



On approval of the Methodology for economic assessment of damage to subsoil resources

Unofficial translation

Joint Order of the Acting Minister of Industry and Infrastructure Development of the Republic of Kazakhstan dated August 20, 2021 No. 457 and Minister of Energy of the Republic of Kazakhstan dated August 23, 2021 No. 274. Registered in the Ministry of Justice of the Republic of Kazakhstan on August 28, 2021 No. 24132

Unofficial translation

In accordance with part 2 of paragraph 3 of Article 79 of the Code of the Republic of Kazakhstan dated December 27, 2017 "On subsoil and subsoil use", **WE HEREBY ORDER:**

1. To approve the Methodology for economic assessment of damage to subsoil resources in accordance with the appendix to this order.

2. The Department of Subsoil Use of the Ministry of Industry and Infrastructure Development of the Republic of Kazakhstan, in accordance with the procedure established by law, to ensure:

1) state registration of this order in the Ministry of Justice of the Republic of Kazakhstan;
2) placement of this order on the Internet resource of the Ministry of Industry and Infrastructure Development of the Republic of Kazakhstan after its official publication.

3. To impose control over the execution of this joint order on the supervising Vice Minister of Industry and Infrastructure Development of the Republic of Kazakhstan.

4. This order enters into force ten calendar days after the date of its first official publication.

*Minister of energy of the
Republic of Kazakhstan*

N. Nogayev

*Acting Minister of industry and
infrastructure development
of the Republic of Kazakhstan*

K. Uskenbayev

"AGREED"

Ministry of ecology, geology and
natural resources of the
Republic of Kazakhstan

Approved
by joint order of the acting
Minister of industry and
infrastructure development of the
Republic of Kazakhstan
dated August 20, 2021 № 457
and Minister of energy of the
Republic of Kazakhstan
dated August 23, 2021 № 274

Methodology for economic assessment of damage to subsoil resources

Chapter 1. General provisions

1. This Methodology for economic assessment of damage to subsoil resources (hereinafter referred to as the Methodology) is developed in accordance with part two of paragraph 3 of Article 79 of the Code of the Republic of Kazakhstan dated December 27, 2017 "On subsoil and subsoil use" (hereinafter referred to as the Code) and is used in determining damage to subsoil resources caused as a result of violation of the requirements of the legislation of the Republic of Kazakhstan on subsoil and subsoil use or the right of state ownership of subsoil (hereinafter referred to as illegal use of subsoil).

2. Environmental damage caused to the components of the natural environment as a result of illegal use of subsoil, including the resulting environmental consequences, shall be determined and eliminated in accordance with the environmental legislation of the Republic of Kazakhstan.

3. The amount of damage caused as a result of violation of the requirements for the rational and integrated use of subsoil in the exploration and production of hydrocarbons and uranium production is determined in accordance with the Rules for determining the amount of damage caused as a result of violation of the requirements for the rational and integrated use of subsoil in the exploration and production of hydrocarbons and uranium production (hereinafter - the Rules), approved by the order of the Minister of Energy of the Republic of Kazakhstan dated April 26, 2018 No. 141 (registered in the Register of State Registration of Regulatory Legal Acts No. 17030).

4. The economic assessment of damage caused as a result of illegal use of subsoil, including illegal seizure (extraction) of minerals, is determined based on the volume and value of illegally mined minerals (useful components in ore solid minerals), taking into account the base rate of the National Bank of the Republic Kazakhstan as of the first working day of the month in which the amount of damage is determined.

5. In the case of illegal use of subsoil during the extraction of several types of minerals, the economic assessment of damage is calculated for each type of extracted mineral and added up to determine the total amount of damage.

6. Officials applying this Methodology to bring persons to administrative or criminal liability under the articles of violation of the state ownership of subsoil (including unauthorized use of subsoil) to determine the actual volume of illegally mined (withdrawn from the subsoil) minerals or other quantitative characteristics of the caused damage, if necessary, have the right to involve relevant specialists, experts and organizations in the manner and in cases provided for by the legislation of the Republic of Kazakhstan.

In order to compensate for damage caused as a result of illegal use of subsoil, state bodies and officials take into account information from the materials of the relevant criminal cases and cases of administrative offenses initiated on the same grounds.

7. To determine the value of illegally mined minerals, information sources are used in the following order, depending on the availability or absence of information:

1) The list of officially recognized sources of information on market prices, approved by the Decree of the Government of the Republic of Kazakhstan dated March 12, 2009 No. 292 (hereinafter referred to as the Decree);

2) sources of information about stock quotes;

3) official statistical information published by the authorized body in the field of state statistics;

4) reports on the fulfillment of obligations under the license/contract conditions and the work program (in terms of the volume of sales of minerals in monetary terms and in physical terms) submitted by subsoil users to state bodies for the previous reporting period;

5) data of other organizations on market prices that are in the public domain.

8. When using sources of information on exchange quotations, the price of exchange commodities (minerals), as well as for non-exchange commodities (minerals), prices for which are linked to quotations for exchange commodities, the market price of a mineral is taken into account based on the arithmetic mean of price quotations following the results of the stock exchange on a particular day.

9. When using statistical information of state bodies or officially recognized sources of information on market prices as sources of information, according to the Decree, the market price of a mineral is taken into account according to the value of the price in the calendar month in which the damage was detected.

10. When using reports on the fulfillment of obligations of license/contract conditions and the work program submitted by subsoil users to state bodies for the previous reporting period as sources, the market price of a mineral is taken into account by the arithmetic mean of at least three reports.

11. When using data from other organizations on market prices that are in the public domain as sources of information, the market price of a mineral is taken into account according to the arithmetic mean on the day on which the damage was revealed. The arithmetic mean is determined using data from at least three organizations.

12. For non-metallic solid minerals, when determining the market price, its value on the territory of the region, within which the corresponding damage to subsoil resources has been identified, is taken into account.

13. In the absence of information on the prevailing prices for common minerals, products of their processing in the sources of information specified in paragraph 7 of this Methodology, their value is determined based on the market prices prevailing for persons engaged in similar activities on the territory of an administrative-territorial unit, within which damage

was caused to subsoil resources, on the first working day of the calendar month in which the damage was revealed. The specified information is requested from the authorized body for the study and use of subsoil or local executive bodies.

Chapter 2.

Economic assessment of damage to the subsoil resources a result of illegal use of subsoil when mining solid (with the exception of generally produced) minerals

14. The amount of damage as a result of illegal use of subsoil during the extraction of solid minerals is determined by the following formula:

$$U = (OdobSdob) + (OdobSdobRbst),$$

where:

U - the amount of damage to subsoil resources;

Odob- the volume of illegally mined solid minerals;

Sdob- the value of illegally mined solid minerals;

Rbst- the amount of the base rate established by the National Bank of the Republic of Kazakhstan on the first working day of the month in which the amount of damage is determined, %.

15. In the absence of information about the reserves at the site of illegal mining, in order to establish or clarify the content of the useful component in illegally mined solid minerals, the state body has the right to send a sample of seized minerals to testing laboratories.

16. The costs of transportation and laboratory services are subject to inclusion in the calculation of the amount of damage caused as a result of illegal use of subsoil during the extraction of solid minerals.

Chapter 3.

Economic assessment of damage to subsoil resources as a result of illegal use of subsoil during extraction of generally produced minerals

17. The amount of damage as a result of illegal use of subsoil during the extraction of generally produced minerals (hereinafter referred to as GPM) is determined by the following formula:

$$U = (OdobSdob) + (OdobSdobRbst),$$

where:

U - the amount of damage to subsoil resources;

Odob- the volume of illegally mined minerals;

Sdob- the value of illegally produced GPM;

Rbst- the amount of the base rate established by the National Bank of the Republic of Kazakhstan on the first working day of the month in which the amount of damage is determined, %.

18. In the absence of information about the reserves at the site of illegal mining, in order to determine the type of illegally mined common minerals, the state body that carries out the economic assessment of the damage caused sends a sample of seized minerals and a corresponding request to obtain information about the type of illegally mined common minerals to the authorized body for the study of mineral resources or testing laboratories.

The costs of transportation and laboratory services are subject to inclusion in the calculation of the amount of damage caused as a result of illegal use of subsoil during the extraction of GPM.

Chapter 4.

Economic assessment of damage to subsoil resources as a result of illegal use of subsoil during hydrocarbon production

19. The amount of damage as a result of illegal use of subsoil during the extraction of hydrocarbons is determined by the following formula:

$$U = (OdobSdob) + (OdobSdobRbst),$$

where:

U - the amount of damage to subsoil resources,

Odob– volume of illegally extracted hydrocarbons;

Sdob- the cost of illegally extracted hydrocarbons;

Rbst- the amount of the base rate established by the National Bank of the Republic of Kazakhstan on the first working day of the month in which the amount of damage is determined, %.

20. In case of illegal use of subsoil during the extraction of raw gas, the reserves of which are on the state balance of minerals, the amount of damage caused as a result of violation of the requirements for the rational and integrated use of subsoil during the exploration and production of hydrocarbons is calculated in accordance with example 2 of the Appendix to the Rules.