

May 26, 2026

Susan Frazier
Principal Deputy Assistant Secretary for Employment and Training
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

Re: Notice of Proposed Rulemaking—Improving Wage Protections for the Temporary and Permanent Employment of Certain Foreign Nationals in the United States (ETA—2026—0001)

Dear Principal Deputy Assistant Secretary Frazier:

The National Association of Manufacturers (“NAM”) welcomes this opportunity to provide comments to the Employment and Training Administration (“the ETA”) in response to its Notice of Proposed Rulemaking (“NPRM”) changing the computation of wage levels in the Department of Labor’s prevailing wage structure for job opportunities in the PERM (EB-2 and EB-3), H-1B, H-1B1, and E-3 programs for which employers seek labor certification from the Secretary of Labor (“the proposed rule”).

The NAM is the largest manufacturing association in the United States, representing manufacturers of all sizes across all 50 states and in every industrial sector. Manufacturing contributes \$2.96 trillion to the U.S. economy annually.¹ The NAM works for the success of the 13 million people who make things in America, advocating for a policy agenda that helps manufacturers compete in the global economy and create jobs across the United States.

A High-Skilled Workforce to Grow Manufacturing in America

Manufacturers commend the Administration for its efforts to deliver on President Trump’s promise to make the United States the best place in the world to manufacture things. His landmark tax bill delivered a permanent, pro-growth tax code, positioning manufacturers to build, grow, and hire. His efforts to rebalance and modernize regulations have reduced the regulatory onslaught that has burdened manufacturers in the U.S. with \$350 billion in compliance costs every year—capital much better spent on our factories, innovations, and employees.² His work to strengthen our nation’s energy dominance and AI leadership will make sure the U.S., and not other nations, shapes the innovations that define the future—and the strength of America’s shop floors.

To fulfill the full promise of the President’s manufacturing agenda, manufacturers need the strongest workforce in the world. But right now, manufacturers have more work to do than people able to do it. More than 400,000 manufacturing jobs are unfilled. According to the Manufacturing Institute and Deloitte, that number is projected to reach 1.9 million by 2033 if

¹ See Facts About Manufacturing, available at <https://nam.org/manufacturing-in-the-united-states/facts-about-manufacturing-expanded/>

² *The Cost of Federal Regulation to the U.S. Economy, Manufacturing and Small Business*, National Association of Manufacturers, October 2023, available at <https://nam.org/wp-content/uploads/2023/11/NAM-3731-Crains-Study-R3-V2-FIN.pdf>

manufacturers are not able to address the skills and applicant gap.³ The challenge behind these numbers is structural: there is a systemic shortfall in the amount of skilled people and applicants ready to turn President Trump's pro-manufacturing vision into lasting prosperity for the American people.

Manufacturers are investing heavily—more than \$32 billion every year—to attract, train, and upskill homegrown talent, and we appreciate the partnership with policymakers to expand these efforts and develop a skilled domestic workforce. And at the same time, manufacturers will drive even more prosperity for the United States if gaps in the domestic labor supply are closed by fixing an immigration system that is outdated and that was not designed to satisfy our industry's and our economy's vital workforce needs.

Modern manufacturing is vitally dependent on a steady pipeline of high-skilled talent, both foreign and domestic. Given the innovative nature of modern manufacturing, a critical population of workers necessary for manufacturing growth are those skilled in science, technology, engineering, and mathematics ("STEM").

- While manufacturing represents just under 10% of U.S. GDP, it accounts for almost 52% of all private sector research and development. This means that manufacturing is significantly more innovation-dependent than any other sector of the U.S. economy.⁴
- Factories cannot be built, designed, or operated without engineers and scientists. Without this high-skilled talent, manufacturers in the U.S. cannot maintain the scale, competitiveness, or leadership needed in the global economy. This means that, in turn, these scientists, engineers, and other high-skilled specialists create more U.S. manufacturing jobs throughout the industry.
- AI is reshaping manufacturing, from digitalization of the shop floor to optimization of the supply chain. To harness these tools, manufacturers need data and computer scientists skilled in these systems. Without a steady pipeline of AI-savvy talent, the U.S. risks falling behind in both productivity and innovation.

High-skilled immigrants⁵ work hand-in-hand with high-skilled domestic workers and allow manufacturers to remain competitive in the global economy, fill skill gaps, and bolster economic growth. Their work gets projects off the ground that in turn employ hundreds or thousands of additional American workers. By aligning immigration policy with the nation's economic and technological priorities, the federal government can help manufacturers secure the high-skilled talent necessary to accelerate innovation and sustain America's manufacturing dominance.⁶

³ *Taking Charge: Manufacturers Support Growth With Active Workforce Strategies*, April 2024, available at https://themanufacturinginstitute.org/wp-content/uploads/2024/04/Digital_Skills_Report_April_2024.pdf

⁴ See Facts About Manufacturing, available at <https://nam.org/manufacturing-in-the-united-states/facts-about-manufacturing-expanded/>

⁵ This submission uses the term "immigrant" not with the technical meaning it has in the Immigration and Nationality Act, but with the common meaning of a foreign national admitted to live and work in the United States.

⁶ For more details on the NAM's immigration reform agenda, including its recommendations to modernize high-skilled immigration programs, see *Make Immigration Work for America*, April 2026, available at <https://nam.org/issues/immigration/>

Manufacturers recommend that the ETA reconsider this proposed rule because, as this submission explains, it would materially weaken the industry’s efforts to deliver on the President’s vision for long-term, innovation-driven manufacturing growth and onshoring.

1. High-Skilled Immigration is Integral to Manufacturing in the United States

1.1. High-Skilled Immigration Fuels U.S. Innovation

One of the most important factors sustaining the United States’ global economic leadership—and therefore its prosperity and that of its people—is its ability to innovate, in manufacturing and in every other economic sector.

There is clear evidence that, as the ETA recognized in 2020, “allowing firms to access skilled foreign workers can lead to overall increases in innovation and economic activity, which can, in turn, benefit U.S. workers.”⁷ Below is a non-exhaustive sample of the peer-reviewed literature demonstrating this important dynamic:

- Higher H-1B admissions increase immigrant science and engineering employment and patenting, without displacing native science and engineering employment or patenting.⁸
- Immigrants patent at double the native rate, largely because of their concentration in science and engineering, and rises in the population of immigrant college graduates increase patents per capita in the U.S., without crowding out Americans.⁹
- Firms that conduct R&D and are heavy users of H-1B workers would experience gains in average labor productivity, firm size, and profits in response to a relaxation of the cap on H-1B visas.¹⁰
- Higher firm-level rates of H-1B Labor Condition Applications (“LCA”) are associated with higher rates of product reallocation (i.e., introduction of new products on the market and withdrawal of discontinued products) and revenue growth.¹¹

1.2. High-Skilled Immigration Benefits U.S. Workers

As the ETA acknowledged in 2020, high-skilled immigration does not come at the expense of the American worker, but rather benefits American workers and the American economy at large. Numerous peer-reviewed studies demonstrate that American workers benefit from the U.S. employment of their foreign-born high-skilled colleagues:

- At the firm level, overall employment of high-skilled U.S. workers rises with increased high-skilled immigrant employment by the firm, that expansion being greater for younger American workers.¹²

⁷ Interim final rule and request for comments on *Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States*, Federal Register, Vol. 85, No. 196, Thursday, October 8, 2020.

⁸ *The Supply Side of Innovation: H-1B Visa Reforms and U.S. Ethnic Invention*, National Bureau of Economic Research, February 2010, available at https://www.nber.org/system/files/working_papers/w15768/w15768.pdf

⁹ *How Much Does Immigration Boost Innovation?*, Hunt & Gauthier-Loiselle, National Bureau of Economic Research, September 2008, available at <https://www.nber.org/papers/w14312>

¹⁰ *The Impact of Skilled Foreign Workers on Firms: An Investigation of Publicly Traded U.S. Firms*, IZA Discussion Paper, November 2014, available at <https://www.iza.org/publications/dp/8684/the-impact-of-skilled-foreign-workers-on-firms-an-investigation-of-publicly-traded-us-firms>

¹¹ *High-Skill Immigration, Innovation, and Creative Destruction*, National Bureau of Economic Research, July 2018, available at <https://www.nber.org/papers/w24824>

¹² *Skilled Immigration and the Employment Structures of US Firms*, Journal of Labor Economics, July 2015, available at <https://www.journals.uchicago.edu/doi/10.1086/678986>

- Increases in immigrant STEM workers are associated with significant wage gains for college-educated Americans, and smaller but still significant gains for non-college-educated Americans.¹³
- While negative H-1B supply shocks (i.e., the random and unexpected denial of requested H-1B visas due to the lottery system) are “robustly associated” with declines in foreign-born computer-related employment, U.S.-born computer employment does not benefit—it either falls or remains constant.¹⁴
- H-1B lottery wins increase firm hiring of college-educated immigrant labor without displacing U.S.-born, college-educated workers at the firm level. But as these H-1B lottery wins also increase firm scale and survival, they are a net positive for U.S.-born, college-educated workers.¹⁵

Furthermore, though the NPRM asserts that “H-1B workers are rapidly replacing U.S. workers, especially in STEM-related fields,” it points to “recent U.S. graduates in computer science and engineering [who] are facing elevated unemployment and underemployment rates.” Here, the NPRM should have examined the argument, developed in the academic literature, that some technology firms may have over-hired in 2020 and 2021 in response to temporary, pandemic-induced spikes in consumer demand that they mistook for permanent, structural shifts¹⁶—before eventually downsizing their employment rolls in the last few years for reasons unrelated to immigration.¹⁷

Manufacturers believe that because high-skilled immigration makes a significantly positive contribution to the U.S. economy, its innovation performance, and its workers, any policy that restricts it must be subject to heightened scrutiny. As explained in the rest of this submission, the proposed rule does not withstand this scrutiny and we recommend that the ETA reconsider whether the proposed rule supports the President’s agenda of manufacturing growth and onshoring.

2. Methodological Concerns with the Proposed Rule

2.1. The Proposed Rule Is Based on Obsolete Data

As a threshold matter, the proposed rule suffers from a significant methodological flaw: it is based on obsolete data from 2020-2024.¹⁸

In 2025, two major regulatory changes occurred in the H-1B program, which is not only the largest of the visa programs affected by the proposed rule but also serves as a gateway for most holders of EB-2 visas, the second largest program affected by the proposed rule. The first was Proclamation 10973 of September 19, 2025 – Restriction on Entry of Certain Nonimmigrant Workers, which imposed a \$100,000 fee on most H-1B visas.¹⁹ The payment of such a large sum of money will change the makeup of the population of both H-1B applicants (presumably increasing the share of senior professionals in that population) and their sponsoring employers. The second was the rule replacing the H-1B lottery with a weighted selection process, which

¹³ *STEM Workers, H-1B Visas, and Productivity in US Cities*, Journal of Labor Economics, June 2015, available at <https://giovanniperi.ucdavis.edu/uploads/5/6/8/2/56826033/stem-workers.pdf>

¹⁴ *Foreign and Native Skilled Workers: What Can We Learn From H-1B Lotteries?*, National Bureau of Economic Research, May 2015, available at https://www.nber.org/system/files/working_papers/w21175/w21175.pdf

¹⁵ *The Impact of Immigration on Firms and Workers: Insights from the H-1B Lottery*, Federal Reserve Bank of Richmond, March 2025, available at https://www.richmondfed.org/-/media/RichmondFedOrg/publications/research/working_papers/2024/wp24-04.pdf

¹⁶ *COVID-19 Is Also a Reallocation Shock*, Brookings Institution Press, Summer 2020, available at <https://muse.jhu.edu/article/787113>

¹⁷ *Talent Management Challenges During COVID-19 And Beyond: Performance Management to the Rescue*, Business Research Quarterly, April 2021, available at <https://doi.org/10.1177/23409444211009528>

¹⁸ See footnote 233 of the NPRM.

¹⁹ Available at <https://www.federalregister.gov/documents/2025/09/24/2025-18601/restriction-on-entry-of-certain-nonimmigrant-workers>

also gives a preference to more senior applicants—again, changing the makeup of the population of H-1B applicants and of their sponsors.²⁰ The NPRM does not acknowledge that any policy decisions subsequent to these two regulatory changes should be based on data produced after their implementation—even though it does take into account the effect of the weighted selection in its estimate of the cost of the proposed rule.²¹

The combined—and most likely cumulative—effect of these two regulatory changes must be allowed to take place and settle over at least two years before the resultant wage and employment data can be used as a basis for any further regulatory change, such as the proposed rule. Failing to allow this crucial data to develop will result in policy decisions that are not based on the most relevant information.²² The NAM respectfully encourages the ETA not to finalize significant policy changes absent this important data.

2.2. Misalignment Between Wage Percentiles and Established Skill Levels in the Proposed Rule

The proposed rule retains the ETA’s four-level framework but fundamentally alters the wage percentiles associated with each level without reconciling those changes with the ETA’s longstanding definitions of the levels themselves. Under the ETA’s guidance, Level I positions are defined as entry-level roles involving routine tasks, limited independent judgment, and close supervision. Historically, the ETA has aligned this definition with wages in the lower portion of the Occupational Employment and Wage Statistics (“OEWS”) distribution, reflecting the self-evident principle that entry-level workers are concentrated near the bottom of the wage spectrum. The proposed rule departs from this framework by setting the floor for Level I wages at approximately the 34th percentile of the distribution, thereby requiring that “entry-level” positions be compensated at levels exceeding most early-career workers in the same occupation and geographic area, and more than one third of all workers in that occupation and area.

This change creates a direct inconsistency between the ETA’s classification system and the wage distribution used to implement it. If Level I positions are truly entry-level, they cannot reasonably be anchored to a point in the distribution that exceeds a large portion of the entry-level labor market. Conversely, if the ETA intends to anchor Level I wages at the 34th percentile, then its existing definition of Level I positions as entry-level roles is no longer accurate. The proposed rule does not address or resolve this contradiction. By shifting wage percentiles upward without revisiting the underlying level definitions, the NPRM renders the current classification framework internally inconsistent and undermines the ability of the prevailing wage system to reflect the compensation of similarly employed workers in a coherent and predictable manner.

²⁰ Federal Register / Vol. 90, No. 245 / Monday, December 29, 2025, available at <https://www.federalregister.gov/documents/2025/12/29/2025-23853/weighted-selection-process-for-registrants-and-petitioners-seeking-to-file-cap-subject-h-1b>

²¹ See III.B.3. Transfer Payments, p. 15483: the “recently published [weighted selection] final rule issued by DHS (. . .) and this proposal’s overlapping effects are combined in the quantification presented below.”

²² An agency “must examine the *relevant* data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made.” *Motor Vehicle Mfrs. Assn. of United States, Inc. v. State Farm Mut. Auto Ins. Co.*, 463 U. S. 29, 43 (1983) (emphasis added).

2.3. The Proposed Rule Should Not Discount the Lower Portion of the OEWS Wage Distribution

The NPRM asserts that some workers in each OEWS occupation do not have bachelor's degrees or above, which are required for H-1B applicants, and that these workers are found in the lower portion of the OEWS wage distribution. As a result, the NPRM declares that it must discount that lower portion.²³ This argument suffers from several flaws.

First, while it is true that some OEWS occupations do not require a bachelor's degree or above, it is not true for all: some of them do, such as Architectural and Engineering Managers (Standard Occupational Classification/SOC 11-9041.00), Biochemists and Biophysicists (SOC 19-1021.00), Bioinformatics Scientists (SOC 19-1029.01), Computer and Information Research Scientists (SOC 15-1221.00) and Microsystems Engineers (SOC 17-2199.06)—just to name a few. A search of the Department's O*NET database finds 154 occupations in Job Zone 5, which requires a graduate degree.²⁴ It is wrong to discount the lower portion of the OEWS wage distribution for these occupations.

Second, a number of factors other than the lack of attainment of a bachelor's degree also lower the wage level of a worker, including experience, location, company size, and industry, among other factors. The NPRM makes no attempt to inventory these factors and measure their effect.²⁵ Without this measure, it is wrong to discount the lower portion of the OEWS wage distribution for any occupation.

Third, the NPRM does not provide and explain the method or percentage it uses for such discounting. It only states that it discounts the lower portion of the wage distribution.

The NAM encourages the ETA not to discount the lower portion of the OEWS wage distribution, or at the very least to better justify such a decision and base the policy on relevant information about the labor market in question.

2.4. "Other Forms of Pay" Should Be Counted

The proposed rule uses calculations based on base wages, i.e., "straight-time, gross pay, including piece rates, but exclud[ing] other forms of pay such as overtime, shift differentials, and non-production or any year-end bonuses."²⁶

The proposed rule should not exclude these "other forms of pay," because their addition to base wages more accurately represents an employee's actual compensation. Their exclusion also creates distortions for the firms that offer them. That is because the prevailing wage does not align the compensation of immigrant workers with that of comparable U.S. workers employed by the same firm (and thus eligible for these other forms of pay to the same extent as their intra-firm colleagues), but with the compensation of comparable U.S. workers employed by other companies (and thus not eligible for these other forms of pay) in the same U.S. state. As a result, a firm that, for example, offers a comparatively lower base wage but complements it with a generous variable incentive package (in particular if that comes in the form of rapidly

²³ See II.B.2., p. 15466: "Given that not every worker in a given OEWS occupation is likely to meet that standard, and that workers at the lower end of the wage distribution are also likely to be the workers with the lowest levels of education and experience, the Department has determined it is appropriate to discount the lower portion of the OEWS distribution in setting the wage levels."

²⁴ <https://www.onetonline.org/find/zone?z=5>

²⁵ Agency action that fails to consider "[an] important aspect[] of the problem before [it]" is arbitrary and capricious. *Dept. of Homeland Security v. Regents of the University of California*, 140 S. Ct. 1891, 191 (2020) (quoting *Motor Vehicle Mfrs. Ass'n v. State Farm Mutual Auto Ins. Co.*, 463 U.S. 29, 43 (1983)).

²⁶ See I.D.1., p.15458

appreciating equity) is materially disadvantaged by the proposed rule's sizeable raises of OEWS wage levels.

3. The Proposed Rule Would Limit Manufacturing Growth and Investment

3.1. The Proposed Rule Inhibits Manufacturers' Employment of High-Skilled Immigrants

As explained in section 1 of this submission, manufacturers and American manufacturing workers benefit from plentiful and flexible high-skilled immigration visa programs. Because the proposed rule raises the floor above which each career level must be remunerated, manufacturers are concerned that the proposed rule would jeopardize their ability to employ high-skilled immigrants at all wage levels.

This problem is most acute at what was Level I before the proposed rule. Level I workers are entry-level professionals with little to no seniority and no supervisory duties; they are typically recent university graduates. However, they may possess extremely valuable knowledge and may be a great asset to their employer, especially when such recent graduates were already involved with their employer as part of a school-based internship program: e.g., an individual who has just received their doctoral degree in data science from a world-class university is of immense value for their ability to contribute to the development of artificial intelligence systems, but would most likely be considered an entry-level professional classified at wage Level I. Therefore, as manufacturers are striving to realize the President's vision of long-term growth and onshoring, they need plentiful access to talented junior STEM professionals to execute on this vision under the leadership of their more senior colleagues, managers, and executives.

Unfortunately, the Penn Wharton Budget Model has assessed that almost three quarters (73.1%) of the Level I registrations for the FY2024 H-1B lottery were below the proposed rule's new Level I threshold and would thus not be entered in the new selection process. In essence, this means that the proposed rule largely does away with the currently existing Level I.²⁷

3.2. The Proposed Rule Greatly Underestimates the Burden It Would Impose

3.2.1. Vastly Greater Compliance Costs

The NPRM greatly underestimates the compliance costs it imposes on firms.²⁸ It wrongly assumes that the only compliance task is one of familiarization with the new rule, which can be done in one hour by a human resources ("HR") specialist (total cost: \$60.94 per firm). In fact, complying with a regulation that changes strategically important parts of the compensation structure of a company's workforce takes considerably more than one hour of one HR employee.

First, many firms would seek and pay for the guidance of consultants and in-house and outside counsel. Second, HR colleagues, managers, and executives would have to be briefed. Third, so would managers and executives leading the company's divisions that employ the high-skilled workers in question (such as research, product development, engineering, manufacturing operations, IT, finance, etc.). Fourth and importantly, all of these people would have to work together over weeks to plan for and implement changes in their hiring plans and compensation structures—which includes renegotiating compensation with affected employees (see below, subsection 3.2.2). Finally, companies could also internationally relocate some of the positions

²⁷ *The Impact of Higher Prevailing Wages on the H-1B Visa Lottery*, April 2026, available at <https://budgetmodel.wharton.upenn.edu/p/2026-04-08-the-impact-of-higher-prevailing-wages-on-the-h-1b-visa-lottery-update-1/>

²⁸ See III.B.2. Rule Familiarization, p.15482.

that would have been filled by immigrants in the U.S.,²⁹ which also requires careful and concerted planning and potentially significant related spending.

Therefore, the real cost of the man-hours and related expenditures will be several orders of magnitude greater than the NPRM estimates. And, as is the case for any regulatory change, its compliance costs include opportunity costs: the employee time and the resources spent on compliance would be otherwise spent on the pursuit of productive opportunities.

The ETA's failure to consider these significant burdens in the NPRM is arbitrary and capricious.³⁰

3.2.2. *Vastly Higher Compensation Costs*

First, we note that the Penn Wharton Budget Model has estimated that the proposed rule would raise the average annual compensation of selected H-1B registrants by \$20,611. This is more than 41% higher than the NPRM's estimate of \$14,589 for all visa categories affected by the proposed rule, even though it is unlikely that the inclusion of the other affected visa categories would bring down the estimate per person from \$20,611 to \$14,589.

Second, the NPRM should offer a complete assessment of the impact of the proposed rule on compensation structures. While manufacturers dispute the NPRM's contention that foreign workers are hired at lower wages that depress those of their U.S. peers, companies are legally required to align the compensation of their immigrant and U.S. workers performing the same work. As such, the proposed rule should have considered wage costs for both immigrant and U.S. workers, as well as knock-on effects throughout companies' compensation structures. Specifically, the NPRM should have offered an estimate of the size of the entire affected population—which would be several times larger than the number of affected visa holders. Because the NPRM does not take these costs into account, its estimate of transfer payments—already at a sizeable \$46.09 billion to \$58.46 billion over 10 years—should be several times greater for this reason alone.

Third, because the proposed rule does not factor in other forms of pay (see above, subsection 2.4), it is possible, but concerning, that some companies that offer them would likely abandon or at the very least diminish them, using the budget space this creates to face the significant wage pressure under which the proposed rule will place them.

Finally, the NPRM not only greatly underestimates the compliance and compensation costs the proposed rule would impose, but says nothing about how it would disrupt workforce planning and operations, budgetary considerations, and hiring strategies. Employers would lose flexibility and may be forced to curb their hiring and employee retention plans—with knock-on effects on the success of their business plans.

The proposed rule should not proceed to a final rule at least until the ETA has produced realistic estimates of compliance and compensation costs.

²⁹ See conclusion below.

³⁰ See, e.g., *New York v. Scalia*, 490 F. Supp. 3d 748, 795 (S.D.N.Y. 2020) (striking down "legally infirm" DOL joint-employer rule under the Administrative Procedure Act based, in part, on failure to "consider important costs" and "explain why the benefits of the new rule outweigh those costs.").

3.3. The Proposed Rule Should Be Phased-In Slowly

When the ETA enacted a similar revision of the prevailing wage levels during the first Trump Administration,³¹ it provided multi-year phase-in periods for the various categories of visas to which that rule applied. By contrast, this proposed rule, once final and published in the Federal Register, would become effective immediately. The agency provides no rationale for this immediate implementation.³²

The proposed rule would apply not only to new LCAs and prevailing wage requests filed after the rule's effective date, but even to prevailing wage requests already filed with but not yet decided upon by the ETA's Office of Foreign Labor Certification. More broadly and as explained above, the proposed rule would have a significant impact not only on the compensation of affected visa holders, but on that of their peers and colleagues, as well as on the hiring and employee retention programs, business operations, and plans of affected businesses. It would be unreasonable not to give employers sufficient time to plan for such disruptive effects.

Therefore, while manufacturers recommend that the ETA reconsider the proposed rule, we urge that robust multi-year implementation phase-in periods be provided if the proposed rule were to proceed to a final rule.

* * * * *

Manufacturers depend on high-skilled immigration to deliver on the President's vision for long-term, innovation-driven manufacturing growth and onshoring. This is particularly true for their ability to push the boundaries of science and then implement in their products and operations the resulting advances in strategically important technologies that are critical to the U.S.' global economic competitiveness, such as artificial intelligence, semiconductors, and quantum computing, to name a few.

Over the last few decades, the United States' immigration system (and its high-skilled immigration component in particular) has become increasingly misaligned with the economy's workforce needs. Manufacturers believe that recent regulatory initiatives³³ have aggravated that misalignment. In this context, this proposed rule would cause substantial harm to the industry's efforts to deliver on the President's vision. As such, manufacturers recommend that the ETA reconsider the proposed rule.

In the absence of the proposed rule, manufacturers would be more likely to keep high-skilled positions onshore. Preserving those roles domestically helps anchor entire high-skilled teams in the U.S. Academic research supports this outcome: policies that ease high-skilled immigration lead U.S. multinational firms to maintain and grow employment at home rather than expanding it overseas.³⁴ Keeping these high-skilled jobs on American soil strengthens the manufacturing

³¹ Federal Register / Vol. 86, No. 9 / Thursday, January 14, 2021, available at <https://www.govinfo.gov/content/pkg/FR-2021-01-14/pdf/2021-00218.pdf>

³² "One basic procedural requirement of administrative rulemaking is that an agency must give adequate reasons for its decisions." *Encino Motorcars v. Navarro*, No. 15-415, slip op. at 9, (U.S. June 20, 2016).

³³ See for example the concerns expressed by manufacturers in response to:

- The proposed rule setting a fixed period of admission for F-1 visa holders: <https://documents.nam.org/tech/Establishing%20a%20Fixed%20Period%20of%20Admission%20and%20EOS%20Procedures%20for%20F%20J%20I%20Visas%20NPRM%20-%20NAM%20comments%20FINAL.pdf>
- The Proclamation imposing a \$100,000 fee on most H-1B visas and the proposed rule establishing a weighted selection process for H-1B registrations: <https://documents.nam.org/tech/H-1B%20Weighted%20Selection%20NPRM%20-%20NAM%20submission%20FINAL.pdf>

³⁴ *How Do Restrictions on High-Skilled Immigration Affect Offshoring? Evidence from the H-1B Program*, Journal of Management Science, March 2023, available at <https://pubsonline.informs.org/doi/10.1287/mnsc.2023.4715>

sector's global competitiveness, drives broad-based economic growth, and ensures America's manufacturing dominance for years to come.

Manufacturers look forward to working with the Department and the Administration to explore solutions to our industry's high-skilled immigration challenges, such as: reserving a portion of the H-1B cap; enhancing the H-1B selection odds; adapting the calculation of the prevailing wage levels for H-1B and PERM applications; and facilitating the use of F-1 OPT and STEM OPT for certain types of firms or certain occupational specialties. These could target manufacturers recruiting high-skilled immigrants for engineering and similar roles that support core manufacturing functions (such as the design and development of products and technologies, and the reshoring, design, development, and operation of manufacturing production capacity) or the development or deployment of strategically important technologies.

Sincerely,

A handwritten signature in black ink, appearing to read 'Franck Journoud', with a horizontal line extending from the end of the signature.

Franck Journoud
Senior Director, Technology Policy

A handwritten signature in black ink, appearing to read 'Jake Kuhns', with a horizontal line extending from the end of the signature.

Jake Kuhns
Vice President, Domestic Policy