



UAE

Oil & Gas

1. What department/agency regulates oil and gas extraction - what are the main laws which apply?

The UAE operates as a federation of seven emirates. Under the UAE constitution, the natural resources of each emirate, including oil and gas, are the public property of each emirate, and each emirate is empowered to create its own regulatory body to oversee the exploitation of these resources within its borders. While the Ministry of Energy works to develop policies and legislation for the energy sector, ultimate control over oil and gas resources lies with the ruler of the emirate where the resources are located. As Abu Dhabi holds roughly 94% of the UAE's estimated 97.8-billion-barrel oil reserve, this will focus solely on the federal, local and international laws applicable to the oil and gas industry in Abu Dhabi.

There are two related entities regulating petroleum and gas exploration in Abu Dhabi: (i) the Supreme Petroleum Council (the SPC); and (ii) the Abu Dhabi National Oil Company (ADNOC). Abu Dhabi Law No. 1/1988 established the SPC as the authority responsible for overseeing petroleum activities and implementing oil and gas policies in Abu Dhabi. The council also operates as the board of directors for ADNOC. ADNOC was established under Abu Dhabi Law No. 7/1971 as a corporate entity for conducting business in the oil and gas industry. Today, ADNOC implements SPC policy and manages oil and gas operations through its various subsidiaries.

Abu Dhabi Law No. 8/1978 outlines the standards a company must follow when preparing to extract oil. These provisions include, but are not limited to, approval to drill, protections to ensure the longevity of oil wells, and actions required in the event of an accident.

2: What are the international laws those working in this jurisdiction need to consider?

UAE Federal Law No. 24/1999, the Environmental Law, provides for the protection of waters and the discharge of waste and pollutants in accordance with UAE obligations under international treaties the UAE has ratified. Treaties include the Basel Convention on Hazardous Waste; the Convention on Marine Pollution by Dumping Wastes and Other Matter; the Convention on Biological Diversity; the Convention to Combat Desertification; the Kyoto Protocol on Climate Change; the Montreal Protocol on Substances that Deplete the Ozone Layer; and the Paris Agreement under the United Nations Framework Convention on Climate Change.

3: What are the licensing procedures for carrying out different oil and gas extraction processes?

There is no comprehensive regime for obtaining a license to extract oil or gas in Abu Dhabi. In practice, Abu Dhabi grants concessions to state controlled companies (typically ADNOC) and these state controlled companies either operate independently or form subsidiary joint ventures with international oil companies that maintain a minority ownership interest.

For example, ADNOC subsidiaries ADNOC Onshore and ADNOC Offshore, dominate the oil and gas extraction market (both onshore and offshore) and are both majority controlled by ADNOC with a minority interest held by various international oil companies.

The terms of these concessions are confidential and unavailable to the public.

4: Is there any appeal process if licenses are denied?

The granting of a concession is ultimately at the discretion of the emirate and the relevant agencies. This process is not reviewable.

5: Is a national partner or government body required to be involved?

Practically speaking, a national partner is always involved in any concession. Additionally, Abu Dhabi Law No. 4/1976 grants ADNOC the right to exploit all gas extracted or produced from oil and gas wells and requires 51% ADNOC ownership in any joint venture for the exploitation of gas.

6: What checks/monitoring is carried out on extraction equipment?

Article 5 of Abu Dhabi Law No. 8/1978 provides that entities authorised to carry out petroleum operations in the UAE must periodically submit reports, data, and information on its operations to the regulatory body (currently ADNOC acting on behalf of SPC). Additionally, this regulatory body has right to inspect sites and review any and all documents related to these operations.

7: What checks/monitoring is carried out on extracted oil and gas?

The authorities can inspect oil and gas at its discretion.

8: Who holds title on oil and gas reservoirs?

Oil and gas reservoirs are the property of each emirate and access to these reservoirs is provided in the form of concessions.

9: Is the position different for offshore, surface, or subsurface extraction?

The emirate controls these natural resources whether they are on land, underground, or under water. Practically speaking, the difference revolves around which ADNOC subsidiary would be contacted regarding potential joint venture opportunities.

10: Are there any specific restriction rules governing the ownership of pipelines?

Each emirate individually regulates the ownership and construction of pipelines and owns the land on which these pipelines operate. Under Abu Dhabi Law No. 4/1976, ADNOC is entitled to exploit all gas extracted in Abu Dhabi and facilitates the processing and transportation of gas through its subsidiary,

ADNOC Gas Processing, which operates a network of pipelines. The UAE imports gas through the Dolphin Gas Project (a Qatari, UAE, Omani company with 51% ownership held by Mubadala Development Company on behalf of Abu Dhabi) which operates a gas pipeline transporting gas from Qatar to the UAE. Additionally, ADNOC Refining operates an enormous network of pipelines for the delivery of refined oil to ADNOC subsidiaries and for exportation.

While each emirate ultimately determines whether to grant a permit to construct or operate a pipeline, additional approval is needed at federal level from the Ministry of Petroleum and the Ministry of the Environment and Water.

11: Are there any restricted areas where extraction is not allowed?

Extraction is only permitted if the government has provided a concession to operate.

12: Are there any restricted extraction practices?

There are no extraction practices explicitly prohibited and ADNOC currently utilises hydraulic fracturing at some of its sites.

13: Are there any specific environmental laws which need to be considered by those operating in the oil and gas sectors?

The UAE has a framework of environmental protections at both a federal and local level. Federal Law No. 24/1999 provides several requirements that a business must adhere to before beginning operations, including an environmental impact assessment (Article 4); obligations to protect the environment when a business has begun operations (Chapter 2); and penalties a business must pay in the event of environmental damage (Chapter 2 and Article 24).

Abu Dhabi Law No. 8/1978 provides several additional local environmental protections which businesses operating in Abu Dhabi must follow. For example, Article 56 requires that businesses take all necessary precautions to prevent air and water pollution and remedy any pollution that occurs.

14: How are oil/gas firms regulated - do they need to have specific capital, professional status, ownership credentials?

There is no comprehensive regulatory regime for determining eligibility to operate as an oil or gas company. Companies are required to apply to the Abu Dhabi Department of Economic Development to obtain a license and receive approval to operate from the Abu Dhabi Chamber of Commerce.

15: Is there any specific regulation over accreditation firms involved as sub-contractors in oil/gas business?

Whether subcontracting is permitted and under what terms is likely dependent on the terms of the concession grant.

16: Are royalties paid to the government?

Abu Dhabi receives income from the exploitation of oil and gas through the equity it holds in the corporate

entities extracting these resources, and through the taxation of income derived from their business operations. Article 6 of the Abu Dhabi Tax Decree 1965 states that those dealing in oil and gas will be taxed at 55% of income minus any tax credits the business receives from the Abu Dhabi government.

17: How does the royalty process work for oil and gas?

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18: What other taxes are levied on the production and sale of oil and gas products?

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19: Are any environmental taxes levied on the production and sale of oil and gas products?

There are no direct or indirect environmental taxes levied on oil and gas products.

20: How long are licenses/concession? Can they be renewed?

Abu Dhabi does not grant concessions for a standardised length of time, but does grant concession renewals. For example, in March 2018, Qatar Petroleum renewed a concession with Abu Dhabi for the El Bunduq oil field.

21: In offshore production - how far does the seaward regime operate?

It is unclear how far the seaward regime extends. However, the ADNOC controlled Zakum Development Company operates the Upper Zakum Oilfield 84km off the coast of Abu Dhabi.

22: How is transportation regulated - onshore and offshore - are permits required?

Permission to construct or access pipelines necessary for the transportation of oil or gas is at the discretion of the emirate. Laws related to accessing oil ports can be found in Abu Dhabi Law No. 12/1973.

23: How do you obtain rights to construct pipeline or storage facilities for oil and gas?

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24: Can pipeline or storage facility owners be required to allow other producers to use their facilities?

There are no regulations in place explicitly granting other producers the right to use these facilities. However, similar provisions can be included in a concession agreement.

25: What specific health and safety rules apply to the industries?

In Abu Dhabi, Article 3 of Abu Dhabi Law No. 8/1978 requires that entities authorised to carry out petroleum activities should take all necessary steps to prevent risks which may threaten life, health, property, or the natural resources of the emirate. Additionally, Article 4 requires that permitted entities use machinery, equipment and materials in compliance with International Standard Specifications.

26: Is certification required for specific areas of production?

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27: How does Emiratisation and preference for local workers work in the oil/gas industry?

UAE Federal Law No. 8/1980 governs the employment of UAE nationals in the private sector and requires that UAE nationals be given priority in hiring. UAE Federal Law No. 8/1980 also provides that a business can only employ non-national employees if there are no available national persons capable of doing the work required.

28: Do foreign workers need specific qualifications/accreditation?

Although workers are not required to have specific accreditation, the law prohibits employers from hiring foreign employees if there are available nationals capable of doing the work required.

29: Are there specific rules governing the sale and marketing of oil and gas products produced in this jurisdiction?

The Ministry of Energy has authority over the price of oil and gas in the UAE. The ministry deregulated fuel prices in 2015 and adopted a pricing policy linked to global prices.

30: How does price setting operate for oil/gas sales and oil/gas distribution - are there mandatory requirements?

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31: Are there any specific competition rules which apply in the oil and gas sectors?

UAE Federal Law No. 4/2012, the Competition Law, provides the foundation for anti-competitive regulation. However, as regulated industries, oil and gas entities are exempt from Federal Law No. 4/2012, the Competition Law.

32: Are there any specific rules on the ownership structure of oil and gas companies?

ADNOC or a similar state controlled entity will inevitably have a controlling interest in any oil or gas company operating in Abu Dhabi.

33: Does oil and gas regulation differ inside free zones?

The relevant laws still apply in Abu Dhabi freezones. Additionally, due to the ownership structure requirements of oil and gas companies in Abu Dhabi, it is generally not possible for oil and gas companies to be granted approval to operate in freezones.

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