

U.P. Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2018

UTTAR PRADESH

India

U.P. Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2018

Rule

U-P-MINERALS-PREVENTION-OF-ILLEGAL-MINING-TRANSPORTATION of 2018

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U.P. Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2018Published vide Notification No. 3091/86-2018-183-2011, dated 20.12.2018Last Updated 6th July, 2019Notification No. 3091/86-2018-183-2011. - In exercise of the powers conferred by Section 23-C of the Mines and Minerals (Development and Regulation) Act, 1957 (Act 67 of 1957), read with Section 21 of the General Clauses Act, 1897 and in supersession of Notification No. 4268/77-2002-53/2001, dated September 2, 2003, regarding the Uttar Pradesh Minerals (Prevention of Illegal Mining Transportation and storage) Rules, 2002, the Governor of Uttar Pradesh is pleased to make the following rules with a view to prevent illegal mining, transportation and storage of minerals in the State of Uttar Pradesh.

1. Short title, extent and commencement.

(1)These rules may be called the Uttar Pradesh Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2018.(2)They shall come into force on the date of their publication in the Gazette.

2. Definitions.

(1)In these rules, unless the context otherwise requires -(a)"Act" means the Mines and Minerals (Development and Regulation) Act, 1957 (Act 67 of 1957);(b)"District Officer" means Collector or District Magistrate of the concern district;(c)"Carrier" means any mode of conveyance or facility by which mineral is transported from one place to another and it includes truck, tractor, dumper, rail,

vessel or any other means;(d)"Check-post" means any permanent or temporary structure managed by authorised personnel to verify the documents relating to transport of mineral(s);(e)"Form" means a form appended to these rules;(f)"Government" means the State Government of Uttar Pradesh;(g)"Government Laboratory" means Chemical Analytical Laboratories functioning under the control of the Department of Geology and Mining Uttar Pradesh;(h)"Illegal mining" means any mining activity undertaken in violation of sub-section (1) of Section 4 of the Act;(i)"Illegal transportation" means transportation or caused to be transported of any mineral otherwise than in,accordance with the provisions of the Act and rules made thereunder;(j)"Illegal storage" means the storing of any mineral other than in accordance with the provisions of the Act and these rules;(k)"Inspecting officer" means any person authorised by the Government under Section 24 of the Act and Rule 66 of the Uttar Pradesh Minor Mineral (Concession) Rules, 1963;(l)"Research work" means any work done for beneficiation and upgradation of the mineral and for examining its suitability for utilisation in the industry and for the purpose of scientific study without any commercial utilisation;(m)"Scientific test" means any test conducted for chemical analysis or mineralogical study of mineral and assessment of its chemical and mineralogical constituents and properties for the purpose of scientific study without any commercial utilisation;(n)"Storage licence" means licence issued by the District Officer to any person, who wishes to possess, sell, trade in, transport, store or otherwise deal with any mineral;(o)"Storage Licensee" means any person holding licence under these rules to carry on business of buying, possessing, storing, selling, supplying, transporting, distributing or delivering for sale or processing of mineral(s);(p)"Transit pass" means a pass issued by the District Officer for lawful transportation of any mineral, raised in accordance with the provisions of the Act and these rules;(q)"Transportation" means carrying of mineral from one place to another;(r)"Weighbridge" means mechanised or electronic system of weighing minerals or mineral products;(s)"Urban Area" means area notified by the State Government as urban and development area.(2)Words and expressions used but not defined in these rules shall have the same meaning as respectively assigned to them under the Act.

3. Prohibition.

(1)No person shall carry on the business of buying, possessing, storing, selling, supplying, transporting, distributing or delivering for sale or processing of minerals at any place for the purpose of sale or consumption or otherwise deal with any mineral except in accordance with the terms and conditions of a stock licence granted under these rules:Provided that a holder of a reconnaissance permit, prospecting, licence or mining lease in respect of the minerals for which he holds a mineral concession shall not be required to obtain a licence for possessing, storing, selling, supplying, transporting, distributing or processing of such mineral(s) within the leasehold area and transportation from the leasehold area as the case may be:Provided further that lessee/permit holder or any person who purchase and posses mineral(s) for utilisation of their own consumption shall not be required to obtain a licence.

4. [Eligibility for grant of licence and storage of minerals. [Substituted by Notification No. 342/86-2019-183-2011, dated 9.3.2019.]

(1) Every Person shall be eligible for grant of licence except the following person - (a) a person who is not an Indian National; (b) a company which is not the ambit of Companies Act, 2013; (c) a person who is convicted by a court; (d) a person whose licence has been cancelled for violation of terms and condition of a previous licence; (e) lessee in case of river bed minerals for the concerned district. (2) The storage of mineral shall be permitted if: (a) it is not within a radius of 5 km from the leased out area in case of river bed minerals; (b) it is not stocked beyond the quantity specified in the licence.]

Chapter 2

Grant of Storage Licence and Its Renewal

5. Application for grant of Storage Licence.

(1) Any person who intends to procure, possess, store, sell, trade in, consume or otherwise deal with any mineral shall make an application for storing and trading or storing and consuming any mineral whose source of procurement is not in the jurisdiction of the District Officer, he shall submit affidavit mentioning the source/ place of procurement of minerals. The application shall be submitted in duplicate to the District Officer under whose jurisdiction the applicant intends to store the mineral. (2) The applicant shall deposit a non-refundable fee of Rupees Ten thousand only through treasury challan under the Head of Account "0853-Non-Ferrous Mining and Metallurgical Industries 102-Mineral Concession Fees, Rents and Royalties". (3) Every application made under sub-rule (1) shall be accompanied by - (i) the original challan for the non-refundable fee as prescribed under sub-rule (2) deposited under proper Head of Account and on receipt of security deposit amounting 10% of the market value of the mineral stock; (ii) document pertaining to the title of land which may include sale deed/rent deed/ consent of the land owner or notarised affidavit; (iii) Cadastral map, Najri Naksa detailing the boundaries of the area; (iv) Character Certificate; (v) Solvency Certificate of not less than 10% of the royalty of the quantity of mineral applied for; (vi) an affidavit to the effect that the applicant has not been convicted in any Court of Law in any case relating to theft or smuggling or illegal mining or illegal transporting or illegal storage of minerals; (vii) an attested copy of the valid clearance certificate of mining dues payable under the Act or rules made thereunder issued by the District Officer.

6. Disposal of application for storage licence.

- After making such enquiry as it may consider necessary, and upon receipt of security deposit of 10% of the royalty of the quantum of the mineral applied for, the District Officer may grant a storage licence to the applicant on the condition specified in Rule 7 for a period not exceeding three years at a time, with the condition that for river bed mineral, in every monsoon season ending 30th September, the licensee has to produce return/record showing liquidation of 90% of his stock, which will be verified by the Senior Mines Officer/Mines Officer/Mines Inspector of the concerned district. In the absence of stock liquidation, the District Officer can cancel the licence where found unnecessary and forfeit the security deposit. In case he decides to grant the storage licence, the District Officer shall communicate the terms and conditions governing grant of such licence to the applicant

for his acceptance. The applicant shall intimate about the acceptance of terms and conditions within seven days from the date of receipt of communication. The District Officer shall grant the storage licence in Form 'B' or refuse the same with reasons to be recorded in writing within one month from the date of receipt of the application. Order of refusal to grant shall be communicated to the applicant recording reasons thereof by registered post: Provided that the District Officer may fix the general conditions of sale and sale price as prescribed by the Government from time to time: Provided further that retailers, who can store mineral quantity for maximum up to 100 cubic metre, will have to register online on the web portal developed for this purpose as prescribed by the Government as well as file quarterly returns in Form 'D' with the Mines Officer of the concerned district.

7. General conditions for grant of storage licence.

- The licence shall be granted in Form B subject to the following conditions: (i) The licensee shall prominently display the sale price at the storage point. (ii) The licensee shall deploy CCTV camera and check gates for proper monitoring of the stock. (iii) The licensee shall maintain a correct and intelligible account of minerals procured and transported daily to different destinations in the format prescribed in e-Form 'C'/Form 'C7 Form 'G' which will be corresponding to the quantity of valid transit pass by which licensee has received the mineral. (iv) The licensee shall submit the monthly return in Form 'E' of the accounts maintained under clauses (ii) and (iii) respectively for every month within the first week of the succeeding month to the District Officer. (v) All the reports, returns and registers shall be maintained by the licensee and kept in the place of business and be made available to the Inspecting Officer. (vi) The licensee shall not pollute the environment by storing the minerals or while utilising them in the processing plant or beneficiation plant or the factory. (vii) The licensee shall allow the inspecting officers of the Directorate of Mines to inspect the store, factory, processing plant, beneficiation plant to verify the stock of minerals and to take samples and extract of records. (viii) The District Officer may impose such further condition as may be necessary in the interest of the public.

8. Online selling of minerals.

- The Government may provide for facility of online sale of the minerals. Consumers may register online for the purchase of the minerals on the web portal of the department specified for this purpose.

9. Renewal of Licence.

(1) The licence can be renewed for a maximum period of two years subject to the condition that all the terms and condition have been complied with. (2) In case the renewal of licence is granted, the security money already deposited by the licensee, if valid, shall be accounted for as the security deposit for the renewal of licence. (3) The period of renewal of licence shall commence from the date of the expiry of the licence under renewal.

10. Rescission of Licence.

- The District Officer may, at any time during the tenure of licence, suspend the licence for breach of any of the terms and conditions of the licence. Before cancellation of the licence, the licensee will be served a show-cause notice. If the District Officer is satisfied with the explanation, he may withdraw the order of such suspension and allow the licensee to carry on his business. Otherwise, the District Officer, after giving an opportunity to the licensee of being heard, cancel the licence by an order in writing communicated to the licensee and may also forfeit the security deposit along with the interest accrued thereon to the Government.

Chapter 3

Transport of The Minerals

11. Transport of minerals.

(1) All dispatch of minerals by holder of mining lease, mining permit or prospecting licence by a carrier shall be accompanied with a E-transit pass/ transit pass in duplicate. The person in charge of the carrier shall produce the transit pass at the check post for the purpose, or on demand by any officer, authorised by the State Government by notification in the Official Gazette. (2) All carriers, carrying the mineral shall stop at the check post and proceed after having been cleared by the respective check post. The in charge of the check post shall make necessary endorsement on the first copy of the E-transit/transit pass and return immediately to the operator of such carrier and second copy of such E-transit/transit pass will be kept in records of the check post.

Chapter 4

Check Post and Barriers

12. Establishment of check post, barrier and weighbridge and inspection of mineral in transit.

(1) With a view to checking the transport and storage of minerals raised without lawful authority and to check the quality and quantity of minerals transported from lease hold areas and depot, the Government may set up check post(s) with or without barrier(s) and weighbridge(s) at any place within the State. (2) The following officers or any other officer authorised by the State Government in this behalf may stop and check any carrier at any place within their respective jurisdiction and the person in charge of the carrier shall furnish the valid transit pass/permit and other particulars such as bill(s) or receipt(s) or delivery note(s) on demand.

	Designation of the Officer	Jurisdiction
I.	Director of Mines or the officers authorised by him	Whole of the State
II.	Chief Mines Officer	Whole of the State

III.	DM/ADM/SDM	Within their respective District
IV.	Senior Mines Officers/Mines Officers/Mining Inspectors	Within their respective Mining District/ Circle
V.	Check gate Supervisors	Within their Mining Circle
VI.	Police Officers not below the rank of sub-inspector	Within their respective jurisdiction

(3) Every holder of mining lease and/or licence shall provide necessary assistance to the authorised officer to inspect, verify and check the stocks and accounts of minerals and any other documents pertaining thereto and draw sample. He shall be responsible for providing necessary assistance and co-operation to the concerned authority for checking and inspection of the carrier during transit. (4) Every holder of a mining lease and/or licence shall issue the duplicate and triplicate copies of the E-transit pass/transit pass to the in charge of the carrier transporting mineral from the mines/depot and the original copy shall be kept in the book. (5) Where there is a check post or check post-cum-weightbridge(s) of the department every carrier will normally pass through this. The lessee or plant or factory using the mineral may be asked to have their own weighbridge at their own cost and they will issue transit pass along with weightment slip of weighbridge. All the carries shall carry two copies of the E-transit pass/transit pass (duplicate and triplicate) and shall stop at the check post/weighbridge where the quantity and quality of the mineral will be verified by the Government checking staff and proceed after being cleared by the check post clerk by making necessary endorsement(s) in the triplicate copy held by the in charge of the carrier. The duplicate copy shall be handed over to the check-gate clerk who will keep it for office record. (6) The owner of the weighbridge shall keep the weighbridge in perfect working condition and any break down or malfunctioning shall be reported forthwith to concerned Mining Officer. (7) The working hours of each check post, with or without barrier or weighbridge shall be announced in advance by the Mining Officer, as the case may be. and shall be commensurate with general requirement of the mineral traffic in that sector. (8) The Government checking staff in charge of check post and/or weighbridge may verify the quantity and quality of the mineral carried and shall return one copy of the transit pass/permit. He shall record in both copies of the pass/permit any observation relating to the discrepancy between the quantity and quality of mineral carried and that shown in the pass/permit. He shall bring to the notice of the Mining Officer any case of repeated discrepancies in respect of any mine owner/licensee. (9) The person in charge of the carrier shall, if so required by the authorised officer, furnish all relevant information regarding consigner, consignee and minerals. (10) After checking the mineral and the carrier, the officer in charge of the check post or weighbridge or any other authorised officer shall put his signature and designation with date and time on the transit pass. (11) If the officer in charge of check post or weighbridge or any other authorised officer has reasons to believe that the mineral is not covered by the transit pass or the transportation is without a valid pass, such officer shall detain the vehicle. Then the officer in charge of check post or weighbridge or any other authorised officer shall seize the mineral(s), vehicle(s), tool(s), equipment(s) or any other thing(s) used in transport of minerals. The seized mineral(s), vehicle(s), tool(s), equipment(s) or any other thing(s) shall be liable to be confiscated by an order of the court competent to take cognizance of the offence and shall be disposed of in accordance with the direction of the Court.

Chapter 5

Miscellaneous

13. Penalties.

(1) Whosoever is found to have contravened Rule 3 of this rule then the District Officer will recover penalty up to Rs 5,00,000 (five lakh) and the price of such mineral including royalty. On failure to deposit the said amount of penalty the same shall be deducted by the District Officer from the security money deposited against the concern stock licence. (2) In case of any breach or contravention by a licensee of any provision of these rules or any condition of the licence, the District Officer may, after giving the licensee a reasonable opportunity to state his case, determine the licence.

14. Exemption.

- The Government may through an order, exempt any person or class of persons from the purview of any of the provision(s) of these rules for the purpose of scientific test and research work only.

15. Appeal.

(1) Any person aggrieved by any order made by the District Officer or the officer authorised by the State Government in this behalf, may appeal to the Commissioner in Form 'F' within thirty days of the date of communication of the order. (2) Every appeal shall be accompanied with the fee of Rs 2000 to be deposited under the head "0853". (3) The Commissioner may confirm, modify or set aside the order appealed against as it may deem fit and proper.

16. Protection of action taken under these rules.

(1) No suit, prosecution or other legal proceeding shall lie against any officer of the Government for anything which is in good faith done or intended to be done in accordance with these rules. (2) No suit, prosecution or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in accordance with these rules or any order made thereunder. [Chapter 6] [Inserted by Notification No. 342/86-2019-183-2011, dated 9.3.2019.] Repeal and Saving

17.

On the commencement of the Uttar Pradesh Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2019; (a) the Uttar Pradesh Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2002 shall stand rescinded; (b) any reference to the Uttar Pradesh Mineral (Prevention of Illegal Mining, Transportation and Storage) Rules, 2002 shall be construed as the reference to the Uttar Pradesh Minerals (Prevention of Illegal Mining,

Transportation and Storage) Rules, 2018;(c)notwithstanding such rescission the licenses issued under the Uttar Pradesh Mineral (Prevention of Illegal Mininig, Transportation and Storage) Rules, 2002 shall be valid for a period of 3 months from the commencement of the Uttar Pradesh Mineral (Prevention of Illegal Mining, Transportation and Storage) Rules, 2018.