

## Querques Denett, Lucy

---

**From:** Gibbs Tschudy, Deborah  
**Sent:** Friday, November 07, 2003 3:58 PM  
**To:** Scott Miller; David Darouse (davidd@dnr.state.la.us); Joannie Rowland (joanier@crownsations.net); Perry Shirley (pshirley@frontier.net); Weekly, Derek; Anderson, Karen; Brown, Stacy; Charlton, Van; Dilsaver, Steve; Druse, Todd; Fisher, Terence; Goss, Inge-Lise; Hudson, Mark; Husta, Bill; Loomis, F David; Lougee, Jack; McClain, Jerry; Miller, Scott; Norman, Jay; Rodriguez, Nancy; Severson, Valdean; Soderlind, Ellwood; St. Goddard, Harold; Staigle, George  
**Cc:** Querques Denett, Lucy; Hamilton, Cathy; Leneau, Todd; Johnson, Ralph; Williams, Mary; Carol Green; David Guzy; Davidoff, Robert; Ethel Richards; Janet Courtney; John Barder; Lonnie Kimball; Paul Tyler; Shirley Burhop; Stockbridge, James; Theresa Bayani  
**Subject:** Fina Decision

Hi Everyone,

The D.C. Circuit's decision in *Fina Oil and Chemical Corp. vs. Norton*, 332 F.3d 672 (D.C. Cir. 2003), has not been appealed to the Supreme Court and is final.

This affects how MMS and State and Tribal delegated audit staffs apply the current valuation regulations in their audits. We will have to apply the benchmarks to inter-affiliate transactions for Federal gas; Federal oil prior to the effective date of the new oil regulations in June 2000; Indian oil; Indian gas prior to the effective date of the new Indian gas regulations in January 2000; and coal. Under the *Fina* decision, for those affected rules we may not look to a wholly-owned affiliate's arm's-length resale proceeds as the measure of the lessee's "gross proceeds" under the current rules.

We are developing additional guidance and training on application of the benchmarks and are requesting involvement from STRAC in this effort. The Onshore CAM lead is Shirley Burhop. Our goal is to develop the guidance and training materials by December 31, 2003, with training beginning in 2004. Please contact Shirley with your designated representatives as soon as possible. Thank you.

Deborah Gibbs Tschudy  
Assistant Program Director for Onshore Compliance  
Phone: (303) 231-3301  
Fax: (303) 231-3722