

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

NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Bill No. 360-36 (COR) As amended by the Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning; and further amended on the Floor.	Speaker Antonio R. Unpingco Legislative Session Hall Guam Congress Building December 16, 2022					
Senator V. Anthony Ada	✓					
Senator Frank Blas Jr.	✓					
Senator Joanne Brown	✓					
Senator Christopher M. Dueñas	✓					
Senator James C. Moylan		✓				
Vice Speaker Tina Rose Muña Barnes		✓				
Senator Telena Cruz Nelson	✓					
Senator Sabina Flores Perez	✓					
Senator Clynton E. Ridgell	✓					
Senator Joe S. San Agustin	✓					
Senator Amanda L. Shelton	✓					
Senator Telo T. Taitague	✓					
Senator Jose "Pedo" Terlaje	✓					
Speaker Therese M. Terlaje	✓					
Senator Mary Camacho Torres	✓					

TOTAL

13

2

Aye

Nay


Not
Voting/
Abstained

Out
During
Roll Call

Absent

Excused

CERTIFIED TRUE AND CORRECT:



 RENNAE V. C. MENO
 Clerk of the Legislature

I = Pass

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Bill No. 360-36 (COR)

As amended by the Committee on Environment,
Revenue and Taxation, Labor, Procurement, and Statistics,
Research, and Planning; and further amended on the Floor.

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Introduced by:

Sabina Flores Perez

**AN ACT TO *ADD* NEW SUBSECTIONS (a)(8) AND (a)(9)
TO § 51111 OF ARTICLE 1, CHAPTER 51, DIVISION 2,
TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO
PROTECTING GUAM'S AIR, WATER, LAND, AND THE
HEALTH OF ITS PEOPLE FROM THE TOXIC
EXPOSURE DUE TO OPEN BURNING AND OPEN
DETONATION OF HAZARDOUS WASTE.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that open burning and open detonation (OB/OD) are based on ‘dirty technology’
4 with ‘virtually no emission controls’, which results in the release of hazardous
5 chemicals such as lead, which has been banned in Guam since 1990, and highly
6 carcinogenic substances such as strontium and uranium. Dioxin, which is an
7 endocrine disruptor, carcinogenic in small quantities, and a persistent organic
8 pollutant, has been known to be released as part of the emissions and has been
9 detected in soils at OB/OD sites.

10 *I Liheslatura* further finds that pyrotechnic compositions of
11 magnesium/Teflon/Viton (MTV), widely used in military flares and for igniting the

1 solid propellant of a rocket motor, comprises as much as forty-five percent (45%)
2 per- and polyfluoroalkyl Substances (PFAS), characterized as ‘forever chemicals’
3 due to their high resistance to naturally breaking down. The practice of open
4 burning/open detonation of military energetic waste containing PFAS will facilitate
5 its release and dispersion, thus exposing our community to substances that can cause
6 health effects such as cancer, liver damage, decreased fertility, and an increased risk
7 of asthma and thyroid disease.

8 *I Liheslatura* finds that the most vulnerable, such as children and people with
9 pre-existing heart and lung conditions, are most at risk due to exposure to particulate
10 matter. Long and short-term exposures to fine particles or particulate matter of 2.5
11 microns and smaller (PM2.5) can harm people’s health, leading to heart attacks,
12 asthma attacks, and premature death.

13 *I Liheslatura* further finds that open burning and open detonation have
14 resulted in extensive contamination and staggering cleanup costs that can reach more
15 than half a billion dollars at a single site. Across the U.S., the sites of open burning
16 of hazardous wastes have led to fifty-four (54) separate federal Superfund
17 declarations and have exposed the people who live near them to dangers that will
18 persist for generations.

19 *I Liheslatura* finds that President Joseph R. Biden signed into law the PACT
20 Act that lists presumptive illnesses of which those enlisted military personnel and
21 veterans suffering from these illnesses can automatically receive health care.

22 *I Liheslatura* finds that in the 1980s, the U.S. Congress prohibited open
23 burning and open detonation of hazardous waste in the United States, except for
24 waste explosives which cannot safely be disposed of through other modes of
25 treatment pursuant 40 C.F.R § 265.32. When the United States Environmental
26 Protection Agency (USEPA) issued this regulation in 1980, the agency declared that
27 the “potential human health hazards associated with the practice [of open burning of
28 hazardous waste] dictate that open burning be ended now. (*USEPA Standards*

1 *Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and*
2 *Disposal Facilities*, 45 Fed. Reg. 33,154, 33,217/2 - May 19, 1980). But in response
3 to comments from the military that OB/OD were “the only alternatives for disposal
4 of most munitions,” *id.*, USEPA included a limited exception to be used only during
5 the interim status period and only for waste explosives that could not be treated with
6 alternatives.

7 *I Liheslatura* further finds in the four (4) decades since USEPA promulgated
8 40 C.F.R. § 265.382, there have been major advances in technologies that can
9 replace OB/OD. A 2018 study by the National Academies of Sciences, Engineering,
10 and Medicine (NAS) stated that there “are no significant technical, safety, or
11 regulatory barriers to the full-scale deployment of alternative technologies for the
12 demilitarization of the vast majority of the conventional waste munitions, bulk
13 energetics, and associated wastes.” According to the NAS Report, all of the
14 alternative technologies would have “lower emissions and less of an environmental
15 and public health impact, would be monitorable, and would likely be more
16 acceptable to the public.” USEPA released a similar report in 2019, assessing various
17 alternative technologies that have been used successfully in place of OB/OD.

18 *I Liheslatura* finds that the OB/OD unit is sited in the north in proximity to
19 Guam’s most populous villages of *Dededo* and *Yigo*; and that cancer is one of the
20 leading causes of mortality on Guam.

21 *I Liheslatura* further finds that it is necessary to revitalize Guam’s cultural
22 practice of *inafa’maolek*, meaning to make good to restore a healthy balance and
23 reciprocity with Guam’s environment that sustains life.

24 Therefore, *I Liheslaturan Guåhan* intends to prohibit the outdated, harmful
25 practices of OB/OD because protecting Guam’s air, water and land is necessary for
26 the continued health and sustenance of its people; and to continue Guam’s cultural
27 practice of *inafa’maolek* by restoring this healthy balance and reciprocity with
28 Guam’s environment which sustains life.

1 **Section 2.** New Subsections (a)(8) and (a)(9) are hereby *added* to § 51111
2 of Article 1, Chapter 51, Title 10, Guam Code Annotated, to read as follows:

3 “**§ 51111. Prohibited Hazardous Waste Activities.**

4 (8) open burn hazardous waste;

5 (9) use open detonation (OD) to treat hazardous waste, with the
6 exception of World War II unexploded ordnances (WWII UXO), until such
7 time that Guam is equipped with a safe alternative. OD facilities must evaluate
8 and re-evaluate whether safe alternative technologies exist to treat such
9 explosives. Where safe alternatives exist, facilities must implement those
10 alternatives that provides the most protection of human health and the
11 environment in lieu of OD within a timeline pursuant to regulations
12 promulgated by Guam EPA. Guam EPA shall require a permit for the OD of
13 WWII UXO and shall develop permitting rules and regulations promulgated
14 through the Administrative Adjudication Law found in Chapter 9 of Title 5,
15 Guam Code Annotated.”

16 **Section 3. Promulgation of Rules and Regulations.** The Guam
17 Environmental Protection Agency shall promulgate rules and regulations consistent
18 with the provisions of this Act no later than sixty (60) days after enactment of this
19 Act.

20 **Section 4. Effective Date.** This Act shall be effective sixty (60) days from
21 the date of its enactment.

22 **Section 5. Severability.** If any provision of this Act or its application to any
23 person or circumstance is found to be invalid or inorganic, such invalidity shall not
24 affect other provisions or applications of this Act that can be given effect without
25 the invalid provision or application, and to this end the provisions of this Act are
26 severable.