



DEPARTMENT OF THE NAVY

JOINT REGION MARIANAS
PSC 455 BOX 211
FPO AP 96540-1000

1 December 2022

The Honorable Senator Sabina F. Perez
Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics,
Research and Planning
36th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Hafa Adai Senator Perez,

I am writing to you to share important information about potential consequences that may arise if Bill 360-36 as currently written becomes Guam law. The consequences involve additional new risks to safety, health and the environment for both Department of Defense (DoD) personnel and resources as well as to the broader community of Guam.

From 2020 to date, U.S. Navy and U.S. Air Force explosive ordnance teams responded to 388 unexploded ordnance (UXO) incidents, 111 of which were outside of DoD installations. These incidents were estimated to involve 3,198 pounds of net explosive weight predominantly in the form of World War II (WWII) UXO. To put this in perspective, this net explosive weight is equivalent to over 7,200 sticks of dynamite. All WWII UXO was rendered safe by using the open detonation (OD) method of treatment. OD operations occur at two DoD sites in Guam: one at the Naval Munitions Annex in Santa Rita and the other in the Tarague basin on Andersen Air Force Base in Yigo. For emergency response safety reasons, DoD separates Guam into north and south divisions based on the shortest distance to these DoD operated treatment sites. The DoD also infrequently treats other categories of waste munitions at its Tarague facility.

The Government of Guam fire and emergency service agencies are the lead responders to UXO incidents, but they do not collect, store, or treat UXO. The Government of Guam relies on a mutual aid agreement with the DoD to accomplish this critical public safety mission. Guam and the Commonwealth of the Northern Mariana Islands (CNMI) were major WWII battle fields and UXO is discovered many times each year. I am confident that local ordnance commands will continue providing these emergency response services as needed so long as the means to conduct them remain legal.

As written, Bill 360-36 proposes to prohibit the treatment of UXO and other waste munitions utilizing the open burn/detonation (OB/OD) method. The OB/OD method is the only safe treatment method to render safe WWII UXO and potentially other munitions. If Bill 360-36 becomes law, I will instruct the DoD munitions commands and our Office of General Counsel to immediately advise me as to our operational status and options. If we are forced into a position where we have no disposal options, I am concerned with our ability to adequately respond in order to support the community.

Bill 360-36 also appears to seek regulation of inter-state commerce of hazardous waste by making it outright illegal to import to, or transship through, Guam. The DoD may have had occasion and may likewise be required in the future to directly, or through contractors, transship hazardous wastes internationally through Guam to treatment facilities in the continental United States or inter-territorial in the case of the CNMI for the same purposes. By all known accounts, this activity is conducted safely and should not be a concern from the perspective of raising to the level of risk necessitating a prohibition. The U.S. Constitution as well as many local and federal regulations apply to this commerce and similar defense activities.

I leave you with this final concern: with old and unstable UXO, attempting to bulk store or treat with any method other than OB/OD increases the risk to human health (potentially fatal) and the environment at this time with current validated technology. If invited, DoD munitions experts and I are available to discuss and share additional information about authorized, ongoing OB/OD operations under local and federal law with members of the Guam Legislature. I hope you will avail the 36th Legislature of this opportunity to fully understand the implications Bill 360-36 will have on DoD's national security activities, operations, and emergency response capabilities on Guam before taking action on this legislation. Thank you for considering this information and request.

Sincerely,



B. R. NICHOLSON
Rear Admiral, U.S. Navy
Commander

CC: Senators of the 36th Guam Legislature
The Honorable Lou Leon Guerrero, Governor of Guam
Chief, Guam Fire Department
Administrator, Guam Environmental Protection Agency