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## Chapter 1

# Introduction to Sulphur Production

### Definition

Sulphur, also spelled as “sulfur” is a nonmetallic, odorless, tasteless chemical element, insoluble in water, having the Periodic Table atomic symbol of “S”. Sulphur may appear as a gas, liquid, or solid. As a mineral, sulphur appears as a pale yellow, brittle crystalline form, which is known as “native sulphur.” When the element is burned, it produces the familiar smell of sulphur (rotten egg smell). If sulphur is combined with other metallic elements, it forms a “sulfide” such as iron sulfide (fool’s gold). If sulphur is combined with other metallic elements and oxygen, it becomes a “sulfate” such as gypsum (hydrous calcium sulfate).

Sulphur (Sanskrit, *sulvere*; Latin, *sulphurium*) was known to the ancients, being referred to as brimstone in the Bible (Genesis). Homer mentioned “pest-averting sulfur” in the 9th century BC. Sometime in the 13th century, the Chinese invented gunpowder, which is a mixture of potassium nitrate, carbon, and sulfur. In the late 1770s, Antoine Lavoisier helped convince the scientific community that sulfur was an element and not a compound.

The United States is the greatest producer of sulphur primarily from buried salt domes where it accumulates in the cap-rock. Hot water is pumped down one pipe to dissolve the sulphur, and returned up another, the Frasch process.

Sulphur is found near hot springs, in volcanic regions, and in salt domes. Sulphur also occurs in natural gas and petroleum crudes and must be removed from these products.

Among its many uses sulphur is a component of black gunpowder, is used in the vulcanization of natural rubber, used as a fungicide and insecticide, and used to make

fertilizers. In addition, sulphur is used to produce sulfuric acid for batteries and it is used in fireworks, paper, and some medicines. Sulphur dioxide is a cheap and excellent refrigerant, and was once widely used in home refrigerators before it was replaced by the freons. The only problem was its irritating nature. The freons are nontoxic and noninflammable, but are now forbidden because of the damage that the chlorine does to the ozone layer.

Carbon disulfide, hydrogen sulfide, and sulphur dioxide should be handled carefully. Hydrogen sulfide in small concentrations can be metabolized, but in higher concentrations it quickly can cause death by respiratory paralysis. It quickly deadens the sense of smell. Sulphur dioxide is a dangerous component in atmospheric air pollution.

This manual has been written for the auditor. It is to be used as a training tool and as a reference guide. Any schedules included in the manual are for illustration purposes only and are not to be construed as the accepted format. Audit exams/schedules will need to be tailored to the audit situations encountered and to the auditors’ needs.

Users of this manual are responsible for any changes that occur after the printing or posting of the manual. Before relying on this information, all users should verify the current status of any information by contacting the Comptroller of Public Accounts. Call toll-free: (800) 252-5555. The regular number in Austin is: 512-463-4600.

To order copies of this manual call 800-531-5441, ext. 3-3900.

**Disclaimer:** This manual has been written for the purposes of a training tool and as a reference guide for the auditor. Any references to taxability, administrative policies, laws, and rules are subject to change due to administrative hearings and actions of the courts or legislature. While the content of the manual is current as of the revision date, the reader is responsible for any changes occurring after this date and should verify the current status of any information by contacting the Comptroller of Public Accounts toll free at 800-252-5555.

## Recovery

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Recovery of sulphur is done in three basic ways:

- Mined through the use of wells drilled to sulphur deposits and worked with the “Frasch” method; (See Diagram)
- Extracted from the oil or gas stream at a processing plant;
- Scraped from the surface of the earth or dug out of open pits.

These three recovery methods will be discussed in detail.

## Mining

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The largest source of sulphur in Texas today is through mining operations. Wells are drilled to the deposits of sulphur 300 to 2000 feet underground. These sulphur deposits are in a solid state and cannot be pumped out. The Frasch method, developed by Herman Frasch of Canada, must be used to recover these deposits. This process consists of circulating superheated hot water and steam through the well melting the sulphur. Then, compressed air is forced into the well, pushing the liquid sulphur up to the surface. This allows the recovery of the sulphur at the surface, where it is metered, cooled, and solidified. The Frasch method is the most widely used method in sulphur production in Texas today. A diagram of a typical [mining operation](#) and a close-up of the [Frasch method](#) are found at the end of this chapter.

## Extraction

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The second largest source of sulphur in Texas is through extraction from sour crude oil. Sour crude oil is defined as crude oil containing sulphur. During the early 1900s, sour crude had been considered almost unusable because of its odor and poor burning characteristics. Herman Frasch developed a method for using sour crude to make kerosene. Today, since unleaded gasoline for automobiles is mandated for air pollution reasons, oil refiners have been forced to install sulphur extraction units in order to remove the sulphur from the crude oil in order to produce unleaded gasoline.

Extraction of sulphur from natural gas is another source for sulphur. Sour gas is defined in the Gas Production Tax Statute, Sec. 201.001 (8) as “gas with more than 1-1/2 grains of hydrogen sulfide per 100 cubic feet or more than 30 grains of sulphur per 100 cubic feet.” The natural gas is sent to a processing plant where the hydrogen sulfide (sulphur) is extracted and where sweet (marketable) gas remains. A method called the “Claus Process” is used to convert the sulphur compounds in sour gas to elemental sulphur. This process, invented by English scientist C. F. Claus, is now the most widely used method for extraction of sulphur from sour gas.

When the refiner or processing plant produces sulphur, it may be in a solid state (less than 238 degrees Fahrenheit) or in a molten state (greater than 238 degrees Fahrenheit). The plant may convert molten sulphur to a solid state by storing it and letting it cool to a solid and then load it onto ships, barges, or railroad cars. If the plant does not convert the molten sulphur to a solid, the liquid sulphur is pumped directly to railroad cars, ships, or barges, which are heated and insulated to maintain the sulphur in a molten state.

## Scraping/Digging

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In Texas scraping and digging of the sulphur from the ground is still continued near the Gulf Coast where deposits of sulphur are found at or near the surface. These deposits of native sulphur are being depleted, and this method is now the smallest source of sulphur in Texas.

## Measurement

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Sulphur is generally measured in its solidified state in “long tons”.

1 Long Ton = 2,240 lbs.

If sulphur is in a molten state, it must be converted to long tons for tax purposes. See Chapter 2 for details on converting measurements.

## Chapter 2

# General Information

### Introduction

The tax on sulphur production originated in 1923. The monies raised from this tax are appropriated in the following manner:

- 25% to the Foundation School Fund, and
- 75% to the General Revenue Fund

Currently, there are twenty-seven active taxpayers filing sulphur production reports, most being located in the Houston and Dallas-Fort Worth areas. Some taxpayers are headquartered outside Texas, primarily in Oklahoma.

This tax is imposed on each individual, partnership, corporation or other organization who owns, controls, manages leases or operates a sulphur mine, well or shaft or who produces sulphur by any other method system or manner.

The tax is due on sulphur that is produced in the state of Texas. The tax is not due on the sale of sulphur - but on the production of sulphur. The tax rate is \$1.03 per long ton or partial long ton (as partial tons are rounded up to the next whole ton).

Sulphur production tax is tax code 20. Reports are due on the last day of the month following the end of a quarter. This due date has been in effect since September 13, 1983, when it was changed by administrative rule. Please note: the due date referenced in the Statute has not been updated.

(There is a due date chart provided in this manual – See Chapter 5.)

The taxpayer must file a report whether or not there is tax due on a report.

On the tax report total long tons of sulphur produced is reported. Long tons = 2,240 lbs. A normal ton = 2000.

**Note:** The conversion factor to use for converting normal to long is .892857 (2000/2240). All fractions of tons should be rounded up to the next whole ton on the report.

The actual report form can be found on the [Comptroller's website](#).

### Additional 50% Penalty

Effective for audits started on or after September 1, 1989, an additional penalty of 50 % of the amount due may be assessed. Section 111.061 of the State Taxation – Collection Procedures allows for this additional 50% penalty if:

1. The failure to pay the tax or file a report when due was a result of fraud or an intent to evade the tax; or
2. The taxpayer alters, destroys, or conceals any record, document, or thing, or presents to the comptroller any altered or fraudulent record, document, or thing, or otherwise engages in fraudulent conduct, for the apparent purpose of affecting the course or outcome of an audit, investigation, redetermination, or other proceeding before the comptroller.

This penalty is in addition to any penalty previously mentioned (Sec. 203.101).

### Exempt Royalty

Although the statute for sulphur production tax, which is really an occupation tax, does not specifically detail any exemptions, deductions are allowed for exempt royalties. The deductions would consist of royalty interests of:

- The State of Texas
- Cities, towns or, villages of Texas
- Counties of Texas
- Independent school districts in Texas
- State-supported colleges and universities

The basis for these deductions comes from **Texas Attorney General Opinion Number 0-476**, dated May 18, 1939. Briefly, this opinion stated that the state cannot impose an occupation tax upon itself. The opinion further stated that the entities listed above are considered to be part of the State of Texas, thus exempt.

**NOTE:** There is not any exemption for royalty interests of churches or charitable institutions.

# Chapter 3

## Audit Procedures

### Pre-Audit Research and Review

This chapter covers some of the activities that will be helpful when conducting these audits. This chapter is by no means meant to be exhaustive or exclusive.

#### Terminal Inquiries

The following terminal inquiries are available on the CICS system. These are inquiries that may prove useful and provide information on your specific taxpayer identification number. Inquiries on related entities may also provide information on outlet locations and business activities pertinent to your audit.

- XICOLL.taxpayer #.tax type. - displays period and audit collection balances, both open and closed.
- MTSUMM.taxpayer #. - displays master inquiry and summary status for all applicable taxes, indicating the taxes the taxpayer is currently set up for on the system
- MTBALS.taxpayer#. - displays the current outstanding tax balance.
- XIXREF.taxpayer#. - cross-references assigned refunds and successor/predecessor liabilities.
- XIREFS.taxpayer#.tax type.sub-type#. - displays refunds for a specified period.
- MTIGDI.taxpayer#. - displays multi-tax document index transactions by taxpayer.
- LISUMM.indicator.case id or bankrupt id. - displays bankruptcy summary information.
- NAMNUM.search code.exactness code.zip code.taxpayer name. - displays name vs. number.
  - Search Code:
    - 1 - Personal
    - 2 - Business
    - 3 - Bond Company
  - Exactness Code
    - 1 - Personal Code Match
    - 2 - Narrow Search
    - 3 - Wide Search

### Audit History

The Audit History is a computer-generated summary of all transactions relating to a particular tax account. Each report filed by a taxpayer becomes a part of the history. The Audit History is divided into the following sections:

- Summary Page
- Report Information
- Data Information
- Payment Information
- Collection Information
- Status of Refund Claims

The history information in the *Auditing Fundamentals Manual* is also applicable to Sulphur Production. An audit should not be started without a current Audit History. As with all other taxes, an Audit History for the Sulphur Production Tax is requested via XIRPTS on the CICS System.

**Summary Information Page, Example**

Besides useful taxpayer information, prior audit information would be listed on this page.

PROGRAM: T00141	COMPTROLLER OF PUBLIC ACCOUNTS		DATE:	3/10/04	
	SULPHUR PRODUCTION TAX		PAGE:	1	
REQUESTED BY: AUDITOR, IMA	TAXPAYER HISTORY FROM 031 TO 034 034				
SUMMARY INFORMATION					
TAXPAYER #: 12345678903	PHONE NUMBER:		713 - 123-4567		
ABC SULPHUR, INC.	SEC ADDRESS :		NO		
123 MAIN STREET	CNTY/ST CODE :		HARRIS		
HOUSTON TX 77250	FIELD OFFICE :		2H36		
LAST REPORT FILED: 034	ACCOUNT STATUS:		QUARTERLY - 934		
OPEN LIABILITIES: 0	FIRST BUS DATE:		12/01/1993		
OPEN CREDITS: 0	OOB DATE:				
OPEN NON-FILERS: 0	ORGANIZATION TYPE:		FRGN PROFIT CORP - OOS		
TOTAL NON-FILERS: 0	PAYEE HOLD WAIVED:		NO		
NUMBER HOT CHECKS: 0	MGMT HALT STATUS:		NO MGMT HALT		
PRIORITY FLAG: NO	SECURITY STATUS:		BOND NOT POSTED		
PPA: NO	BANKRUPT STATUS:		NO		
LIENS: 0	CHAPTER TYPE:				
JUDGEMENTS: NO	BAR DATE:				
BART/VDA ASSIGNMENT: NO	BANKRUPTCY CONFIRMATION DATE:				
AUDIT OFFICE:	BANKRUPT STATUS:		NO		
AUDITOR:	CHAPTER TYPE:				
AUDIT TYPE:	BAR DATE:				
AUDIT REASON:	BANKRUPTCY CONFIRMATION DATE:				
	PRIOR AUDIT	PRIOR AUDIT	PRIOR AUDIT	PRIOR AUDIT	PRIOR AUDIT
AUDIT TYPE					
PERIOD	TO	TO	TO	TO	TO
AMOUNT					
HOURS SPENT					
ERROR CODES					
AUDIT OFFICE					
AUDITOR					
ASSESSED TAX					
REPORTED TAX					

The Report Information section will list any “Estimated Returns,” “Non-Filer Returns,” “Late Returns,” “Valid Judgment Periods,” or “Valid Certification Periods” during the requested period. An “X” will appear in the applicable period and category. XIDATA or XIPMTS inquiries on

CICS should be run to ensure that there were not any amended returns during the period. The DUE DAY inquiry can be used to determine the correct due date for a report period. Returns should not be considered late if no Taxable Gallons were reported (“zero returns”).







**Data Information, Example**

The Data Information will list the “Total Long Tons,” “Taxable Tons,” “Tax Rate,” and “Tax Due” by period. In addition, the “Postmark Date” for the report filed will be listed. The auditor should examine all reported amounts

for any fluctuations that appear to be unusual. These fluctuations may indicate a change in personnel, accounting procedures, or internal control. These fluctuations need to be considered when choosing periods for preliminary testing or sampling.

PROGRAM: T20140	COMPTROLLER OF PUBLIC ACCOUNTS				DATE: 3/10/04
	SULPHUR PRODUCTION TAX				PAGE: 3
REQUESTED BY: AUDITOR, IMA	TAXPAYER HISTORY FROM 031 TO 034				
	DATA INFORMATION				
	PRIOR AUDIT	PRIOR AUDIT	PRIOR AUDIT	PRIOR AUDIT	PRIOR AUDIT
AUDIT TYPE					
PERIOD	TO	TO	TO	TO	TO
AMOUNT					
HOURS SPENT					
ERROR CODES					
AUDIT OFFICE					
AUDITOR					
ASSESSED TAX					
REPORTED TAX					
A=AMENDED PERIOD					
E=ESTIMATED PERIOD					
T=TRANSFERRED OUT					

**Payment Information, Example**

This report lists the postmark dates and types of payments made during each period. Sulphur Production Tax is due on a quarterly basis.

PERIOD	PMK DATE	PAYMENT DESC	AMOUNT	XFER TAX	XFER PER	XFER TP#	CANCEL DATE	CANCEL REF
PROGRAM: T00145								
COMPTROLLER OF PUBLIC ACCOUNTS								
SULPHUR PRODUCTION TAX								
DATE: 3/10/04								
REQUESTED BY: AUDITOR, IMA								
TAXPAYER HISTORY FROM 031 TO 034 034 034 034								
PAYMENT INFORMATION								
TAXPAYER #: 12345678903								
TAXPAYER NAME: ABC SULPHUR, INC.								
031	4/30/03	LC-REPORT PAYMENT	3,700.79					
		TOTAL	3,700.79					
032	7/30/03	LC-REPORT PAYMENT	3,712.12					
		TOTAL	3,712.12					
033	10/31/03	LC-REPORT PAYMENT	3,717.27					
		TOTAL	3,717.27					
034	1/30/04	LC-REPORT PAYMENT	3,739.93					
		TOTAL	3,739.93					
		GRAND TOTAL	14,870.11					

**Collection Information, Example**

This section of the Audit History lists any collection activity for the taxpayer during the requested period for **all** taxes.

PERIOD	AUD #	TAX DUE	PENALTY DUE	INTEREST DUE	BALANCE DUE	DESCRIPTION
PROGRAM: T00148						
COMPTROLLER OF PUBLIC ACCOUNTS				DATE: 3/10/04		
TAXPAYER HISTORY FROM 031 TO 034				PAGE: 5		
REQUESTED BY: AUDITOR, IMA				COLLECTION INFORMATION		
TAXPAYER #: 12345678903						
TAXPAYER NAME: ABC SULPHUR, INC.						
FRANCHISE TAX - TAX CODE 13:						
99- 02	001	.00	.00	60,577.89	60,577.89	UNDERPAID AUDIT - B
					CANNOT COMPUTE	RETURN NOT DUE
LIMITED SALES, EXCISE, AND USE TAX - TAX CODE 26:						
0402		.00	.00	.00	CANNOT COMPUTE	RETURN NOT DUE
DIRECT PAYMENT SALES TAX - TAX CODE 27:						
9601 - 9709	001	.00	.00	.00	0.00	PAID AUDIT - A
9710 - 9912	001	.00	.00	.00	0.01	PAID AUDIT - A
0402		.00	.00	.00	CANNOT COMPUTE	RETURN NOT DUE
GASOLINE TAX - TAX CODE 90 - 06:						
0312		.00	.00	.00	0.00	UNDERPAID RETURN
0402		.00	.00	.00	CANNOT COMPUTE	RETURN NOT DUE
*** END OF COLLECTION INFORMATION ***						



## Records To Be Examined

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Generally, the records to be examined consist of:

- Production reports
  - These reports may be maintained on a daily, weekly, monthly, or quarterly basis by the taxpayer
  - Production reports should show the quantity of sulphur produced within the given time period by whatever methods are used by to recover the sulphur
  - Production reports may be maintained in pounds, tons, or long tons – any mathematical calculations need to be verified
  - If production reports are not available or are incomplete, then:  
Sales for the period + inventory on hand =  
Production
- Inventory records
  - These records should show the quantity of sulphur in storage at any given time, detailing increases and decreases to the inventory
- Sales records
  - Invoices
  - Purchase orders
  - Shipping documents
  - Sales ledger
  - Beginning inventory + production – ending inventory = sales
- Texas Railroad Commission Form R-3
  - If the taxpayer is extracting sulphur from natural gas, this form is required to be filed with the Texas Railroad Commission
  - This form lists in Section IV “Production of Sulphur form processing natural gas \_\_\_\_\_ tons.” The taxpayer may list production in either normal tons (2,000 lbs.) or long tons (2,240 lbs.). The auditor needs to verify this. An example of this form is included later in this chapter.
- Texas General Land Office Form GLO-2
  - If sulphur is mined from any lands on which there is an exempt royalty (state-owned lands), this form is required to be filed with the Texas General Land Office. This form states “All weights in 2000 lb. tons unless otherwise specified.” The auditor must verify this.
  - An example of this form is included later in this chapter.
- Federal Energy Regulatory Commission (FERC) Form 2 (large producer or Form 2A (small producer)
  - If the taxpayer sells natural gas in interstate commerce and falls under the Federal Energy Regulatory Commission jurisdiction, this form is required to be filed. This form will indicate any production and sales of sulphur.

### Railroad Commission of Texas Form R-3, Example Monthly Report For Gas Processing Plants (Example)

RAILROAD COMMISSION OF TEXAS Oil and Gas Division PO Box 12967 Austin, Texas 78711-2967	<b>MONTHLY REPORT FOR GAS PROCESSING PLANTS</b>	<b>R-3</b> REV. 10/00	
OPERATOR NAME _____ COUNTY _____ PLANT/SYSTEM _____ SERIAL NO. _____ OPERATOR ADDRESS _____ NAME _____ FIELDS _____ OPERATOR P-S NO. _____ TYPE PLANT _____ R-S PLANT AVG INTAKE CAPACITY _____		<input type="checkbox"/> CORRECTED REPORT <input type="checkbox"/> FINAL REPORT	
REPORT FOR (month) _____			
PHYSICAL LOCATION For initial R-3 or changes (street address or distance & direction from nearest named major intersection): _____ REPORT ALL GAS VOLUMES IN MCF AT 14.65 PSIA PRESSURE AND 60° FAHRENHEIT IN ACCORDANCE WITH GAS MEASUREMENT LAW.			
<b>SECTION I: Intake Volumes (MCF monthly)</b>	<b>GAS WELL GAS</b>	<b>CASINGHEAD</b>	<b>TOTAL</b>
1. NO. OF WELLS PRODUCED _____			
2. GAS INTO GATHERING SYSTEM _____			
3. DELIVERIES FROM GATHERING SYSTEM _____			
4. GATHERING SYSTEM TO PLANT FOR PROCESSING _____			
5. PLANT INTAKE - FROM PLANT METERS _____			
6. LOSS OR GAIN - DIFF. BETWEEN LINES 4 & 5 _____			
7. REFINERY AND STORAGE VAPORS _____			
8. GAS FROM OTHER PROCESSING PLANTS _____			
9. GAS FROM MAIN TRANSMISSION LINE _____			
10. GAS WITHDRAWN FROM STORAGE _____			
11. GAS IMPORTED FROM OTHER STATES _____			
12. NET GAS TO PLANT FOR PROCESSING _____			
<b>SECTION II: Disposition of Unprocessed Gas from Gathering System (MCF monthly)</b>	<b>GAS WELL GAS</b>	<b>CASINGHEAD</b>	<b>TOTAL</b>
1. FUEL SYSTEM AND LEASE USE _____			
2. GAS LIFT _____			
3. REPRESSURING & PRESSURE MAINTENANCE _____			
4. CYCLED _____			
5. UNDERGROUND STORAGE _____			
6. OTHER PROCESSING PLANTS _____			
7. CARBON BLACK PLANTS _____			
8. TRANSMISSION LINE _____			
9. VENTED _____			
10. TOTAL _____			
<b>SECTION III: Disposition of Residue Gas (MCF monthly)</b>			
1. EXTRACTION LOSS _____	7. REPRESS & PRESS MAINT _____	13. VENTED _____	
2. H <sub>2</sub> S LOSS _____	8. CYCLED _____	14. METER DIFFERENCE _____	
3. CO <sub>2</sub> LOSS _____	9. UNDERGROUND STORAGE _____	15. WATER _____	
4. PLANT FUEL _____	10. CARBON BLACK PLANTS _____	16. NITROGEN LOSS _____	
5. LEASE FUEL & USE _____	11. OTHER PROCESS. PLANTS _____		
6. GAS LIFT _____	12. TRANSMISSION LINE _____		
		<b>TOTAL (LINES 1-16)</b>	
<b>SECTION IV: Sulfur and CO<sub>2</sub> Recovery</b>			
PRODUCTION OF SULFUR FROM PROCESSING NATURAL GAS _____	TONS _____	CO <sub>2</sub> _____	MCF _____
<b>SECTION V: Plant Liquid Hydrocarbon Production (barrels monthly)</b>			
1. CONDENSATE FROM GAS WELL GAS _____	2. SCRUBBER OIL FROM CASINGHEAD GAS _____		
3. PLANT CONDENSATE _____	6. PROPANE _____	9. ETHANE _____	
4. GASOLINE _____	7. BUTANE-PROPANE MIX _____	10. _____	
5. BUTANE _____	8. ISO-BUTANE _____	11. TOTAL _____	
<b>SECTION VI: Detail Scrubber Recovery. Only for identifiable slugs NOT returned.</b>			
SOURCE OF SCRUBBER/CONDENSATE SLUGS NOT RETURNED	NO. OF GAS WELLS	NO. OF OIL WELLS	BARRELS
	<b>TOTAL</b>		

(Use Attachment if Necessary)







**General Land Office of The State of Texas Form GLO-2, Example  
Gas Production Royalty Report (Example)**

**GAS PRODUCTION/ROYALTY REPORT GLO-2 (Revised 06-01-2003)**

PRODUCTION MONTH-YEAR: M M Y Y Y Y STATE LEASE # \_\_\_\_\_

Original Report  Amended Report

TYPE OF REPORT:  Non-unitized  Unit  Tract

Unit # \_\_\_\_\_ Tract # \_\_\_\_\_

BAN - \_\_\_\_\_ Date Prepared/Submitted - Report # \_\_\_\_\_

This Report DLN: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ - \_\_\_\_\_

Report Being Amended DLN: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ - \_\_\_\_\_

Reporting Company Name \_\_\_\_\_ Field Name(s) \_\_\_\_\_

Reporting Company Tax ID \_\_\_\_\_

Are you reporting all (8/8ths) lease/unit gas dispositions?  Yes  No

Are your volumes based on entitlements?  Yes  No

Operator Tax ID \_\_\_\_\_

Purchaser Tax ID \_\_\_\_\_

Royalty Payer Tax ID \_\_\_\_\_

Prepared By/Phone # \_\_\_\_\_

E-Mail Address \_\_\_\_\_

Oil RRC Number Dist-Lease # \_\_\_\_\_

Gas RRC Number Dist-Well ID # \_\_\_\_\_

Gas RRC Number Dist-Well ID # \_\_\_\_\_

Formation Production Volume (whole mcf) \_\_\_\_\_

Non-Formation Production Volume (whole mcf) \_\_\_\_\_

Check if reporting additional RRC numbers on a separate page.

DISPOSITIONS - ROYALTY DUE / VALUATION				
Disposition Code*	Royalty Due (whole mcf)	Unit Value/MMBTU (up to six decimal places)	BTU (up to six decimal places)	A Gross Value (two decimal places)
1A				
1B				
2				
3A				
3C				
4				
5				
6				
7				
9				
10				
8				

Natural Gas Liquids/Products			
Volume (whole Gallons)	Code**	Unit Value (up to six decimal places)	B Gross Value (two decimal places)
	1		
	2		
	3		
	4		
	5		
	6		
	7		
	8		

Royalty Calculation

Gross Value for All Products (sum of columns A & B) (two decimal places) \_\_\_\_\_

Additional Value (tax reimbursement, gathering allowance, unsigned mt., etc) (two decimal places) \_\_\_\_\_

Additional Value-Keep Whole (two decimal places) \_\_\_\_\_

Total Gross Value (two decimal places) \_\_\_\_\_

Royalty Decimal (six decimal places) \_\_\_\_\_

Royalty Due (two decimal places) \_\_\_\_\_

**Verifications**

- Examine the taxpayer’s working papers, if any, to separate taxable and nontaxable quantities of sulphur produced.
- Is the taxpayer using the calendar quarter for the cut-off date or is an earlier date being used?
- Verify that the quantity of sulphur taxed is the quantity of sulphur produced during the quarter rather than the sales amount.
- The taxpayer may be maintaining records on sulphur production in various ways:
  - Sulphur in number of tons (2,000 lbs. per ton)
  - Sulphur in number of long tons (2,240 lbs. per ton)
  - Sulphur in molten state
  - Sulphur in number of pounds
- Verify the taxpayer’s computations of taxable long tons
  - Are conversions from pounds, tons, or molten quantities to long tons correct?
  - Are fractions of a long ton rounded up to the next whole number?
  - Since the tax rate is based on the number of long tons (or fractional parts of long tons), the auditor must convert the production to long tons if the taxpayer’s records are maintained in normal tons (also called short tons) or in molten measurements.
    - Sulphur production maintained in normal tons is converted in two ways
      - # of normal tons  $\times$  2,000 lbs. per ton
      - Total number of pounds\*
      - Total number of pounds/2,240 pounds per long ton = # of long tons; or

- # of normal tons  
 $\times .892857$  (ratio of 2,000 lbs./2,240 lbs)  
# of long tons\*  
\*All fractions of long tons must be rounded up to the nearest whole number since fractional parts are taxed as a whole.

**Example:**

The taxpayer has a quarterly production of 55.3 normal tons (2,000 lbs./ton) of sulphur:  
55.3 normal tons  
 $\times 2,000$  pounds per ton  
110,600 total pounds  
110,600 Total Pounds/2,240 Pounds per Long Ton = 49.375 Long Tons = 50 Long Tons; or  
55.3 Tons  
 $\times .892857$   
49.375 Long Tons = 50 Long Tons

- Sulphur production maintained in a molten state can be converted to long tons by:  
# of gallons of molten sulphur  
 $\times 14.994^*$   
# of Pounds of Sulphur  
# of Pounds of Sulphur/2,240 Pounds Per Long Ton = # of Long Tons  
\*1.80 = Specific Gravity of Molten Sulphur  
 $\times 8.33$  – Pounds per Gallon of Water  
14.994 = Pounds of Molten Sulphur per Gallon  
or  
Weight of Liquid Sulphur in Pounds as Loaded or Stored/2,240 Lbs. per Long Ton = # of Long Tons (Round result up to next whole ton)  
Example:  
6,963 = # of Gallons of Molten Sulphur  
 $\times 14.994$   
104,403.22 = # of Pounds of Sulphur  
104,403.22/2,240 Pounds per Long Ton = 46.609 Long Tons = 47 Long Tons (Round result up to next whole ton)

**Note:** All conversions need to be clearly explained in footnotes on the audit schedules.

## Exit Conference

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- Explain to the taxpayer the audit procedures performed. This would include a discussion of the following:
  - All records examined
  - A detail description of audit procedures utilized, audit adjustments and flow of audit package
  - Minor errors for which no adjustments were made
  - Applicable law, rulings and proper reporting procedures
  - Additional information the taxpayer may obtain to reduce the liability
  - Taxpayer's disagreements with the audit - these should be clearly understood by the auditor and documented
  - The reconciliation conference should be offered if the taxpayer disagrees.
  - The "What If I disagree with my audit results" brochure should be given to the taxpayer.
- Other procedures which should be discussed with the taxpayer include:
  - The billing process (whether penalty waiver will be recommended and policies and procedures pertaining to penalty and interest). The "What If I disagree with my Audit" brochure should be given to the taxpayer.
  - Payment should be requested.
  - Redetermination procedures must be explained.

## Audit Plan

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**The Record of Audit Planning, Activities, and Results** is the form that documents the audit plan for every audit and should be completed as the audit progresses. Continuation pages are available for use and generally will be necessary to record all information. It is important for the auditor to document all appropriate and pertinent information. Refer to the *Auditing Fundamentals Manual* for documentation that is required.

## Chapter 4

# Audit Write-Up

### Introduction

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The result of an audit will be either a deficiency (tax is due to the state), a credit audit (taxes are due to the taxpayer), or a no tax change audit. A no tax change means that the reported amounts were correct and no audit adjustments are required. The write up procedures are different depending on the audit results.

The write up of a sulphur production tax audit is considered a manual audit write up as opposed to a limited sales and use tax audit (an uploaded audit) which is an automated tax. Since the sulphur production tax is not automated on the system, the actual tax amounts need to be calculated by the auditor on excel schedules. These schedules are discussed later in this chapter.

A deficiency audit results when taxpayer owes additional sulphur production tax to the State of Texas. In addition to the additional tax, the taxpayer will also be assessed penalty and interest. The taxpayer has the right to disagree with the audit results if they feel the audit is not accurate in its assessment. If an audit results in a credit due the taxpayer, credit interest will accrue on reporting periods due on or after January 1, 2000.

When an audit examination results in no adjustments, then a No Tax Change audit should be prepared. Refer to the *Auditing Fundamentals Manual* for specifics. An amended audit is an adjustment to a completed audit, usually as a result of a hearings decision. Refer to the *Auditing Fundamentals Manual* for write-up procedures for an amended audit.

### Schedules and Forms

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Audit write-up includes completion of the following:

- Record of Audit Planning, Activities, and Results
- Exhibits (if any)
- Exams (schedules) and Supplemental Exams (supporting schedules)
- Index to Working Papers (Template)
- Audit Adjustment Report (Form)
- Tax Adjustment Summary (Auditor generated Exam)
- Audit Cover Letter (Template)
- Audit Report (Template)

See the *Auditing Fundamentals Manual* for specific examples or explanations of the documents, exhibits, templates and/or forms listed above.

A few of these documents are shown below.

### **Audit Cover Letter, Example**

March 18, 2004

Thomas C. Smith  
Vice-President of Finance  
ABC Sulphur, Inc.  
123 Main Street  
Houston, Texas 77250

RE: Taxpayer Number 17412345678

Dear Mr. Smith:

Our audit, conducted in accordance with the Sulphur Production Tax Statute, is complete. The audit covered the period January 1, 2003, through December 31, 2003, and resulted in an adjustment in the amount shown on the attached Texas Notification of Audit Results. We have included a pre-addressed envelope for your payment convenience. For an explanation of the interest calculations, contact the Audit Processing Section of the Revenue Refund Division at 1-800-531-5441 extension 3-4479.

We have waived the penalty for periods which were originally filed on time. However, we have not waived interest. Interest waiver is considered only where written, documented proof exists that a taxpayer relied to its detriment on misinformation from the State. If you disagree with our decision, you may request a redetermination hearing by our Legal Services Division.

Audit adjustments are explained on the enclosed Audit Report.

At the exit conference, you agreed with the audit results. You were provided with the brochure "Dispute Resolution Conference" (Form 96-321-T) and advised of your right to meet with a dispute resolution officer. I also provided you with the brochure "What if I don't agree with the results of my audit?" (Form 96-129) and advised you of the requirements necessary to initiate a formal redetermination hearing.

If you have any questions, please contact me in the Houston South Audit Office at 713/665-1200. Thank you for your cooperation during the audit.

Ima Auditor

Auditor

**NOTE:** The Eules Processing Center (RPC) takes the form letter submitted with the audit package and generates a new letter and mails to the taxpayer. Auditors need to use the "FORM OPTION" for the cover letter template when printing the cover letter to submit to the Processing Center.

**Audit Report, Example**

AUDIT REPORT

ABC Sulphur, Inc.

Taxpayer Number 17412345678

January 1, 2003 through December 31, 2003

This report summarizes adjustments made in the audit.

1. A detail examination was completed for Exam 100. Adjustments were made for calculation errors.
2. A detail examination was completed for Exam 200. Adjustments were made for underreporting of total long tons produced.

**Index to Working Papers, Example**

ABC Sulphur, Inc.  
Houston, Texas  
TP#17412345678

INDEX TO WORKING PAPERS

DESCRIPTION	PAGES
AUDIT ADJUSTMENT REPORT.....	1
TAX ADJUSTMENT SUMMARY .....	1
Exam 100 CALCULATION ERRORS.....	1
Exam 200 UNDERREPORTED TOTAL LONG TONS .....	1



**Tax Adjustment Summary**

This is the auditor generated excel schedule that summarizes the tax due for all report periods in the audit. The Exams that are referenced as sources for the numbers on the Tax Adjustment Summary) should be listed on the index and included in the audit package. The Tax Adjustment Summary should be totals that are forwarded from all

Exam schedules that contain audit adjustments. The Excel spreadsheet should be double checked for any formulas and rounding that may affect the calculation of the tax. This is important as rounding may change the tax due. Double check the AAR manually to ensure that the tax entered is correct and that there are no math (rounding) errors.

**Tax Adjustment Summary, Example**

ABC SULPHUR, INC.				Auditor initials: IA	
HOUSTON, TEXAS				PAGE 1 OF 1	
TAX ADJUSTMENT SUMMARY				TP#17412345678	
(1)	(2)	(3)	(4)	(5)	(6)
REPORT PERIOD	CALCULATION ERRORS	DISALLOWED EXEMPT ROYALTIES	TOTAL TAXABLE ADJUSTMENTS	TAX RATE	TOTAL TAX ADJUSTMENTS
	FROM EXAM 100	FROM EXAM 200	COL. 2 + COL. 3		COL. 4 * COL. 5
03-1	344	897	1,241	\$1.03	\$1,278.23
03-2	287	875	1,162	\$1.03	1,196.86
03-3	232	961	1,193	\$1.03	1,228.79
03-4	242	407	649	\$1.03	668.47
Total Tax	1,105	3,140	4,245		\$4,372.35
Adjustment					



**Exam 100, Example**

ABC SULPHUR, INC.					EXAM 100
HOUSTON, TEXAS					PAGE 1 OF 1
CALCULATION ERRORS					TP#17412345678
(1)	(2)	(3)	(4)	(5)	(6)
REPORT	NORMAL TONS	X	AUDITED	REPORTED	ADDITIONAL
PERIOD	PRODUCED	FACTOR	LONG TONS	LONG TONS	LONG TONS
	*	**	Col. 2 X Col. 3	AUDIT HISTORY	Col. 4 - Col. 5
031	990	0.892857	884	540	344
032	1058	0.892857	945	658	287
033	1092	0.892857	975	743	232
034	984	0.892857	879	637	242
TOTALS	4,124		3,683	2,578	1,105

\*From Production Reports - Does not Include Reported Exempt Royalty

\*\* Correct Factor to Convert Normal Tons to Long Tons

NOTES:

(1) Taxpayer used incorrect factor to convert normal tons produced to long tons produced

(2) Col. 6 quarterly amounts to Audit Adjustment Report (AAR)

Above schedule is included in the manual for illustration purposes only and is not to be construed as the accepted format. All audit schedules will need to be tailored to the audit situations encountered and to the auditors' needs.

**Exam 200, Example**

ABC SULPHUR, INC.	EXAM 200
HOUSTON, TEXAS	PAGE 1 OF 1
DISALLOWED EXEMPT ROYALTY	TP#17412345678
(1)	(2)
REPORT	EXEMPT TONS
PERIOD	REPORTED
	*
031	897
032	875
033	961
034	407
	-----
TOTALS	3,140
	=====
*From Taxpayer's Work papers	
NOTES:	
(1) Taxpayer reported sulphur produced from land belonging to the ABC Foundation as exempt	
(2) Quarterly amounts to Audit Adjustment Report (AAR)	

Above schedule is included in the manual for illustration purposes only and is not to be construed as the accepted format. All audit schedules will need to be tailored to the audit situations encountered and to the auditor's needs.

## Chapter 5

# References

### Rule §3.41 Definition and Due Dates

(a) A sulphur producer, as pertains to the occupation tax on sulphur production, shall mean the person, firm, association, or corporation who is responsible for the physical operation of the facility where the sulphur is produced.

(b) The due date for the reports and tax payments of all sulphur producers, currently required by the Tax Code, §203.052, to be filed on the first day of each January, April, July, and October, is extended to the last day of each January, April, July, and October, respectively.

Source Note: The provisions of this §3.41 adopted to be effective December 4, 1996, 21 TexReg 11487.

**Note: The due date referenced in Rule 3.41 differs from the due date referenced in the Statute Tax Code, §203.052. The Rule §3.41 due date is the correct due date.**

### Tax Statute - Excerpts

#### Chapter 203. SULPHUR PRODUCTION TAX

##### SUBCHAPTER A. TAX IMPOSED

#### §203.001. Producer

In this chapter, “producer” means a person who owns, controls, manages, leases, or operates a sulphur mine, well, or shaft, or who produces sulphur by any method, system, or manner.

Acts 1981, 67th Leg., p. 1744, ch. 389, § 1, eff. Jan. 1, 1982.

#### § 203.002. Tax Imposed

There is imposed a tax on each producer of sulphur.

Acts 1981, 67th Leg., p. 1744, ch. 389, § 1, eff. Jan. 1, 1982.

#### § 203.003. Rate of Tax

The tax imposed by this chapter is at the rate of \$1.03 a long ton or fraction of a long ton of sulphur produced in this state.

Acts 1981, 67th Leg., p. 1744, ch. 389, § 1, eff. Jan. 1, 1982.

#### NOTES:

- 1 long ton = 2,240 pounds
- Sulphur produced outside of Texas is not subject to this tax.

### SUBCHAPTER B. RECORDS, PAYMENTS, AND REPORTS

#### § 203.051. Producers Records

(a) A producer shall keep a complete record of all sulphur he produces in this state. A producer may destroy a record required by this section four years after the last entry in the record.

(b) The record shall be open at all times to inspection by the comptroller and the attorney general.

Acts 1981, 67th Leg., p. 1744, ch. 389, § 1, eff. Jan. 1, 1982.

Amended by Acts 1999, 76th Leg., ch. 1467, § 2.66, eff. Oct. 1, 1999.

#### § 203.052. Producers Reports

(a) On the first day of each January, April, July, and October each producer shall file a report with the comptroller on forms prescribed by the comptroller. The report must show the total amount of sulphur produced in the state by the person during the calendar quarter next preceding the day the report is due.

(b) A producer shall file other information or reports with the comptroller that the comptroller may reasonably require.

(c) The report shall be signed by the person making the report. If the person is not an individual, the report shall be signed by the president, secretary, or other authorized officer.

Acts 1981, 67th Leg., p. 1744, ch. 389, § 1, eff. Jan. 1, 1982.

**§ 203.053. When Tax Due**

The tax imposed by this chapter for each quarter is due at the time that the report required by Section 203.052 of this code is required to be filed for the quarter. Payment shall be to the comptroller.

Acts 1981, 67th Leg., p. 1744, ch. 389, § 1, eff. Jan. 1, 1982.

Amended by Acts 1997, 75th Leg., ch. 1423, § 19.122, eff. Sept. 1, 1997.

**NOTE:** Effective September 12, 1983, the due date was changed by administrative rule to last day of the month following the calendar quarter.

**SUBCHAPTER C. ENFORCEMENT AND PENALTIES****§ 203.101. Delinquent Tax Penalty**

(a) A producer who fails to file a report as required by this chapter or who fails to pay the tax imposed by this chapter when due forfeits five percent of the amount due as a penalty, and if the producer fails to file the report or pay the tax within 30 days after the day on which the tax or report is due, the producer forfeits an additional five percent.

(b) The minimum penalty under this section is \$1.

(c) The attorney general, or a district or county attorney at the direction of the attorney general, shall bring suit in the name of the state to recover a delinquent tax imposed by this chapter and penalties and interest that have accrued from failure to pay the tax.

Acts 1981, 67th Leg., p. 1744, ch. 389, § 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 454, ch. 93, § 9, eff. Sept. 1, 1983.

**§ 203.102. Failure to Keep Records: Penalty**

(a) A person who fails to keep a record that he is required by this chapter to keep shall forfeit to the state a penalty of not less than \$500 nor more than \$5,000.

(b) A person is subject to a separate penalty for each 10 days that he fails to keep a record that he is required by this chapter to keep.

Acts 1981, 67th Leg., p. 1745, ch. 389, § 1, eff. Jan. 1, 1982.

**SUBCHAPTER D. CLASSIFICATION OF TAX AND ALLOCATION OF REVENUE****§ 203.151. Occupation Tax**

The tax imposed by this chapter is an occupation tax.

Acts 1981, 67th Leg., p. 1745, ch. 389, § 1, eff. Jan. 1, 1982.

**§ 203.152. Allocation of Revenue**

One-fourth of the revenue collected from the tax imposed by this chapter shall be deposited to the credit of the foundation school fund and three-fourths to the general revenue fund.

Acts 1981, 67th Leg., p. 1745, ch. 389, § 1, eff. Jan. 1, 1982. Amended by Acts 1981, 67th Leg., p. 2778, ch. 752, § 9(h), eff. Jan. 1, 1982; Acts 1984, 68th Leg., 2nd C.S., ch. 28, art. II, part B, § 9, eff. Sept. 1, 1984.

## Texas Sulphur Production Tax Report, Example

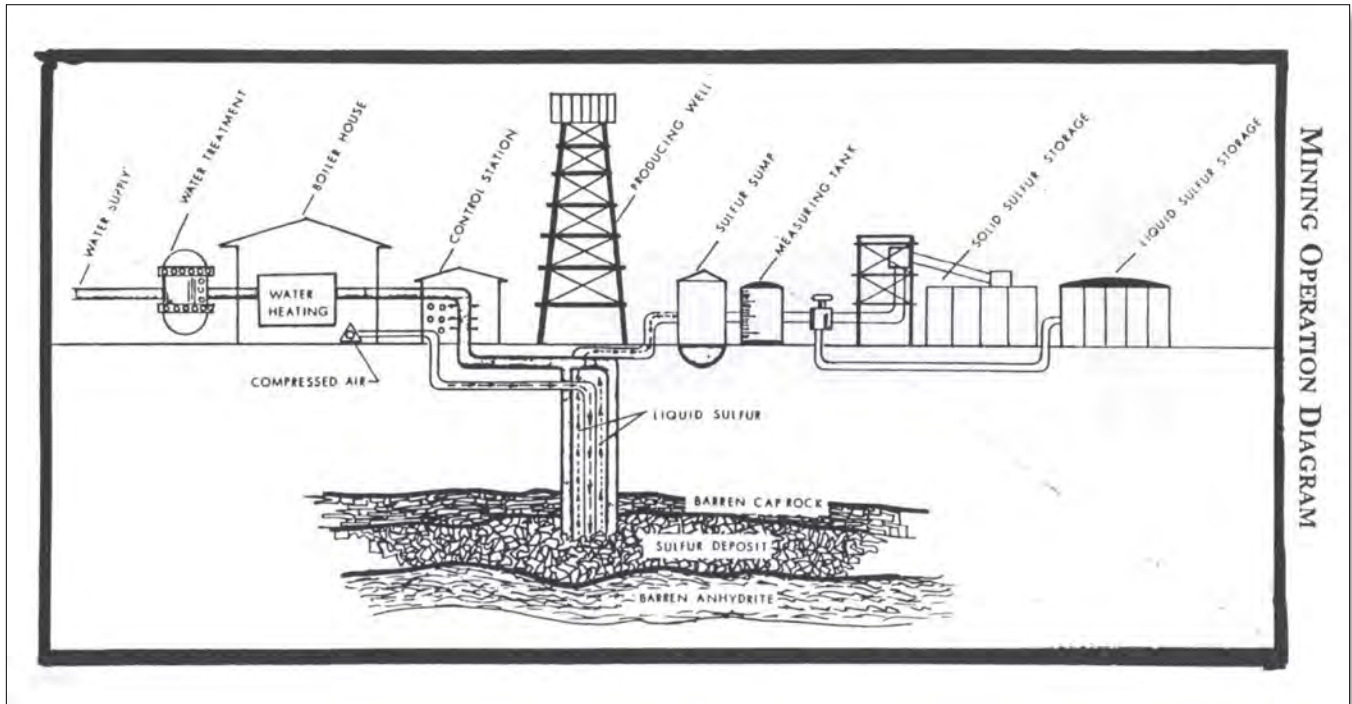
[Texas Sulphur Production Tax Report \(PDF\)](#)

### Due Dates and Statute Expiration Chart

REPORT PERIOD	DUE DATE	5% PENALTY BEGINS	ADD'L 5% PENALTY BEGINS	INTEREST STARTS	STATUTE EXPIRATION DATE
002	07/31/2000	08/01/2000	08/31/2000	09/30/2000	07/31/2004
003	10/31/2000	11/01/2000	12/01/2000	01/03/2001	10/31/2004
004	01/31/2001	02/01/2001	03/03/2001	04/03/2001	01/31/2005
011	04/30/2001	05/01/2001	05/31/2001	06/30/2001	04/30/2005
012	07/31/2001	08/01/2001	08/31/2001	10/02/2001	07/31/2005
013	10/31/2001	11/01/2001	12/01/2001	01/01/2002	10/31/2005
014	01/31/2002	02/01/2002	03/05/2002	04/02/2002	01/31/2006
021	04/30/2002	05/01/2002	05/31/2002	07/02/2002	04/30/2006
022	07/31/2002	08/01/2002	08/31/2002	10/01/2002	07/31/2006
023	10/31/2002	11/01/2002	12/03/2002	12/31/2002	10/31/2006
024	01/31/2003	02/01/2003	03/04/2003	04/02/2003	01/31/2007
031	04/30/2003	05/01/2003	05/31/2003	07/01/2003	04/30/2007
032	07/31/2003	08/01/2003	09/03/2003	09/30/2003	07/31/2007
033	10/31/2003	11/01/2003	12/02/2003	12/31/2003	10/31/2007
034	01/31/2004	02/01/2004	03/04/2004	04/03/2004	01/31/2008
041	04/30/2004	05/01/2004	06/02/2004	06/30/2004	04/30/2008
042	07/31/2004	08/01/2004	09/02/2004	10/02/2004	07/31/2008
043	10/31/2004	11/01/2004	12/02/2004	01/01/2005	10/31/2008
044	01/31/2005	02/01/2005	03/03/2005	04/02/2005	01/31/2009
051	04/30/2005	05/01/2005	06/02/2005	07/02/2005	04/30/2009
052	07/31/2005	08/01/2005	09/01/2005	10/01/2005	07/31/2009
053	10/31/2005	11/01/2005	12/01/2005	12/31/2005	10/31/2009
054	01/31/2006	02/01/2006	03/03/2006	04/04/2006	01/31/2010
061	04/30/2006	05/01/2006	06/01/2006	07/01/2006	04/30/2010
062	07/31/2006	08/01/2006	08/31/2006	09/30/2006	07/31/2010
063	10/31/2006	11/01/2006	12/01/2006	01/03/2007	10/31/2010
064	01/31/2007	02/01/2007	03/03/2007	04/03/2007	01/31/2011
071	04/30/2007	05/01/2007	05/31/2007	06/30/2007	04/30/2011
072	07/31/2007	08/01/2007	08/31/2007	10/02/2007	07/31/2011
073	10/31/2007	11/01/2007	12/01/2007	01/01/2008	10/31/2011
074	01/31/2008	02/01/2008	03/04/2008	04/01/2008	01/31/2012

**NOTE:** Dates obtained from the "DUE DAY" inquiry on CICS.

### Mining Operation Diagram



### Frasch Method Diagram

