

Southeast Florida
Area Contingency Plan
(SEFL ACP)

Risk Analysis: Places of Refuge Policy

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1000 Introduction

A ship in need of assistance may require a temporary place of refuge with adequate water depth for lightering or repairs in order to protect the marine environment. Ships may need to be brought into a harbor, anchored, or moored in protected waters, or temporarily beached in order to safely make repairs and stop the loss of oil or other hazardous substances. Disabled ships need to be repaired in order to resume safe navigation and prevent a shipwreck resulting in the loss of fuel and/or cargo. If leaking ships are not repaired, spilled oil and hazardous substances may affect the public health, environmental resources, and shorelines.

There is no single place of refuge for all ships and all situations. Decisions relating to Places of Refuge encompass a wide range of security, environmental, social, economic, and operational issues that vary according to each situation, including the environmental sensitivity and protected status of the areas within or adjacent to a potential place of refuge. The initial decision to permit a ship to seek a place of refuge, as well as the decisions and actions implementing that decision, are based upon an assessment of the risk factors involved and the exercise of sound judgment and discretion.

Places of Refuge are sites that could be used for a disabled or damaged ship needing shelter for repairs. While information on potential sites may be pre-inventoried, this does not imply that any of these sites will be the location of choice in a future event. Selection of a place of refuge by the U.S. Coast Guard Captain of the Port in consultation with other Federal agencies, State, Tribal, and Local governments, and other stakeholders will always be made on a case-by-case basis. If time allows the Captain of the Port will activate a Unified Command under the Incident Command System (ICS) to address a request for a place of refuge.

When a Place of Refuge incident occurs that is likely to involve more than one Area Contingency Plan, existing cross-jurisdictional protocols will be activate.

This section incorporates a decision-making process for Masters to use when requesting a place of refuge. The guidelines in this section incorporate the Guidelines on Places of Refuge for Ships in need of Assistance adopted by the International Maritime Organization (IMO), and assume use of ICS to manage the incident.

When safety of life is involved, existing search and rescue conventions and protocols should be used. When a ship is in need of assistance but safety of life is not involved, these guidelines should be followed to evaluate whether a ship should remain in the same position, continue on its voyage, be brought into a place of refuge, taken out to sea, or intentionally scuttled in deep water.

1100 Purpose

The purpose of this annex is to provide a decision-making process for response to requests for Places of Refuge; and to apply existing procedures for coordinated trans-boundary and trans-jurisdictional decision-making when necessary in responding to a request for the same.

1200 Definitions

Ship in need of assistance means a ship in a situation, apart from one requiring rescue of persons on board, which could lead to loss of the vessel or an environmental or navigational hazard.

A *ship* is defined as any vessel (self-propelled or non self-propelled) that can be used for the commercial carriage of cargo or passengers, as well as non-commercial applications, including but not limited to freight ships, tank ships, deck barges, tank barges, and large yachts.

Place of refuge means a place where a ship in need of assistance can take action to stabilize its condition, reduce the hazards to navigation, and to protect human life and the environment. Places of Refuge can be man-made harbors, port, natural embayments, or offshore waters.

MAS means a Maritime Assistance Service, as defined in the International Maritime Organization’s resolution. PLEASE NOTE: In the US and Canada, the United States Coast Guard and the Canadian Coast Guard respectively are the agencies responsible for receiving reports and serving as the point of contact for the shipmaster while notifying reports and serving as the point of contact for the shipmaster while notifying other agencies in the event of an incident.

Guidelines mean each of the decision-making guidelines and matter set forth above and below. Notwithstanding any such word as “may,” “should,” “will,” “must,” or “shall:” these guidelines are intended solely as factors that may be considered during the execution and implementation of any such decisions.

Force Majeure is a doctrine of international law, which confers limited legal immunity upon vessels which are forced to seek refuge or repairs within the jurisdiction of another nation due to uncontrollable external forces or conditions. This limited immunity prohibits coastal state enforcement of its laws, which were breached due to the vessel’s entry under force majeure.

1300 Jurisdiction

Under 33 CFR Part 6.04, the U.S. Coast Guard Captain of the Port (COTP) has authority to order ships into and out of ports, harbors, and embayment in order to protect the public, the environment and maritime commerce. The COTP is the designated Federal On-Scene Coordinator (FOOSC) for the U.S. coastal zone as per the National Contingency Plan (NCP), 40 CFR part 300. There may be some maritime homeland security situation where the COTP, acting as the Federal Maritime Security Coordinator (FMSC), may have access to Sensitive Security Information (SSI) and/or classified information (not readily shareable with other stakeholders) that may impact the final disposition of a vessel requesting “Force Majeure” or permitting a vessel to seek a place of refuge or approval of a salvage plan. These circumstances are dealt with on a case-by-case basis and information shared with other agencies is on a “need to know” basis.

The State of Florida has the authority to represent and protect State interests for incidents within State waters. The State has jurisdiction over state-owned shoreline and in near-shore waters out to three miles.

Local governments or port authorities may have authority over near-shore waters including ports and harbors. If so, a local government or port representative may serve as a Local On-Scene Coordinator per the SEFL ACP.

Natural Resource agencies have authority to manage their lands, marine areas, wildlife, habitat, and natural resources as mandated in their laws and regulations. Natural Resource agencies fill position in ICS and provide resource information to the UC. In addition, Natural Resource agencies are member of the Region IV Regional Response Team (RRT).

Tribal governments may own land and have fishing rights in marine areas that could be impacted by a ship seeking a place of refuge. If so, a tribal government representative(s) may fill position in ICS or may serve as a Local On-Scene Coordinator per the SEFL ACP.

The Master of the ship has control of the ship and is responsible for requesting a place of refuge from the COTP. The Master provides details on the status of the ship and justification for needing a place of refuge in accordance with the IMO Guidelines on Places of Refuge.

1400 Management Structure to Address Places of Refuge

If time allows, the COTP should consult with appropriate federal, state, and local stakeholders via the RRT or other appropriate mechanism to address a request for a place of refuge. A Unified Command (UC) may be activated as required. The UC should provide an opportunity for consultation with resource agencies, tribal governments, local authorities, and other stakeholders as appropriate. Technical specialists, such as marine engineers, maritime pilots, vessel inspectors/surveyors, or salvors may be activated to assist in managing the incident. The UC should utilize the checklists provided in this manual, based on pre-identified information whenever available, to determine the risk associated with the request. Once identified, an analysis should be performed balancing the public and environmental risks with the risks to the ship and the ship/cargo owner in order to decide is and where to move a ship in need of assistance.

If there is not time to activate a UC or the RRT, the COTP should make the decision whether to grant or deny the request for a place of refuge. To the extent possible, the COTP should use the checklists provided in this annex, and reference pre-identified potential Places of Refuge to select an appropriate site. Following the decision, the COTP should immediately notify appropriate stakeholders.

This annex provides a template for pre-identified information to support the decision making checklists below, consistent with section 3.5-3.6 of the IMO Guidelines on Places of Refuge for Ships in Need of Assistance.

2000 Decision Making Process

The COTP, in consultation with the UC and if available the RRT, should perform an objective analysis of the advantages and disadvantages of allowing or not allowing a ship in need of assistance to proceed to a place of refuge. This analysis should identify the potential environmental, social, economic, and security impacts at the site. The COTP will consider these multiple factors to determine the appropriate course of action to prevent and mitigate the short-

and long-term impacts to public health and the environment, local commerce, the ship and the ship/cargo owners.

The COTP should evaluate consequences to the vessel and the environment:

- If the ship remains in the same position;
- If the ship continues on its voyage;
- If the ship reached a place of refuge;
- If the ship is taken out to sea; or
- If the ship is intentionally scuttled in deep water.

The decision-making process should evaluate each of these options using the following steps to determine if a ship in need of assistance should be granted a place of refuge. These steps are not in prioritized order, but should be addressed as part of a total assessment for each of the five options above.

2100 Step 1

The Master of the vessel, or his/her representative (the operating company and/or salvor), should request a place of refuge from the appropriate COTP. The Master should provide as much information as possible, including:

- The status of the ship. Crew, passengers, and weather;
- Medical issues, deaths, or needs of assistance and the specific assistance required;
- Intended actions and potential consequences if the request for a Place of Refuge is denied;
- If the ship is flooding, whether the pumping system is operable and is keeping up with the flooding rate;
- Status of vessel steering, propulsion, and firefighting capability;
- The steps already taken to mitigate the problem, and results;
- What needs or requirements will the ship have once in a place of refuge; and
- Status of notifications completed by Master: i.e. owners/operators/agents/Qualified Individuals/Class Society, etc.

2200 Step 2

When time allows, the COTP should consult with appropriate agencies via the RRT to address the issue, and activate a UC when the situation dictates. If there is not time to consult with partner agencies, the COTP should grant or deny the request for a place of refuge, and inform the State, other concerned agencies, and appropriate stakeholders at the earliest time to determine if any protective measures are required.

2300 Step 3

In either case, the COTP or UC should:

- Require the vessel Master, owner/operator, or agent; Qualified Individual etc. to contract with a salvor and oil spill response organization (OSRO), or other specialized contractor if this has not already been done;

- As the situation dictates, establish a command post and prepare to initiate a response;
- If the vessel is drifting, determine its trajectory to shore and potential impact sites;
- Notify the Federal Bureau of Investigation (FBI) Intelligence Coordination Center or the DHS Homeland Security Operations Center if there are any security concerns;
- When appropriate and if time allows, dispatch an inspection team with expertise appropriate to the situation to board the ship and evaluate conditions, depending on risk, sea conditions, security risk, nature of distress etc;
- Confer with the USCG MSC Ship Salvage Group, the vessel owners or naval architects;

In addition, the following factors will be evaluated to determine if the ship in need of assistance should remain in the same position, continue on its voyage, be taken out to sea, intentionally scuttled, or be directed to a place of refuge.

Human Health & Safety

- Safety and Health condition of those on board as well as risk to public safety

Environment

- The environmental consequences of staying put, continuing on its voyage, being taken out to sea, being intentionally scuttled in deep water, or going to a place of refuge (reference Step 5 below)

Ship Status & Risk Factors

- The type and size of the ship
- The status/seaworthiness of the ship, in particular buoyancy, stability, structural integrity, availability of propulsion and power generation, docking ability, progressive deterioration, etc.
- Types, quantities, hazards, and condition of petroleum products, hazardous substances, and/or other cargo onboard
- The impending threat to the ship or need for a pilot
- Weather conditions and forecasts
- The Master's ability to navigate the ship or need for a pilot
- Distance and estimated time to reach a place of refuge
- Vessel traffic in the area where the ship is currently located
- Mitigation measures already taken
- Determine crew status, health, staffing levels, etc.

Response & Salvage Resources

- Availability or rescue tugs/tow vessels of sufficient size and power to aid the ship in distress
- Salvage and spill response resources on-scene with the ship and available during transit
- Vessel traffic in the potential destination area
- Access to a pier or dock with repair facilities
- Whether salvage and lightering can safely be performed at each alternative location

Other Command Management Factors

- Provisions of financial security and insurance by the ship owner/operator
- Agreement by the Master and owner/operator of the ship to the proposals of the COTP/UC

- Public expectations and media outreach
- Capability of Master to detain crew on board until cleared by Customs and Border Protection and the USCG

2400 Step 4

If the COTP/UC determines that the risks are generally acceptable to direct a ship into a place of refuge, the following factors should be further evaluated to determine a specific place.

Human Health & Safety

- Assessment of human factors, including crew fatigue and overall health
- Safety of persons at or near the place of refuge with regard to risks of explosion, fire, and pollution
- Security concerns associated with a port or harbor area
- Available emergency response capabilities and evacuation routes and facilities
- Available fire-fighting and police capabilities

Environment

- Potential environmental and cultural impacts of pollution (reference Step 5 below) or the response to a pollution incident
- Existing resource protection strategies and availability or response resources to implement the strategies
- Status of potential Place of Refuge (protection status, commercial area, near population centers)

Port or Anchorage Area Criteria

- The type and size of the ship in relation to the size of the place of refuge
- Adequate water depth to accommodate the ship
- Navigational approach, including vessel traffic and associated risks
- Pilotage requirements
- Tides and currents
- Seasonal conditions
- Anchoring ground or suitable docking facilities
- Availability of repair facilities such as dry docks, workshops, and cranes
- Military operations in vicinity
- Availability of cargo transfer and storage facilities
- Land/Air access
- Weather and sea state including prevailing winds
- Requirements from port authorities, area landowners/managers
- Are the proposed activities specifically prohibited and/or are there permitting or notification requirements that need to be followed

Beaching Site Criteria

- Depth of water, not covering vessel deck
- The type of shore bottom
- Navigational approach and pilotage requirements
- Seasonal conditions

-] The openness of the site to ocean waves/currents
-] Land and/or air access
-] Prevailing wind patterns and forecasts
-] Tidal range
-] Vessel stability and structure for beaching

Economic Factors

-] Potential economic impacts of pollution
-] Potential disruptions to other port operations or marine commerce
-] Potential impacts on local fisheries, commercial fisheries, and/or natural resources exposed on the transit route
-] Economic impact of the decision on the ship owner/operator and the cargo owner
-] Economic impact related to loss of natural resources, area quality and recreational use

Response, Salvage, Firefighting, and Repair Resources

-] Available salvage and spill response resources
-] Available firefighting resources
-] Availability or appropriate and compatible lightering equipment and receiving vessels
-] Availability of product storage (e.g., tank barge, shore-side storage tank, other ships)
-] Availability of skilled labor and trained personnel
-] Access to repair equipment and facilities
-] Salvage and response vessel access to the Place of Refuge

Other Command Management Factors

-] Liability, insurance, and compensation issues and limits
-] Requirements of jurisdictional authorities for financial responsibility and bonding
-] Required notifications such as maritime pilots, Immigration, Customs, and security
-] Transitional or trans-jurisdictional coordination agreements/plans, if applicable
-] Public expectations and media outreach

2500 Step 5

To protect environmental, historic, and cultural resources, the COTP/UC should determine the presence of and proximity to the following for any Place of Refuge location:

-] Resources at risk such as threatened or endangered species, seasonal breeding locations, or designated critical habitat
-] Essential fish habitat
-] Maricultural/aquaculture facilities
-] Other priority sensitive areas, including cultural and historic properties
-] Other resources, lands and/or waters with special designations
-] Offshore fisheries
-] Near shore fisheries
-] Subsistence use patterns and treaties
-] Recreation/tourism information
-] Spill trajectories

2600 Step 6

After the final analysis has been completed and a decision made, the COTP or UC through a formal document (such as a Decision Memo), should ensure that other authorities and stakeholders are appropriately informed.

3000 Area List of Potential Stakeholders

The SEFL AC should ensure that current contact information is available through the committee members for the categories listed below:

- Federal On-Scene Coordinator
- State On-Scene Coordinator
- Federal Natural Resource Trustees
- State Natural Resource Trustees
- Federally-Recognized Tribes or First Nations
- Land Owners/Land Managers in addition to trustees identified above
 - Local (e.g., parish/municipal) governments
 - Potentially impacted facility owners
 - Port Authorities
- Other Stakeholders or Agencies
 - Regional Citizen Advisory Councils or other appropriate public interest groups
 - Harbor Safety Committees
 - Selected commercial operator (e.g., fish hatcheries, agriculture sires)
 - Immigration, Customs, the Federal Bureau of Investigation, the Department of Homeland Security, and the Federal Emergency Management Agency
 - Maritime pilot groups serving the area
 - Center of Disease Control/State and Local Health Departments

4000 Template for Responding to Requests for Places of Refuge

Ideally, the SEFL AC should gather information on all potential Places of Refuge within the boundaries of the committee.

This annex provides a template for the collection of general information on the planning as well as specific information on sites such as docks and piers, anchorages and moorings, and possible beaching sites. The checklists in this template support the decision-making checklist in the Places of Refuge Manual by providing for the advance collection of information and are therefore crucial to expediting decision-making.

While information on possible sites may be pre-inventoried, this does not imply that any of these sites will be the location of choice in a future event. Selection of a place of refuge by the COTP in consultation with other agencies and stakeholders will always be made on a case-by-case basis.

A workgroup may be established to pre-identify information on coastal port or places that will give the COTP valuable information on a decision to choose a Place of Refuge in an emergency

situation. The workgroup may include representatives from the USCG, the State, Local and Natural Resource Agencies, and marine pilots associations. In addition, native tribes and other interested and knowledgeable stakeholders should be invited to participate.

4100 General Information

- Casualty risk associated with the routine vessel traffic routes in the planning area
- Availability of rescue tugs/tow vessels of sufficient size and power to aid in the vessel in distress and predicted arrival times
- Salvage, lightering, firefighting, and spill response resources available to this jurisdiction, including delivery times
- Transnational or trans-jurisdictional coordination agreements/plans, if applicable
- Shorelines likely to be impacted either during transits to a place of refuge or if refuge is denied:
 - Shoreline names and locations as appropriate
 - Shoreline types and generally acceptable cleaning methods
 - Description of sensitive resources/areas along the coastlines likely to be impacted, including fisheries, aquaculture sites, cultural and historic sites, Threatened and Endangered species, subsistence use, recreation/tourism, or specially designated lands or waters
 - Existing resource protection strategies
- General wind/wave/current information and source for real-time tide/wind/wave/current information
- Seasonal conditions
- Potential risks to populations along the coasts with regard to explosion, fire and pollution; availability of evacuation routes
- General information on coastal vessel traffic patterns
- Other pertinent information

4200 Choosing a Place of Refuge

4201 Docks and Piers

For each site determine:

- Site number (to correspond to map/chart showing location)
- Site name
- Site location
- Water depth at mean low tide
- Beach/shoreline types and generally
- Bottom types
- General wind/wave/current information
- Openness of the site to ocean waves/currents
- Source for real-time tide/wind/wave/current information
- Seasonal conditions
- Standard navigational approach, including vessel traffic patterns and associate risks
- Pilotage requirements
- Nearby port operations and potential impacts
- Brief description of port facilities
- Brief description of repair facilities/capabilities/skilled labor

- Availability or cargo transfer and storage facilities
- Land and/or air access
- Risk to persons at or near the location with regard to explosion, fire, and pollution; availability or evacuation routes
- Description of sensitive resources/areas at the site and along potential access routes to that site, including fisheries, aquaculture sites, cultural and historic sites, Threatened and Endangered species, subsistence use, recreation/tourism, or specially designated lands or waters
- Existing resource protection strategies
- Availability of salvage, spill response, and emergency response resource including police and firefighting
- Security measures in place
- Requirements for permission from area landowners/managers
- Financial assurance requirements of port authorities
- Liability and compensation issues and limits
- Required notification such as Immigration or Customs
- Identification of Stakeholders including 24/7 contact information
- Other pertinent information

4202 Anchorage and Moorings

For each site determine:

- Site number (to correspond to map/chart showing location)
- Site name
- Site location (descriptive and lat/long coordinates)
- Water depths at mean low tide
- Beach/shoreline types and generally accepted cleaning methods
- Bottom types
- General wind/wave/current information
- Openness of the site to ocean waves/currents
- Source for real-time tide/wind/wave/current information
- Seasonal conditions
- Standard navigational approach, including vessel traffic and associated risks
- Pilotage requirements
- Nearby port operations, if any, and potential impacts
- Brief description of the facilities (if any)
- Availability of cargo transfer and storage vessels
- Land and/or air access
- Risks to persons at or near the location with regard to explosion, fire, and pollution; availability of evacuation routes
- Description of sensitive resources/area at the site and along potential access routes to that site, including fisheries, aquaculture sites, cultural and historic sites, Threatened and Endangered species, subsistence use, recreation/tourism, or specially designated lands or waters
- Existing resource protection strategies
- Availability of salvage, spill response, and emergency response resource, including police and firefighting, and their potential access to the site
- Security measures in place

- Requirements for permission from area landowners/managers, is applicable
- Financial accordance requirements of local port authorities, is applicable
- Liability and compensation issues and limits
- Required notifications such as Immigration or Customs
- Identification of stakeholders including 24/7 contact information
- Other pertinent information

4203 Beaching Sites

For each site determine:

- Site number (to correspond to map/chart showing location)
- Site name
- Site location (descriptive and lat/long coordinates)
- Water depths at mean low tide
- Beach/shoreline types and generally accepted cleaning methods
- Bottom types
- General wind/wave/current information
- Openness of the site to ocean waves/currents
- Source for real-time tide/wind/wave/current information
- Seasonal conditions
- Standard navigational approach, including vessel traffic and associated risks
- Pilotage requirements
- Nearby port operations, if any, and potential impacts
- Brief description of the facilities (if any)
- Availability of cargo transfer and storage vessels
- Land and/or air access
- Risks to persons at or near the location with regard to explosion, fire, and pollution; availability of evacuation routes
- Description of sensitive resources/area at the site and along potential access routes to that site, including fisheries, aquaculture sites, cultural and historic sites, Threatened and Endangered species, subsistence use, recreation/tourism, or specially designated lands or waters
- Existing resource protection strategies
- Availability of salvage, spill response, and emergency response resource, including police and firefighting, and their potential access to the site
- Security measures in place
- Requirements for permission from area landowners/managers, is applicable
- Financial accordance requirements of local port authorities, is applicable
- Liability and compensation issues and limits
- Required notifications such as Immigration or Customs
- Identification of stakeholders including 24/7 contact information
- Other pertinent information