DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF:
CECW-PC

22 JUL 2008

MEMORANDUM FOR MSC COMMANDERS

SUBJECT: Implementation Guidance for Section 2006 of the Water Resources Development Act of 2007 (WRDA 2007) – Remote and Subsistence Harbors

1. Section 2006 of WRDA 2007 provides that in conducting a study of harbor and navigation improvements the Secretary may recommend a project without demonstrating that the improvements are justified solely by National Economic Development (NED) benefits, if the Secretary determines that the improvements meet the following criteria:

- The community to be served by the improvements is at least 70 miles from the nearest surface accessible commercial port and has no direct rail or highway link to another community served by a surface accessible port or harbor; or the improvements would be located in the State of Hawaii, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands; or American Samoa;

- The harbor is economically critical such that over 80 percent of the goods transported through the harbor would be consumed within the community served by the harbor and navigation improvement; and

- The long-term viability of the community would be threatened without the harbor and navigation improvement.

While determining whether to recommend a project under the criteria above, the Secretary will consider the benefits of the project to the following:

- Public health and safety of the local community, including access to facilities designed to protect public health and safety;

- Access to natural resources for subsistence purposes;

- Local and regional economic opportunities;

- Welfare of the local population; and

- Social and cultural value to the community.

The text of Section 2006 is enclosed for your information.

2. Although Section 2006 liberalizes the justification of harbor and related navigation improvments in remote and isolated locations that have limited alternative modes of transportation, it does not obviate the need under the Principles and Guidelines, and Army policy, to analyze and present the NED impacts of alternative plans, or to identify the NED Plan. In fact, such analysis will still be required.

3. The following policy and procedures will be used to implement Section 2006:

a. Decision documents addressing harbor and/or related navigation improvements may address the criteria and considerations listed above in the formulation, evaluation, and selection of alternatives. The analyses will be incorporated into the existing four accounts (see EC 1105-2-409) and ER 1105-2-100.

b. Decision documents will continue to present the NED analyses for all viable alternatives and identify the NED Plan when alternatives exist with net positive NED benefits.

c. A decision document may recommend a plan other than the NED Plan based on a full description of the benefits of the project to public health and safety of the local community; access to natural resources for subsistence purposes; local and regional economic opportunities; welfare of the local population; and social and cultural value to the community.

d. If there is no NED Plan and/or the selection of a plan other than the NED Plan is based in part or whole on non-monetary units (Environmental Quality (EQ) and Other Social Effects (OSE) accounts), then the selection will be supported by a cost effectiveness/incremental cost analysis consistent with ecosystem restoration evaluation procedures (see appendix E, SectionV, ER 1105-2-100). The decision document will present the tradeoffs of impacts in the four accounts for the plans in the final array and describe the compelling justification for any plan that is not the NED Plan.

4. This policy will apply to studies of specifically authorized projects. It will not apply to projects implemented under Section 107 of the River and Harbor Act of 1960, as amended (33 USC 577). Section 107 provides that the Secretary can construct "small

river and harbor improvement projects not specifically authorized by Congress which will result in substantial benefits to navigation and which can be operated consistently with appropriate and economic use of the waters of the Nation for other purposes, when in the opinion of the Chief of Engineers such work is advisable, if benefits are in excess of the cost". This policy will be incorporated into ER 1105-2-100 at the earliest opportunity.

FOR THE COMMANDER:

Encl

STEVEN L. STOCKTON, P.E.
Director of Civil Works

SEC 2006. REMOTE AND SUBSISTENCE HARBORS

(a) In General- In conducting a study of harbor and navigation improvements, the Secretary may recommend a project without the need to demonstrate that the project is justified solely by national economic development benefits if the Secretary determines that--

(1)(A) the community to be served by the project is at least 70 miles from the nearest surface accessible commercial port and has no direct rail or highway link to another community served by a surface accessible port or harbor; or

(B) the project would be located in the State of Hawaii, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, or American Samoa;

(2) the harbor is economically critical such that over 80 percent of the goods transported through the harbor would be consumed within the community served by the harbor and navigation improvement; and

(3) the long-term viability of the community would be threatened without the harbor and navigation improvement.

(b) Justification- In considering whether to recommend a project under subsection (a), the Secretary shall consider the benefits of the project to--

(1) public health and safety of the local community, including access to facilities designed to protect public health and safety;

(2) access to natural resources for subsistence purposes;

(3) local and regional economic opportunities;

(4) welfare of the local population; and

(5) social and cultural value to the community.

ENCL