

United States Senate

September 13, 2024

Dear Secretary Yellen:

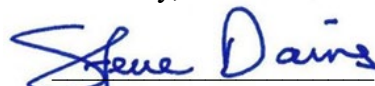
With the recent announcement that the nation's only platinum and palladium producer, Stillwater mine in Montana, is laying off 700 employees, I write regarding input on the final regulations pertaining to the Advanced Manufacturing Production Credit ("45X") for the domestic production of critical minerals. Unfortunately, in Treasury's draft guidance, extraction costs are excluded from the credit. This very specific and unnecessary omission in the guidance comes at a cost for Montana's and the nation's mining jobs and must be corrected. As such, I request that Treasury issue guidance for the 45X credit to include extraction costs immediately.

Earlier this year I submitted questions for the record for a Senate Energy and Natural Resources hearing held on January 11th, asking for Treasury's rationale in precluding the credit, further underscoring the matter. I have not received a response to my questions, nearly eight months later. This delay and lack of transparency is unacceptable. It is becoming more and more clear that President Biden and Vice-President Harris are doing everything in their power to discourage and even prohibit energy and mining production in the United States and Montana. The omission of extraction in the 45X credit is just the latest in a long line of absurd economic actions from this Administration. Mining plays the largest role in producing these critical minerals, so the exclusion of extraction costs is not only puzzling, it negates the purpose of the credit itself.

The 45X credit clearly states that it provides a tax credit for "eligible components" produced by a taxpayer and sold to an unrelated party, so long as the eligible components are produced in the U.S. and the production and sale of the eligible components are a trade or business of the taxpayer. Further, 45X also clearly defines an "eligible component" as "any applicable critical mineral" and states "in the case of any applicable critical mineral, an amount equal to 10 percent of the costs incurred by the taxpayer with respect to production of such mineral." There is no logical reason based on the clear definitions in the bill that the actual "production" of a critical mineral should exclude the extraction and mining of the mineral. It is clear in the language of the bill that the extraction of critical minerals is to be included in 45X eligibility. The current proposed guidance to allow only for "processing, conversion, refinement, or purification" is shortsighted at best and at worst an attack on our country's hard-working miners as it will have major negative impacts on critical mineral production in Montana and the United States for generations.

I urge the Department of the Treasury to right this wrong and to issue guidance allowing for the extraction of critical minerals to qualify for the 45X credit.

Sincerely,



Steve Daines

United States Senator