Chapter 1
Introduction

1-1. Purpose

Small boats are classified as recreational craft, fishing boats, or other small commercial craft with lengths less than 100 ft (31 m). A small boat basin is a place to obtain essential supplies such as food, fuel, and drinking water. Small boat basins provide direct access to each boat, adequate depth of water, parking, toilet facilities, technical services, shops, and other amenities. Small boat basins are found on coastlines, estuaries, lakes, and riverbanks. The increasing prosperity of the world population has resulted in an increased popularity of and need for small boat basins. The development of small boat basins is a concern to environmental groups and local residents because of the potential effects of these basins on the quality of rivers, lakes, estuaries, and ocean shorelines. This manual provides general guidance for incorporating environmental considerations into the planning, engineering, design, construction, operation, and maintenance of small boat basins. When these facilities are poorly planned and/or managed, they may pose a threat to the health of aquatic systems and may pose other environmental hazards.

1-2. Applicability

This manual applies to all HQUSACE elements, major subordinate commands, districts, laboratories, and field operating activities having Civil Works responsibilities.

1-3. References

Required and related publications are listed in Appendix A.

1-4. General Study Authority

The U.S. Army Corps of Engineers (USACE) has the general authority to investigate the need for navigation improvements under Section 107 of the River and Harbor Act of 1960, as amended (U.S. Army Corps of Engineers 1989). The investigations are limited to determining means to satisfy immediate and future needs for small craft refuge. Desirable sites and facility alternatives are formulated and evaluated, and the best plan is selected based on sound engineering design, economics, and environmental and cultural acceptability. The evaluation criteria used are based on principles and guidelines established by the U.S. Water Resources Council.

1-5. Permit Processing

Because of the possible environmental impact of developing small boat basins, the activities must be consistent with national environmental policies. These policies can be complex and confusing when dealing with the variety of Federal, state, and local regulations concerning small boat marina development in coastal areas and inland waters. Appendix B lists several Federal statutes, executive orders, and USACE regulations that often require studies of existing and future environmental conditions.

a. Federal agencies. The USACE is the Federal agency with direct permitting authority for coastal marinas. Section 10 of the River and Harbor Act of 1899 and Section 404 of the Clean Water Act give USACE permitting authority for these facilities. Section 10, in conjunction with other environmental laws, provides USACE authority to control, through its permit program, construction and excavation or deposition of any material in navigable waters. The Section 404 program is designed to protect water quality, aquatic resources, and wetlands. It provides USACE with authority to issue permits for the discharge of dredged or fill material into waters of the United States. Guidelines developed by the U.S. Environmental Protection Agency (USEPA) state that no discharge will be permitted if it will result in significant adverse impacts on municipal water supplies, recreation, and economic and aesthetic values. The USEPA does not typically exercise direct permitting control over marina development whenever disposal of dredged and fill material is an issue. However, Section 404 gives the USEPA authority to veto dredged and fill permits proposed by USACE.

(1) The overall process followed by USACE in reviewing permit applications is shown in Figure 1-1. This diagram generally illustrates overall USACE responsibilities and decision points. Typically, when a USACE application form is used, only one form is submitted for both Sections 10 and 404 approval. Once USACE receives the permit, a preliminary assessment is conducted to determine the type of environmental review required. Based upon the potential extent of adverse impacts on the natural and man-made environment, this environmental review may range from a categorical exclusion to a full Environmental Impact Statement. The next step in the permit process is a public notice, which goes out to all interested parties and agencies. The U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) are interested in the impact to fish and wildlife resulting from potential water resource

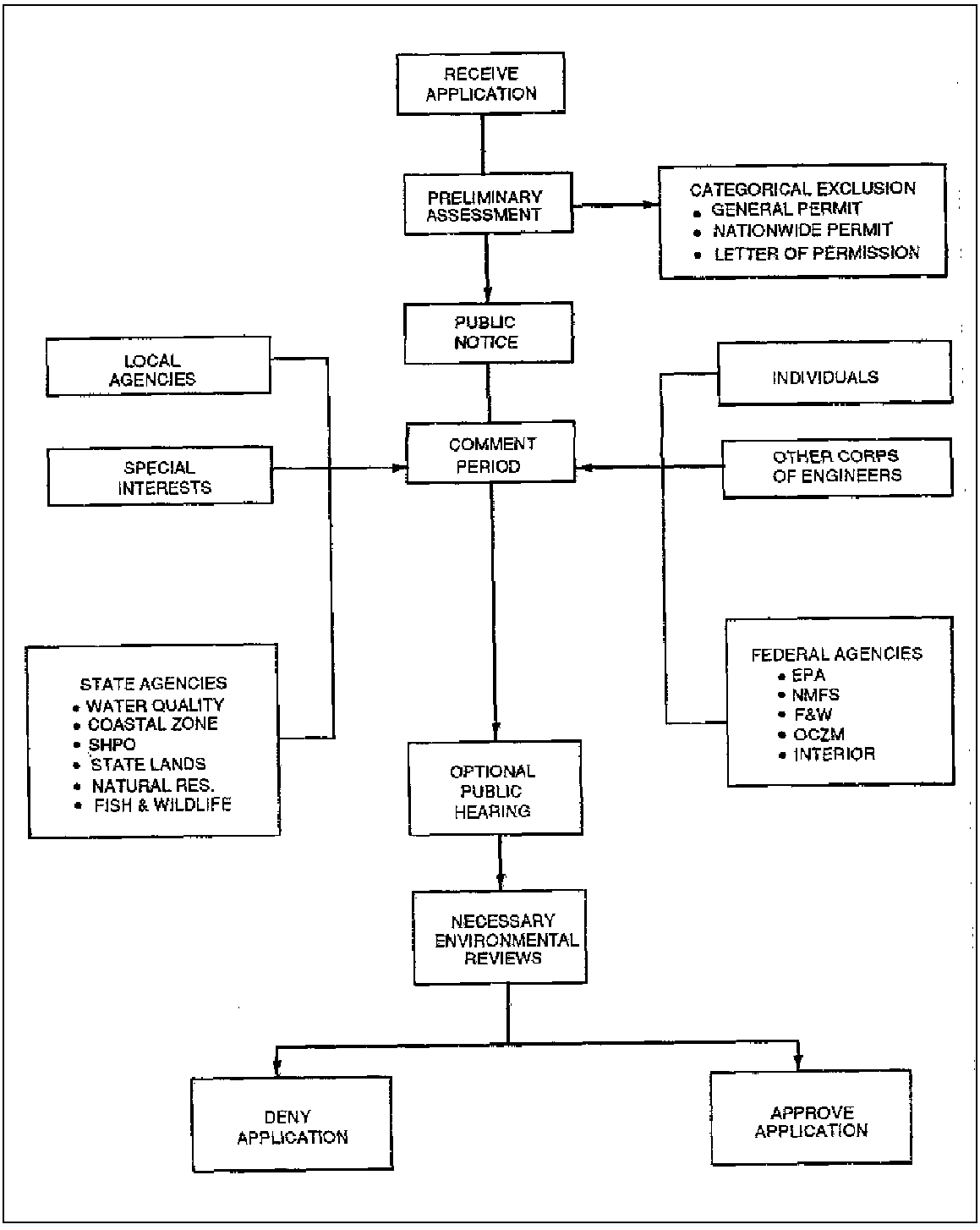

Figure 1-1. U.S. Army Corps of Engineers permitting process

development activities. When permits are reviewed, the USFWS considers whether alternative, non-wetland sites are available and whether construction can be accomplished without adverse impact to fish and wildlife in aquatic, terrestrial, or wetland habitats. The NMFS reviews applications for potential impacts to aquatic and wetland resources as they affect commercial fisheries. Both agencies' comments are quite important in the decisionmaking process; they are, therefore, reviewed extensively. Another agency interested in the permitting process is the U.S. Coast Guard, which regulates marine sanitation devices (MSD). The Clean Water Act prohibits discharges from MSD into freshwater lakes and rivers except those bodies that support interstate navigation. For vessels operating in saltwater estuaries and territorial seas, new vessels operating after January 1980 must have no discharge or have an MSD capable of limiting fecal coliform bacteria to 200 most probable number (MPN) per 100 ml and suspended solids to 150 mg/ℓ. Older boats are still allowed to operate MSDs with lower levels of coliform and solids removal but are not permitted to use pump-through devices. The Coast Guard also reviews applications with respect to boating safety and navigation. If it is determined necessary by comments received from the public notice, the next step is a public hearing. The permit application is then evaluated and the necessary environmental review, as determined in the preliminary assessment, is conducted. The final step in the permit process is to either issue or deny the permit based on the completion of the environmental review.

b. State agencies. States play a major role in the permitting of marina developments. There is broad variation from state to state in the type of approval required and the way in which regulatory programs are administered.

(1) The minimum level of state involvement is review and comment on Section 10 permit applications. When Section 404 permits are required, the states must provide a certification to the Corps that the proposed activity will not violate the state's water quality standards throughout construction and subsequent operation of the facility. The state must also indicate that any other required state licenses, permits, or approvals can be secured. The USACE will not approve the 404 permit without this assurance.

(2) Another level of state involvement is a consistency review of the USACE permit action under the state Coastal Zone Management Program (CZMP) (if applicable). In states where a CZMP has been approved by the Secretary of Commerce, an applicant for a Federal license or permit to conduct any activity affecting a coastal zone must furnish a certification that the activity will be consistent with the goals of the state's CZMP. Some states are zoning land areas adjacent to water with restrictions favoring commercial fishing, sport fishing, water recreation, water conservation, and commercial development. The USACE will deny the 404 permit unless the state is in agreement.

(3) The highest level of state involvement is where a state has developed a separate regulatory program controlling marina development. Different states have taken different approaches to direct regulation of marina activities. Some states have developed a wetland or coastal area permit, while other states have developed separate wetland or marshland permitting programs. Some states have developed dredge and fill permit programs. Some states claim ownership of submerged lands.

c. Local agencies. Local agencies exercising control over marina development may include regional authorities, counties, and cities. Generally, these agencies are not involved in the comprehensive evaluation of the suitability of a marina based on environmental water quality issues. The local agencies are generally intended to complement the state and Federal regulations applicable to a given area. Local regulations usually take into account special characteristics of the local environment that may require special restrictions on construction or development. Examples of such local concerns include land use controls, building codes, subdivision ordinances, and provision and operation of public facilities. Additional local regulations may also be implemented to reduce damage from hurricanes, tornadoes, earthquakes, and extreme weather conditions.