

NAM POLICY POSITIONS

Submitted for Approval – NAM Board of Directors

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Preamble to NAM Policy Positions

Modern manufacturing is the backbone of the American economy, and the mission of the National Association of Manufacturers is to advance policies that will strengthen our industry while improving the lives and livelihoods of the men and women who make things in America. Americans of all backgrounds believe in manufacturing. They know that when manufacturing is strong, America is strong.

The policy agenda of the NAM advances ideas from across the political spectrum, rooted in the values that make America an exceptional nation: free enterprise, competitiveness, individual liberty and equal opportunity. We believe in an America that embraces the entrepreneurial spirit, that leads the way in innovation, that ensures everyone is free to pursue their dreams and that gives them the same chance to succeed.

International Economic Affairs Policy

IEAP-01 International Trade Policy

IEAP-1.01. International Trade

The objective of the NAM's international trade policy is to strengthen manufacturing in America by ensuring a more open, predictable, transparent and level playing field for manufacturers to participate fully and compete successfully in the global economy that has created substantial levels of demand for advanced and high-quality consumer and durable manufactured goods.

Manufacturers of all sizes compete in a global economy, selling not only to U.S. customers but also to the billions of consumers outside the United States to support U.S. jobs and production. The expansion of manufacturers' global reach through a more open and fairer global trading environment has been pivotal to improving U.S. competitiveness and expanding U.S. manufacturing production to record levels, enabling businesses of all sizes to raise wages and create more high-skilled U.S. jobs over the last quarter century. It has also helped propel manufacturing innovation across America, which is saving lives, improving the quality of life and protecting the environment across the country.

In the face of growing overseas competition, government distortions and trade barriers and technological changes that lead to public questions about the value of trade, the NAM supports ongoing efforts to review and revitalize domestic and international trade structures and institutions to continue to promote American competitiveness in the global economy.

The NAM believes that these objectives can best be achieved by pursuing, utilizing and enforcing a robust and revitalized rules-based international trading system that enhances the role of free market forces, promotes respect for the rule of law, raises standards and lowers costs, barriers and market-distorting governmental intervention.

IEAP-1.02. International Trade Negotiations

International trade is often seriously distorted by governmental intervention, inadequate rules, particularly related to private property and commercial operations, and a lack of transparency. The NAM advocates for the negotiation of trade agreements to produce a more open, predictable, transparent and level playing field for manufacturers, including with major U.S. trading partners. The NAM seeks comprehensive trade agreements and, where appropriate, targeted agreements that promote certainty in the global marketplace, open markets for U.S. manufactured goods exports and imports, eliminate unfair barriers and set fairer, stronger and fully enforceable rules on key issues of importance to manufacturers. As the United States negotiates and implements these agreements, the effectiveness of U.S. trade laws must not be diminished. The NAM supports close consultations between the executive branch and Congress and with the private sector prior to, during and following the conclusion of negotiations.

The NAM prefers that trade negotiations be conducted multilaterally in the World Trade Organization whenever possible to provide one set of rules that are generally applicable to all trade flows and to prevent distortions that may arise from more limited forms of liberalization. Global rules are particularly important to small- and medium-sized manufacturers that benefit when they can operate under one set of rules. Given the difficulty, however, in achieving a global WTO consensus on the high-standard and market-opening outcomes that manufacturers seek, the NAM also believes that bilateral, regional and sector-specific trade agreements have an important role in opening markets for and improving the competitiveness of manufacturers in the United States. To achieve these goals most effectively, the NAM prefers high-standard and comprehensive outcomes that address tariff and non-tariff barriers, raise standards and ensure full enforceability through neutral dispute settlement systems.

It is generally impractical for the NAM to attempt to speak for its many diverse members regarding individual sector priorities in international trade negotiations unless such specific matters are broadly supported by NAM membership and represent strong principles that are applicable to manufacturing

generally.

IEAP-1.02.a. Multilateral Negotiations

With more than \$35 billion in globally produced manufactured goods crossing borders every day, manufacturers in the United States depend on a robust and modern rules-based global trading system more than any other sector of the U.S. economy. Manufacturers in the United States have long supported the WTO and its predecessor organization, the General Agreement on Tariffs and Trade, as engines for fostering global trade liberalization and improving global rules in ways that have promoted the expansion of global trade and generally improved the competitiveness of manufacturers in the United States. A fully working, revitalized and modernized WTO system that is respected by its members is vital to the continued growth of trade and the improvement of the global competitiveness of manufacturers in the United States.

The NAM supports efforts to revitalize and modernize the WTO to ensure that it effectively promotes substantial new trade liberalization globally, including with major economies; updates rules to meet the challenges of new technologies and unchecked market-distorting governmental intervention; ensures that its members fully implement existing commitments; secures the proper implementation of its dispute settlement system and reviews and improves its structure and systems to address issues that inhibit its mission to promote open and fair trade among nations.

The NAM strongly supports efforts to negotiate and implement substantial trade liberalization negotiations that would open markets, eliminate existing trade barriers and market-distorting government practices and improve rules to promote competitiveness. In particular, the NAM supports efforts to ensure that major countries that have failed to liberalize over previous rounds of negotiations commit to substantial trade liberalization and avoid seeking protections through special and differential treatment exceptions. At the same time, the NAM supports multifaceted WTO negotiating approaches, including:

- Stand-alone sectoral negotiations, such as negotiations to tackle digital trade and e-commerce barriers, including those that prohibit the free flow of data, and the conclusion and implementation of an Environmental Goods Agreement that would eliminate tariffs on environmental goods and technologies;
- Negotiations to update and expand trade disciplines to address cross-cutting issues, such as industrial subsidies and agricultural export subsidies, intellectual property and technology transfer, investment and state-owned enterprise activity;
- Plurilateral negotiations, including to expand membership in the Government Procurement Agreement and the adoption of agreed rules governing trade in services that affect manufacturing;
- Accession negotiations requiring strong market openings for prospective WTO members; and
- Efforts to rein in subsidized export credit financing that is taking off in some key markets, which undermines core WTO principles.

IEAP-1.02.b. Bilateral and Regional Negotiations

The NAM supports the negotiation of mutually beneficial and comprehensive bilateral and regional trade agreements that will reduce tariff and non-tariff barriers to U.S. exports, expand bilateral commercial relations and require adherence, subject to strong enforcement mechanisms, to WTO-plus trade disciplines and trade rules. Such negotiations should establish a strong set of rules that liberalize trade and investment, reflect the realities of modern supply chains, address unchecked trade-distorting practices, including by state-owned and state-influenced enterprises, protect U.S. property, including intellectual property, and result in the United States obtaining concessions that are at least equivalent to the concessions granted by the United States. With the growth of new technologies, trade agreements must also include commitments to liberalize cross-border data flows of information and access to digital products and services and prohibit related localization requirements, including but not limited to requirements to use local data information infrastructure and storage. Impartial reviews of the effectiveness of these agreements should be conducted periodically. In negotiating such agreements, the United States should commit to eliminate its merchandise processing fee for goods trade by parties to such agreements. U.S. trade agreements should prohibit import licensing conditioned on performance requirements or contractual relationships between exporters and domestic distributors and also require that parties to the agreements to notify each other of their import licensing procedures, including any conditions and eligibility requirements, and update regularly these notifications.

Bilateral and regional trade agreements should contain binding enforcement systems, including neutral state-to-state and, where appropriate, investor-to-state dispute settlement.

The negotiation of new bilateral or regional agreements that include countries subject to earlier agreements must preserve the strongest provisions on market access, trade enforcement and standards on intellectual property, investment and other horizontal rules included in either the new agreement or the existing trade agreement. Negotiation or renegotiation of these agreements should not diminish market access or erode concessions in existing trade agreements. The Office of the United States Trade Representative should provide accessible, clear and detailed information on the differences between such agreements and provide manufacturers in the United States, including SMMs, the information and tools they need to ensure that they can benefit as strongly as possible from both existing and new agreements. Additionally, it is critical that manufacturers in the United States have sufficient lead time to transition to new or renegotiated agreements from existing requirements.

IEAP-1.02.c. Small and Medium-Sized Manufacturer Needs

Given the importance of SMMs to the strength of the U.S. manufacturing sector, the NAM strongly supports outcomes in trade negotiations that meet the needs of SMMs. Of particular importance to SMMs, as well as other manufacturers, is the ability of trade agreements to lower the transaction and opportunity costs of foreign trade. By reducing tariff and non-tariff barriers, particularly unnecessary fixed-cost trade barriers, such as regulatory, licensing and physical presence requirements, trade agreements make more transactions and smaller sales profitable, helping to support and grow SMM opportunities. The NAM supports, therefore, strong provisions in trade agreements to reduce and eliminate trade barriers and remove other unnecessary barriers for SMMs doing business globally.

The NAM also supports provisions in trade agreements to promote customs harmonization, financial services liberalization, the enabling of digital trade and the harmonization of international standards to improve the environment in which SMMs can actively participate in international trade. The NAM also supports mechanisms to streamline trading processes for SMMs, including through establishing portals for improved transparency that are easily accessible to SMMs and simplifying documentation requirements, including through maintaining in the United States and promoting in foreign markets a meaningful *de minimis* threshold at which low-value shipments can cross borders free from tariffs and other burdens to reduce paperwork for small business exporters.

IEAP-1.02.d. Compliance with WTO Rules and WTO Dispute Settlement

The NAM believes that all WTO members should comply with the letter and spirit of their WTO commitments and supports continued work by the WTO, the United States and other governments to improve and seek full implementation of each country's WTO commitments.

Where governments fail to comply, the WTO dispute settlement mechanism provides a vital enforcement process that includes neutral and binding review of WTO members' compliance with their commitments. Where countries are found to have violated their WTO commitment through the Dispute Settlement Mechanism, countries are expected to come into compliance, pay a penalty or be subject to WTO-authorized trade sanctions. The NAM believes that all WTO member economies, including the United States, should comply with WTO agreements, including the Dispute Settlement Understanding, and that when a country has been found to be out of compliance, it should promptly bring its system into compliance. While manufacturers recognize the role of trade sanctions and other penalties to promote compliance with agreed upon rules, the NAM prefers that countries either come into compliance promptly or negotiate mutually agreed upon settlements to address issues without the use of trade sanctions wherever possible.

The NAM favors aggressive U.S. government use of WTO dispute settlement procedures to obtain foreign compliance with multilateral obligations and to eliminate unfair practices. The NAM also supports efforts to strengthen, reform and modernize the existing WTO dispute settlement and Appellate Body procedures to ensure that the entire system is ensuring prompt, full and appropriate compliance with the WTO rules agreed to by its members. The NAM also supports adequate funding of the WTO dispute settlement system and more expeditious processing of dispute settlement cases.

IEAP-1.02.e. Compliance with Bilateral/Regional Agreements and Dispute Settlement

The NAM supports the inclusion of binding dispute settlement procedures in bilateral and regional trade agreements and effective compliance with all provisions of such agreements negotiated by the United States. Signing trade agreements is only the first step in obtaining more open markets. Implementation of agreements with follow-up, monitoring, enforcement and periodic review is essential to obtain full benefits. The NAM believes that the United States should ensure that other countries comply with their obligations in bilateral and regional trade agreements in the manner and on the timetable set forth in those agreements, including that countries are in compliance with all required provisions before the agreement enters into force and that countries meet phased-in obligations. The NAM supports ongoing and regular reviews of individual countries' compliance with the agreements to address emerging issues.

As with the WTO dispute settlement process, the NAM favors aggressive U.S. government use of free trade agreement dispute settlement procedures, in consultation with industry, to obtain improved foreign compliance with bilateral and regional obligations and to eliminate unfair trade practices. Where negotiated, the NAM supports the full implementation of ISDS systems to guarantee that investors have the ability to ensure full compliance and prevent arbitrary, unfair and expropriatory treatment of manufacturers by foreign governments. The NAM supports improvements in dispute settlement systems to ensure that all reviews and decisions are conducted in a timely manner, recognizing that prompt dispute settlement procedures are needed, in particular, with respect to perishable goods.

IEAP-1.03. U.S. Trade Legislation and Trade Rules

The NAM supports U.S. trade legislation and regulations that promote a more open, predictable, transparent and level playing field for manufacturers to participate fully and compete successfully in the global economy.

U.S. trade statutes should be reviewed on a periodic basis to ensure that they keep pace with industry and technological developments as well as new and evolving opportunities and challenges in the global economy. U.S. trade statutes should be administered in a transparent and fact-based manner, relying on objective data and analyses, input from stakeholders, including the private sector, and in accordance with U.S. law and international obligations.

Given the combined constitutional authority of Congress and the executive branch with regard to trade policy, U.S. trade statutes should reflect the appropriate role of both branches. The NAM encourages full and transparent consultation between the two branches as well as with the private sector, when considering all major trade legislation, policies and executive actions. As well, the NAM prefers trade legislation that seeks to improve the competitiveness of the entire manufacturing sector and avoids the imposition of unilateral U.S. penalties that undermine U.S. competitiveness, manufacturing and the U.S. economy.

The NAM supports trade legislation that promotes manufacturing competitiveness, including legislation eliminating U.S. tariffs on manufacturing inputs not produced in the United States (including the Miscellaneous Tariff Bill), preferences legislation and other forms of legislation as detailed throughout this policy.

IEAP-1.03.a. Trade Negotiating Authority

With the administration having the constitutional authority to negotiate internationally and Congress having the constitutional authority to regulate trade, the NAM believes durable trade negotiating authority that provides an effective framework for the administration and Congress to work jointly to promote the negotiation and implementation of trade agreements is a fundamental requirement of an effective U.S. trade negotiating structure. Such authority has been provided in the past through Fast Track and Trade Promotion Authority legislation. The NAM believes that TPA should continue to be renewed, and that the negotiating objectives and procedures embodied in the Bipartisan Congressional Trade Priorities Act of 2015 should generally serve as the foundation for that renewal, recognizing that updates to such objectives will be necessary as technologies and other innovations impact the U.S. manufacturing sector and global trading relationships. The NAM believes that it is critical that TPA continues to require the executive branch to consult closely with Congress and the

private sector throughout the negotiation of trade agreements to ensure that they are pursuing fully the TPA objectives set forth and are not seeking outcomes that are contrary to or that undermine those objectives. These principles should be reflected in future trade-negotiating authority legislation.

IEAP-1.03.b. Enforcement of WTO-Consistent U.S. Trade Remedy Laws

The NAM supports the effective enforcement of U.S. trade remedy laws (antidumping, countervailing duty and safeguard laws) in a manner consistent with U.S. international obligations to counteract trade-distorting foreign practices on the part of both market and non-market economies, including circumvention of countervailing duty and antidumping orders. The NAM encourages the administration and Congress to work together to ensure the effectiveness and enforcement of U.S. trade laws and the overall competitiveness of the U.S. manufacturing economy.

The NAM supports full access to U.S. trade remedy laws for SMMs, including recourse to governmental self-initiation of trade cases. The NAM is committed to ensuring its members are fully informed of the options available under U.S. trade laws.

The NAM urges the U.S. government to fund adequately the agencies responsible for enforcing U.S. trade laws and to support full, fair and transparent enforcement of U.S. trade remedy laws, including to address circumvention and evasion.

IEAP-1.04. Trade-Distorting Barriers and Practices

The NAM supports U.S. government activities and negotiations to ensure that market-distorting trade practices are addressed effectively under internationally agreed-upon rules and bilateral agreements. The NAM believes that artificial competitive advantages arising from governmental distortions should be vigorously opposed using international agreements and negotiations, dispute settlement, the application of trade laws and negotiated remedies. The NAM also encourages greater transparency of trade remedies internationally to help achieve equity in competitive conditions and strengthen international trade disciplines.

IEAP-1.04.a. Trade-Distorting Subsidies

The NAM supports elimination of trade-distorting subsidies in both market and non-market economies and the development of stronger WTO rules, Free Trade Agreement obligations and other disciplines against subsidies or restrictions that have the effect of subsidizing local production at the expense of imports, including non-security-related export restrictions, such as export taxes. The NAM also supports the inclusion of provisions in U.S. trade agreements that eliminate agricultural export subsidies on goods sold.

IEAP-1.04.b Forced Localization Barriers

Forced localization barriers, including measures designed to protect, favor or stimulate domestic industries, services providers and/or intellectual property through requirements that distort commercial purchases and consumer choice are proliferating, particularly in key emerging markets. The NAM opposes such barriers, including those that violate fundamental national treatment provisions of the GATT and various WTO agreements. Forced localization poses a serious and growing threat to manufacturing and jobs in the United States, increasing costs and security risks, blocking trade in manufactured goods, including in many innovation-intensive sectors, and undermining hard-won technology and productivity gains that have improved the competitive advantage of manufacturers in the United States. The NAM works with the United States government, other business organizations domestically and internationally and foreign governments to eliminate trade- and investment-distorting forced localization measures imposed on commercial entities.

IEAP-1.05. Intellectual Property Rights Protection

Manufacturing innovation and intellectual property are a critical foundation for a globally competitive manufacturing base here at home and U.S. global leadership in manufacturing abroad. Patents, trademarks, trade secrets, industrial designs, trade dress, copyrights, genetic resources and other forms of IP are increasingly important to manufacturers large and small, enabling them to research and develop new industries, invest in advanced manufacturing and create new products for their customers around the world. Yet, inadequate global IP rules and growing theft of all forms of intellectual property present a growing challenge for innovative manufacturers, undermining hard-won American manufacturing innovation and the jobs and exports that it fuels, and can also hinder consumer health, safety, national security and rule of law.

The NAM strongly supports continued U.S. government efforts to protect vigorously IP rights abroad. These efforts must include stronger global protection and enforcement of IP rights by advocating for, and robustly defending, strong IP rules and harmonization of the global patent and trademark system as a priority in bilateral and multilateral trade agreements and in the ongoing work of multilateral institutions, such as the WTO and World Intellectual Property Organization. Such approaches not only set strong, widely enforced standards for IP protection, but also provide for vitally important dispute settlement mechanisms that, when actively and appropriately used, help ensure that manufacturers and their workers in the United States reap the benefits of these agreements through fair market access and opportunities for exports.

The NAM also believes that the United States and other developed nations must protect the intellectual property rights of manufacturers in global or plurilateral agreements. The United States should not enter into any commitments that would require non-voluntary transfers of technology, as compulsory transfers of technology would seriously threaten both the future competitive position of the United States and the development of new technologies, while also putting at risk manufacturing jobs in the United States.

The NAM also supports aggressive U.S. government efforts to boost effective intellectual property enforcement, including stronger U.S. government interagency coordination and cooperation to maximize the effective use of U.S. resources and trade tools aimed at preventing IP erosion and enforcing IP protections globally. The NAM also encourages U.S. government outreach and cooperation with other trading partners, including education, training and capacity-building programs with national IP authorities and joint efforts to enforce IP rights.

Counterfeit and pirated products pose an increasing threat to manufacturers in the United States, with billions of dollars in counterfeit cargo seized annually by U.S. officials. Though the problem is not new, it is significant and growing quickly due to the significant growth of fake products sold online. Manufacturers, particularly SMMs, face significant challenges defending their products, brands and competitiveness against counterfeiters. The NAM supports efforts by all stakeholders to increase protections for manufacturers, increasing cooperation and information sharing between government and the private sector; stronger mechanisms among online marketplaces to share information and cooperate on enforcement and consumer communication with manufacturers; effective enforcement mechanisms against bad actors; and increased resources and efforts to raise consumer awareness.

Trade secrets are increasingly important for U.S. manufacturers, but they receive inadequate protection in many markets. The NAM supports actions to strengthen trade secret protection and to ensure effective civil and criminal enforcement at home and abroad, including full implementation of WTO provisions and inclusion of “gold standard” commitments that expand protections in ongoing and future trade agreement negotiations. Such actions prevent the forced disclosure of proprietary information as a condition of market access, ensure fair and consistent treatment and provide effective enforcement. Further, the NAM supports the negotiation of a provision in pending and future negotiations to authorize trade secret owners to pursue a cause of action within our trading partners’ federal judicial systems.

Manufacturers are also seeing new policy, regulatory and operational trends that undermine innovation, including efforts to accelerate technology transfer through forced patent licensing, disclosure of trade secrets as a precondition for market access, growing barriers to obtaining and defending manufacturing patents, unreasonable scopes of protection for non-trademark-based geographical indications and efforts to erode intellectual property at the national and international level in the name of other public policy goals. The NAM supports strong U.S. efforts to identify and address these challenges.

IEAP-1.06. Technical Standards, International Regulatory Policies and Conformity Assessments

Reducing unique regulatory and technical standards and harmonizing conformity assessment procedures can directly improve market access and decrease the cost of exporting for manufacturers. The NAM works to prevent and reverse the proliferation of unique regulatory and technical standards and related requirements as trade barriers by promoting countries’ adherence to the standards and principles in the WTO Technical Barriers to Trade Agreement for the development of international standards and conformity assessment

procedures, including national treatment for conformity assessment bodies. The NAM is also seeking strong technical barriers to trade and sanitary and phytosanitary provisions and improved regulatory frameworks in ongoing bilateral and regional trade negotiations and to build support for good regulatory practices and standards development. The NAM supports government, industry and sector-led efforts to drive regulatory cooperation, promoting transparency, sound science and risk-based practices in draft regulation to ensure fair and efficient market access for innovative U.S. goods, services and exports.

IEAP-1.06.a. Market Access Solutions

The NAM promotes harmonization of standards and regulatory requirements wherever practical and aligned with market needs and also seeks, wherever possible, the adoption of international standards that meet WTO/TBT standards. Where this is not possible, the NAM seeks other pragmatic solutions, such as ensuring national treatment for conformity assessment bodies and international schemes that provide for acceptance of test results as a means to achieving compliance in the destination markets.

The NAM also seeks to prevent and reverse the proliferation of unique regulatory and technical standards as trade barriers, including through full enforcement of the WTO/TBT Agreement, the WTO/SPS Agreement, bilateral and regional trade agreements and other types of bilateral recognition agreements. The NAM also strongly supports the inclusion of provisions in bilateral and regional trade negotiations that promote the adoption of international standards that meet WTO/TBT standards, market-determined conformity assessment and certification requirements and full national treatment for U.S. manufacturers, standards developers and testing and certification bodies. Standards, technical regulations and conformity assessment procedures should be applied evenly to both imported and domestic goods. These processes should be transparent and allow reasonable opportunities for public access to all stakeholders.

The NAM supports the inclusion of SPS provisions in U.S. trade agreements that promote science-based regulatory practices and transparent, timely and risk-based inspection procedures. Furthermore, SPS provisions in U.S. trade agreements should be subject to full dispute settlement procedures.

IEAP-1.06.b. Voluntary Standards

Voluntary standards, developed by industry through trade associations, technical societies and accredited standards development organizations, have made a major contribution to orderly industrial development without impairing the flexibility of enterprise. We believe that American industry should continue to build comprehensive, integrated standards consistent with its advancing needs. The NAM also endorses promoting science-based regulatory processes and facilitating trade by eliminating unnecessary technical barriers to trade, greater regulatory cooperation and good regulatory practices and public-private collaboration in standards development.

The U.S. voluntary consensus standards system is market-driven, private-sector-led and government-supported. The NAM supports cooperation between standards development organizations and U.S. government agencies to help the United States to assure its trading partners that non-tariff barriers are not created by such voluntary standards.

IEAP-1.07. Digital Trade

Manufacturers in the United States are increasingly innovating and making technological advances that depend on digital data and information flows, global communication networks and cross-border flows of data and information. These technological advances, including information and communications technology, help manufacturers grow and manage their businesses at home and abroad, from creating new sales opportunities through internet storefronts and tracking sales and sourcing to lowering costs, improving efficiencies and expanding exports.

Manufacturers face expanding challenges to the use of digital trade and e-commerce in foreign countries that are imposing measures to restrict the movement of data and information across national borders, cybersecurity rules that discriminate against foreign manufacturers, rules that do not manage effectively or efficiently the availability of spectrum and foreign government localization barriers that seek to require the use of local information technology infrastructure. These restrictions undermine the global competitiveness of manufacturers in the United States and their ability to sustain and grow manufacturing through reaching new

customers outside our borders.

Data transfer and localization issues are particularly important to small manufacturers that utilize information and communications technologies that enable their businesses to acquire information, market their products and communicate and serve foreign customers much faster and in a more cost-effective manner than ever before. As a result of such technologies, small businesses are better able to expand sales overseas, creating new demand that is served by growing manufacturing and jobs domestically.

The NAM supports multilateral, plurilateral, regional and bilateral negotiations and other policies to ensure that manufacturers are able to use digital platforms and to move data and information securely across borders. The NAM seeks rules to promote cross-border data flows to ensure the ability of manufacturers to move and store data without being impeded by discriminatory, burdensome and unnecessary restrictions. The NAM also supports disciplines to prohibit the localization of information technology infrastructure and promoting non-discriminatory access to telecommunications networks. The NAM also supports continued prohibitions on the imposition of customs duties on electronic transmissions or on data being transmitted and treat digital products without discrimination.

IEAP-1.08. Trade and Current Account Imbalances

For the United States, trade deficits are largely correlated with the growth of the U.S. economy, meaning trade deficits expand as the U.S. economy grows and, conversely, trade deficits fall during periods of recession or economic weakness. When the U.S. economy has grown, the trade deficit has typically expanded as U.S. economic activity and consumption grow, while the trade deficit has shrunk when the U.S. economy has showed slower growth. Notably, trade deficits are not correlated with U.S. employment.

The growth of value-added production through global supply and production chains has also led to a large increase in trade in intermediate goods that has challenged the ability of U.S. and global trade data to reflect accurately trade flows and deficit or surplus conditions, particularly on overall trade flows. The NAM supports efforts of the U.S. government, the WTO and other fora to develop more accurate measures of trade flows without imposing undue costs or requirements on manufacturers in the United States.

Given the complicated nature of factors that influence the trade deficit, the NAM does not view trade imbalances as a key determining factor on whether or not a trade relationship is beneficial for the U.S. manufacturing sector. The NAM targets its international trade efforts on ensuring a more open, predictable, transparent and level playing field for manufacturers to participate fully and compete successfully in the global economy.

Where foreign unfair trading practices that injure or threaten U.S. commerce can be identified, those practices themselves should be the proper focus of U.S. government attention, and not the foreign trade surpluses with which they may be associated. The NAM does not support the application of U.S. trade sanctions against imports solely on the basis of a foreign country's bilateral trade surpluses with the United States and is opposed to amending U.S. law so as to force action against trading partners of the United States solely on the basis of their trade balances with this country.

IEAP-1.09. Export Promotion

The NAM supports strong U.S. government export promotion programs aimed at helping manufacturers in the United States, particularly SMMs, find new customers and markets for their exports. Such programs should include strong U.S. government advocacy by relevant agencies across the U.S. government.

IEAP-1.09.a. Export Promotion Programs

The NAM urges adequate funding of export promotion programs that provide sufficient export assistance for all significant markets, with particular attention to dynamic emerging markets. The NAM believes that an effective export promotion program must be affordable, particularly for SMMs. The NAM believes export promotion programs should be flexible, with resources able to shift to facilitate exports to the most rapidly growing markets. The NAM also urges close coordination among the export promotion organizations and export financing organizations. There should be close consultation between the export promotion agencies and the private sector to ensure the maximum effectiveness of the programs. There should also be significant outreach efforts to ensure manufacturers of all sizes are aware of existing government resources available

to get started with, and increase, their ability to export.

IEAP-1.09.b. Joint Export Ventures

The NAM supports the continuation and promotion of joint export trade by entities organized pursuant to the U.S. Webb-Pomerene and Export Trading Companies Acts, which are openly transparent, registered with U.S. government authorities and generate efficiencies and economies of scale to the benefit of U.S. exports, overseas consumers and global competition. The Webb-Pomerene and Export Trading Companies Acts authorize the formation and operation of U.S. export joint ventures, whereby registered associations and corporations are granted limited exemption from U.S. antitrust laws provided they operate solely in export or the course of export, are not in restraint of the export trade of any domestic competitor and do not substantially lessen competition in the United States.

IEAP-1.10. International Business Conduct

The NAM believes that companies must maintain high standards of ethical business conduct abroad as well as at home. The legal requirements in a host country should be strictly observed even if local authorities are unable or unwilling to enforce them. Companies should respect relevant international instruments where national law is absent. To the maximum extent feasible, international agreements should be sought that would promote the rule of law that will place U.S. firms in comparable positions to firms of other countries with respect to the conditions of doing business. Trade agreements negotiated consistently with TPA objectives can also contribute to high standards in the conduct of business overseas.

The NAM is committed to promoting fair and ethical competition in all commercial settings. Bribery and extortion are often difficult to disentangle, but both are harmful and dangerous to private enterprise and should be vigorously prosecuted under applicable national laws. The NAM supports efforts to ensure that bilateral and multinational agreements, such as the OECD's Anti-Bribery Convention, which help advance the objective of full and fair enforcement of effective national laws in all trading nations, are implemented by more countries. The NAM supports actions by corporate management to take international measures necessary to ensure company adherence to the highest standards of international business practice.

IEAP-1.11. Relations with Developing and Emerging Economies

The NAM believes that maximum reliance on free private enterprise and market forces will provide the best economic development results. At a minimum, the private sector requires an adequate system of laws and regulations affording protection of contractual property, including intellectual and industrial property rights and neutral and objective dispute settlement mechanisms in order to contribute to the type of long-term trade and investment benefits most needed in developing countries.

The NAM supports encouraging emerging economies to participate fully in the rules-based global trading system, including by providing effective market access to U.S.-made goods and services, respecting and enforcing core standards of fairness, open competition, protection of private property, including intellectual and invested property, and respect for commercial contracting.

IEAP-1.11.a. Preferences

The NAM supports U.S. preferences programs as a means of aiding economic development in developing economies, reducing U.S. producer and consumer prices and providing an inducement to those countries to respect the norms of international commerce, including due regard for property owned by U.S. citizens, including intellectual property; equitable and reasonable access both to markets and basic commodity resources; adequate observance of labor and environmental provisions; and actions to reduce distorting subsidy and investment practices and policies. Preference programs should not be viewed as an entitlement, and a recipient's eligibility should be reviewed regularly and rigorously.

IEAP-1.11.b. Capacity Building

The NAM supports well-run capacity-building programs to promote development, the respect for the rule of law, science-based regulatory approaches and increased commercial opportunities that are vital prerequisites to robust and improved trade relations. The NAM also encourages developing countries to eliminate trade-distorting practices and to open further their markets to trade and investment that will promote growth and higher living standards. To remove physical trade barriers, the NAM urges the United States and other

governments to promote improved access to resources for infrastructure lending and investment, while also encouraging developing countries to put in place the legal, financial and other rule of law systems that are critical to attract and use effectively such resources.

IEAP-1.12. Access to Basic Manufacturing Inputs

Recognizing that some raw materials, components and other inputs are not available or produced in the United States in sufficient quality and quantities or in required specifications (such as grade, thickness, size or quantity) that finished-goods manufacturers require, manufacturers have sought to open U.S. markets to ensure the cost-effective availability of such imports. The importation of these non-available raw materials and inputs enables manufacturers in the United States to support well-paying U.S. jobs and produce high-value finished manufactured goods for sale across America and to markets overseas. Manufacturers have, therefore, long championed the Miscellaneous Tariff Bill and supported passage of the American Manufacturing Competitiveness Act of 2016, which established a reformed process for the consideration of the Miscellaneous Tariff Bill.

The MTB plays a critical role in the operations of domestic manufacturers by correcting, on a temporary basis, distortions in the U.S. tariff code by eliminating or reducing tariffs on imported products for which there is insufficient or no domestic production and availability. Such distortions undermine the competitiveness of manufacturers in the United States, particularly SMMs, by imposing unnecessary costs and, in some cases, imposing a higher cost on manufacturers' inputs than the competing foreign imported product. The NAM also opposes government policies and practices that unfairly limit the availability and raise the cost of such inputs, thereby reducing the competitiveness of U.S. manufacturers.

IEAP-1.13. Supply Chains, Trade Facilitation and Enforcement

Many manufacturers in the United States are globally engaged, working with partners domestically and overseas to innovate and create the best value products for consumers in the United States and globally. Manufacturers in the United States provide key components and inputs in global production and supply chains, as well as using inputs from outside the United States, in ways that expand U.S. production, exports and sales, and competitiveness, which in turn are critical to support and grow jobs.

IEAP-1.13.a. Trade Facilitation and Enforcement

In order to boost exports around the world and to obtain needed inputs, the United States and its trading partners need 21st-century customs and border processing systems that incorporate automation to eliminate unnecessary paperwork and documentation requirements and to enable validation and verification of data by government agencies in real time.

Chokepoints at the border—created by confusing fees, burdensome documentation requirements, redundant security programs, inadequate infrastructure, disjointed regulations and changes to customs regulations without notice and the opportunity to comment—create uncertainty, delays and unnecessary cost burdens, which have similarly negative impacts on trade and sales as tariffs. SMMs are particularly vulnerable to the costs and delays of inefficient customs procedures and supply chain disruptions.

The NAM supports efforts to facilitate legitimate trade, reduce costs and streamline procedures at U.S. borders, without in any way diminishing trade, customs and other law enforcement. The NAM believes that increased security at our borders and the efficient flow of goods across our borders can and should be mutually supportive objectives. While fully recognizing the need for enhanced security, the NAM believes it is important to seek a better balance of trade facilitation and security objectives at U.S. borders.

The NAM supports efforts by Customs and Border Protection to leverage technology to gather and utilize data, manage risk on an account basis and streamline recordkeeping and payment requirements for manufacturers in the United States. Such reforms can both facilitate trade and improve risk targeting and enforcement. Separating the release of goods from the payment of duties or fees and expediting customs procedures for express shipments will also alleviate border delays.

The NAM also encourages CBP to work with the private sector and with participating government agencies to ensure commercially meaningful benefits for industry participants of partnership programs like the Authorized Economic Operator and Customs-Trade Partnership Against Terrorism programs. The NAM also supports

CBP efforts to promote bilateral recognition of CTPAT/AEO trusted trade programs.

Additionally, the NAM supports maintaining the baseline *de minimis* threshold of at least \$800, under which low-value shipments can be shipped free from tariffs. We also support efforts to encourage foreign countries to set a similarly meaningful *de minimis* threshold that would benefit U.S. exporters, particularly small business exporters.

The NAM also supports the objectives and full implementation of the WTO Trade Facilitation Agreement as approved in December 2013. The TFA contains provisions for expediting the movement, release and clearance of goods, including goods in transit. It also sets out measures for effective cooperation between customs agencies and other appropriate authorities on trade facilitation and customs compliance issues. It further contains provisions for technical assistance and capacity building in this area.

IEAP-1.13.b. Supply Chain Diversity

Many manufacturers rely on supply chains to produce high-quality goods and to compete globally. Manufacturers prefer reliable, diverse, innovative and competitive supply chains. Unfair competition, foreign government measures to favor domestic industries and other factors can undermine manufacturers' ability to ensure the type of diverse and high-quality supply chains that are necessary. The NAM supports U.S. and foreign government policies and actions to enable manufacturers to maintain and develop reliable, diverse and competitive supply chains.

IEAP-1.13.c. Illicit Trade

The NAM also supports effective measures to combat unfair and illicit trade, including through free trade zones. Every year, illicit trade in counterfeit and pirated goods and other products costs governments and legitimate businesses billions of dollars in lost sales and revenue, while contributing to organized criminal enterprises. The NAM supports system-wide action to combat illicit trade, involving cooperation across national government agencies and international organizations. The United States government should seek commitments in trade agreements requiring partner governments to adopt and maintain laws providing for strong cooperation and enforcement procedures and deterrent penalties.

IEAP-1.14. Other Multilateral Organization Activities Impacting Manufacturing and Trade

International organizations, including not just the WTO but also regional and multilateral organizations, such as the United Nations and its specialized agencies, can play an important role in promoting a fairer, more stable and rules-based international system that supports manufacturing competitiveness and jobs in the United States when they operate in line with their core missions and strengths. Manufacturers believe that these institutions and their activities must be transparent, accountable and undertake activities and develop recommendations based on science- and evidence-based processes. Additionally, these activities must be inclusive and based on robust engagement with the private sector. The United States government must engage and lead in these institutions to promote activities in line with these core principles and to address problematic policies that would undermine U.S. manufacturing competitiveness.

IEAP-1.15. Inequity in WTO Tax Provisions

The NAM believes that there is no sound economic rationale for the WTO to allow border adjustability for "VAT" and other indirect taxes used by other governments, but not to allow such border-adjustability for corporate and other direct taxes used in the United States. Fixing this WTO provision has long been a goal of U.S. trade policy. The NAM believes that this WTO provision harms the competitiveness of U.S. goods and supports determined efforts by the U.S. government to end this inequity.

IEAP-02 International Investment, Finance and Export Control Policy

IEAP-2.01. International Investment

The fundamental role of the NAM is to promote manufacturing in the United States. Because investment is so important for business growth and competitiveness, the NAM places a high priority on advancing domestic and international policies that favor investment in U.S. manufacturing and enable U.S. manufacturers to take advantage of growing opportunities in the global marketplace.

The United States has long been the world's largest source of investment into foreign markets and the largest recipient of inward investment from abroad. Over the last several decades, foreign investment flows have increased substantially to reach trillions of dollars in investment flows across borders every year. Official U.S. data demonstrate that inward investment into the United States by foreign firms supports millions of U.S. manufacturing jobs, substantial exports and strong levels of U.S.-based capital investment and research and development. U.S. investment overseas directly supports U.S. manufacturing jobs, boosts U.S. exports, enables sales to foreign consumers and spurs stronger research and development and capital expenditures in the United States. U.S. companies with investments overseas are much larger exporters than companies without foreign operations and contribute importantly to the U.S. economy. The impact of international investment on U.S. manufacturing is substantial and growing, and benefits accrue to both large multinational companies and SMEs.

While global investments have risen substantially over time, increased global competition and investment barriers impede both global and U.S. growth in foreign direct investment. Manufacturers in the United States face new and more complex investment restrictions abroad and legal uncertainty in the protection of their investment overseas, while tax, trade, regulatory and other domestic hurdles can limit the attractiveness of the United States as a destination for foreign investment. While all U.S. investors are adversely affected, the burden of foreign investment restrictions and weak legal protections weigh particularly heavily on smaller companies that have limited resources to manage foreign investment challenges.

IEAP-2.01.a. Principles

Continued high levels of foreign investment, both inward and outward, are vital for the future of U.S.-based manufacturing. To achieve the greatest economic benefit and ensure a level playing field for all investors, the NAM believes investment should be based on the following principles:

- Investment decisions should be made by private sector entities based on market-based and commercial criteria.
- Government involvement in investment decisions should be conducted in the most limited manner possible. Restrictions on investment should be limited to, and firmly grounded in, legitimate and demonstrable national security concerns.
- Government subsidization should be avoided.
- Transparency, clarity, the protection of private property and respect for the rule of law on issues relating to investment, including national treatment, are essential to promote fairness, equity and maximum economic benefit for both investors and recipients of investment.
- All investors, regardless of whether they are domestic or foreign-owned, should be treated fairly under the law, and not subject to onerous regulations that put them at a competitive disadvantage.

IEAP-2.01.b. Outward Foreign Direct Investment

While U.S. manufacturers primarily invest in the United States, they also invest overseas, bringing significant benefits not just to manufacturers but to the United States, its economy and U.S. workers.

For many manufacturers, overseas investment is critical in supporting their efforts to sell to foreign customers. Such investment allows them to set up their own distribution networks to deliver products directly, tailor products to the local consumer, access critical inputs and win sales more efficiently and successfully. In some sectors, such as energy, natural resources and foreign infrastructure development, foreign investment is vital to access and develop those resources or projects that are located overseas. As a result of those investments, other manufacturers in the United States also benefit, as exports of U.S. goods are more often included in foreign infrastructure and natural resource development when those projects include American investment.

The focus of U.S. investment abroad on foreign customers is borne out by the data: year after year, more than 90% of foreign affiliate sales are almost entirely made to customers outside the United States, rather than being sold back to the United States. Those sales overseas help drive U.S. manufacturing exports, production and higher paying U.S. jobs. Without this foreign investment, many of these goods would not be sold by American companies at all, or would use foreign, not U.S., content. As a consequence, foreign investment is a powerful tool for manufacturers in the United States to access growing foreign markets, while growing benefits for manufacturing and workers in the United States.

U.S. investment overseas not only helps spur growth in the United States, but also helps open protected foreign markets. By spurring more open and fair competition with competitors overseas, U.S. investment overseas helps to eliminate the protected market conditions that give rise to unfair trade. With fair competition, foreign competitors cannot raise domestic prices without consequence, helping to prevent actions that would otherwise act as a precursor to foreign predatory pricing in the U.S. or third-country markets.

Manufacturers face, however, significant barriers and risks investing in global markets. Many foreign governments ban foreign investment in certain sectors, limit the equity a foreign company may acquire or impose joint venture requirements that may lead to unfair treatment or requirements to transfer technology. Manufacturers also face a range of distortive foreign government actions that undermine the value of U.S. investment overseas, from foreign government expropriation of U.S. assets and discriminatory and unfair government action to forced localization and related requirements to use foreign inputs to transfer technology or rely on local employment.

Given these challenges and the importance of international investment to the growth and competitiveness of the U.S. manufacturing base, the NAM supports greater efforts to extend a framework of well-established, transparent and enforceable rules governing foreign investment in developed and developing countries, including through negotiating bilateral, regional and multilateral agreements, such as Bilateral Investment Treaties and investment chapters in free trade agreements. Such a framework is fundamental to managing the risks associated with foreign investment, obtaining equitable treatment for U.S. investors and ensuring fair treatment in investment disputes. These rules are also important to ensure that U.S. companies have opportunities to invest and participate in the economic growth of foreign countries, particularly emerging markets, and are not unduly restricted by foreign governments through government-distorting investment restrictions.

The NAM supports U.S. government efforts to negotiate the highest standards of access and protection and neutral and robust enforcement mechanisms with respect to all sectors in such agreements, including the following core elements:

- National treatment for foreign investment (i.e., according foreign investors treatment no less favorable than that accorded to domestic investors);
- Most-favored-nation treatment for foreign investment (i.e., according U.S. investors treatment no less favorable than treatment accorded any other foreign investors);
- Minimum standard of treatment in accordance with customary international law, including fair and equitable treatment and full protection and security;
- Protection against direct or indirect expropriation or nationalization of foreign investment without prompt, adequate and effective compensation;
- Freedom from performance requirements and localization mandates (including technology transfer or localization requirements) relating to foreign investment;
- Access to neutral and binding investor-state dispute settlement to resolve disputes between investing companies and the foreign government with respect to market access, core protections and breaches of investment authorization and investment agreements;
- High standards of transparency in investment-related matters, including arbitral proceedings; and
- Freedom to make financial transfers relating to foreign investments without delay into and out of individual countries.

A bedrock principle of the NAM is that bilateral and other investment agreements with both developing and developed countries must contain effective provisions for manufacturers to enforce commitments through neutral ISDS rules. ISDS enforcement provides a neutral set of referees to ensure fair and unbiased outcomes and compensation when foreign governments steal U.S. property, discriminate against U.S. investors or otherwise act in an arbitrary and unfair manner. While the ISDS system provides more limited remedies than domestic courts (i.e., monetary compensation only and no change in law), manufacturers in the United States depend on ISDS to ensure a neutral and fair forum to enforce commitments and resolve disputes that governments may seek to ignore. ISDS protections must cover all sectors as well as all breaches of the investment provisions and for breaches of investment contracts between foreign governments and U.S. investors relating to natural resources, infrastructure and other longer-term substantial investments. These

provisions are important for enforcing the provisions of the investment agreements and are a critical tool for all manufacturers, particularly smaller companies seeking fair and effective redress in cases of disputes with foreign governments.

The NAM also believes that trade preferences should not be extended to countries that are in breach of obligations they have assumed under a bilateral investment treaty with the United States or with other bilateral or multilateral obligations affecting U.S. investment in their countries.

IEAP-2.01.c. Inward Foreign Investment

The NAM supports longstanding U.S. policy and laws that continue to support an open U.S. investment environment, which has provided enormous economic benefits to the U.S. economy by contributing significantly to expanded U.S. exports, increased U.S. capital investment and research and development and millions of well-paying American jobs. The NAM recognizes that ensuring that foreign companies and their employees are able to operate on a level playing field in the United States is vital to achieving these positive benefits from foreign investment.

At the same time, the NAM recognizes the importance of regulatory oversight of foreign investments that could threaten U.S. national security. The NAM supports the strong role of the Committee on Foreign Investment in the United States in protecting national security without unduly reducing the ability of the United States to compete for global foreign investment. The NAM also supports periodic efforts to update and modernize CFIUS rules and authorities, which were recently updated through the Foreign Investment Risk Review Modernization Act of 2018, to strengthen national security in a tailored fashion in the face of technological advancements, a changing global economic landscape and emerging security threats, while also ensuring that investment screenings maintain the type of open investment environment critical to the growth and competitiveness of manufacturing in the United States.

The NAM believes that CFIUS approaches are most appropriate with respect to inward investment issues and that export controls are the most appropriate mechanism for handling national security-related export issues. The NAM supports efforts to promote coordinated approaches to these and other national security-related regulatory processes, including to ensure common definitions of key terms and similarly tailored approaches, while each agency focuses on their core area of jurisdiction.

The NAM also supports stronger engagement between the United States and other countries to encourage common approaches and principles toward oversight of foreign investment, in line with the benefits of open investment environments and focused approaches to national security.

IEAP-2.01.d. Oversight on Government-Directed Investments

Overall U.S. economic interests and the interests of U.S.-based manufacturers are served by promoting a global marketplace in which foreign investment decisions are made by private sector entities based on market and commercial criteria.

Foreign investment by state-influenced or state-owned enterprises can pose challenges to global investment flows in ways that require careful consideration. When approaching SOE activities, governments should ensure “competitive neutrality,” whereby governments ensure that SOEs act in accordance with commercial considerations and do not enjoy unfair advantages that distort investment flows or a level competitive playing field. Key principles that apply to bilateral investment should apply equally to the investments and commercial actions of SOEs.

The NAM will continue to monitor developments carefully, with the goal of urging U.S. and foreign governments to ensure that investment flows are as free of government distortions to the market as possible.

IEAP-2.02. International Monetary Policy

IEAP-2.02.a. International Monetary System

The primary objective of any monetary or exchange rate system should be to facilitate international trade and investment by ensuring that exchange rates realistically reflect the relative level of prices and costs in different countries and are flexible enough to respond to changes, over time, in such relationships.

Long-term misalignment of currencies can lead to global imbalances that can take years to resolve. Prolonged undervaluation of currencies confers an artificial advantage on an economy's exports and results in increased domestic inflationary pressure and the misallocation of capital. Given increased global economic integration, these negative effects can have far-reaching consequences on global growth and prosperity.

The NAM believes that exchange rates should reflect market forces and be determined by the marketplace. Governments should not engage in protracted intervention to counter market forces or maintain misaligned exchange rates for their currencies.

The NAM believes an international monetary system that is both flexible and responsive to fundamental economic factors is the best way to foster continued orderly growth in international trade and finance.

IEAP-2.02.b. International Monetary Fund

The IMF's role is critical to the stability of international exchange rate policies. Article IV of the IMF states that "members shall avoid manipulating exchange rates or the international monetary system in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other members," and a related provision defines manipulation to include "protracted large-scale intervention in one direction in the exchange market."

The NAM fully supports the IMF's bilateral surveillance policy that aims to avoid instability arising from exchange rate policies. It represents an important step in the IMF's fundamental mission of ensuring international monetary and financial stability and the orderly adjustment of imbalances arising from exchange rates.

In particular, the NAM welcomes the emphasis placed on external stability as an overarching organizing principle for surveillance and on the clarification of the concept of currency manipulation to include fundamental currency misalignment, regardless of the purpose of exchange rate policies.

IEAP-2.02.c. U.S. Government Role

It is the responsibility of the U.S. government to ensure that U.S. currency reflects a sound, market-determined value. The preferred means to accomplish this is through bilateral and/or multilateral efforts that comply with international monetary rules and obligations.

The NAM calls on the U.S. government to support the IMF principles, to use them in resolving imbalances and to explore as needed new tools to ensure their implementation.

The NAM believes that the administration should work multilaterally with the G-7, G-20, APEC and other international organizations to ensure that countries fulfill their obligations under the IMF with regard to exchange rate policy.

The U.S. Treasury Department has responsibility for ensuring that U.S. trading partners are acting responsibly in implementing their exchange rate and monetary policies. The NAM supports a vigorous negotiation process as the most desirable course to address concerns with exchange rate policies.

The Treasury Department should rigorously enforce relevant U.S. statutes, call out countries for inappropriate monetary behavior in accordance with the Treasury Department's mandated statutory assessments and promptly initiate consultations and negotiations to resolve the imbalances.

IEAP-2.03. International Finance Policy

IEAP-2.03.a. Export Credit

In the face of commercial bank constraints, export promotion and export financing have become increasingly competitive, with most major trading nations now operating export credit agencies that provide government guarantees, insurance and financing to enable foreign transactions and mitigate risk in ways that commercial banks cannot or will not provide. As the official ECA of the United States, the U.S. Export-Import Bank fills

gaps in commercial financing and helps the United States compete against the more than 100 foreign ECAs by providing key tools to facilitate U.S. exports, much of it in manufactured goods.

The NAM supports a fully operational, robust and predictable Ex-Im Bank to help manufacturers in the United States compete on a level playing field with foreign competition to win sales and support U.S. manufacturing jobs.

The Ex-Im Bank's export working capital and buyer financing often provide the only available access to capital for export-intensive SMMs. Additionally, the Ex-Im Bank's loan guarantees and export credit insurance serve as essential risk management tools giving U.S. manufacturers the confidence to pursue international sales. Given the highly competitive global environment of export financing, the NAM supports efforts to ensure that the Ex-Im Bank innovates to remain competitive with the ECAs of other nations and provides U.S. exporters with globally competitive financing and other export promotion tools that take into account the reality of global supply chains and foreign ECA activity. To do so, the NAM believes that the Ex-Im Bank should have the resources to respond to foreign-tied aid offers. The NAM also supports the Ex-Im Bank's efforts to educate and assist SMMs in obtaining export financing and other export promotion tools.

In the face of growing global competition, the NAM supports robust and long-term reauthorizations of the Ex-Im Bank to ensure it has the resources and maintains policies that are competitive and sufficient to expand U.S. exports. The Ex-Im Bank should function as a strong independent agency of the U.S. government, serving U.S. exporters within the framework of U.S. foreign economic policy. The NAM supports the Ex-Im Bank's efforts to operate on a self-sustaining basis, based on income from fees and interest.

The NAM believes that the Ex-Im Bank should maintain its legally required economic impact assessments of the transactions that it finances. The NAM believes that, to prevent unfair competition, the U.S. government should seek to have all major nations abide by the export credit rules of the OECD Export Credit Arrangement. The NAM supports efforts to negotiate limits to foreign ECA activity, particularly subsidized financing provided by many non-OECD countries.

IEAP-2.03.b. Small Business Administration

Export finance loans and guarantees also are offered by the U.S. Small Business Administration. The SBA's export working capital and short-term export financing for smaller companies supplement the financing offered by the Ex-Im Bank. The NAM believes that the SBA should have the resources and focus to continue and expand its work with smaller U.S. exporters, including in collaboration with the Ex-Im Bank.

IEAP-2.03.c. United States International Development Finance Corporation

The Better Utilization of Investments Leading to Development Act of 2018 created the U.S. International Development Finance Corporation as a successor to the Overseas Private Investment Corporation to modernize, streamline and strengthen U.S. development and foreign policy goals through private investment. The NAM believes the DFC should continue OPIC's work to provide a reliable channel for access to capital and other tools for companies to reduce risk in emerging markets that typically lack strong financial services sectors.

The NAM supports the DFC's role in mobilizing and facilitating billions of dollars in U.S. private capital investment through a mix of products that should include political risk insurance, direct loans, guarantees, equity investments and technical assistance. The NAM supports efforts to ensure that the DFC operates at no net expense to the American taxpayer and without competing with private sector financing.

The NAM believes the DFC should maintain support to advance U.S. private sector investment in developing countries that is not available elsewhere. The agency also should maintain strong support for smaller transactions by U.S. SMMs.

IEAP-2.03.d. Multilateral Development Banks

Recognizing the importance of trade in supporting economic development and growth, several multilateral development banks, including the World Bank, the Asian Development Bank, the African Development Bank, the European Bank for Reconstruction and Development, the Inter-American Development Bank and the

International Finance Corporation, deliver important financing to facilitate international trade and investment. The high-quality financial services offered by such multilateral development banks in emerging markets, which lack financial services and ready sources of capital, provide important platforms to build reciprocal trading relationships and foster stronger fiscal accountability and transparency.

The NAM believes that the U.S. government, as a significant stakeholder in these multilateral development banks, should encourage these banks' efforts to strengthen international trade financing in a manner that promotes transparency, commercial sustainability and market principles, while continuing strong anti-corruption efforts that undermine both development and commercial goals. The multilateral development banks should concentrate their resources on markets where reasonably priced private sector trade financing is unavailable and avoid crowding out private sector financing.

IEAP-2.04. Trade and the U.S. Manufacturing and Defense Industrial Base

The U.S. manufacturing and defense industrial base is a critical component to the success of U.S. manufacturing and also supports broader U.S. economic, foreign policy and national security objectives. The strength and global competitiveness of the U.S. manufacturing and defense industrial base relies, in significant part, on international economic policies that generally promote an expansion of trade, investment and U.S. global engagement, while also ensuring that existing and new foreign policy and national security challenges can be addressed effectively through focused policies and activities. See also TDEP Policy Section 2.04.

In particular, the NAM supports international policies and activities that support the U.S. manufacturing and defense industrial base through the promotion of:

- Expanded trade opportunities globally, including defense trade with key allies and trading partners with common objectives, which are critical to support U.S. manufacturing and defense industrial and supply chains;
- U.S. technological and manufacturing leadership, including through fostering high-technology R&D in the United States to ensure cutting-edge innovations in commercial and defense sectors and technological cooperation with allies and foreign trading partners with common objectives; and
- Reliable, diverse, innovative and competitive supply chains.

IEAP-2.05. Export Controls

Export controls play a vital role in protecting U.S. national security and advancing foreign policy objectives. Such measures also serve the country's security needs by helping to sustain a dynamic, innovative and globally competitive manufacturing sector that can actively engage in international trade and leverage the technological resources and capabilities of U.S. firms and their foreign partners. Changes to the global economy have fundamentally changed how many industries manage production and develop new technologies for commercial and military uses. Despite efforts to update U.S. export controls over the past decade, the system has not kept pace with these developments, continuing to impede the nation's ability to advance its security and competitiveness goals.

The NAM supports efforts to update and modernize the United States' export control regime in ways that will strengthen the U.S. manufacturing and defense industrial base and address evolving national security and foreign policy challenges. The NAM supports policies to ensure that U.S. manufacturers can maintain the nation's global leadership in innovative technologies, share critical technologies with our allies and compete on a level playing field in the international marketplace.

The NAM supports the policy enunciated in the Export Control Reform Act of 2018 pursuant to which the United States should use export controls "only after full consideration of the impact on the economy of the United States and only to the extent necessary" and based on national security controls "tailored to focus on those core technologies and other items that are capable of being used to pose a serious national security threat to the United States." The NAM supports ongoing efforts to implement this legislation in a manner that is focused on technologies that pose distinct national security threats, while avoiding overly restricting commercial technologies that are vital for U.S. companies to compete in an international marketplace.

A modernized export control system must be predictable, transparent and efficient. The NAM believes that the following overall principles should guide efforts to continue to update and modernize the U.S. export control system:

- Carefully calibrated updates to export controls are appropriate, but must be developed through a deliberative and ongoing process and focused on specific country and individual threats;
- New controls must take into consideration the need to strengthen and fortify America's manufacturing and defense industrial base and supply chains, including through recognizing the important positive role that many exports to and partnership with foreign allies and other partners has on the U.S. defense industrial base; and
- Continued and frequent engagement with the private sector is vital to produce and support the best outcomes.

The U.S. government should continue efforts to focus federal resources on managing the greatest risks for exports of controlled technologies, to bring transparency and coherence to these regulations and to enhance the competitiveness of manufacturing and technology sectors in the United States. To achieve these goals, the U.S. government should do the following:

- Rationalize the export licensing system to reduce costs and processing times, ensure clear lines of agency jurisdiction and increase cooperation and efficiencies among the agencies involved in the process, and provide clear instructions for drafting and submitting licenses requests for items, software, technology and individuals.
- Complete the restructuring of the export control lists and institute systematic and regular reviews to update these lists (and all other Commerce Control List entries), clarify definitions and interpretations so that those items and technologies posing the greatest risk to national security and foreign policy are appropriately controlled and target limited resources on safeguarding these sensitive items. Conversely, those technologies that no longer warrant stringent controls should be shifted to the appropriate licensing jurisdiction or decontrolled (at a minimum antiterrorism control).
- Institute new licensing protocols to facilitate the intra-company transfer of controlled technologies and items between U.S. companies and their foreign subsidiaries and affiliates and within companies' U.S. facilities, taking into account deemed export requirements, so long as the companies maintain appropriate standards of internal controls and compliance.
- Revise the licensing framework and eliminate redundancies to support U.S. government international security cooperation programs and facilitate technology-sharing with the nation's closest friends and allies. The NAM also supports U.S. licensing agency efforts to enhance license exemptions for exports controlled on the U.S. Munitions List that support U.S. government programs, military operations and intelligence activities abroad as well as relevant space and homeland security programs in the United States.
- Improve industry-government cooperation by setting reasonable enforcement standards and practices for punishing bad actors while improving educational programs, outreach and incentives to help companies that make good faith compliance efforts.
- Establish and apply a more meaningful standard for determining "foreign availability" to minimize U.S. controls on items readily available from other sources in the global marketplace.
- Recalibrate and simplify encryption controls that subject only a narrow list of encryption-related items to licensing requirements.
- Develop a more effective system of multilateral controls, minimize unilateral controls and seek greater harmonization of export controls among major trading partners with a view to both protecting national security interests and leveling the international playing field for U.S. exporters.
- Create more efficient and user-friendly automated processes for determining what items and technologies are on control lists, applying for licenses, facilitating any necessary interagency reviews and securing export authorizations, including the renaming of categories or the reorganization of the CCL so like-items are located under the same category.
- Review the application of U.S. export policy restrictions on controlled items, such as restrictions placed on unmanned aerial systems, that limit U.S. competitiveness and cooperation opportunities.
- Ensure that changes to U.S. government information technology systems reflect industry standards

and practices. Efforts to create a single licensing form and interface should also simplify and streamline the application process for less sensitive exports, particularly those to allies and partners, making the process more user-friendly.

- Support efforts to streamline and expedite licenses for allies and partners to facilitate defense trade.
- Encourage further clarification concerning the requirements to obtain the Strategic Trade Authorization license exception, which allows for intra-company transfers of certain controlled technologies and products without applying for an export license.

The term “export controls” includes the laws and regulations controlling exports, re-exports, in-country transfers and deemed exports.

IEAP-2.06. Sanctions

The NAM recognizes that the careful application of economic tools like sanctions can help meet the foreign policy and national security objectives of the United States. The most effective policies and actions are generally those that are targeted and focused on meeting the particular challenge, taken with key allies and like-minded trading partners and implemented in ways that recognize the broader importance of a strong U.S. manufacturing and defense industrial base that promotes U.S. technological and manufacturing leadership. The NAM believes, therefore, that the United States should generally avoid applying broad-based sanctions that are not calibrated to achieve clear objectives or unilateral economic sanctions that can be counterproductive and harmful to the strength and growth of the U.S. manufacturing and defense industrial base.

Unilateral sanctions cover a range of policy tools, from import bans and embargoes to restrictions on U.S. investment and non-U.S. person activity overseas. Sanctions have evolved to cover foreign governments, individuals and third parties. Broad-based or sectoral unilateral actions can put manufacturers in the United States at a disadvantage compared to foreign competitors that are still able to engage in activity that is prohibited for U.S. entities. As a result, such unilateral sanctions can reduce competitiveness and impose substantial costs on manufacturers and workers in the United States. At the same time, given that foreign governments and companies typically quickly fill the void left by the United States, unilateral sanctions are oftentimes ineffective and fail to achieve their stated objective. Further, the overuse of sanctions can undermine the credibility, leverage and influence of the United States.

When unilateral sanctions are applied, they should be focused narrowly on the government or private sector actors directly involved in the action for which sanctions are imposed with the goal of achieving changes in the targeted activity. Efforts should be made to bring in allies to work with the United States and to review on a regular basis the effectiveness of sanctions that have been applied. Sanctions should also ensure flexibility and the discretion to adjust the scope, level and target of the sanctions to ensure that sanctions are appropriately calibrated to achieve their foreign policy objectives. Close consultation between the government and the private sector during the sanctions policymaking and review process can also help increase effectiveness and limit unintended consequences.

The NAM will continue to serve as a resource for manufacturers in the United States that are striving to comply with increasingly complex sanctions regimes.

IEAP-2.07. Humanitarian Trade

Manufacturers in the United States produce and export a range of goods intended for humanitarian trade. These products are often licensed for export to sanctioned entities. The consistent treatment of humanitarian trade is important both to manufacturers and to the populations of countries whose governments face U.S. sanctions. The NAM supports strong and explicit humanitarian exemptions for licensed exports with respect to product coverage as well as the necessary financial transactions related to this trade.

Tax and Domestic Economic Policy

TDEP-01 Tax Policy

TDEP-1.01. Principles of Tax Policy

TDEP-1.01.a. Tax Policy

Tax policy plays a critical role in the ability of manufacturers to thrive in the United States and effectively compete in a global economy. The NAM supports a federal tax system that meets the following principles:

- Tax policy should promote economic growth, U.S. job creation and the ability of U.S. manufacturers to compete in global markets.
- Simplicity and certainty are important principles for federal tax policy.
- The tax burden should be as low as possible, competitive with other jurisdictions, broadly based and nondiscriminatory.
- An important objective of long-term tax policy is to provide for competitive tax rates that are low enough to attract the long-term capital formation and investment necessary to ensure durable economic growth.

TDEP-1.02. Encouraging Investment (General)

Capital formation is key to economic growth, U.S. job creation and competitiveness. In order to maintain a healthy economy, tax policy should help ensure the United States is the best country in the world in which to manufacture. An essential element of this is that tax policy should attract private sector capital formation including foreign direct investment. Such policies should provide long-term certainty that supports economic growth.

TDEP-1.02.a. Capital Cost Recovery

Promoting investment by reducing the cost of capital should be an integral part of U.S. tax policy. An effective way to spur business investment and make U.S. manufacturing more competitive is through a stable capital cost recovery system that allows companies to expense capital equipment in the tax year purchased. First-year expensing lowers the cost of capital and increases the return on investment, thereby increasing the number of profitable projects a firm can undertake and supporting job creation and retention.

Government Mandated Expenses

Capital expenditures to comply with governmentally mandated standards or procedures, such as those related to homeland security, the environment and safety and health, should be fully deductible in the year incurred, at the election of the taxpayer.

TDEP-1.02.b. Deductibility of Interest

Current deductibility of interest is an important capital structure measure. As a capital-intensive industry, manufacturers believe it is important to deduct interest on bona fide debt. The base upon which interest deductions are calculated should reflect the important role debt financing plays in funding new manufacturing investments.

TDEP-1.02.c. Capital Gains

Tax policy should recognize that capital is not income and that investment in capital produces income and only the resulting income stream should be subject to income tax. In order to promote the reinvestment of capital and associated returns into businesses, the tax rate on capital gains for both individuals and corporations should be as low as possible.

TDEP-1.02.d. Dividend Taxes

Under current federal tax law, dividend income for corporate entities is taxed twice: once to the corporation and again to the individual recipient. This double tax burden creates a bias against corporate earnings and should be eliminated. At a minimum, in order to allow dividend-paying public companies to attract shareholders and finance investment, policymakers should keep the tax rate on dividends as low as possible and on par with tax rates on capital gains.

TDEP-1.02.e. Estate and Gift Taxes

Estate and gift taxes have an adverse effect on the capital and initiative needed for industrial activity and expansion of employment opportunities, as well as for the continuation of separate business enterprises. A long-term objective of tax policy should be to repeal estate and gift taxes. If repeal is not achievable in the

short run, Congress should focus on keeping the tax rates as low as possible and providing a generous exemption amount.

TDEP-1.02.f. Research and Development

Tax policy should recognize the important role of investments in research and development in creating U.S. jobs and spurring innovation. Providing strong R&D incentives is critical to ensuring that manufacturers in the U.S. are the world's leading innovators.

TDEP-1.03. The Corporate Income Tax

Corporations play an integral role in our society and are major contributors to our country's robust economic growth and strong democratic government.

TDEP-1.03.a. Corporate Tax Rates

The NAM supports reducing the top federal corporate tax rate to 15% to create a tax climate that allows U.S. companies to effectively compete in the global marketplace and attracts foreign direct investment to the United States. Any rate reduction should not increase the tax burden on manufacturers. Reducing the corporate tax rate to a level that ensures U.S. competitiveness globally will lead to greater economic growth, more jobs and higher wages for workers, an increase in productivity levels, more business investment and lower inflation.

TDEP-1.03.b. Double Taxation of Corporate Earnings

The NAM believes that business income should only be subject to one level of tax. **See 1.02.d. above.**

TDEP-1.03.c. Corporate Reorganizations

The tax-free treatment of corporate distributions and changes in corporate organization and ownership is an important factor in ensuring smooth continuity of business operations.

TDEP-1.03.d. Taxation of Net Business Income

As applied to business taxpayers, the federal income tax should be a tax on net income, i.e., gross income, less deductions for all costs incurred in producing such income.

Gross Receipts

In an income tax-based system, denying a deduction for all or part of costs incurred in the ordinary course of trade or business, such as expenses related to executive compensation or compensatory amounts paid pursuant to legal settlements, changes the nature of the tax system from a tax on income to a tax on gross receipts. Gross receipts are an inappropriate and inequitable base for the imposition of federal taxes on business income, leading to widely disparate tax burdens among business taxpayers.

Discriminatory Taxation

Singling out a particular type of business expenditure, income or industry sector for discriminatory taxation is objectionable in principle, particularly when the underlying rationale is to generate additional revenue rather than to develop fair and consistent tax policy principles.

TDEP-1.03.e. Economic Accrual

Income should be measured and taxed as it is accrued economically. It is inappropriate for the tax system to recognize income prematurely or to tax "phantom" income.

TDEP-1.04. Alternative Minimum Taxes

A mandatory, parallel tax system, e.g., an alternative minimum tax (AMT), is an unacceptable way of addressing perceived deficiencies in the tax system that adds complexity to an already complicated system.

TDEP-1.04.a. Corporate AMT Credits

Because the AMT represents a prepayment of tax liability, companies with AMT credits should be allowed to realize those credits without delay. Congress did not intend for the AMT to serve as a permanent tax increase,

which effectively becomes the case if taxpayers cannot use AMT credits.

TDEP-1.04.b. Individual AMT

Many manufacturers are organized as S-corporations or other “pass-through” entities and are potentially subject to the individual AMT and higher taxes. The NAM believes that the individual AMT is a flawed system and should be repealed without imposing other tax increases.

TDEP-1.05. Taxation of Pass-Through Entities

Nearly two-thirds of manufacturers operate as S-corporations or other “pass-through” entities with business profits taxed at individual rates. Because of their non-corporate status, these entities generally cannot access equity markets to finance investments in machinery, equipment and people that are necessary for growth. It is therefore critical that the tax burden on pass-through businesses be as low as possible. A high tax burden on business profits of pass-through entities negatively impacts the ability of manufacturers to reinvest for growth.

TDEP-1.05.a. Self-Employment Taxes

Efforts to alter the definition of net earnings from self-employment could negatively affect manufacturers that operate as pass-through entities. The impact of any changes to self-employment definitions should be closely analyzed to determine if such proposals would have an onerous impact on pass-through businesses.

TDEP-1.06. International Tax Policy

Global investment by U.S. companies plays an important role in the growth and vitality of the U.S. economy. There are significant benefits to the economy of having American companies expand beyond our shores, and thus it is critical that tax policy enable U.S. manufacturers with worldwide operations to effectively compete. Investing in and operating in global markets allows U.S. companies to (i) develop and expand new markets for its U.S. production; (ii) access new technologies and input sources for their production; and (iii) access international markets for capital investment in their business.

TDEP-1.06.a. Territorial Tax System

A territorial tax system that allows U.S. companies to be more competitive in the global marketplace should be based on the principle that there should be no double tax burden imposed by the United States, should exempt active foreign earnings from taxation and avoid the imposition of incremental taxes on foreign earnings through alternative means such as expense allocation. Moreover, protections for the U.S. tax base should not target routine business activities.

TDEP-1.06.b. Taxation of Export Income

The international array of tax rules and policies limits the ability of firms located in the United States to compete effectively in export trade. **See also IEAP-01 International Trade Policy Section 1.15.**

TDEP-1.06.c. Foreign Investment in the United States

Foreign-owned companies play an important role in the growth and vitality of the U.S. economy. Like their domestic counterparts, they provide high-paying jobs for millions of Americans and are an important source of U.S. exports. Because of the importance of foreign direct investment to the U.S. economy, it is critical that policymakers avoid imposing discriminatory taxes on foreign-owned companies. Congress should focus on tax policies that maintain and attract more capital investment, rather than discourage it.

TDEP-1.06.d. Tax Treaties

For more than 80 years, income tax treaties have played a critical role in promoting U.S. bilateral trade and investment. The NAM supports the proactive expansion of its current tax treaty network. Globally competitive tax treaties protect U.S. businesses, large and small, from double taxation of income earned overseas and reduce U.S. withholding taxes, thus encouraging foreign companies to invest in the United States. In addition, the NAM supports including in tax treaties administrative procedures for U.S. taxpayers, treaty-partner taxpayers and the U.S. and foreign taxing authorities to resolve disagreements and assist in the enforcement of individual countries' tax laws.

TDEP-1.07. Taxation of Employee Benefits

Tax law should recognize that private sector employee benefit plans are an efficient means of delivering medical, health and retirement benefits. The tax treatment of employee medical, health and retirement benefit plans should allow employers to exercise reasonable discretion in determining the types, coverage, conditions of eligibility, contributions and investments necessary to attract and retain qualified workers in a globally competitive market.

TDEP-1.07.a. Retirement Security

The NAM believes tax policy should encourage, rather than impede, the adequate funding of private voluntary retirement plans. Accordingly, income and gains of the assets of such plans should be permitted to accumulate free of all taxes until distributed to the beneficiary. Voluntary employer-sponsored retirement plans should not be subject to additional premiums, taxes or fees that significantly add to the costs of providing employees with these benefits. The federal government can best help individuals attain economic security by fostering economic conditions and incentives that encourage individuals to seek retirement security through personal savings and investment.

Social Security Reform

The Social Security system should be adequately funded or reformed to preserve the current safety net for American workers. However, the NAM believes that the projected shortfalls in the system should not be paid for by increasing costs to employers.

TDEP-1.07.b. Health Care

Tax policy related to health care should focus primarily on containing health care costs and not on raising revenue. Additional information on the NAM's health care policy positions is included in the Infrastructure, Innovation and Human Resources Policy (IIHRP) section.

TDEP-1.07.c. Executive Compensation

In order to grow a strong and competitive manufacturing economy, manufacturers need to be able to recruit world-class talent at all levels. The NAM supports flexibility in the design of benefit packages, including executive compensation, to ensure manufacturers can recruit and retain leaders who will grow the business, create more jobs and contribute to overall economic growth. Reducing or eliminating deductions for executive compensation and other benefit packages unnecessarily targets a valid business expense and does not represent sound tax policy. **See also TDEP-03 Corporate Finance and Management 3.01.h.**

TDEP-1.08. General Tax Policy Issues

TDEP-1.08.a. Tax Accounting

Tax accounting should conform to generally accepted accounting principles although differences that stem from tax policy objectives are appropriate. Policymakers should avoid treating deductions of an accrual basis taxpayer on a cash basis unless income items are treated on a similar basis.

TDEP-1.08.b. Tax Changes

Any changes (e.g., tax rates, deductions, credits and exemptions) should be established by statute. Moreover, any changes should not increase manufacturers' tax burden. In particular, certain tax provisions are key to a strong manufacturing sector and broader economic growth, and the benefits of these policies should be maintained.

Changes to the tax code should, as appropriate, include broad transition rules that provide fair and equitable treatment for taxpayers that have generated substantial attributes based on current law. Such rules should provide sufficient time for taxpayers to make an orderly transition in their business affairs associated with implementation. Change should also incorporate rules that make it easier for the Treasury Department to administer the law and for taxpayers to comply with the law. Unnecessary complexity in transition rules or in implementing regulations can create an administrative burden on manufacturers and make it more difficult to plan for future growth and investment.

TDEP-1.08.c. Retroactive Taxation

The retroactive imposition or increase of taxes, through statute or regulation, is fundamentally unsound, unfair and punitive and is strongly opposed by the NAM. Likewise, year-to-year gaps in tax policy that result in retroactive extensions of expired tax provisions, for example, should be avoided in favor of permanent or longer-term extensions that provide more certainty. Any extension of an expired tax provision intended to lower the tax burden should be done seamlessly. A tax code that is predictable and provides certainty is essential over the longer term for effective business and tax planning.

TDEP-1.09. Tax Administration

TDEP-1.09.a. Taxpayer Obligations and Rights

The obligations and rights of taxpayers should be established by statute, to the extent possible. Both statutes and necessary supporting regulations should be designed to improve the administration of the tax laws, promote transparency and include collection, enforcement and appellate procedures that minimize and penalize tax evasion and corrupt practices.

Tax laws and regulations should not penalize, unduly burden or harass conscientious taxpayers by presumptions of guilt, unreasonable burdens of proof or by onerous information and recordkeeping requirements.

TDEP-1.09.b. Payroll Tax Reporting

Procedures for withholding, collection and payment of individual income and payroll taxes should be designed to ensure that revenues are collected with minimum administrative cost to the government and minimum compliance burden on employers.

TDEP-1.10. Development of Tax Legislation

As the legislative branch of the federal government, Congress has the sole authority for making new laws or changing existing laws. The NAM strongly supports long-standing procedures for the development and enactment of federal legislation and the approval of tax treaties. In particular, representatives of the taxpaying public should have the opportunity to present their views and recommendations.

The NAM believes it is important for the committees of jurisdiction to hold fair and adequate public hearings on proposed tax policy changes before developing and considering legislation. Where necessary, Congress should exercise its oversight authority of the executive branch to ensure that tax legislation is properly implemented.

TDEP-1.11. State and Local Taxes

Trade among the states, and between the United States and other nations, must not be subject to rules that interfere with the free flow of goods and services in interstate and international commerce.

TDEP-1.12. Industry-Specific Taxes

The NAM believes the primary purpose of federal tax laws should be to raise revenues from as broad and fair a base as possible and in a manner that does not unfairly burden specific products or sectors of the economy. Congress should disclose the primary purpose of any new tax. If the purpose of a tax is to raise general revenue, then industry- or product-specific taxes are the least fair and least efficient means of meeting that goal and should be avoided. As a matter of general principle, industry- or product-specific taxes inhibit the growth of the targeted sector, impede the ability of targeted companies to compete globally, distort resource allocation and complicate the tax code.

TDEP-1.13. User Fees

For purposes of this policy, a user fee is a charge paid only by a class availing itself of, benefiting from, or subject to regulation under a governmental activity, service or product and is not imposed on the general public. Income and payroll taxes are not considered user fees. Because of the role user fees play in financing government activities, the NAM believes the imposition of user fees should be limited based on the following principles:

- **Not for General Revenues.** User fees linked to a specific activity, service or product should not be used to generate general revenues, since this disproportionately and unfairly burdens an economic sector with societal costs that should be more broadly distributed; and
- **A Supplement to Government Funding.** User fees consistent with the foregoing principle can play a key role in providing multi-year predictability and stability for certain government agencies. These fees should be in addition to federal appropriations and not a substitute for the government's role in funding such activities; and
- **Targeted.** In general, a user fee should apply to all beneficiaries of the public good being provided for by a user fee.

TDEP-1.14. Excise Taxes

As a matter of basic principle, excise taxes should be imposed at nondiscriminatory rates across a broad base in order to achieve fairness, avoid disproportionately burdening narrow sectors of the economy and minimize regressive impacts on consumers.

TDEP-02 Economic and Budget Policy

TDEP-2.01. Economic Policy Statement

The private sector generates economic growth that benefits all citizens. Therefore, a central objective of federal fiscal policy should be to provide a favorable climate in which the private sector can flourish.

TDEP-2.01.a. Government Spending

A critical factor in our nation's overall economic performance is the private sector's ability to form and retain capital for productive investment and job creation. To allow the private sector to perform this vital role, federal spending and lending programs should be carefully reviewed and limited so that the private sector is not preempted from the capital markets or crippled by the burden of taxation. Eligibility criteria, indexing of benefits and the scope of entitlement programs should be reviewed and equitable adjustments should be made in order to ensure the future soundness of needed programs. Government agencies should be encouraged to contract with private sector facilities and personnel for commercial activities when doing so would be more efficient and cost competitive.

TDEP-2.02. Budget Policy

TDEP-2.02.a. The Federal Budget

Congress and the executive branch should work to control spending so that the federal revenue gain from economic growth and good tax policy can be used to decrease future federal deficits and reduce the federal debt as a share of GDP.

- In efforts to reduce the federal debt and deficits, policymakers should focus both on real and immediate spending cuts and longer-term changes.
- Fundamental reform of entitlement programs is needed to get our structural budgetary imbalance fixed. In order to achieve long-term stability in entitlement programs, reforms must be undertaken to create programs that are fiscally sustainable.
- Discretionary spending also warrants close scrutiny. Any long-term plan should include the continuous review of federal spending programs so that budget outlays can be controlled by reducing, restructuring or terminating outmoded or non-essential programs.
- At the same time, some federal spending programs are necessary and important to our nation's economic and national security, including federal spending on defense, education, infrastructure and R&D. Consequently, policymakers should avoid across-the-board caps or cuts on federal spending.

TDEP-2.02.b. Federal Budget Spending

Due to the size of the federal budget and its impact on the economy, it is imperative that policymakers strengthen and make more transparent the budget, scoring and appropriations processes and subject the entire range of government programs to comprehensive, objective analysis. This budget review should reflect the nation's economic priorities, both domestic and international.

TDEP-2.03. Monetary Policy

The objectives of money and credit management should be the stable and efficient non-inflationary growth of the economy, as well as lower and less volatile interest rates. The money supply policy should facilitate the consistent and sustainable long-term trend in the growth of the real gross product.

The responsibility for regulating the supply of money and credit should remain vested solely in an independent Federal Reserve System.

TDEP-2.04. National Defense

The NAM believes that its role in national defense is broadly parallel to that of a concerned citizen actively seeking full security for the nation without commitment to any military strategy, system of weapons or level of public expenditure. A primary responsibility of industry in national defense is to promote the development and maintenance of an industrial production base capable of responding to the civilian and defense needs of the nation in any emergency.

TDEP-2.04.a. Threats to National Security

The NAM believes the existence or potentiality of threats to the nation to be the sole justification for a defense establishment and an adequate defense production capability. A continuing awareness and comprehension of the dynamic character and magnitude of threats to U.S. security and, hence, world peace, is fundamental to intelligent resolution of all defense issues. The NAM therefore favors an improved understanding within industry, government and the public of the nature, source and extent of forces hostile to the security of the United States. **See also IEAP-02 IIFEC Policy Section 2.04.**

TDEP-2.04.b. Economic Security

The NAM believes economic security is dependent upon a strong and robust defense industrial base. Defense trade and technological cooperation with friends and allies strengthens America's competitive edge, sustains the defense industrial base and enhances our national security. Nurturing high-technology R&D in the U.S. is essential for developing cutting-edge technology and defense products needed to protect national security and economic competitiveness.

TDEP-03 Corporate Finance and Management

TDEP-3.01. Corporate Governance General

The NAM recognizes that the establishment and governance of business entities are matters of state law. Although the federal government legitimately regulates market mechanisms and establishes rules of disclosure for the protection of shareholders, the governance of business entities is a matter appropriately regulated by the states.

TDEP-3.01.a. Disclosure of Information

The NAM believes shareholders should have access to information that is material to their investment decisions, consistent with applicable law. However, manufacturers should not be unnecessarily burdened by government regulation or required to disclose information that might be advantageous to competitors while not of significant benefit to shareholders. Materiality is, and should remain, the principle guiding the disclosure of information to shareholders. Furthermore, when considering the adoption of regulations that require disclosure of information, government entities should take into consideration the cost of compliance and the overall regulatory burden that companies face.

TDEP-3.01.b. Responsibilities of Management and Directors

The structure of corporations and other business entities entails the separation of ownership and control and, as a consequence, creates necessary fiduciary relationships among management, directors and the shareholders. While the specific duties implied by such relationships may vary from state to state, the NAM reaffirms the following general propositions:

- Management and directors should pursue the goal of maximizing the long-term value of the entity as an ongoing enterprise.

- Directors should represent the interests of the shareholders as a group and the entity as a whole in directing the business and affairs of the entity.
- Boards and company shareholders should be free to nominate and elect, respectively, directors whose qualifications the Board and the shareholders believe will result in the best possible leadership for the entity and the best possible long-term value for shareholders.
- Consistent with the fiduciary and policy role of the Board of Directors, determining executive compensation is appropriately the responsibility of the Board.

TDEP-3.01.c. The Business Entity's Constituencies

The NAM believes that as responsible citizens, business entities should maintain positive relationships with other constituencies and consider the effect of business decisions on their constituencies. The NAM believes, however, that the fiduciary duties of management and directors are limited to shareholders and the entity as a whole. Extension of the director's legal accountability to groups other than shareholders would adversely affect the ability of management and directors to maximize the performance of the enterprise. Similarly, pressure to adopt policies and/or mandate disclosures for the benefit of interest groups and other non-shareholder stakeholders undermines the fiduciary relationship at the heart of the public company model.

TDEP-3.01.d. Shareholder Communication

The separation of ownership and control has furthered economic progress by permitting expert management of business enterprises, creating risk-bearing enterprises through the diversification of risk over large groups of investors and facilitating limited liability investment opportunities for shareholders. Implicit in the notion of expert management and risk taking is the efficacy of the business judgment rule, and its corollary, the division of decision-making responsibility among shareholders as a group, management and the directors. By investing in the business entity, the shareholder enters a relationship established by the entity's organizational documents and the law of the state of organization that thus directly facilitates expert management of risk-bearing enterprises, as well as the furtherance of individual investment objectives.

Communication between shareholders and management is accomplished effectively through the current proxy process, annual meetings, annual reports, analyst meetings and other communications. Shareholders are also free to correspond with business entities to make their individual views known. The NAM believes, therefore, that there currently are ample channels of communications to protect shareholders' ability to be heard and to assure the smooth functioning of business entities. It is appropriate to examine the efficacy of these channels, but compelling their expansion beyond what is traditionally employed would be inconsistent with the principle of separation of ownership and control and may compromise the effectiveness of expert management, as well as limit the risk-bearing function of business entities. As stated above, it is management's responsibility to communicate with and effectively represent the interests of the shareholders as a group, not necessarily to respond to the desires of any specific individual shareholder.

TDEP-3.01.e. Principles on Shareholder Activism

The NAM believes:

- A company's Board of Directors is best positioned to responsibly oversee the effective operation and management of a company to maximize performance of the organization and provide long-term value to shareholders.
- While the establishment and governance of business entities are matters of state law, the federal government may play an important oversight role. Occasionally, the federal government may propose changes to existing rules that restore balance between protecting investors and upholding a company's ability to compete, grow and create jobs. The federal government should avoid one-size-fits-all requirements, and any regulations should be carefully tailored and not unduly burdensome to companies.
- Manufacturers must be able to make investments in R&D and other initiatives that will promote long-term growth and value for the company, its shareholders and the economy. Corporate governance policies should not allow a small group of activist investors to significantly limit these important investments simply for short-term gains.
- The shareholder proposal process should ensure that only shareholders with a real long-term and material stake in the company are permitted to avail themselves of the process. Similarly, companies

should not be required to continually include on the proxy ballot shareholder proposals that have been consistently rejected by shareholders.

- Shareholders should receive proper and adequate disclosure of information material to investment decisions. Companies should not be required to disclose non-material information, including duplicative information or information that seeks to advance any social policy or political agenda but does not contain information necessary for making investment decisions. Similarly, companies should not be compelled to provide information outside of the regulated disclosure regime and shareholder engagement process.
- Manufacturers should not be required to include unnecessary or redundant shareholder proposals in their proxy materials, nor should they be required to include proposals that would undermine or conflict with the ordinary nature of the business or its business model.
- In line with the Securities and Exchange Commission's (SEC) mission to protect investors; maintain fair, orderly and efficient markets; and facilitate capital formation, the SEC should continue to provide interpretive assistance to companies on various SEC rules and forms, including on shareholder proposals that may be excluded from the company's proxy materials.
- Communication between shareholders and management is accomplished effectively through the current proxy process, annual meetings, annual reports, analyst meetings and other communications.
- Regulators should ensure that proxy advisory firms consider the long-term impact that any policies or proposals, including those put forth by shareholder activists, may have on the company and its shareholders when making voting recommendations.
- Regulators should hold proxy advisory firms to high standards of accuracy, transparency and accountability; ensure that proxy advisory firms effectively avoid, mitigate and disclose conflicts of interest; and regulate proxy firms' "robo-voting" procedures to promote more effective shareholder engagement and encourage issuer-specific decision-making on the part of institutional investors.
- The SEC should provide for effective oversight of proxy advisory firms to protect shareholders by allowing issuers to constructively engage with the firms and shareholders about the firms' recommendations.

TDEP-3.01.f. Business Philanthropy

The NAM believes that a business entity can effectively demonstrate its concern for society through philanthropic activities. Such programs, handled in a businesslike manner, can also serve the business's own needs, show it to be a responsible citizen, benefit the communities in which it operates and in which its employees live and strengthen independent effort for innovative alternatives.

The principal alternative to private philanthropy is government funding, a system of complex and costly redistribution of tax dollars, which the NAM considers an inherently less efficient, flexible and innovative method. Accordingly, the business community can remain consistent in its initiative to reduce dependence on government by expanding its philanthropic activities.

TDEP-3.01.g. Conflict-of-Interest Laws

Government should be free to seek and fully utilize the skill and knowledge of business executives in public service without undue hardship to those who are willing to serve. The conflict-of-interest laws should be reviewed regularly and revised to this end.

TDEP-3.01.h. Executive Compensation

In order to grow a strong and competitive manufacturing economy, manufacturers must recruit world-class talent at all levels. The NAM supports flexibility in the design of benefit packages, including executive compensation, to ensure manufacturers can recruit and retain leaders who will grow the business, create more jobs and contribute to overall economic growth. A company's Board of Directors and Board Compensation Committee represent the appropriate forum to design and evaluate these benefit packages based on the long-term needs of the company and its shareholders. The NAM believes that one-size-fits-all compensation policies, or requirements to disclose non-material compensation metrics, harm long-term value creation and do not represent sound corporate governance policy. **See also TDEP-01 Tax Policy 1.07.c.**

TDEP-3.02. Corporate Finance

TDEP-3.02.a. Derivatives

Derivatives include financial instruments that are important to non-financial businesses, like manufacturers, in managing many forms of business risk. The role of government in relation to these derivatives is to ensure the integrity of various financial systems while balancing the risks inherent in a market-based economy.

The NAM believes:

- Each party to a derivatives transaction bears responsibilities. The dealer should be responsible for fully disclosing the nature of the transaction and its inherent risks; the end-user should bear responsibility for determining its suitability.
- Any oversight of derivatives activities should be coordinated among domestic and international regulators, including taxing authorities.
- Derivatives end-users should not be unnecessarily burdened by regulations. In the situation where regulations are proposed, the rules should reflect a sensible balance between the critical need to manage business risk and the costs associated with such regulation.
- Accounting standards should reflect the complex and varied nature and uses of derivatives and permit reporting of derivatives' gains and losses consistent with reporting for the risks being managed. Responsibility for these standards should reside with the private sector, i.e., the Financial Accounting Standards Board (FASB) and the American Institute of Certified Public Accountants (AICPA).
- The requirements of disclosure to investors by end-users should be based upon materiality of the risk to the investor's investment rather than the type of instrument used.
- Decisions concerning the use of derivatives by businesses, and the framework guiding any transaction, should be left to the business judgment of management and its counterparties.

TDEP-3.02.b. Capital Formation

As a capital-intensive industry, manufacturers need access to funds necessary to operate and grow their businesses. Main Street investors benefit when manufacturers can access both debt financing and equity capital and thus provide investment opportunities to middle-class Americans, including manufacturing workers. The government should incentivize and support capital formation by increasing access to financing and decreasing barriers to the market, including politically motivated shareholder activism, unregulated proxy advisory firms, costly and unnecessary government regulation and efforts to force disclosure of non-material information. The NAM believes that regulators should continuously evaluate the ability of businesses to access capital and institute appropriate reforms to support both capital formation and long-term shareholder returns.

TDEP-3.02.c. Pensions

Manufacturers provide retirement security to millions of workers and retirees through single- and multi-employer pension plans, and it is critical to safeguard these plans. Bipartisan reforms to the multi-employer pension system and the Pension Benefit Guaranty Corporation would protect retirees, workers and businesses alike. The costs of such reforms should be shared by all parties in the multi-employer system, not financed by punitive costs imposed on employers. At the same time, policymakers must avoid endangering the healthy single-employer pension system; participants and plan sponsors in single-employer plans should not face cost increases associated with multi-employer reforms or any other spending unrelated to the single-employer pension system.

Labor, Legal, and Regulatory Policy

LLRP-01 Employee Relations Policy

In a democratic society, there is the need to afford employees at all levels the fullest degree of individual freedom and opportunity consistent with the coordination required for efficient operation. Both employers and employees have rights and obligations each must observe in order to develop and maintain positive relationships.

LLRP-1.01. Employee Involvement

The NAM strongly supports the concepts of employee involvement (EI), employee participation and the use of teams to resolve operational issues and improve economic performance. In order to remain competitive in our global economy, employers need to fully utilize the economic potential of all their employees. Those employers who fully invest in their employees, provide them with the skills they need and empower them to perform their jobs in the workplace will gain a competitive advantage and be better positioned to continue to provide high-wage employment.

There is no protocol for a successful model of employee involvement. The form and mechanisms EI takes should be based on what is appropriate for a specific workplace. Mandated forms, compulsory programs and dictated "solutions" reduce operational flexibility and are counterproductive. This is especially true with respect to process safety management, where intrusion into areas historically left to the collective bargaining process or reserved to management, such as operational decision-making, may render workplaces less safe. Both employers and employees need the freedom and flexibility to determine their own specific methods and processes for improving performance and meeting customer demands.

LLRP-1.02. Union Relations

LLRP-1.02.a. Union and Employer Responsibility

Labor relations should be conducted in a spirit of cooperation and mutual respect. Because employees, unions and employers all have a vital stake in maintaining workplaces that are productive and competitive, emphasis and resources should be placed on solving problems and resolving issues rather than on conflict and confrontation.

Any statute, either state or federal, dealing with the subject of labor-management relations should provide that:

- Both unions and employers are responsible for the acts of their respective agents who they have direct and immediate control of, under generally recognized rules of agency.
- Labor unions should be responsible under the law for the concerted activities of their members.

LLRP-1.02.b. Collective Bargaining Procedures

Where collective bargaining is in effect, both parties should participate with a sincere desire to make such bargaining effective, and the following principles should apply:

- Collective bargaining representatives of the employees and the employer should be equally responsible under the law to bargain in good faith and to adhere to the terms of their collective bargaining agreements.
- Collective bargaining agreements should provide orderly procedures for settlement of disputes arising over the meaning or interpretation of a provision of the agreement.
- The use of grievance mediation should be encouraged in an ongoing effort to reduce costly conflicts and resolve disputes.

All forms of coercion, intimidation or violence should be prohibited and all federal, state and local laws with respect thereto should be impartially and adequately enforced. Some of the practices that should be subject to statutory regulation are jurisdictional strikes; sympathy strikes; strikes against the government; strikes to force employers or employees to ignore or violate the law; strikes to force recognition of any uncertified union; strikes to enforce featherbedding or other work-restrictive demands; and secondary boycotts, picketing or bannerng.

In case a majority of all employees in an appropriate group have voluntarily, and without intimidation or coercion, elected collective bargaining representatives by secret ballot election, their employer should undertake, in good faith, to utilize such a relationship to achieve understanding and cooperation.

Federal labor policy and legislation should continue to encourage the free and lawful flow of facts and information between employees and employers when workers consider union representation. Laws or agreements that restrict the free flow of this information and prevent workers from hearing all of the facts should not be promoted at the federal level.

LLRP-1.02.c. Freedom of Choice in Union Membership

The NAM supports the following principles:

- Every employee and prospective employee should be guaranteed freedom—without intimidation or coercion from any source—to join or not join a labor organization and to maintain or discontinue his/her membership, financial support and participation in its activities. The NAM firmly believes employees should have the right to information from both employers and union officials and an appropriate amount of time to review the information to better make important decisions impacting their jobs and families.
- No individual should be deprived of his/her right to work at a job available to him/her and for which he/she is qualified. No individual or organization should be permitted to coerce, harm or injure the individual, his/her family or his/her property at home, at work or elsewhere in any matter or action relating to his/her employment.
- In cases where a labor agreement exists, and where union dues are handled by payroll deductions, the conditions should be covered in the agreement. Such deductions should be subject to revocation upon the initiative of the employee.
- Employees who freely wish to be represented by a labor union should be organized in a collective bargaining unit that accurately reflects the long established “community of interest” doctrine, and which avoids counterproductive subgroups of employees.
- Orderly procedures, free from coercion or intimidation from any sources, should be observed by employers, labor organizations and employees in determining whether a majority of employees in an appropriate group wish to deal individually with their employer or through collective bargaining representatives. This fundamental employee right to select or reject a bargaining agent should be guaranteed through secret ballot elections conducted by an appropriate agency with adequate safeguards.
- Strikes during normal operations, boycotts, slowdowns, picketing or other concerted interferences undertaken to compel an employer to recognize any collective bargaining representative that has not been certified under orderly procedures should be prohibited by law with effective penalties.

In the case of an economic strike, persons actually on the payroll on the date of a representation election are the ones genuinely interested in the outcome of a vote for representation. No artificial factors should prevent such persons from voting in such cases, and voting rights in representation elections should be restricted to employees on the active payroll of the unit involved.

LLRP-1.02.d. Union Political Funds

The involuntary collection or use of funds by labor unions for political purposes should be prohibited by statute. The NAM supports the codification of the Beck Supreme Court decision, which holds that union members cannot be forced to have mandatory union dues go to political causes or organizations they do not support.

LLRP-1.03. Government Relationship Labor Practices

LLRP-1.03.a. Authority of States

States and territories should have and exercise the responsibility to enact and enforce legislation to regulate or restrict strikes, picketing or boycotts, and to protect the health and safety of the people of the states and territories during labor disputes, regardless of whether the same conduct might also be subject to federal regulation or restraint.

The right of the parties to reach voluntary agreement requires acceptance of the fact that failure to reach agreement may result in a strike or lockout. The possibility, and its attendant inconvenience, is part of the price we must pay for the maintenance of responsible collective bargaining.

Intervention in any manner, other than conciliation assistance, by the government in labor disputes should be kept to the absolute minimum. Such intervention should be limited to the unbiased and impartial administration of applicable labor laws. In the event of a strike or lockout that imperils the national health, safety or security, any restraining order issued to maintain the status quo should be of such duration as necessary to protect the public interest.

Every employer should have the ability to seek advice and services from legal counsel and other advisors concerning labor law, employee relations policy and other issues to make informed business and workplace decisions. In order to maintain the integrity of the decision-making process and to protect the attorney-client privilege, communications with an attorney and/or service provider, as well as financial expenditures for these communications and services on labor law and employee relations, should not be mandated to be disclosed.

LLRP-1.03.b. Compulsory Arbitration

No form of compulsory arbitration, including labor courts, should be imposed or required by law.

LLRP-1.03.c. Secret Strike Ballot

The law should provide for a secret vote under government supervision of all members of the bargaining unit on whether to strike or accept the company's last/final offer. Such votes should be taken at the request of either employer or union and either before a strike is called or afterward. It is further understood that more votes could be requested by either party, but only at some reasonable interval.

LLRP-1.03.d. Plant Seizure

Government seizure of plants and property in connection with labor disputes should be prohibited.

LLRP-1.03.e. Plant Closings

The NAM considers early notice of plant closings beneficial in helping dislocated workers find new employment. The NAM further finds it is advisable for corporations to act responsibly in plant closings by providing as much notice as possible.

However, as each plant closing situation is unique, the NAM does not see the wisdom in expanding the Worker Adjustment and Retraining Notification (WARN) Act, which already provides ample notification and remedies to workers. Acceptable public policy for the business community should focus on incentives to encourage early notice of workforce reductions rather than sanctions.

LLRP-1.03.f. Ratification of International Labor Organization Conventions

The NAM considers the need for, and the value, of U.S. ratification of International Labor Organization (ILO) conventions undemonstrated. The NAM also considers the review of individual conventions to involve complex issues, such as usefulness to U.S. economic and social conditions, employee welfare and business competitiveness—especially of small and medium-sized companies. Accordingly, the NAM sees the necessity for the following criteria, at a minimum, to be satisfied preceding ratification by the U.S. of any ILO convention:

- Each convention will be examined on its merits on a tripartite basis to determine if there are differences between U.S. federal and state law and practice, and the convention's provisions.
- No ILO convention conflicting with federal law and practice will be ratified unless and until federal law and practice is conformed to the convention in advance and through the normal legislative process.
- No ILO convention that conflicts with state law and practice will be ratified unless and until the conflicts between the convention and state law and practice are resolved.

The NAM will oppose ratification if these minimal criteria are not fulfilled and the need and value of the convention is not demonstrated.

LLRP-1.03.g. Government Employee Relations

In their role as employer, citizen and major taxpayer, private employers have a vital and legitimate interest in government employer-employee relations at the federal, state and local levels. The rapidly increasing disruptive impact on the general public and the spillover effect of labor problems on private employers, which have accompanied the substantial growth of government employee unionization, require the business community to define a responsible position with respect to this important subject. The public interest can be furthered by the involvement of private employers in the development of appropriate legislation and in the promotion of sound personnel policies and practices, as well as harmonious employee relations at all levels of government.

Employers recognize that the principles of free speech, assembly and petition extend to employees in both the private and public sectors. Employees in both sectors should have the ability—without intimidation or coercion from any source—to join and support, or to refrain from joining and supporting, labor organizations of their choice.

In the interests of the public and the government employees involved, all forms of union security to compel employees to join or remain members of a union or to provide the check-off of union dues should be prohibited to ensure that complete freedom of choice is exercised.

Our constitutional form of government entrusts to the legislatures at all levels of government the sole right and responsibility to raise and appropriate revenues for all government operations, and to determine labor policy with regard to state and local government employees. Any attempt to counteract or interfere with this democratic system, other than through the exercise of the constitutional right to vote and petition the legislature, must be rejected. The final resolution of impasses and disputes involving purely economic matters having direct impact on government revenues or matters regulated by statute must remain with the duly elected representatives of the people.

For the same reason, strikes by government employees do not comport with our constitutional system of government, and they should, therefore, be expressly prohibited. Strict compliance with the letter and intent of laws prohibiting strike activity by government employees must be maintained. Effective penalties for violation of the strike prohibition should be forthrightly and expeditiously levied.

Employers believe that notwithstanding the privilege to strike, equitable and meaningful voluntary measures should be provided to resolve labor-management impasses and disputes between government employers and their employees, subject to the sole right and responsibility of the legislature, as noted above. However, federal policy and legislation should not mandate collective bargaining for public sector employers.

Employers further believe it is essential to provide an environment conducive to the development of sound employer-employee relations for all government employees, whether or not they are members of, or represented by, a union. These systems should provide equitable and realistic policies and procedures encompassing promotion, discipline, discharge, grievances, job classifications and definitions, job security and other appropriate matters involving the employer-employee relationship. The systems also should be designed to provide the most efficient and productive operation of the applicable government agencies. Any variations that may be agreed to by an agency and a union should be within the provisions of any applicable statute.

Where appropriate and when not in contradiction with any principle contained herein, the policy positions of employee relations, which encompass industrial relations in the private sector, shall apply to government employer-employee relations.

LLRP-1.04. Personnel Policies

Employers should develop policies to encourage mutual respect and foster sound and friendly relationships between employees and employers so that harmonious and rewarding relationships are created. This will help attain good business objectives, providing more and better products at lower prices to more people.

LLRP-1.05. Equal Opportunity in Employment

Equal opportunity in employment is a prime objective that employers should actively and continually support. The NAM acknowledges the work of the Manufacturing Institute in recognizing and promoting the value of diverse and inclusive workplaces as a means of addressing the critical workforce shortage facing the sector. The NAM further supports and recommends the following principles:

- The formulation and implementation of individual corporate or institutional policies of equal opportunity at all levels of employment. In every instance, an individual's ability and qualifications to perform the job should guide the employment process.
- The development and implementation of procedures and specific plans to ensure equal treatment in the administration of all personnel matters without regard for race, color, religion, national origin, disability, sex, age, except where sex or age is a bona fide occupational qualification, sexual orientation or gender identity.
- Positive actions to achieve the understanding and cooperation of employees and, if applicable, their union representatives toward such objectives as those described above.

The implementation of equal opportunity principles can also be enhanced by the positive and responsible efforts of government. The NAM believes government, at all levels, can best fulfill its responsibilities by:

- Adoption of consistent and reasonable regulations and guidelines to the extent necessary to achieve the above.
- Fair and consistent application of such regulations and guidelines, including ample opportunity for judicial review and appeal where violations are alleged.
- Simplification of administrative procedures, reports and inspections, including elimination of burdensome and repetitive certifications and similar requirements.
- Elimination of duplication in administrative efforts among and between government agencies and levels of government.
- Supporting the rights of all employees to make voluntary, informed choices on benefits according to individual need. This includes the right of employees to make their own decisions to choose enhanced benefits, such as early retirement incentives, in exchange for releasing certain rights. The right to individual choice should not be diminished by legislation so rigorous as to deny employees the opportunity and right of choice.
- Upholding the clear and reasonable guidelines that create a predictable climate, such as statutes of limitation in filing discrimination claims.

LLRP-1.06. Teamwork Through Better Understanding

Two-way channels of communications between employers and employees are essential to the cultivation of good relationships and the encouragement of better economic, social and civic understanding.

These channels of communications provide the climate for a spirit of cooperation and understanding between employees and management, keep employees informed of policies, problems and the future outlook of the company and keep management informed of the needs, desires, suggestions and reactions of the employees. Such communications by the parties should be assured the complete freedom of expression without governmental or other compulsion, regulation, restraint or interference.

LLRP-1.07. Freedom of Speech and Property Rights

Freedom of speech for both employers and employees, as protected by the Constitution, should not be impaired. Employers have the right to determine which individuals, businesses and organizations can have access to their workplaces, employer-provided equipment and information systems to ensure productive work environments and prevent disruptions which may hinder operations.

LLRP-1.08. Employee Compensation

High levels of job performance and employee satisfaction are encouraged by relating compensation that is both internally equitable and externally competitive to performance on the job. Employees are responsible for performing a fair day's work. There should be minimal interference by the federal or state governments in establishing mandatory wage rates and employers should have the ability to adjust wages as the economic market or other conditions dictate.

LLRP-1.09. Technological Changes

A higher standard of living for all can come about only as the result of efficient and profitable production of more and better goods and services. To this end, it is essential that:

- Employee efforts will be made more effective by technological improvements. Such improvements will be expedited by employee understanding of the benefits of technological improvements and by employee acceptance of the necessary changes in methods and equipment.
- Employers plan such changes so as to minimize disruption to employment.

LLRP-1.10. Employment Stabilization

The NAM recognizes steady employment and steady pay are of vital importance to employees and contribute to a sound economy. There is increasing evidence of the progress management is making to avoid wide fluctuation in employment and payrolls by modifying unstable factors within its control.

LLRP-1.11. Length of the Work Week

Any compulsory reduction in the length of the statutory 40-hour work week for overtime purposes will arbitrarily contribute inflationary pressure and adversely affect the economy of our nation and our ability to compete in the global economy.

LLRP-1.12. Premium Pay Penalties

Imposing a higher overtime rate or other pay penalties on America's production processes would raise costs and prices and create new obstacles to the economic growth essential to full employment.

LLRP-1.13. Equal Pay for Work of Equal Value

The principle of equal pay for equal work performance with the wage and salary structure of business establishments is sound. Differentials in compensation are soundly based when work performance and job requirements are the criteria.

LLRP-1.14. Job Opportunities for Disabled Workers

Employers know from experience that a disabled individual, when matched to the requirements of the job, is no longer disabled. Employers should endeavor to provide wider employment opportunities for the disabled by adhering to personnel policies that promote the hiring, retention and advancement of these individuals on a sound basis.

The NAM believes government at all levels can best fulfill its responsibilities by:

- Supporting the original intent of the Americans with Disabilities Act (ADA) and the necessary protections it provides applicants/employees who may have a physical or mental impairment, substantially limiting one or more major life activities.
- Supporting the current process by working proactively to ensure qualified individuals become productive members of the workforce.
- Encouraging the mutual, interactive aspects of the ADA that allow applicants/employees to engage their employer when appropriate to seek necessary accommodations.

- Allowing for the applicant/employee and employer to consider all circumstances regarding the disability or impairment so the qualified applicant/employee is matched to a position that meets his/her individual needs.

LLRP-1.14.a. Accessibility

The NAM believes that all covered employers and places of business have a duty to reasonably accommodate disabled individuals according to Title III of the ADA. To that end, the federal government should consider all cost and feasibility concerns in any revision of accessibility regulations.

LLRP-1.15. Workplace Flexibility

Within the framework of the statutory 40-hour workweek, employers must have maximum flexibility to vary the length of the workday and the number of days in the work week, without incurring premium pay penalties. Such flexibility is required to accommodate changes in technology and changes in work practices and employee needs.

In the establishment of optimum work schedules, which vary from company to company, consideration should be given to productivity and employee health and safety.

The federal government should recognize and promote the voluntary efforts of employers to respond to individual employee needs for work schedule flexibility. Employers believe that the federal government should not mandate workplace flexibility programs of any kind, including specific paid leave programs and systems that impede the flexibility of employers to design workplace programs that best meet the needs of their employees.

LLRP-1.16. Substance Abuse

There is a staggering financial and human cost of alcohol and other drug abuse in the workplace. Most importantly, the safety of workers and consumers is jeopardized by impaired employees.

The NAM supports the following voluntary measures to combat the problem of alcohol and substance abuse in the workplace:

- Employee alcohol and drug education and awareness programs;
- Establishment of overall company policies on substance abuse;
- Employee assistance programs; and
- The testing of employees for substance abuse.

LLRP-1.17. Substance Abuse Testing

As a key component of a successful drug-free workplace program, the NAM supports the right of employers to test employees and applicants, provided appropriate safeguards are instituted to assure testing accuracy.

It is the NAM's belief that any legislation addressing drug testing issues must include:

- Affirmation of employers' right to drug test under clearly defined circumstances;
- Pre-emption of restrictive state and local laws discouraging effective drug-free workplace programs; and
- Appropriate protections for legitimate employee concerns.

It should be up to the individual employer as to what a company's drug testing policy shall be.

The NAM opposes any legislation prohibiting employers from testing applicants and employees for substance abuse.

LLRP-1.18. Family and Medical Leave Law

The NAM recognizes the evolution in the demographics of the workforce. Increasing numbers of employees with young children or elderly parents pose new human resource challenges. Pressure from balancing family with job responsibilities weighs heavily on most employees.

Employers must actively seek innovative solutions to the challenges of work and family life balance. All avenues of flexible benefit design and possibilities of accommodation should be explored to allow employees to remain on the job. Many employers have already instituted programs to help, including:

- Alternative Work Schedule—such as flextime, voluntary reduced work weeks, job-sharing, telecommuting, leaves of absence and part-time employment.
- Child and Dependent Care Programs—including onsite and near-site day care, day care subsidies and child care vouchers.
- Employee Assistance Programs—to provide counseling for employees under stress from family responsibilities.
- Flexible Benefits Plans—to allow employees to choose benefits such as parental leave or day care in lieu of traditional benefits.

The economic feasibility of such programs will be different for each company. Only the individual employer can determine if such programs can and should be offered. Corporate policies on family and medical leave will be determined by many factors such as the type of business, competitive standards in the industry, size and skill of the workforce and the ability to assume costs.

The NAM believes government at all levels can best fulfill its responsibilities by:

- Ensuring that the original intent and important benefits of the Family and Medical Leave Act (FMLA) are realized without unnecessary expansions.
- Opposing federal initiatives that seek to mandate one-size-fits-all benefit programs on employers.
- Encouraging flexibility in the workplace rather than restricting employee benefit design. The globally competitive economy of the 21st century dictates that the most workable and universally beneficial legislation would retain and promote flexibility of programs and choices for employees and employers. Employers, not government, are in the best position to decide the type and scope of benefits to be made available to employees.

LLRP-1.19. Occupational Safety and Health

The NAM believes employers are responsible for providing a safe and healthful work environment and conducting effective occupational safety and health programs. These programs are essential to good employee relations and sound business practices. Employers must be able to maintain and utilize their authority and freedom to fulfill these responsibilities in the best way possible given their individual operations, equipment, workforce and business circumstances. Manufacturers believe both employers and employees have important roles in maintaining safe workplaces. To achieve our shared goals of maintaining safe workplaces, the Occupational Safety and Health Administration (OSHA) should be as much of a resource for manufacturers as it is an enforcement agency. Improving safety is most effective when all parties—employers, employees and OSHA—work together to achieve better results, recognizing the importance of respecting areas of law like labor relations that are reserved to other agencies and the value of vesting ultimate responsibility for decision-making with management.

LLRP-1.19.a. Occupational Safety and Health Programs—Employer Roles

Employers should formulate and conduct sound safety programs, including definitive safety policies and effective engineering, administrative, educational and motivational procedures. The NAM believes employers are best suited to:

- Establish programs and procedures, identify hazards, implement feasible and effective controls, and promote safe and healthful practices. Programs should be performance-oriented and communicated to all employees. Employers must be free to select the ingredients of a program and provide for employee participation that best fits their workplace environments.
- Encourage the interest and support of employees in safety and health programs. The ongoing support and interest of employees is essential to any safety and health program's success.
- Support and encourage safety and health education programs and activities, promote off-the-job safety and introduce employees and their families to the personal benefits of healthy lifestyles.
- Provide occupational health programs encompassing the preventive, curative and rehabilitative phases of occupational health.
- Promote workplace safety and health through programs, encourage employees to work safely and hold accountable anyone engaged in unsafe work practices.

LLRP-1.19.b. Standards and Regulations—Government Roles

All new occupational safety and health standards and regulations should be adopted through the current statutory and regulatory framework established by both Congress and the executive branch. This important framework is designed to preserve for all stakeholders a voice in the process of developing new standards and regulations. Sound scientific, data-driven research and review is a necessary basis for all new occupational safety and health standards and regulations. A thorough examination of the impact of standards and regulations on covered entities is required to ensure both their feasibility and worker protection, which should be the primary objective of any standard and regulation.

Effective occupational safety and health standards and regulations can only be developed through active participation by employers in the rulemaking process, including the utilization of their affiliations with trade associations, standards organizations and national, state and local safety and health organizations. Employers should provide qualified personnel to participate in occupational safety and health standards and regulations development. The process of developing or updating regulations should always adhere to all statutory requirements, should be fully transparent, and should afford all stakeholders an equal opportunity to express their views and interests throughout the entire process.

Occupational safety and health standards and regulations development must be supported by essential facts as they relate to injury/illness causes and effective interventions. Employers should participate in the development of these essential facts.

Occupational safety and health standards and regulations as set forth in this section, which are subject to government administration and enforcement, should be applied and interpreted in a uniform manner throughout the nation so as to not unduly burden interstate commerce and multi-state employers.

Current occupational safety and health standards and regulations should be reviewed to ensure they are working as intended. Prior to any new rulemaking, OSHA should practice due diligence in reviewing whether existing standards and regulations address emerging safety and health issues. OSHA should work to limit the regulatory burden on employers, especially the small manufacturer, whenever possible.

Employees' claims resulting from occupationally related injury or disease should be handled through existing state workers' compensation programs and individual employer benefit programs.

Effective occupational safety and health compliance is the responsibility of both employers and employees. In accordance with the Occupational Safety and Health Act of 1970, Section 5, every OSHA investigation and enforcement effort should review and address the compliance responsibilities of both employers and employees equally.

LLRP-1.19.c. Enforcement of Workplace Safety Laws

Employers must have access to due process rights when contesting alleged violations of OSHA standards and regulations. Federal policy should allow employers to stay abatement requirements pending the full completion of a challenge to the citation through the Occupational Safety and Health Review Commission. Criminal penalties for OSHA violations must be levied only when willful intent of repeated violations is clearly demonstrated by an employer.

To ensure that individuals tasked with enforcing OSHA standards and regulations are able to properly assess potential violations, OSHA officers who work with employers must undergo adequate levels of training and have experience in the sector or industry they are charged to enforce.

Proper education and training of OSHA compliance officers and inspectors will enable such personnel to better understand the dynamics of the workplaces they inspect and ensure they are competent to make fully informed judgments.

LLRP-1.20. Use of "Testers"

The NAM opposes the use of "testers" who pose as job applicants, misrepresenting their interest in employment and often their qualifications. We believe that deception and misrepresentation have no place in the employment process. These unethical practices result in increased recruitment costs and missed opportunities for sincere qualified applicants. Accordingly, we believe the deceptive activities of testers should never be used.

LLRP-1.21. Employee Record Privacy

The NAM believes personal privacy is important and certainly of premier importance in the business world. Specifically, the confidentiality and equality with which employee personnel records are treated has long been a concern to employers. The NAM believes employers should follow all federal guidelines and existing laws designed to protect the records of employees.

LLRP-1.22. Comparable Worth

The NAM has a strong commitment to equal employment opportunity and supports vigorous enforcement of anti-discrimination laws. Although we believe employers must ensure both men and women are given equal opportunity in hiring, pay and job advancement, the NAM does not support a comparable worth concept, whereby some government entity would impose its own measurement on the value of dissimilar jobs. This is abhorrent to a free enterprise system. It would result in a confused set of ever-changing government standards and prolonged litigation for devising employer compensation practices. Employers must be able to take into account market influences and the worth of particular jobs to their own companies. The federal government should restrict itself to enforcement of current anti-discrimination laws.

LLRP-1.23. Affirmative Action

The NAM supports affirmative action as an effective method of achieving civil rights progress. Employers realize it is good business policy to encourage and promote programs that enhance minority and female participation at all levels within the workplace. Affirmative action programs have strengthened the fabric of society and created an environment of cooperation and understanding among people of diverse backgrounds. In endorsing affirmative action, it should be made clear that goals, not quotas, are the standards to be followed in the implementation of such programs.

LLRP-1.24. Individual Liberty

A free and open marketplace is at its best when the sale and provision of goods and services are provided without regard to race, color, religion, national origin, disability, sex, sexual orientation or gender identity.

LLRP-02 Legal Policy

The costs of the American legal system are the highest in the world. As a percentage of GDP, the United States spends on average nearly twice as much as other industrialized nations on tort costs. Aggressive trial lawyers and their advocates view industry as a revenue source and are working constantly to find novel ways to increase the profits of litigation.

To ensure the competitiveness of American manufacturing, common sense and fairness must be restored to the legal system. Legal reform must be pursued at the federal and state level to restore balance between plaintiffs and defendants, apply reason and sound science, discourage frivolous claims, place appropriate limits on liability and damages and promote the efficient, cost-effective resolution of litigation.

LLRP-2.01. Mandatory Statement of Terms and Conditions of Sale

Industry stands fully in accord with the objectives of local, state and federal regulations protecting the consumer from false, deceptive or misleading representations as to the price, quality or conditions of sales of any product or service. Individual business firms, trade associations and industry-supported organizations have amply demonstrated respect for, and responsibility to, the consuming public.

The voluntary furnishing of information as to the terms and conditions of sale of any product or service is a basic element of good supplier–customer relationships. It is a function that is self-regulating in a free market and does not require government regulation for mandatory disclosure.

Before fraud in advertising or misrepresentation can be alleged, there must be a showing of reliance on the fraudulent information.

LLRP-2.02. Consumer Representation in Government

Industry believes that any effort to superimpose new governmental bureaus and departments seeking to represent citizens solely as consumers is unnecessary and undesirable. It is fundamental that, in a free economy, the interest of the consumer is best protected by the market power inherent in the exercise of free choice. Industry believes that the established departments and agencies of government are fully representative of all members of the public and are aware of their interests as consumers. The protection of the public interest is synonymous with the protection of the consumer interest.

LLRP-2.03. Packaging

Packaging is an integral part of the ultimate product and adds to the satisfaction of consumer wants and needs. Accordingly, the National Association of Manufacturers supports packaging and labeling principles that are conducive to fair and equitable trade practices and contribute to the health, safety and convenience of the consumer. It endorses packaging practices that provide for information regarding contents when it will be meaningful to consumers and is evidence based. It opposes packaging regulation that suggests subjective or interpretive information as fact and/or restricts the opportunity to create and innovate, including restrictions on the use of intellectual property. It upholds the consumer's right to be informed and to have free choice of quality and function as well as price. It believes that labeling regimes that are meant to warn and inform consumers, but are overly burdensome and overly inclusive, ultimately undermine the usefulness of warnings and only serve to benefit plaintiffs' attorneys.

The NAM opposes regulatory policies that add to the cost of packaging, thereby increasing retail prices without commensurate benefit to the consumer. The association believes that interstate commerce in packaged goods will be hampered severely, and costs and retail prices increased, if laws affecting packaging and labeling are not uniform nationwide.

LLRP-2.04. Product Safety

Product safety is of vital concern to industry not only for public-spirited reasons, but also because it is essential to the retention of customer confidence and long-term business success. Industry accepts its responsibility to protect the users and consumers of articles of manufacture against hazards that are incompatible with the public interest.

Industry believes that government and private programs for the reduction of product-related injuries must consider and be based on the following factors:

- No article found in nature or manufactured is totally immune from the possibility of harmful interaction with individuals under all conceivable circumstances of human behavior.

- Product-related injuries resulting from an unreasonable safety risk because of design, material, workmanship or instructions represent a small fraction of the total and are the only injuries over which the manufacturer has any form of control.
- Achieving effective safety standards without depriving consumers of useful products requires analysis and balancing of each product's usefulness, safety factors, size, design, versatility, convenience, cost and other public needs. Consumer interests are not unified, and any federal standards must take due account of the interests of different consumer groups.
- The NAM endorses and encourages the following particular actions by and within the industrial community:
 - Continuing attention to product safety from basic design through finished product;
 - Emphasis by manufacturers and their associations on all forms of information regarding the installation, safe use, maintenance and disposal of products at all marketing levels and to the consumer;
 - Establishment of voluntary safety standards where there is a reasonable basis to believe that they will serve the public interest;
 - Industry-wide acceptance of government and public participation in a contribution to voluntary standards setting; and
 - Industry cooperation with the education efforts of public and private institutions, including the school system, to correct those behavioral patterns that are factors in product-related injuries.
- Industry recognizes the legitimate interest of the federal government in the safety of products in national markets. In the development of national policy, the NAM believes that the following principles should apply:
 - Federal safety standards are appropriate only where unreasonable safety risks are demonstrated to exist or be imminent and where voluntary standards have not been shown to be effective.
 - Governmental process should act to encourage, not discourage, the vigorous voluntary mechanisms working for improved safety. Emphasis should be on voluntary action and informal procedures rather than on punitive action.
 - Governmental agencies responsible for safety standards should comply with the procedural requirements of the Administrative Procedure Act and their organic statutes in promulgating standards or imposing sanctions.
 - Authority of the agencies should not be extended to prescribe, monitor or to approve or disapprove the in-plant facilities, processes or procedures used by manufacturers for achieving compliance with the law.
 - Safety standards should prescribe safety performance criteria as opposed to prescribing the means of achieving compliance.
 - Safety standards should ordinarily apply on a product-by-product basis rather than to broad product categories.
 - Safety standards should not apply to data security, cybersecurity, privacy or other non-physical threats not covered traditionally by product liability tort common law.

- Criminal enforcement of product safety violations should be limited to circumstances where there is knowing and willful intent to violate the laws.

LLRP-2.05. Tort Reform

The NAM supports the principle that balanced tort reform should be developed to address the present inequities that exist in the law. To this end, the NAM supports comprehensive and specific federal and state tort reform efforts that will provide clear standards for liability and true justice for all parties, including:

- A specific statute of limitations beyond which suit cannot be brought;
- A statute of repose commencing from the date on which a product enters the stream of commerce and ending on a date certain in the future that bars recovery in product liability actions;
- The safety of a manufacturer's products should be judged by the state of the art that was technically, operationally and economically feasible and readily available to the manufacturer at the time the product entered the stream of commerce;
- Evidence of post-accident modifications should be inadmissible as evidence of a defect in any product liability action;
- The manufacturer of a product should not be held liable for injuries insofar as they are caused or occasioned by unauthorized alteration made to the product by others;
- The manufacturer of a product should not be held liable for injuries insofar as they are caused or occasioned by misuse of the product;
- The manufacturer of a product should have a duty to warn of hazards associated with use of a product only when they are clearly foreseeable but not so apparent that injury could be avoided by the exercise of reasonable care without such a warning;
- Evidence of plaintiff's collateral sources of recovery should be admissible in product liability actions;
- Constitutional limits on excessive punitive damages should be enforced by effective statutory requirements and judicial review. Since punitive damages are intended to punish and deter conduct, they should be imposed only where there is actual malice, intentional infliction of harm or a knowing and reckless disregard of safety and after compensatory damages have been determined. Multiple punitive damages should be eliminated, including the prohibition of one state assessing damages for conduct that occurs solely outside the state. Punitive damages are inappropriate when a defendant utilizes good-faith product design or risk-utility analysis or conforms to reasonable government or industry standards. Punitive damages should be proportionate to comparable state civil penalties and should not be imposed as a substitute for legislation or regulation. Where punitive damages exist, legislative caps on punitive damages should be enacted and are constitutional. The wealth of the defendant is an inappropriate factor to consider when assessing punitive damages. All punitive damages awards should be reviewable *de novo* by appellate courts;
- Limits on class action and case consolidation should be enforced by effective statutory boundaries and judicial review;
- Where a judge determines that a lawsuit has been filed frivolously with the intent to harass an opposing party, sanctions should be mandatory and not discretionary. Attorneys should not have the ability to knowingly file a frivolous claim with the intent to harass an opposing party and face no penalty if it is withdrawn. Defendants should be allowed to recover some of their legal costs in particularly egregious cases;

- Lawsuits should only be brought forth in jurisdictions where there is a significant nexus to the case and the choice of federal court should not be precluded because of some non-diverse or fraudulent parties;
- Alternative dispute resolution should be encouraged. The effectiveness of pre-dispute binding arbitration provisions in contracts should not be limited;
- Damages should be apportioned according to the actual responsibility of a defendant and not shared jointly;
- Litigation should not be the vehicle for the imposition of regulatory regimes on industries or companies. To this end, courts should not approve settlements and/or consent decrees if they constitute a substantive and permanent amendment to existing agency rules or determine substantively the outcome of a future rulemaking in circumvention of legally required rulemaking procedures. Further, federal and state agencies should not use consent decrees and/or settlements to create legally binding “rules” and/or “standards” as an alternative to common law derived from judicial precedent determined by an independent court through truly adversarial litigation. Regulation should be the result of a robust, transparent rulemaking process consistent with all applicable legally required rulemaking procedures and statutorily defined limitations;
- Rules of procedure related to multidistrict litigation proceedings should be reformed to ensure consistent and fair application of standards, including discovery rules;
- Attorneys general should be required to disclose when they engage private law firms to represent state interests on a contingency basis; and
- Plaintiffs in litigation procedures should be required to disclose the existence of third-party litigation funding.

LLRP-2.06. Business Size and the Public Interest

American business has grown to meet the needs and desires of the public and to reflect the growth of mass markets. Companies have grown as a result of having met these needs and desires successfully.

The public interest in fostering a free and competitive economy is best served where factors determining the logical and efficient size and rate of growth of a business unit are permitted to operate without undue and arbitrary interference.

Small businesses continue to play an extremely important role in the economy. Our dynamic, complex business structure is competitive and ever-changing in nature, and small businesses enhance the competitive market system.

Industry supports reasonable laws against monopoly and restraints of trade and their fair and effective enforcement. However, business size, whether achieved by internal growth, acquisition or merger, is not in itself a criterion of undue concentration or a lack of competition. Mergers, acquisitions and joint ventures may well perform a valuable and needed function in our growing and changing economy, including by lowering prices, and they demonstrate the dynamics of our free enterprise system.

LLRP-2.07. Antitrust Enforcement

Laws regulating business conduct must be clear and explicit and be administered in a fair and consistent manner. The agencies charged with their enforcement should attempt to clarify their interpretation of these laws to avoid vagueness and ambiguities in enforcement of the laws. Where appropriate, an effort should be made to obtain voluntary industry compliance with the Federal Trade Commission Act and the antitrust laws in preference to time-consuming investigation, formal changes and rulemaking. Using the antitrust laws as tools of social experimentation through novel regulatory theories is a disservice to the free enterprise system.

LLRP-2.08. Administering Federal Antitrust Laws

Because effective and fair administration of the antitrust laws is important to the public and to industry, it is essential that those who administer these laws be highly qualified and experienced and have fair and balanced judgment. In addition, they should work with their state and international counterparts to help ensure consistency in applicable statutes and administration.

LLRP-2.09. Election and Lobbying Law

LLRP-2.09.a. First Amendment and Political Participation

The First Amendment includes protections for the freedom of speech, freedom of association and the right to petition our government. Intrusions upon these rights should be viewed critically and stopped when meant to silence or discourage points of view.

Speech, especially political speech, must not be hindered. Attempts to limit speech about important issues facing the country are unconstitutional and inconsistent with our democracy.

The ability of individuals to freely associate, including in corporate forms, is an essential freedom.

Contributions to political candidates, committees and groups encourage more speech and greater involvement of the people in the political process.

Disclosure of political contributions and expenditures is justified where the possibility of corruption is real. Disclosure regimes designed to embarrass, harass or prevent participation in the political process or through associations are inappropriate and unjustified.

Manufacturers and their employees are important participants in the political process and should be welcomed in issue and political discussions about the future of our economy and our nation.

Attempts to alter legal and regulatory definitions of forms of advocacy for legislative, regulatory or election activity can conflate prohibited acts with protected First Amendment speech. The NAM opposes efforts to restrict protected political speech through these methods.

LLRP-2.09.b. Political Action Committees

The NAM strongly supports the concept and role of political action committees. The association recognizes their contribution to an open campaign system and to the promotion of greater citizen involvement in politics and the development of public policy. PACs are only one part of a broad set of citizen activities to encourage understanding and participation in the political process.

LLRP-2.09.c. Government Financing of Congressional Campaigns

The NAM strongly favors the existing system of voluntary citizen campaign financing and is opposed completely to total or partial government financing of congressional campaigns. The NAM believes that our representative form of government functions best when candidates seek voluntary contributions from the citizens or citizen groups.

Government funding through tax dollars of candidates for the U.S. Senate and House of Representatives would constitute a costly and drastic change in our election process. This unwarranted federal intrusion into the election process would also reverse the present healthy trend toward the reduction of many pervasive levels of bureaucracy in the federal government.

In keeping with our representative form of government, public policy efforts should be directed toward encouraging greater citizen understanding of, and participation in, the political process.

LLRP-2.09.d. Regulation of Lobbying

The NAM supports simplification and clarification of the reporting requirements that apply to individuals and organizations discussing policy issues with the legislative branch. Disclosure and financial accounting provisions should be structured to encourage rather than discourage citizens, individually or through associations or coalitions, to discuss their views on the issues of importance with elected government officials.

Moreover, constitutional protections guarantee the freedom to associate and to petition the government for redress of grievances, including the right to form coalitions and associations that hire experts to assert those rights before the government.

Grassroots lobbying and activities to inform the public about important policy issues should have maximum protection against regulation or any efforts to suppress these basic constitutional rights to petition the government. The Supreme Court has noted repeatedly that robust public discussion was the intent and purpose of the First Amendment.

The NAM and its members support ethical standards of conduct in their own activities and in those dealing with government.

Laws regulating lobbying should treat enterprises that are owned in whole or in part by foreign parties, including domestic subsidiaries of foreign-owned enterprises, no less favorably than they treat domestic enterprises.

Broad definitions of lobbying must be carefully limited to registration and reporting and must not affect requirements relating to the extent of lobbying allowed by certain tax-exempt organizations.

Service as a registered lobbyist should not be a bar to government service subject to reasonable government regulation.

LLRP-03 Regulatory Policy

A favorable business climate is essential to the further expansion of the economy, creation of new products and additional jobs for our growing population, as well as the prosperity of our nation.

Prosperity for all segments of the economy stems from fair treatment in general legislation of a civil nature, administrative regulation and the recognition of the basic rights of all citizens, both individual and corporate.

The National Association of Manufacturers recommends more emphasis on creating a favorable business climate by minimizing unnecessary regulatory burdens on manufacturers and promoting a smarter and more efficient regulatory system. The benefits of appropriate regulations are clear and supported by the public. The issue is how to enable the regulatory system to address legitimate concerns without unreasonably impeding innovation, research, development and product deployment. Too often in the regulatory process, the vital national public policy objectives of international competitiveness and technological innovation are given short shrift due to other competing mandates.

To promote industry, serve the general public and protect individuals and the environment, the NAM supports regulatory policies designed to favor markets and adhere to sound principles of science, risk assessment and robust benefit-cost analysis.

LLRP-3.01. Principles of Effective Regulation

Appropriate regulation of aspects of private enterprise is recognized as a valid function of the federal government and is in the public interest. Such regulations should not unduly hamper the conduct of legitimate business activities.

Executive departments and independent regulatory agencies should engage in periodic review of all their regulations to determine effectiveness, results and continued need for the regulations. Significant regulations should be sunset to force complete review and justification for continuation of the regime. Economic regulations should always be sunset since changes in the marketplace often obviate the need for such rules. All significant proposed regulations should include specific plans for when they will sunset and reviewed for effectiveness and how that effectiveness will be scored.

Congress should use its authority under the Congressional Review Act to prevent the adoption of rules or regulations that are inconsistent with congressional intent, or that go beyond the legislation that the rules or

regulations are designed to implement. A Congressional Office of Regulatory Accounting or a Joint Committee on Regulatory Review should be created to provide for periodic review of regulations and enhanced congressional oversight of the regulatory process. Congress should avoid delegating overbroad legislative authority to agencies.

Regulatory programs' success should be measured by outcomes and improvements in economic and social welfare, not by amounts of fines or the number of enforcement actions. Federal agencies should focus resources on the most cost-effective and least intrusive means to achieve voluntary compliance. Compliance assistance programs, especially for small businesses, better serve the public's interest in achieving beneficial outcomes.

Criminal enforcement of regulatory violations should be limited to circumstances where there is knowing and willful intent to violate the rules. With respect to recordkeeping, criminal intent to file an erroneous or incomplete report should not be inferred from the filing of routine paperwork that contains errors or omissions.

Complexity, technological change and innovation in the marketplace mean that efforts to regulate all risk would be unsuccessful or destructive to the economy. Industry self-regulation should be given an opportunity to develop in new areas as the first alternative to government regulation. No regulation should seek or purport to eliminate every possible risk. Regulations should be based on sound science, credible economics and objective risk assessments.

Regulations and supporting material should be written in plain, understandable language.

Independent regulatory agencies should be required to conduct robust cost-benefit analyses of their significant rules and subject their analysis to third-party review through the Office of Information and Regulatory Affairs or a similar governmental entity just as executive branch agencies must do. Consistency across the government in regulatory procedures and analysis would only improve regulatory certainty and the transparency of the process.

As a general principle, agencies should adhere to OMB Circular A-119, which directs agencies to use voluntary consensus standards in lieu of government-unique standards. The use of such standards eliminates the cost to the government of developing its own standards and decreases the cost of procuring goods. It also encourages long-term growth for U.S. manufacturing and promotes efficiency and economic competition through the harmonization of standards.

LLRP-3.02 Principles of Effective Use of Guidance

Appropriate use of guidance documents, memoranda, bulletins, circulars, letters and other informal proclamations by agencies meant to inform and provide clarity to private enterprise is a valid function of the federal government and is in the public interest.

Broadly applicable guidance documents, memoranda, bulletins, circulars, letters and other informal proclamations by agencies, while not legally binding, nonetheless may have practical, binding regulatory effects in practice, despite being subject to little scrutiny or democratic accountability. Agencies should, therefore, adhere to the principles of effective regulation in Section 3.01 when issuing broadly applicable guidance and refrain from using informal guidance as a substitute for, or as a way to avoid, congressionally mandated rulemaking procedures that are intended to ensure transparency and public participation in agencies' decision-making processes.

Agencies should ensure guidance documents, memoranda, bulletins, circulars, letters and other informal proclamations are included in an online public record for easy accessibility by the public.

LLRP-3.03. Regulation of Prices

Adherence to free market principles assure that the public will obtain the maximum benefits from our economic system. Accordingly, the NAM advocates national policies that reflect the following principles:

- The market process, when operating in a climate of free choice, provides the best possible means for efficient and useful allocation of the nation's resources. Policies at all levels of government should reflect such free-market concepts.
- Prices are best determined by supply and demand in a free and fair competitive market. Prices cannot be maintained arbitrarily by the seller alone. Acts of government to alter the freedom of choice either to buy or sell at the free-market price tend to affect the total economy adversely. Government intervention must be justified and occur only upon a disruption of the market process.
- Aggressive competition within the marketplace is evidenced not by price alone, but by a diversity of product values and the freedom of consumers to choose, whether it be a price or a non-price value.
- The public interest requires the preservation of effective competition, which is the basic regulating and directing force in our free economy. An essential element of our economic system is the freedom to enter into such voluntary and mutually satisfactory arrangements as will best promote the efficient and economical distribution of goods and commodities from producers to the consumer. Industry believes that the interest of the consuming public is best served when such arrangements are free from unreasonable government regulation or restriction.

LLRP-3.04. Reporting and Recordkeeping Requirements

Congress, federal departments and agencies should adhere to the letter and spirit of the Paperwork Reduction Act in an effort to control and reduce the federal paperwork burden, including data collection, reporting and recordkeeping requirements. The need for the information should justify the time and money expended by both regulated entities and agency personnel.

The NAM also supports the concept of government-wide accountability for paperwork management and control resting within the White House Office of Management and Budget. OMB should also have control over a mandatory paperwork budget submitted by each agency. OMB should approve any reporting burden imposed on the public.

The public should have a period of at least 90 days to comment on information collection requests. Proposals for data collection, reporting or recordkeeping requirements should not duplicate existing requirements, and every effort must be made to use available information within the federal government.

The NAM supports sunset of data collection, reporting, recordkeeping and paperwork requirements. Those that are necessary and provide a useful function can and should be retained. The full burden of complying with such requirements should be accounted for. Electronic reporting or other process-based burden reductions should not be overemphasized in the calculations. Elimination of the information collection, reporting or recordkeeping requirement is the surest means to real burden reduction. Voluntary electronic reporting should be encouraged, but never as a substitute for elimination of unnecessary or duplicative information collections.

As a user of government information, data and statistics, industry recognizes the need for mandatory data collection in some circumstances. Such information should be collected and reported in the most cost-effective manner, subject to appropriate protection for confidential business information.

LLRP-3.05. Public Participation in the Rulemaking Process

The NAM believes that public participation in the agency decision-making process is an essential mechanism that ensures political accountability. Starting with the Administrative Procedure Act, the federal government has recognized the importance of public participation in rulemaking and non-regulatory proceedings. To enhance the public's ability to participate, the government has adopted further guidance in the form of executive orders, rules and procedures. The NAM supports full implementation of those public participation provisions and believes that any attempts to regulate through non-public means, such as through "sue and settle" litigation, undermines the importance of process, the rule of law, and sends a message to the public that agencies do not value the voice of those that regulations impact the most. Agencies should notify the public and request comment on all regulatory, guidance and research actions at the earliest feasible stage. Public comment periods should be consistent with the complexity of the document and the amount of time the agency needed

to prepare it. Public comment and agency responses to comments should be included in an online public record. To enhance participation by stakeholders, government documents should be written in plain, understandable language. Agencies should implement effective systems to batch comments that are identical or clearly originate from one source.

LLRP-3.06. Freedom of Information

The NAM recognizes and supports the public's right of access to certain types of information maintained by government. The submitters of confidential information provided to government have a corresponding right to expect that the confidentiality of such information shall be preserved. The NAM is especially concerned about the resultant harm to industry when disclosure is indiscriminate and fails to take into account the sensitive and confidential nature of business information. The NAM further believes that any statute providing access to government-held information must reflect a clear balance between the right of access and the right to confidentiality. A mechanism to safeguard confidential business information is essential if this balance is to be achieved. At the same time, public access to government information that is releasable publicly through the Freedom of Information Act should be as efficient and streamlined as possible.

LLRP-3.07. Information Quality

Agencies should implement effectively the Information Quality Act, including having transparent, established systems for ensuring that information disseminated by an agency is of high quality and for dealing fairly and expeditiously with petitions for correction of such information. An unbiased peer review of scientific and technical information should be an integral part of the regulatory process. Pre-dissemination review of information is just as critical as a robust petition process. Under the petition process, denial of a request for correction in whole or in part is final agency action under the Administrative Procedure Act and subject to judicial review.

Energy and Natural Resources Policy

ERP-01 Energy and Natural Resources

The United States has a mix of natural resources and innovative technologies unmatched by any other nation in the world. These energy and natural resources are the life blood of manufacturing. Manufacturers need sustainable, adequate, secure, reliable, efficient, affordable energy and raw materials to compete in the global marketplace. The United States has abundant supplies of natural gas, oil, coal, hydro, minerals and metals, biomass, wind and solar resources; our fleet of nuclear power plants cleanly and efficiently produce a substantial portion of the nation's electricity; advanced renewable sources and advanced distributed energy resources, are growing quickly and providing new flexibility and capabilities to manufacturers; and advances in energy efficiency continue to cut manufacturers' energy costs.

The NAM supports a diverse approach to powering our communities and operations. This diverse energy strategy promotes the responsible development and use of all energy sources, including fossil fuels, nuclear, renewables, energy technologies, and recognizes the importance of energy efficiency to meeting future energy demands. Government policies affecting energy, including permitting processes, land access and those pertaining to the electric grid, must place a priority on reliability and must preserve manufacturers' global competitiveness. The NAM supports significant investments to modernize energy infrastructure, distributed energy resources and other advanced technologies to improve efficiency, affordability, flexibility, reliability and security of the nation's energy future.

The NAM and our member companies are committed to addressing global climate change while preserving competitiveness as set forth in Section 1.09 below. Policymakers should focus on enabling the technological breakthroughs that are needed to significantly reduce emissions, and should incentivize increasing the use of products and processes that are the most cost-effective and carbon-efficient. Government should not impede or impair the ability of energy-producing and energy-consuming segments of industry from obtaining adequate funding for energy-related investments. The NAM supports policies that

strengthen the competitiveness of U.S. manufacturers and opposes policies that weaken the competitiveness of U.S. manufacturers.

Incentives are often effective policy tools, but should not artificially create winners and losers in a quest for developing competing technologies or fuels. In establishing federal clean energy policies, the NAM encourages Congress to provide transparent assessments of costs and benefits, prioritize energy reliability, recognize regional differences in renewable energy resource availability, and harmonize policies so that state and federal regulations made duplicative or unnecessary are eliminated. Research and development efforts should be pursued as a means to enhance energy flexibility and expand diversification of energy supplies over time to increase the competitiveness of U.S. manufacturers.

ERP-1.01. Natural Gas and Oil

There are abundant and reliable natural gas and oil resources in the United States, and global demand for these resources continues to increase. For manufacturers, the nation's domestic natural gas and oil supply is an important component of our energy future. Moreover, a balance between supply and demand is important to ensure competitive, stable prices. In today's global economy, U.S. manufacturers must be assured of an adequate supply of competitively priced and reliable natural gas and oil for industrial and commercial use, such as petrochemical feed stocks, process gas uses and transportation fuels and for power and steam generation.

ERP-1.01.a. Exploration and Production

The NAM supports policies that promote the leasing, exploration and development of the nation's natural gas and oil resources in a way that minimizes environmental impacts. Responsible exploration and development of promising areas onshore and offshore can substantially strengthen our nation's energy security, when developed in an environmentally sustainable way. Continued attention to compliance with safety standards will help ensure minimal safety, environmental and health impacts. Technologies such as hydraulic fracturing and horizontal drilling have made the extraction of unconventional resources, including shale gas and shale oil, technically feasible and cost-effective. Continued development of these resources, as well as other North American resources, can provide a steady stream of secure, competitively priced energy for American manufacturers and consumers. A commitment to safely and sustainably developing the nation's bounty of onshore and offshore sources of gas and oil will have a significant positive impact on this country's ability to meet its feedstock and energy needs. As is currently the case for states with onshore production from federal lands, and for Gulf Coast states with production from federal waters off their coasts, all states with federal offshore leasing and production should share in related federal revenues.

ERP-1.01.b. Refining

The refining industry is one of America's largest manufacturing sectors, and refined petroleum products play a critical role in meeting domestic transportation fuel demands. U.S. refineries process crude oil into products such as gasoline, distillate and jet fuels and heating oil and chemicals for domestic use and for export into world markets. U.S. refiners have responded to the call for a cleaner environment by producing cleaner fuels at competitive prices. Uninterrupted production of these products and the transportation infrastructure necessary to deliver them are essential to our national energy and economic security as well as to U.S. industry's ability to compete globally. U.S. exports of refined products are growing and increasing the competitiveness of U.S. markets.

ERP-1.01.c. Energy Exports

Manufacturers rely on natural gas and oil for much of their energy needs and as a raw material. The NAM believes policies that encourage the cost-effective use of energy to grow American manufacturing should be encouraged. Natural gas and oil are and will remain important manufacturing commodities because of their scalability, affordability, versatility and efficiency. The NAM supports policies at the federal and state level that facilitate the responsible and expeditious development of energy resources that allow these benefits to contribute to America's economic growth and to accrue for energy consumers.

The dramatic increase in the domestic natural gas and oil resource base has paved the way for the U.S. to become a net exporter of natural gas and oil. An adequate and reliable supply of natural gas is needed to meet the demand of the U.S. manufacturing sector and will be enabled by access to abundant domestic resources

as well as increased access to global energy markets. The NAM strongly supports federal and state policies to accommodate growth in domestic natural gas production. We further believe abundant domestic natural gas and oil resources can fuel a renaissance in U.S. manufacturing. The NAM supports free trade and open markets as set forth in IEAP-01. We support an energy export policy process that is open, transparent and objective.

ERP-1.02. Coal

Coal is an abundant domestic energy resource in the U.S. that generates a significant percentage of our nation's electricity. Coal is capable of providing essential baseload power that is key to a modern energy strategy for our manufacturing sector. Maintaining coal as part of a diverse energy portfolio and as a viable export commodity provides for strong economic growth. In addition to coal used for electricity generation, metallurgical coal is a high-grade component in the chemical reactions that transform iron into steel. Every ton of steel produced requires approximately 0.6 tons of metallurgical coal, making coal essential to the manufacturing industry.

Technology solutions that reduce emissions from the fuels the world uses are essential to achieving progress on climate. State-of-the-art emission control devices, boiler improvements and other advanced coal technologies have led to steady increases in energy efficiency and lower emissions from coal electricity generation over several decades. Governments should support and encourage the development and deployment of these advanced technologies in the U.S. and around the world to reduce global emissions.

Governments should support and encourage the development and deployment of carbon capture, utilization and sequestration technologies. Further regulatory actions that unreasonably increase the cost of production and use of coal for limited environmental or health benefits are counterproductive. Environmental policies should be applied in a manner that balances the realities of climate change and the important role that coal production and generation play in the nation's diverse energy portfolio.

ERP-1.03. Clean Energy Sources and Solutions

Government plays an important role in supporting the research and development of alternative energy sources and technologies. Low-carbon, renewable and alternative energy resources such as wind, solar, geothermal, hydrogen, hydropower, landfill gas, municipal solid waste and biomass are an important part of a diverse energy portfolio. Together these resources account for a steadily rising share of U.S. energy supply and development. A competitive market energy policy and investment in alternative energy infrastructure is the best way of encouraging economically sustainable alternative energy options and government must ensure that alternative energy technologies have equal treatment and access to energy markets.

The NAM supports policies that encourage an energy mix including clean, renewable and low carbon energy resources and other power and thermal energy solutions and promote energy-efficiency measures. Many NAM members are increasingly reducing the carbon footprint of their operations and supply chain. Government should support policies and technologies that ensure the low-carbon energy manufacturers are sourcing can be reliably and affordably transmitted and delivered. Conversely, the NAM opposes federal government mandates for increasing the use of any energy source at the expense of any other. Significant grid improvements are needed and encouraged to ensure manufacturers have secure, flexible and competitive energy options. As the nation's energy mix expands and diversifies, government policies must place a priority on energy reliability.

The use of renewable energy for thermal applications, including biomass, biogas, geothermal, landfill gas, renewable electrification, renewable hydrogen and solar thermal, is not as developed in the market or a cost-competitive as the use of renewable energy for electricity. Therefore, the NAM supports policies to incentivize renewable thermal energy options, which is critical to supporting lower-carbon footprint for industrial process heat applications.

ERP-1.03.a Combined Heat and Power

Consistent with U.S. manufacturers' demonstrated history of innovation, the NAM supports policies to encourage investment in combined heat and systems. CHP systems allow end users to realize energy savings greater than upfront investment and ongoing operation and maintenance costs and reduce

emissions. Policymakers should remove any remaining barriers that impede deployment of such energy-efficient technologies. Working with all stakeholders, federal policymakers should consider modeling best practices for states to address regulatory barriers to CHP deployment, including guidance for assigning reasonable fees and rates for interconnection to the local distribution grid, supplementary power, backup or standby power, maintenance and interruptible power supplied to facilities that operate CHP systems that also allow for reasonable cost recovery by an electric utility based on the costs to provide these services and do not shift costs to non-CHP customers. Federal policymakers should also provide guidance for valuing the sale of energy and capacity from CHP to a utility.

ERP-1.03.b Microgrids and Energy Storage

Microgrid and energy storage solutions are promising tools for manufacturers to reduce their energy costs, increase efficiency and boost resiliency. The NAM recognizes that these technology solutions are still in their early stages of development and therefore supports government policies and programs for research, development and deployment of multiple forms of energy storage and microgrid solutions.

ERP-1.04. Energy Delivery Infrastructure

The NAM supports continued improvements to laws and regulations that result in a transparent, streamlined and timely federal regulatory process for the siting and permitting of all energy delivery infrastructure, including oil and natural gas pipelines, energy transport by rail and interstate electric transmission infrastructure. Investments should also be made to establish infrastructure for hydrogen power for generation and transportation. Cost-effective investments in transmission infrastructure to maintain and improve the reliability, capacity, integration of clean energy, efficiency and security of the electric grid; recognize the total cost of ownership for all investments; and promote an electricity market that benefits residential, commercial and industrial rate-payers. Improved transmission infrastructure should also account for an increase in battery-electric cars and commercial vehicles. Transparent assessment of the full cost of technologies, which require additional investments to maintain grid reliability and efficiency, should be recognized in cost/benefit analyses.

ERP-1.05. Demand-Side Management (DSM) Programs

The NAM believes that the provision of cost-effective DSM services by customer and aggregator programs, energy efficiency measures and distributed energy resources can help ensure a reliable and adequate electricity supply at a lesser cost. Investments in and opportunities for technologies and measures that enable customers and aggregators to provide such services should not be precluded. The NAM also believes that electric and natural gas utilities should not be precluded from meeting future electricity and natural gas needs with these technologies and measures. Utilities also must not be precluded from recovering prudently incurred costs when implementing these programs, measures and services, and nondiscriminatory market opportunities for DSM services and distributed energy resources.

Unreasonable barriers to customer choice of power generation and efficiency improvements, including distributed generation, should be eliminated. The NAM encourages cost-effective information exchanges that support DSM through data exchange between utilities and customers.

ERP-1.06. Hydroelectric Power

Hydropower is a renewable resource that has demonstrated the capability to provide affordable electricity in areas where nature provides such opportunities and effectively complements the nation's other fuel resources to meet U.S. energy needs. Although hydropower contributes a relatively small percentage of the nation's energy supply, it is a significant percentage of the renewable energy supply. It is energy efficient, with energy conversion efficiency in the range of 85% to 95%. The NAM supports the continued use and development of hydropower resources.

The NAM supports the streamlining of the regulatory process for hydroelectric power development through the elimination of redundant or contradictory regulatory steps and avoiding the imposition of conflicting clauses in other legislative initiatives, such as those related to clean air, clean water and endangered species.

With regard to hydropower projects owned and operated by the federal government itself, efforts to offset their impact on fish and wildlife (including Endangered Species Act initiatives) must be carefully balanced with the preservation of economic, recreational and public safety goals.

ERP-1.07. Nuclear Energy

Nuclear power is a safe and vital source of electricity that does not emit criteria pollutants or GHGs into the atmosphere. It is the largest source of non-emitting power generation in the United States and a major source of electricity for manufacturers. The NAM supports the continued development and operation of nuclear energy consistent with the protection of public health and safety.

Nuclear energy helps ensure reliable and affordable clean electricity as part of a diversity of fuel sources. As the demand for electricity in the U.S. continues to grow, the NAM supports the construction of additional nuclear power plants that have been approved by the Nuclear Regulatory Commission to maintain a diverse portfolio of generating resources. The NAM also supports advanced nuclear technology for use in manufacturing as a source of carbon-free process heat. The NAM supports government investment in research and development of advanced nuclear technology.

In supporting the continued use and development of nuclear energy in the United States, the NAM supports the construction of facilities covering all parts of the fuel cycle and nuclear energy generation, including power plants, enrichment facilities, fuel fabrication plants, low-level and high-level waste handling and disposal operations, and other related facilities critical to the nuclear energy industry. The NAM supports federal actions to sustain and grow the domestic uranium mining, conversion and enrichment industries, as well as to support deployment of advanced nuclear reactor designs.

The NAM supports policies that move the federal government to fulfill its legal obligation to remove used fuel from commercial nuclear power plants and manage its long-term disposal. We support the research, development and demonstration of technologies to close the fuel cycle while a permanent disposal facility, which is needed even if the fuel cycle is successfully closed, is developed. The NAM encourages the development of interim storage facilities, where appropriate, for consolidating used fuel until recycling or permanent disposal facilities, or both, are available.

ERP-1.08. Energy Efficiency

Manufacturers, including generators and users of energy, are committed to reducing our energy intensity and producing more energy-efficient consumer products to help reduce the demand for energy, save money, lower costs and lessen greenhouse gas emissions. American society has much to gain from sensible efficiency and waste reduction measures across all sectors of the economy. Manufacturers, including generators and users of energy, continue to seek improvements to the New Source Review process to reduce barriers to installation of energy-efficient technologies.

ERP-1.08.a. Industrial Energy Efficiency

Manufacturers use one-third of our nation's energy and are directly affected by the cost of energy in making products as well as by the cost of maintaining office operations. It is widely acknowledged that process and building system energy efficiency and conservation offer immediate and cost-effective opportunities to reduce energy cost inputs, reduce water use, stretch available energy supplies and decrease greenhouse gas emissions. Manufacturers have taken the lead in making energy efficiency a priority. Improvements in energy efficiency in the manufacturing sector have helped the country to be more efficient in energy use per unit of GDP and reduced the energy intensity of the U.S. economy.

Manufacturers have achieved greater energy efficiency through cost-effective distributed generation, combined heat and power technologies, waste heat recovery systems, water reuse and recycling, high efficiency motor-driven systems, digitalization, intelligent energy systems, such as advanced metering infrastructure and demand response, and improved process manufacturing.

The most significant federal actions to increase industrial energy efficiency in the long run are those that will create a positive, reliable and unbiased climate for capital investment financing tools and other energy services agreements for new and existing plants, buildings and equipment across all sectors.

There is an important federal role to be played in research and development of advanced new high-risk energy efficiency and waste minimization technologies in energy-intensive industries. Federal policies should provide

a reliable investment environment for businesses of all kinds and sizes to pursue energy management technologies, practices and services.

The NAM believes that previous overly prescriptive federal energy policies have failed in large part because cost-effective industrial energy-efficiency improvements are best left to individual businesses and the competitive marketplace. Industrial energy management is a complex moving target that includes process innovation, long-term quality planning, energy assessments of building and equipment purchases, linkage of water and energy efforts, employee awareness and waste minimization and recovery.

The NAM supports voluntary industry and market-driven benchmarking of industrial facilities and processes for the purposes of raising the level of awareness of best-in-class energy management possibilities. The NAM opposes the undue imposition of mandatory data collection programs. Mandatory standards are not feasible, as product demand, weather, water availability, fuel price swings and capital investments, such as pollution control technology, influence manufacturing energy consumption.

The NAM supports federal programs that encourage and help manufacturers, especially small and medium-sized manufacturers, to understand and deploy energy efficiency and energy management measures for the purposes of becoming more competitive in a global marketplace.

ERP-1.08.b. Building Sector Energy Efficiency

Manufacturers play a significant role in improving the efficiency of commercial and residential buildings. Since the building sector consumes approximately 40 % of all energy used in the United States, the NAM supports market, regulatory and institutional reforms that increase opportunities to better utilize advanced technology and energy management practices to boost energy efficiency in buildings. The NAM supports government research and development into advanced building technologies like energy management systems, energy-efficient technologies and energy-efficient materials.

The NAM supports policies to enhance private sector investment in public building efficiency improvement projects, policies that strengthen standards for existing commercial, industrial and residential buildings and policies that recognize the incredible efficiency improvements manufacturers have made to products. These policies will:

- Promote consumer transparency through energy use labeling for buildings;
- Improve the existing national database of energy consumption information;
- Encourage open and visible access to energy usage and pricing;
- Partner with the private sector to support research, development and deployment of energy-efficient technologies;
- Modernize the Energy Policy and Conservation Act of 1975, as amended;
- Streamline regulation of energy efficiency;
- Save taxpayers money by reducing government energy spending;
- Recognize and value energy-efficiency investments; and
- Provide incentives, rather than penalties, for states to update building codes.

Finally, the role of cooperative government-industry initiatives, rather than government mandates, will be crucial in developing innovations that transform current construction and retrofit methods into an approach that fully integrates energy efficiency. Hand-in-hand with this is the development of techniques to maintain efficiency through the lifespan of buildings, including energy audit systems and techniques and best practice sharing of both.

ERP-1.09. Climate Change

Climate change is happening. Human activities are contributing. The NAM supports the objectives of the Paris Climate Agreement to significantly reduce the risks and impacts of global climate change. Manufacturers are committed to helping address climate change while increasing the global competitiveness of U.S. industries.

U.S. manufacturers are leading and the results have been unprecedented: we are significantly more carbon efficient than most of our global competitors, and the U.S. has reduced its total GHG emissions more than any other nation. We are committed to being part of the solution and encourage all other sectors of the American economy to join us. Manufacturers are advocating for policies that encourage domestic emissions reductions so that the U.S. continues to lead on the global stage, driving our international counterparts to do the same.

All sectors of the global economy will have to do their part to limit global GHG emissions. U.S. manufacturers are both creators and users of the technologies that will be vital to reducing global emissions. Accordingly, sound policy for U.S. manufacturers is one that reduces emissions while maintaining their global competitiveness. Policymakers should pursue policies that achieve meaningful, cost-effective GHG reductions while empowering U.S. manufacturers to thrive in the global marketplace and ensuring the affordable, reliable energy supplies needed to keep our economy strong.

ERP-1.09.a. Principles

There is a clear governmental role in addressing climate change. Actions to address climate change should:

- Promote global action;
- Ensure manufacturers remain competitive in global markets;
- Achieve meaningful global GHG reductions in an equitable, timely and cost-effective manner;
- Set emissions reduction goals that are based on the best-available science and provide credit for early action;
- Utilize economy-wide policy options that leverage market-based options, including cost-containment mechanisms and complementary sector-specific policy where appropriate;
- Prevent carbon leakage by ensuring that no jurisdiction gains a competitive advantage by failing to take action to reduce carbon emissions. Carbon leakage refers to the situation that may occur if, for reasons of cost related to climate policies, businesses were to transfer production to other countries with laxer emission constraints.
- Drive research, development and deployment of technologies that will be needed to meet the climate challenge;
- Encourage government-led efforts to foster resiliency to the impacts of climate change;
- Promote smart land use and carbon offsets that achieve real, additional, verifiable, permanent and effective emissions reductions;
- Support policies that preserve consumer choice;
- Focus on GHG reductions, not fuel choice;
- Recognize the use of feedstocks, in both traditional and nontraditional forms, that are transformed into products rather than emitted as GHGs.
- Coordinate energy policy to ensure a diverse and secure supply of affordable energy and consider the impacts of energy delivery design and regulation on manufacturers;
- Safeguard the global competitiveness of energy-intensive and trade-exposed U.S. manufacturing sectors. Where feasible, assess reductions on a cost per ton basis;
- Recognize and reflect the reality that available large-scale technology options, emission abatement costs and cost sensitivity may differ widely between and within sectors;
- Take into particular account the vulnerability of small and medium-sized manufacturers;
- Protect intellectual property rights of manufacturers;
- Support energy efficiency across the economy, in accordance with the provisions of Section 1.08 above;
- Harmonize policies so that state and federal regulations made duplicative or unnecessary are eliminated; and
- Be agile and flexible to adapt to future developments in technology, science and policy.

ERP-1.09.b. International

Addressing climate change is a significant and important goal for all nations. In addition to the broad principles noted above that the NAM supports for all policies, international actions to address climate change should also:

- Ensure methods used to enforce international commitments are fair, transparent and effective;

- Ensure consistency with the WTO and compliance with our international trade obligations, regardless of whether the measure is multilateral or unilateral;
- Avoid the potential for harmful effects on U.S. manufacturers of possible reciprocal actions by our trading partners;
- Recognize that compulsory transfers of technology threaten manufacturing jobs in the U.S. and the development of new technologies to achieve environmental objectives;
- Promote the elimination of barriers to international trade and the purchase of environmental goods and technologies; and
- Encourage linkages between jurisdictions to facilitate the most efficient and cost-effective emissions mitigation opportunities.

ERP-1.09.c. Technologies and Innovations

The NAM supports many near-term actions that governments can take to drive innovation and accelerate manufacturers' progress toward ambitious global emissions reductions. A strong commitment to the development and deployment of new and advanced technologies, requiring significant public and private investment, is essential to address global climate change and to meet current and future domestic and global energy challenges.

Manufacturers are committed to developing technology solutions to achieve further emission reductions from our own operations, as well as enabling reductions in our customer industries and consumer end users. These activities should be supported by an appropriate policy framework that drives innovation and technology deployment toward cost-effective emissions reductions.

Policies and incentives should promote government and private sector investment in research, development, commercialization and deployment of technologies that reduce GHG emissions. Incentives should have long-term predictability, provide certainty for investment decisions and promote continued U.S. technology leadership. Governments must cooperate to establish effective legal frameworks for reduction, mitigation and adaptation technologies.

ERP-1.09.d. Carbon Capture

To meet growing global energy demand and GHG reduction goals, the world must vastly ramp up the deployment of carbon, capture, use and storage technologies. The U.S. is well positioned to be the world leader in this emerging technology; we have the technical know-how to capture carbon, the ingenuity to maximize the use of carbon and the natural resource (deep saline formations) to securely sequester carbon.

The NAM supports incentives for CCUS including tax credits and policies to:

- Support on-going research, development and demonstration of CCUS technology,
- Address barriers to claiming the 45Q tax credit;
- Promote CO₂ pipeline infrastructure development;
- Allow access to public lands for CO₂ storage; and
- Reform UIC Class VI requirements.

CCUS has the potential for broad applications in the electric power sector, energy production and industrial processes such as cement manufacturing, refining, steel-making, and biofuels production. CCUS can significantly reduce CO₂ emissions from a diverse suite of facilities and enable cleaner production of energy from reliable base-load energy sources. It also allows for manufacturers to rely on the continued use of existing U.S. energy infrastructure while simultaneously meeting environmental goals. Captured CO₂ serves a beneficial use in a wide range of products such as the development of plastics and polymers, algae production, and with chemicals in agricultural applications. CO₂ can also be used to increase the production of energy through enhanced oil recovery.

In order to move toward more CCUS investment, the U.S. needs a policy framework that supports the business case for CCUS investment. Policymakers should also consider complementary measures, particularly in the midstream space because sources of CO₂ are not always located nearby suitable storage or utilization sites, creating logistical challenges for operators and potentially limiting the ability of companies to scale up CCUS

investments. Building out an interstate system of CO2 pipelines and improving the infrastructure permitting process will be necessary steps to realizing the full potential of CCUS.

ERP-1.10. Natural Resources

U.S. manufacturers require access to natural resources, such as rare earth elements and other critical materials, in order to produce products that are vital to the U.S. economy. Capitalizing on natural resource potential carried out in a responsible and sustainable manner and making ecologically efficient use of natural resources to ensure long-term access to those resources is critical to both competitiveness and improved environmental performance, contributing to increased productivity, lower costs, value-added and new products. As certain natural resources are non-renewable, continued efforts to increase material efficiency, creating circular economies, reusing and recycling of these resources is essential. Moreover, these resources are the front end of the manufacturing supply chain and are essential for the U.S. to remain competitive in the global manufacturing economy. Competition for raw materials should be market-based. The NAM supports reforming permitting processes and government policies that allow manufacturers reliable and secure access to these vital resources, support R&D, encourage the mining and processing of such resources and support unimpeded trade thereof.

ERP-1.11. Federal Lands

Much of our nation's vast resource endowment is found on federal lands. Of those public lands, large percentages are either off limits or under restrictions to resource development. The NAM supports policies that facilitate the expeditious permitting, leasing, exploration and development of the nation's resources in an environmentally sound and responsible manner. While resource development is not appropriate on all federal lands, the NAM opposes efforts to unnecessarily further restrict access to these national natural resources. The inconsistent administration of the critical mineral, hardrock, hydro, wind, solar, geothermal, natural gas, oil, coal, oil shale, pore space, and uranium policies have limited the potential to use a wide range of resources that lie beneath, on and above federal lands. Long-term, stable and reliable federal policies must be maintained. The NAM therefore supports streamlining and expediting resource permitting, leasing, policies, and regulations that limit royalties and fees to cost recovery for administration of the programs and opposes blanket moratoria.

ERP-02 Sustainability and Environmental Quality

Environmental sustainability is vital for human well-being and ecosystem functioning. Sustainability drives the strategy for development and implementation of technologically and economically viable products, processes that protect human health, ecosystems and long-term economic growth. The principles are not prescriptive. The NAM is committed to sustainability practices that balance environmental protection, economic development and social development. American industry has established a strong record in sustainable practices and environmental protection. As the foundation of communities, manufacturers have made substantial investments over time to minimize their environmental footprint and continue to do so today. This commitment to innovation will ensure further progress toward reducing environmental impacts and increasing sustainability in operations.

A high standard of living depends upon a healthy environment, robust economic growth and an adequate and secure supply of energy at globally competitive prices. Quality of life encompasses complex economic and social considerations, including clean air and water, healthy soils and conservation of material and human resources, as well as continued economic development. Environmental laws and regulations should be designed with utmost care to ensure that they are effective in achieving their desired objectives while at the same time avoid unnecessary adverse economic and social impacts.

Accordingly, measures to protect human health and the environment should:

- Address an identified need and the most cost-effective means of implementation;
- Be based on factual data and credible science, with due regard for their total impacts on employment, energy used, resources, land use and other regional, national and international health, social and economic concerns;

- Promote innovation and recognize that technological advances over time have generally reduced the environmental impacts of energy production and consumption and all manner of product manufacturing;
- Recognize the technological advances made by manufacturers and allow for a proper balance between economic growth and the protection of human health and our environment;
- Take into account global societal challenges, such as those posed by climate change and a changing environment, as well as those posed by the limitations of existing technologies;
- Utilize sound science and appropriate risk management processes to better focus our national effort and resources on global challenges that pose a truly significant risk;
- Employ rigorous economic analysis to better understand potential economic impacts and cost-benefit relationships;
- Include a careful review and evaluation of the compliance time frames that manufacturers are given to meet new standards or regulations;
- Integrate a complete cumulative analysis of a regulation's impacts on regulated industries, manufacturers and the economy;
- Encourage collaboration and eliminate barriers; and
- Encourage pilot projects and advance the application of new technologies.

ERP-2.01. Principles for Sustainability

NAM member companies are committed to advancing sustainability efforts that positively impact manufacturing and industry's contributions to environmental protection, economic performance and the social well-being of the employees, communities, customers and consumers they serve. NAM members recognize the benefits of adopting sustainability best practices, including the application of life-cycle analysis practices in the manufacturing sector. For example, the United Nations' Sustainable Development Goals is one framework that some NAM members refer to when developing their sustainability objectives. NAM members will work proactively with relevant stakeholders to ensure that the voice of manufacturing is heard and is contributing its positive story. NAM members support the following principles for sustainability in manufacturing:

- Sound economic, social and environmental performance is an element of sustainable companies;
- Encouraging research, development and deployment of innovative, cost-effective technologies and operational improvements that will enhance sustainable manufacturing activities;
- Building effective, resilient systems to reduce environmental impacts by improving water, air and energy efficiency;
- Minimizing natural resource impacts by increasing efficiencies and conservation to optimize raw material input and to reduce waste output;
- Continuing to improve the environmental, health and safety profile of manufacturing and its workforce by improving performance processes and products;
- Recognizing action taken by companies who are leaders in implementing voluntary sustainability practices and procedures;
- Managing land use and natural resources to provide economic benefit while protecting biodiversity;
- Collaborating and interacting with supply chain members to responsibly manage total environmental impacts;
- Improving resource management through waste prevention and reduction efforts first and by increasing the amount of recycling throughout their operations;
- Using recycled materials in the manufacture of products and packaging;
- Designing products, while meeting necessary performance requirements, to increase their potential after use, for reuse, remanufacturing and/or recycling; and
- Building sustainable practices to support, attract, develop and retain a highly skilled, diverse workforce.

ERP-2.02. Standards

Standards serve an important role by providing for consistency of approach and quality of outputs for society. Standards should not be narrowly based on a single environmental medium, but should take into consideration cross-media impacts that may occur when a standard results in the mere transfer of a pollutant from one medium form to another. Standards should reflect the fundamental difference between corrective programs, which involve retrofitting of existing facilities, and preventive programs, which involve the construction of new facilities and manufacture of new products. In those instances when standards are technology-based, each standard must be technically proven, achievable and cost effective. Once technology has been installed in

compliance with current regulations, the installer should not be arbitrarily subjected to changed regulations for a reasonable period of time, taking into consideration the useful life of the equipment.

As a general principle, NAM members support the federal government's implementation of OMB Circular A-119 that directs agencies to use voluntary consensus standards in lieu of government-unique standards except where inconsistent with law or otherwise impractical. The use of such standards eliminates the cost to the government of developing its own standards and decreases the cost of procuring goods. It also encourages long-term growth for U.S. manufacturing and promotes efficiency and economic competition through the harmonization of standards.

ERP-2.03. Hazard Identification, Risk Assessment and Risk Management

The ability to systematically and effectively identify hazards, assess risks and manage those risks is critical to successful industrial activity. Those processes include the application of scientifically sound hazard identification and prioritization, objective, credible risk assessment, benefit-cost analysis, flexible, efficient risk management and adequate opportunity for meaningful public participation in the risk assessment process. Governments need to recognize the costs for environmental protection compete in a society with finite resources to address diverse worthy goals. Environmental laws and regulations should be based on scientific criteria resulting in cost-effective measures that provide significant environmental or human health benefit.

ERP-2.04. Compliance and Enforcement

The NAM recognizes that enforcement is a critical component of any environmental protection program. Great advances in environmental protection have resulted from practical, cooperative programs between regulated entities and regulatory agencies. As environmental protection requires more technically complicated solutions and the global business environment becomes more competitive, greater emphasis should be given to such cooperative approaches and to providing compliance guidance before violations occur. The consequences of non-compliance should be proportionate to the violation, and the consequences should drive compliance and prohibit recurrence of violations. Further, enforcement actions should not be used by regulators to extract improvement and investments in excess of regulatory requirements and permit conditions.

The government should continue to work with the regulated community to develop and implement methodologies to measure compliance with environmental regulations and associated environmental improvements. When reported violations decrease, this may result in improved compliance as opposed to reduced enforcement. The government should draft clear requirements and effective communications in order to support regulated parties' compliance. Enforcement should be applied consistently and equally to ensure fairness across the regulated community.

Both regulations and enforcement policies should recognize the need for flexibility in implementation and science-based action when unique circumstances exist or unforeseen events occur. The federal government should work with states to exercise appropriate flexibility when interpreting, implementing and enforcing state standards based on federal law and regulations, while enforcement at the local level should be consistent within a state.

Citizen suits can be contrary to sound principles of regulatory law whereby clear standards of conduct are formulated and enforced by a regulatory agency subject to a right of judicial review. Citizen suits introduce uncertainties to pollution control enforcement policies, dissipate resources needed to carry out effective regulatory programs, stimulate litigation and are subject to exploitation. If allowed, such suits should be limited to local persons with affected interests in order to eliminate suits brought for nuisance or harassment purposes. The courts should not approve settlement agreements between regulatory agencies and plaintiffs in citizen suits that were negotiated without the full participation of affected regulated entities.

ERP-2.05. Proprietary and Confidential Information

The protection of proprietary and confidential information is of utmost importance to American industry at all government levels. Confidential business information should be given the full protection intended by Section 1905 of Title 18 of the U.S. Code. Because of the need to protect trade secrets and other CBI, as well as the need to minimize paperwork burdens, information collection requests by federal agencies and their contractors

should comply with the spirit and letter of the Paperwork Reduction Act. There should be no exception for surveys made pursuant to settlement agreements in citizen suits. Regulatory driven disclosure of trade secret information should be balanced against a gain in environmental, health or safety protection.

ERP-2.06. Hazardous and Non-Hazardous Waste Management

Waste products are generated by all segments of society, including industrial facilities, commercial establishments, residences and federal, state and local government agencies. To help ensure environmental protection and public health, the NAM supports a comprehensive, efficient and effective hazardous and non-hazardous waste management regulatory system that includes an accessible and affordable infrastructure. These systems should be implemented in ways that ensure effective environmental protection, but minimize complexity and administrative burden.

The NAM recognizes the success of the Resource Conservation and Recovery Act in achieving improved management and disposal of waste streams. In addition, the NAM supports significant voluntary industrial waste minimization initiatives and regulatory changes that provide more flexibility and incentives to minimize volume, reduce toxicity and encourage recycling, reuse and reclamation processes to minimize waste while providing equivalent environmental protection.

ERP-2.06.a. Regulatory Process for Waste

It is imperative that the distinction between hazardous and non-hazardous waste, as well as the distinction between waste and non-waste, continue to be clarified. Regulations should be tailored to address the different types of waste appropriately. Responsible management of hazardous and nonhazardous waste demands that government, the public and industry cooperate in assessing and managing risk and ensuring regulations support various waste activities accordingly, while also seeking to find the highest and best use (reuse) for secondary materials before deciding that the material has no such options other than direct disposal.

The NAM recognizes the primary rights and responsibilities of states regarding land use decisions. The federal government should encourage and support states in their efforts to locate private and public waste management facilities properly within their own jurisdictions. Economic development is dependent on adequate and properly safeguarded waste management facilities, including incineration, landfills and other treatment, storage and disposal facilities. Private ownership and operation of such facilities is desirable.

State responsibility for providing adequate waste disposal and treatment capacity is also recognized by federal law. Federal sanctions requiring states to meet this duty to public health and the environment are appropriate and should be vigorously enforced.

ERP-2.06.b. Waste Management Methods

Adequate management capacity and techniques must be encouraged by the federal government in proportion to the development of new disposal requirements. No reasonably safe method or facility should be banned or prohibited until such time as superior alternative methods and facilities are available to handle the displaced hazardous and non-hazardous waste. The ability of some methods of managing hazardous and non-hazardous waste to mitigate environmental and health hazards has been questioned. When methods are shown to be ineffective and pose an unreasonable risk to human health and the environment, their authorized use should be appropriately modified to reduce risks or discontinued.

Consideration should also be given for products designed with inherently recyclable materials and/or designed for rebuild at the end of an initial useful life. Effective regulation should consider the initial product design, which having met regulatory requirements at the time, may not meet current standards due to a shift in regulations. Equipment designed to be rebuildable should be permitted for recirculation for its intended application instead of becoming waste.

ERP-2.06.c. State and Federal Responsibilities Regarding Waste

State agencies are in the best position to consider and act upon local environmental needs and should have primary responsibility for reviewing and enforcing hazardous and non-hazardous waste management programs. Under existing law, these programs must be at least equivalent to the requirements set out under RCRA.

The NAM supports the EPA's delegation of and state assumption of regulatory authority over hazardous and non-hazardous waste management programs, so long as environmental protection is assured, the states maintain a consistent approach to regulating these programs, and a patchwork approach to waste management is avoided.

ERP-2.06.d. Interstate Transport of Waste

The commerce clause of the U.S. Constitution precludes the states from regulating interstate transport of waste. Companies need maximum flexibility to determine where to dispose of wastes for purposes of waste minimization, recycling, reclamation or treatment consistent with federal regulations. Bans, differential fees and other limiting barriers would prove detrimental to that flexibility.

ERP-2.07. Chemical Safety

The NAM supports human health and environmental protection and is committed to ensuring that chemicals and other products are developed, manufactured, distributed and used safely. NAM members are committed to manufacturing safe, innovative and sustainable products that provide essential benefits to consumers while protecting human health and the environment. No goal is more important than safety to manufacturers. Product safety provides the foundation of consumer trust, and manufacturers devote significant resources to achieve this goal. Every member of the value chain has an important part to play in ensuring the products they use are safe for their intended use, that the end customer knows how to use it safely and that their products have a sustainable end of life. Environmental, health and economic impacts should be reviewed and evaluated in all proposed regulations, with considerations such as risk and cost-benefit assessments. Economic and societal benefits and costs should be considered in risk management determinations. It is of the utmost importance that innovation, safe product development and affordable consumer choice be encouraged and unnecessary barriers avoided.

ERP-2.07.a. Emerging Chemicals and Contaminants

Federal and state government should work collaboratively with manufacturers to ensure a measured and scientifically sound approach to the regulation of emerging contaminants that is protective of public health. The NAM supports efforts to address emerging contaminants that is risk-based and reflects the best available science, makes responsible use of limited resources and results in responsible, protective and pragmatic actions that do not circumvent existing authorities and procedures. The NAM also supports coordinated research and the sharing of best practices on the detection, measurement, risk analysis, remediation and safe disposal to help inform appropriate human health and environmental protection thresholds.

ERP-2.07.b. Toxic Substances Control

The regulation of toxic substances should be administered in a manner that protects health and the environment while avoiding unnecessary adverse economic impacts on business enterprises. The NAM supports chemical reporting requirements that reduce complexity and ensure that reporting occurs at the point of raw materials import in order to coordinate efforts and make global supply chains more transparent. It is of the utmost importance that barriers to innovation and new product development be minimized.

The U.S. chemical management system should be based on credible scientific information. Chemicals posing the greatest demonstrated risk should be targeted through prioritization of chemicals in commerce and specific risks in a given application. Certain chemicals and materials are key to safe operation and long-term durability of manufactured goods. Consideration should be given to actual exposure risk for humans and the environment. Risk to sensitive subpopulations, such as children, should be considered in this process. Tiered and targeted testing should be conducted if necessary information is lacking, and a risk-based process should be used to assess if a chemical is safe for its intended uses. Evaluation of hazard data should be done using a weight of evidence approach as part of a systematic review framework that allows for the use of the most relevant and best science. Regulation and prioritization should consider the degree of hazard and reasonable exposure potential associated with intended uses; provide reasonable time frames for compliance; and ensure transparency, clarity and stakeholder participation. The NAM is committed to working with Congress and the administration to ensure adequate resources and timely implementation of TSCA.

To ensure the flow of interstate commerce, the U.S. chemical management system should be

maintained at the federal level to establish and enforce harmonized requirements among federal agencies and states. A “patchwork” approach to chemical management, in which individual states have their own chemical requirements, is ineffective, is contrary to principles of free interstate commerce and decreases the competitiveness of U.S. businesses. To avoid overlap, policies should be coordinated to establish consistent standards and requirements, enhance protection of the public, promote innovation and competitiveness and avoid duplication, public confusion and unnecessary negative economic impacts.

ERP-2.07.c. Use and Source Reduction

Restrictions on manufacturing inputs will reduce the ability of domestic producers to compete in U.S. markets and to supply important export markets. The NAM opposes mandated toxics use reduction because manufacturers are in the best position to determine what products to manufacture and how to make safe, reliable products.

As a regulatory approach, the NAM supports risk management to control the use of chemicals. The NAM opposes phase-outs and bans on the production and use of specific chemicals without a determination of unreasonable risk. Reduction or elimination of chemicals should not be based on toxicity levels or listing rather than risk. The beneficial uses of chemicals to society should be carefully considered in attempts to eliminate risk, as greater or different risks might be incurred from alternatives or their absence. Compliance timelines should provide ample opportunity for strategies that result in environmental benefit and innovation or that strengthen U.S. competitiveness.

ERP-2.07.d. Integrated Risk Information System

IRIS assessments must be transparent: peer reviewed, subject to robust public comment and, when appropriate, subject to enhanced scientific analysis and methods. IRIS must rely on the best available scientific information regarding hazard and exposure, employ consistent and objective methods and models, utilize transparent procedures for evaluating data quality and be uninfluenced by policy. Evaluation of hazard data should be done using a weight of evidence approach as part of a systematic review framework that allows for the use of the most relevant and best science. Public involvement should begin at the problem formulation stage. Assessment of scientific uncertainties at each step of the risk assessment process should be used to help inform policymakers and stakeholders in setting IRIS values.

ERP-2.08. Superfund Reform Principles

NAM members have a substantial interest and concern regarding the requirements and operations of the Superfund program. While the NAM supports Superfund’s goal of protecting human health and the environment, the Superfund program often requires an extraordinary investment of administrative, legal and technical resources to obtain limited, if any, environmental benefits. Private sector spending on Superfund also uses funds that could be invested in people, plants and equipment. Retroactive imposition of liability, application of joint and several liability to unrelated parties and imposition of effectively perpetual liability violate basic principles of equity, ignore opportunity costs and cripple efforts to remediate sites by spurring litigation and delaying cleanups.

If Superfund is to achieve its goals in a cost-effective manner, legislative reform should be based on the following principles. First, provide that Superfund is to be used only for sites that present real, significant risks to human health or the environment and that cannot be remediated in a timely manner under other programs, including state voluntary cleanup programs. Second, consistent with the Supreme Court’s decision in *Burlington Northern v. EPA*, responsible parties should be held liable only for their fair share of the response costs unless there is no legitimate basis to allocate liability among the responsible parties. Third, avoid years of inaction, protracted allocation and, where possible, litigation, by embracing cost-effective early actions. Such actions could enhance private investment, site redevelopment and urban renewal.

Congress should construct a fair, broad-based funding system that recognizes that the public and private sectors, as well as individuals, have contributed to the creation of Superfund sites. Superfund sites resulted from manufacturing processes and disposal practices that benefitted society, such that the social costs of cleanups at sites without viable responsible parties should be spread over a broad spectrum of taxpayers.

Congress should avoid where possible piecemeal reauthorization of Superfund, such as granting carve-outs from liability for municipalities. These will only further damage the program. The EPA and states should select remedies based on sound science, realistic risk assessments and practical solutions incorporating prevailing background conditions. The law must recognize the limits of present technology, the need for practical solutions and site-specific risk assessments that focus on actual or probable exposure scenarios. Congress should limit recoveries for natural resource damages to the amounts needed to restore, replace or acquire the equivalent of any injured natural resources consistent with baseline conditions of the resources. Finally, Congress should provide complete relief from future liability for a party who remediates a site.

ERP-2.09. Product Labeling and Marketing Standards

A product label, when correctly used and understood by consumers, can facilitate consumer understanding. The NAM supports voluntary environmentally sustainable labeling, including electronic labeling, designed to communicate the following: achievement of meeting a standard or criteria; a characteristic for which no current national standard exists; manufacturers' commitment to the environment and protection of human health; the shared responsibility of government, industry and the consumer to create and support the recycling infrastructure; and information pertaining to recyclability, reuse and use of recycled materials.

The NAM encourages the use of uniform, national standards for voluntary labeling. Product claims should be substantiated by the manufacturers. These claims should be supported by uniform, generally accepted definitions and technical standards. The NAM supports enforcement against fraudulent or intentionally misleading claims. Enforcement of labeling should be conducted by the Federal Trade Commission with technical guidance from the appropriate governmental entities, industry and considering all other technically accurate information.

ERP-2.10. Water Quality Control

Both freshwater and saltwater ecosystems deliver many essential goods and services to U.S. citizens, including raw water for drinking, fish and other aquatic organisms that are used for food, irrigation and livestock water for agriculture and process water to support various industrial activities. Water ecosystems also support recreational activities, including both contact (e.g., swimming) and non-contact (e.g., fishing, boating). The Federal Water Pollution Control Act, as amended by the Clean Water Act, established the objective to restore and maintain the quality of the nation's waters. Through limitations on wastewater discharges, water quality in the U.S. has significantly improved. American industry has made a major contribution to this national effort and will continue to support this objective.

ERP-2.10.a. Pretreatment

The Clean Water Act requires the establishment of pretreatment standards by the EPA for pollutants that interfere with, pass through or otherwise are incompatible with a Publicly Owned Treatment Works, as well as for those pollutants that prevent biosolids use or disposal by such works. These standards are uniform, with no provision for adjustments.

A POTW is a public utility that is financially supported by industry, commercial establishments, institutions and residences. Like other such utilities, POTWs provide necessary services that support employment and economic growth. Many NAM members rely on the services provided by POTWs and thus have an interest in their efficient and continuous operation. The NAM supports pretreatment where it is demonstrably required to protect the operation of the POTW, prevent discharges that would violate the POTW's permit or prevent the generation of sludge that would not meet regulatory standards.

The NAM also supports equitable user charges that are based on the true cost of treating a company's wastewater. The NAM further supports pre-treatment programs that incorporate the flexibility needed to respond to local conditions in cost-effective ways that meet the goals of the Clean Water Act.

The NAM specifically recommends that:

- POTW authorities be allowed to implement their own pretreatment programs, which would include the establishment of local pretreatment standards as necessary to meet established permit conditions;
- All POTW National Pollutant Discharge Elimination System permits be enforced in the same manner as industrial NPDES permits, placing the responsibility for POTW discharges on the municipality in those

cases where non-compliance results from POTW deficiencies as opposed to violations of permit limits by indirect dischargers. Noncompliance costs should be allocated accordingly;

- The EPA should retain a role in pretreatment by issuing guidelines to assist POTWs in understanding the elements of the programs necessary to meet the established permit limitations;
- States should be the primary enforcers of POTW permits. Only after a state and POTW have failed to initiate action within a reasonable time after violation of the POTW's NPDES permit should the EPA become involved;
- Each POTW should be solely responsible for its relationship with its customers. Federal or state agencies should not unduly interfere with decisions POTWs make to ensure the adequate treatment of discharges from industrial customers; and
- The NAM also recommends that the EPA consider integrated facilities when establishing categorical pretreatment standards. Some industries have diverse manufacturing operations that are subject to more than one categorical pretreatment standard. In these "integrated facilities," it may be more cost-effective to combine wastewater from each individual operation for treatment purposes. However, categorical pretreatment standards that apply to separate wastewater streams can be a barrier to such cost-effective pretreatment methods.

ERP-2.10.b. Best Available Technology Economically Achievable

The installation of pollution control equipment by U.S. industry to meet current legal limits has resulted in major improvements in water quality. The NAM believes that the Clean Water Act should be implemented in a manner that protects human health and the environment while avoiding costly treatment requirements and other restrictions on industrial discharges that result in little, if any, additional benefit to the quality of U.S. waters. BAT can be defined, in effect, as the best control and treatment measures that have been or are capable of being used. Given the efficacy of existing treatment facilities in removing toxic pollutants and the unrealistic statutory deadlines for establishing toxic effluent limitations, the NAM makes the following recommendations:

- BAT limitations should be required only where there is a significant toxics problem. A "significant toxics problem" should be defined where present limitations are not protecting receiving waters and where further abatement of toxics would have a measurable, positive effect on receiving waters. Situations where a pollutant is present in the effluent solely as a result of its presence in intake waters should not be considered a significant toxics problem;
- Additional requirements for non-conventional pollutants should not be applied unless required to meet water quality standards; and
- A risk-based approach to the regulation of effluent discharges should be adopted.

ERP-2.10.c. Nonpoint Source Pollution

The relationships between and relative impacts of point and nonpoint sources differ from one part of the country to another, making it difficult to establish a uniform program. What is needed is a balanced approach to point and nonpoint problems that focuses on the water quality of the watershed in question. The NAM, therefore, supports the following:

- More extensive treatment should not be required of any point source dischargers in lieu of regulating nonpoint sources if such treatment will have no appreciable impact on the quality of the receiving waters; and
- Effective management of nonpoint sources of water pollution should be achieved through state and regionally developed programs, taking into account regional differences. The EPA should provide technical and funding assistance, but should not attempt to assume the role of developing a uniform federal nonpoint program.

Congress should stress the need for improving the capability to assess the nation's water quality, to aid in determining the relative impact of point and nonpoint sources on water quality and the ability of waters to meet their designated uses. Conclusions derived from the data can then be used to better allocate the nation's resources in achieving our water quality goals.

ERP-2.10.d. Clean Water Act Jurisdictional Issues

The NAM supports the continued use of the term “navigable waters” in the Clean Water Act and opposes overly broad interpretations of that term and the term “waters of the United States.” The term “waters of the United States” should be interpreted to mean waters that are navigable in fact or that have a relatively permanent surface connection to a water that is navigable in fact. The NAM opposes expanded federal jurisdiction over “all intrastate” and “intermittent waters” on the grounds that it raises constitutional concerns and contravenes the intent of the authors of the CWA. The NAM supports a clear and consistent rule that is protective of water quality and that it is within the constitutional limits of the federal CWA authority. The NAM supports continued federal-state partnerships as an effective means of implementing the goals of the CWA. The NAM opposes the expansion of CWA jurisdiction to include discharges to groundwater or another nonpoint source; regulation of such discharges are governed under other statutory authorities (such as SDWA, RCRA, CERCLA) and addressed through state programs.

ERP-2.10.e. U.S. Coastal and Ocean Resources

The NAM supports multiple uses of the nation’s coastal and ocean resources. Current federal environmental statutes allow the nation’s coastal waters to be used for purposes ranging from resource development to recreation and conservation. An overly prescriptive coastal and ocean resources policy will undermine the careful balancing of diverse interests and uses of this very important resource. In particular, Coastal and Marine Spatial Planning should be an informational tool only. It should not be used to preclude economic uses of oceans, the Great Lakes and coastal areas or to block permits for such uses, while balancing the need to protect these vital natural resources.

ERP-2.10.f. Total Maximum Daily Loads

As part of the development of TMDLs, states should assess the technical feasibility and economic practicability of attaining the water quality standard, based on the social and economic impacts of the costs of compliance. TMDL allocations should be developed for pollutants only where appropriate. Other tools should be considered to achieve compliance with applicable water quality standards.

ERP-2.10.g. Whole Effluent Toxicity

The WET program should be based on scientifically sound criteria and implemented in a manner that requires monitoring and follow-up actions only when needed. WET program implementation should appropriately account for the variability inherent in WET testing.

ERP-2.10.h. Spill Prevention, Control and Countermeasure; Definition of Oil Clarification

Further clarification of the term “oil” as it pertains to the SPCC regulations is needed. While the Coast Guard has provided guidance on what constitutes “oil,” the EPA has not. Without a consistent definition or determination process, it is often difficult for industry to comply with SPCC regulations. Some facilities might rely on the Coast Guard’s guidance, but an EPA inspector may disagree with the Coast Guard guidance and find the company to be in violation of SPCC regulations. Given these conflicts, overly conservative assumptions drive up SPCC compliance costs.

The EPA should clarify that SPCC regulations apply only to facilities that have a reasonable potential to discharge oil to waters that are navigable in fact or that have a relatively permanent surface connection to water that is navigable in fact.

ERP-2.11. Groundwater Policy

State governments should retain the principal control and management responsibility for groundwater. Groundwater protection strategy requires a high degree of flexibility and responsiveness to local conditions. The availability of adequate supplies of groundwater for human consumption as well as industrial, agricultural and municipal uses is critical. Multiple groundwater uses must be protected from the potentially adverse effect of municipal, industrial, agricultural and other nonpoint sources, such as septic tanks, surface runoff and antiquated sewage systems. Due to the ubiquity of municipal and nonpoint sources of groundwater contamination and to the impracticality of a zero-release standard in most activities, protection strategies should be based on a use classification of aquifers.

Industrial substances, discharges and releases potentially affecting groundwater are subject to comprehensive regulation through provisions of the Safe Drinking Water Act, FIFRA, RCRA and other state and federal statutes. Federal groundwater initiatives must build upon rather than ignore or duplicate this body of law. In particular, the toxicity, exposure and risk assessments required for listing and standard setting under current law should be preserved. The NAM opposes any attempt to expand the applicability of these or other environmental laws to reach activities with statutory exemptions. Any expansion of EPA authority over statutorily exempt activities must originate in Congress.

The objective of groundwater policy should be to manage this valuable resource for multiple uses. Drinking water standards are relevant criteria only when there is human consumption of the water. Treatment after extraction or conversion to alternative water supplies may be preferable to large-scale groundwater aquifer treatment efforts. Natural attenuation also is a viable alternative to pumping and treating remedies. If a groundwater aquifer treatment effort already is underway, the NAM recommends that the EPA review the remedy to determine if alternate, less energy-intensive options are available.

When aquifer cleanup is the treatment technology selected, the principle of “the polluter pays” should prevail, whether an individual, agriculture, government or industry is responsible. State and local governments, as representatives of the public, should bear the full costs attributable to their own activities and to nonpoint source contamination.

Government should continue to encourage the development of improved technologies for recycling and/or destruction or safe treatment of hazardous wastes and thereby help prevent groundwater contamination and avert costly cleanup efforts. Government should also undertake a program of public education on the causes of nonpoint source pollution in order to get public cooperation in reducing these sources.

Land use, transportation planning, regulation of commercial, residential and industrial development and, in some regions, control over water withdrawal and allocation are essential elements of any nonpoint source pollution abatement program. These matters have traditionally and properly remained largely the domain of state and local governments.

ERP-2.12. Water Conservation

Manufacturers have demonstrated leadership not only minimizing environmental impact to water supplies but also helping to ensure adequate water supplies through conservation efforts. The NAM supports voluntary policies that take a multi-sectoral approach and drive the use of technology solutions and innovation toward water conservation efficiency and reuse to reduce potential risks related to water scarcity.

ERP-2.13. Air Quality Control

The NAM believes that the objectives of the Clean Air Act to protect public health and welfare are desirable and supportable. The NAM believes the best strategy is for companies to expeditiously identify and adopt technological innovations to continue to improve our environment and business opportunities.

American industry spends billions of dollars annually toward air quality protection and has achieved remarkable improvements in air quality. Increasingly, the Clean Air Act is being implemented in a way inconsistent with the original model of cooperative federalism, leaving states with a diminished role. Manufacturers are committed to clean air, but we need policies that support a sustainable environment and economy. The decades-old Clean Air Act should be reformed and modernized to allow for continued improvements in air quality, while being flexible enough to better account for challenges created by extraneous factors, such as foreign emissions, unique geography or topography and technological limitations and benefits exceeding costs.

Because of the enormity of capital expenditure and operation and maintenance costs associated with compliance with federal air quality programs, the NAM believes that federal policymakers should consider thorough, balanced, sound and objective scientific studies before making regulatory decisions. The NAM also recognizes that manufacturers who make market-based decisions to deploy energy-efficient technology also reduce emissions that may fall under the jurisdiction of the Clean Air Act. The NAM recognizes that appropriate

use of market-based mechanisms achieve environmental objectives more effectively and efficiently than command-and-control programs.

As a general policy matter, the NAM supports streamlining air quality control regulations that are focused on the manufacturing sector. U.S. industry and regulators continue to struggle with the complex requirements of the New Source Review program. NSR often triggers evaluations that can last for several years when a particular facility attempts to upgrade or install technologies that lead to increased energy efficiency, thus potentially undermining the achievement of appropriate air quality and environmental policy goals. Such obstacles undercut improved air quality by delaying the installation of more efficient technology. The NAM therefore supports ways to streamline and reform NSR requirements, including the development of practical, routine repair, replacement and maintenance exemption provisions.

ERP-2.13.a. National Ambient Air Quality Standards

The Clean Air Act requires federal regulators to review (NAAQS) for criteria pollutants, including particulate matter and ozone, every five years. With the tremendous air quality progress made over recent decades, the NAM supports reform of the Clean Air Act to better address the current challenges that arise during the NAAQS review and establishment process. The NAAQS review process should be modified to incorporate a time frame 1) more consistent with implementation schedules and 2) which facilitates more robust review of the large volume of material relevant to review and setting standards. Implementation guidance and rules and updates to modeling and permitting tools should be in place when the NAAQS is changed or within a reasonable and defined amount of time. NAAQS should be set in a transparent manner with consideration of the public health and welfare, energy and economic impacts, and the standards should be set taking into account background (non-U.S. manmade and natural sources) in order to provide the necessary flexibility for compliance. Furthermore, the NAM strongly supports review of the NAAQS by diverse and well-qualified representatives of the scientific community with relevant expertise, based on sound, peer-reviewed, objective studies. The EPA should not rely on internal re-analyses of published peer-reviewed studies if the EPA's re-analysis has not itself been individually peer reviewed and published. The NAM encourages the EPA to appoint a broad array of members to its independent advisory panels to promote rigorous and thorough study of proposed regulations based on sound science. In order to facilitate a robust scientific review, the NAAQS review process should be lengthened to 10 years.

ERP-2.13.b. Emission Offsets and Controls Required in Non-Attainment Areas

The basic rule in non-attainment areas is that no new major sources of pollution can be constructed without obtaining a permit that imposes stringent control requirements and requires sufficient "offsets" to ensure progress toward attainment of the NAAQS. Offsets are enforceable emission reductions by existing sources of pollution that are applied to counterbalance the anticipated emissions from new sources.

Offset requirements should be tied to reasonable and available reduction opportunities. Regulators should consider reasonable cost thresholds when establishing these requirements. In some U.S. locations, the availability of offsets is very limited and thus the cost is tremendous. The NAM believes that air quality goals should be commensurate to the expense associated with implementation of those goals.

Federal regulators must recognize the general market principle of diminishing cost-effectiveness of new control technologies to meet more stringent requirements relative to the potential incremental health and environmental benefits obtained. Control costs increase exponentially to achieve minimal incremental benefits as regulators impose requirements approaching a level of "zero risk."

ERP-2.13.c. Hazardous Air Pollutants

The NAM supports regulation of hazardous air pollutants that pose a threat to public health. However, any such regulation must be based upon sound scientific data that clearly demonstrate a need to protect public health and consideration of the welfare, energy and economic impacts. The EPA's inability to meet arbitrary deadlines should not trigger automatic regulation. The NAM supports comprehensive reform of the EPA's listing and delisting process.

ERP-2.13.d. New Source Performance Standard

The NAM believes that NSPS should be streamlined and simplified to provide manufacturers with certainty that they are in compliance with the law. In addition, emission standards should be set considering the costs and benefits of further reductions and do not hinder economic growth and competitiveness. The EPA should focus on what control strategies are available within the fence line. The EPA should also allow adequate timing to demonstrate compliance once an NSPS is triggered.

ERP-2.14. International Environmental Programs

Varying environmental quality control requirements can affect the competitiveness of a nation's industries in world markets. In order to avoid distortions in international trade, the NAM supports cooperation in international notification and consultation when a nation proposes major changes to its environmental protection programs, as well as in the development of intelligent measures to deal with dislocation or inequities in international trade brought about by differences in environmental standards. Cooperation in gathering and disseminating environmental data and information should also be encouraged.

ERP-2.15. Environmental Justice

The NAM fully supports the non-discriminatory administration of environmental programs. Federal, state and local environmental agencies should administer and enforce all environmental statutes and regulations in a non-discriminatory manner. The NAM recognizes the importance of economic prosperity to, and its interrelationship with, health and environmental protection. The NAM encourages its members to develop and maintain clear lines of communication with communities that host industrial facilities. More specifically, the NAM encourages manufacturers to work with local communities, local and state governments and the EPA to achieve an open and informed dialogue on their facilities' environmental performance, in order to ensure healthy and safe communities in which they operate.

Additionally, we support:

- The federal goal that no person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity receiving federal financial assistance;
- State efforts to increase dialogue among government officials, local communities and facilities in order to recognize and respond to community questions and concerns about facility operations;
- State development of public participation procedures that will respond to community concerns. State environmental justice procedures should include guidance for early and meaningful public participation. The concerns of interested citizens within the community should be addressed early in the regulatory decision-making process. For example, concerns should be addressed concurrently with the technical review of a permit application, rather than being relegated only to comments on proposed decisions or subsequent, wasteful litigation. States should document the public participation process within reasonable time frames. State procedures also should ensure and document appropriate due process and reasonable time frames for permit applicants to address public participation concerns; and
- An EPA role in developing mechanisms to identify actual exposures to harmful substances using scientifically sound methodologies. The EPA should also ensure that permitting under existing environmental statutes continues to be an agency priority.

ERP-2.16. Facility Security

As a nation, we have demonstrated firm resolve in protecting our critical infrastructures and key assets from terrorist exploitation. In this effort, government at all levels, the private sector and concerned citizens across the country are involved in an important partnership and a commitment to action.

NAM members have a substantial interest and concern regarding requirements and administration of facility site security programs. NAM members prudently engage in risk management planning and invest in security as a necessary component of their business operations and to ensure customer confidence. However, manufacturers have great concern about duplicative government security requirements and federal actions that do not take into account voluntary actions companies already implement.

The term "security" means actions carried out to ensure or enhance the protection of manufacturing facilities' security-sensitive assets, including, but not limited to, employee training and background checks; protection of the perimeter of the facility; protection against and prevention of access to

controls of the plant; installation and operation of intrusion detection sensors; and the implementation of measures to increase computer or computer network security.

As public policy or legislative proposals to authorize enforcement of security vulnerability assessments and security plans for private facilities are developed, the NAM recommends adherence to the following principles:

- Avoid chemical elimination or reduction schemes disguised as security measures. The NAM has seen legislation at both the state and federal levels that purport to be based on security concerns, yet the effect would be “toxic use reduction.” The bills, prompted by misusing phrases such as “inherently safer technology,” ignore the commitment to improving safety at every phase of operations. Decisions about IST involve complex process safety issues that require a holistic approach. These judgments should be made by experts in the field rather than by government mandate. Initiatives that focus on IST distract from the real issue of security.
- Recognize security work that has already been implemented by companies and through safety and security management principles from their respective associations. It would be wasteful (and unfair) to require companies to add an additional governmental layer of bureaucracy onto existing industry programs, which often include requirements of other government regulations that include all the necessary components of security. Manufacturers should be deemed to be in compliance if they have implemented an industry standard that is determined to be substantially equivalent to the requirements of relevant federal security law.
- Consider provisions that would recognize work done under existing state, local and other federal regulations/laws. This would avoid disruption of the ongoing security work being completed by manufacturers under the approval of federal and state authorities. Chemicals should be exempted if they fall under an existing federal or state security regulatory program.
- Foster continued information sharing between manufacturers and federal, state and local officials in order to enhance security. Information submitted to the government must be properly safeguarded to ensure against release to the public. Such releases of information could undermine the very security that any legislation or information sharing would seek to enable.
- Promote and recognize voluntary cooperation and agreement among all parties and encourage voluntary actions. Partnerships are currently providing the foundation for developing and implementing coordinated protection strategies.
- Ensure some limitation of liability from civil lawsuits in the event of a criminal or terrorist act. No legislation or rule should be construed to create a private right of action or grant jurisdiction to a court that enables private persons to enforce the law or rule against anyone subject to it. Allow only those parties that are directly subject to a rule to bring a petition for review against a rule, not just “any person.”
- Security investment reflects what is reasonable in light of threat and vulnerability conditions, as well as what is economically justifiable and sustainable in a competitive marketplace or in an environment of limited resources.
- Allow for flexibility in achieving standards established by legislation and recognize that the level of risk and the attractiveness of a target vary from facility to facility, even within the same industry. No federal program should take a one-size-fits-all approach to security and should instead recognize the variable nature of risk, allowing companies to achieve compliance in a way best suited to their particular situation.

ERP-2.17. Circular Economy

Often referred to as “circularity,” a circular economy is a system aimed at minimizing waste and making the most of resources. Unlike the linear model of production, use and disposal, the circular model keeps products, equipment and infrastructure in use for as long as possible and enables them after use to be reused, remanufactured or recycled back into a raw material or used as an energy source. NAM members support a circular economy model where technologically and economically feasible, as it can improve resource management, product design and environmental performance of products. As referenced by section 2.01., NAM members support data-driven, life-cycle analysis practices in the manufacturing sector, as appropriate.

NAM members recognize that a circular economy should increase the efficiency of the manufacturing process at all stages of the product life cycle and may provide the following benefits:

- Reduces negative impacts on the environment

- Increases innovation and supports emerging technologies
- Fosters competitiveness and promotes economic growth
- Creates jobs and new sustainable business opportunities

ERP-2.17.a. Recycling

Recycling continues to be an environmental, economic and societal success story led by manufacturers, many of which utilize recycled materials on a daily basis to make new products that add value to the economy. The private and public sectors have invested billions of dollars in infrastructure enabling citizens and businesses to reduce, reuse and recycle efficiently. Recycling helps numerous industries reduce their energy use, along with greenhouse gas emissions. Recycling conserves non-renewable natural resources and raw material supply, creates jobs, contributes to the economy and offers consumers an efficient method to reduce their environmental footprint.

The NAM supports the collection, processing and subsequent reuse of recyclable materials. The NAM supports the principles of sustainable materials management, consistent with sections 2.0 and 2.05 of the NAM Environmental Quality and Sustainability Policy. The NAM supports life-cycle thinking as a key tool for manufacturers making informed decisions and understanding the impacts of products including end-of-life options.

NAM members recognize that no one-size-fits-all approach works in recycling, and different commodities may require different approaches or solutions when looking at opportunities to initiate and/or increase recycling. The NAM supports initiatives to identify and promote best practices in capturing recyclable materials to promote and encourage recycling and reuse.

Currently, recycling programs are within the purview of state and local governments. This has resulted in a patchwork of requirements that vary between communities and across states. A patchwork approach to recycling causes confusion for the public and manufacturers, decreases certainty for U.S. businesses that must comply with varied recycling requirements and poses one of the biggest challenges to having a robust recycling infrastructure that produces high-quality recycled materials. To avoid this, NAM members support the development of federal policies that establish consistent recycling standards, which will avoid public confusion and unnecessary negative economic impacts, and that recognize recyclable materials as distinct from waste. Policies should support investments in programs that promote innovation and strengthen America's recycling infrastructure. The federal government and manufacturers, including recycling businesses, must work cooperatively to ensure that policies are adaptable to evolving materials and markets and, when appropriate, credit manufacturers for their use of renewable and recyclable materials in the manufacturing process. The NAM also supports public education to help raise recycling rates and quality.

Market forces should guide recovery and recycling systems:

- As with other goods and commodities, the NAM supports international free trade and open markets for recycling activities and materials.
- An incentivized market would spur investment in the modernization, expansion and/or construction of new infrastructure to support product reuse and recycling.
- Voluntary actions can and should be part of the solution.
- The NAM supports policies that recognize the value of recyclable and recycled materials as economic commodities.

ERP-2.17.b. Sustainable Packaging

The essential purpose of packaging is to protect perishable products, manufactured goods and other items throughout the supply chain, as well as enhance the user and consumer experience. NAM members support sustainable packaging, whereby the packaging is made from renewable or recycled materials and/or the packaging is designed to be reused or recycled. Sustainable packaging saves energy, reduces emissions and minimizes environmental impacts. NAM members are committed to developing and using the best type of packaging to not only protect their products, but also reduce environmental and cost impacts of the resources used for packaging.

Infrastructure, Innovation, and Human Resources Policy

IIHRP-01 Transportation and Infrastructure Policy

Manufacturers need modern transportation, energy, digital and water infrastructure to meet the demands of a global, 21st-century economy. Advanced transportation and infrastructure systems are revolutionizing how the world moves and connects. However, American infrastructure remains in a state of disrepair, increasingly unable to address unprecedented shifts in consumer, industry and environmental demands. Freight and passenger transportation enhancements and modernized infrastructure systems can contribute greatly to national economic growth, competition, emissions reductions and resilient communities. The success of transportation and infrastructure systems requires renewed infrastructure investments and a dependable federal partner.

IIHRP-1.01. National Transportation and Infrastructure Policy

The NAM supports transportation and infrastructure policies that achieve the following:

- **Prioritize safety and security:** The public welfare, including the protection of life, property and productivity, warrants reasonable expenditures and regulations to address identified safety concerns in a cost-beneficial manner that integrates the benefits of the new and effective technologies in transportation and infrastructure sectors.
- **Ensure U.S. manufacturing competitiveness by providing increased federal, state and local funding for maintaining, improving and expanding public infrastructure:** Excise taxes and other fees should follow user-based principles. Infrastructure user fees should be charged to all users and should be utilized directly for related infrastructure expenses. Alternative financing mechanisms, such as bonds and other private financing instruments, as well as public-private partnerships, should be encouraged where appropriate.
- **Recognize that competition in a free marketplace is the best regulator of prices and services:** When government regulation is necessary, it should promote, encourage, preserve and rely on competition to the extent possible; should be administered fairly and efficiently; and should ensure adequate and reasonable compensation for private investment. State laws and regulations must recognize and concede to the inherent interstate, local and international nature of most transportation movements and refrain from imposing policies that hinder the free flow of goods.
- **Promote efficiency, particularly intermodal movements and efforts to facilitate supply chains:** The safe and efficient movement of freight and people across our country over land, water or by air requires a renewed commitment to the maintenance and expansion of our national transportation infrastructure. To this end, the NAM supports the advancement of interoperable technologies and innovative programs to increase efficiency and support manufacturing competitiveness.

IIHRP-02 Technology Policy

Manufacturers are the bedrock of America's economic, political, military and technological strength. Significant investment and technological advances have been largely responsible for the strengthening of manufacturing sectors across the board. The National Association of Manufacturers supports national and global technology policies that will continue to drive economic growth, productivity gains and job creation. These policies should be based on the close cooperation, interaction and support of industry, government and academia. These policies should create an overall environment that ensures the leadership of the United States in technology and industrial competitiveness. To this end, the NAM is focused on raising public and government awareness of the importance of sustained technological development and its application to the nation's economic and social well-being.

IIHRP-2.01. Broadband

Broadband data, video and voice services provide increased opportunities for manufacturers to innovate and create jobs. The internet and connected technology have led to groundbreaking innovations in the products and processes of all manufacturing sectors. Production line activities, plant security safeguards and monitoring, product performance and reliability, customer needs, inventory and raw materials management and shipping logistics can all be interconnected and managed using technical tools and infrastructure. The NAM supports a legislative and regulatory environment that promotes the deployment, management and use of broadband data transmission and maximizes user choice in the selection of communications and technology solutions—whether private facilities or carrier-supplied, wireless or wireline, terrestrial or satellite—as long as those choices do not harm or compromise the integrity of advanced or future telecommunications networks or the existing data-agnostic nature of access. The NAM supports increased deployment of broadband internet services, an open and competitive internet that is free from burdensome or conflicting regulations and efficient spectrum management.

IIHRP-2.01a. Telecommunications

Manufacturing in the United States benefits from a competitive telecommunications ecosystem. The NAM recognizes the critical need to promote policies that support a world-class telecommunications system. Laws, rules and regulations that impede the deployment, management or use of broadband connections—especially to unserved or underserved areas—should be eliminated or avoided to promote telecommunications efficiency.

Fostering an environment where manufacturers can obtain the services and content they want, when they want it and regardless of medium, is of primary concern. To achieve this goal, policymakers should do the following:

- Remove and avoid barriers to entry that prevent service providers from offering broadband information services to homes and businesses.
- Eliminate or limit regulations that have the potential to dampen private industry's incentive to invest in broadband technology.
- Rely on enforceable industry practices that promote transparency and enhance choices in the marketplace for consumers and business.
- Support a federal framework that ensures fair, technology-neutral competition for all providers.
- Continue to work with federal, state and local governments to streamline the deployment of new wireless technologies.

IIHRP-2.01b. Deployment of Services, Access and Resource Allocation

Recognizing the continued need to develop technologies that promote broadband data communications and connectivity, the NAM generally encourages new developments in these areas and supports their use by appropriate government agencies and suppliers of services and equipment.

Access to broadband provides increased opportunities to our society to advance technology, innovation, investment and manufacturing sector job creation. Next-generation wireless networks will power new technologies across manufacturing. Future national economic growth depends on the ability of businesses and individuals to secure broadband services that are not impeded by burdensome regulations. Market-based solutions should be relied on to satisfy consumer demand for broadband access. In limited cases where demand for broadband is low or the demonstrated economic/commercial viability of a deployment can be proven, public and private interests should combine resources (including public-private partnerships that include incentive programs and subsidy mechanisms) to raise broadband demand without the imposition of mandates or regulations.

To protect the freedom of American industry to choose the type of communications best suited to its needs and growth, policymakers should encourage the broadest development and use of telecommunications systems. Policymakers should allow private telecommunications providers to maintain their networks, allocate resources and determine the optimal performance of their networks, while promoting free-market principles.

IIHRP-2.01c. Spectrum Policy

The NAM encourages the efficient use of electromagnetic spectrum through various technological and regulatory approaches, including the efficient use of spectrum in the industrial and business radio service. It is essential that additional spectrum be made readily available to meet the specialized communications, connectivity and safety needs of U.S. manufacturers and their customers, whether they are a service provider, business user or government. This is of key importance for businesses and consumers to experience the full benefits of the next wave of innovative digital products and services.

Private radio facilities owned and operated by manufacturers have made, and will continue to make, important contributions to enhance worker safety and increase productivity of U.S. manufacturers. As connected technology continues to expand throughout products and processes, the NAM will continue to work with its traditional partner in spectrum policy matters, MRFAC, Inc., to provide the most effective advocacy for the spectrum policy interests of manufacturers.

IIHRP-2.02. Information Security

The security of information, including sensitive data, is critical to continued innovation and economic and national security. To improve the security of the U.S. economy and bolster critical infrastructure, government must partner with manufacturers—through open channels of communication and targeted incentives—to provide key resources, promote voluntary frameworks, issue guidelines and to adopt industry-based best practices.

- The NAM recommends that lawmakers support strong non-discriminatory legislation to set a uniform national standard that preempts conflicting data breach state laws to ensure consumer privacy and data security, with enforcement falling under the jurisdiction of one federal agency of expert authority, which eliminates the need for a private right of action.

IIHRP-2.02a. Data Privacy

Manufacturers are developing innovative products and transforming the manufacturing process with the latest technologies, and data continues to be a critical source and by-product of these breakthroughs and developments. Manufacturers are entrusted with vast amounts of data through their comprehensive and connected relationships with customers, vendors, suppliers and governments.

Manufacturers recognize that safeguarding privacy and protecting information is a critical responsibility that builds trust and confidence in new and innovative technologies and services. Industry is constantly adapting and advancing best practices on the proper handling of data to address new opportunities and challenges, and manufacturers employ various organizational, administrative and technical measures to protect data.

The NAM supports a federal privacy policy that provides certainty and regulatory harmony for manufacturers in the face of evolving regulations on data privacy at the international level and across states. The federal approach to data privacy should account for the diverse ways that organizations are integrating data into their operations and products and provide the flexibility critical for innovation. A federal privacy law should also anticipate the constantly evolving nature of technology and be flexible enough to work for the data-intensive innovations of the future.

The NAM supports a federal privacy policy that gives the manufacturing industry the confidence it needs to serve customers in different markets and gives consumers the assurance that their information remains protected. A state-by-state approach to privacy is inconsistent with the reality of manufacturing processes and products and in conflict with the interstate nature of data flows.

To promote consumer confidence in new technologies and allow for continued innovation, the NAM recommends the following:

- Congress pass federal privacy legislation to set a single, national standard governing the collection and use of consumer data.
- States should be discouraged from passing laws or regulations that unnecessarily obstruct interstate commerce.
- Enforcement of federal consumer data privacy protections should fall under the jurisdiction of federal authorities, which eliminates the need for a private right of action.
- Policymakers and regulators should adopt a risk-based approach to data privacy to ensure that privacy

and security will be driven both by the sensitivity of the information handled and the purposes for which it will be used, and that recognizes the many legitimate and beneficial uses of data.

- Policymakers should develop a consistent framework that holds government agencies and private organizations to appropriate standards.
- Businesses, vendors and government continue to recognize the need to respect individual privacy.
- Policymakers recognize the connected relationship manufacturers have with their customers, employees and supply chains around the globe and that laws clarify how governments can access that personal and proprietary data without an undue and unnecessary impact on commerce, including laws or regulations requiring local data storage.
- Government should work with industry to establish international safe harbors and other bilateral mechanisms with respect to data sharing and the transfer of information to reflect that the flow of information for manufacturers has become global in scope. A new federal privacy policy should obtain an adequacy finding from the European Union to allow for personal data to flow between the United States and Europe.

IIHRP-2.02b. National Security, Cybersecurity and Infrastructure Protection

The maintenance and protection of our nation's information technology and communications-critical infrastructure and key resources are critical to our national security and economic stability, and the federal government must recognize that the internet is a distinctive, inherent part of our national infrastructure. Due to the interdependence and reliance of the entire economy and government on the internet for communication, commerce and homeland security, cybersecurity should be a continued priority in national homeland security initiatives and preparedness activities. The NAM encourages the federal government to advance homeland security preparedness through increased coordination with the private sector. This includes reliance on industry-driven best practices and deference to the private sector to continue to develop appropriate general and industry-specific best practices for improved security.

The NAM believes the following:

- Identity management solutions and secure communications are critical to infrastructure protection.
- The private sector should continue developing appropriate general and industry-specific best practices in consultation with the federal government for improved security and international harmonization. A prescriptive regulatory framework should not be imposed but instead the government should rely on voluntary, industry-led best practices.
- Government should share timely and actionable threat and vulnerability information with the private sector without creating new liabilities.
- Policies should require all cybersecurity solutions to be technology-neutral, open and interoperable and should leverage industry-based best practices and standards.
- Business incentives can encourage small and medium-sized manufacturers to adopt good cyber maintenance practices.

IIHRP-2.03. Innovation and Emerging Technology

It is critically important to educate policymakers and the general public on the importance of technology and innovation to our economic competitiveness and its role in the success of modern manufacturing. This includes encouraging and embracing the development and deployment of new and innovative technologies, including, but not limited to, the internet of things, machine learning, artificial intelligence, additive manufacturing, 3-D printing, 5G, augmented reality and blockchain. Innovation and emerging technologies allow manufacturers to develop new products and processes that improve the lives of consumers, enhance productivity, improve safety and spur economic growth across sectors. Policies that support the development and adoption of emerging technologies by manufacturers are essential to promoting U.S. competitiveness and industry leadership on a global scale.

This also includes working together to raise the level of national public awareness of the vital role manufacturers play in leveraging science, technology, engineering and mathematics (STEM) disciplines to increase the competitiveness of U.S. businesses at home and abroad and improve our social and economic well-being.

The government should further support this effort by adequately funding and staffing existing institutions responsible for technology, science, intellectual property and research and development programs, while not unnecessarily increasing the regulatory burden. Federal agencies also need to make the most efficient use of their resources and coordinate their science and technology programs with industry with a view toward meeting national needs and priorities.

IIHRP-2.03a. Encouragement of Research and Development

R&D is fundamental to the health and vitality of our nation's industrial and economic progress. Private-sector R&D, especially in the applied sciences and process technologies, needs to be strongly supported. The partnership of research at the academic level and application expertise in industry should be encouraged. The federal government's role in initiating and funding R&D should be directed toward solving national problems beyond the capabilities of the private sector, or when the federal government is the primary beneficiary of such research.

Much of the basic research directed at expanding our science and engineering knowledge base is conducted in universities. This work requires significant government support, which should be continued and regularly reviewed for its adequacy. Furthermore, in the interests of establishing funding stability for longer-term research projects, multiyear authorizations should be established wherever feasible. Support for basic research is integral to our nation's continued competitiveness and the future of our innovation economy.

IIHRP-2.03b. Improved Technology Transfer

The federal laboratory system of the United States is one of our most prized technology resources, yet its potential has yet to be fully tapped. For too long, the innovations developed in these laboratories were unavailable to, or unused by, industry.

Federally funded R&D should advance the competitive and security needs of the nation and should be considered on its technical merits. Manufacturing R&D efforts, focused on base-building technologies and processes, should be promoted. As noted above, declassification and transfer of government-developed technologies to the private sector should be expedited whenever possible. The federal government should also assist and not control state and local governments in their efforts to promote local technology development.

Technology transfer programs offer American taxpayers an excellent return on their investment as research facilities funded by taxpayer dollars are beneficial to the U.S. economy. The NAM is highly supportive of programs that provide incentives for U.S. businesses, schools and laboratories to hasten the transfer of technology into the commercial sector, as improved mechanisms for technology transfer and cooperative partnerships between industry, government and academia will benefit all three sectors and the country as a whole.

IIHRP-2.04. Intellectual Property

Intellectual property rights are the lifeblood of our economy, and the protection of those rights assures manufacturers that their inventions will be secure as they create jobs and build industries around them.

IIHRP-2.04a. Protection of Intellectual Property Rights

Innovation is one of our greatest strengths and a major contributor to economic growth and industrial competitiveness. For this reason, it is important for policymakers both to nurture the creation and application of technology and vigorously protect intellectual property, as the creation of technology is the creation of intellectual property. Without strong protection, the incentives for future innovation-directed R&D will be diminished.

The NAM supports a coordinated policy that strengthens the protection of intellectual property rights afforded by both domestic laws and international agreements, and includes strong coordination and oversight by the governmental agencies tasked with protecting our nation's intellectual property. U.S. policy should reflect the vital importance of the intellectual property rights of manufacturers and all intellectual property owners for U.S. industrial competitiveness, including in areas that impact the growth and development of digital services.

U.S. policy should deter intellectual property theft from foreign governments and state-sponsored actors, which threatens the competitiveness of manufacturers in the United States.

IIHRP-2.04b. Domestic Protection of Intellectual Property

Policymakers should be strongly committed to supporting the rights of innovators to protect and promote their own inventions and should continually review the adequacy of our laws in the face of fast-paced scientific and technological change. In particular, the NAM believes public policy should do the following:

- Increase national awareness of the inseparable link between intellectual property rights protection and innovation, improved trade performance, sound economic growth and strengthened national security.
- Strengthen U.S. intellectual property laws through improved mechanisms to safeguard confidential business information and trade secrets and the expansion of federal jurisdiction to enable faster nationwide enforcement of all intellectual property rights.
- Encourage Congress to support marketplace approaches to technology-related challenges. Policymakers should refrain from banning or restricting technologies that may be used for substantially non-infringing uses. If government intervention is deemed necessary, such efforts should focus on proscribing or regulating the illicit behavior itself.
- Protect the health, safety and welfare of American consumers by recognizing the harmful effect of counterfeit and pirated products on the public and on our economy. The NAM supports efforts by all stakeholders to increase protections for manufacturers, including increasing cooperation and information sharing between government and the private sector; stronger mechanisms among online marketplaces to share information and cooperate on enforcement and consumer communication with manufacturers; effective enforcement mechanisms against bad actors; and increased resources and efforts to raise consumer awareness.
- Allow government contractors to retain the commercial domestic and foreign rights to inventions made in the performance of the contract, subject to a royalty-free, non-exclusive license to the government for governmental purposes. Any such license should not convey rights to the government to background inventions and technology or to manufacture or use an invention for the purpose of providing services or supplies to the general public in competition with the contractor or the contractor's commercial licensees in the licensed fields.
- Ensure the continued improvement of U.S. intellectual property laws, procedures and penalties to increase the effectiveness and efficiency of the system. The centerpiece of an effective intellectual property protection regime is an adequately staffed, efficiently operated and fully funded United States Patent and Trademark Office that will process patent and trademark applications in a high-quality and expeditious fashion.
Support policies that continue to eliminate unnecessary cost, complexity and uncertainty in the U.S. patent system, including the restoration of any loss to the term of a patent through delay caused by federal regulatory requirements.

IIHRP-2.05. Immigration Policy

The NAM supports reforming the U.S. immigration system to advance the values of free enterprise, competitiveness, individual liberty and equal opportunity. Decades of neglect to our immigration laws has created a system that fails to meet workforce and economic realities and has eroded the confidence of our citizens in the security of our borders. Manufacturers support a comprehensive and enduring reform of our current immigration system that bolsters national security, upholds the rule of law, demonstrates compassion and establishes a modern well-functioning system for welcoming new people into the country.

The NAM recommends Congress and the administration reform our immigration system to:

- Strengthen border security using barriers, personnel, technology and other measures while supporting the efficient movement of goods across the border.
- Reform the legal immigration system to prioritize America's workforce needs. This should include increasing employment-based immigrants as a percentage of overall new immigrants to the country; providing a path for employers to hire and keep talent graduating from U.S. universities; and prioritizing applicants based on workforce demands and removing per-country limits on employment-based

immigrants.

- Align nonimmigrant visas and temporary worker programs with employer needs and use fees to fund STEM education programs in the United States. This includes increasing the number of visas for highly skilled workers; providing paths for employers to train workers; enacting reforms to guest worker programs, including reforms to capture the range of skills required for manufacturing jobs; establishing a modern, fully electronic and mandatory employment verification system that ensures undocumented workers do not displace American workers and provides employers with confidence in hiring workers.
- Provide a permanent and compassionate solution for populations facing uncertainty, including the Dreamers, who were brought to the United States as children and know no other home.
- Improve asylum and refugee programs for a more orderly and humane system.
- Provide a path forward for the undocumented population to stay in the United States after an orderly process of review, which would include financial penalties for those who seek to become legal and deportation for those who choose to stay in the shadows.
- Strengthen the rule of law so that it is respected and followed, with a focus on protecting communities and on requiring localities to cooperate in the enforcement of immigration priorities.

IIHRP-03 Health Policy

Manufacturers value the ability to provide employees and their families, and in some cases retirees, with high-quality, affordable health care coverage. We do this not just to attract and retain top talent, but to ensure a healthy and productive workforce and because it is the right thing to do.

However, the cost of providing employer-sponsored health coverage remains one of the most significant challenges facing manufacturers today. In fact, health insurance expenses represent the fastest-growing cost component for employers. Manufacturers seek opportunities to continue providing health benefits to employees as they recognize the value in a competitive market where skilled employees are in demand. However, rising health costs hinder our ability to compete globally, drain resources that could be invested in new technologies and facilities, inhibit the creation of new manufacturing jobs and undermine economic growth across the nation. Despite these challenges, manufacturers are committed to sponsoring benefit programs that maintain the appropriate balance of quality care, innovative benefit designs and shared financial responsibility. At the same time, the rising costs associated with the uninsured population and federal and state entitlement programs—all of which manufacturers share—are threatening our industry’s competitiveness and ability to provide benefits. The following areas require continued reform and attention by policymakers:

Cost: The U.S. devotes a much larger share of GDP to health care than other industrialized nations, and the high cost of care continues to drive an unsustainable escalating health care spend in the U.S. However, basic quality indicators show that the U.S. does not have the best health outcomes and our medical system is inefficient. Using market-based approaches, costs must be addressed for manufacturers in the U.S. to continue to be able to consistently offer affordable, high-quality benefits to their employees, their families and retirees.

Affordability: Government, employers and consumers recognize the difficulty in sustaining the current level of expenditures, and all stakeholders have a role in ensuring access to affordable, quality health care. Accessibility must be considered in the context of affordability.

Lack of Transparency: Information related to quality and cost is not readily available in a user-friendly actionable format for many key health care stakeholders—employers, government, insurers, individual consumers and providers. In addition, employer and consumer-friendly comparative information for various medical treatments and services is largely unavailable. Transparency of information related to health care services’ cost and quality has the potential to improve health care decision-making, increase consumer engagement and introduce additional market-driven forces into the health care sector and positively impact a reduction in health care services’ cost.

Promoting Quality and Value: Overly burdensome government intrusion hinders innovation, flexibility and competition based on quality and value. Both federal and state government should promote competition based on demonstrated and measurable quality and value.

Inefficient Processes: Process inefficiency adds costs to any business—including health care. Administrative and medical process inefficiencies lead to duplication of basic patient services and tests, preventable medical errors, lost worker productivity and decreased patient satisfaction.

Cost Shifting: Both state and federal governments have responded to growing costs by reducing reimbursements to providers and cost shifting to the private sector—actions that exacerbate affordability and access concerns in the private market and are forcing many employers to reduce or cease offering health benefits.

Inefficient Medical Liability System: America's inefficient medical liability system is in need of reform and continues to encourage frivolous lawsuits, hindering innovation and unnecessarily increasing the cost of medical products and care. The burdens of health care liability lead to the use of defensive medicine, higher administrative fees and less access to quality care as physicians choose to relocate or retire.

Principles of a Strong System:

Achieving affordable, quality health care coverage is a critical priority for our entire nation, not just manufacturing in the U.S. An improved health care system—with greater access to more efficient, higher quality, cutting-edge and affordable health care services and products—requires the collaboration of public and private stakeholders and individual consumers. While employers disparately purchase health care for approximately two-thirds of Americans, federal and state governments purchase health care for large blocks of the population all at once. Purchasing reform, driven by innovation from the private sector, can inform and drive change in the public sector's taxpayer-funded programs, potentially accelerating positive reductions in health care costs. The following principles were developed from the perspective of our members—manufacturers from all industries, who voluntarily seek to improve the employer's role in the availability and affordability of health benefits to their employees. The NAM urges all manufacturers, suppliers and partners to promote health care policy consistent with our health care objectives and principles. These include the following:

- **Public/Private Partnership:** Health care policy should preserve the public/private partnership in delivering medical coverage to American citizens. The federal government should not be the sole provider of health care.
- **Private-Sector Involvement:** The private sector has a strong role to play in creating a system with multi-stakeholder responsibility, including individual responsibility and ensuring that the right information is available and understandable. Manufacturers have much to share when it comes to efficiency, effectiveness and the economic impact of rising costs. Private-sector innovation, efficiencies and fiscal responsibility can help make quality health care available to all employees, while serving as an example for public-sector programs to learn from and follow. In addition, the NAM supports policies that reflect employer choice for health care options.
- **Product and Process Innovation:** Health care policy should support technological innovation in medical, pharmaceutical and medical device treatments, products and processes, advance value-based care and promote competition in the private sector.
- **Transparency:** Markets work best when they are open to competition, enabling consumers to make informed and responsible decisions. Manufacturers support meaningful transparency that does not expose confidential contracts containing proprietary business information to better understand certain health care cost drivers so that lower costs and better outcomes can be achieved successfully.
- **Protecting Employer-Sponsored Health Care Benefits:** The economies of scale that have come to define employer-sponsored coverage create a vehicle to design benefits that are more flexible,

innovative and efficient. Employers cannot be strangled by additional regulations contrary to the intent of the Employee Retirement Income Security Act of 1974 or the burdens of 50 different ways to comply. Protecting self-insured plans under ERISA is central to manufacturers' ability to provide employer-sponsored coverage and employees' ability to keep the health benefits they know and like.

- **Tax Policy:** Health care tax policy should continue to promote employer-sponsored health care coverage for employees and their families. The individual tax exemption and employer deduction for employer-sponsored coverage must be maintained. Any deviation from the favorable tax treatment of employer-sponsored health care coverage is an attack on the ability of employers to offer and employees to utilize employer-sponsored coverage. Excise taxes on health care products, services and plans are a penalty on consumers and should be avoided because they add to the cost of health care without improving quality or outcomes.
- **Cost Shifting:** Public programs such as Medicare and Medicaid should reflect a reasonable distribution of the cost burden between the public and private sectors and among consumers, payers and health care providers so that costs are not unfairly shifted to the private sector.

IIHRP-3.01. Transparency and Better Data Access to Help Contain Costs and Empower Consumers

An informed consumer is an empowered consumer. When it comes to health care, patients, employers in their role as health plan sponsors and others face obstacles accessing the right information they need about the cost of health services, including hospital rates and utilization relative to the quality of care or service provided and how it relates specifically to the applicable health care plan. A transparent system is aimed at providing all stakeholders ready access to appropriate, accurate and relevant information at the right time. This will help promote and encourage individual accountability, affordability, informed decisions based on cost and quality and, most importantly, better care and outcomes.

IIHRP-3.01.a.

A transparent system should include information regarding the quality of performance of providers and total cost information of procedures and treatments, including out-of-pocket expenses for patients in an understandable format for consumers, payers and providers in order to achieve better decisions and health outcomes. This information should be understandable and specific to what medical providers, services and treatments are available with related cost-sharing provisions. The absence of critical information at the time of service and ahead of service prevents employers and employees from comparing providers based on cost and quality and from making health care decisions on the basis of cost and quality. The potential benefits and power of health savings accounts cannot be fully realized when employees lack key information when shopping for the best quality at the lowest price.

IIHRP-3.01.b.

The NAM supports value-based arrangements, innovative programs, such as bundled payments, direct contracting, risk-sharing arrangements and other programs that align incentives, encourage evidence-based medicine and the delivery of high-quality integrated care that is evaluated based on outcome metrics over volume of care. These programs should also help consumers make better health decisions based on cost and quality of care metrics. However, employers and their employees have limited tools to help control health care costs. Some barriers, excluding those that protect critical personal patient privacy, can prevent access to critical cost and quality information and remain an impediment to expanding opportunities to lower costs. Efforts must be advanced to provide plan sponsors additional mechanisms to make total health care spending more predictable for employers and total cost-sharing more predictable for employees. Manufacturers can and should demand this information from health networks and providers. Employer-sponsored incentive structures should be encouraged to benefit patients, rewarding those who select high-quality, more efficiently priced care. Government regulation should allow flexibility for the private and public sectors to engage in these cost-saving changes to the delivery and coordination of care.

IIHRP-3.01.c.

Employers believe that health care is relevant to the manufacturing supply chain as insurers and health care providers are playing a key role in keeping the manufacturing workforce healthy and productive. These

services must be examined, analyzed and vetted like any manufacturing supplier in a manufacturer's supply chain.

IIHRP-3.01.d.

Understanding and measuring quality is also in the public interest as we seek to manage even more data and information to drive better health decisions that dually factor cost and quality. The rates of complications that patients have experienced in the form of adverse avoidable events from treatments and/or procedures by the provider (excluding underlying medical conditions) should also be disclosed to both the employer and the employee. The power of knowledgeable decisions, actionable data and access to information will assist in better decisions and higher quality care and lead to improved outcomes.

IIHRP-3.01.e.

Access to Medicare data has become increasingly important as employers, insurers and researchers seek to combine Medicare claims data with their own data on individual physicians and other providers to improve the quality and cost measurement of health services. The NAM supports making provider-specific Medicare claims data available to researchers or other appropriate entities for the purpose of developing quality measures and performance reporting so long as information is relevant and accessible.

In addition, public and private claims data provide valuable information to employers, researchers and other relevant entities as well as the federal agencies responsible for managing multiple health coverage programs for various populations. Regulatory barriers to leveraging and exchanging standardized data hamper the health care system's ability to drive continuous improvements and innovations in medical research and care delivery. Such constraints are deterrents to innovation that can help solve some of the most pressing medical and fiscal challenges. However, collecting data for the sake of data is not purposeful, and manufacturers urge approaches that serve an important consumer-driven purpose (i.e., reduced costs, improved quality) that also consider the burdens of collecting and reporting data. A national approach to make de-identified claims data more available should be explored and assessed thoughtfully, along with other policies, because a 50-state approach to implementing a range of transparency tools would be overly burdensome for self-funded health care plans. Manufacturers believe that the private sector is well positioned to advance consumer-friendly platforms that can aid consumers. The private sector is also best suited to analyze and assess public and private data to make information actionable.

IIHRP-3.02. Innovation Measures

NAM members have long been at the forefront of innovation and creativity to solve significant business issues and succeed in this highly competitive global market. We believe this same type of thinking should be applied to the problems facing America's health care system.

In recent years, technology has intersected with medicine, allowing treatments to fit more intelligently into people's routines to support adherence. The industry is rising to the occasion, producing digital solutions that aim to help improve health outcomes. Harnessed in the right way, technology can help improve the long-term health of people managing chronic diseases, such as diabetes and other conditions. Digital technology can also reduce costs because the online infrastructure already exists, but strong federal partnerships are needed to make this work. Legislators and government agencies need to agree on common standards and patient privacy protections that enable a free and safe flow of data through our health care system. By providing more transparency in the form of meaningful cost and quality information, we can empower consumers to make more informed decisions and to encourage health care companies to meet consumers' expectation.

IIHRP-3.03. Protecting Employer-Sponsored Health Care Benefits

The foundation of employer-sponsored health benefits is the Employee Retirement Income Security Act (ERISA). Today, nearly two-thirds of Americans receive health, retirement and other valuable benefits through their employer under the framework established by ERISA. ERISA enables employers to maintain uniform benefit plans that meet the needs of employees on a nationwide basis and is critical to preserve if employers are to continue offering high-quality, affordable health coverage specifically tailored to meet the needs of their workforce.

Any public policy aimed at improving the quality, cost and reach of health coverage must start by protecting the ERISA framework. Protecting ERISA will give manufacturers the flexibility they need to apply the same innovative thinking to health coverage that has powered America's job creation and economic growth.

IIHRP-3.04. Health Management: Wellness, Prevention and Chronic Care Management

Chronic conditions impact millions of Americans and account for nearly seven of every 10 deaths in the U.S. Treating these chronic diseases is the primary driver of health care costs. Therefore, managing existing chronic conditions and preventing new cases is a key objective for manufacturers. The NAM supports an approach that appropriately considers consumer needs so that individuals with certain health conditions are not negatively disadvantaged or discriminated against.

Studies suggest that an investment in wellness, prevention benefits and other innovative initiatives can yield dramatic savings in long-term health costs, better outcomes and improvements in employee satisfaction and productivity. Employers have taken the lead in focusing on primary care and preventative services in their medical benefits while implementing complementary workplace wellness programs. Those that have pursued this strategy report increased employee job satisfaction, improved morale, reduced absenteeism, higher productivity and lower overall health care costs among employees.

In an effort to reduce health care costs and improve the well-being of employees, the NAM supports policies that encourage and incent both public and private health plans to implement a comprehensive health management approach. Such an approach would include coordinated care, preventative services, behavioral change tools, disease and case management, better assessment of employee health risks and incentives for employees to achieve improved health outcomes. The most effective spending of health care dollars is primary and preventative care. In addition, appropriate financial and reimbursement incentives should be encouraged to increase employee utilization of chronic disease management tools and services.

Public policy should support private-sector efforts led by employers that treat wellness holistically and comprehensively as critical components of overall employee benefits packages. Employer best practices that integrate a variety of wellness programs should be highlighted to improve the health and well-being of the whole person.

This includes providing employers with the flexibility to develop appropriate provider and member reimbursement incentives using alternative sites of care and expanding the utilization of chronic disease management tools and services. First-dollar coverage for preventive services and chronic care, including medicines, is a way to improve the management and costs associated with chronic conditions, such as arthritis, cancer and diabetes.

IIHRP-3.05. Innovative Delivery of Consumer-Driven Benefits

Flexible financial benefit designs, such as health savings accounts, health reimbursement arrangements and flexible spending accounts, provide additional choices for consumers and empower employees to manage their health expenses while improving access to affordable private health coverage. The NAM supports such designs and other tax-favored funding programs and encourages improvements to enhance flexibility. At the same time, such programs should provide incentives for prevention, wellness and treatment adherence. Modernization of the rules surrounding the qualification for and use of these accounts is needed as health care policy and health care itself has evolved greatly in the time since these accounts were first created. In some cases, outdated tax code rules are prohibiting the application of innovative health care delivery models, which promise to reduce health care costs and improve care.

The NAM supports end-of-year rollover of unexpended funds or an after-tax payment to employees with FSAs, as well as increasing the annual caps and allowing the use of FSAs for over-the-counter medications and other designated products. This would reduce the consumption of unnecessary health services and products in order to deplete funds in an individual's account prior to the end of the year.

The NAM supports FSA expansion for individual health insurance coverage, dental coverage and long-term care if the employee does not participate in an employer-sponsored health plan.

The NAM supports increasing the annual contribution limits for HSAs, permitting account owners to purchase health insurance using HSA funds, allowing the purchase of over-the-counter medications, permitting greater flexibility in the use of HSAs and utilizing HSA funds to cover additional qualified medical expenses, including, but not limited to, chronic disease management and primary care as well as services incurred prior to the establishment of the account.

Veterans and those with Tricare should have an equal opportunity to choose innovative benefit designs, and policies should not discriminate against veterans.

IIHRP-3.06. Promoting Medical Innovation

Market-oriented solutions provide the best incentives to improve access to treatment, value, competition and innovation. Medical innovations are important components of modern benefit designs. The NAM supports policies that will help employers provide access to affordable and innovative medical products to their employees and provide significant cost savings for both the public and private sectors through better outcomes.

Affordability: The NAM supports increased access to affordable medical innovations via a robust and competitive market. Public policy should responsibly encourage increased access to affordable and competitively priced prescription drugs without sacrificing the business environment required to research and build innovative pipelines of new products. As new treatments become available, generics and biosimilars should also be encouraged as appropriate. Drug coverage information for plan participants should be accessible so that information about cost sharing and coverage is well understood by the beneficiary and their dependents.

Price Controls: Efforts to apply price controls to prescription drugs, biologics or devices will result in less medical innovation and the rationing of care. Price controls destroy the ability of manufacturers to fund and conduct research and to innovate. Market forces deliver the best products at the best prices.

Unsafe Importation of Medical Products: The NAM opposes the unsafe importation of drugs, biologics and devices outside the current safety system established by the FDA. Consumer safety should be our paramount public policy concern. Importation and re-importation could expose consumers to counterfeit and adulterated therapies. In addition, it could undermine the public health as well as the reputation of those quality drugs, devices and biologics approved by the FDA for marketing in the U.S.

Promoting Innovation: Health care policy must strike a reasonable balance between the need to promote medical innovation, ensure patient safety and encourage competition. The NAM recognizes the cost of developing and manufacturing drug, device and biologic products is significant: billions of dollars in capital, research and development costs are required to bring these products to market. Without an adequate return on investment, such innovative new treatments will never reach patients. Therefore, public policy that promotes competition and preserves patient safety must also respect proprietary information and include incentives such as data exclusivity and patent protections for innovative research and development.

Regulatory Oversight: The medical innovation community is constantly discovering new drugs and devices and improving on existing drugs and devices that provide patients with the means to live longer and healthier lives. Review and approval of these new lifesaving, life-enhancing technologies must consider both the potential benefits and risks to patients. No regulation can or should seek or purport to eliminate every possible risk. Sound principles of science and benefit-risk analysis should be applied to circumstances where regulation is warranted. During the research, development and review processes, the benefits and risks of pharmaceuticals and medical devices must be considered and weighed against the benefits and risks of not treating or not preventing the condition. The NAM believes the FDA should embrace a more predictable and transparent process in determining how efficacy and safety parameters are balanced as part of the FDA's benefit-risk analysis. Such an approach would result in more timely, balanced and higher-quality decisions by the agency to the benefit of patients.

Efficiencies and Savings: As health care costs continue to escalate, bending the cost curve without sacrificing innovation, access and quality care remains a priority for manufacturers, their employees and

retirees. Federal regulations must be reviewed and assessed consistently to gain efficiencies, incur savings and make health care more transparent to both plan participants and plan sponsors. Greater efficiencies in the health care supply chain should be encouraged to improve affordability, quality and outcomes across the health system.

IIHRP-3.07. Mandates

The NAM opposes government mandates that dictate the design of health care plans and reduce employer flexibility of plan design. Individual companies are best suited to assess the appropriate mix of benefits and direct compensation that satisfies employee needs while fulfilling corporate goals for continued employment, productivity and profitability. Instead of mandates, federal, state and local governments should work in partnership with employers to address health care coverage needs for Americans.

IIHRP-3.08. Tax Policy to Expand Access and Affordability

The current structure of the U.S. tax code treats employer contributions to employee health insurance as nontaxable benefits that are not considered part of total employee compensation for income or payroll tax purposes. The NAM fully supports this tax exemption, which has helped make employer-provided health coverage the cornerstone of medical care in this country and provides millions of Americans with health insurance coverage. To encourage employers to continue providing coverage, the NAM supports public policies that preserve full tax deductibility for employee health coverage.

The NAM promotes tax policies that encourage employers to provide health care benefits and minimizes the burden for doing so, including support for repealing excise taxes on health care products, services and plans. In addition, the NAM supports tax policies that promote the use of, and enhance the flexibility of, HSAs and other consumer-driven health care benefit designs.

IIHRP-3.09. Cost Shifting

Cost shifting to the private sector, and specifically, employer-sponsored coverage, represents a significant obstacle for employers to reducing health care costs and increasing access to affordable health coverage. Uncompensated care delivered by hospitals and physicians and uncollectible hospital debt are passed on to patients and employers who provide coverage. Furthermore, inadequate Medicare and Medicaid reimbursements increase costs to the private sector and private companies. Reform of the Medicare and Medicaid system could better manage these shifts.

Access to health care is a concern and responsibility for both the public and private sectors. Cost shifting from one sector to another undermines the public/private partnership needed to achieve the goal of making coverage available to all Americans.

Eliminating cost shifting should be a critical health care and economic policy objective. The NAM recommends that health care policies should be reviewed in light of several factors, including costs in terms of taxes or other economic burdens that may fall disproportionately on one sector and the impact on efficiency, innovation, quality of care, patient health outcomes and overall costs.

Public programs such as Medicare and Medicaid should be reformed to achieve a reasonable distribution of the cost burden between the public and private sectors and among consumers, payers and health care providers.

IIHRP-3.10. Process Improvement and Health Information Technology

The NAM believes that significant improvements to the quality, access and affordability of health care can be gained through a heightened public policy commitment to process improvement and the implementation of a nationwide interoperable health information system. Such a commitment would transform health care from a disconnected and largely paper-based system to an electronically integrated network of patient care ensuring that all health care stakeholders, including individual consumers, have access to the right information at the right time.

Manufacturers are well positioned to help the health care industry integrate much-needed process improvement techniques and information technology into their operations. U.S. manufacturers have

streamlined their internal processes and operations to reduce costs, eliminate errors and improve quality. This process has been essential to maintaining America's competitive edge. Although the health care sector differs in significant ways from manufacturers, it can and should benefit from process improvement and the application of information technology.

HIT holds the same promise for health care providers as it does for manufacturers in terms of cost savings and quality improvements. However, process improvement initiatives must be coupled with HIT to ensure the full benefits in terms of access, quality and cost containment are realized. In the end, both components—HIT and process improvement—will improve health care access, quality and affordability by better disseminating information in a secure way among the patients, doctors and others empowered to make health-related decisions.

The NAM supports a rational approach to deploying a nationwide HIT system that combines the creative energies of both the private and public sectors. An individual's privacy must be protected and information shared in a secure manner.

IIHRP-3.11. Retiree Health Care

Demographic and cultural trends—such as the aging of the baby-boomer generation and the desire of many employees to retire early—are changing the face of America's manufacturing workforce. These trends have a significant impact on rising health care costs and access to affordable health insurance. Moreover, older U.S.-based manufacturing companies have large retiree populations, which add significant costs to employer-sponsored health care. Health care legislation and regulatory actions must reflect not only the affordability and quality of health care coverage concerns for employee populations, but also those of employers for retirees and early retirees as well. We support ensuring retirees have continued access to employer group waiver plans that meet their needs as they age.

Early retirees can boost the ranks of the uninsured if they lose access to their employer-sponsored coverage and cannot yet qualify for Medicare. Many employers are taking steps to address these issues through continued offering of early retiree coverage and phased retirement plans that encourage older employees to remain active employees.

While the NAM will remain at the forefront of private-sector efforts to adapt to these changes, we support public policies that provide employers the incentives and necessary flexibility to manage the needs of their aging employees, soon-to-be-retired employees, early retirees and retirees.

Health care costs for retirees continue to increase placing a financial burden on the federal government, employers and retirees. We support policies to ensure premiums remain affordable and stable without abandoning market-based approaches.

We support policies that encourage flexibility for employers related to the tax treatment of early retirees and retirees' benefits offerings and managing the shortage of skilled employees.

IIHRP-3.12. Small Business Support

Unlike their larger counterparts, many small manufacturers do not enjoy the benefits of greater bargaining power with their health insurance carriers. The NAM advocates greater bargaining power for small businesses to make health insurance more affordable through reduced premiums. Health premiums could be significantly reduced through small business health plans. These plans will also reduce the administrative cost burden for small employers.

The NAM supports and promotes association health plans as an opportunity for small and medium-sized businesses to band together and negotiate better health care coverage rates for their employees.

The NAM supports innovative programs that will reduce the administrative and cost burdens for small manufacturers that wish to provide health care benefits for employees.