

Several factors prevented its inclusion in the proposed regulations:

1. According to the EPA and the Federal Water Pollution Control Act, gray-water is not a pollutant or contaminant.

2. Vessels are not usually constructed with holding tanks for gray-water. Most vessels are constructed so that water generated from the shower, bath, laundry and sinks is plumbed to a small sump that is periodically (often automatically) discharged overboard, or is directly discharged overboard.

3. There is no requirement in the USCG regulations for carriage or certification of gray-water holding or a discharge device as there is with MSDs.

4. The nature of water resources vary considerably throughout the National Park System, and the impact of gray-water should be evaluated in each environment by appropriate professionals such as biologists or hydrologists.

The work group concluded that gray-water issues should be dealt with on a case-by-case basis at the park level and that the focus of this section is more appropriately directed toward "black-water" (sewage) containment aboard vessels.

Section 3.13 Am I Required To Remove a Sunken, Grounded, or Disabled Vessel?

USCG regulations clearly cover the removal of sunken or grounded vessels in navigable waters if the vessel poses a navigational hazard or immediate environmental threat.

The USCG generally ensures that the owner mitigate the hazard or threat by salvaging the vessel completely or by eliminating the object or substance which poses the threat (*i.e.*; removing masts to provide ample clear draft for vessel traffic, pumping out fuel from submerged tanks, towing disabled vessels to deeper water where they are purposely sunk). Depending on location, depth, insurance issues, time period after the sinking or disabling, the owners may decide it more cost effective to leave the vessel where it foundered (sank), grounded, or disabled once they have taken care of the navigational or environmental hazard.

In non-navigable waters, owners may not even be required to fully address these factors. It should be noted that the terms founder and sunken are synonymous with each other for the purposes of this regulation.

In recognizing the unique natural and cultural resources of park waters, shorelines, and submerged areas, the NPS proposes to empower superintendents with the clear authority

to order owners of these vessels to remove them under clearly defined conditions. Removal would also include associated equipment, debris, and cargo from the vessel. Although the "tradition of the sea" has been to discard things overboard where they are out of sight and out of mind (even the USCG still approves of towing ships out to sea to sink them when they are no longer salvageable in some cases), this may not be in the best interest of park resources. Ultimately, this decision should be made by the NPS rather than by the vessel's owner.

The wording for this regulation was taken almost verbatim from 36 CFR 2.17(c)(1–3) regarding downed aircraft. The situation of downed aircraft in parks is very similar to that of sunken vessels, with the main difference being that one can easily see the aircraft, but cannot generally see the sunken vessel.

Disabled vessels were included in this regulation since they can easily founder or ground if action by the owner is not taken immediately. The regulation again gives authority to the superintendent to require action by the owners, which may prevent more serious problems later on.

Component parts, equipment and associated cargo may become detached from the vessel during the foundering, but can pose just as much or more problems to park resources than the vessels themselves. Therefore, they are included in the removal requirements. Examples of this would be lines, cables, shipping containers, lumber, vehicles, or a wide variety of cargo transported on board vessels.

Although there was some discussion to include the term "abandoned vessels" in this regulation, it was decided that this covers a wider range of vessels than was intended for this purpose. 36 CFR 2.22 "Property" covers the subject of abandoned property of any type sufficiently. Some parks requested authority to recover costs associated with vessel removal, however, we believe that authority already exists under 36 CFR 2.22(b)(4).

Section 3.14 What Is the Maximum Noise Level for the Operation of a Vessel?

This section is revised with the intent of updating the testing standards for noise level enforcement to encompass more recent standards adopted by the Society of Automotive Engineers (SAE). To accommodate the review of part 3 in its entirety this section is renumbered from 3.7 to 3.14.

The current testing procedures outlined in § 3.7 are appropriate for tests conducted in a laboratory or test facility

but are impractical for field law enforcement use. They are difficult and cumbersome to use, thus rendering this regulation ineffective.

Noise abatement has not only continued as a concern on all waterways but has grown in importance as an issue addressed by the visiting public and park staff. According to the Reference Guide To State Boating Laws (2001—Sixth Edition), published by NASBLA, thirty-one states set maximum noise level for vessels. In order to meet the stated work group objective of uniformity with state regulations wherever possible, the rule proposed for noise testing and regulation is modeled after the NASBLA model act. This act has also been adopted whole or in part by many states. Since there is still some inconsistency among the states, with some not regulating noise level, a rule in part 3 is the most effective means to provide a standard applicable across the National Park System. The standards adopted are SAE J-2005 and SAE J-1970. These standards may be obtained through the Society of Automotive Engineer's Web site at <http://www.SAE.org>. These standards are sound testing procedures that allow the measurement of noise level for either stationary vessels or vessels underway. These procedures are more readily used in the field than the current testing procedures. The ease in use of these procedures places less of a burden on the boating public and will result in more effective management of noise level with the result of enhancing the visitor experience. The maximum decibel levels remain the same.

Section 3.15 May I Swim or Wade in Park Waters?

This section is renumbered from the current § 3.21. The title of the regulation is amended from "Swimming and bathing" to "Swimming and wading".

The title of the section is modified by replacing the term "bathing" with "wading" in order to clarify the range of activities intended for coverage under this rule. "Bathing", as used to refer to the act of swimming, is largely an outdated term and may have more meaning to modern visitors as a term that addresses the act of "cleansing" the body using soap or cleansing agents. Bathing violations could be addressed under 36 CFR 2.14(a)(6).

Paragraphs (a)(1) and (2) of existing § 3.21 are deleted. Paragraph (a)(3) of existing § 3.21 is deleted. The work group decided there was no uniform set of circumstances service-wide regarding swimming from vessels underway, given the variety of water conditions that exist throughout the National Park