

CHAPTER 458A

OIL, GAS, AND OTHER MINERALS

Referred to in §455A.4, 455A.6

[P]

This chapter not enacted as a part of this title;
transferred from chapter 84 in Code 1993

458A.1	Declaration of policy.	458A.15	Acquisition and handling illegal oil and gas prohibited — seizure of illegal oil and gas and sale thereof.
458A.2	Definitions.	458A.16	Penalties.
458A.3	Waste prohibited.	458A.17	Action to restrain violation or threatened violation.
458A.4	Duties and powers of director.	458A.18	Mineral rights taxed separately.
458A.5	Drilling permit required.	458A.19	Rate.
458A.6	Department shall determine market demand and regulate the amount of production.	458A.20	Tax sale — redemption by owner.
458A.7	Department shall set spacing units.	458A.21	Lease of public lands.
458A.8	Integration of fractional tracts.	458A.22	Duty to have forfeited lease released — affidavit of noncompliance — notice to landowner — remedies.
458A.9	Voluntary agreements for unit operation valid.	458A.23	Action to obtain release — damages, costs and attorney fees — attachment.
458A.10	Liens for development and operating costs.	458A.24	Extension upon contingency — affidavit.
458A.11	Rules covering practice before department.	458A.25	Liens for labor or materials and of contractor and subcontractor — manner of perfecting liens — enforcement of liens.
458A.12	Summoning witnesses, administering oaths, requiring production of records — hearing examiners appointed.		
458A.13	Reserved.		
458A.14	Appeal to district court — procedure of appeal.		

458A.1 Declaration of policy.

It is declared to be in the public interest to foster, to encourage, and to promote the development, production, and utilization of natural resources of oil and gas and metallic minerals in the state in such a manner as will prevent waste; to authorize and to provide for the operation and development of oil and gas and metallic minerals properties in such a manner that a greater ultimate recovery of oil and gas and metallic minerals be had and that the correlative rights of all owners be fully protected; and to encourage and to authorize such measures as will result in the greatest possible economic recovery of oil and gas and metallic minerals within the state to the end that the landowners, the royalty owners, the producers, and the general public realize and enjoy the greatest possible good from these vital natural resources. It is further declared that the general welfare of the people requires that the underground and surface water of the state be protected from pollution and conserved in the best interests of the people of the state.

[C39, §1360.01; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §84.1; 81 Acts, ch 41, §1]
C93, §458A.1

458A.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. “*Certificate of clearance*” means a permit prescribed by the department for the transportation or the delivery of oil or gas or product and issued or registered in accordance with the rule or order requiring the permit.
2. “*Commission*” means the environmental protection commission of the department.
3. “*Department*” means the department of natural resources created under section 455A.2.
4. “*Director*” means the director of the department or a designee.
5. “*Exploration*” means an on-site geologic examination from the surface of an area by core, rotary, percussion, or other drilling for the purpose of obtaining stratigraphic or metallic mineral resource information or establishing the nature of a known metallic mineral deposit.

6. “*Field*” means the general area underlaid by one or more pools.
7. “*Gas*” means and includes all natural gas and all other fluid hydrocarbons which are produced at the wellhead and not hereinabove defined as oil.
8. “*Illegal gas*” means gas which has been produced from any well within this state in excess of the quantity permitted by any rule or order of the department.
9. “*Illegal oil*” means oil which has been produced from any well within the state in excess of the quantity permitted by any rule or order of the department.
10. “*Illegal product*” means any product derived in whole or in part from illegal oil or illegal gas.
11. “*Metallic mineral resources*” means the valuable minerals of an area containing metals such as, but not restricted to, lead, copper, zinc, and iron that are presently recoverable or may be recoverable in the future.
12. “*Oil*” means and includes crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form and the liquid hydrocarbons known as distillate or condensate recovered or extracted from gas, other than gas produced in association with oil and commonly known as casinghead gas.
13. “*Owner*” means the person who has the right to drill into and produce from a pool and to appropriate the oil or gas that person produces therefrom either for that person or others or for that person and others.
14. “*Person*” means and includes any natural person, corporation, association, partnership, receiver, trustee, personal representative, guardian, fiduciary or other representative of any kind, and includes any department, agency, or instrumentality of the state or of any governmental subdivision thereof.
15. “*Pool*” means an underground reservoir containing a common accumulation of oil or gas or both; each zone of a structure which is completely separated from any other zone in the same structure is a pool, as that term is used in this chapter.
16. “*Producer*” means the owner of a well or wells capable of producing oil or gas or both.
17. “*Product*” means any commodity made from oil or gas and includes refined crude oil, crude tops, topped crude, processed crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural-gas gasoline, kerosene, benzene, wash oil, waste oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or by-products derived from oil or gas, and blends or mixtures of two or more liquid products or by-products derived from oil or gas, whether hereinabove enumerated or not.
18. “*Reasonable market demand*” means the demand for oil or gas for reasonable current requirements for consumption and use within and without the state, together with such quantities as are reasonably necessary for building up or maintaining reasonable working stocks and reasonable reserves of oil or gas or product.
19. “*Waste*” means and includes:
 - a. Physical waste, as that term is generally understood in the oil and gas industry,
 - b. The inefficient, excessive, or improper use of, or the unnecessary dissipation of reservoir energy,
 - c. The location, spacing, drilling, equipping, operating, or producing of any oil or gas well or wells in a manner which causes, or tends to cause, reduction in the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations, or which causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas,
 - d. The inefficient storing of oil, and
 - e. The production of oil or gas in excess of transportation or marketing facilities or in excess of reasonable market demand.
20. “*Well*” means any hole drilled to determine stratigraphic sequence, mineralization, or for the discovery of oil or gas.
21. The word “*and*” includes the word “*or*” and the use of the word “*or*” includes the word

“and”. The use of the plural includes the singular and the use of the singular includes the plural.

[C66, 71, 73, 75, 77, 79, 81, §84.2; 81 Acts, ch 41, §2; 82 Acts, ch 1199, §37, 38, 96]
86 Acts, ch 1245, §1810 – 1812
C93, §458A.2

458A.3 Waste prohibited.

Waste of oil and gas is prohibited.

[C66, 71, 73, 75, 77, 79, 81, §84.3]
C93, §458A.3

458A.4 Duties and powers of director.

The director shall administer this chapter. The director shall make investigations the director deems proper to determine whether waste exists or is imminent or whether other facts exist which justify action. The director has the authority:

1. To require:
 - a. Identification of ownership of oil or gas wells, producing leases, tanks, plants, structures, and facilities for the refining or intrastate transportation of oil and gas;
 - b. The making and filing of all mechanical well logs and the filing of directional surveys if taken, and the filing of reports on well location, drilling and production, and the filing free of charge of samples and core chips and of complete cores less tested sections when requested in the department within six months after the completion or abandonment of the well;
 - c. The drilling, casing, operation, and plugging of wells in such manner as to prevent the escape of oil or gas out of one stratum into another, the intrusion of water into oil or gas stratum, the pollution of fresh water supplies by oil, gas, or highly mineralized water, to prevent blowouts, cavings, seepages, and fires, and to prevent the escape of oil, gas, or water into workable coal or other mineral deposits;
 - d. The furnishing of a reasonable bond with good and sufficient surety, conditioned upon the full compliance with this chapter, and the rules of the department prescribed to govern the production of oil and gas on state and private lands within the state of Iowa;
 - e. That the production from wells be separated into gaseous and liquid hydrocarbons, and that each be accurately measured by the means and upon standards prescribed by the department;
 - f. The operation of wells with efficient gas-oil and water-oil ratios, and to fix these ratios;
 - g. Certificates of clearance in connection with the transportation or delivery of any native and indigenous Iowa produced crude oil, gas, or any product;
 - h. Metering or other measuring of any native and indigenous Iowa produced crude oil, gas, or product in pipelines, gathering systems, barge terminals, loading racks, refineries, or other places; and
 - i. That every person who produces, sells, purchases, acquires, stores, transports, refines, or processes native and indigenous Iowa produced crude oil or gas in this state shall keep and maintain within this state complete and accurate records of the quantities of oil or gas, which records shall be available for examination by the department at all reasonable times, and that every such person file with the department the reports it may prescribe with respect to the oil or gas or the products of the oil or gas.
2. To regulate:
 - a. The drilling, producing, and plugging of wells, and all other operations for the production of oil or gas;
 - b. The shooting and chemical treatment of wells;
 - c. The spacing of wells;
 - d. Operations to increase ultimate recovery such as cycling of gas, the maintenance of pressure, and the introduction of gas, water, or other substances into producing formations; and
 - e. Disposal of highly mineralized water and oil field wastes.
3. To limit and to allocate the production of oil and gas from any field, pool, or area.

4. To classify wells as oil or gas wells for purposes material to the interpretation or enforcement of this chapter.

5. To promulgate and to enforce rules and orders to effectuate the purposes and the intent of this chapter.

6. To make rules or orders for the classification of wells as oil wells or dry natural gas wells; or wells drilled, or to be drilled, for geological information, or as wells for secondary recovery projects, or wells for the disposal of highly mineralized water, brine, or other oil field wastes, or wells for the storage of dry natural gas, or casinghead gas, or wells for the development of reservoirs for the storage of liquid petroleum gas and for the exploration and production of metallic mineral resources.

[C39, §1360.04, 1360.05; C46, 50, 54, 58, 62, §84.4, 84.5; C66, 71, 73, 75, 77, 79, 81, §84.4; 81 Acts, ch 41, §3; 82 Acts, ch 1199, §39, 40, 96]

86 Acts, ch 1245, §1813 – 1815

C93, §458A.4

458A.5 Drilling permit required.

It is unlawful to commence operations for the drilling of a well for oil or gas or the production of metallic minerals or to commence operations to deepen any well to a different geological formation without first giving the director notice of intention to drill, and without first obtaining a permit from the director, under rules prescribed by the department and paying to the department a fee established by rule of the department for the well. The fee shall be deposited in the general fund of the state.

[C39, §1360.03; C46, 50, 54, 58, 62, §84.3; C66, 71, 73, 75, 77, 79, 81, §84.5; 81 Acts, ch 41, §4; 82 Acts, ch 1199, §41, 96]

86 Acts, ch 1245, §1815, 1816

C93, §458A.5

458A.6 Department shall determine market demand and regulate the amount of production.

The department shall determine market demand for each marketing district and regulate the amount of production as follows:

1. The department shall limit the production of oil and gas within each marketing district to that amount which can be produced without waste, and which does not exceed the reasonable market demand.

2. When the department limits the total amount of oil or gas which may be produced in the state or a marketing district, the department shall allocate or distribute the allowable production among the pools in the district on a reasonable basis, giving, where reasonable under the circumstances to each pool with small wells of settled production, an allowable production which prevents the general premature abandonment of the wells in the pool.

3. When the department limits the total amount of oil or gas which may be produced in any pool in this state to an amount less than that amount which the pool could produce if no restriction were imposed, which limitation is imposed either incidental to, or without, a limitation of the total amount of oil or gas produced in the marketing district wherein the pool is located, the department shall allocate or distribute the allowable production among the wells or producing properties in the pool on a reasonable basis, preventing or minimizing reasonable avoidable drainage, so that each property will have the opportunity to produce or to receive its just and equitable share, subject to the reasonable necessities for the prevention of waste.

4. In allocating the market demand for gas between pools within marketing districts, the department shall give due regard to the fact that gas produced from oil pools is to be regulated in a manner which will protect the reasonable use of its energy for oil production.

5. The department is not required to determine the reasonable market demand applicable to any single pool, except in relation to all other pools within the same marketing district, and in relation to the demand applicable to the marketing district. In allocating allowables to pools, the department may consider, but is not bound by nominations of purchasers to purchase from particular fields, pools, or portions thereof. The department shall allocate

the total allowable for the state in a manner which prevents undue discrimination between marketing districts, fields, pools, or portions thereof resulting from selective buying or nomination by purchasers.

[C66, 71, 73, 75, 77, 79, 81, §84.6; 82 Acts, ch 1199, §42, 96]
C93, §458A.6

458A.7 Department shall set spacing units.

The department shall set spacing units as follows:

1. When necessary to prevent waste, to avoid the drilling of unnecessary wells, or to protect correlative rights, the department shall establish spacing units for a pool. Spacing units when established shall be of uniform size and shape for the entire pool, except that when found to be necessary for any of the purposes above mentioned, the department may divide any pool into zones and establish spacing units for each zone, which units may differ in size and shape from those established in any other zone.

2. The size and shape of spacing units are to be such as will result in the efficient and economical development of the pool as a whole.

3. An order establishing spacing units for a pool shall specify the size and shape of each unit and the location of the permitted well thereon in accordance with a reasonably uniform spacing plan. Upon application, if the director finds that a well drilled at the prescribed location would not produce in paying quantities, or that surface conditions would substantially add to the burden or hazard of drilling such well, the director is authorized to enter an order permitting the well to be drilled at a location other than that prescribed by such spacing order; however, the director shall include in the order suitable provisions to prevent the production from the spacing unit of more than its just and equitable share of the oil and gas in the pool.

4. An order establishing units for a pool shall cover all lands determined or believed to be underlaid by the pool, and may be modified by the director from time to time to include additional areas determined to be underlaid by the pool. When found necessary for the prevention of waste, or to avoid the drilling of unnecessary wells or to protect correlative rights, an order establishing spacing units in a pool may be modified by the director to increase the size of spacing units in the pool or any zone of the pool, or to permit the drilling of additional wells on a reasonable uniform plan in the pool, or any zone of the pool. Orders of the director may be appealed to the department within thirty days.

[C39, §1360.02; C46, 50, 54, 58, 62, §84.2; C66, 71, 73, 75, 77, 79, 81, §84.7; 82 Acts, ch 1199, §43, 96]

86 Acts, ch 1245, §1816
C93, §458A.7

458A.8 Integration of fractional tracts.

1. When two or more separately owned tracts are embraced within a spacing unit, or when there are separately owned interests in all or a part of the spacing unit, then the owners and royalty owners of the tracts may pool their interests for the development and operation of the spacing unit. In the absence of voluntary pooling the department upon the application of any interested person, shall enter an order pooling all interests in the spacing unit for the development and operations of the unit. Each pooling order shall be made after notice and hearing, and shall be upon terms and conditions that are just and reasonable, and that afford to the owner of each tract or interest in the spacing unit the opportunity to recover or receive, without unnecessary expense, a just and equitable share. Operations incident to the drilling of a well upon any portion of a spacing unit covered by a pooling order shall be deemed for all purposes to be the conduct of the operations upon each separately owned tract in the drilling unit by the several owners of the unit. That portion of the production allocated to each tract included in a spacing unit covered by a pooling order shall, when produced, be deemed for all purposes to have been produced from the tract by a well drilled on it.

2. Each pooling order shall make provision for the drilling and operation of a well on the spacing unit, and for the payment of the reasonable actual cost of the well by the owners of interests in the spacing unit, plus a reasonable charge for supervision. In the event of

any dispute as to such costs the department shall determine the proper costs. If an owner shall drill and operate, or pay the expenses of drilling and operating the well for the benefit of others, then, the owner so drilling or operating shall, upon complying with the terms of section 458A.10, have a lien on the share of production from the spacing unit accruing to the interest of each of the other owners for the payment of a proportionate share of the expenses. All the oil and gas subject to the lien shall be marketed and sold and the proceeds applied in payment of the expenses secured by the lien as provided for in section 458A.10.

[C66, 71, 73, 75, 77, 79, 81, §84.8; 82 Acts, ch 1199, §44, 96]

C93, §458A.8

Referred to in §458A.10

458A.9 Voluntary agreements for unit operation valid.

An agreement for the unit or cooperative development and operation of a field or pool, in connection with the conduct of a repressuring or pressure maintenance operations, cycling or recycling operations, including the extraction and separation of liquid hydrocarbons from natural gas, or any other method of operation, including water floods, may be performed without being in violation of any of the statutes of this state relating to trusts, monopolies, or contracts and combinations in restraint of trade, if the agreement is approved by the department as being in the public interest, protective of correlative rights, and reasonably necessary to increase ultimate recovery or to prevent waste of oil or gas. The agreements bind only the persons who execute them, and their heirs, successors, assigns, and legal representatives.

[C66, 71, 73, 75, 77, 79, 81, §84.9; 82 Acts, ch 1199, §45, 96]

C93, §458A.9

458A.10 Liens for development and operating costs.

A person to whom another is indebted for expenses incurred in drilling and operating a well on a drilling unit required to be formed as provided for in section 458A.8, may, in order to secure payment of the amount due, fix a lien upon the interest of the debtor in the production from the drilling unit or the unit area, as the case may be, by filing for record, with the recorder of the county where property involved, or any part thereof, is located, an affidavit setting forth the amount due and the interest of the debtor in such production. The person to whom the amount is payable may, at the expense of the debtor, store all or any part of the production upon which the lien exists until the total amount due, including reasonable storage charges, is paid or the commodity is sold at foreclosure sale and delivery is made to the purchaser. The lien may be foreclosed as provided for with respect to foreclosure of a lien on chattels.

[C66, 71, 73, 75, 77, 79, 81, §84.10]

C93, §458A.10

Referred to in §458A.8

458A.11 Rules covering practice before department.

1. The department shall prescribe rules governing the practice and procedure before it.
2. An order or amendment of an order, except in an emergency, shall not be made by the department without a public hearing upon at least ten days' notice. The public hearing shall be held at the time and place prescribed by the department, and any interested person is entitled to be heard.
3. When an emergency requiring immediate action is found to exist the department may issue an emergency order without notice of hearing, which shall be effective upon promulgation. An emergency order shall not remain effective for more than fifteen days.
4. Any notice required by this chapter shall be given at the election of the department either by personal service or by letter to the last recorded address and one publication in a newspaper of general circulation in the state capital city and in a newspaper of general circulation in the county where the land affected or some part of the land is situated. The notice shall issue in the name of the state, shall be signed by the director, shall specify the style and number of the proceeding, the time and place of the hearing, and shall briefly state the purpose of the proceeding. Should the department elect to give notice by personal service, the service may be made by any officer authorized to serve process, or by any agent of the

department, in the same manner as is provided by law for the service of original notices in civil actions in the district court of the state. Proof of the service by such agent shall be by the affidavit of the person making personal service.

5. All orders issued by the department shall be in writing, shall be entered in full and indexed in books to be kept by the director for that purpose, and shall be public records open for inspection at all times during reasonable office hours. A copy of any rule or order certified by the director or any officer of the department shall be received in evidence in all courts of this state with the same effect as the original.

6. The department may act upon its own motion, or upon the petition of any interested person. On the filing of a petition concerning any matter within the jurisdiction of the department, the department shall promptly fix a date for a hearing and shall cause notice of the hearing to be given. The hearing shall be held without undue delay after the filing of the petition. The department shall enter its order within thirty days after the hearing.

[C66, 71, 73, 75, 77, 79, 81, §84.11; 82 Acts, ch 1199, §46, 96]
86 Acts, ch 1245, §1815, 1816
C93, §458A.11

458A.12 Summoning witnesses, administering oaths, requiring production of records — hearing examiners appointed.

1. The department may summon witnesses, administer oaths, and require the production of records, books, and documents for examination at any hearing or investigation conducted. A person shall not be excused from attending and testifying, or from producing books, papers, and records before the department or a court, or from obedience to the subpoena of the department or a court, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture. However this subsection does not require a person to produce any books, papers, or records, or to testify in response to any inquiry not pertinent to some question lawfully before the department or court for determination. A natural person is not subject to criminal prosecution or to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which, in spite of objections, the person may be required to testify or produce as evidence, documentary or otherwise, before the department or court, or in obedience to subpoena. However, a person testifying shall not be exempted from prosecution and punishment for perjury committed in so testifying.

2. In case of failure or refusal on the part of any person to comply with the subpoena issued by the department, or in case of the refusal of any witness to testify as to any matter regarding which the witness may be interrogated, any court in the state, upon the application of the department, may issue an attachment for the person and compel the person to comply with the subpoena, and to attend before the department and produce the records, books, and documents for examination, and to give testimony. The courts may punish for contempt as in the case of disobedience to a like subpoena issued by the court, or for refusal to testify.

3. The department may appoint a hearing examiner or examiners to conduct hearings required by this chapter. When appointed, the hearing examiner may exercise all of the powers delegated to the department by this section.

[C66, 71, 73, 75, 77, 79, 81, §84.12; 82 Acts, ch 1199, §47, 96]
C93, §458A.12

458A.13 Reserved.

458A.14 Appeal to district court — procedure of appeal.

Judicial review of an action of the department may be sought in accordance with the terms of chapter 17A. Notwithstanding that chapter, petitions for judicial review may be filed in the district court of Polk county or in the district court of any county in which the property affected or some portion of the property is located.

[C66, 71, 73, 75, 77, 79, 81, §84.14; 82 Acts, ch 1199, §48, 49, 96]
C93, §458A.14

458A.15 Acquisition and handling illegal oil and gas prohibited — seizure of illegal oil and gas and sale thereof.

1. The sale, purchase, acquisition, transportation, refining, processing, or handling of illegal oil, illegal gas, or illegal product is prohibited. However, a penalty by way of fine shall not be imposed upon a person who sells, purchases, acquires, transports, refines, processes, or handles illegal oil, illegal gas, or illegal product unless:

a. The person knows, or is put on notice, of facts indicating that illegal oil, illegal gas, or illegal product is involved.

b. The person fails to obtain a certificate of clearance with respect to the oil, gas, or product where prescribed by order of the department, or fails to follow any other method prescribed by an order of the department for the identification of the oil, gas or product.

2. Illegal oil, illegal gas, and illegal product are declared to be contraband and are subject to seizure and sale; seizure and sale to be in addition to any other remedies and penalties provided in this chapter for violations relating to illegal oil, illegal gas, or illegal product. When the department believes that any oil, gas or product is illegal, the department acting by the attorney general, shall bring a civil action in rem in the district court of the county where the oil, gas, or product is found, to seize and sell the same, or the department may include an action in rem for the seizure and sale of illegal oil, illegal gas, or illegal product in any suit brought for an injunction or penalty involving illegal oil, illegal gas, or illegal product. Any person claiming an interest in oil, gas, or product affected by the action may intervene as an interested party in the action.

3. Actions for the seizure and sale of illegal oil, illegal gas, or illegal product shall be strictly in rem, and shall proceed in the name of the state as plaintiff against the illegal oil, illegal gas, or illegal products as defendant. No bond or similar undertaking shall be required of the plaintiff. Upon the filing of the petition for seizure and sale, the attorney general shall issue a notice, with a copy of the complaint attached thereto, which shall be served in the manner provided for service of original notices in civil actions, upon any and all persons having or claiming any interest in the illegal oil, illegal gas, or illegal products described in the petition. Service shall be completed by the filing of an affidavit by the person making the service, stating the time and manner of making such service. Any person who fails to appear and answer within the period of thirty days shall be forever barred by the judgment based on such service. If the court, on a properly verified petition, or affidavits, or oral testimony, finds that grounds for seizure and for sale exist, the court shall issue an immediate order of seizure, describing the oil, gas, or product to be seized and directing the sheriff of the county to take such oil, gas, or product into the sheriff's custody, actual or constructive, and to hold the same subject to the further order of the court. The court, in such order of seizure, may direct the sheriff to deliver the oil, gas, or product seized by the sheriff under the order to an agent appointed by the court as the agent of the court; such agent to give bond in an amount and with such surety as the court may direct, conditioned upon the agent's compliance with the orders of the court concerning the custody and disposition of such oil, gas, or product.

4. Any person having an interest in oil, gas, or product described in an order of seizure and contesting the right of the state to the seizure and sale thereof may, prior to the sale thereof as herein provided, obtain the release thereof, upon furnishing bond to the sheriff approved by the court, in an amount equal to one hundred fifty percent of the market value of the oil, gas, or product to be released, and conditioned as the court may direct upon redelivery to the sheriff of such product released or upon payment to the sheriff of the market value thereof as the court may direct, if and when ordered by the court, and upon full compliance with the further orders of the court.

5. If the court, after a hearing upon a petition for the seizure and sale of oil, gas, or product, finds that such oil, gas, or product is contraband, the court shall order the sale thereof by the sheriff in the same manner and upon the same notice of sale as provided by law for the sale of personal property on execution of judgment entered in a civil action except that the court may order that the illegal oil, illegal gas, or illegal product be sold in specified lots or portions and at specified intervals. Upon such sale, title to the oil, gas, or product sold shall vest in the purchaser free of the claims of any and all persons having any title thereto or interest therein

at or prior to the seizure thereof, and the same shall be legal oil, legal gas, or legal product, as the case may be, in the hands of the purchaser.

6. All proceeds derived from the sale of illegal oil, illegal gas, or illegal product, as above provided, after payment of costs of suit and expenses incident to the sale and all amounts paid as penalties provided for by this chapter shall be paid to the state treasurer and credited to the general fund.

[C66, 71, 73, 75, 77, 79, 81, §84.15; 82 Acts, ch 1199, §50, 96]

C93, §458A.15

Referred to in §331.653

458A.16 Penalties.

1. Any person who violates any provision of this chapter, or any rule or order of the department where no other penalty is provided is guilty of a simple misdemeanor.

2. If any person, for the purpose of evading this chapter, or any rule or order of the department, makes or causes to be made any false entry or statement in a report required by this chapter or by any rule or order, or makes or causes to be made any false entry in any record, account, or memorandum required by this chapter, or by any rule or order, or omits, or causes to be omitted, from any record, account, or memorandum, full, true, and correct entries as required by this chapter, or by any rule or order, or removes from this state or destroys, mutilates, alters, or falsifies any such record, account, or memorandum, the person is guilty of a fraudulent practice.

3. Any person knowingly aiding or abetting any other person in the violation of any provision of this chapter, or any rule or order of the department is subject to the same penalty as that prescribed by this chapter for the violation by the other person.

[C66, 71, 73, 75, 77, 79, 81, §84.16; 82 Acts, ch 1199, §51, 96]

C93, §458A.16

[P] Fraudulent practices, see §714.8 – 714.14

458A.17 Action to restrain violation or threatened violation.

1. If it appears that any person is violating or threatening to violate any provision of this chapter, or any rule or order of the department, the department shall bring suit against the person in the district court of any county where the violation occurs or is threatened, to restrain the person from continuing the violation or from carrying out the threat of violation. In the suit, the court has jurisdiction to grant to the department, without bond or other undertaking, the prohibitory and mandatory injunctions as the facts may warrant, including temporary restraining orders, preliminary injunctions, temporary, preliminary, or final orders restraining the movement or disposition of any illegal oil, illegal gas, or illegal product, any of which the court may order to be impounded or placed in the custody of an agent appointed by the court.

2. If the department fails to bring suit to enjoin a violation or threatened violation of any provision of this chapter, or any rule or order of the department, within ten days after receipt of written request to do so by any person who is or will be adversely affected by the violation, the person making the request may bring suit in the person's own behalf to restrain the violation or threatened violation in any court in which the department might have brought suit. The department shall be made a party defendant in the suit in addition to the person violating or threatening to violate a provision of this chapter, or a rule or order of the department, and the action shall proceed and injunctive relief may be granted to the department or the petitioner without bond in the same manner as if suit had been brought by the department.

[C66, 71, 73, 75, 77, 79, 81, §84.17; 82 Acts, ch 1199, §52, 96]

C93, §458A.17

458A.18 Mineral rights taxed separately.

All rights and interests in or to oil, gas or other minerals underlying land, whether created by or arising under deed, lease, reservation of rights, or otherwise, which rights or interests are owned by any person other than the owner of the land, shall be assessed and taxed separately to the owner of such rights or interests in the same manner as other real estate.

The taxes on such rights or interests which are not owned by the owner of the land shall not be a lien on the land.

[C66, 71, 73, 75, 77, 79, 81, §84.18]
C93, §458A.18

458A.19 Rate.

In order to pay the costs of assessment and collection and provide a reasonable minimum standard of taxation, the taxes on any such rights or interests not owned by the owner of the land, shall be not less than five cents per acre.

[C66, 71, 73, 75, 77, 79, 81, §84.19]
C93, §458A.19

458A.20 Tax sale — redemption by owner.

When any such rights or interests not owned by the owner of the land are sold at tax sale, and when the owner of such rights or interests does not redeem under the provisions of chapter 447 within ninety days after such tax sale, the owner of the land shall thereafter have the same right of redemption as the owner of such rights or interests has, and redemption by the owner of the land shall terminate all right of redemption of the owner of such rights or interests.

[C66, 71, 73, 75, 77, 79, 81, §84.20]
C93, §458A.20

458A.21 Lease of public lands.

The state, counties and cities and other political subdivisions may lease publicly owned lands under their respective jurisdictions for the purpose of oil or gas or metallic minerals exploration and production. Any such leases shall be entered into on behalf of the state by the executive council, on behalf of a county by the board of supervisors, on behalf of a city by the council and on behalf of another political subdivision by the governing body. The leases shall be upon terms and conditions as agreed upon.

Revenues derived from the leasing of state-owned lands shall be paid into the general fund of the state. Revenues derived from the leasing of other public lands shall be paid into the general fund of the respective lessor political subdivision.

[C39, §1360.10; C46, 50, 54, 58, 62, §84.10; C66, 71, 73, 75, 77, 79, 81, §84.21; 81 Acts, ch 41, §5]
C93, §458A.21
Referred to in §331.361, 331.427

458A.22 Duty to have forfeited lease released — affidavit of noncompliance — notice to landowner — remedies.

1. When any oil, gas, or metallic mineral lease given on land situated in Iowa and recorded, becomes forfeited by failure of the lessee to comply with its provisions or the Iowa law, the lessee shall, within sixty days after date of forfeiture of the lease, have the lease surrendered in writing, duly acknowledged, and placed on record in the county where the leased land is situated. If the lessee fails to execute and record a release of the recorded lease within the time provided for, the owner of the land may execute an affidavit of noncompliance in substantially the following form:

AFFIDAVIT OF NONCOMPLIANCE

State of Iowa)
County of) ss.

....., being first duly sworn, upon oath deposes and says that the deponent is as referred to in an (oil and gas) (metallic mineral) mining lease dated the day of (month), (year), which lease is recorded in Volume, Page, or as Instrument # of the County Records of County,

....., and which lease covers the following described lands:

And further, deponent says that on the day of (month), (year), under the terms of said lease, there should have been paid to the deponent or deposited to the deponent's credit in the Bank of the sum of Dollars (\$.....), the payment of which was necessary in order to keep the above described lease in force and effect. Deponent hereby swears the above payment has never been made to the deponent or the deponent's representatives, in money or otherwise, nor has same been deposited to the deponent's credit in the above bank.

And further, deponent says that there has been no drilling or development of any nature or kind whatsoever done on the land covered by the lease referred to herein, as called for under the terms of said lease.

Subscribed and sworn to before me, a Notary Public for the State of Iowa, this day of (month), (year)

Notary Public
My commission expires

AFFIDAVIT OF THE BANKER

State of)
County of) ss.

I,, (Cashier) (President) of the Bank of, being first duly sworn, upon my oath declare that there has not been deposited to the credit of in the Bank of, by or any other party, any sum of money whatsoever, in payment of rental under the terms of the (oil and gas) (metallic mineral) mining lease referred to in this affidavit.

Witness my hand this day of (month), (year)

(Cashier) (President) of Bank

Subscribed and sworn to before me, a Notary Public for the State of Iowa on the day of (month), (year)

Notary Public
My commission expires

2. The owner of the land shall retain the original affidavit and shall mail a copy of the affidavit by restricted certified mail, as defined in section 618.15, to the lessee. If the lessee, within thirty days after receipt of the affidavit, gives notice in writing, by restricted certified mail, to the owner of the land that the lease has not been forfeited and that the lessee still claims that the lease is in full force and effect, then the owner of the land shall be entitled to the remedies provided by this chapter for the cancellation of such disputed lease.

3. If the lessee does not notify the owner of the land as provided in subsection 2, then the owner shall file the original affidavit for recording with the county recorder, and thereafter the record of the lease shall not be notice to the public of the existence of the lease or of any

interest therein or rights thereunder, and the record shall not be received in evidence in any court of the state on behalf of the lessee against the lessor, and the lease shall stand forfeited.

[C39, §1360.06; C46, 50, 54, 58, 62, §84.6; C66, 71, 73, 75, 77, 79, 81, §84.22; 81 Acts, ch 41, §6, 7]

C93, §458A.22

2000 Acts, ch 1058, §56; 2006 Acts, ch 1031, §6

Referred to in §331.602

458A.23 Action to obtain release — damages, costs and attorney fees — attachment.

Should the owner of such lease neglect or refuse to execute a release as provided by this chapter, or contend lease is in full force and effect, then the owner of the leased premises may sue in any court of competent jurisdiction to obtain such release, and may also recover in such action the sum of one hundred dollars as damages, and all costs, together with a reasonable attorney fee for preparing and prosecuting the suit, and may also recover any additional damages that the evidence in the case will warrant. In all such actions, writs of attachment may issue as in other cases.

[C39, §1360.07; C46, 50, 54, 58, 62, §84.7; C66, 71, 73, 75, 77, 79, 81, §84.23]

C93, §458A.23

458A.24 Extension upon contingency — affidavit.

If a recorded lease contains the statement of any contingency upon the happening of which the term of any such lease may be extended, the owner of said lease may at any time before the expiration of the definite term of said lease file with said county recorder an affidavit setting forth the description of the lease, that the affiant is the owner thereof and the facts showing that the required contingency has happened, or the record of such lease shall not impart notice to the public of the continuance of said lease. This affidavit shall be recorded in full by the county recorder and such record together with that of the lease shall be due notice to the public of the existence and continuing validity of said lease, until the same shall be forfeited, canceled, set aside, or surrendered according to law.

[C39, §1360.08; C46, 50, 54, 58, 62, §84.8; C66, 71, 73, 75, 77, 79, 81, §84.24]

C93, §458A.24

Referred to in §331.602

458A.25 Liens for labor or materials and of contractor and subcontractor — manner of perfecting liens — enforcement of liens.

Provisions of chapter 572 as to mechanic's liens or labor and materials furnished for improvements on real estate and of contractors and subcontractors, shall apply to labor and materials furnished for gas or oil wells, or pipe lines, and such liens shall not attach on the real estate, but shall attach to the whole of the lease held, and upon the gas or oil wells, buildings and appurtenances and pipe lines for which said labor or materials were furnished, and shall be perfected and enforced as provided by said chapter.

[C39, §1360.09; C46, 50, 54, 58, 62, §84.9; C66, 71, 73, 75, 77, 79, 81, §84.25]

C93, §458A.25