



THE CODE ON SUBSOIL AND SUBSOIL USE

GENERAL PART. SECTION 4. STATE GOVERNANCE



GOVERNANCE IN THE ENERGY SECTOR

ENERGY AND NATURAL RESOURCES LAW / AIDAR YEGBAYEV 21 APRIL 2020



GOVERNMENT

appoints Competent authorities

Ministry of Energy

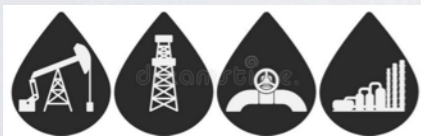
Ministry of Industry and Infrastructural Development

Subsoil Use Department

Committee of Atomic & Energy Supervision and Control

Subsoil Use Department

Committee of Geology and Subsoil Use



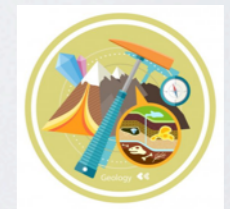
Oil and gas companies



Uranium companies



Mining companies
(except for common minerals)



Geological study activity



GOVERNMENT IN SUBSOIL AREA

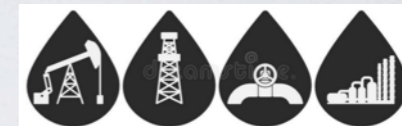
- (I) arranges regulation of the subsoil, sets main directions of state policy, strategic and tactical measures of implementation
- (II) sets restrictions and prohibitions to use subsoil for the purposes of national security, life safety, population's health and environmental protection;
- (III) sets the list of strategic subsoil plots;
- (IV) other functions as relevant





EACH COMPETENT BODY APPOINTED BY THE GOVERNMENT

1. drafts legal enactments in the area of competence



2. revises technical and economic standardisation

3. grants and terminates subsoil use right as relevant



4. controls compliance with contract or license

5. provides access to data on licenses and contracts



6. annual report to the Government on compliance with contracts/licenses

7. charging fines/penalty for subsoil use



Ministry of Industry and Infrastructural Development (MIID). Solid minerals regulation

- drafts and approves legal enactments
- controls compliance of the subsoil user with procurement on goods, works and services
- multidisciplinary expertise on liquidation plan
- permitting extraction of mineral mass over 1,000 cub. m.
- regulation of subsoil use operations on exploration and production
- control of subsoil use operations on exploration and production



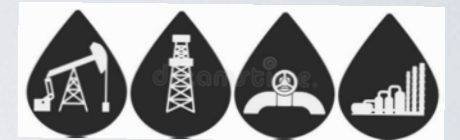
what is the difference
between regulatory and control
functions?



Ministry of Energy.


Hydrocarbons regulation

1. drafts and approves legal enactments
2. drafts and approves normative and technical acts
3. regulation of subsoil use operations on exploration and production control of subsoil use operations on exploration and production
4. controls compliance of the subsoil user with the Project documents;
5. maintains unified database on production and turnover of oil and crude gas;
6. formulates schedule for oil supply for processing on the territory of KZ and abroad to secure internal demand for oil products
7. Issues permits for construction and placement of marine objects used for exploration and production offshore and in internal water basins
8. Permits crude gas flaring
9. Maintains national balance on production, realization and consumption of hydrocarbons
10. Controls compliance of the subsoil user with procurement of goods works and services
11. Prepares and approves national plan on safety and preparedness to liquidation of oil spills in the sea, internal water basins and in the protected zone of the Republic of Kazakhstan





Ministry of Energy. Uranium Regulation

1. drafts and approves legal enactments; 
2. drafts and approves normative and technical acts;
3. regulation of exploration and production operations;
4. control of exploration and production operations;
5. controls compliance with the Project documents;
6. controls rational and complete use of the uranium;
7. controls compliance of the subsoil user with procurement of goods works and services.



Committee on Geology and Subsoil.

Geological activity regulation

1. grants subsoil use right for geological study and use of subsoil spaces;
2. state geological research of the subsoil;
3. controls geological studies and use of subsoil spaces;
4. provides access to data on licenses issues and re non-confidential geological data;
5. registers technogenic mineral formations;
6. maintains unified register of state subsoil fund;
7. record keeping on underground waters;
8. drafts and approves legal enactments on geology and geological study of the subsoil
9. etc.



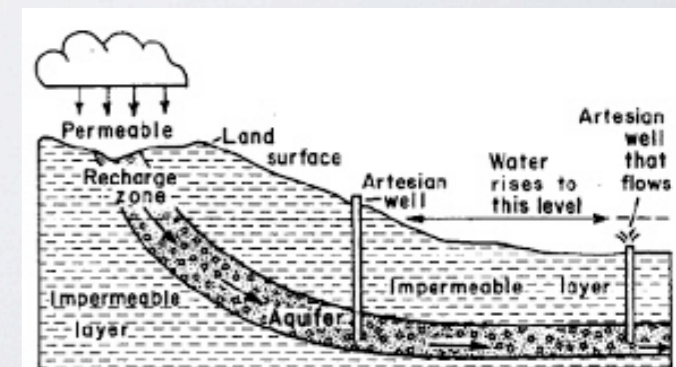
Akimats.



Common minerals and Underground waters



1. grants subsoil use right for common minerals and digging
2. controls compliance with the digging license
3. Grants and reserves landlords as necessary for the subsoil use
4. Regulates construction on territories of the many rules and protects areas that have special environmental scientific historical cultural and recreational value
5. Geological research for underground waters for economic and drinking water supply of the population points, etc.
6. Provides access to information on licenses issued with regards to common minerals and digging licenses
7. etc.



SUPERVISION



- Each competent body supervises subsoil users on compliance with contracts (including production sharing agreements) and licenses in accordance with control procedures that such body approves itself.
- Supervision is conducted with regards to:
 - (i) study and use of subsoil; and
 - (ii) conduct of subsoil use operations on hydrocarbons and uranium production
- Supervision forms:
 - (i) monitoring of obligations performance by the subsoil users and
 - (ii) visiting subsoil user and subsoil use sites under the contracts/licenses



ANNUAL AUDIT WITHOUT VISIT



- Conducted by Geology Committee with regards to geological study, geological data (storage, accuracy, registration) and use of subsoil spaces.
- Analyses of subsoil users' reports on geology, minerals extracted, planned losses
- Should breach be found Committee sends notification within 10 business days since the breach is identified
- Subsoil user has 5 business days to disagree or 10 business days to provide corrective plan indicating specific deadlines for eliminating breaches.
- Failure to eliminate breaches will result in audit *with on-site visit*



NOTIFICATIONS



- Notices forms: in writing when to specific entity and (or) publications in republican periodicals website of the Competent Body when to a category of addressees
- Notice content: addressee data, legal basis, the actual message, data on sender *and signature*.
- Failure to comply with the formal requirements invalidates sender's reasonings unless the latter proves insignificance of incompliance.
- Warnings on certain events through publications must give at least 15 days before such events occur.

NATIONAL MINERAL WEALTH

STATE FUND OF SUBSURFACE RESOURCES



- Management of National Mineral Wealth («NMW») shall be done on the basis of the **Management Program** in accordance with main direction of state policy in the area of subsoil use, strategic and tactical measures on implementation there of.
- Main purpose of the Management Program - implementation of state policy in the area of rational management of mineral Wells and recreation of mineral resources base of the Republic of Kazakhstan.
- To control status of NMW government
 - a) maintains **unified register of NMW**
 - b) provides state monitoring of subsurface and
 - c) collects, storages, systemizes and analyzes geological data.

try to find procedure on
accessing this register
(See Article 72)

MANAGEMENT PROGRAM



NMW Program is developed on the basis of the analysis of subsoil use area perspectives and taking into account the following factors:

1. national, environmental and energy safety;
2. international obligations;
3. system of state planning;
4. needs of Kazakhstan in certain minerals and products thereof;
5. needs to increase mineral base;
6. environmental, social and economic perspectives of the regions;
7. data of the unified register of NMW;
8. ownership by one person or group of persons from one state of shares in the subsoil use rights or objects related;
9. data of state monitoring of subsoil;
10. analyses of geological data;
11. analysis of geological data capacity of the existing infrastructure.

CONTENT.

MANAGEMENT PROGRAM



1. geographical coordinates of the geological study territories;
2. geographical coordinates of the territories within which government grants subsoil use rights for exploration and production of solid minerals and for exploration & production of hydrocarbons on the basis of the auctions;
3. geographical coordinates of to be protected territories (nature, history, culture, etc);
4. geographical data of land for the needs of defense and state security, territories of the populated areas and water fund;
5. other information necessary for implementation of state policy of an MWW management.



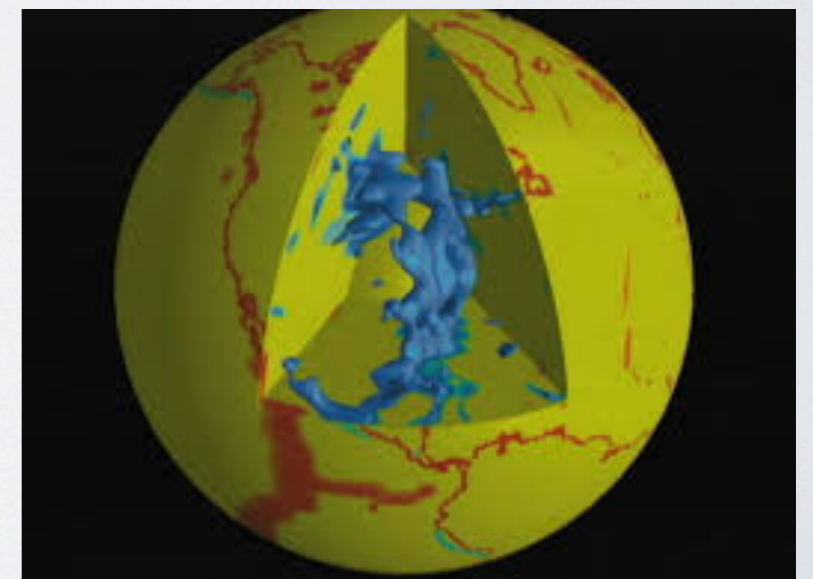
UNIFIED REGISTER OF NATIONAL MINERAL WEALTH

1. data on state record keeping of the minerals signatures thereof and on the objects of the subsoil spaces
2. data on subsoil granted for geological study, exploration and production of hydrocarbons, solid minerals, common minerals, use of subsoil spaces and digging
3. data on liquidated objects of hydrocarbon, solid minerals, common minerals production, digging, storages of hazardous toxic waste and water wastes
4. data on state record keeping of existing objects of technogenic mineral formations

Register is maintained by the Geology Committee.

GEOLOGICAL DATA

- Geological data that was received at the account of the budget was transferred to the ownership of the state *shall be long to the State*
- Geological data that was received at the account or an expense of the subsoil user *shall be private property* of such subsoil user. Data contained in the geological report that was received by the state authority from the subsoil user shall be commercial secret of the subsoil user and the state must take measures to protect such confidentiality for 5 years.
- Storage and access to data on subsoil and subsoil use is done through information system «[National Minerals Data Bank of the Republic of Kazakhstan](#)»
- Subsoil user is obliged to secure presence, record-keeping and accuracy of geological data that was received during subsoil use operations



REPORTING BY SUBSOIL USER

- Subsoil users must provide reports on subsoil use operations. Such reports may be single or regular.
- Regular reports shall contain data on the activity results during the reporting period.
- Single report shall be provided for the purposes of informing the competent authority on the results of works with regards a specific issue.



FOR KAZAKHSTAN'S SUBSOIL USERS

- All subsoil users (except for digging and common minerals users) must provide reports as envisaged by EITI standards as confirmed by a licensed auditor in Kazakhstan.
- Form for such report and manual on the filing thereof shall be approved by the state body authorized to implement standards of the EITI in the Republic of Kazakhstan.
- 2017 Kazakhstan Report was prepared by **UHY SAPA Consulting LLP** (but not any of the BIG 4).



OPEN ACCESS TO INFORMATION



Competent bodies granting subsoil use right **must provide open access** to information on such rights. Such information shall include:

- i. Content of the license or contract persons controlling the subsoil user
- ii. Total amount of expenses made by the subsoil users way / annual breakdown
- iii. Amounts paid for land use / annual breakdown
- iv. Securing liquidation of the subsoil use operations' consequences including security (e.g. pledge), amount of security and the name of the institution that issued such a security.
- v. Registered pledge over over the subsoil use right including registration date, name and location of the pledge holder
- vi. Data on transfer of subsoil use right including legal basis and time, amount of the share transferred, name and location of the acquirer
- vii. Ratio of local content in the goods, works and services acquired by the subsoil user, if ratio of the local content is envisaged by the contract or the license.
- viii. Expenses amount for education of Kazakhstan employees, scientific research, science, technical, experimental works in Kazakhstan, social economic development of the region and development of infrastructure thereof, social economic support of local population that was made by the subsoil user provided that such obligations are envisaged in the contract.

try to find procedure on
accessing such data
(See Article 77.4)

THANK YOU