



Office of the Vice Speaker
TINA ROSE MUÑA BARNES
I Mina'trentai Siette Na Liheslaturan Guåhan
37th Guam Legislature

February 21, 2023

MEMORANDUM

To: All Senators
37th Guam Legislature

From: Acting Speaker Tina Rose Muña Barnes 

Subject: Call to Emergency Session - February 21, 2023 at 4:30 PM

Buenas yan Håfa Adai! I Liheslaturan Guåhan will be called into Emergency Session on **Tuesday, February 21, 2023 at 4:30 PM** in the **Speaker Antonio R. Unpingco Legislative Session Hall**, Guam Congress Building to deliberate on [Bill No. 52-37 \(COR\)](#).

Pursuant to 2 GCA § 2103(a), I certify emergency conditions exist and waive the requirement for a public hearing for [Bill No. 52-37 \(COR\)](#). Notwithstanding Section 6.04(d)(1), the Committee Report requirement is waived for [Bill No. 52-37 \(COR\)](#).

Si Yu'os Ma'åse'



Office of Senator Christopher M. Dueñas

Vice-Chairman, Committee on Education, Public Safety and the Arts

Member, Committee on Rules • Member, Committee on Maritime Transportation, Air Transportation, Parks, Tourism, Higher Education and the Advancement of Women, Youth, and Senior Citizens

February 21, 2023

Transmitted via Hand Delivery to

**The Honorable Senator Tina Muña Barnes
Acting Speaker
I Mina'trentai Siette na Liheslaturan Guåhan
134 W. Soledad Avenue, Suite #411
Hagåtña, GU 96910**

Vice Speaker Tina Rose Muña Barnes

FEB 21 2023

**Time 10:00 AM (PST)
Received By: Tina Barnes**

SUBJECT: Request for Emergency Session on Bill No. 52-37 (COR)

Håfa Ådai Acting Speaker Barnes!

I am respectfully petitioning your call for an emergency session on **Bill No. 52-37 (COR)**. Appended to this letter you will find the required documents as per the standing rules of the 37th Guam Legislature. Pursuant to the standing rules of Mina'trentai Siette na Liheslaturan Guahan, **Section 1.02:**

(A) STATEMENT JUSTIFYING THE EXISTENCE OF AN EMERGENCY

The legislation noted in this letter is associated with Public Law No. 36-139. Considering that our island is experiencing a slow recovery from the pandemic which resulted in an economic crisis, where many are just getting back to work, this public law is extremely concerning. Safety plays a significant role in our growing economy. Homeowners and businessmen/women alike will be at a standstill due to this law lapsing into law. If an unexploded ordnance is found, emergency authorities will not be able to safely handle/detonate this dangerous mutation thus halting operations.

(B) DEMONSTRATING THE INTENDED OUTCOME OF THE PROPOSED LEGISLATION IN ADDRESSING THE EMERGENCY

To repeal this law to which safety was not considered. (Please see attached media articles)

(C) FISCAL IMPACT

The fiscal impact of **Bill No. 52-37 (COR)** will be none. However, if my Bill is not addressed, it will require the Government of Guam to outsource a private company when public projects are

halted when they come across an unexploded ordnance due to the lack of safety consideration of the public law that lapsed into law December 2022.

(D) LEGAL BUREAU'S REVIEW

Pending legal review.

Therefore, pursuant to your authority as Acting Speaker of I Mina'trentai Siette na Liheslaturan Guåhan, I am calling upon your leadership to call for an emergency session to discuss and address the issues with **Bill No. 52-37 (COR)**.

I appreciate your careful consideration of my petition to deem this legislation which addresses the issues stated above, and to further use your authority as the Acting Speaker of the 37th Guam Legislature to allow **Bill No. 52-37 (COR)** to bypass standard procedures, and be placed on the agenda for an Emergency Session.

We can't afford to wait until our next scheduled session to have these discussions. I look forward to the call for an emergency session and appreciate your leadership during this time.

Si Yu'os Ma'åse!



Christopher M. Dueñas
Vice-Chairman, Committee on Education, Public Safety and the Arts

I Mina'trentai Siette Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
52-37 (COR)	Christopher M. Dueñas Jesse A. Lujan Frank Blas Jr. Thomas J. Fisher	AN ACT TO REPEAL SUBSECTION (a)(9) TO § 5111 OF ARTICLE 1, CHAPTER 51, DIVISION 2, TITLE 10, GUAM CODE ANNOTATED.	2/20/23 1:56 p.m.						

I MINA'TRENTAI SIETTE NA LIHESLATORAN GUÅHAN
2023 (FIRST) Regular Session

Bill No. **52-37 (COR)**

Introduced by:

Christopher M. Dueñas *sf*
Jesse A. Lujan *jl*
Frank F. Blas Jr. *fb*
Thomas J. Fisher *tf*

**AN ACT TO REPEAL SUBSECTION (a)(9) TO § 5111 OF
ARTICLE 1, CHAPTER 51, DIVISION 2, TITLE 10, GUAM CODE
ANNOTATED.**

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 **Section 1.** Subsection (a)(9) § 51111 of Article 1, Chapter 51, Title 10, Guam
3 Code Annotated is repealed.

https://www.guampdn.com/news/admiral-concerned-open-detonation-ban-could-hamper-emergency-ordnance-response/article_72d0f4d4-8038-11ed-939e-636e743aa1f0.html

FEATURED

Admiral concerned open detonation ban could hamper emergency ordnance response

By Joe Taitano II Pacific Daily News
Dec 20, 2022

Rear Adm. Benjamin Nicholson, commander of Joint Region Marianas, said Tuesday he's concerned a ban on open detonation recently passed by the Legislature could hamper the military's ability to respond to unexploded ordnance that's routinely unearthed on Guam.

Sen. Sabina Perez's Bill 360, which would ban the open burning and open detonation of all hazardous waste, is on the desk of Gov. Lou Leon Guerrero for consideration.

Perez included an exemption for World War II era ordnance in the proposed ban on open detonation, a move she's said stemmed from written testimony Nicholson provided.



U.S. Navy Rear Adm. Benjamin Nicholson, Joint Region Marianas commander, delivers the keynote speech at a Veterans Day ceremony at the Gov. Joseph Flores Memorial Park in Tumon on Nov. 11, 2022. Nicholson says the Department of Defense is in a good position to deter any aggression from China and other regional threats.

PDN FILE PHOTO

But the admiral said the language of the bill, passed without consulting Joint Region Marianas during the “small window for public comment,” does not close the door on potential legal issues.

“Is the bill now asking the explosive ordnance disposal technicians — the folks that go out there and put their lives on the line to remove this stuff — is the bill asking them to determine if what they found is World War II era or not? How do they tell?” Nicholson asked.

“There are munitions that were used in World War II that were also used in Vietnam. Does this restrict them from transporting and then disposing those? It’s unclear to me because, ... in that case, it’s too much specificity,” he said.

The potential unintended consequences of the bill were outside his area of expertise, he said, but could hamper the ability of the Department of Defense, which handles all the unexploded ordnance disposal on Guam, to deal with emergencies.

He said he was available to bring experts on board to work with the Legislature and “figure out what the best way forward is,” but wasn’t consulted about Bill 360 beforehand.

The admiral said he was not for or against the measure.

“What I am a proponent of is collaboratively working together to make sure the desired end state is achievable.”

More education about what constituted “clean technology and dirty technology” was required, as alternative methods for disposing of hazardous waste didn’t entirely remove the hazards, he said.

The Navy is looking at raising these concerns with the Office of the Governor.

“Gov. Leon Guerrero and our office will thoroughly review the bill and consider the changes made on the session floor and the public input received,” Krystal Paco-San Agustin, the governor’s spokeswoman, stated, when asked Tuesday whether there were any preliminary concerns at Adelup about the measure, or plans to consult with Joint Region Marianas.

Bill 360 passed Friday with the support of 13 senators, a veto-proof majority, provided each senator maintains their support.

Perez, responding to statements from Joint Region Marianas about the lack of consultation last week, said the Legislature had complied with all public notice requirements for the bill and amended it in light of concerns from the admiral.

The bill was introduced Nov. 15, publicly heard Nov. 29 and passed Dec. 16, legislative records show. Nicholson’s written testimony was submitted Dec. 1.

“Other jurisdictions in the U.S. already exercise safer alternatives to (open burn and open detonation). This bill codifies our people’s expectation that our children, manamko’ and our veterans will be treated equal to our fellow Americans in the continent in line with existing U.S. EPA guidelines,” Perez said in a statement released this weekend.

Lobbying

About 60 letters asking for the governor to sign Bill 360 have been sent since Sunday, said Prutehi Litekyan’s Monaeka Flores.

“We do recognize that there are some compromises in the bill and we’re hoping that some of those can be revisited in the next Legislature. But I think, for now, it’s a step in the right direction,” she said.

The outright ban on open burning was a positive, Flores said. The U.S. Environmental Protection Agency this year ordered local regulators to halt the practice due to its harmful effects.

Requirements in the bill that open detonation facilities regularly check for safer alternatives to dispose of World War II ordnance also will help bring the government of Guam in line with federal environmental mandates, Flores added.

“I don’t think anyone wants to have these things continue to lay around, scattered across the island and making it hard or impossible for people to be able to reclaim their land,” said attorney Then Chau of EarthJustice, who is aiding Prutehi Litekyan in its ongoing suit over open detonations at Tarague Beach.

But the Air Force will have to prove safe alternatives don’t exist, Chau said, pointing to a 2019 U.S. EPA report that identified various alternative disposal methods.

Even if the bill passes, Prutehi Litekyan’s lawsuit over the detonations by Tarague Beach at Andersen will continue, with the intention of having the Air Force address the impacts of the site and whether it can be relocated.

“One of the important things to remember is that all of these hazardous wastes were put here by the military in the first place. We were carpet bombed during World War II. There hasn’t really been strong effort to try to find where all these munitions are,” Flores said.

Reach reporter Joe Taitano II at

JTaitano@guampdn.com.

Joe Taitano II

Reporter

NEWS

Lawmakers, stakeholders, military spar over open detonation ban

Friday, February 17th 2023, 4:48 PM ChST

By **Matsuki Hirayama**



Emotions were blowing up inside the Guam Congress Building today during a discussion on a recent law banning open detonation of unexploded ordnance.

Freshman Sen. Tom Fisher was part of the heated talks.

"We are in an emergency," he said. "If we do not have the ability to remove this unexploded ordnance, 11 days from now--I mean that is unacceptable," he said.

The question at hand -- what should be done with the unexploded ordnances still being found in the community?

The complex issue ultimately left more questions than answers as lawmakers, military officials, local activists and the Guam Environmental Protection Agency went back and forth for more than three hours during a round table discussion Thursday night.

Joint Region Marianas commander, Rear Admiral Benjamin Nicholson shared his frustrations over the government of guam's recent ban on open detonation.



"When it continued to go through without any consultation...No one called me and said hey admiral let's discuss this," he said. "Let's have a round table before we move forward. I didn't have a chance to talk through those other things. And so once I was able to have the time to go through my experts they said, 'oh yeah hey admiral by the way we found this other stuff, we found this other stuff.' So that's my frustration is we didn't have these conversations early enough to do this right the first time."

The admiral contends that even with the ban's exemption of World War II-era munitions, the danger is now placed on the explosive ordnance disposal technicians who will have to take the extra steps to determine when and what war the found munitions may be from.

"I'm concerned about the health of the people as well," he said. "And that first concern is the safety of not getting blown up."

His upset was heard loud and clear.

On the other side, local activist group Prutehi Litekyan member Monaeka Flores shared concerns over the environmental impacts of open detonation.

She responded to Sen. Roy Quinata who said, "It's paramount that we have individuals who have the training to respond."

"Sure I understand respectfully Senator but at the same time, this is fear-mongering that is happening with the military sitting here and we the people have to come here and speak to the military time and time again about the risks and the harms," she asserted. "What is being done to reduce the harm to our community?"

It was at this point that the discussion began to heat up.

Quinata: Rear admiral can you answer that?

Sen. Sabina Perez: Sorry little order. If you can finish...

Flores: No. To say that we are here because we're passionate and emotional, it's an emotional issue undermines..

Quinata: I said passionate, not emotional.

Flores: No, I meant the admiral said it's an emotional issue.

Perez: Let's not .. I think we're getting a little off-topic.

Flores: Sure, I agree.

The stakeholders ultimately came to a consensus on the issue of safety.



With the open detonation ban coming into effect by Feb. 27, Fisher chimed in that it's one that needs to be addressed soon.

"I don't know that we are addressing those concerns, to be frank," he said. "What I hear from the admiral is that in 11 days they are going to stop picking up the bombs. That is a concern."

For now, a public hearing for Bill 35 to amend the ban is set for Feb. 20 at 9 a.m.



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JRM: proposed ban on open burning, open detonation exposes Guam to health and safety risks

Updated: Dec 19, 2022



By Pacific Island Times News Staff

Guam senators on Friday passed a bill that would ban open burning and open detonations on island, tuning out the Joint Region Marianas' last-ditch plea for the legislature to reject the proposal.

The 36th Guam Legislature voted 13-2 in favor of Bill 360-36, introduced by Sen. Sabina Perez, who described open burning and open detonations as "one of the most harmful activities" that "threaten the overall well-being of the people of Guam."

Prior to the vote, Rear Adm. Ben Nicholson, JRM's commander, wrote to Perez, warning of the bill's consequences that "involve additional new risks to safety, health and the environment for both Department of Defense personnel and resources as well as to the broader community of Guam."

"The OB/OD method is the only safe treatment method to render safe WWII UXO and potentially other munitions," Nicholson said.



"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," he added.

Ben Nicholson

In a statement after the bill's passage, Perez clarified that Nicholson's concerns regarding the disposal of WWII unexploded ordnances were addressed in the final version of Bill 360-36.



"Taking this into consideration, Bill 360 was subsequently amended to allow for an exception for WWII unexploded ordnances, until such time that our island is equipped with safer alternatives for disposal of these unexploded ordnances," Perez said.

"I thank the Rear Admiral for his interest in this legislation and look forward to more citizen-centered collaboration with Joint Region Marianas for the people of Guam," she added.

The senator said the bill's passage "brings us one step closer to protecting our island from the harmful effects of open burning and open detonation of hazardous waste while prioritizing public safety."

She noted that other U.S. jurisdictions already exercise safer alternatives to OB/OD.

"This bill codifies our people's expectation that our children, man'åmko, and our veterans will be treated equal to our fellow Americans in the continent in line with existing USEPA guidelines. We await the governor's support in signing this legislation into law," Perez said.

ADVERTISEMENT

Nicholson said U.S. Navy and U.S. Air Force explosive ordnance teams have responded to 388 unexploded ordnance incidents since 2020. Of the total number, he said 111 were found 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 UXO. To put this in perspective, this net explosive weight is equivalent to over 7,200 sticks of dynamite," Nicholson said.

"All WWII UXO was rendered safe by using the open detonation 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," he added.

Nicholson tried but failed to convince the legislature to collaborate with JRM prior to action on the bill, which is now headed to the governor's desk.

"It is vitally important that our military and legislative bodies maintain open and honest communication when decisions are being made that will affect the environment," Nicholson said. "I encourage continued civil-military coordination to ensure the health and safety of the people of Guam."

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