(d) *Packinghouse procedures.* (1) All packinghouses that participate in the export program must be registered with the Peruvian NPPO.

(2) The peppers must be packed within 24 hours of harvest in a pest-exclusionary packinghouse. The peppers must be safeguarded by an insect-proof mesh screen or plastic tarpaulin while in transit to the packinghouse and while awaiting packing. The peppers must be packed in insect-proof cartons or containers, or covered with insect-proof mesh or plastic tarpaulin, for transit into the continental United States or its Territories. These safeguards must remain intact until arrival in the continental United States or its Territories or the consignment will be denied entry into the continental United States or its Territories.

(3) During the time the packinghouse is in use for exporting peppers to the continental United States or its Territories, the packinghouse may only accept peppers from registered approved production sites.

(e) *Phytosanitary certificate.* Each consignment of peppers must be accompanied by a phytosanitary certificate of inspection issued by the Peruvian NPPO stating that the fruit in the consignment has been produced in accordance with the requirements of the systems approach in 7 CFR 319.56–73.

(Approved by the Office of Management and Budget under control number 0579–0434)

Done in Washington, DC, this 9th day of September 2015.

Michael C. Gregoire,

Associate Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2015–23037 Filed 9–11–15; 8:45 am]

BILLING CODE 3410–34–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 127

RIN 3245–AG72

Women-Owned Small Business Federal Contract Program

AGENCY: U.S. Small Business Administration.

ACTION: Final rule.

SUMMARY: This rule makes changes to the regulations governing the Women-Owned Small Business (WOSB) program. The U.S. Small Business Administration (SBA) is making changes to those regulations to implement section 825 of the National Defense Authorization Act for Fiscal Year 2015. Specifically, this rule implements the authority set forth in section 825 of the 2015 NDAA allowing sole source awards to Women-Owned Small Businesses (WOSBs) or Economically Disadvantaged Women-Owned Small Businesses (EDWOSBs) in appropriate circumstances.

DATES: This rule is effective October 14, 2015.

FOR FURTHER INFORMATION CONTACT: Brenda Fernandez, U.S. Small Business Administration, Office of Policy, Planning & Liaison, 409 Third Street SW., Washington, DC 20416; (202) 205–7337; *brenda.fernandez@sba.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The WOSB Program, set forth in section 8(m) of the Small Business Act, 15 U.S.C. 637(m), authorizes Federal contracting officers to restrict competition to eligible Women-Owned Small Businesses (WOSBs) or Economically Disadvantaged Women-Owned Small Businesses (EDWOSBs) for Federal contracts in certain industries. Section 8(m) establishes criteria for the WOSB Program, including the eligibility and contract requirements for the program. Congress recently amended the WOSB Program in section 825 of the National Defense Authorization Act for Fiscal Year 2015, Public Law 113–291, 128 Stat. 3292 (December 19, 2014) (2015 NDAA), which included language granting contracting officers the authority to award sole source awards to WOSBs and EDWOSBs and shortening the time period for SBA to conduct a required study to determine the industries in which WOSBs are underrepresented in Federal contracting. In addition, section 825 of the 2015 NDAA created a requirement that a firm be certified as a WOSB or EDWOSB by a Federal Agency, a State government, SBA, or a national certifying entity approved by SBA.

On May 1, 2015, SBA published in the **Federal Register** a proposed rule to implement the sole source authority for WOSBs and EDWOSBs and the revised timeline for SBA to conduct a study to determine the industries in which WOSBs are underrepresented. 80 FR 24846. The rule proposed amendments to Sec. 127.101 to include sole source contracts as a type of contracting assistance available under part 127. The rule also proposed to revise Sec. 127.102 by adding the term ''sole source contracts'' to the definitions of ''EDWOSB requirement'' and ''WOSB requirement'' and establishing that the terms ''Substantial underrepresentation'' and ''Underrepresentation'' would be determined by the study to be conducted. The term ''sole source contracts'' was also a proposed addition to Sec. 127.500, which concerns the industries in which a contracting officer is authorized to restrict competition under the WOSB program. This change to Sec. 127.500 proposed to authorize contracting officers to award sole source contracts in those industries as well. SBA also proposed amendments to Sec. 127.503 to establish the conditions for awarding a sole source contract. Essentially if, after conducting market research in an industry where a WOSB or EDWOSB set-aside is authorized, a contracting officer cannot identify two or more WOSBs or EDWOSBs that can perform at a fair and reasonable price but identifies one WOSB or EDWOSB that can perform at a fair and reasonable price, a contract may be awarded on a sole source basis, provided the value of the contract, including options, does not exceed $6.5 million for manufacturing contracts and $4 million for all other contracts. SBA also proposed to amend Sec. 127.507 to authorize contracting officers to award sole source contracts in the WOSB program if the contract requirement is valued at or below the simplified acquisition threshold. Finally, the rule proposed to amend the protest regulations in Sec. 127.600 to make them consistent with the protest procedures for sole source contracts involving service-disabled veteran owned small business concerns (SDVO SBC) (Sec. 125.24(a) and HUBZone small business concerns (Sec. 126.800(a).

Paragraph (a) of Sec. 127.501 sets out that the agency will designate ''the industries in which WOSBs are underrepresented and substantially underrepresented'' by NAICS code. However, because paragraph (b) uses the term ''disparity'' instead, SBA intended to propose a technical amendment to this paragraph to replace that term with ''underrepresentation''; such an amendment would make the paragraph consistent with amendments to the definitions and other sections of the WOSB regulations. This purely technical conforming change to Sec. 127.501 is included in this final rule.

As explained in the proposed rule, SBA recognized that the new certification requirement for WOSBs would require a more prolonged rulemaking. Because SBA did not want to delay the implementation of the WOSB sole source authority by combining it with the new certification requirement, SBA did not propose any changes to implement the certification requirement but rather indicated that it

would do so through a separate future rulemaking. SBA received 495 comments on the proposed rule. With the exception of comments which did not set forth any rationale or make suggestions, SBA discusses and responds fully to all the comments below.

II. Summary of Comments

Most of the comments supported the rule. Specifically, most of the comments favored SBA's decision to quickly implement the sole source authority granted by the 2015 NDAA. Many of the commenters noted that they believe this authority and the quick implementation by SBA will help WOSB and EDWOSB businesses, and will put the program on more equal footing with SBA's other socio-economic contracting programs. In addition, the comments supported incorporating the statutory authority for sole source awards into the regulations and suggested no meaningful changes to the proposed regulatory text. As such, this final rule adopts the changes set forth in the proposed rule regarding sole source awards to WOSBs and EDWOSBs.

The second most covered topic in the comments received pertained to the language of the 2015 NDAA requiring the certification of WOSB and EDWOSB firms. As noted above, SBA did not propose to address the certification portion of the 2015 NDAA in the proposed rule because its implementation is more complicated, could not be accomplished by merely incorporating the statutory language into the regulations, and would have delayed the implementation of the sole source authority unnecessarily. In addition, SBA noted in the supplementary information to the proposed rule that there is no evidence that Congress intended to halt the existing WOSB Program until such time as SBA establishes the infrastructure and issues regulations implementing the statutory certification requirement. SBA continues to believe that the new WOSB sole source authority can and should be implemented as quickly as possible, using existing program rules and procedures, while SBA proceeds with development of the certification requirement through a separate rulemaking.

SBA believes that any certification process must be fair, efficient and comprehensive, but should not be burdensome or prevent new WOSBs and EDWOSBs from entering into the Federal marketplace. SBA wants to balance the need to protect the Government and other participants from fraud, with the goal of increasing WOSB and EDWOSB participation in the program. SBA believes that this process should be implemented in a systematic and thoughtful manner, and that increased public participation in the process will help SBA develop the best possible certification program.

The comments pertaining to certification of WOSBs and EDWOSBs were varied and covered a wide range of topics. SBA is in the process of developing its strategy for implementation of the certification language in the 2015 NDAA. SBA will consider the comments relating to certification received in response to this proposed rule when drafting the rule implementing the certification requirement. The certification rulemaking will give the public an opportunity to provide SBA with comments relating to SBA's proposed approach to the certification process and assist SBA in crafting the best possible certification program.

SBA also received several comments on the definitional changes related to the mandatory study to determine the industries in which WOSBs are underrepresented. The comments were generally supportive of SBA's proposed changes. As such, this final rule adopts the proposed changes to the definitions of the terms ''Underrepresentation,'' ''Substantial underrepresentation,'' ''EDWOSB requirement,'' and ''WOSB requirement'' in § 127.102.

Several comments recommended that all NAICS codes should be available for WOSB and EDWOSB set-asides. Determining the industries in which WOSB and/or EDWOSB contracts are available is outside the scope of this rule. In addition, section 825 of the 2015 NDAA specifically requires the Administrator to conduct a study to identify the industries in which small business concerns owned and controlled by women are underrepresented with respect to Federal procurement contracting in order to determine the industries in which WOSB and/or EDWOSB contracts can be awarded.

III. Compliance With Executive Orders 12866, 12988, 13132, 13563, the Paperwork Reduction Act (44 U.S.C. Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601–612)

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule does not constitute a significant regulatory action under Executive Order 12866. This is not a major rule under the Congressional Review Act (CRA), 5 U.S.C. 800.

Executive Order 12988

This action meets applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have retroactive or preemptive effect.

Executive Order 13132

For the purpose of Executive Order 13132, SBA has determined that the rule will not have 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. Therefore SBA has determined that this rule has no federalism implications warranting the preparation of a federalism assessment.

Executive Order 13563

A description of the need for this regulatory action, the benefits and costs associated with this action, and any alternatives are included in the Initial Regulatory Flexibility Analysis. In drafting this rule, SBA considered input submitted by three coalitions of women's groups representing women-owned small businesses that support this rule and encourage its quick implementation.

Paperwork Reduction Act, 44 U.S.C., Ch. 35

For the purpose of the Paperwork Reduction Act, SBA has determined that this proposed rule does not impose additional reporting or recordkeeping requirements.

Regulatory Flexibility Act, 5 U.S.C., 601–612

According to the Regulatory Flexibility Act (RFA), when an agency issues a rulemaking, it must prepare a regulatory flexibility analysis to address the impact of the rule on small entities. In accordance with this requirement, SBA has prepared a Final Regulatory Flexibility Analysis addressing the impact of this rule.

1. What are the need for and objective of this final rule?

This final rule is necessary to implement section 825 of the National Defense Authorization Act for Fiscal Year 2015, Public Law 113–291, December 19, 2014, 128 Stat. 3292 (2015 NDAA). Section 825 of the 2015 NDAA included language granting contracting officers the authority to award sole source contracts to Women-Owned Small Businesses (WOSBs) and Economically Disadvantaged Women-

Owned Small Businesses (EDWOSBs). The purpose of this rule is to establish the procedures whereby Federal agencies may award sole source contracts to WOSBs and EDWOSBs and to provide a mechanism to protest such awards. The rule provides an additional tool for Federal agencies to ensure that WOSBs have an equal opportunity to participate in Federal contracting and ensures consistency among SBA's socio-economic small business contracting programs. The objectives of this final rule are to put the WOSB Program on a level playing field with other SBA government contracting programs with sole source authority, and to provide an additional, needed tool for agencies to meet the statutorily mandated 5% prime contracting goal for WOSBs.

Section 825 of the 2015 NDAA also revised the timeline for SBA to conduct a study to determine the industries in which WOSBs are underrepresented. This final rule is necessary to allow SBA to conduct the most reliable and relevant study of WOSB participation in Federal contracting and comply with the new statutorily mandated timeline.

2. What is the legal basis for this final rule?

The legal basis for this final rule is section 825 of the National Defense Authorization Act for Fiscal Year 2015, Public Law 113–291, December 19, 2014, 128 Stat. 3292, which amended section 8(m) of the Small Business Act, 15 U.S.C. 637(m).

3. What is SBA's description and estimate of the number of small entities to which the rule will apply?

The RFA directs agencies to provide a description, and where feasible, an estimate of the number of small business concerns that may be affected by the rule. This final rule establishes a new procurement mechanism to benefit WOSBs. Therefore, WOSBs and EDWOSBs available to compete for Federal contracts under the WOSB Program are the specific group of small business concerns most directly affected by this rule.

SBA searched the Dynamic Small Business Search (DSBS) database and determined that there were approximately 34,000 firms listed as either WOSBs or EDWOSBs under the WOSB Program. In addition, according to the fiscal year 2013 small business goaling report, there were a little over 250,000 actions concerning women-owned small businesses and the total dollar value of those actions was approximately $15 billion. An analysis of the Federal Procurement Data System from April 1, 2011, (the implementation date of the WOSB Program) through January 1, 2013, revealed that there were approximately 26,712 women-owned small business concerns, including 131 EDWOSBs and 388 WOSBs eligible under the WOSB Program, that received Federal contract awards, task or delivery orders, and modifications to existing contracts.

Therefore, this rule could affect a smaller number of EDWOSBs and WOSBs than those eligible under the WOSB Program. We note that the sole source authority can only be used where a contracting officer conducts market research in an industry where a WOSB or EDWOSB set-aside is authorized, and the contracting officer cannot identify two or more WOSBs or EDWOSBs that can perform at a fair and reasonable price, but identifies one WOSB or EDWOSB that can perform. In addition, the sole source authority for WOSBs and EDWOSBs is limited to contracts valued at $6.5 million or less for manufacturing contracts and $4 million or less for all other contracts.

Nonetheless, we believe that this rule may have a significant positive economic impact on EDWOSB concerns competing for Federal contracting opportunities in industries determined by SBA to be underrepresented by WOSB concerns and likewise may positively affect WOSB concerns eligible under the WOSB Program competing in industries determined by SBA to be substantially underrepresented by WOSB concerns, since the sole source authority will still provide greater access to Federal contracting opportunities.

4. What are the projected reporting, recordkeeping, Paperwork Reduction Act, and other compliance requirements?

SBA has determined that this rule does not impose additional reporting or recordkeeping requirements.

5. What relevant federal rules may duplicate, overlap, or conflict with this rule?

SBA has not identified any relevant Federal rules currently in effect that duplicate this rule. The sole source mechanism of the WOSB program will be an addition to the procurement mechanisms available under the existing small business contracting programs that agencies currently administer, such as the HUBZone Program, the Service-Disabled Veteran-Owned (SDVO) Small Business Program, and the 8(a) Business Development Program. The sole source mechanism for WOSBs and EDWOSBs is only authorized where a contracting officer conducts market research in an industry where a WOSB or EDWOSB set aside is authorized, and the contracting officer cannot identify two or more WOSBs or EDWOSBs that can perform at a fair and reasonable price, but identifies one WOSB or EDWOSB that can perform (and so long as the value of the contract, including options, does not exceed $6.5 million for manufacturing contracts and $4 million for all other contracts). Therefore, the addition of the sole source mechanism for WOSBs and EDWOSBs should complement rather than conflict with the goals of existing small business procurement programs.

SBA believes that the Federal Acquisition Regulations (FAR) will need to be amended to include this authority so that there is no conflict between the SBA's rules and the FAR.

6. What significant alternatives did SBA consider that accomplish the stated objectives and minimize and significant economic impact on small entities?

The RFA requires agencies to identify alternatives to the rule in an effort to minimize any significant economic impact of the rule on small entities. The statutory authority for the sole source awards sets forth specific criteria, including dollar value thresholds for the awards. Therefore, the regulations must implement the statutory provisions, and there are no alternatives for these regulations.

List of Subjects in 13 CFR Part 127

Government contracts, Reporting and recordkeeping requirements, Small businesses.

Accordingly, for the reasons stated in the preamble, SBA amends 13 CFR part 127 as follows:

PART 127—WOMEN-OWNED SMALL BUSINESS FEDERAL CONTRACT PROGRAM

■ 1. The authority for part 127 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 637(m), and 644.

■ 2. Revise § 127.101 to read as follows:

§ 127.101 What type of assistance is available under this part?

This part authorizes contracting officers to restrict competition or award sole source contracts or orders to eligible Economically Disadvantaged Women-Owned Small Businesses (EDWOSBs) for certain Federal contracts or orders in industries in which the Small Business Administration (SBA) determines that WOSBs are underrepresented in Federal

procurement. It also authorizes contracting officers to restrict competition or award sole source contracts or orders to eligible WOSBs for certain Federal contracts or orders in industries in which SBA determines that WOSBs are substantially underrepresented in Federal procurement and has waived the economically disadvantaged requirement.

■ 3. Amend § 127.102 by revising the definitions of the terms ''EDWOSB requirement'', ''Substantial underrepresentation'', ''Underrepresentation'', and ''WOSB requirement'' to read as follows:

§ 127.102 What are the definitions of the terms used in this part?

* * * * *

EDWOSB requirement means a Federal requirement for services or supplies for which a contracting officer has restricted competition or awarded a sole source contract or order to eligible EDWOSBs, including Multiple Award Contracts, partial set-asides, reserves, sole source awards, and orders set aside for EDWOSBs issued against a Multiple Award Contract.

* * * * *

Substantial underrepresentation is determined by a study using a reliable and relevant methodology.

* * * * *

Underrepresentation is determined by a study using a reliable and relevant methodology.

* * * * *

WOSB requirement means a Federal requirement for services or supplies for which a contracting officer has restricted competition or awarded a sole source contract or order to eligible WOSBs, including Multiple Award Contracts, partial set-asides, reserves, sole source awards, and orders set aside for WOSBs issued against a Multiple Award Contract.

■ 4. Revise § 127.500 to read as follows:

§ 127.500 In what industries is a contracting officer authorized to restrict competition or make a sole source award under this part?

A contracting officer may restrict competition or make a sole source award under this part only in those industries in which SBA has determined that WOSBs are underrepresented or substantially underrepresented in Federal procurement, as specified in § 127.501.

§ 127.501 [Amended]

■ 5. Amend § 127.501 by removing the word ''disparity'' in the two places where it appears in paragraph (b) and adding the word ''underrepresentation'' in its place.

■ 6. Amend § 127.503 as follows:

■ a. Revise the section heading;

■ b. Revise paragraph (a) subject heading and paragraph (b) subject heading;

■ c. Redesignate paragraphs (c), (d), (e) and (f) as paragraphs (e), (f), (g) and (h); and

■ d. Add new paragraphs (c) and (d).

The revisions and additions read as follows:

§ 127.503 When is a contracting officer authorized to restrict competition or award a sole source contract or order under this part?

(a) *Competition restricted to EDWOSBs.* * * *

(b) *Competition restricted to WOSBs.* * * *

(c) *Sole source awards to EDWOSBs.* For requirements in industries designated by SBA as underrepresented pursuant to § 127.501, a contracting officer may issue a sole source award to an EDWOSB when the contacting officer determines that:

(1) The EDWOSB is a responsible contractor with respect to performance of the requirement and the contracting officer does not have a reasonable expectation that 2 or more EDWOSBs will submit offers;

(2) The anticipated award price of the contract (including options) will not exceed $6,500,000 in the case of a contract assigned a North American Industry Classification System (NAICS) code for manufacturing, or $4,000,000 in the case of any other contract opportunity; and

(3) In the estimation of the contracting officer, the award can be made at a fair and reasonable price.

(d) *Sole source awards to WOSBs.* For requirements in industries designated by SBA as substantially underrepresented pursuant to § 127.501, a contracting officer may issue a sole source award to a WOSB when the contacting officer determines that:

(1) The WOSB is a responsible contractor with respect to performance of the requirement and the contracting officer does not have a reasonable expectation that 2 or more WOSBs will submit offers;

(2) The anticipated award price of the contract (including options) will not exceed $6,500,000 in the case of a contract assigned a NAICS code for manufacturing, or $4,000,000 in the case of any other contract opportunity; and

(3) In the estimation of the contracting officer, the award can be made at a fair and reasonable price.

* * * * *

■ 7. Revise § 127.507 to read as follows:

§ 127.507 Are there EDWOSB and WOSB contracting opportunities at or below the simplified acquisition threshold?

If the requirement is valued at or below the simplified acquisition threshold, the contracting officer may set aside the requirement or award the requirement on a sole source basis as set forth in § 127.503.

■ 8. Revise § 127.600 to read as follows:

§ 127.600 Who may protest the status of a concern as an EDWOSB or WOSB?

(a) *For sole source procurements.* SBA or the contracting officer may protest the proposed awardee's EDWOSB or WOSB status.

(b) *For all other EDWOSB or WOSB requirements.* An interested party may protest the apparent successful offeror's EDWOSB or WOSB status.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2015–22927 Filed 9–11–15; 8:45 am]

BILLING CODE 8025–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 170

RIN 3038–AE09

Membership in a Registered Futures Association

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is adopting a new rule (''Final Rule'') to require that all persons registered with the Commission as introducing brokers (''IB''), commodity pool operators (''CPO''), or commodity trading advisors (''CTA''), subject to an exception for those persons who are exempt from registration as a CTA pursuant to a particular provision of the Commission's regulations, must, in each case, become and remain a member of at least one registered futures association (''RFA'').

DATES: The Final Rule will become effective November 13, 2015. All persons subject to the Final Rule must comply with the Final Rule by not later than December 31, 2015.

FOR FURTHER INFORMATION CONTACT: Katherine Driscoll, Associate Chief