

Despite concerns associated with byproducts there are no definitive conclusions on disinfectants causing harm. Even the Environmental Protection Agency (EPA) concluded that despite evidence to the contrary, there is not enough evidence at this time to determine a causal link between disinfectants and disease.

A potentially dangerous concern is the parasite *Cryptosporidium*, which originates from human and animal waste. Typically, humans infected with this parasite distribute it to other human

pollution must be inventoried.¹⁰ The susceptibility of water to contamination can then be calculated, with the requirement that these results are made public. There are no federal regulations that limit the use of surface water sources for recreation.

The EPA, or Environmental Protection Agency, controls the regulations on what proper water standards will be, but most direct oversight is left to the states.¹¹ All states, excluding Wyoming and the District of Columbia, have applied for primacy, which allows the states to exert regulatory control as long as they can prove it will be at least as stringent as EPA standards.¹³ Water quality standards are controlled by the Agency of Natural Resources in the state of Vermont.

Vermont Regulations on Open Air Drinking Water Rights

In 2012, a court case decided that State of Vermont controls the access to open air drinking water sources, rather than the communities that may use the drinking water.¹⁴ The case stemmed from Montpelier's attempt to control recreational use of the source of their drinking water, Berlin Pond.¹⁵ It was determined that under the public trust doctrine the state of Vermont has the exclusive right to regulate Vermont ponds and lakes.¹⁶ In an attempt to change the legislation and hand over regulatory control of public open air water sources to municipalities who use the water, H.33 was introduced to the Vermont House of Representatives in 2015.¹⁷

Currently, there are little protections on Vermont open air water sources. The state has not banned shoreline fishing, ice fishing, swimming, boating or ice shanties. The state does hold a ban on internal combustion motors.¹⁸ There is not any water source intake area defined on open-air water sources, or a clearly marked area around where the water is taken from the open source into the water delivery system, which is a useful to prevent hazardous materials entering through the water intake. There are over 12 brooks, lakes, and ponds that are open air drinking water sources at risk in Vermont, that have varying protection by

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local charters and ordinances. Only municipalities that regulate water sources through their local charter, which made regulations on the water when the municipality was founded, hold protections on their sources, leaving many unregulated.

Vermont Open Air Water Sources¹⁹

Water Sources	Municipality Served	Local Control
Berlin Pond	Montpelier	No

New England State Regulations

Other New England states have various restrictions on recreational use of drinking water sources and some delegate regulatory authority of these sources to towns and municipalities. Information in this section is largely drawn from a memorandum written by Cameron Wood, Legislative Council, to Rep. Warren Kitzmiller.

Connecticut

In Connecticut, the Department of Public Health has jurisdiction over the regulation of drinking water sources.²⁰ While there is no provision that specifically delegates regulatory authority to municipalities,²¹ Connecticut statute allows the legislative body of any Connecticut city or borough to “regulate or prevent fishing, trespassing, or any nuisance” on reservoirs.²² Swimming is not permitted in reservoirs or in any water source to the reservoirs. Passive recreation, such as fishing, is allowed through a permitting process.²³ Connecticut statute provides for the commission of police officers to patrol reservoirs and enforce these regulations.²⁴

Rhode Island

Drinking water is regulated under the Rhode Island Department of Health.²⁵ Statute prohibits swimming, bathing, or discharge of other “polluting matter” in drinking water sources. Further, the Department of Health is permitted to regulate or prohibit any activities “deem[ed] to render the water supply injurious to health or to pose a potential significant risk to public health.”²⁶ No provision of Rhode Island law specifically delegates regulatory authority to municipalities.²⁷

Massachusetts

The Department of Environmental Protection regulates all inland waters.²⁸ According to Massachusetts Code of Regulations, swimming and bathing in drinking water sources is prohibited. Fishing, boating, walking on or cutting the ice, or bringing animals onto or into the water are all prohibited unless one is given a written permit by the Board of Water

Commissioners²⁹ While municipalities do not have express regulatory authority, they can “impact recreational use through local land use controls and also have input into their local management plans.³⁰

New Hampshire

Drinking water sources are regulated on the municipal level in New Hampshire. If local regulation is not sufficient, local authorities or citizens may petition the New Hampshire Department of Environmental Services to regulate drinking water sources³¹. Therefore, regulations vary by municipality. According to Wood, “Most seem to prohibit all general recreational use (swimming, boating, fishing).³²

Maine

In Maine, municipalities are authorized to regulate drinking water sources³³ However, 22 § 2647-A holds that a utility or municipality and the Department of Health have authority to regulate pollutants in the drinking water supply in accordance with § 2642³⁴ Wood says this is somewhat contradictory, “because the State has granted authority to some water districts to govern certain water supplies.³⁵ Similarly to New Hampshire, recreational prohibitions depend on local regulations³⁶

Conclusion

Recreational use of drinking water sources can present potential health risks. While the federal government regulates drinking water through the Safe Water Drinking Act, the EPA typically delegates regulatory authority to the states. In most New England states, recreational use of drinking water sources is restricted. In Maine and New Hampshire, drinking water source use is regulated on the local level. In Vermont, use is regulated at the state level. Compared to other New England states, Vermont permits more recreational activity on drinking water sources.

This report was completed on April 30, 2015 by Megan Noonan, Allie Van Sickle, and Jack Vest under the supervision of Professors Jack Gierzynski, Robert Bartlett and Eileen Burgin.

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