I Mina'trentai Sais 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
213-36 (COR) As substituted and amended on the Floor.	Joe S. San Agustin Tina Rose Muña Barnes Christopher M. Dueñas Joanne Brown V. Anthony Ada Jose "Pedo" Terlaje	AN ACT TO *ADD* NEW §§8119(A) TO CHAPTER 8, TITLE 12, GUAM CODE ANNOTATED, ESTABLISHING AN EXEMPTION FOR THE CONSTRUCTION OF NEW FORTY-ONE MEGAWATT CABRAS ULTRA LOW SULFUR DIESEL UNITS ON LOT 261 AND 257, U.S. NAVY APRA HARBOR RESERVATION.	10/12/21 4:20 p.m.	10/19/21 10/26/21	Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning Committee on Economic Development, Agriculture, Power and Energy Utilities, and the Arts	1/9/22 9:00 a.m.	3/29/22 4:24 p.m.	Request: 10/19/21 10/22/21	

SESSION DATE	TITLE	DATE PASSED	TRANSMITTED	DUE DATE	PUBLIC LAW NO.	DATE SIGNED	NOTES
3/25/22	AN ACT TO *ADD* NEW SUBSECTIONS (a) AND (b) TO § 8119 OF ARTICLE 1, CHAPTER 8, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING AN EXEMPTION TO THE GUAM POWER AUTHORITY FOR THE CONSTRUCTION OF NEW FORTY-ONE (41) MEGAWATT ULTRA-LOW SULFUR DIESEL UNITS ON LOTS 261 AND 257, U.S. NAVY APRA HARBOR RESERVATION, AND BE REQUIRED TO COMPLY WITH THE AIR QUALITY AND EMISSIONS LIMITATIONS CONTAINED IN THE U.S. ENVIRONMENTAL PROTECTION AGENCY CLEAN AIR ACT OF 1990.	4/1/22	4/1/22	4/13/22	36- 91	4/11/22	Received: 4/12/2022 Mess and Comm. Doc. No. 36GL-22--1905

LOURDES A. LEON GUERRERO
GOVERNOR

JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HÅGAN GUÅHAN
OFFICE OF THE GOVERNOR OF GUAM

April 11, 2022

Doc Type: 36GL-22-1905
OFFICE OF THE SPEAKER
THERESE M. TERLAJE
04-12 2022
Time: 11:31a.m.
Received:

HONORABLE THERESE M. TERLAJE, *Speaker*
I Mina'trentai Sais Na Liheslaturan Guåhan
36th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Re: **SUBSTITUTE BILL NO. 213-36 (COR) – AN ACT TO *ADD* NEW SUBSECTIONS (a) AND (b) TO § 8119 OF ARTICLE 1, CHAPTER 8, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING AN EXEMPTION TO THE GUAM POWER AUTHORITY FOR THE CONSTRUCTION OF NEW FORTY-ONE (41) MEGAWATT ULTRA-LOW SULFUR DIESEL UNITS ON LOTS 261 AND 257, U.S. NAVY APRA HARBOR RESERVATION, AND BE REQUIRED TO COMPLY WITH THE AIR QUALITY AND EMISSIONS LIMITATIONS CONTAINED IN THE U.S. ENVIRONMENTAL PROTECTION AGENCY CLEAN AIR ACT OF 1990**

Hafa Adai Madame Speaker,

Guam, like many island nations and marginalized communities, is still heavily dependent on fossil fuels to generate electricity. Guam law prohibits the construction of a fossil fuel power generator in excess of one megawatt (MW) within 1,500 feet of a school. Bill 213-36 seeks to create an exemption from that prohibition, thereby authorizing the Guam Power Authority (GPA) to construct a 41-MW diesel unit within 1,200 feet of Jose Rios Middle School. In reaching my decision to sign this legislation into law, my Administration has reviewed materials relating to Bill 213-36, including the EPA's scientific literature on sulfur dioxide (SO2) air quality standards; and the Consent Decree and Modifying Order, and court filings on *USA v. GPA and Marianas Energy Company, LLC,* Case No. 1:20-cv-00007, as referenced in the legislation. More importantly, my Administration has reviewed and considered the public testimony and concerns expressed by the children, youth, concerned parents, and the public.

On the one hand, my Administration acknowledges that students and parents without access to reliable electricity often lack internet or services that improve the quality of a child's education and opportunities. And on the other hand, my Administration also understands that an electrical grid reliant on fossil fuels, such as diesel, produces emissions and particulate matter that can impact human health and the environment. As Governor, I have a responsibility to protect the health of our children and the community at large, while engaging in efforts that ensure our people have access to reliable electricity. To that end, and on balance, my Administration will be working with

our local agencies and subject matter experts to prepare mitigation measures that are protective of the neighboring population and environment.

Moreover, on April 8, 2022, GPA represented to me and Lt. Governor Josh Tenorio that GPA will install air monitoring devices at the middle school and the Port Authority of Guam to monitor the 41-MW diesel unit's emissions and potential impacts on the air quality. Accordingly, per GPA's representations to my Administration, this mitigation measure will be part of a lease agreement between GPA and the government of Guam. As noted above, my Administration will be working with our agencies and subject matter experts to develop further mitigation measures as are necessary.

Finally, I raise concerns about the Legislative Findings and Intent section's characterization of the Consent Decree requirements. Contrary to the Legislative Findings and Intent, the Consent Decree neither requires the construction of a 41MW near Jose Rios Middle School by April 30, 2024, nor an exemption to the law that prohibits the construction of fossil fuel generators within 1,500 feet of a school. Rather, the Consent Decree and Modifying Order simply provides, "[b]y April 30, 2024, GPA shall operate 180 MW of new generation utilizing only ULSD, at least initially, but capable of burning natural gas[.]"

Like many marginalized communities, reducing our reliance on fossil fuels for electricity is an ongoing multi-generational effort that will take time and resources. Until we achieve that moment in time where we, as an island, can no longer rely on diesel for electricity, my Administration is presented with difficult options and considerations. My decision today seeks to balance the protection of public health and the environment with our interest in ensuring our students have reliable electricity so that they too can have access to quality education and opportunities. Noting the reasons and concerns discussed, I sign Bill No. 213-36 into law as ***Public Law 36-91***.

Senseremente,

LOURDES A. LEON GUERRERO
Maga'hågan Guåhan
Governor of Guam

Enclosure: Substitute Bill No. 213-36 (COR) *nka P.L. No. 36-91*

cc via email: *Honorable* Joshua F. Tenorio, *Sigundo Maga'låhen Guåhan*
Compiler of Laws

COMMITTEE ON RULES
RECEIVED:
April 13, 2022
9:46 A.M.

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2022 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'HÅGAN GUÅHAN*

This is to certify that **Substitute Bill No. 213-36 (COR), "AN ACT TO *ADD* NEW SUBSECTIONS (a) AND (b) TO § 8119 OF ARTICLE 1, CHAPTER 8, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING AN EXEMPTION TO THE GUAM POWER AUTHORITY FOR THE CONSTRUCTION OF NEW FORTY-ONE (41) MEGAWATT ULTRA-LOW SULFUR DIESEL UNITS ON LOTS 261 AND 257, U.S. NAVY APRA HARBOR RESERVATION, AND BE REQUIRED TO COMPLY WITH THE AIR QUALITY AND EMISSIONS LIMITATIONS CONTAINED IN THE U.S. ENVIRONMENTAL PROTECTION AGENCY CLEAN AIR ACT OF 1990,"** was on the 1st day of April 2022, duly and regularly passed.

Therese M. Terlaje
Therese M. Terlaje
Speaker

Attested:

Amanda L. Shelton
Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 1 day of April, 2022, at 9:39 o'clock P.M.

P03 C C Chow
Assistant Staff Officer
Maga'håga's Office

APPROVED:

Lou Leon Guerrero
Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 4/11/2022

Public Law No. 36-91

RCVD AT CENTRAL FILES
APR 4'22 AM8:58
2022-1693
Evelyn Feje

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session

Bill No. 213-36 (COR)
As substituted and amended on the Floor.

Introduced by: Joe S. San Agustin
Tina Rose Muña Barnes
Christopher M. Dueñas
Joanne Brown
V. Anthony Ada
Jose "Pedo" Terlaje
Frank Blas Jr.
James C. Moylan
Telena Cruz Nelson
Clynton E. Ridgell
Telo T. Taitague
Therese M. Terlaje
Mary Camacho Torres

AN ACT TO *ADD* NEW SUBSECTIONS (a) AND (b) TO § 8119 OF ARTICLE 1, CHAPTER 8, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING AN EXEMPTION TO THE GUAM POWER AUTHORITY FOR THE CONSTRUCTION OF NEW FORTY-ONE (41) MEGAWATT ULTRA-LOW SULFUR DIESEL UNITS ON LOTS 261 AND 257, U.S. NAVY APRA HARBOR RESERVATION, AND BE REQUIRED TO COMPLY WITH THE AIR QUALITY AND EMISSIONS LIMITATIONS CONTAINED IN THE U.S. ENVIRONMENTAL PROTECTION AGENCY CLEAN AIR ACT OF 1990.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the Guam Power Authority (GPA), pursuant to a consent decree with the U.S.

Environmental Protection Agency and the U.S. Department of Justice, is required to construct the *Ukudu* Power Plant and the associated forty-one (41) megawatt (MW) diesel units by April 30, 2024. The diesel units were required to be relocated to the Cabras industrial area on Lot 261 to ensure that the *Ukudu* Power Plant could be constructed using a minor source permit.

I Liheslaturan Guåhan further finds that the proposed construction area on Lot 261 is within one thousand two hundred feet (1,200') of Jose Rios Middle School. The new 41MW diesel plant is for emergency/peaking use and will use clean burning ultra-low sulfur diesel. This site is within the Cabras industrial area and was deeded to GPA by the U.S. Navy in March 1976 for the operation of a fuel oil storage and a steam power plant. An exemption is needed for the construction on Lot 261 as § 8119 of Article 1, Chapter 8, Title 12, GCA provides that "No power generation facility, with a capacity in excess of one (1) megawatt and utilizing fossil fuels, may be constructed within one thousand five hundred feet (1,500') of a school."

It is, therefore, the intent of *I Liheslaturan Guåhan* to ensure compliance with the consent decree with the U.S. Environmental Protection Agency and the U.S. Department of Justice by authorizing an exemption in § 8119 of Article 1, Chapter 8, Title 12, Guam Code Annotated, to the Guam Power Authority.

Section 2. New Subsections (a) and (b) are hereby *added* to § 8119 of Article 1, Chapter 8, Title 12, Guam Code Annotated, to read:

"(a) Exemption. The construction of the new forty-one (41) megawatt diesel units burning ultra-low sulfur diesel on Lots 261 and 257, U.S. Navy Apra Harbor Reservation, shall be exempt from this Section.

(b) GPA shall be required to comply with the Air Quality and Emissions Limitations contained in the U.S. Environmental Protection Agency Clean Air Act of 1990, Chapter 85 of Title 42, United States Code, Section 7401 et seq. (Clean Air Act). GPA shall install air quality monitors,

or such other device specified in the Clean Air Act necessary to measure air quality emissions from the forty-one (41) megawatt diesel units construction on Lots 261 and 257 and ensure compliance with the Clean Air Act."

Section 3. Severability. If any provision of this Act or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity shall not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 4. Effective Date. This Act shall be effective upon enactment.