

## CHAPTER 3.

### REQUIRED PERMITS AND APPROVALS

#### 3.1 REQUIRED PERMITS AND APPROVALS

A list of federal and state permits that may be required for implementation of any of the alternatives is provided in Table 3.1-1.

**Table 3.1-1. Required Permits and Approvals**

<i>Regulatory Requirement</i>	<i>Permitting Agency</i>	<i>Permit Specifications</i>	<i>Additional Information</i>
5 Guam Code Annotated (GCA) § 63302	Guam Environmental Protection Agency (GEPA)	License required for cutting, removal or mutilation of live trees on public lands	Not applicable (NA)
5 GCA § 63601	GEPA	Permit required for takes of live coral from the area surrounding the Territory of Guam, extending from the shore of the island outwards to the 10 fathom contour	NA
10 GCA, § 74103	GEPA	Storage of gasoline or kerosene in quantities exceeding 50 gallons but not exceeding 500 gallons must be in underground storage tanks.	NA
10 GCA, § 47106(b)	GEPA	Unpermitted pollution of waters of the territory is prohibited	NA
10 GCA, §§ 76113(a) and (b)	GEPA	Permit required to own, install, or operate an underground storage tank	NA
10 GCA Chapter 45, Guam Environmental Protection Act	GEPA	Provides an integrated program of environmental protection to prevent environmental degradation of land, water, and air resources.	NA
10 GCA Chapter 47, Water Pollution Control Act	GEPA	Conserve water resources and protect, maintain and improve water quality.	NA
10 GCA Chapter 48, Toilet Facilities and Sewage Disposal	GEPA	Requires adequate toilet and sewage facilities for buildings.	NA
10 GCA Chapter 52, Water and Waste Water Operator's Mandatory Certification Act	GEPA	Conserve and protect water resources, prevent water pollution, and require certification of operating personnel for water systems and facilities.	NA
10 GCA Chapter 53, Safe Drinking Water Act	GEPA	Protect public water supplies from contamination, and provide safe drinking water for public consumption.	NA
10 GCA Chapter 53A, Guam Lead	GEPA	Prohibits use or sale of lead pipes, fittings and fixtures, allows right of entry	NA

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<i>Regulatory Requirement</i>	<i>Permitting Agency</i>	<i>Permit Specifications</i>	<i>Additional Information</i>
Ban Act		for inspection, and requires certification of compliance for building construction and occupancy.	
21 GCA Real Property Chapter 63, Guam Territorial Seashore Protection Act of 1974		Protects and manages resources within the Guam Territorial Seashore Reserve.	NA
21 GCA Real Property Chapter 75, Chamorro Land Trust Commission	Chamorro Land Trust Commission	Establishes Chamorro Land Trust Commission to accept and manage Chamorro homelands, and establish residential, agricultural and commercial land distribution and economic assistance programs.	NA
21 GCA Real Property Chapter 80, Guam Ancestral Lands Commission	Guam Ancestral Lands Commission	Establishes Guam Ancestral Lands Commission to establish ancestral lands registries, establishing process for ancestral lands recordation and claims, and cedes certain lands to the Commission.	NA
22 Guam Administrative Rules (GAR) 10103, 10106, 10107	GEPA	Development or construction activities that involve clearing, grading, filling, excavating, and other earth-moving operations must follow an approved erosion control plan.	NA
22 GAR 11105(a)	GEPA	All wastewater facilities, public or private, are at all times under the direct supervision of an operator certified by the Administrator in a classification corresponding to the classification of the system or facilities supervised	NA
22 GAR 1127(e)	GEPA	Particulate matter emissions from fuel combustion must be controlled	NA
22 GAR 1128 (a), (b) and (d)	GEPA	Fugitive dust emissions must be controlled	NA
22 GAR 12105(j)	GEPA	No wastewater disposal system installations, constructions, repairs, or additions are made by the owner of the property without permit from the Agency	NA
22 GAR 20103, 20110	GEPA	Permit required to operate or modify a solid waste disposal facility	NA

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<i>Regulatory Requirement</i>	<i>Permitting Agency</i>	<i>Permit Specifications</i>	<i>Additional Information</i>
22 GAR 5104(e)(2)	GEPA	All vessels exceeding 400 gross tons, that are berthed or docked in the waters of the Territory and without fully functional U.S. Coast Guard approved oil pollution prevention devices (for longer than 72 hours detention) must be completely encircled with flotation booms to contain any discharged oil.	NA
22 GAR 5104(h)	GEPA	Any petroleum storage facility containing petroleum products or hazardous substances not directly adjacent to navigable waters and below the Spill Prevention, Control and Counter-measure capacity requirements of 600 gallons must be provided with secondary containment to protect Guam's groundwater resources from potential threat from oil or hazardous substances discharges.	NA
22 GAR 7104	GEPA	Persons engaged in or intending to engage in well drilling must have a valid driller's license.	NA
22 GAR 7105(a), 7106(a), (b) and (j), and 7124(c)	GEPA	Land owners must obtain a valid well drilling permit and file a preliminary report to the Administrator prior to drilling commencement.	NA
22 GAR 7105(a), 7106(a), (b) and (j), and 7124(c)	GEPA	Owners of active existing wells must obtain a well operating permit.	NA
22 GAR 7105(a), 7106(a), (b) and (j), and 7124(c)	GEPA	Application for a new well operating permit must be filed with the Administrator.	NA
22 GAR 7127(b) through (d), and 7128(a), (b), and (i)	GEPA	Abandoned wells must meet destruction requirements. A well is considered abandoned if its use or maintenance is not in compliance with a valid operating permit or if it has not been used for a period of 12 consecutive months. All destroyed wells must be inspected during and after the sealing or filling operation by the Administrator or his authorized representative to insure that proper procedures have been carried out.	NA

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<i>Regulatory Requirement</i>	<i>Permitting Agency</i>	<i>Permit Specifications</i>	<i>Additional Information</i>
22 GAR 7130(d)(1)	GEPA	Written Administrator approval is required prior to construction on, utilization of, operation on, or occupation of land, served or to be served by septic tank and leached field, sanitary sewer, stormwater disposal method, or liquid waste storage, disposal or treatment method, that is within the groundwater management protection zone and within a 1000-foot radius of any public utility potable water supply well.	NA
22 GAR 9105(a), 9108(a) and (b), and 9113(a) and (b)	GEPA	Federal facilities must have a valid underground injection control permit to operate a Class V underground injection well. These regulations apply to Class V injection wells only, including nonhazardous liquid waste disposal wells, community septic system wells, sand backfill wells, recharge wells, drainage wells, cooling water return flow wells, air conditioning return flow wells, salt water barrier wells, and subsidence control wells (not associated with oil and gas production).	NA
26 GAR 4601, 4603 and 4604	GEPA	Permit required to construct, reconstruct or alter any public swimming pool	NA
26 GAR 4601, 4603 and 4604	GEPA	Permit to operate required to operate or maintain a public swimming pool	NA
Title 65: Division of Environmental Quality, Chapter 60-65 Pesticide Regulations	CNMI DEQ	Establishes system of control over the importation, distribution, sale, and use of pesticides.	NA
Title 65: Division of Environmental Quality, Chapter 60-80 Solid Waste Management Regulations	CNMI DEQ	Establishes requirements and criteria for new and existing solid waste management activities and facilities.	NA
Title 65: Division of Environmental Quality, Chapter 60-10 Air Pollution Control Regulations	CNMI DEQ	Establishes minimum standards and requirements to ensure air resources are protected against pollution and do not constitute a health hazard.	NA
Title 65: Division of Environmental Quality, Chapter 60-120 Wastewater	CNMI DEQ	Establishes standards for wastewater disposal and treatment.	NA

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<i>Regulatory Requirement</i>	<i>Permitting Agency</i>	<i>Permit Specifications</i>	<i>Additional Information</i>
Treatment and Disposal Rules and Regulations			
CNMI Water Quality Standards	CNMI DEQ	Establishes water quality standards for all Commonwealth waters and groundwater.	NA
40 Code of Federal regulations (CFR) Part 503 federal biosolids rule	U.S. Environmental Protection Agency (USEPA) Region 9	USEPA Region 9 tracks and enforces compliance with the self-implementing standards in 40 CFR 503, issues permits in some cases, and provides guidance and technical assistance. Wastewater treatment plants with influent flows over 1 million gallons per day must report to USEPA Region 9 on their biosolids use/disposal.	The biosolids program ensures that sewage sludge is of sufficient quality to protect public health and the environment. The program also promotes the beneficial reuse of biosolids.
Clean Air Act (CAA) Prevention of Significant Deterioration /New Source Review permit	GEPA/USEPA	Required for new major Prevention of Significant Deterioration source and major existing source modification with respect to attainment pollutants	The best available control technology would be required.
CAA Nonattainment New Source Review permit	GEPA/USEPA	Required for new major stationary source and major existing source modification with respect to nonattainment pollutants in a nonattainment area	The lowest-achievable emission rate technology and emission offsets would be required.
CAA Title V permit	GEPA/USEPA	Regulates air emissions from major stationary source and major source modification	Relevant emissions control technology would be required.
Clean Water Act (CWA) § 401	GEPA (Delegated authority from USEPA)	Regulates impacts of the placement of dredged or fill material on water quality	Permits for dredging activities issued by GEPA in conjunction with CWA Section 404 and Coastal Zone Consistency Determination.
CWA § 402	USEPA Region 9	The National Pollutant Discharge Elimination System (NPDES) permit program controls water pollution by regulating point sources that discharge pollutants into waters of the U.S.	NA

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<i>Regulatory Requirement</i>	<i>Permitting Agency</i>	<i>Permit Specifications</i>	<i>Additional Information</i>
CWA NPDES Program	GEPA (Delegated authority from USEPA)	General Permit for stormwater discharge from large and small construction activities. Requirements include a Notice of Intent, a Notice of Termination and a construction site Stormwater Pollution Prevention Plan. The existing Stormwater Pollution Prevention Plan for Stormwater Associated with Industrial Activities would have to be updated if either is implemented.	Required for projects that disturb greater than one acre of soil, including lay-down, ingress and egress area. Phase I regulates construction activity disturbing 5 or more acres of total land area and Phase II regulates “small” construction activity disturbing between 1 and 5 acres of total land area. The NPDES requirements for stormwater associated with industrial activities requires plan updating whenever there is a change in site conditions.
CWA Rivers and Harbors Act § 10	U.S. Army Corps of Engineers (USACE)	Regulates any work in navigable waters	Permits often issued in conjunction with Section 404 of CWA.
CWA § 404	USACE	Regulates discharge of dredged or fill material into waters and wetlands	Permits for the placement of dredged or fill material are often issued in conjunction with § 10 of the Rivers and Harbors Act.
Coastal Zone Management Act Federal Consistency Provisions (see Coastal Zone Management Act, Coastal Zone Management Regulations, and EO 78-37 in Table 2.1-1).	Coastal Resource Management Program and Guam Bureau of Statistics and Plans	Determination of consistency of federal actions with Guam Coastal Management Plan	Consistency determination is prepared and submitted by Navy seeking concurrence from Guam Bureau of Statistics and Plans.
Federal Aviation Administration (FAA) Order 7400.2G FAA Order 1050.1E	FAA	Special Use Airspace (SUA) required for the Marine’s ground firing ranges on Guam: either designated SUA, Restricted Area airspace or Controlled Firing Area required to overlay the Safety Danger Zones located at the proposed firing ranges on Guam.	Formal airspace proposal for SUA would be initiated by the Navy per FAA Order 7400.2G for new joint airspace and/or modifications to existing airspace.
Federal Air Quality Control Laws & 22 GAR 1101	GEPA	Air Permit to Construct is required to commence construction or modification of a stationary source	NA

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<i>Regulatory Requirement</i>	<i>Permitting Agency</i>	<i>Permit Specifications</i>	<i>Additional Information</i>
Federal Air Quality Control Laws & 22 GAR 1101	GEPA	Air Permit to Operate is required to operate an air pollution stationary source	NA
Federal New Source Performance Standards, for Municipal Solid Waste Landfills, Regulated under CFR 60 Subpart www.	USEPA/GEPA	Regulations contain requirements for installing active gas collection systems if landfill size criteria are exceeded.	The Navy Sanitary Landfill and any new large landfill facilities would be subject to this regulation.
Marine Protection, Research and Sanctuaries Act § 103	USEPA in association with USACE	Regulates the transportation of dredged material for ocean disposal.	Permit requires full suite of physical, chemical and biological testing of sediment to determine suitability for ocean disposal at designated sites.
33 CFR 334, Danger Zone and Restricted Area Regulations	USACE	Responsible for establishing, amending and disestablishing danger zones and restricted areas.	NA
Resource Conservation and Recovery Act	USEPA	Regulates collection, storage, transport and disposal of hazardous and solid wastes.	Existing Resource Conservation and Recovery Act permit would need to be modified to accommodate increased handling of munitions.
Right-of-Way Permit	Guam Department of Public Works	Permit for construction in public right-of-way	NA
§ 401 Water Quality Certification	GEPA	401 WQC issuance identifies that construction or operation of a proposed project or facility would be conducted in a manner consistent with the Guam Water Quality Standards.	All federal permits for work in marine waters, rivers, streams and wetlands require 401 WQC.
Well Drilling Permit/Well Operating Permit	GEPA	Permit required to drill and operate water well	Well Drilling Permit required for exploratory and development work and a Well Operating Permit required for actual production and use of water resources. The Well Operating Permit is necessary to establish operating conditions such as allowable pumping rates, infrastructure requirements, long-term monitoring and inspections.

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<i>Regulatory Requirement</i>	<i>Permitting Agency</i>	<i>Permit Specifications</i>	<i>Additional Information</i>
Title 22, Division 4, Chapter 23, Solid Waste Disposal	GEPA (Granted primacy by USEPA to administer requirements of 40 CFR Part 258 Subtitle D)	Permit required to place solid waste	Existing facilities require permit modifications for horizontal or vertical expansions.

### **3.1.1 Summary of Applicable Regulations to Protect Environmental Resources on Guam and Tinian**

This section provides a summary of the regulations that apply to protection of environmental resources. DoD-proposed actions would be implemented in accordance with all the applicable regulatory mandates. While some regulations require permits, as summarized in the above table, many serve only as guidance.

#### Federal Regulations

##### *Clean Air Act (CAA)*

The CAA defines the USEPA's responsibilities for protecting and improving the nation's air quality and the stratospheric ozone layer. Under the CAA, the USEPA sets limits on certain air pollutants, including setting limits on how much can be in the air anywhere in the United States. The CAA also gives USEPA the authority to limit emissions of air pollutants coming from sources like chemical plants, utilities, and steel mills.

##### *Clean Water Act (CWA)*

The purpose of the CWA is to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." Under Section 404 of the CWA the U.S. Army Corps of Engineers (USACE) authorizes discharges of dredged or fill material in waters of the U.S. through a permit program.

##### *Coastal Zone Management Act*

The Coastal Zone Management Act establishes a federal-state partnership to provide for the comprehensive management of coastal resources. Coastal states and territories develop management programs based on enforceable policies and mechanisms to balance resource protection and coastal development needs.

##### *Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)*

Under CERCLA, as amended by the Superfund Amendments and Reauthorization Act, a hazardous substance is defined as one that poses a potential hazard to human health or the environment by virtue of its quantity, concentration, or physical/chemical characteristics. CERCLA has established a national process to identify, characterize, and clean-up hazardous waste sites.

##### *Department of Transportation Regulations*

Department of Transportation Hazardous Materials Regulations (*49 Code of Federal Regulations [CFR] 171*) require the implementation of various protective and preventative measures designed to promote the safe transportation of hazardous materials in commerce.



*Emergency Planning and Community Right-to-Know Act (EPCRA)*

The EPCRA requires businesses and governments to report their use of hazardous and toxic chemicals. EPCRA also requires that workers be trained as to safe chemical handling protocols and specific chemical hazards and controls for substances used in the workplace. In addition, EPCRA requires that state and local communities be prepared to respond to potential chemical accidents through the development of emergency response plans and other measures.

*Endangered Species Act 16 United States Code [USC] §1531 et seq.; 50 CFR Parts 17, Subpart I, and 50 CFR Part 402*

The Endangered Species Act of 1973 and subsequent amendments provide for the conservation of threatened and endangered species of animals and plants, and the habitats in which they are found.

*Federal Environmental Pesticide Control Act*

The Federal Environmental Pesticide Control Act enacted as Public Law 92-516, amended the Federal Insecticide, Fungicide, and Rodenticide Act, and provides controls for the sale, use, distribution, and application of pesticides through an administrative registration process.

*Federal Facilities Compliance Act*

The Federal Facilities Compliance Act, enacted as Public Law 102-386 provides that all federal agencies are subject to all substantive and procedural requirements of federal, state, and local solid and hazardous waste laws in the same manner as any private party.

*Federal Insecticide, Fungicide, and Rodenticide Act*

The Federal Insecticide, Fungicide, and Rodenticide Act provides pesticide regulations designed to protect applicators, consumers, and the environment.

*Fish and Wildlife Coordination Act (16 USC § 662)*

The Fish and Wildlife Coordination Act requires consideration of the effects of a proposed action on wetlands and areas affecting streams (including floodplains), as well as other protected habitats.

*Groundwater Rule (40 CFR Parts 9, 141 and 142)*

The Groundwater Rule provides for increased protection against microbial contamination. This is a risk-based rule that requires groundwater used by public drinking water systems be disinfected if indicator bacteria are detected in it.

*National Wildlife Refuge System Administration Act of 1966 (16 USC §§ 668dd-668ee)*

This Act provides for the administration and management of the national wildlife refuge system, including wildlife refuges, areas for the protection and conservation of fish and wildlife threatened with extinction, wildlife ranges, game ranges, wildlife management areas, and waterfowl production areas.

*Oil Pollution Act (OPA)*

The OPA requires oil storage facilities and vessels to develop plans describing how spills or releases would be addressed. Specifically, OPA requires that facilities prepare and implement spill prevention, control, and countermeasures plans and facility response plans. These plans specify how these facilities would assess and respond to spills/releases.

*Occupational Safety and Health Administration*

The Occupational Safety and Health Administration requirements are designed to protect workers and prevent workplace accidents, injuries, or illnesses.

*Pollution Prevention Act*

The Pollution Prevention Act focuses on pollution source(s) reduction and promotes the implementation of new and innovative practices to conserve and protect natural resources.

*Resource Conservation and Recovery Act (RCRA)*

RCRA requires that all hazardous waste be systematically tracked from cradle-to-grave. Furthermore, the RCRA Corrective Action Program compels responsible parties of active facilities to investigate and clean hazardous waste releases.

*Military Munitions Rule under RCRA*

The Military Munitions Rule identifies when conventional and chemical military munitions become RCRA hazardous waste.

*Rivers and Harbors Act*

Section 10 of the Rivers and Harbors Act requires approval from the USACE prior to placing obstructions or excavating and/or depositing materials in navigable waters.

*Safe Drinking Water Act*

The Safe Drinking Water Act regulates the nation's drinking water supplies by establishing standards for drinking water to protect against both naturally occurring and man-made contaminants. This act also seeks to prevent contamination of drinking water resources by establishing requirements under programs such as the underground injection control program.

*Ship-Borne Hazardous Substances Regulations*

The Ship-Borne Hazardous Substances Regulations are applicable to Navy activities "at sea", defined as beyond three nautical miles from shore, and govern the types of sewage, graywater, and oily waste discharge restrictions as a function of distance offshore or special area.

*Statement of Procedures on Floodplain Management and Wetlands Protection; 40 CFR Part 6, Appendix A.*

These procedures set forth U.S. Environmental Protection Agency (USEPA) policy and guidance for managing floodplains and protecting wetlands, as described in Executive Orders 11988 and 11990, respectively.

*Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (USTs)*

This regulation (40 CFR Chapter 1, Part 280) protects groundwater by establishing regulations and procedures for USTs that contain regulated substances such as petroleum products.

*Toxic Substance Control Act*

The Toxic Substances Control Act addresses concerns regarding chemical substances and mixtures whose manufacturing and use may pose an unreasonable risk of injury, adverse health, or adverse environmental consequences.

### *Underground Storage Tanks*

The UST regulations set forth various requirements to prevent unintended releases with double-walled tanks and associated piping, leak detection methods, inventory control procedures, and various other administrative and engineering design controls.

### Guam Regulations

#### *Guam Coastal Nonpoint Pollution Control Program (CNPCP) (pending)*

In 2009, the EPA and NOAA will likely approve the Guam CNPCP which lays out management measures for the control of non-point source from such areas as new urban development, stormwater, wetlands, roads, and bridges.

#### *Guam Environmental Protection Act*

Public Law 11-191 created the Guam Environmental Protection Agency (GEPA) in 1973, with responsibilities for comprehensive protection of Guam's land, water, and air.

#### *Guam Hazardous Waste Management Program (HWMP)*

The Guam HWMP requires the permitting of hazardous waste collection, treatment, storage, and disposal facilities. The Guam HWMP also mandates inspection, compliance monitoring, enforcement, and corrective action of all hazardous waste-related activities in Guam.

#### *Guam Primary Drinking Water Regulations*

Guam Safe Drinking Water Act, Title 10 GCA, Chapter 53, Section 53104 authorizes the GEPA to prescribe rules and regulations as may be necessary to implement the Safe Drinking Water Act.

#### *Guam Seashore Protection Act and Permit System*

The Guam Seashore Protection Act (21 GCA, Chapter 63) establishes the Guam Seashore Reserve and the Guam Seashore Protection Commission, that must review and act on any applications for development, including any dredging, within the reserve. The reserve includes all subtidal areas down to ten fathoms and extends inland to within 100 meters (amended to ten meters) of the mean high highwater mark.

#### *Guam Soil Erosion and Sedimentation Control Regulations/Permits*

Erosion Control Permits are issued by GEPA while the Department of Public Works issues Clearing and Grading Permits. For most clearing and/or grading permits there must be an accompanying Erosion Control Plan to protect water quality of the affected water resources, fresh or marine.

#### *Guam Water Quality Standards*

The Guam Water Quality Standards aim to conserve, protect, maintain, and improve the quality of Guam's waters.

#### *National Pollution Discharge Elimination System (NPDES)*

NPDES is a federal permit for all stormwater and other point source pollution discharges. GEPA assists in the administration of these permits and reviews and certifies (401 Water Quality Certification) the permit for compliance with all local regulations and policies and in accordance with the Guam Water Quality Standards.

*Pollution Discharge Permit*

For discharges similar to those covered by the NPDES permit, GEPA may require a Government of Guam Pollution Discharge Permit. This permit may be issued for any number of liquid, gaseous, solid, or thermal discharges to Territorial waters that fall below the minimum criteria defined in the federal Clean Water Act.

*Test Boring and Dewatering Permit*

Individuals conducting soil test boring and measurements activities may be required to obtain a GEPA Test Boring Permit. Test boring activities include drilling and excavations deeper than 6 feet (2 meters) deep for a number of soil and structural engineering analysis work. In addition, if the water table is encountered during excavation work for building foundations and similar construction activities, a Dewatering Permit may be required to control and treat water pumped from the excavation prior to final discharge. Dewatering permits may apply to dredging operations as well.

*CWA Section 401 Water Quality Certification*

GEPA Section 401 Water Quality Certification issuance identifies that construction or operation of a proposed project or facility would be conducted in a manner consistent with Guam Water Quality Standards.

Commonwealth of the Northern Mariana Islands Regulations*Wastewater Treatment and Disposal Rules and Regulations*

As groundwater aquifers on Tinian and Rota are vulnerable to contamination by substances introduced onto the soil surface, these regulations protect Class 1 Aquifer Recharge Areas.

*Earthmoving and Erosion Control Regulations*

These regulations establish a permit process for construction activities and identify investigations and studies that are required prior to construction and design, and standards for grading, filling, and clearing.

*Water Quality Standards*

The Commonwealth of the Northern Mariana Islands Department of Environmental Quality has established standards for water quality for all Commonwealth waters and groundwater in order to protect their use and value for commerce, propagation of fish and wildlife, recreational purposes, and public water supply use.