs are defined as HSIs that offer ''agriculture-related programs.'' On September 24, 2008, NIFA published a **Federal Register** notice [73 FR 54988–54989] to announce a public meeting to be held on October 12, 2008, at the Hyatt Regency in Denver, Colorado, to discuss the definition of HSACUs and the new HSACU programs. The notice also allowed stakeholders to submit written comments on the implementation of HSACU programs and the HSACU certification process by October 27, 2008.

Twenty individuals, from 17 institutions and 2 organizations, provided oral comments during this public meeting. NIFA also received 17 written comments from individuals, academic institutions, and organizations. A transcript of the public meeting and a scanned copy of all written comments are available for review on the NIFA Web site at the following web page: *www.nifa.usda.gov/business/reporting/stakeholder/hsacu.html.*

NIFA considered all comments received in the construction of the

eligibility criteria and the development of the proposed rule, which was published at 76 FR 34187–34192 on June 13, 2011 with a 60-day comment period. The publication of the proposed rule for the HSACU certification process marked the first time a list of agriculture-related fields and eligible institutions were made available to the public. The proposed rule also established explicit eligibility criteria for academic institutions to meet if they wish to pursue HSACU certification.

Response to Comments on Notice of Proposed Rulemaking and Revisions Included in Final Rule

Comments on the proposed rule were required to be received by August 12, 2011, to be considered in the formulation of the final regulations. NIFA received 14 sets of comments from individuals, academic institutions, and the Hispanic Association of Colleges and Universities (HACU). NIFA considered all comments received and made revisions in the final rule based on several recommendations. The comments received provided valuable insight on how NIFA could administer the HSACU certification process in a more equitable and consistent manner across schools of different sectors (2-year and 4-year schools) and regions.

Number of HSACU Institutions

There is a strong preference among stakeholders to limit the number of eligible institutions, by way of a rigorous certification process, during the initial phase of the implementation process to maximize the impact of limited funding available. Several commentors expressed support for the rigorous certification process and provided suggestions to further enhance the process. One of these commentors remarked that careful implementation would ensure that benefits go to those that need them the most. Another commentor recognized the certification process, as outlined in the proposed rule, as thoughtful and fair. A third commentor requested that NIFA pay special attention to the number of institutions receiving HSACU certification given limited resources as constraining the number of HSACUs would optimize funding opportunities for HSACUs. A fourth commentor encouraged NIFA to remain diligent in maintaining high standards for certification and remain rigorous in its definitions. A fifth commentor remarked that given scarce and limited funds, the focus of support should be directed toward institutions that can maximize public funds to the most efficient and highest productive levels possible.

NIFA fully supports a rigorous certification process by instilling high standards in the eligibility criteria. However, there is no basis to limit the number of HSACUs if institutions meet the eligibility requirements as defined in the statute and this regulation.

Eligibility Criteria

In response to stakeholders' call for a rigorous certification process, NIFA explored different possibilities to hold institutions accountable through quantifiable outcomes involving Hispanic students and agriculture-related fields if they were to receive HSACU certification. In March 2010, the American Enterprise Institute released a report, ''Rising to the Challenge,'' which noted that HSI designation was a direct result of enrollment data (input) rather than retention or graduation data (outcome). In the proposed rule, NIFA included a measure based on degrees awarded to the eligibility criteria to hold institutions accountable for the retention and graduation of Hispanic students in agriculture-related fields. NIFA determined that a stipulation based on degrees awarded would provide institutions with an incentive to take on a proactive role to focus on graduating Hispanic students in agriculture-related fields, thus strengthening the rigorousness of the HSACU certification process. Hence, NIFA concluded that granting HSACU certification to HSIs with agriculture-related programs where at least one Hispanic student obtained a degree in an agriculture-related field would provide the best interpretation of the intent behind the legislation that established the new HSACU category.

Two commentors recommended that NIFA avoid basing eligibility on a single year of data as this would create unmanageable funding volatility from year to year, which may hurt or impair growth and development of Hispanic-serving programs in institutions that are unable to consistently stay on the HSACU list. Another commentor mentioned that the only certain result of the proposed single year criterion is that it will reduce the pool of eligible institutions. Yet another commentor pointed out that a small program may fail to graduate any Hispanic student in a given year while a number of Hispanic students are enrolled and expected to graduate in the following years.

After the publication of the proposed rule, an additional year of data from the National Center for Education Statistics became available to NIFA. An analysis on the additional year of data confirmed the volatility caused by a single year criterion. For the purpose of this analysis, Year 1 represents the data we had prior to the publication of the proposed rule (Fall 2009 enrollment and 2008–09 completions data) and Year 2 represents the data we received after the publication of the proposed rule (Fall 2010 enrollment and 2009–10 completions data). Of the 57 HSIs that awarded a degree in an agriculture-related field to a Hispanic student in Year 1, 19 (33%) did not meet the eligibility criteria in Year 2. Of the 70 HSIs that met the eligibility criteria in Year 2, 32 (46%) did not meet the eligibility criteria in Year 1. In other words, only 38 schools would have received HSACU certification in both years while 51 schools would have received HSACU certification in only one of the two years. Based on this information, NIFA recognized that a single year criterion created an unintended bias that harms smaller programs while schools with larger student populations may be able to effortlessly graduate a single Hispanic student in any given year.

When NIFA combined two years of completions data and used a percentage-based standard, the bias concerns between larger and smaller schools were significantly reduced, if not eliminated altogether. Given that HSIs are defined in Federal law as institutions of higher education with at least 25% Hispanic Full-Time Equivalent (FTE) student enrollment, it stands to reason that a percentage-based yardstick for graduating Hispanic students in agriculture-related programs should be proportional to the institution's Hispanic enrollment, meaning that institutions should receive HSACU designation if Hispanic students receive at least 25% of the degrees awarded in agriculture-related programs. However, NIFA recognizes that a large number of HSIs became a HSI within the last few years and this trend is expected to continue over the next several years as the Hispanic demographic continues to grow. As of this writing, there are more than 200 institutions with Hispanic FTEs that fall in the 15% to 24% range of their student enrollment. These institutions are identified as ''emerging HSIs'' and are generally expected to become HSIs within the next few years. For a newly-designated HSI, its first graduating class (as a HSI) would be composed of students who entered the institution at a time the institution was not classified as a HSI, thus the 25% graduation benchmark would exclude many newly-designated HSIs at a time when they are building up a pipeline of Hispanic students in their agriculture-related programs. In recognition of the

''emerging HSIs'' category, NIFA will establish the graduation benchmark at 15%.

NIFA has amended Part 3434.4(b)(4) to reflect that institutions will not receive HSACU certification if their Hispanic students receive less than 15% of degrees awarded from agriculture-related programs from the two most recent academic years. The list of HSACUs for Fiscal Year (FY) 2012 will be based on (1) completions data from 2008–09 and 2009–10, and (2) enrollment data from Fall 2010. NIFA identified 71 institutions that will meet the eligibility criteria and receive HSACU certification for FY 2012 (October 1, 2011 to September 30, 2012).

Agriculture-Related Fields

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.*

Two commentors expressed satisfaction in seeing that CIP codes were used to identify agriculture-related programs. Four commentors suggested that NIFA consider adding various CIP codes to the list of agriculture-related fields such as Horticulture, Biology, Nutrition Sciences, Sustainability Studies, and Veterinary/Animal Health Technology.

NIFA wishes to point out that Horticulture is already in the list of agriculture-related fields (01.06 group). NIFA agrees that Nutrition Sciences (30.1901), Sustainability Studies (30.3301), and Veterinary/Animal Health Technology/Technician and Veterinary Assistant (51.0808) should be added to the list as these specific instructional programs are agriculture-related. However, including a broad subject such as Biology that includes several instructional programs that are not related to agriculture would go against stakeholders' wishes for a rigorous certification process, so NIFA will not include Biology in the list of agriculture-related programs.

NIFA has added Nutrition Sciences (30.1901), Sustainability Studies (30.3301), and Veterinary/Animal Health Technology/Technician and Veterinary Assistant (51.0808) to the list in Appendix A of this part.

Duration of Certification

Three commentors felt that certifying schools one year at a time would create undue burden on the institutions. Two of these commentors further recommended that HSACU recertification occur every five years. Prior to the publication of the proposed rule, NIFA explored the feasibility of granting certifications for a period of five years as this would provide a sense of continuity and sustainability of program delivery. However, HSACUs must meet the eligibility requirements in the year they receive funds as a HSACU, thus if the institution did not meet the eligibility criteria at some point during the five-year certification period, the certification would be revoked immediately. Given this perspective, NIFA decided to go with a one-year certification period and NIFA further believes that an annual certification process will incentivize schools to remain focused on their eligibility status on an ongoing basis.

Bias Against a Group of Institutions

Three commentors expressed concern on varying levels regarding potential bias against a group of institutions either by sector (2-year or 4-year schools) or by region/state. NIFA performed a thorough analysis on the data provided by the National Center for Education Statistics (U.S. Department of Education) and confirmed the fairness and soundness of the certification process. The composition of 71 HSACUs (listed in Appendix B) is comparable to the HSI population (293 schools) by sector, region, and state as evidenced by the data provided in the Composition of HSACUs section.

Composition of HSACUs

Based on the eligibility criteria provided in this regulations along with the most recent reports made available to us from the U.S. Department of Education's National Center for Education Statistics (Completions data from the 2008–09 and 2009–10 academic years and Enrollment data from the Fall 2010 term), 71 college and universities meet the HSI and agriculture-related field criteria (see Appendix B for a complete list of the 71 schools). Of the 71 schools up for certification, 32 are 2-year institutions (45%) and 39 are 4-year institutions (55%). Thirty-three schools are in the Western region (47%), 32 schools are in the Southern region (45%), 3 schools are in the North Central region (4%), and 3 schools are in the Northeastern region (4%). The following tables offer a detailed look at the breakdown by sector, region, and state for both HSACUs and HSIs, including the difference in percentage points between HSACUs and HSIs within each category.

Sector	# HSACUs	% of HSACUs	# HSIs	% of HSIs	Difference
2-year institutions	32	45	150	51	6%
4-year institutions	39	55	143	49	6%
Total	71	100	293	100	

Region	# HSACUs	% of HSACUs	# HSIs	% of HSIs	Difference
North Central	3	4	18	6	2%
Northeastern	3	4	23	8	4%
Southern	32	45	122	42	3%
Western	33	47	130	44	3%
Total	71	100	293	100	

State	# HSACUs	% of HSACUs	# HSIs	% of HSIs	Difference
Arizona	3	4	8	3	1%

State	# HSACUs	% of HSACUs	# HSIs	% of HSIs	Difference
California	22	31	89	30	1%
Colorado			5	2	2%
Connecticut			1	<1	<1%
Florida	3	4	16	5	1%
Georgia			1	<1	<1%
Illinois	2	3	13	4	1%
Indiana			1	<1	<1%
Kansas	1	1	4	1	None
Maryland			1	<1	<1%
Massachusetts			2	1	1%
New Jersey			5	2	2%
New Mexico	7	10	24	8	2%
New York	3	4	14	5	1%
Oregon			1	<1	<1%
Puerto Rico	14	20	56	19	1%
Texas	15	21	49	17	4%
Washington	1	1	3	1	None
Total	71	100	293	100	

With this composition, HSACUs are clearly in line with HSIs in terms of representation across states, regions, and institution types.

Additional Comments and Other Revisions to Proposed Rule

HSACU certification will be based on ''degrees awarded'' and ''completions data'' rather than ''graduates'' and ''graduation data'' respectively. This revision was made to be consistent with the terminology used by the U.S. Department of Education's National Center for Education Statistics.

Two comments essentially served as an appeal by the commentors for their respective academic institutions which were excluded from the list of HSACU institutions in the proposed rule. A response to each appeal will be handled independently from the regulatory process.

Section 3434.8(a) has been revised to accurately reflect that an institution not listed in Appendix B, rather than Section 3434.6, of this Part may submit an appeal.

Methodology for HSACU Certification

The annual certification process begins when NIFA obtains the latest 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. NIFA will use this report to identify HSIs that conferred a degree in an instructional program that appears in Appendix A of this Part and to confirm that over the last two years at least 15% of the degrees in agriculture-related fields were awarded to Hispanic students. The resulting institutions 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 July of each year. HSACU certifications will remain valid for a period of one year, and this process will be repeated on an annual basis thereafter. NIFA expects to make these annual announcements during the month of July to allow time for appeals to take their course and be addressed by the start of the following fiscal year.

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

In addition to this final regulation, which addresses the certification process, NIFA will publish regulations for the HSACU Endowment Fund in 2012. NIFA also plans to create informational web pages to provide detailed information and procedures for all HSACU programs.

Administrative Requirements for the Final 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 final regulation 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 final 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 of 1995, 44 U.S.C. 3501 *et seq.*

Catalog of Federal Domestic Assistance

This final 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 CFDAs

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 43255 (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 final rule in accordance with Executive Order 13175, 65 FR 67249 (November 9, 2000), and has determined that it does not have ''tribal implications.'' The final 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 final rule easier to understand.

List of Subjects in 7 CFR Part 3434

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

For the reasons set forth in the preamble, NIFA adds 7 CFR part 3434 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: 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; Public Law 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 HSACUs 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.

As used in this part:

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:

(1) Is an eligible institution, as that term is defined at 20 U.S.C. 1101a; and

(2) 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.

(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 with Hispanic students receiving less than 15% of the degrees awarded in agriculture-related programs over the two most recent completed academic years.

§ 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 to 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 starting in 2015. 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 to this part) shall be granted HSACU certification by the Secretary.

(b) A complete list of institutions with HSACU certification shall be provided in Appendix B to this part and posted on the NIFA Web site at *http://www.nifa.usda.gov.*

(c) Institutions with Hispanic students receiving less than 15% of degrees awarded in agriculture-related programs during the two most recent completed academic years 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 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 Appendix B to 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 HSACU 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 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 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 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
30.1901, Nutrition Sciences
30.3301, Sustainability Studies
51.0808, Veterinary/Animal Health Technology/Technician and Veterinary Assistant

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

The institutions listed in this appendix are granted HSACU certification by the Secretary and are eligible for HSACU programs for the period starting October 1, 2011 and ending September 30, 2012. Institutions are listed alphabetically under the state of the school's location, with the campus indicated where applicable.

Arizona (3)

Arizona Western College
Phoenix College
Pima Community College

California (22)

Allan Hancock College
Bakersfield College
California State Polytechnic University-Pomona
California State University-Bakersfield
California State University-Fullerton
California State University-Monterey Bay
California State University-San Bernardino
College of the Desert
El Camino Community College District
Fullerton College
Hartnell College
Merced College
Mt. San Antonio College
Porterville College
Reedley College
San Diego Mesa College
San Joaquin Delta College
Santa Ana College
Southwestern College
University of California-Merced
West Hills College Coalinga
Whittier College

Florida (3)

Florida International University
Miami Dade College
Saint Thomas University

Illinois (2)

City Colleges of Chicago-Harold Washington College
Triton College

Kansas (1)

Seward County Community College

New Mexico (7)

Central New Mexico Community College
Eastern New Mexico University-Main Campus
New Mexico Highlands University
New Mexico Institute of Mining and Technology
Northern New Mexico College
University of New Mexico-Main Campus
Western New Mexico University

New York (3)

CUNY City College
CUNY LaGuardia Community College
Mercy College

Puerto Rico (14)

Bayamon Central University
Institute Tecnologico de Puerto Rico-Manati
Inter American University of Puerto Rico-Aguadilla
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 Turabo
Universidad Metropolitana
University of Puerto Rico-Arecibo
University of Puerto Rico-Medical Sciences Campus
University of Puerto Rico-Rio Piedras Campus
University of Puerto Rico-Utuado

Texas (15)

Clarendon College
Lee College
Midland College
Palo Alto College
Sul Ross State University
Texas A&M International University
Texas A&M University-Corpus Christi
Texas A&M University-Kingsville
Texas State Technical College-Harlingen
University of Houston-Clear Lake
University of Texas at Brownsville
University of Texas at El Paso
University of Texas at San Antonio
University of Texas of the Permian Basin
University of the Incarnate Word

Washington (1)

Heritage University

Done in Washington, DC, this 15th day of March 2012.

Chavonda Jacobs-Young,

Acting Director, National Institute of Food and Agriculture.

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BILLING CODE 3410–22–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

RIN 3245–AG32

Small Business Investment Companies—Early Stage SBICs

AGENCY: U.S. Small Business Administration.

ACTION: Final rule.

SUMMARY: In this final rule, the U.S. Small Business Administration (SBA) is defining a new sub-category of small