APPROVED
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of the Cabinet of Ministers
of the Republic of Kazakhstan
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Regulations
Concerning the Procedure for the Realisation (Transfer, Exchange, Sale) of Information About the Subsurface of the Republic of Kazakhstan

1. General Provisions

These Regulations have been developed on the basis of the Code of the Republic of Kazakhstan Concerning the Subsurface and Processing of Mineral Raw Materials.

1. Infromation concerning the subsurface shall include all geological, geophysical, geochemical, aerocosmic, economic and any other data which characterise the subsurface and which are obtained in the course of geological exploration, research and study, maintenance and any other work.

2. A customer which finances the work shall be the owner of the iformation obtained as a result of such work.

The following may be customers in geological exploration of the subsurface:

- the State which finances the work at the expense of the State Budget;
- enterprises, legal entities and physical persons who finance the work of geological exploration at their own expense.

3. Information concerning the subsurface shall be a commodity and shall have value measurement (price).

Price of any information shall be determined by its owner on the basis of the market demand.

4. Irrespective of the source of finance, geological and any other information concerning the subsurface shall, in a compulsory procedure be free of charge and in accordance with the established standard, transferred for storage and systematising to the Ministry of Geology and Protection of the Subsurface of the Republic of Kazakhstan.

5. In accordance with the Law of the Kazakh SSR «Concerning Ownership in the Kazakh SSR» (Article 4), Code of the Republic of Kazakhstan «Concerning the Subsurface and Processing of Mineral Raw Materials» (Article 37, paragraph 7) the Ministry of Geology shall retain the rights and obligations of the owner of geological information concerning the subsurface, which it may realise (transfer, exchange, sell) in accordance with the procedure established in these Regulations, where it was obtained at the expense of the State Budget appropriations. Information concerning the subsurface which was obtained as a result of the work of a different customer which financed obtaining of that information at the expense of any other sources, shall be realised by the Ministry of Geology and Protection of the Subsurface of the Republic of Kazakhstan in agreement with that customer. The interests of the State as the Owner (interests of the State Budget) shall be defended by the tax legislation of the Republic of Kazakhstan.

6. The volume of income from selling information shall be determined in a commission agreement between the Ministry of Geology and Protection of the Subsurface of the Republic of Kazakhstan (its representative) and the owern of information. In the agreement, it shall be clearly stated at which stage there was financing of geological exploration work and other works and by direct financial estimate calculation the price shall be determined of specifically that part of information concerning the subsurface.

The Ministry of Geology and the Protection of the Subsurface of the Republic of Kazakhstan shall carry out selling of information with the participation of the owner and it shall receive its share from net income for the services .

7. Agreements and contracts for the realisation of information concerning the subsurface shall be subject to accounting and registration at the Ministry of Geology and the Protection of the Subsurface of the Republic of Kazakhstan.

The realisation (transfer, exchange, sale) of information concerning the subsurface shall be carried out without the right to transfer, re-sale to third parties or copying, except for the cases specifically stipulated in the agreement or contract.

8. The protection of the right to ownership of the information concerning the subsurface shall be carried out in accordance with the procedure established by the Code of the Republic of Kazakhstan Concerning the Subsurface and Processing of Mineral Raw Materials and the Law of the Kazakh SSR «Concerning Ownership in the Kazakh SSR».

These Regulations shall not extent to the information which constitutes the state secret.

II. The Procedure for the Realisation (Transfer, Exchange, Selling) of Information Concerning the Subsurface

These Regulations shall determine the procedure for transfer, exchange, selling of geological information.

9. All the information concerning the subsurface by special-purpose designation shall be categorised into five packages:

- lists of deposits which are enlisted into the State stock shall be published annually and they may be permanently available in the free market, including to foreign firms and citizens;
- general (basic) information (prospects), which includes location of deposits, structure or region, their brief geological features, general volume of useful minerals and estimated technical and economic parameters of future extraction. Such prospects may be available freely on sale, including to foreign firms and citizens;
- information on the basis whereof it is possible to draft foundation documents to form business structures for the implementation of their facilities. This information must ensure the development of realistic proposals from the side of the buyer (technology and the volume of production, expected profits, estimated costs, expected payments to the Budget of the Republic etc.). Such packages shall be sold by the Ministry of Geology and the Protection of the Republic of Kazakhstan in agreement with the owner to legal entities and physical persons who carry out official negotiations with the organisations of the Ministry;

• complete package of information concerning a deposit (a block of the subsurface) shall be sold with the right to conduct exploitation of deposits, including to foreign firms and persons;

• certain part of information concerning the subsurface or deposits in which a buyer may be interested, may be sold on a case-by-case basis.

10. The Ministry of Geology and the Protection of the Subsurface of the Republic of Kazakhstan shall establish a self-financing Department of Geological Information, to which the rights of a legal entity shall be delegated. All the pre-sale preparation of the packages of the information and their selling, exchange and transfer shall be carried out solely by the indicated Department.

11. All customers which finance geological exploration work, irrespective of their subordination to a department and form of ownership, may dispose of (sell, transfer, exchange) the obtained geological information only through the Department of Geological Information which shall keep accounts and registration of disposals. In that respect the acceptance of geological information and its preparation (compilation of packages) shall be carried out on contractual conditions with the reservation of the rights of the owner to future receipts from the sale, taking into account the preliminary and commission charges.

12. Sales of geological information shall be carried out in accordance with the rules of classic relations: Supplier-Seller-Buyer, whereby the Supplier is a geological prospecting enterprise (certified), the seller is the Department, and the Buyer is a legal entity or a physical person.

13. In the case, where information concerning the subsurface is sold in the course of competitive bids for granting a concession in a territory or for a deposit, then the conditions of the sale (price, distribution of income) shall be established in accordance with regulations of the bid and in compliance with Article 37 of the Code of the Republic of Kazakhstan Concerning the Subsurface and Processing of Mineral Raw Materials.

14. The act (agreement) for the conveyance and passport-certificate concerning the completeness of information (warranty) shall be the documents which confirm the fact of puchase and sale of information concerning the subsurface and the right of the new owner to use that information in accordance with its designation. Both documents shall be documents of strict accounting and they shall be formulated by the Department of Geological Information.

III. Legal Conditions of Realisation of Geological Information

15. The Ministry of Geology and the Protection of the Subsuface of the Republic of Kazakhstan shall be responsible for the following:

• reliability of sold governmental information concerning the subsurface;

• accuracy of formulation and compliance with the procedure for the sale of information concerning the subsuface;

• profitability, from the point of view of the State, of sales of infromation.

16. The Ministry of Geology and the Protection of the Subsurface of the Republic of Kazakhstan shall have the following rights, when selling geological information:

• to establish the object and the procedure for exchanges;

• to establish the price of information on sale in relation to its significance and the demand;

• to entering into the court all illicit actions of governmental and public bodies, and to the third party settlement of disputes.

17. In the event that a conveyance act concerning the subsurface is committed outside the Department of Geological Information, all the receipts shall be confiscated to the Republic's Currency Fund, and the information concerning the subsurface shall be confiscated from the buyer by bodies of the State Supervision of the Protection and Use of the Subsurface.

18. Disputes in the realisation of information concerning the subsurface between the Ministry of Geology and the protection of the Subsurface of the Republic of Kazakhstan and state bodies, enterpirses, legal entities and citizens of the Republic of Kazakhstan, Republics of CIS and foreign countries, shall be subject to consideration by arbitration tribunals in accordance with the procedure established by the legislation of the Republic of Kazakhstan.

Prime Minister of the Republic of Kazakhstan
S. Tereshchenko

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