



**American
Iron and Steel
Institute**



July 27, 2023

The Honorable Janet L. Yellen, Secretary
Department of the Treasury
1500 Pennsylvania Ave, NW
Washington, D.C. 20220

The Honorable Danny Werfel, Commissioner
Internal Revenue Service
1111 Constitution Ave, NW
Washington, D.C. 20224

Dear Secretary Yellen and Commissioner Werfel:

On behalf of American steel producers, fabricators and workers, we write to provide you with these additional comments on the recent guidance document (Notice 2023-28, issued on May 12, 2023) to implement the domestic content bonus credits for the clean electricity production and investment tax credits under the Inflation Reduction Act (IRA), P.L. 117-169, 136 Stat. 1818 (August 16, 2022).

Our organizations support the provisions as enacted by Congress in this historic legislation that will enhance the nation's ability to expand the renewable energy sector and contribute to growth in U.S. manufacturing and U.S. jobs. We are pleased that the guidance as outlined requires certain wind and solar components made predominantly of steel and iron to use steel and iron made in the United States to qualify for the domestic content bonus credits. However, we are concerned that the guidance places other steel components of wind and solar systems in the manufactured product category. This will allow those components to be made of imported steel while still receiving the domestic content bonus credit as long as the overall project meets the lower standards for domestic content in manufactured products. That outcome would be contrary to the IRA's goal of strengthening the nation's supply chains for clean energy by promoting the use of domestically-produced steel and iron products in clean electricity systems.

In particular, we would like to highlight three key examples where the guidance allows the use of imported steel in place of available domestic steel products: monopiles for offshore wind facilities, steel components with structural functions in photovoltaic tracking systems (including torque tubes, foundations and rails) and steel fasteners. Notably, the guidance provides that the steel and iron provisions apply to applicable

project components that are “construction materials made primarily of steel or iron and are structural in function.” As described below, the functions of these three products are structural in nature. The domestic steel industry has made significant investments to expand its capacity to satisfy demand for these products. There are no constraints on domestic supply that would justify removing them from the scope of the IRA’s domestic iron and steel requirement.

First, we are very concerned that the guidance categorizes monopiles for offshore wind facilities as manufactured products, rather than as iron and steel products, despite the fact that monopiles are predominantly made of steel and serve a structural function for offshore wind systems. Like wind towers, monopiles are produced from steel plate that is rolled and welded into cylindrical sections, which are then welded into a larger cylinder. The monopiles are driven into the seabed and form the base of the tower that is below the waterline. The remaining portion of the tower is then attached either directly or by way of a transition piece to the monopile. Monopiles are part of the tower structure that supports the nacelle and blades of the wind turbine. Thus, they are clearly “structural steel or iron” products and should be reflected as such in the guidance document. By categorizing the monopile as a manufactured product, however, the guidance will allow monopiles made of imported steel to qualify for the domestic content bonus credit.

Second, we are troubled that the guidance also treats steel components of photovoltaic tracking systems as manufactured products. A photovoltaic tracker is a mounting structure that has the capability to follow or “track” the position of the sun. Key components of the tracker, such as torque tubes, foundations, and rails, are predominantly made of steel and are essential structural aspects of photovoltaic tracking systems as they are ground-mount systems or bear the load of solar panels. Categorizing the entire tracker as a manufactured product, rather than recognizing the structural steel aspects of these tracking systems, will allow imported steel to be used in the photovoltaic tracker and receive the domestic content bonus credit so long as the overall project meets the 40 percent domestic content requirement for such manufactured products.

Third, the guidance document appears to include steel fasteners like nuts, bolts, screws, and washers on the list of examples of steel products that are not structural in function and therefore need not be made of domestic steel for purposes of the domestic content credit. This is an incorrect understanding of the role of such steel fasteners, which are used at critical assembly points where joints meet and are therefore essential to the structural integrity of construction projects. Indeed, the Code of Standard Practice published by the American Institute of Steel Construction expressly includes fasteners

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in the scope of its structural steel definitions. Characterizing steel fasteners as components or subcomponents of manufactured products overlooks their critical structural purpose and allows the use of fasteners made of foreign steel in products that would still qualify for the domestic content bonus credit.

We believe that the agency should take appropriate action to fix each of these errors in the recently issued guidance. It is critical to ensuring that the clear intent of Congress to incentivize the use of domestic steel and iron in clean energy projects is realized. It also ensures that the guidance does not unwittingly benefit China and other countries that have repeatedly exported dumped and subsidized steel into the U.S. market, injuring domestic steel producers and their workers.

The undersigned organizations therefore strongly urge Treasury and the IRS to clarify in its forthcoming regulations or in any new guidance that monopile foundations for offshore wind facilities, the steel components with structural functions in photovoltaic tracking systems and steel fasteners are considered iron and steel products rather than manufactured products for the purposes of the domestic content bonus credits of the IRA. This clarification should include updating the safe harbor aspects of the guidance to reflect these corrections. This will best achieve the goals of the IRA that zero-carbon electricity projects use American-made steel and iron products to qualify for the domestic content bonus credits.

Sincerely,

American Iron and Steel Institute
Steel Manufacturers Association
American Institute of Steel Construction
Committee on Pipe and Tube Imports
Specialty Steel Industry of North America