

Gujarat Mineral (Prevention of Illegal Mining, Transportation and Storage) Rules, 2005

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Gujarat Mineral (Prevention of Illegal Mining, Transportation and Storage) Rules, 2005

In exercise of the powers conferred by Sec. 23-C(1) of the Mines and Minerals (Development and Regulation) Act, 1957, the Government of Gujarat, hereby makes the following rules, namely:

CHAPTER 1 Preliminary

1. Short title :-

(1) These rules may be called Gujarat Mineral (Prevention of Illegal Mining, Transportation and Storage) Rules, 2005.

2. Definitions :-

In these Rules, unless the context otherwise requires

- (1) "Act" means the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957);
- (2) "Carrier means any mode of conveyance or facility by which mineral is transported from one place to another and includes mechanised device, person, animal or cart.
- (3) "Stockist" means any person who wishes to possess store, sell trade in or otherwise deal with any mineral including processed mineral for commercial purpose.
- (4) "Authorised Officer" means an officer authorised by the State Government by notification in the Official Gazette, to perform functions under these rules and for such jurisdiction as may be specified in the rules.
- (5) "Prescribed" means prescribed by rules.
- (6) "Transit pass" means a pass issued by the authorised officer for lawful transportation of any mineral.
- (7)
- (i) "Commissioner" means Commissioner of Geology and Mining, Gujarat State.
- (ii) "Director" means Director of Geology and mining and includes Additional Director of Geology and Mining, Gujarat State.
- (8) "Delivery Challan" means a challan issued by authorised officer for lawful transportation of any mineral including processed mineral

being transported in accordance with the provisions of the rule by a carrier.

(9) "The expression" "mineral" "mining lease" "prospecting license" "reconnaissance permit" meaning as assigned to them in the Mines and Mineral (Development and Regulation) Act, 1957 and "Quarry lease or other mineral concessions" in respect of minor minerals have the meaning assigned to them in the Gujarat Minor Mineral Rules 1966.

(10) "Form" means the forms appended to the rules.

(11) "Scientific test" means any test conducted for chemical or Mineralogical constituents and properties for the purpose of scientific study without any commercial motive.

(12) "Research Work" means any work done for beneficiation and up gradation of the mineral and for examining its suitability for utilisation in the industry for the purpose of scientific study without any commercial purpose.

3. Restriction on possession, storage, etc. of minerals :-

No person shall

(i) Win, possess, store, sell, trade, mine remove in or otherwise deal with any mineral except in accordance with the provision of the Act.

(ii) Win, possess, transport, store, sell, trade, mine or remove any mineral from any place except in accordance with the terms and conditions of a registration granted by the authorised officer.

(iii) transport or carry or cause to transport or carry any mineral by any means from the place of raising to another place without being in possession of a valid transit pass/delivery challan issued by the authorised officer.

4. Appointment of authorised officer :-

The State Government may appoint as many officer of the State Government as may be required, to be the authorised officer and define the local limits within which they shall exercise their jurisdiction by issuing a notification.in that respect in the Official Gazette.

CHAPTER 2 Preliminary

5. Mining :-

(i) No person shall quarry, mine, excavate, win any mineral in any

land without the permission granted under the Act.

CHAPTER 3 Preliminary

6. Transport of mineral :-

(i) For transportation of any mineral the lease holder shall make an application in Form-A to authorised officer for issuing of transit passes prescribed by the Commissioner of Geology and Mining .

Provided that for the transportation of any mineral from any place the registered stockist shall be an application with legal source of minerals procured, in Form-B to the authorised officer for issuing delivery challan;

(ii) All dispatches of mineral(s) by a carrier shall be accompanied with a challan or transport duplicate in the Form-B. The person in charge of the carrier shall produce the challan or transport pass check post, en route or on demand by any authorised officer.

Provided that in the case of transport of mineral by holder of prospecting license or transport of mineral purchased by auction, in addition to transit pass, a special permit by the authorised officer or authorised auctioneer as the case may be, shall suffice;

(iii) Holder of lease or any other mineral concession shall use challan or transit pass book issued by the authorised officer by the State Government in this behalf. The challan or the transit passes shall be in triplicate and machine number with book number and serial number of the pass obtained at a prescribed cost.

(iv) All carriers carrying mineral shall stop at all check pcsts or gates en route and proceed alter having been cleared by-the check posts/gates authority who shall make necessary endorsement on the triplicate copy held by the in charged of the carrier;

(v) A challan or transit pass issued by the authorised officer shall be

duly certified by him for inter-state transport.

7. Establishment of check posts and barriers and weighthment and inspection of minerals in transit :-

(i) If the State Government considers it necessary to do so with a view to check the transport and storage of mineral (s) raised without lawful authority, it may direct the setting up of check-post or erection of barrier or both at any place or palces within the state by an order in writing. Provided that setting up of a check post of erection of a barrier or both shall be notified in the Official Gazette.

(ii) Any officer authorised by the State Government in this behalf, may check any carrier carrying mineral (s) at any place and the persons in charge of the carrier shall furnish a valid challan or transit pass in prescribed Form and other particulars such as bill or receipt or delivery note on demand by officer In charge.

(iii) At every check post barrier set up under above sub-rule (i) of at any other place when so required by the officer in Charge of the check post or the barrier or any other authorised officer, the person in charge of the carrier shall stop the same for examination of the mineral in transit and also inspection of records and documents relating to minerals in possession of such person in charge of the carrier. The person in Charge of the carrier shall if so required by the officer in charge of the check post or the barrier or any other authorised officer shall furnish his name and address as also that of the owner of, the carrier and the name and address of both the consigner and the consignee. After checking the mineral and carrier the, Officer in charge of the check post or the barrier or any other authorised officer shall put his signature on the valid challan or transit pass.

(iv) If the officer in charge of the check post or authorised officer has reasons to believe that the mineral(s) are not covered by the challan or transit pass, he shall recover the amount from the person in charge of the carrier.

Note:

(a) The officer in charge of the check-post or the barrier; or the authorised officer shall have power to seize the mineral along with the carrier in transit, the dispatch of which is not covered by a valid challan or transit pass or the person in charge of the carrier refuses to make the payment of penalty as provided in rule-13.

(b) The officer in charge of the check post or any authorised officer may direct the person in charge of the carrier to carry the mineral to the nearest police station or check post or barrier of the department;

Provided that if the person in charge of the carrier refuses to carry the mineral and the carrier to the nearest police Station or check post or barrier of the department, the officer in charge or any other officer empowered may seize the carrier and take the same in his possession. Such mineral and carrier may be handed over to the same person for the custody to keep in same condition till further orders or to the third party as authorised officer may deem fit.

(c) Whenever a carrier together with the mineral is seized by an authorised officer, he shall give an option to the owner or in charge

of the carrier to pay an amount as compounded by authorised officer for mineral carrier in lieu of such seizure. In case of failure of owner or person in charge of the carrier to exercise such option legal action may be initiated against him by any authorised officer.

(d) The officer in Charge of the check post or the barrier or any other authorised officer shall give a receipt of such mineral and carrier seized by him to the person from whose possession it is seized.

CHAPTER 4 DEALING/STORAGE OF MINERAL

8. Grant of registration, renewal for stocking/storage of mineral :-

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(1) Application for registration. Any person willing to possess, store, sell and trade in or otherwise deal with any mineral including processed mineral for commercial or industrial motive shall make an application in two copies to the authorised officer in Form-C.

(2) Every application made under sub-rule (1) shall be accompanied with.

(i) a fees of rupees five hundred shall be payable through treasury challan.

(ii) sales tax registration certificate

(iii) an affidavit to the effect that he has not been convicted in any case or unlawfull activity related to ores and minerals.

(iv) valid document pertaining for storing place.

(3) On receipt of an application for registration, the authorised officer shall acknowledge the receipt in Form-D. The acknowledgement shall be sent to the applicant by Registered post.

(4) Processing of application.

(i) The competent authority shall maintain a register in Form-E wherein, he Mil make necessary entry about the application immediately after its receipt and its disposal in due course;

(ii) The authorised officer shall verify the bonafide of the applicant and contents of the application by conducting such inquiry and examination of record as he deems necessary before disposal such application.

(5) Disposal of application for Registration.

(i) After due enquiry, the authorised officer shall, within two months from the date of receipt of the application, either grant a registration to the applicant on the condition specified in sub-rule (6), for a period not exceeding five years at a time, or refuse to

grant the registration as he thinks fit.

(ii) In every case where the authorised officer refuses to grant the registration, he shall record his reasons thereof in writing and communicate the same to the applicant.

(6) Conditions for Registration. The registration shall be granted in Form-F subject to the following conditions, namely:

(i) The registered firm or a person shall deposit Rs. 10,000/- (Rs. Ten thousand) as security deposit by challan.

(ii) The registered firm or a person shall maintain an account of ore and minerals procured, transported processed, daily to different destinations in Form-F-1.

(iii) The registered firm or a person shall submit statement in Form F-2 duly maintained for every month in the first week of the succeeding month to the authorised officer

(iv) In case of crushing, pulverizing or any kind of processing plant and factory, the registered firm or a person shall maintain a separate daily account of minerals procured and fed to the factory or plant and the processed minerals recovered in Form-G-1 and submit monthly statement of the above in the Form G-2 duly maintained for every month in the first week of the succeeding month to the authorised officer.

(v) The registered firm or a person shall not pollute the environment by storing the mineral or while utilizing them in his crushing plant or pulverizing plant or factory.

9. Application for renewal of registration :-

(1) Every application for renewal of registration shall be made in Form C to the authorised officer before ninety days of the expiry of the date of registration and shall be processed in the same manner as provided for the original registration.

(2) The registration shall be renewed for further period not exceeding three years on an application made in prescribed form and on payment of renewal registration fee of Rs. 250/-only to be deposited in Government Treasury by Challan.

10. Cancellation or suspension of registration :-

. The authorised officer may at any time and after giving an opportunity of being heard to the Firm/Person registered, and after recording the reasons whereof may cancel or suspend the registration by an order in writing communicated to the

Firms/Person registered for breach of any of the terms and conditions of the registration or these rules.

CHAPTER 5 APPEAL AND REVISION

11. Cancellation or suspension of registration :-

. Appeal and Revision.

(i) (a) Any person aggrieved by an order of the Authorised Officer issued under these rules may within thirty days from date of communication of such order to him file an appeal against such order to the Additional Director (Appeal):

Provided that any such appeal may be entertained after the said period of thirty days if the appellant satisfies the Additional Director (Appeal) that he had sufficient cause for not making an appeal within time.

(b) Any person aggrieved by an order of the Additional Director (Appeal) under these rules may within thirty days from the date of communication of such order to him apply to the Commission for revision of the same :

Provided that any such application may be entertained after the said period of sixty days, if the applicant satisfies the Commissioner that he had sufficient cause for not making an application within time.

(ii) Alongwith the appeal or revision application under sub-rule (i) of this rule the applicant shall submit as many copies thereof as there are parties impleaded.

(iii) On receipt of the appeal or the application as the case may be and the copies thereof the Additional Director or the Commissioner shall send a copy of the appeal or the application to each of the parties impleaded under specifying a date on or before which he may make his representations if any, against the appeal or revision application.

(iv) Application fee. Every appeal or application for revision under sub-rule (i) of this rule shall be accompanied by a treasury challan of rupees one hundred paid as fee for such application and credited in the appropriate budget head.

(v) Form of appeal and application for revision. An appeal or application under sub-rule (i) of this rule shall be in Form H and shall state concisely the grounds on which it is based and shall be submitted in triplicate copies:

(vi) Procedure on receipt of appeal or revision application. After receiving of such appeal or application, the appellate or revisionary

authority may call for the record of the case and after examining the record of the case, may confirm, modify or set aside the order or pass such order in relation thereto as it may deem just and proper.

12. Powers to Review :-

. The State Government may at any time of its own accord call for and examine the record of any order passed by the authorised officer under these rules, for the purpose of satisfying itself as to the legality, propriety or merits of any order passed. If in any case, .it appears to the State Government that any order should be modified, annulled or reversed, it may pass such orders thereon as it may deem fit. It may issue a stay order (i) to stop working or excavating of minerals or (ii) to handing over of possession of the area in dispute also.

Provided that before any order is passed adversely affecting a person, such person shall be given an opportunity of stating his case.

CHAPTER 6 PENALTIES

13. Penalties :-

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(1) Whoever contravenes the provision of Rules 5, 6 and 8 of these rules shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five thousand rupees or with both and in case of continuing contravention with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

(2) Whenever any person raise transport or store or cause to be raised or transported or stored without any lawful authority, the State Government may recover from such person the mineral so raised, or transported or stored where such mineral has already been disposed of the price hereof and may also recover from such person rent, royalty or tax as the case may be;

(3) Whenever any person raise, transports or stores or cause to be raises or transported or stored without any law full authority any mineral from any land/place and for that purpose or use any tool, equipment, vehicle or any other thing, such mineral, tool equipment, vehicle or any other thing shall be liable to be seized by

an officer or authority specially empowered in this behalf;

(4) Notwithstanding anything contained in the Code of Criminal Procedure 1973, an offence under sub-rule (1) shall be cognizable.

14. Compounding of offence :-

Any offence punishable under these rules, may either before or after the institution of the prosecution be compounded by the Authorized Officer on payment of such amount as may be decided by Commissioner of Geology and Mining; When an offence is compounded,

- (i) no further proceedings shall be commenced against such person;
- (ii) if any proceedings have already been commenced against such person such proceedings shall not be further proceeded with; and
- (iii) the accused person, if in custody shall be discharged and the property seized shall, if it is not so retained, be released.

15. Maintenance of register :-

. The Authorised Officer shall maintain a register in the Form-I and shall mention therein the details of every offence compounded by him.

16. Offence by Companies or firms :-

(1) Where any offence under these rules have been committed by a company, every person who, at the time offence was committed, was in-charge of, and was responsible to the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly;

Provided that nothing contained in this rule shall render any such person liable to any punishment if he proves that the offence was committed without the knowledge or that he exercise all due diligence to prevent the commission of such an offence.

(2) Notwithstanding anything contained in sub-rule (1) where an offence under this rule has been committed and it is proved that the offence has been committed with the consent or connivance of, or is attributed to, any neglect on the part of any Director, Manager, Secretary or Officer of the company or firm, such as Director, Manager, Secretary or other Officer shall also be deemed

to be guilty of their offences and shall be liable to be proceeded against and punished accordingly.

Explanation. For the purpose of this rule,

- (i) "company" means anybody corporate and includes a firm or other association of individuals, and
- (ii) "Director" in relation to a firm or company means owner or partner in the firm.

17. Seizure of property liable to confiscation :-

(1) When there is reason to believe that an offence has been committed in respect of any mineral such mineral, together with vehicles or other conveyances used in committing such offence may be seized by any officer authorised by the Government in that behalf (hereinafter referred to as the authorised officer) and record details of seizing property in Form-J.

(2) Every officer seizing any property under these rules shall place on such property a mark in such manner as may be prescribed, indicating that the same has been so seized and shall as may be, except where the offender agrees in writing to get the offence compounded, either produce the property seized before the officers appointed by the State Government.

(3) Where any mineral seized under sub-rule (1) produced before the officers authorized by the State Government and he is satisfied that an offence has been committed in respect thereof, he may order, confiscation of the mineral or value or part of the value thereof so seized and produced, together with the vehicles, or other conveyance used in committing such offence,

(4) No order confiscating any property shall be made under sub-rule (3) unless the person from whom the property is seized is given

(a) a notice in writing in Form K informing him of the goods on which it is proposed to confiscate such property.

(b) opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the grounds for confiscation; and

(c) a reasonable opportunity of being heard in the matter.

(5) Without prejudice to the provisions of sub-rule (4) no order of confiscation of vehicle, or other conveyance under sub-rule (3) shall be made if the owner thereof proves to the satisfaction of competent authority or authorised officer that it was used without

his knowledge or connivance or the knowledge of connivance of his agent, if any, or the person in-charge of the vehicle or other conveyance in committing the offence and that each of them had taken all reasonable and necessary precautions against such use.

(6) The property seized under this rule shall be kept in the custody of the authorised officer or with any third party until compensation for compounding the offence is paid or until an order of the Officer Authorised by the Commissioner directing its disposal is received.

(7) The State Government may at any time on its own accord call for the examination of the order of confiscation by the competent authority on an application, call for and examine the records of the case and may make such enquiry or cause such enquiry to be made and pass such order as he may think fit;

Provided that no order prejudicial to any person shall be passed without giving him an opportunity of being heard.

18. Power to release property seized on bonds :-

. The authorised officer or who has seized any vehicles or other conveyance under Rule 13 and where a report of such seizure has been made to the officers authorised by Commissioner under sub-rule (3) of that rule may release the same on the execution by the owner thereof a bond for the production of the property so released, if and when so required before the officers authorised by the Commissioner having jurisdiction to try the offence on account of such seizure has been made.

19. Power of entry, search, seizure etc. :-

The authorised officer or any other\officer authorised by the State Government in this behalf may with such assistance as he thinks fit-

(a) search any person if he has the reason to believe that such person is quarrying mineral(s) in contravention of the provisions of the rules.

(b) the owner, occupier or any other person in-charge of any place, premises, vehicles or vessel or other conveyances in which he has any contravention of any of the conditions of the rules or the conditions of any registration or permit under Mineral Concession Rules, 1960 and Gujarat Minor Minerals Rules, 1966 issued thereunder has been, is being or is about to be committed to produce any books, accounts or other documents showing transactions relating to such contravention.

(c) enter, inspect or break open and search any place or premises, vehicles or vessels or other conveyances in which he has reason to believe that any contravention of any of the provisions of this Rule or of the conditions of any registration or permit issued under Gujarat Minor Mineral Rules, 1966 and Mineral Concession Rules, 1960 has been or is being or is about to be committed.

(d) seize any documents or take or cause to be taken, extracts from or copies of any documents showing transactions relating to such contravention which are produced before him; and

(e) search, seize and remove the stock minerals and the animals, vehicles, vessels or other conveyances used in carrying the said minerals in contravention of the provisions of this rule, or of the conditions of the registration issued thereunder and thereafter take or authorize the taking of all measures necessary for securing the production of stocks of minerals and the animals, vehicles, vessels, or other conveyances so seized in a court and for their safe custody pending such production.

20. Recovery of money due to Government :-

All money, except fines imposed by the judicial courts, due under these rules, if not paid when due, be recovered as if it were an arrears of land revenue.

21. Depositing the sums :-

All sums collected by compounding the offences shall be deposited under the appropriate budget head.

22. Protection of action taken in good faith :-

No suit, prosecution or other legal proceedings shall lie against any authorized person for anything which is in good faith done or intended to be done.

CHAPTER 7 MISCELLANEOUS

23. Non-applicability of Rules in certain cases :-

. Nothing contained in these rules shall apply to

(i) possession, storage, selling, transporting or mining of minerals which is governed by any law made by the Central Government under Act on the subject for the time being in force.

(ii) the State Government may, by notification in the Official

Gazette exempt any person or class of persons from the purview of these rules, provided mineral is stored/mined/carried for the purpose of scientific test and research work only.

(iii) institutions/Departments exempted under the Act.

(iv) the department or institution or person(s) subject to general or special order or instruction issued by the State Government from time to time.

24. Power to rectify apparent mistake :-

. Any clerical or arithmetical mistake in any order passed by the Government or any other officer under these rules and any error arising therein from accidental slip or omission may, be corrected by the Government or the officer, as the case may be:

Provided that no order prejudicial to any person shall be passed unless he has been given a reasonable opportunity of stating his case.

25. Disposal of minerals including processed minerals by public auction in certain cases :-

Notwithstanding anything contained in the foregoing provision, it shall be lawful for a competent officer to sell by public auction or otherwise dispose of the right to remove any mineral or of collection of royalty thereon in such cases or class of cases and on such terms and conditions as the State Government may by a general or special order direct.

26. Power of Government to give direction :-

The grant or renewal of storage permit under these rules shall be subject to such general instructions and directions as may be issued by the State Government from time to time.