

(including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

**Sheleen Dumas,**

*Departmental Lead PRA Officer, Office of the Chief Information Officer.*

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## DEPARTMENT OF COMMERCE

### Bureau of the Census

[Docket Number 180402335-8335-01]

#### Annual Business Survey

**AGENCY:** Bureau of the Census, Department of Commerce.

**ACTION:** Notice of determination.

**SUMMARY:** Notice is hereby given that the Bureau of the Census (Census Bureau) has determined that it is conducting the Annual Business Survey (ABS) of domestic nonfarm employer businesses in 2018. We have determined that data to be collected in this survey are needed to aid the efficient performance of essential governmental functions and have significant application to the needs of the public and industry. The ABS will provide the only comprehensive federal data on owner demographics and business characteristics, including financing research and development (for microbusinesses), and innovation. The data derived from this survey are not publicly available from nongovernmental or other governmental sources.

**ADDRESSES:** The Census Bureau will make the reporting instructions available to the organizations included in the survey. Additional copies are available upon written request to the Director, 4600 Silver Hill Road, U.S. Census Bureau, Washington, DC 20233-0101.

**FOR FURTHER INFORMATION CONTACT:** Nick Orsini, Assistant Director for Economic Programs, U.S. Census Bureau, 5H160, Washington, DC 20233, Telephone:

301-763-2558; Email: *Nick.Orsini@census.gov*.

**SUPPLEMENTARY INFORMATION:** In an effort to improve the measurement of business dynamics in the United States, the Census Bureau, with support from the National Science Foundation (NSF), plans to conduct the Annual Business Survey (ABS). The ABS is a new survey designed to combine Census Bureau firm-level survey collections to reduce respondent burden and simultaneously increase data quality and operational efficiencies. The ABS replaces the following collections: The five-year Survey of Business Owners (SBO) (Office of Management and Budget (OMB) control number 0607-0943) for employer businesses; the Annual Survey of Entrepreneurs (ASE) (OMB control number 0607-0986); and the Business Research and Development and Innovation for Microbusinesses (BRDI-M) form, a component of the Business Research and Development and Innovation Survey, BRDI-S (OMB control number 0607-0912). The ABS also replaces the innovation questions, formerly asked in the BRDI-S.

ABS estimates will include the number of employer firms and their sales/receipts, annual payroll, and employment by gender, ethnicity, race, and veteran status as well as research and development and innovation and various other relevant topics. The ABS will be conducted jointly by the Census Bureau and the National Center for Science and Engineering Statistics within the NSF. It is planned for five reference years (2017-2021). Title 13, United States Code (U.S.C.), Sections 8(b), 131, and 182, Title 42, U.S.C., Sections 1861-1875 (National Science Foundation Act of 1950, as amended), and Section 505 of the America COMPETES Reauthorization Act of 2010 (42 U.S.C. 1862p) authorize this collection. Sections 224 and 225 of Title 13, U.S.C., require responses from sampled firms.

The ABS covers all domestic nonfarm employer businesses filing Internal Revenue Service tax forms as individual proprietorships, partnerships, or any type of corporation, and with receipts of \$1,000 or more. The ABS will sample approximately 850,000 employer businesses for the benchmark survey year 2017, with data collection taking place in 2018. Annually for survey years 2018 to 2021, the survey sample will be reduced to approximately 300,000 employer businesses to reduce the burden on the respondents. The Census Bureau will use administrative data to estimate the owner demographics such that each firm is placed into one of nine

frames for sampling: American Indian, Asian, Black or African American, Hispanic, Non-Hispanic White Men, Native Hawaiian and Other Pacific Islander, Some Other Race, Publicly Owned Businesses, and Women Owned Businesses. The sample would be stratified by state, industry, and frame. The Census Bureau will select companies with certainty based on volume of sales, payroll, number of paid employees or industry classification. All certainty cases are sure to be selected and represent only themselves.

The ABS will provide continuing and timely national statistical data for the period between economic censuses. The data collected will be within the general scope and nature of those inquiries covered in the economic census. The next economic census is being conducted currently for the reference year 2017. Government program officials, industry organization leaders, economic and social analysts, business entrepreneurs, and domestic and foreign researcher in academia, business, and government will use statistics from the new ABS. More details on expected uses of the statistics from the new ABS are found in the Notice of Consideration for the ABS published in the **Federal Register** on October 24, 2017 (82 FR 49175).

#### Public Comments

The Census Bureau published a Notice of Consideration for the ABS in the **Federal Register** on October 24, 2017 (82 FR 49175). We received one comment. The commenter suggested that the Census Bureau take the following actions:

- (1) Determine the cost and benefits of the survey and consider whether the benefits outweigh the costs;
- (2) If the benefits outweigh the cost, consider how to minimize the cost imposed on the businesses participating in the survey;
- (3) If, after conducting the cost-benefit analysis and examining the means for minimizing the cost imposed on survey participants, the Census Bureau nevertheless wishes to proceed with the survey, publish a revised notice that includes a cost-benefit analysis and an explanation of steps taken to minimize the costs on businesses forced to participate in the survey; and
- (4) Eliminate the survey discrimination based on gender, ethnicity, race, and age.

#### Census Bureau Response to the Public Comment

The Census Bureau agrees that costs and benefits should be analyzed and weighed, and has already carried out

this analysis, concluding that the value of information produced by the ABS outweighs the costs. The Census Bureau submitted a request to OMB on January 5, 2018, formally requesting approval of the ABS under the Paperwork Reduction Act (PRA). The request included information about the cost to administer the ABS and the cost imposed on respondents in terms of their time to respond. The request also documented the many uses of the data. The request demonstrated that the ABS has practical utility, *i.e.*, that the value of information produced outweighs the cost. As noted in the Paperwork Reduction Act section below, OMB approved the ABS on March 7, 2018 (OMB control number 0607–1004).

Furthermore, the ABS will provide data required by Executive Order 11458 (March 5, 1969), “Prescribing Arrangements for Developing and Coordinating a National Program For Minority Business Enterprise” (<http://www.presidency.ucsb.edu/ws/?pid=60475>). Executive Order 11458 prompted the Census Bureau to create the Survey of Minority Business Enterprises (SMOBE) and the Survey of Women Business Enterprises (SWOBE). The data previously collected in these two surveys was later collected in the SBO and the ASE, surveys that the ABS will now replace. Without the ABS, there will be no survey that complies with the executive order. The Minority Business Development Agency and Small Business Administration also rely on the Census Bureau to annually produce these data, including data on business ownership by gender, ethnicity, race, and veteran status as well as economic characteristics of businesses.

The Census Bureau has designed the ABS survey to collect the required data while balancing the burden on businesses. The ABS is designed to combine Census Bureau firm-level collections to reduce respondent burden, increase data quality, reduce operational costs, and operate more efficiently.

#### *Paperwork Reduction Act*

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) (44 U.S.C., Chapter 45) unless that collection of information displays a currently valid OMB control number. In accordance with the PRA, OMB approved the ABS under OMB control number 0607–1004 on March 7, 2018.

Based upon the foregoing, I have directed that the current mandatory business surveys be conducted for the purpose of collecting these data.

Dated: May 31, 2018.

**Ron S. Jarmin,**

*Associate Director for Economic Programs,  
Performing the Non-Exclusive Functions and  
Duties of the Director, Bureau of the Census.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–570–010]

#### **Crystalline Silicon Photovoltaic Products From the People’s Republic of China: Notice of Court Decision Not in Harmony With Final Determination of the Less Than Fair Value Investigation**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** On May 25, 2018, the United States Court of International Trade (the Court) entered final judgment sustaining the final results of the second remand redetermination by the Department of Commerce (Commerce) pertaining to the antidumping duty (AD) investigation of certain crystalline silicon photovoltaic products from the People’s Republic of China (China). Commerce is notifying the public that the final judgment in this case is not in harmony with Commerce’s final determination in the AD investigation of certain crystalline silicon photovoltaic products from China.

**DATES:** Applicable June 4, 2018.

**FOR FURTHER INFORMATION CONTACT:** Eli Lovely, AD/CVD Operations, Office IV, Enforcement and Compliance—International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–1593.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Subsequent to the December 23, 2014, publication of the *Final Determination* in the AD investigation of certain crystalline silicon photovoltaic products from China,<sup>1</sup> and the February 18, 2015 publication of the AD order,<sup>2</sup>

<sup>1</sup> See *Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 79 FR 76970 (December 23, 2014) (*Final Determination*).

<sup>2</sup> See *Certain Crystalline Silicon Photovoltaic Products from the People’s Republic of China:*

*SolarWorld Americas, Inc. (SolarWorld)*, the petitioner, filed a complaint with the Court challenging, among other things, Commerce’s determination that South African import data under subheading 8548.10, of the United States Harmonized Tariff Schedule (HTS), constituted the best available information for valuing Changzhou Trina Solar Energy Co., Ltd.’s (Trina) byproduct offset for scrapped solar modules.<sup>3</sup>

In *Jinko Solar I*, the Court remanded Commerce’s use of South African import data under HTS subheading 8548.10, to value Trina’s byproduct offset for scrapped solar modules when calculating normal value. The Court found that Commerce did not adequately explain how its decision was reasonable in light of the record as a whole.<sup>4</sup> Further, the Court found that two arguments made before the Court constituted post hoc rationalizations and directed Commerce to make those rationalizations explicit and identify supporting evidence for them, if either of the rationalizations informed Commerce’s decision to rely on HTS subheading 8548.10 to value Trina’s byproduct offset for scrapped solar modules.<sup>5</sup>

On August 2, 2017, Commerce issued its First Remand Results, in which it determined that it would continue to value Trina’s byproduct offset for scrapped solar modules with South African import data under HTS 8548.10 and explained its decision to do so.<sup>6</sup> The Court, in *Jinko Solar II*, held that Commerce’s determination remained unsupported by substantial evidence and that Commerce did not explain how its selected surrogate value was a representative surrogate value for the scrapped modules.<sup>7</sup> The Court directed Commerce to reconsider or further explain its decision to use South African import data under HTS subheading 8548.10 to value the byproduct offset for scrapped solar

*Antidumping Duty Order; and Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 80 FR 8592 (February 18, 2015).

<sup>3</sup> See SolarWorld’s Complaint, No. 15–00086, ECF No. 10 (CIT April 17, 2015).

<sup>4</sup> See *Jinko Solar Co., Ltd. v. United States*, 229 F. Supp. 3d 1333, 1353–1355 (CIT 2017) (*Jinko Solar I*).

<sup>5</sup> *Id.* at 1355.

<sup>6</sup> See Final Results of Redetermination Pursuant to Court Remand, *Jinko Solar Co., Ltd. v. United States*, Court No. 15–00080, Slip Op. 17–62 (Court of International Trade May 18, 2017) (August 2, 2017) (First Remand Results).

<sup>7</sup> See *Jinko Solar Co., Ltd. v. United States*, 279 F. Supp. 3d 1253, 1261–1264 (CIT 2017) (*Jinko Solar II*).