

MEMORANDUM FOR MAJOR SUBORDINATE COMMANDS AND DISTRICT  
COMMANDS

SUBJECT: Policy Guidance Letter (PGL) No. 28, Improvements for Navigation  
Safety and Reduction in Damages from Tide and Wave Sources

## 1. References:

- a. Section 101 of Public Law 99-662.
- b. Section 103 of Public Law 99-662.

2. Background. PGL No. 23 provided guidance on the formulation and cost sharing for measures that address problems of navigation safety and wave induced damages. This guidance addressed the application of the hurricane and storm damage reduction (HSDR) purpose established by reference 1a. to measures for reducing damages to berthed vessels and berthing facilities. Recent application of PGL No. 23 to a commercial navigation harbor would have resulted in the allocation of a portion of the cost of harbor improvements, which increase net income of commercial navigation activities, to the HSDR purpose. We do not think this is appropriate. Therefore, this letter rescinds PGL No. 23 and provides substitute guidance.

3. Policy. Measures which contribute to the increase in net income of commercial navigation activities or result in a decrease in commercial transportation costs will be evaluated and cost shared as navigation (harbor) measures. This includes measures to prevent wave induced damages to commercial vessels while berthed at docks, piers and slips, and that incidentally prevent wave induced damages to the commercial docks, piers and slips. Measures to prevent wave induced damages to noncommercial (recreational) vessels while berthed at docks, piers, or slips and measures to prevent wave induce damages to docks, piers, slip, and other shoreline facilities, are to be evaluated and cost shared under the HSDR provisions of sections 103(c)(5) and 103(j) of Public Law 99-662. Measures to provide for safe and efficient movement of commercial and recreational vessels into and within a harbor and measures to prevent loss or damage to vessels in transit (harbors of refuge) will continue to be evaluated and cost shared as navigation (harbor) measures. This policy does not provide any Federal interest in the construction of docks, terminal or transfer facilities, or berthing areas.

## 4. Application of Policy for Harbors.

a. The policy applies to existing berthed vessels and shoreline facilities and to vessels and facilities that would exist in the future without project condition at the project or an alternative location.

b. For vessels that would not be present at any location in the without project condition, but would be present in the future as a result of the project, benefits are only evaluated as commercial or recreational navigation benefits, as appropriate.

5. Application of Policy for Multiple Purpose Facilities. Where measures are formulated to serve both HSDR and navigation, an allocation of multiple purpose joint costs must be made and the joint costs shared in accordance with the purpose to which they are allocated along with any Specific costs for features which serve only one purpose. This cost allocation must include operation, maintenance, repair and replacement and rehabilitation responsibility under the HSDR purpose. No cost allocation is required where a measure is formulated to serve a single purpose but results in incidental benefits, provided that the single purpose feature maximizes net benefits. For example, a breakwater formulated to Provide NSDR, which is a part of a National Economic Development (NED) plan, may produce incidental navigation benefits but would be cost shared as an HSDR feature. Conversely, a breakwater formulated to provide reductions in transportation costs and/or increased net income to commercial navigation activities may produce incidental HSDR benefits but would be cost shared as a navigation feature.

6. The policy contained in this letter will be incorporated into ER 1105-2-100.

FOR THE COMMANDER:

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Director of Civil Works