

*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 |
|--------------|---------------------|---|------------------------|---------------|---------------|---------------------|-----------------------------|--------------|-------|
| 360-36 (COR) | Sabina Flores Perez | AN ACT TO ADD NEW §§ 51111(a)(8) and (a)(9) TO ARTICLE 1, CHAPTER 51, DIVISION 2, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO PROTECTING OUR AIR, WATER, LAND, AND THE HEALTH OF OUR PEOPLE FROM THE TOXIC EXPOSURE DUE TO OPEN BURNING AND OPEN DETONATION OF HAZARDOUS WASTE AND PROHIBITING THE IMPORTATION AND TRANSSHIPMENT OF HAZARDOUS WASTE INTO GUAM. | 11/15/22<br>10:56 a.m. |               |               |                     |                             |              |       |

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

**Bill No. 360-36 (COR)**

Introduced by:

Sabina Flores Perez *SFP*

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

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that open  
3 burning and open detonation (OB/OD) are based on ‘dirty technology’ with  
4 ‘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  
12 solid propellant of a rocket motor, comprises as much as 45% per- and  
13 polyfluoroalkyl Substances (PFAS), characterized as ‘forever chemicals’ due to

1 their high resistance to naturally breaking down. The practice of open  
2 burning/open detonation of military energetic waste containing PFAS will facilitate  
3 its release and dispersion, thus exposing our community to substances that can  
4 cause health effects such as cancer, liver damage, decreased fertility, and an  
5 increased risk of asthma and thyroid disease.

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

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

16 *I Liheslatura* finds that in President Biden signed into law the PACT act that  
17 lists presumptive illnesses to which those enlisted and veterans suffering from  
18 these illnesses can automatically receive health care.

19 *I Liheslatura* finds in the 1980s the U.S. Congress prohibited open burning  
20 and open detonation of hazardous waste in the United States except waste  
21 explosives which cannot safely be disposed of through other modes of treatment  
22 pursuant 40 C.F.R § 265.32. When USEPA issued this regulation in 1980, the  
23 agency declared that the "potential human health hazards associated with the  
24 practice [of open burning of hazardous waste] dictate that open burning be ended  
25 now. EPA *Standards Applicable to Owners and Operators of Hazardous Waste*  
26 *Treatment, Storage, and Disposal Facilities*, 45 Fed. Reg. 33,154, 33,217/2 (May  
27 19, 1980). But in response to comments from the military that OB/OD were "the  
28 only alternatives for disposal of most munitions," *id.*, EPA included a limited

1 exception to be used only during the interim status period and only for waste  
2 explosives that could not be treated with alternatives.

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

14 *I Liheslatura* finds that the OB/OD unit is sited in the north in proximity to  
15 our most populous villages of Dededo and Yigo. Cancer is one of the leading  
16 causes of mortality on Guam.

17 *I Liheslatura* further finds that it is necessary to revitalize our cultural  
18 practice of *inafa’maolek*, meaning to making good, to restore a healthy balance and  
19 reciprocity with our environment that sustains life.

20 *I Liheslaturan Guåhan* intends to prohibit outdated, harmful practices of  
21 OB/OD because healthy air, water and land are necessary for the continued health  
22 and sustenance of our people and to continue our cultural practice of *inafa’maolek*  
23 by restoring this healthy balance and reciprocity with our environment which  
24 sustains life.

25 **Section 2.** A new §§ 51111(a)(8) and (a)(9) of Article 1, Chapter 51, Title  
26 10, Guam Code Annotated, as follows:

27 **“§ 51111. Prohibited Hazardous Waste Activities.**

28 (a) It shall be unlawful for any person to:

1 (1) Violate any provision of this Chapter or any rule,  
2 regulation, standard, or order issued pursuant to this Chapter;

3 (2) Own, operate or use a dump for the disposal of hazardous  
4 waste;

5 (3) Place, or allow to be placed, any hazardous waste upon the  
6 highways, public or private property contrary to the provisions of this  
7 Chapter;

8 (4) Manage hazardous waste facilities without a permit issued  
9 pursuant to this Chapter;

10 (5) Store, collect, transport, process or dispose of hazardous  
11 waste in such a manner as to degrade the environment, create a public  
12 nuisance, create a health or safety hazard as determined by the Director  
13 of the Department of Public Health and Social Services or the  
14 Administrator or violate any provision of this Chapter;

15 (6) Knowingly make any false statement or representation in  
16 any hazardous waste application, label, manifest, record, report, permit  
17 or other document filed, maintained, or used for purposes of  
18 compliance with the provisions of this Chapter.

19 (7) Improperly manage or operate a hazardous waste  
20 management facility.

21 (8) Import or transship hazardous waste into Guam.

22 (9) Use open burn/open detonation for treatment of hazardous  
23 waste.

24 (b) Each day of continued violation of this section or the provisions  
25 of this Chapter or rules and regulations authorized herein shall be deemed a  
26 separate offense or violation.”

27 **Section 3. Effective Date.** This Act shall be effective upon enactment.

28 **Section 4. Severability.** If any of provision of this law or its application to

1 any person or circumstance is found to be invalid or contrary to law, that invalidity  
2 *shall not* affect other provisions or applications of this law, which can be given effect  
3 without the invalid provisions or applications and to this end the provisions of this  
4 act are severable.