

EVERY MARINER BUILDS A RESPECTFUL CULTURE (EMBARC)

SEXUAL ASSAULT AND SEXUAL HARASSMENT (SASH) PREVENTION

MANDATORY ELIGIBILITY STANDARDS

FOR VESSEL OPERATOR PARTICIPATION IN THE USMMA SEAYEAR PROGRAM

Frequently Asked Questions

Current as of April 26, 2022

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This document is intended to provide added clarity to the standards set out in EMBARC (dated December 15, 2021) and its accompanying Checklist.

The United States Merchant Marine Academy (USMMA) educates and graduates leaders of exemplary character who are inspired to serve the national security, marine transportation, and economic needs of the United States. Realizing these goals depends on fostering a community of mutual respect, support, and accountability. Accordingly, the U.S. Department of Transportation (DOT), the Maritime Administration (MARAD), and USMMA require all U.S.-flag vessel commercial operators to adopt and follow the Every Mariner Builds a Respectful Culture (EMBARC) Sexual Assault and Sexual Harassment (SASH) Prevention Mandatory Standards (EMBARC Standards)—a set of policies, programs, procedures, and practices to help strengthen a culture of SASH prevention and support appropriate responses to incidents of sexual violence and sexual harassment and other forms of misconduct. Accession into EMBARC must be completed as a prerequisite before U.S.-flag vessel commercial operators will be authorized to employ USMMA students as cadets aboard their vessels.

EMBARC Checklist Specific Questions

1. EMBARC Checklist Section II.1:

Question 1: What documents should operators provide as evidence of compliance?

Answer 1: The compliance documents needed are (1) a Statement of Compliance; (2) copies of SASH policies; and (3) a completed checklist. All documents should be emailed to embarc@dot.gov.

Question 2: Where is the Compliance document located?

Answer 2: The Compliance document is located at <https://www.maritime.dot.gov/education/sea-year-training-program-criteria>.

2. EMBARC Checklist Section II.2:

Question: Is there a specific format for the annual self-assessment?

Answer: Owners and operators should submit an annual self-assessment using the EMBARC Self-Assessment Checklist available on the MARAD website. The self-assessment should also be accompanied by the vessel operator's Statement of Compliance with current EMBARC standards. If the annual assessment requires explanation, owners and operators may provide such explanation as a written attachment to the Self-Assessment Checklist. All immediate action items from the Checklist must be complete prior to receiving approval for embarking cadets.

3. EMBARC Checklist Section II.3:

Question: As an alternative to submitting an EMBARC self-assessment to MARAD annually, may a vessel operator comply with the recurring self-assessment provision by including the self-assessment as part of the annual safety management system (SMS) audit procedures?

Answer: Vessel operators should submit annual EMBARC self-assessments to MARAD in addition to complying with routine SMS audit procedures.

4. EMBARC Checklist Section II.3:

Question: Is it acceptable to limit MARAD assessments to once a year?

Answer: No. Consistent with the requirements of 46 U.S.C. § 51322, MARAD intends to continue conducting periodic and random unannounced assessments. A vessel operator may be the subject of more than one assessment per year.

5. EMBARC Checklist Section III.1

Question: Do the EMBARC-specific additions to SMS require approval by an SMS approval authority?

Answer: No. The checklist statement is an error and the vessel operator may indicate (on the checklist) that the provision is not applicable.

6. EMBARC Checklist Section III.2:

Question: Can an operator use a contractor and/or third-party company rather than designating a company employee as the Designated SASH contact?

Answer: An operator may use a contractor and/or third-party company as long as the contractor/third-party is designated as the Designated SASH Contact and complies with all EMBARC standards.

7. EMBARC Checklist Section III.4.a.

Question: What method of communication would satisfy the requirement that the Designated SASH Contact reach out to each assigned cadet within the first 7 days of boarding a vessel?

Answer: Any communication method available to the Designated SASH Contact may be used to reach out to the cadet, including: email, cellular phone, satellite phone, or a message sent to the cadet through the captain asking the cadet to communicate with the Designated SASH Contact.

8. EMBARC Checklist Section III.4.c

Questions: If a company establishes a mentorship program onboard a vessel, does the SASH Contact need to contact cadets every 14 days?

Answer: An onboard mentorship program is not an acceptable substitute for compliance with the Designated SASH Contact standards set forth in EMBARC. However, operators may establish mentorship programs to support embarked cadets.

9. EMBARC Checklist Section III.7.b

Question 1: Can an operator use alternate training aids for officers and crew instead of providing the Maritime Sexual Assault and Sexual Harassment Prevention training?

Answer 1: Per the EMBARC requirements, crew members must receive Maritime Sexual Assault and Sexual Harassment Prevention training. However, an operator may provide additional training consistent with its own company policy.

Question 2: Can the SASH Classroom PowerPoint slides (included in the SOCP SASH Toolkit published in April 2018) be used in lieu of the SOCP Computer-based SASH prevention training program?

Answer 2: Yes. The SOCP PowerPoint slides (published in 2018) may be used in lieu of the computer-based training program for the required annual training of officers and crew.

Question 3: If a crew member, who has not had SASH prevention training within the past year, joins a ship at the same time, or after a cadet has joined a vessel, what should the vessel operator do?

Answer 3: The vessel operator must ensure that the crew member completes the required training within 48 hours of departing the port of embarkation. After the crew member completes the training, the vessel operator must ensure that the crew member's training status is documented in such a way so as to sufficiently evidence the vessel operator's adherence to the policies and procedures developed under EMBARC III.7.b.

10. EMBARC Checklist Section III.7.f

Question: Please clarify the areas where SASH prevention posters must be displayed shoreside.

Answer: Posters should be displayed in those areas ashore that:

- a. Are operator controlled, and
- b. Cadets will likely access.

11. EMBARC Checklist Section III.7.h.i

Question: Can a delegate introduce cadets to a ship's crew upon delegation from a vessel master?

Answer: MARAD requires the Master to meet with cadets and make introductions to the ship's Crew as soon as practicable after boarding, but not later than 48 hours of departing port. The Master may delegate this responsibility to the Chief Mate or First Engineer.

12. EMBARC Checklist Section III.7.h.ii

Question: Can a delegate for the Vessel's Master ensure that cadets are familiarized with the ship during the onboarding.

Answer: MARAD requires the Master to meet with cadets and make sure they are familiarized with the ship during onboarding in accordance with the SMS. The Master may delegate this responsibility to the Chief Mate or First Engineer.

13. EMBARC Checklist Section III.8.a

Question 1: Must vessel operators report allegations of SASH incidents that do not involve cadets?

Answer 1: MARAD requires vessel operators to notify USMMA of allegations of SASH when a cadet is embarked on a vessel, whether or not the allegation involves the cadet. When a SASH incident does not involve a cadet, the report should not include information that would identify the parties involved in the incident, and the report may be limited to a notification that a SASH allegation has been made and that the vessel operator is investigating it.

Question 2: What is intended by the phrase “complete report?” Does it include notes and discovery items?

Answer 2: A “complete report” is the final written determination and findings of the vessel operator. Such document would typically describe the facts, conclusions, and current or future vessel operator remediation actions (if any). Such a report does not include any pre-decisional materials.

Question 3: What are the “best practices” for investigation of alleged SASH violations?

Answer 3: Vessel operators must report a sexual assault allegation to the Coast Guard Investigative Service consistent with 46 U.S.C. § 10104. Vessel operators may identify and implement their own best practices for investigating SASH allegations based on their knowledge of vessel operations, corporate practices and policies, and other relevant factors the operator deems appropriate.

Question 4: What does the term “trauma-informed” mean as it relates to investigating SASH?

Answer 4: The term “trauma-informed” is defined in 46 U.S.C. § 51318. It means: asking questions of an individual who has been a victim of sexual harassment, dating violence, domestic violence, sexual assault, or stalking in a manner that is focused on the experience of the victim, does not judge or blame the victim, and is informed by evidence-based research on the neurobiology of trauma.

Question 5: In the event of a SASH incident who should be alerted?

Answer 5: Reports of SASH incidents should be made to the USMMA SAPR Hotline, which is staffed 24 hours a day, 7 days a week. The number is 516-462-3207.

14. EMBARC Checklist Section IV.2.

Question: In section IV paragraph 2 it states that a designated SASH officer requires specific training. Is MARAD requiring a Designated SASH Contact to be onboard at all times?

Answer: No, the Designated SASH Contact does not need to be onboard the vessel.

15. Questions of General Applicability

Question 1: Once a company is enrolled in EMBARC, will MARAD provide SMAs with the information collected or a clearance document?

Answer 1: MARAD will post the names of all EMBARC-compliant operators on the MARAD website. This may include fleet subset breakouts if the operators designate as such.

Question 2: What if security-specific concerns (i.e., sailings on military vessels) prevent cadets from utilizing satellite phones or personal phone to contact the SASH Contact?

Answer 2: Operators should alert the Academy Training Representative (ATR) of any security or operational restrictions that limit a cadet's ability to use personal communication devices (e.g., satellite phone, mobile phones) on a specific vessel. An alternate means to facilitate cadet welfare checks should be proposed to USMMA. The USMMA will determine whether the alternate means is acceptable.

Question 3: Must the Maritime Administrator require the owner or operator of any commercial vessel that is carrying a cadet from the United States Merchant Marine Academy to certify compliance of the vessel with the International Convention for Safety of Life at Sea, 1974 (32 UST 47)?

Answer 3: Yes, 46 U.S.C. § 51322 requires the owner or operator of any commercial vessel that is carrying a cadet from the United States Merchant Marine Academy to certify compliance of the vessel with the International Convention for Safety of Life at Sea, 1974 (32 UST 47).

Question 4: If a vessel that does not travel internationally is certificated as compliant with the International Convention for the Safety of Life at Sea has that vessel fulfilled the compliance requirement of 46 U.S.C. § 51322?

Answer 4: Yes.

16. Safety Management System

Question: Is there an impediment to including SASH reporting policies and procedures in the Safety Management System (SMS)?

Answer: SASH could have direct impact on safety at sea. Companies that operate U.S.-flag ships carrying USMMA cadets should document their SASH reporting policies and procedures within their SMS similar to how other company-specific requirements are added. The end goal is building trust and mutual respect among a ship's crew. External auditors will conduct their regularly scheduled SMS audits using appropriate protocols to ensure consistency in application. The Coast Guard has informed MARAD there is no impediment to the voluntary inclusion of EMBARC standards in vessels' safety management systems.