



Chapter 9690

Places of Refuge

Table of Contents

Section	Page
9690	9690-1
Places of Refuge	9690-1
Purpose.....	9690-1
Introduction.....	9690-1
Definitions	9690-2
Jurisdiction.....	9690-3
Management Structure to Address Places of Refuge.....	9690-4
Decision-Making Process	9690-4
Step 1	9690-5
Step 2	9690-6
Step 3	9690-6
Step 4	9690-7
Step 5	9690-9
Step 6	9690-9
Appendix	
I	
Regional List of Potential Stakeholders for Incident-Specific Consultation Regarding Places of Refuge	9690-10
II	
Template for Pre-Identifying Information Necessary for Responding to Requests for Places of Refuge	9690-11
Introduction.....	9690-11
I. General Information.....	9690-11
II. Information for Use in Choosing Places of Refuge.....	9690-12
A. Docks and Piers.....	9690-12
B. Anchorages and Moorings.....	9690-13
C. Beaching Sites	9690-14

Places of Refuge

Purpose

1. To provide a decision making process for response to requests for Places of Refuge;
2. To apply existing procedures for coordinated trans-boundary and trans-jurisdictional decision-making when necessary in responding to a request for a place of refuge.

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 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 inherently based upon an assessment of the risk factors involved and the exercise of sound judgment and discretion.

Places of Refuge are sites that could potentially 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 US Coast Guard Captain of the Port in consultation with other Federal agencies, States, 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 un-

der the Incident Command System (ICS) to address a request for a place of refuge.

When a Place of Refuge incident occurs that involves, or may involve, the international border, a response will be activated as per the Joint Canada/US Pacific Response Plan. Similarly, if a Place of Refuge incident is likely to involve more than one Area Contingency Plan, existing cross-jurisdictional protocols will be activated.

This section incorporates a decision-making process and recommended procedures for appropriate authorities and vessel 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 International Maritime Organization (IMO), and assume use of the Incident Command System 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.

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 and reduce the hazards to navigation, and to protect human life and the environment. Places of Refuge can be man-made harbors, ports, 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 other agencies in the event of an incident.

Guidelines mean each of the decision-making guidelines and matters set forth above and below. Notwithstanding any such words as "may", "should", "will", "must", or "shall", these guidelines are intended solely as factors that may be con-

sidered with respect to the exercise of judgment in deciding whether, where, and when to direct or permit a ship to seek a place of refuge, as well as considered during the execution and implementation of any such decisions.

Force Majeure 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.

Jurisdiction

Under 33 CFR 6.04, the US Coast Guard Captain of the Port (COTP) has authority to order ships into and out of ports, harbors and embayments in order to protect the public, the environment and maritime commerce. The COTP is the designated Federal On-Scene Coordinator for the U.S. coastal zone per the National Contingency Plan (40 CFR 300)(a)(1). There may be some maritime homeland security situations where the COTP, acting as the Federal Maritime Security Coordinator, may have access to Sensitive Security Information (SSI) and/or classified information - not readily shareable with other stakeholders - that may impact on 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 on a "need to know" basis.

The States of Oregon, Washington, and Idaho have authority to represent and protect State interests for incidents within State waters. Each State has jurisdiction over state-owned shoreline and in nearshore waters out to 3-miles. In Washington and Oregon, State On-Scene Coordinators (SOSCs) are pre-designated by the Department of Ecology and the Department of Environmental Quality, respectively. In the State of Idaho, a SOSC is designated at the time of an incident by the Bureau of Homeland Security. Although Idaho does not have a coast, it does have a port which might potentially be used as a place of refuge.

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 NWACP.

Resource agencies have authority to manage their lands, marine areas, wildlife, habitat, and resources as mandated in their laws and regulations. Resource agencies fill positions in the Incident Command System and provide resource information to the Unified Command. In addition, resource agencies are members of the Region X 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 positions in the Incident Command System or may serve as a Local On-Scene Coordinator per the NWACP.

The master of the ship has control of the ship and is responsible for requesting a place of refuge from the Captain of the Port. The master provides details on the status of the ship and justification for needing a place of refuge per the IMO Guidelines on Places of Refuge.

Management Structure to Address Places of Refuge

If time allows, the Captain of the Port 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 may be activated as required. The Unified Command 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 Unified Command should utilize the checklists provided in this section, based on pre-identified information whenever available, to determine the risks 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 if and where to move a ship in need of assistance.

If there is not time to activate a Unified Command or the Regional Response Team, the Captain of the Port should make the decision whether to grant or deny the request for a place of refuge. To the extent possible, the Captain of the Port should use the check-lists provided in this annex, and reference pre-identified information on potential Places of Refuge for the immediate area in order to select an appropriate site. Following the decision, the Captain of the Port should immediately notify appropriate stakeholders.

Appendix I contains a list of potential stakeholders in Idaho, Oregon, and Washington for ships requiring a place of refuge.

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

Decision-Making Process

The COTP in consultation with the Unified Command if formed 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, to the extent possible. This analysis should identify the locations that meet the operational requirements of the ship and identify the potential environmental, social, economic, and security impacts at each site. The COTP will consider these multiple factors to determine the appropriate course of action to pre-

vent 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 reaches 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.

Step 1

The master of the ship, or his/her representative (the operating company and/or salvor), should request a place of refuge from the appropriate Captain of the Port of the US Coast Guard (or appropriate Canadian authority). The master should provide as much information as possible, including:

- The status of the ship, crew, passengers, and weather;
- Medical issues, deaths, or need for evacuation of crew and/or passengers;
- The reasons the ship needs 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.

Step 2

When time allows, the Captain of the Port should consult with appropriate agencies via the Regional Response Team to address the issue, and activate a Unified Command when the situation dictates.

If there is not time to consult with partner agencies, the Captain of the Port should grant or deny the request for a place of refuge, and inform the State or Province, other concerned agencies, and appropriate stakeholders at the earliest time to determine if any protective measures are required.

Step 3

In either case, the Captain of the Port or Unified Command should:

- Require the vessel master or 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 Department of Homeland Security (DHS) Homeland Security Operations Center (HSOC) 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 US Coast Guard MSC Ship Salvage Group, the vessel owners or naval architects.
- Evaluate the following factors 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 risks 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 and Risk Factors

- The kind 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 its product
- 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 of 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/Unified Command
- Public expectations and media outreach
- Capability of master to detain crew on board until cleared by Customs and Border Protection and USCG.

Step 4

If the Captain of the Port/Unified Command 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; and
- Existing resource protection strategies and availability of response resources to implement the strategies
- Status of potential Places of Refuge (protected 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 such as ice
- Anchoring ground or suitable docking facilities
- Availability of repair facilities such as dry docks, workshops, and cranes
- Availability of facilities which can handle dangerous cargo
- Military operations in vicinity
- Availability of cargo transfer and storage facilities
- Land and/or 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, i.e., national marine sanctuary permit.

Beaching Site Criteria

- Depth of water, not covering vessel deck
- The type of shore bottom
- Navigational approach and pilotage requirements
- Seasonal conditions such as ice
- 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 operator/owners 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 of appropriate and compatible lightering equipment and receiving vessels
- Availability of product storage (e.g., tank barge, shore-side storage tank, or other ships)
- Availability of skilled labor and trained personnel
- Access to repair equipment and facilities
- Availability of cargo reception and storage 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
- Transnational or trans-jurisdictional coordination agreements/plans, if applicable
- Public expectations and media outreach

Step 5

To protect environmental, historic, and cultural resources, the Captain of the Port/Unified Command 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
- Mariculture/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

Step 6

After the final analysis has been completed and a decision made, the COTP or Unified Command, through a formal document (such as a Decision Memo), should ensure that other authorities and stakeholders listed in Appendix 1 are appropriately informed.

Appendix I Regional List of Potential Stakeholders for Incident-Specific Consultation Regarding Places of Refuge

The Area Committee 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 (list)

State Natural Resource Trustees (list):

Federally-Recognized Tribes or First Nations (list):

Land Owners/Land Managers in addition to trustees identified above (examples follow):

- Local (e.g., borough/municipal) governments
- Potentially impacted facility owners
- Port Authorities

Other Stakeholders or Agencies (examples follow):

- Regional Citizens Advisory Councils or other appropriate public interest groups
- Harbor Safety Committees
- Selected commercial operators (e.g., fish hatcheries, mariculture sites)
- 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.

Appendix II Template for Pre-Identifying Information Necessary for Responding to Requests for Places of Refuge

Introduction

Ideally, the Northwest Area Committee should gather information on all potential Places of Refuge in our area of responsibility. This appendix provides a template for the collection of general information on the planning region 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 checklists in the Places of Refuge Section by providing for the advance collection of information and are therefore crucial to expediting a Place of Refuge decision-making process.

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 US Coast Guard Captain of the Port 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 Places of Refuge in an emergency situation. The workgroup may include representatives of the US Coast Guard, the state environmental agency (ies), appropriate federal and state natural resource trustees, local environmental and natural resource agencies, and marine pilots associations. In addition, native tribes and other of interested and knowledgeable stakeholders should be invited to participate.

I. General Information

- Casualty risks associated with the routine vessel traffic routes in the planning area
- Availability of rescue tugs/tow vessels of sufficient size and power to aid 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, such as ice
- 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

II. Information for Use in Choosing Places of Refuge

A. Docks and Piers

For each site:

- Site number [to correspond to map showing location]
- Site name
- Site location (descriptive and latitude/longitude 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, such as ice
- Standard navigational approach, including vessel traffic patterns and associated risks
- Pilotage requirements
- Nearby port operations and potential impacts
- Brief description of port facilities
- Brief description of repair facilities/capabilities/skilled labor
- Availability of cargo transfer and storage facilities
- 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/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 resources 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 notifications such as Immigration or Customs

- Identification of stakeholders including 24/7 contact information
- Other pertinent information

B. Anchorages and Moorings

For each site:

- Site number [to correspond to map showing location]
- Site name
- Site location (descriptive and latitude/longitude 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, such as ice
- Standard navigational approach, including vessel traffic and associated risks
- Pilotage requirements
- Nearby port operations, if any, and potential impacts
- Brief description of 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/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 resources including police and firefighting, and their potential access to the site
- Security measures in place
- Requirements for permission from area landowners/managers, if applicable
- Financial assurance requirements of local port authorities, if 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

C. Beaching Sites

For each site:

- Site number [to correspond to map showing location]
 - Site name
 - Site location (descriptive and latitude/longitude coordinates)
 - Water depths at mean low tide
 - Beach/shoreline types and generally acceptable 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, such as ice
 - Standard navigational approach, including vessel traffic and associated risks
 - Pilotage requirements
 - Nearby port operations, if any, and potential impacts
 - Brief description of facilities (if any)
 - Availability of cargo transfer and storage vessels and their potential access to the beaching site
 - 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/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 resources including police and firefighting, and their potential access to the beaching site
 - Security measures in place
 - Requirements for permission from area landowners/managers, if applicable
 - Financial assurance requirements of local port authorities, if 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