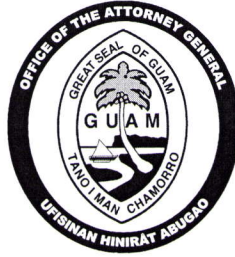


Leonardo M. Rapadas
Attorney General



Phillip J. Tydingco
Chief Deputy Attorney General


OFFICE OF THE ATTORNEY GENERAL

September 3, 2013

LEGAL MEMORANDUM

GEPA 13-0622

TO: Administrator, Guam Environmental Protection Agency

FROM: Attorney General 

SUBJECT: Public Law 30-184; Mobil Oil Guam's Request for Clarification
In re: transshipping automotive diesel oil through Guam

Background of Request

Mobil Oil Guam, Inc. told you that it is interested in transshipping automotive diesel oil ("ADO") through Guam to other jurisdictions throughout Micronesia and the Marshall Islands. In particular Mobil is interested in transshipping ADO which does not necessarily meet the US EPA standard for ultra-low sulfur diesel fuel ("ULSD"), because those other jurisdictions have not yet mandated use of ULSD.

Request for clarification re: Guam P.L. 30-184

You asked this office to review Mobil Oil Guam, Inc.'s (hereinafter referred to as "Mobil") request for clarification of its interpretation of Guam Public Law 30-184. That law, which is now codified as 10 G.C.A. § 49119 provides, in a nutshell, that all diesel fuel imported to Guam effective January 1, 2011 for the purpose of sale and distribution in Guam shall meet the US EPA standards for ultra-low sulfur diesel fuel.

Request for confirmation re: applicability of US EPA ULSD regulations

Mobil also asked for confirmation that presently the only prohibition applicable to Guam is the local Guam statutory prohibition against sale and distribution within Guam of ADO which does not meet the US EPA standard for ultra-low sulfur diesel fuel. Or in other words, Mobil asked for confirmation that Guam remains exempt from US EPA's ULSD regulations.

Legal Questions

Question of Importation of ADO which is non-ULSD compliant

Mobil said that its reading of 10 G.C.A. § 49119 is that importing diesel fuel other than ULSD into Guam is prohibited only when the fuel is imported for the purpose of sale and distribution in Guam. Mobil posited that importation into Guam and storage in Guam of ADO for purposes of transshipment to areas outside of Guam for sale and distribution is not prohibited by 10 G.C.A. § 49119, and asked for confirmation of that position.