Congress of the United States
Washington, D.C. 20510

October 24, 2023

The Honorable Janet L. Yellen
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Ave. NW
Washington, DC 20220

The Honorable Danny Werfel
Commissioner of the Internal Revenue Service
U.S. Internal Revenue Service
1111 Constitution Ave. NW
Washington, DC 20224

Dear Secretary Yellen and Commissioner Werfel:

As Members of Congress representing steel manufacturing districts, we are concerned that your guidance published on May 12, 2023, for the domestic content requirement for bonus tax credits under the *Inflation Reduction Act* (Public Law 117-169) falls short of the President's stated policy and Congressional intent in key respects. Specifically, we are concerned that your guidance would allow energy developers to claim the bonus tax credit for foreign-made steel projects originally meant for domestically produced iron and steel.

This 2022 law invests $370 billion to build a new, clean energy economy powered by American innovation, workers, and advanced manufacturing. Congressional intent in passing this historic law and the President's public statements regarding its implementation could not have been clearer: This federal investment in our clean energy future is meant to drive innovation, economic growth, and job creation here in the United States.

However, we are concerned that loopholes in the initial guidance may allow overseas manufacturers to indirectly access bonus credits to which they are not entitled under the plain letter of the law, undercutting an American manufacturing base already hollowed out after decades of unfair competition from cheaply made imports often produced under lower labor and environmental standards. Perhaps the most glaring example is the guidance's misclassification of certain iron and steel products as "manufactured products," which are not subject to the domestic iron and steel requirement under the law. This would allow these products to be made from imported steel and still count towards the bonus tax credit. Left uncorrected, this will undermine domestic manufacturers and American workers making or planning to make structural steel, tube, and other critical steel products for the wind and solar markets.

While the guidance correctly treats wind towers as iron and steel products subject to the domestic manufacturing requirement, it inexplicably treats monopile foundations for offshore wind installations as "manufactured products" that are not. There is no meaningful difference between a wind tower and a monopile. Both are made overwhelmingly from steel plate that has been fabricated into a tube to provide structural support. Monopiles would qualify as primarily iron or steel products under any existing definition in other domestic content provisions under federal law with similar iron and steel requirements.

In response to the *Inflation Reduction Act*, both foreign and domestic manufacturers have started investing in new facilities across the United States to produce the iron and steel needed to

build the new, clean energy economy. For example, steel for monopiles is now available from domestic producers like Nucor Corporation, which recently invested nearly $2 billion in a new plate mill in Brandenburg, KY. Any effort to exempt, categorically, iron and steel products from the domestic manufacturing requirement for the bonus tax credit under the law is deeply misguided. The bonus tax credit is designed to incentivize new manufacturing in the United States, not simply to subsidize existing production. If an energy developer is either unwilling or unable to obtain a domestically produced steel product like an offshore wind monopile, then they are not entitled to claim the bonus tax credit but can claim the base credit for solar and wind facilities.

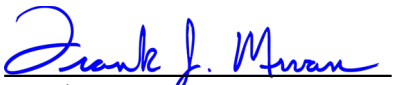
We likewise urge you to ensure that other important steel products are covered by the requirement for domestically produced iron and steel to claim the bonus tax credit under the *Inflation Reduction Act*. For example, domestic supply chains for renewable energy rely on sufficient production of products like steel torque tubes used in solar arrays. However, your guidance appears to exempt torque tubes from the domestically produced iron and steel requirement for the bonus tax credit, even though they are made entirely of steel. Finally, the guidance's apparent blanket exception for steel fasteners is both unnecessary and inappropriate. Many steel fasteners are large, sophisticated products vital to the structural integrity of infrastructure and construction projects. Any final guidance or subsequent regulations implementing the *Inflation Reduction Act* must ensure that filers claiming the bonus tax credit for these steel products meet the domestic production requirement under the law. Allowing energy developers to claim the bonus tax credit for high-value products like monopiles, torque tubes, and steel fasteners produced from imported steel seriously undermines the President's stated policy and Congressional intent.

As you continue working to implement the *Inflation Reduction Act*, we ask that you correct these loopholes in the May 2023 guidance and any forthcoming proposed regulations on the domestic content requirements. Anything less would undermine the 2022 law and miss this historic opportunity to revitalize American manufacturing by building the clean energy economy of tomorrow. We look forward to reviewing the final guidance and proposed regulations to fully implement the 2022 law. Thank you for your leadership and consideration.

Sincerely,

John Garamendi
Member of Congress

Morgan McGarvey
Member of Congress



Frank J. Mrvan
Member of Congress



Donald G. Davis
Member of Congress



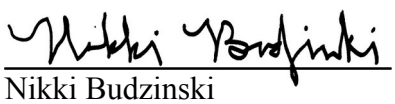
Chris Deluzio
Member of Congress



Betty McCollum
Member of Congress



Terri A. Sewell
Member of Congress



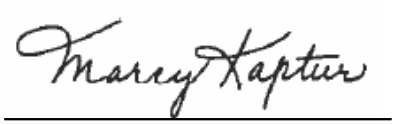
Nikki Budzinski
Member of Congress



Ruben Gallego
Member of Congress



Daniel T. Kildee
Member of Congress



Marcy Kaptur
Member of Congress

CC: Ms. Livia Shmavonian
Made in America Director
Office of Management and Budget
The White House
1600 Pennsylvania Ave NW
Washington, DC 20500