

Proposed Regulation Changes

Title 11 AAC 05.090: Fees for Geological and Geophysical Services

Response to Comments

Alaska Department of Natural Resources

Division of Geological & Geophysical Surveys (DGGs)

Regarding the Tax-Credit Seismic Data Being Public Domain

DNR DGGs received three (3) written comments where each of the three individuals stated that tax-credit seismic data released by DNR should be free of charge and, by charging a fee to gain access to the data, the State has created a situation where the data can no longer be considered public domain data.

DNR Response – “Public domain,” as used in this context, means the data is not protected by intellectual property laws such as copyright, trademark, or patent laws. By this definition, the tax-credit seismic data being released by DNR will remain public domain data, inconsiderate of assessed fees. Moreover, Statute AS 43.55.025 requires that DNR release the seismic data after a 10-year confidentiality period, and Statute AS 41.08.045 provides DNR with the authority to recoup costs associated with managing, storing, and releasing the data. The proposed fee regulations are consistent with these statutes, intended to only recoup costs associated with adjudication, storage, management, and release/distribution of the data. The proposed fees are not linked to, or intended to recover, the initial cost of the capital credit expenditure related to particular surveys.

Regarding Alternative Pricing for the Tax-Credit Seismic Data and Services

DGGs received two (2) written comments and one (1) oral comment where the commenters stated that if the purpose of distributing the tax-credit seismic data and offering services at the Alaska Geologic Materials Center (GMC) is to drive more oil exploration and production, then DNR needs to consider modifying the proposed fee structure to promote activity. The commenters were implicitly suggesting a lower fee structure.

DNR Response – DNR recognizes that imposing a seismic fee structure might reduce demand for publicly-available seismic data, as compared to providing free data. When setting fees, statute (AS 41.08.045) requires DNR to take into consideration fees for similar products and services available from other government and non-government entities, as well as the public’s best interest. With this statutory requirement in mind, DNR proposed fees for acquiring tax credit seismic data from the GMC to be as inexpensive as possible to maximize data availability and usage, while at the same time taking the public’s best interest into account. These fees will recoup only the actual costs of administering the data, and

making it available. However, in direct response to public comment, the DGGGS has modified the fee structure to include a lower cost alternative for seismic data acquisition.

Regarding the Accessibility of the Tax-Credit Seismic Data

DGGGS also received a written comment whereby the commenter recommended DNR develop strategies and use technology as a means of maximizing public access to the data.

DNR Response – As of August 03, 2017, nineteen (19) individuals or companies have acquired the Storms 3D dataset. The DGGGS will have an online web-map interface where users can go to search for any data available in Alaska. DNR DGGGS completely understands that making this data widely accessible is in the state’s best interest, and in direct response to the submitted public comment, will be actively considering options for seismic data visualization or viewing at the Geologic Materials Center in Anchorage. The DGGGS does not, however, have the network bandwidth available to allow downloading of the seismic datasets over the Internet.

Regarding Academic and Educational Use of the Tax-Credit Seismic Data and GMC

DGGGS received two (2) written comments requesting that the tax-credit seismic data released by DNR be made available free of charge to promote collaboration and research between industry and academia.

DNR Response – Both statute and the proposed regulations contain provisions that address this issue. Statute AS 41.08.045(c) requires DGGGS to waive fees for a student who uses facilities, equipment, products, or services for educational purposes. This was included in the proposed regulations in section 11 AAC 05.090 (c). The DGGGS considered the benefits of academic research being conducted on these data, and included a provision in the published proposed regulations providing the DGGGS Director the flexibility to discount up to and including 100 percent of the fees, including those for seismic data, for staff, professors, and students conducting academic research and associated with an accredited university (see section 11 AAC 05.090 (c)(1)). Additionally, the proposed regulations contain a provision providing the Director the authority to discount or waive fees when the director determines the reduction or waiver to be in the public’s best interest (see section 11 AAC 05.090 (c)(2)).

DNR/DGGGS Contact:

Kenneth R. Papp
Deputy Director

State of Alaska
Geological & Geophysical Surveys
907-451-5001 / kenneth.papp@alaska.gov