

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), (a)(9), and (a)(10) 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 OF HAZARDOUS WASTE INTO GUAM.	11/15/22 10:56 a.m.	11/18/22	Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning	11/29/22 1:30 p.m.	12/9/22 3:14 p.m. As amended by the Committee on Environment, Revenue and Taxation, Labor, Procurement, and Statistics, Research, and Planning	Request: 11/18/22 Waiver: 11/30/22	
	SESSION DATE	TITLE	DATE PASSED	TRANSMITTED	DUE DATE	PUBLIC LAW NO.	LAPSED	NOTES	
	12/2/22	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.	12/16/22	12/16/22	12/28/22	36-139	12/28/22	Received: 12/29/22 Mess and Comm. Doc. No. 36GL-22-2942	

LOURDES A. LEON GUERRERO
GOVERNOR



JOSHUA F. TENORIO
LT. GOVERNOR

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

Transmitted via email to: speaker@guamlegislature.org

December 28, 2022

Doc Type: 36GL-22-2942
OFFICE OF THE SPEAKER
THERESE M. TERLAJE

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

-12- 28 2022

Time: 6:04pm
Received: [Signature]

Re: BILL NO. 360-36 (COR) - 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

Hafa Adai Madame Speaker,

Although several decades have passed since WWII, the continued presence of unexploded ordnances on our island exposes our people to health and environmental risks even today. To minimize these risks, the federal Resources Conservation and Recovery Act (“RCRA”) and applicable Guam laws and regulations provide a framework for managing such wastes through proper treatment or disposal. RCRA further authorizes our government to regulate hazardous waste activities with “more stringent” regulations than those promulgated by U.S. EPA.

Bill No. 360-36 seeks to address hazardous waste treatment and disposal concerns by making it unlawful for any person to open burn (“OB”) hazardous waste; and to use open detonation (“OD”) to treat hazardous waste, except for permitted OD of WWII unexploded ordnances (“UXO”) that lack safe alternative technologies. The introduced version of the bill provided for stringent solutions—banning the import of hazardous waste and prohibiting certain OB/OD activities without exception. In an effort to address concerns expressed by agencies, other stakeholders, and the public, the bill was amended to permit the OD of WWII UXOs under certain conditions and allow the import of hazardous waste into Guam. The amended bill retained OB prohibitions to serve environmental and health interests of community groups and individuals.

Although Bill No. 360-36 contains necessary changes in several areas, the bill will lapse into law without my signature due to pending concerns by federal agencies regarding their ability to execute Bill No. 360-36, such as implementing available safe alternative technologies to treating OD. Our

To: Speaker Terlaje
Fr: Governor of Guam
Date: December 28, 2022
Re: Bill No. 360-36 (COR)

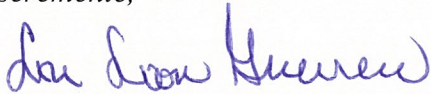
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Administration will work with the Guam Legislature to ensure these concerns are resolved, while preserving the intent of the bill.

I want to thank Senator Perez for spearheading work to introduce, amend, and ultimately garner support to pass Bill No. 360-36, and her broader efforts to enact measures that safeguard our natural resources and environment for the benefit of our people.

Bill No. 360-36 shall *lapse into law without my signature* as **Public Law No. 36-139**.

Sensèremente,



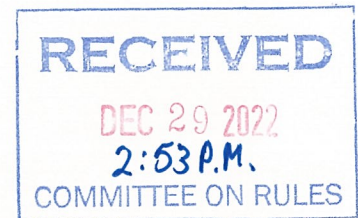
LOURDES A. LEON GUERRERO

Maga'hågan Guåhan

Governor of Guam

Enclosure: Bill No. 360-36 (COR) nka *P.L. No. 36-139 (LAPSE)*

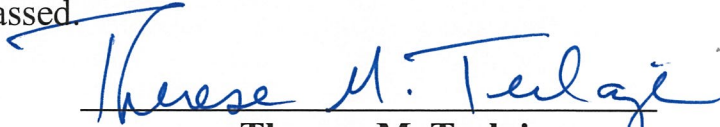
cc via email: *Honorable* Joshua F. Tenorio, *Sigundo Maga'låhen Guåhan*, Lt. Governor of
Guam
Compiler of Laws



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 **Bill No. 360-36 (COR)**, "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,*" was on the 16th day of December 2022, duly and regularly passed.



Therese M. Terlaje
Speaker

Attested:



Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 16th day of Dec,
2022, at 10:06 o'clock P.M.


P63 C C Chong 562
Assistant Staff Officer
Maga'håga's Office

APPROVED:

Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 12/28/2022

Public Law No. 36-139

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

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.

Introduced by:

Sabina Flores Perez
V. Anthony Ada
Frank Blas Jr.
Joanne Brown
Christopher M. Dueñas
James C. Moylan
Tina Rose Muña Barnes
Telena Cruz Nelson
Clynton E. Ridgell
Joe S. San Agustin
Amanda L. Shelton
Telo T. Taitague
Jose “Pedo” Terlaje
Therese M. Terlaje
Mary Camacho Torres

**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’

1 with ‘virtually no emission controls’, which results in the release of hazardous
2 chemicals such as lead, which has been banned in Guam since 1990, and highly
3 carcinogenic substances such as strontium and uranium. Dioxin, which is an
4 endocrine disruptor, carcinogenic in small quantities, and a persistent organic
5 pollutant, has been known to be released as part of the emissions and has been
6 detected in soils at OB/OD sites.

7 *I Liheslatura* further finds that pyrotechnic compositions of
8 magnesium/Teflon/Viton (MTV), widely used in military flares and for igniting the
9 solid propellant of a rocket motor, comprises as much as forty-five percent (45%)
10 per- and polyfluoroalkyl Substances (PFAS), characterized as ‘forever chemicals’
11 due to their high resistance to naturally breaking down. The practice of open
12 burning/open detonation of military energetic waste containing PFAS will facilitate
13 its release and dispersion, thus exposing our community to substances that can cause
14 health effects such as cancer, liver damage, decreased fertility, and an increased risk
15 of asthma and thyroid disease.

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

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

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

4 *I Liheslatura* finds that in the 1980s, the U.S. Congress prohibited open
5 burning and open detonation of hazardous waste in the United States, except for
6 waste explosives which cannot safely be disposed of through other modes of
7 treatment pursuant 40 C.F.R. § 265.32. When the United States Environmental
8 Protection Agency (USEPA) issued this regulation in 1980, the agency declared that
9 the “potential human health hazards associated with the practice [of open burning of
10 hazardous waste] dictate that open burning be ended now. (*USEPA Standards*
11 *Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and*
12 *Disposal Facilities*, 45 Fed. Reg. 33,154, 33,217/2 - May 19, 1980). But in response
13 to comments from the military that OB/OD were “the only alternatives for disposal
14 of most munitions,” *id.*, USEPA included a limited exception to be used only during
15 the interim status period and only for waste explosives that could not be treated with
16 alternatives.

17 *I Liheslatura* further finds in the four (4) decades since USEPA promulgated
18 40 C.F.R. § 265.382, there have been major advances in technologies that can
19 replace OB/OD. A 2018 study by the National Academies of Sciences, Engineering,
20 and Medicine (NAS) stated that there “are no significant technical, safety, or
21 regulatory barriers to the full-scale deployment of alternative technologies for the
22 demilitarization of the vast majority of the conventional waste munitions, bulk
23 energetics, and associated wastes.” According to the NAS Report, all of the
24 alternative technologies would have “lower emissions and less of an environmental
25 and public health impact, would be monitorable, and would likely be more
26 acceptable to the public.” USEPA released a similar report in 2019, assessing various
27 alternative technologies that have been used successfully in place of OB/OD.

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

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

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

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

14 “§ 51111. **Prohibited Hazardous Waste Activities.**

15 (8) open burn hazardous waste;

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

27 **Section 3. Promulgation of Rules and Regulations.** The Guam
28 Environmental Protection Agency shall promulgate rules and regulations consistent

1 with the provisions of this Act no later than sixty (60) days after enactment of this
2 Act.

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

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