

**RULES AND REGULATIONS GOVERNING  
CHEMICAL TOILETS**

**Article 19**

**26 Guam Administrative Rules and Regulations**

**Division 1**

**Chapter 4**

**DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES  
DIVISION OF ENVIRONMENTAL HEALTH**

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**§41901. Purpose.**

The purpose of these rules and regulations is to protect and promote public health through the proper disposal of human waste when using chemical toilets. These rules and regulations shall be liberally construed by the Department of Public Health and Social Services and applied to ensure compliance with sanitary requirements.

**§41902. Authority.**

Title 10 Guam Code Annotated, Chapter 20, Section 20105, and Chapter 39, Section 39107 authorize the Director of the Department of Public Health and Social Services to adopt rules and regulations to carry out the provisions of these chapters.

**§41903. Definitions.**

As used in these rules and regulations, the following definitions shall apply:

(a) *Building* means any dwelling, apartment house, hotel, business establishment, commercial establishment, church, meeting hall, or any other building used for human occupancy, business activity or assembly.

(b) *Chemical Toilet Establishment* means the location where the chemical toilets and sewage pumper trucks are maintained, serviced, and stored.

(c) *Chemical Toilet Operator* means a person or business entity, who owns or manages, or proposes to own or manage, chemical toilets.

(d) *Chemical Toilet* means a building or structure housing one (1) or more water-tight containers of liquid chemical disinfectants intended to receive and hold human excrement.

(e) *Chemical Toilet Grade Placards* means a sign issued by the Department to a Chemical Toilet Establishment, which reflects the sanitary condition of the establishment based on the recent inspection and its total demerit score.

(f) *Chemical Toilet Permit* means the official Department of Public Health and Social Services document issued by the Department authorizing the establishment to operate its business.

(g) *Department, or DPHSS*, means the Guam Department of Public Health and Social Services.

(h) *Director* means the Director of the Department of Public Health and Social Services or his/her designated representative.

(i) *Route Units* means chemical toilets placed on construction sites or other locations that require regularly scheduled service.

(j) *Sewage Pumper Truck* means a truck with a large tank and the capability to pump liquids or slurries into and out of the tank.

(k) *Special Event Units* means chemical toilets placed on a site on a short-term basis that require irregular or on-demand service.

(l) *Stool* means a toilet facility maintained within a toilet room for the purpose of both defecation and urination.

(m) *Toilet Facility* means a fixture maintained within a toilet room for the purpose of both defecation and urination.

(n) *Toilet Room* means an enclosure containing one or more toilet facilities.

(o) *Wastewater* means untreated or insufficiently treated human excreta; food wastes disposed of through plumbing facilities; wash water; wastewater from toilets, sinks, basins, showers, washing machines and similar plumbing fixtures; and other liquid wastes from residences, commercial buildings, and industrial establishments or other places of assembly, and such diluting water as may have entered the waste disposal system.

**§41904. Chemical Toilets.**

(a) No chemical toilets shall be used except under permit and inspection of the Department.

(b) No building, as defined herein, shall use chemical toilets for the disposal of human wastes. Chemical toilets may be used at construction sites, outdoor recreation areas and similar areas approved by the Director.

**§41905. Chemical Toilet Permit.**

(a) No person shall directly or indirectly in any manner, conduct, control, manage, maintain, or operate a chemical toilet establishment unless a valid Chemical Toilet Permit issued by the Department to operate such a facility has been obtained and posted. Any person, before constructing a new chemical toilet establishment, or making an addition to, or major alteration of, an existing facility shall first submit plans and specifications of such building or changes to the Director.

(b) The form for the Chemical Toilet Permit shall be prescribed by the Director.

(c) The expiration date of the Chemical Toilet Permit shall be one year from the application date.

(d) The Chemical Toilet Permit shall be renewed at least 15 days prior to the expiration of the permit every calendar year.

(e) The Chemical Toilet Permit shall be posted by the Director in a conspicuous place on the premises designated by him. No person other than the Director shall remove, deface, destroy or conceal such permit.

**§41906. Transfer of Chemical Toilet Permit Prohibited.**

It shall be unlawful to transfer a Chemical Toilet Permit to another person or to another location or to post it on or use it in any way in connection with any other premises than that for which it is issued.

**§41907. Chemical Toilet Requirements.**

(a) Structures housing chemical toilet rooms may be mobile trailers or prefabricated, skid-mounted or otherwise portable structures. If they contain more than one stool, each stool shall occupy a separate compartment with a door and walls or partitions between stools sufficient to assure privacy.

(b) Toilet rooms must be designed, constructed, and maintained to prevent the access of flies or vermin to the wastes.

(c) The interior floors, walls, ceilings, partitions, and doors of all toilet rooms must be of durable, non-absorbent material, smooth, and easily cleanable.

(d) Each toilet facility must be smooth, durable, easily cleanable, and non-absorbent.

(e) The toilet rooms must be ventilated and provided with self-closing doors, lockable from the inside. All ventilation openings to the units, except vent pipes, shall be covered with a screen. Toilet rooms that are not ventilated by mechanical means shall be provided with a screened ventilation opening having a cross-sectional area of at least one square foot (1 ft<sup>2</sup>) per stool covered with 16 mesh to 1-inch screen. Chemical toilets and urinals that are free-standing and not installed in a toilet room, do not require a ventilation system.

(f) Every toilet room shall provide adequate space for the user with minimum inside dimensions of three feet (3') front-to-back and side-to-side, inside clear height of six feet six inches (6'6") and a stool riser height of fourteen to twenty inches (14" to 20").

(g) The waste containers (tanks) of chemical toilets must be constructed of durable, easily cleanable, non-absorbent, and watertight materials. Tank size must be sufficient to contain the initial chemical charge and provide capacity for at least one day's use for forty persons (a minimum tank capacity of 33 gallons must be provided). Ventilation of the tank to the outside of the structure shall be with a minimum nominal vent area of seven square inches (7 in<sup>2</sup>). Construction of the tank must be such as to prevent spillage from occurring when tipped or turned over.

(h) Only chemicals which shall not interfere with the Guam Waterworks Authority's Wastewater Treatment Processes and U.S. Environmental Protection Agency approved chemicals, capable of controlling odors, disinfecting, and liquefying solids, may be used in chemical toilets. Chemicals, if used, shall be in accordance with applicable federal, state, and local provisions. No chemicals that are prohibited by U.S. Environmental Protection Agency may be used.

(i) Chemical toilets must be maintained in a clean and sanitary manner, free of odor and stains by the renter of the chemical toilet and the supplier of the chemical toilet, while in use, storage, and prior to release.

(j) Each chemical toilet must be identified with the name of the company and a unit number. The lettering must be at least one inch (1") in height, contrasting color to chemical toilet and posted in a clear and conspicuous area to be easily seen by the public, and shall not be less than five feet (5') in height.

(k) Chemical toilets shall be stored at the chemical toilet establishment when not in use.



**§41908. Pumping and Cleaning Operations. Applications.**

(a) An application for a Chemical Toilet Permit to operate all new or existing chemical toilet establishments shall be made in writing on a form prescribed by the Department, signed by the applicant or his authorized agent, and shall contain such information that will determine that the facility and its operation are in compliance with the applicable provisions of these regulations. The following information shall be included:

- (1) Type of disinfection to be used;
- (2) The frequency at which the chemical toilets will be serviced; and
- (3) Where the chemical toilet wastes will be disposed.

(b) Before pre-operation inspections of the chemical toilet establishment, chemical toilets, and sewage pumper truck are conducted, its plans and specifications shall be submitted to the Director in accordance with the requirements established in these regulations, which shall include, but are not limited to, the following:

- (1) The dimensions of the proposed establishment;
- (2) The location, number, and type of plumbing fixtures, including all water supply fixtures and toilet fixtures, and other fixtures and equipment;
- (3) If a newly-constructed building, the general layout of water supply lines, wastewater lines, or methods of wastewater disposal;
- (4) Chemical toilet and sewage pumper truck specifications; and
- (5) A list of all chemical toilets in their inventory and a means of identifying each chemical toilet. The operator must ensure that the identifying number or mark indicated in the list is visible on the chemical toilet.

(c) Before the application for a Chemical Toilet Permit shall be approved, the Department shall verify that the chemical toilet establishment and chemical toilets meet the minimum sanitary requirements and standards. This shall include the access onto the premises to conduct inspections and investigations.

(d) If, upon inspection, the Director is satisfied that the chemical toilet establishment meets the qualifications and standards prescribed in these rules and regulations, a non-transferable Chemical Toilet Permit shall be issued. The Chemical Toilet Permit shall be posted in a conspicuous area designated by the Director.

(e) An application for renewal of Chemical Toilet Permit shall be submitted to the Department no earlier than 30 days prior to its expiration date.

(f) The chemical toilet establishment shall adhere to the most recently adopted building, plumbing, fire, and other pertinent regulatory codes.

(g) A non-refundable deposit of Thirty Dollars (\$30.00) shall be made to the 'Treasurer of Guam' at the time the application for Chemical Toilet Permit is submitted to the Department. Upon completion and processing of the application, the deposit amount shall be deducted from the appropriate fee listed in §41909.

(h) Any application that remains inactive for sixty (60) consecutive days shall be considered permanently inactive, removed from the file for processing, and then destroyed, and the non-refundable Thirty Dollars (\$30.00) deposit shall be automatically forfeited.

(i) An applicant who wishes to re-apply after his or her application has become permanently inactive under the provision of §41908(h) shall be considered a new applicant and shall submit a new application with supporting documents and pay all required fees, including the Thirty Dollars (\$30.00) non-refundable deposit fee.

(j) The chemical toilet operator shall be responsible for cleaning up all spills, either through transport or operation, in accordance with all rules and regulations of the Guam Environmental Protection Agency and Guam Waterworks Authority, and as directed by the Director.

**§41909. Chemical Toilet Requirements. Fees.**

Fees for the issuance of a Chemical Toilet Permit shall be as follows:

(a) The annual Chemical Toilet Permit fee for chemical toilet operator shall be Five Hundred Dollars (\$500.00) regardless of the number chemical toilets possessed by the operator.

(b) Issuance of a duplicate Chemical Toilet Permit shall be Ten Dollars (\$10.00).

(c) Amendments to an existing Chemical Toilet Permit shall be Ten Dollars (\$10.00).

(d) An applicant for a Chemical Toilet Permit may request for the permit to be expedited and processed on the same day the request is submitted. The Department may grant such requests provided the applicant has met all the requirements of the Department to obtain a Chemical Toilet Permit, including the requirement for the pre-operation structural inspection. The Department shall assess a fee of Seventy-Five Dollars (\$75) for expedited processing in addition to the regular processing fee.

(e) The cost of the structural inspection, also known as a pre-operation inspection, is included in the initial payment for the Chemical Toilet Permit. However, a fee of Fifty Dollars (\$50) an hour shall be assessed for all subsequent inspections. With the exception of the first hour; fractional hours shall be rounded up to the nearest whole hour if more than one half (0.5) hour, and rounded down if less than one half (0.5) hour.

(f) Requests for an expedited structural inspection may be granted as determined by the Director if such inspection does not cause the disruption of any pre-existing inspections

scheduled for other applicants. The fee for expedited structural inspections shall be One Hundred Fifty Dollars (\$150) in addition to all other required fees established in these rules and regulations.

(g) Any establishment whose Chemical Toilet Permit is suspended under the provisions of §41918 of these rules and regulations and who is granted reinstatement by the Department as set out in §41920 of these rules and regulations, shall first pay a re-opening fee of One Hundred Dollars (\$100) before the permit is returned or re-issued.

(h) The fee schedule established in §41909 shall become effective immediately upon enactment.

(i) In the event that the Department is required to clean up a spill due to an imminent health hazard, all costs associated with immediate cleanup that the Department expends shall be reimbursed by the chemical toilet operator with additional fees. In the event this occurs, the Department shall be authorized to hire a firm to clean up the spill created by the chemical toilet operator, and then charge the actual costs back to the operator.

**§41910. Advance Notification of Fees Schedule.**

The Director shall ensure that advance, written notification is provided to all Chemical Toilet Permit licensees relative to the cost for permit renewal upon the expiration of their current permit. The information *shall* be immediately provided as a permit renewal notification.

**§41911. Usage.**

(a) Route Units. On a construction site, there shall be at least one toilet unit per 10 workers, in a single 40-hour shift which must be serviced weekly.

(b) Toilet facilities shall be installed, maintained, and operated in a manner that will not endanger the health and safety of users.

(c) Toilet facilities shall be provided in toilet rooms that are separate for each sex in all places of employment whether indoors, outdoors, or underground.

(d) A separate toilet room for each sex is not needed if occupied by no more than one person at a time and the toilet room can be latched from the inside. In such cases, at least one stool shall be provided.

(e) The number of facilities to be provided for each sex shall be based upon the number of employees of that sex for whom the facilities are furnished for, and shall be in accordance with Tables 1 and 2 of these rules and regulations. Where single-occupancy toilet rooms have more than one toilet facility, only one such facility in each toilet room shall be counted for the purposes of Tables 1 and 2.

(f) Where employees of more than one employer are present at a place of employment (such as, but not necessary limited to, construction sites with employees of several subcontractors), it shall be the responsibility of each employer to provide toilet facilities sufficient for the total number of his own employees.

(g) Where the number of employees at a place of employment fluctuates widely, the number of toilet facilities required shall be determined by the maximum number of employees present on a regular shift.

**Table 1. Minimum Number of Toilet Facilities If Serviced Once Per Week**

Number of Employees	Minimum Number of Toilet Facilities
	If serviced once per week*
1-10	1
11-20	2
21-30	3
31-40	4
Over 40	1 additional facility for each 10 additional employees
*Note: "Servicing" refers to the emptying of waste and the cleaning of the toilet	

facility.

**Table 2. Minimum Number of Toilet Facilities If Serviced More Than Once Per Week**

Number of Employees	Minimum Number of Toilet Facilities
	If serviced more than once per week**
1-15	1
16-35	2
36-55	3
56-75	4
76-95	5
Over 95	1 additional facility for each 20 additional employees
**Note: "Servicing" refers to the emptying of waste and the cleaning of the toilet facility.	

(h) Special Events Units. The number of units required must be in accordance with the rules and regulations of the Guam Environmental Protection Agency.

**§41912. Service.**

(a) The minimum established standard for route units is weekly service and for special event units when at 1/3 tank capacity remaining. Service includes the following:

- (1) Pumping or evacuating the effluent from the portable toilet receptacle into the truck holding tank;
- (2) Recharging the portable toilet holding tank;
- (3) Cleaning and sanitizing the interior of the portable toilet by scrubbing with brushes and towel drying;
- (4) Providing toilet tissue;
- (5) Performing minor repairs to the portable toilet as needed; and
- (6) Effluent is disposed of at licensed and approved disposal sites as needed.

(b) It shall be the responsibility of the employer to ensure that all toilet rooms and facilities are maintained in a clean and sanitary condition.

(c) If toilet facilities are of the types that require periodic servicing, it shall be the responsibility of the employer to provide sufficient toilet facilities and servicing to prevent the stated capacity of those facilities from being exceeded.

(d) The employer shall also assure ready access to the toilet facilities by the required servicing equipment.

**§41913. Disposal Sites.**

All waste must be disposed of at a disposal facility designated by the Guam Waterworks Authority. The chemical toilet operator shall obtain the necessary approvals and permits from the appropriate regulatory agencies, including, but not limited to, the Guam Waterworks Authority and the Guam Environmental Protection Agency.

**§41914. Sewage Pumper Truck Requirements.**

(a) The sewage pumper truck shall be constructed so to prevent the leakage, spillage, and splashing of its contents and shall be constructed of metal and its tank is watertight and splash-proof.

(b) A leak-proof gate or ball valve must be provided on each tank for the discharge or loading of the contents. Sewage pumper truck must also have a leak-proof screw plug or cap on each valve at all times. The cap must be chained at all times.

(c) A pipe or hose of sufficient length to fully extend into a sewer manhole or disposal pit must be provided. The pipe or hose must be completely drained into the manhole or pit to avoid any spillage of contents onto the ground.

(d) All racks for carrying equipment on the truck must be made of metal.

(e) All parts of the truck and equipment must be designed and maintained to be easily cleanable.

(f) Sewage pumper truck shall have the name and address of the company printed on both sides of the tank or truck in letters that will be able to read at a distance of at least 50 feet (50 ft.).

**§41915. Pumping and Cleaning Operations.**

(a) Pumping and cleaning operations shall be conducted in a manner that will not endanger human health or the environment and at a frequency of at least one time every seven (7) calendar days for route units. Any spillage of sewage must be cleaned immediately at the chemical toilet operator's expense. All cleaning of the sewage pumper truck shall be conducted at the chemical toilet establishment.

(b) Pumping, cleaning, and disposal operations must be performed in accordance with the statutes, rules, and regulations of the Guam Waterworks Authority and the Guam Environmental Protection Agency regarding water control, cleaning wastewater systems, disposal of wastewater, requirements and procedures, including but not limited to 22 G.A.R., Div. 2, Chapters 11 and 12 and 28 G.A.R., Chapter 2, Article 1.

**§41916. Inspection and Grading.**

(a) Access.

(1) An employee or representative of the Department shall, after proper presentation of credentials, have access to any chemical toilet establishment, toilet room or stool, chemical toilet, route unit, or sewage pumper truck at any reasonable time for the purpose of making inspections to determine compliance with these rules and regulations.



(2) The operator shall ensure that he/she, or a designee, is present during inspections of a chemical toilet establishment by the Department.

(3) The date of each inspection shall be noted on the Chemical Toilet Grade Placards.

(4) The person in charge shall, upon request from the Department, allow for the access to all parts of the establishment and shall allow for the examination and copying of any and all records pertinent to its sanitary operation, and allow access to persons employed.

(b) Frequency of Inspections.

As often as may be deemed necessary, the Director shall inspect every chemical toilet establishment, and may inspect every toilet room or stool, chemical toilet, route unit, or sewage pumper truck, or activities subject to these rules and regulations.

(c) Report of Inspections.

(1) Whenever an inspection of a chemical toilet establishment, toilet room or stool, chemical toilet, route unit, or sewage pumper truck is conducted, the findings shall be recorded on an inspection report prescribed by the Director.

(2) Upon the completion of an inspection, the following information must be indicated on the inspection report:

(A) The violation, if any, and its corresponding section number;

(B) Demerit point that is assigned to the violation;

(C) The summed total of all the demerit points and its corresponding letter grade pursuant to §41916(d);

(D) The correction that needs to be made and when such correction must be completed by;

(E) A statement indicating that failure to comply with any notice issued in accordance with the provisions of any applicable laws, rules, or regulations may result in immediate suspension of the Chemical Toilet Permit of the establishment or downgrade to the next lower grade; and

(F) A statement that an opportunity for appeal from any notice or inspection findings will be provided if a written request for a hearing is filed with the Director within a period of time established in the notice for corrections.

(3) A copy of the completed inspection report form shall be issued to the operator of the establishment at the conclusion of the inspection.

(d) Grading.

(1) A demerit score, ranging from 6 points to 1 point, shall be assigned for each violation, which shall be indicated in the inspection report.

(2) Grades of a chemical toilet establishment shall be as follows:

(A) Grade A: An establishment having a total demerit score of not more than 10;

(B) Grade B: An establishment having a total demerit score of more than 10 but not more than 20;

(C) Grade C: An establishment having a total demerit score of more than 20 but not more than 40; and

(D) Grade D: An establishment having a total demerit score of more than 40.

(3) When the demerit score of the establishment is more than 40, the Chemical Toilet Permit shall be immediately suspended.

(4) The Department shall issue a Chemical Toilet Grade Placard reflecting the letter grade of the most recent inspection.

(5) All violations shall be corrected within the established time period.

(A) A violation that is assigned 6 demerit points shall be corrected within a period of time not to exceed 7 days, and

(B) All other violations shall be corrected within a period of time not to exceed 30 days.

(6) Notwithstanding the grade criteria established above, whenever a second consecutive (“repeat”) violation of the same item is discovered, the Chemical Toilet Permit may be suspended or the establishment downgraded to the next lower grade.

(7) The permit holder or operator of the establishment that had its grade lowered, may, at any time, request an inspection for the purpose of re-inspecting the establishment.

(e) Service of Notices.

Notices provided for under this section shall be deemed to have been properly served when a copy of the inspection report form or other notice has been delivered personally to the permit holder or the person in charge, or to any employee of the chemical toilet operator located at the address on file with the Department, or such notice has been sent by registered or certified mail with return receipt requested to the last known address of the permit holder. A copy of such notice shall be filed with the records of the Director.

(f) Posting.

Copies of the inspection report and the Chemical Toilet Grade Placard shall be posted by the Director in a conspicuous place on the premises designated by him. No person other than the Director shall remove, deface, destroy or conceal such report and placard. The original Inspection Report shall be retained by the Director. Failure to post, or its unauthorized removal, will result in the issuance of the appropriate demerit point(s).

(g) Appeal.

A Chemical Toilet Establishment shall have an opportunity to appeal any notice or inspection findings of the Department if a written request for a hearing is filed with the Director within the period of time established in the Department's notice or report.

**§41917. Hearing.**

If any provision or the application of any provision of these regulations is held invalid, that invalidity shall not affect other provisions or applications of these rules and regulations.

(a) Any establishment whose Chemical Toilet Permit is to be suspended or revoked shall be notified by the Director in writing of the Department's intention and the reasons therefore.

(b) Any establishment that receives a notice of violation with intent to suspend or revoke as described in §41918 and that wishes to contest shall request a hearing with the Director in writing no later than 15 calendar days after receipt of the notice, and shall state the grounds for objecting to the intended suspension or revocation.

(c) Upon completion of a hearing, the Director shall make a written determination concerning the violation and whether a suspension or revocation is to be imposed.

**§41918. Suspension or Revocation of Chemical Toilet Permit.**

(a) The Director may suspend or revoke any Chemical Toilet Permit issued under the provisions of Title 10 GCA, Chapter 39, § 39108, or any rules and regulations promulgated concerning Chemical Toilet Permits.

(b) Suspension of a permit may be imposed without prior hearing in the discretion of the Director by giving written notice thereof to the holder, in which case, the holder shall have 5 days within which to request a hearing. Suspension without prior hearing may be imposed for such time until the violation is corrected; or may be imposed as a penalty for repeated violations, in which case, it shall not exceed 5 days; or may be imposed pending a hearing under subsections (c) or (d) of this section. When a hearing is requested following a suspension without prior hearing, it shall be discretionary with the Director as to whether the suspension shall be continued pending the hearing.

(c) Suspension of a permit may occur following a hearing. Suspension may be imposed for such time until the violation is corrected or may be imposed as a penalty for repeated violation, in which case, it shall not exceed 6 months.

(d) A revocation may occur following a hearing conducted in accordance with the provisions of the Administrative Adjudication Law (Title 5 GCA, Chapter 9).

(e) Following a hearing, a judicial review of the Director's decision may be held in accordance with the provisions of the Administrative Adjudication Law (Title 5 GCA, Chapter 9). Pending a final determination of such judicial review, it shall be discretionary with the Superior Court of Guam to stay the enforcement of the order of suspension or revocation upon the furnishing of adequate bond.

**§41919. Suspension without Hearing.**

(a) A Chemical Toilet Permit may be suspended without prior hearing:

(1) If the permit holder denies the Director access to areas and equipment governed by these rules and regulations.

(2) When the demerit score of the chemical toilet establishment is more than 40;

(3) At the discretion of the Director for violating any provisions of these rules and regulations; and

(4) For twice violating the same requirement deemed critical (violation with 6 demerit point) under these rules and regulations within any six-month period, in which case, it shall not exceed 5 days.

(b) A suspension without prior hearing may remain in effect until the violation is corrected by the establishment. The Director shall have the discretion to decide whether the suspension shall be continued pending a hearing.

**§41920. Reinstatement of Chemical Toilet Permit.**

When the holder of a Chemical Toilet Permit believes that corrections have been made of the cited violation(s) upon his premises or some other violation for which his permit has been suspended, he may make application to the Director for reinstatement of the permit. This application may be in the form of a letter. Upon the receipt of such application, the Director shall make an inspection of the premises. If the findings of this inspection show that the violation has been corrected, the Director may, in his discretion, reinstate the permit, but shall reinstate the permit where suspension was imposed for such time until violations were corrected.

**§41921. Revoked Chemical Toilet Permit May Not Be Reinstated.**

When a Chemical Toilet Permit has been revoked, it no longer has any validity and may not be reinstated except upon order of a court.

**§41922. New Chemical Toilet Permit Barred for One Year**

No person whose permit has been revoked shall be eligible to obtain a new permit for a period of one year.

**§41923. Ceasing of Operations.**

The Director shall order a chemical toilet establishment, toilet room or stool, chemical toilet, route unit, or sewage pumper truck to immediately cease operations whenever he finds that the operation jeopardizes the health and safety of the people. The operation of any specific toilet room or stool, chemical toilet, route unit, or sewage pumper truck where there is a wastewater spill or leak, shall cease operation immediately. Additionally, a chemical toilet establishment with standing pools of wastewater shall cease operations immediately. Immediate cleanup and remediation of all spills or leaks at any location of a toilet room or stool, chemical toilet, route unit, sewage pumper truck, or the chemical toilet establishment shall be conducted with no interruption in regular servicing and maintenance for other chemical toilet establishments, toilet rooms or stools, chemical toilets, route units, or sewage pumper trucks at other locations, whenever possible. Operations for that particular location of spill or leak shall not be resumed until authorized by the Department.

**§41924. Closing and Notification to Chief of Police.**

(a) The Director shall enforce the closing of any establishment or activity whose permit has been suspended or revoked. Upon the request of the Director, the Chief of Police shall provide police personnel to enforce such closing.

(b) The Director shall notify the Chief of Police of any suspension or revocation of a Chemical Toilet Permit.

**§41925. Closure to Be Posted.**

Whenever any establishment requiring a permit is closed by the Director, the Director shall post a notice, easily visible to the public, stating that said establishment is closed by order of the Director.

**§41926. Administrative Penalties.**

(a) The Director may impose a fine payable to the “Treasurer of Guam” for any Chemical Toilet Operator that violates any provisions of these rules and regulations. The monetary fine for the administrative violation shall be by charged to the Chemical Toilet Operator based on the following violations:

(1) A fine not less than One Hundred Dollars (\$100) per violation, but not exceeding Five Hundred Dollars (\$500), for the repeat of a same violation with assigned 6 point demerits within a one year period.

(2) A fine not less than Five Hundred Dollars (\$500) per violation, but not exceeding Five Thousand Dollars (\$5,000), for operating without a valid Chemical Toilet Permit.

(3) For §41926(a)(1) and §41926(a)(2) above, the Department shall treat each additional day as a separate violation per day of continuing violation.

(b) The Director shall issue a notice of violation and administrative penalty against a Chemical Toilet Operator and provide an opportunity to request a hearing on the proposed penalty. The request must be made within 10 days of the date that the notice is served upon the Chemical Toilet Operator.

(c) Any Chemical Toilet Operator may seek review of any administrative penalty imposed before the Superior Court of Guam. Such review shall be upon the record established



before the Director and not *de novo*. The Superior Court may sustain, modify or vacate any administrative penalty it reviews.

(d) If any Chemical Toilet Operator fails to comply with an administrative penalty order after it has become final, the Attorney General shall bring a civil action to enforce the order and to recover the amount ordered or assessed, plus current interest from the date of the final order or decision. To prevail in such an action, the Director need establish only that:

(1) Notice was given as required;

(2) A hearing was granted to the defendant or that the defendant requested no hearing; and

(3) The penalty was imposed and has become final either because the administrative order was not appealed to the Superior Court, or that after judicial review the administrative order remains an unsatisfied obligation.

**§41927. Variance.**

In the event that an establishment or person is unable to comply with certain requirements of these rules and regulations, upon a showing of good cause which is not the result of negligence or malfeasance, the Director may grant a variance from the requirements of a particular rule by making a written determination. Before a variance from a requirement of these rules is approved, the Chemical Toilet Operator shall first submit a written statement of the proposed variance from the requirement citing relevant section number(s). The written statement shall include an alternate plan to address the potential public health hazards and nuisances under the relevant rule sections. The Director, not his/her representative, is delegated the authority to approve such variance.

**§41928. Effective Date.**

These rules and regulations shall become effective immediately upon enactment.

**§41929. Severability.**

If any provision or the application of any provision of these rules and regulations are held invalid, such invalidity shall not affect the other provisions or applications of these rules and regulations.