

Vermont Citizens Advisory Committee on Lake Champlain's Future

COMMITTEE MEMBER MANUAL

Approved October 3, 2018

Membership revised April 23, 2019

Vermont Citizens Advisory Committee on Lake Champlain's Future

The Vermont Citizens Advisory Committee on Lake Champlain's Future (VTCAC) is a diverse group of citizens, lake advocates, business representatives, farmers, and legislators united through their interest in a clean, healthy Lake Champlain. The 14-member committee (ten citizens and four state legislators) provides an opportunity for diverse interests to work together to develop an action agenda for improving water quality and enhancing the natural, cultural, recreational, and economic resources of the Lake Champlain Basin. VTCAC members are charged with submitting an annual report to the Vermont General Assembly that maps out recommended actions to protect the integrity of the lake. The VTCAC meets regularly as an organization and annually with New York and Quebec CACs to discuss issues of mutual concern and to advise the Lake Champlain Steering Committee established under the Memorandum of Understanding on Environmental Cooperation on Lake Champlain. The Lake Champlain Steering Committee guides the Lake Champlain Basin Program and is responsible for implementing the Lake Champlain Management Plan "Opportunities for Action." The Vermont, New York, and Quebec CAC chairs each hold a seat on the Lake Champlain Steering Committee, the governing board for the Lake Champlain Basin Program.

Vermont Citizens Advisory Committee (VTCAC)

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ENABLING LEGISLATION

Vermont Statutes Annotated

Title 10: Conservation and Development

Chapter 63: VERMONT CITIZENS ADVISORY COMMITTEE ON LAKE CHAMPLAIN'S FUTURE

10 V.S.A. § 1960. Vermont citizens advisory committee on Lake Champlain's future created

§ 1960. Vermont citizens advisory committee on Lake Champlain's future created

(a) The Vermont citizens advisory committee on Lake Champlain's future is created to gather and disseminate information and make recommendations about the condition and management of the waters of the Lake Champlain basin region. The advisory committee shall consist of 14 members: two senators appointed by the committee on committees, two representatives appointed by the speaker of the house, and ten Vermont citizens, including one recommended by the secretary of agriculture, food and markets, who come from a variety of geographic locations in Vermont appointed by the governor with advice and consent of the senate. The advisory committee shall elect a chair by a majority vote of its members. Legislative committee members shall serve two-year terms that coincide with their term of office, or until the biennial appointment of successors. Other advisory committee members shall be appointed for three-year terms, except that initial appointments shall be for staggered terms.

(b) Advisory committee members shall receive a per diem pursuant to 32 V.S.A. § 1010 and shall be reimbursed for necessary expenses incurred in performance of their duties as advisory committee members.

(c) The secretary, in consultation with the advisory committee, may appoint an executive director who shall be an exempt state employee and who shall report to the secretary.

(d) The advisory committee shall be assigned to the agency of natural resources for budgetary and administrative purposes.

(e) The advisory committee shall present a proposed budget to the secretary before September 15 of each year.

(f) [Repealed.] (Added 1989, No. 265 (Adj. Sess.), § 1; amended 2003, No. 42, § 2, eff. May 27, 2003; 2007, No. 121 (Adj. Sess.), § 32.)

10 V.S.A. § 1961. Powers and duties

§ 1961. Powers and duties

(a) The advisory committee shall:

(1) Gather existing scientific data concerning the condition of the water and wildlife in the Lake Champlain basin region. Such data may include information concerning:

(A) Factors affecting water quality of the lake with emphasis on the levels and sources of nutrient loading and the presence of toxic materials.

(B) Condition of the lake's fishery resource and health of wildlife populations.

(C) Level and impact of aquatic nuisance infestations.

(D) Potential and current impacts of hazardous material spills.

(E) Impact of shoreline development and marinas.

(F) Quality and purity of the lake as a drinking water source.

(2) Using existing government and nonprofit resources whenever possible, gather information about activities which affect or have the potential to affect the water and wildlife in the Lake Champlain basin region. The advisory committee shall also consider the effect of these activities on regional needs for agricultural and industrial development, for employment opportunities and for a high quality environment. Such information may include data concerning:

(A) Recreational management issues, including land acquisition for protection of valuable natural areas, or to enhance public access where desired, or both.

(B) Federal, state and local activities that affect the lake.

(3) Act as the citizens advisory committee to the joint committee created in the memorandum of understanding on environmental cooperation on the management of Lake Champlain, and signed by the governor of Vermont, governor of New York, and the premier of Quebec on August 23, 1988. The advisory committee shall also work with the New York and Quebec representatives of the Lake Champlain citizens advisory committee created as a result of the memorandum of understanding.

(4) By June 15, 1991 and every January thereafter, recommend to the secretary, a Vermont policy for Lake Champlain or changes to existing policy. By June 15, 1991 and every January thereafter, the secretary shall recommend to the legislature a policy or policy changes regarding Lake Champlain. The policy shall:

(A) Address management concerns identified under this subsection.

(B) Recommend a governance process for making decisions regarding cooperative management of the lake's cultural and natural resources, which may include development of a tripartite governmental framework ratified by Congress.

(C) Recommend a process for creating a research consortium to monitor the condition of the lake.

(D) Recommend ongoing funding sources for carrying out the purposes of this chapter.

(5) On or before June 15, 1991 and every January thereafter present a report to the Vermont legislature. The report shall include the following:

- (A) An update on the quality of the waters of the lake.
 - (B) Findings of pertinent research.
 - (C) An action plan including, but not limited to, water quality and fishery improvement measures and ways to enhance public use of and access to the lake.
 - (D) Recommended budgets and revenue sources including an expanded lake user fee structure.
 - (6) Carry out activities designed to educate the public about Lake Champlain issues and to disseminate information gathered under this subsection.
 - (7) Act as a citizen's advisory committee to the federal Lake Champlain management conference created in the Lake Champlain Special Designation Act of 1990 (PL 101-596). The advisory committee shall review the activities of the conference and make appropriate recommendations to the conference members. After June 15, 1991, all recommendations shall be based upon the Citizen's Advisory Committee Action Plan duly adopted after public comment and one or more public hearings.
- (b) The advisory committee may:
- (1) Contract for studies and prepare reports on existing or potential problems within the basin. In contracting for studies the advisory committee shall follow public bidding procedures as prescribed for executive branch agencies by the secretary of administration.
 - (2) Apply for grants or other funding sources to finance or assist in effectuating the purposes of this chapter. The advisory committee may accept grants or funds only pursuant to the provisions of 32 V.S.A. § 5.
 - (3) With the secretary's approval, present information and make recommendations to federal, state and local legislatures regarding the coordinated management of the lake and for the purpose of helping the legislatures to make sound decisions regarding management of the lake.
 - (4) Offer to act as a forum for discussion and mediation of lake-related conflicts.
 - (5) Work cooperatively with governmental and other groups having jurisdiction over or interested in the management and quality of Lake Champlain. (Added 1989, No. 265 (Adj. Sess.), § 1; amended 1991, No. 27.)

United States Code

33 USC 1270 Lake Champlain Basin Program

(a) Establishment

(1) In general There is established a Lake Champlain Management Conference to develop a comprehensive pollution prevention, control, and restoration plan for Lake Champlain. The Administrator shall convene the management conference within ninety days of November 16, 1990.

(2) Implementation

The Administrator –

(A) may provide support to the State of Vermont, the State of New York, and the New England Interstate Water Pollution Control Commission for the implementation of the Lake Champlain Basin Program; and

(B) shall coordinate actions of the Environmental Protection Agency under subparagraph (A) with the actions of other appropriate Federal agencies.

(b) Membership

The Members of the Management Conference shall be comprised of –

- (1) the Governors of the States of Vermont and New York;
- (2) each interested Federal agency, not to exceed a total of five members;
- (3) the Vermont and New York Chairpersons of the Vermont, New York, Quebec Citizens Advisory Committee for the Environmental Management of Lake Champlain;
- (4) four representatives of the State legislature of Vermont;
- (5) four representatives of the State legislature of New York;
- (6) six persons representing local governments having jurisdiction over any land or water within the Lake Champlain basin, as determined appropriate by the Governors; and
- (7) eight persons representing affected industries, nongovernmental organizations, public and private educational institutions, and the general public, as determined appropriate by the trigovernmental Citizens Advisory Committee for the Environmental Management of Lake Champlain, but not to be current members of the Citizens Advisory Committee.

(c) Technical Advisory Committee

(1) The Management Conference shall, not later than one hundred and twenty days after November 16, 1990, appoint a Technical Advisory Committee.

(2) Such Technical Advisory Committee shall consist of officials of: appropriate departments and agencies of the Federal Government; the State governments of New York and Vermont; and governments of political subdivisions of such States; and public and private research institutions.

(d) Research program

The Management Conference shall establish a multi-disciplinary environmental research program for Lake Champlain. Such research program shall be planned and conducted jointly with the Lake Champlain Research Consortium.

(e) Pollution prevention, control, and restoration plan

(1) Not later than three years after November 16, 1990, the Management Conference shall publish a pollution prevention, control, and restoration plan for Lake Champlain.

(2) The Plan developed pursuant to this section shall –

(A) identify corrective actions and compliance schedules addressing point and nonpoint sources of pollution necessary to restore and maintain the chemical, physical, and biological integrity of water quality, a balanced, indigenous population of shellfish, fish and wildlife, recreational, and economic activities in and on the lake;

(B) incorporate environmental management concepts and programs established in State and Federal plans and programs in effect at the time of the development of such plan;

(C) clarify the duties of Federal and State agencies in pollution prevention and control activities, and to the extent allowable by law, suggest a timetable for adoption by the appropriate Federal and State agencies to accomplish such duties within a reasonable period of time;

(D) describe the methods and schedules for funding of programs, activities, and projects identified in the Plan, including the use of Federal funds and other sources of funds;

(E) include a strategy for pollution prevention and control that includes the promotion of pollution prevention and management practices to reduce the amount of pollution generated in the Lake Champlain basin; and

(F) be reviewed and revised, as necessary, at least once every 5 years, in consultation with the Administrator and other appropriate Federal agencies.

(3) The Administrator, in cooperation with the Management Conference, shall provide for public review and comment on the draft Plan. At a minimum, the Management Conference shall conduct one public meeting to hear comments on the draft plan in the State of New York and one such meeting in the State of Vermont.

(4) Not less than one hundred and twenty days after the publication of the Plan required pursuant to this section, the Administrator shall approve such plan if the plan meets the requirements of this section and the Governors of the States of New York and Vermont concur.

(5) Upon approval of the plan, such plan shall be deemed to be an approved management program for the purposes of section 1329(h) of this title and such plan shall be deemed to be an approved comprehensive conservation and management plan pursuant to section 1330 of this title.

(f) Grant assistance

(1) The Administrator may, in consultation with participants in the Lake Champlain Basin Program, make grants to State, interstate, and regional water pollution control agencies, and public or nonprofit agencies, institutions, and organizations.

(2) Grants under this subsection shall be made for assisting research, surveys, studies, and modeling and technical and supporting work necessary for the development and implementation of the Plan.

(3) The amount of grants to any person under this subsection for a fiscal year shall not exceed 75 per centum of the costs of such research, survey, study and work and shall be made available on the condition that non-Federal share of such costs are provided from non-Federal sources.

(4) The Administrator may establish such requirements for the administration of grants as he determines to be appropriate.

(g) Definitions

In this section:

(1) Lake Champlain Basin Program

The term "Lake Champlain Basin Program" means the coordinated efforts among the Federal Government, State governments, and local governments to implement the Plan.

(2) Lake Champlain drainage basin

The term "Lake Champlain drainage basin" means all or part of Clinton, Franklin, Hamilton, Warren, Essex, and Washington counties in the State of New York and all or part of Franklin, Grand Isle, Chittenden, Addison, Rutland, Bennington, Lamoille, Orange, Washington, Orleans, and Caledonia counties in Vermont, that contain all of the streams, rivers, lakes, and other bodies of water, including wetlands, that drain into Lake Champlain.

(3) Plan

The term "Plan" means the plan developed under subsection (e) of this section.

(h) No effect on certain authority

Nothing in this section –

(1) affects the jurisdiction or powers of –

(A) any department or agency of the Federal Government or any State government; or

(B) any international organization or entity related to Lake Champlain created by treaty or memorandum to which the United States is a signatory;

(2) provides new regulatory authority for the Environmental Protection Agency; or

(3) affects section 304 of the Great Lakes Critical Programs Act of 1990 (Public Law 101-596; 33 U.S.C. 1270 note).

(i) Authorization

There are authorized to be appropriated to the Environmental Protection Agency to carry out this section –

(1) \$2,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995;

(2) such sums as are necessary for each of fiscal years 1996 through 2003; and

(3) \$11,000,000 for each of fiscal years 2004 through 2008.

GOVERNANCE POLICIES

All members of the Citizen's Advisory Committee on Lake Champlain's Future are governed by Executive Orders No. 09-11 (and codified as Executive Order No. 3-45) known as the "**Executive Code of Ethics**" promulgated by the Governor of the State of Vermont. The Executive Order defines and describes appointed member's conduct and affairs as appointed public servants in order to instill public confidence and trust in government. Independent, impartial decision-making and transparent disclosures of any appearance of a conflict of interest are critical elements of proper conduct as members.

Attendance and Participation Policy

All members are expected to attend regularly scheduled meetings of the CAC. Members have a legal and moral responsibility to ensure that the committee does the best work possible in pursuit of its goals. A member must believe in the purpose and the mission of the organization, and should act responsibly and prudently as its steward. Within six months of the acceptance of the Board Book (September 2013), the VTCAC will develop a mission statement and purpose for inclusion into the Board Book. Six months will be March 2014.

As part of the responsibilities as a member, a member will articulate the committee's work and values to the community, represent the community, and act as a spokesperson; will attend at least 75% of meetings, sub-committee meetings, and special events; will read all meeting materials in advance and arrive prepared at meetings; will participate in and take responsibility for making decisions on issues, policies and other committee matters; will faithfully serve the duration of their term unless personal or business matters make it impossible to do so; and that if they fail to responsibly satisfy these commitments to the CAC, will expect CAC leadership members to contact them and discuss these responsibilities with them.

Conflicts of Interest Policy

Committee members have an obligation to conduct business within guidelines that rule out actual or potential conflicts of interest. The purpose of these guidelines is to provide general direction and encourage board members and employees to seek further clarification on issues related to the subject of acceptable standards of operation.

An actual or potential conflict of interest occurs when a member is in a position to influence a decision that may result in direct or indirect personal gain as a result of CAC's

activities. If a member has any influence on any material transactions, it is imperative that he or she discloses to the Chair, Vice-chair or Executive Director of the committee as soon as possible the existence of any actual or potential conflict of interest so that safeguards can be established to protect all parties.

In general, member:

- Will not provide preferential or unfair treatment to any personal, private or public interest, family member, or member of the appointee's household if such could create a conflict of interest.
- Will avoid any outside business relationships with other businesses or interests if that relationship creates a conflict of interest by influencing decisions made by that person in the performance of their regular duties for the CAC.

Members should make appropriate disclosures to executive members of the Committee as soon as an appearance of a conflict may arise.

Annual Officer Elections

The VTCAC shall **annually** elect a chair and vice-chair by a majority of vote of its members **at the April meeting or the first meeting thereafter**.

All meetings of the Vermont Citizens Advisory Committee on Lake Champlain's Future are subject to the Vermont Open Meetings Law and so should have no expectations of confidentiality for their participation during CAC meetings. The text of the act follows:

Vermont Open Meetings Law

Title 1: General Provisions

Chapter 5: COMMON LAW; GENERAL RIGHTS

§ 271. Common law adopted

So much of the common law of England as is applicable to the local situation and circumstances and is not repugnant to the constitution or laws shall be laws in this state and courts shall take notice thereof and govern themselves accordingly.

§ 272. Equality of privilege

In cases proper for the cognizance of the civil authority and the courts of judicature in this state, citizens of the United States shall be equally entitled to the privileges of law and justice with citizens of this state.

§ 273. Eligibility to hold office

A person shall not be debarred on account of sex from holding any office or position of trust or responsibility under the state, including United States senator and representative to congress or any county, town, city, village, town school district or incorporated fire, lighting or school district office.

§ 310. Definitions

As used in this subchapter:

(1) "Deliberations" means weighing, examining and discussing the reasons for and against an act or decision, but expressly excludes the taking of evidence and the arguments of parties.

(2) "Meeting" means a gathering of a quorum of the members of a public body for the purpose of discussing the business of the public body or for the purpose of taking action.

(3) "Public body" means any board, council or commission of the state or one or more of its political subdivisions, any board, council or commission of any agency, authority or instrumentality of the state or one or more of its political subdivisions, or any committee of any of the foregoing boards, councils or commissions, except that "public body" does not include councils or similar groups established by the governor for the sole purpose of advising the governor with respect to policy.

(4) "Publicly announced" means that notice is given to an editor, publisher or news director of a newspaper or radio station serving the area of the state in which the public body has jurisdiction, and to any editor, publisher or news director who has requested under section 312(c)(5) of this title to be notified of special meetings.

(5) "Quasi-judicial proceeding" means a proceeding which is:

(A) a contested case under the Vermont Administrative Procedure Act; or

(B) a case in which the legal rights of one or more persons who are granted party status are adjudicated, which is conducted in such a way that all parties have opportunity to present evidence and to cross-examine witnesses presented by other parties, which results in a written decision, and the result of which is appealable by a party to a higher authority. (Added 1987, No. 256 (Adj. Sess.), § 1.)

§ 311. Declaration of public policy; short title

(a) In enacting this subchapter, the legislature finds and declares that public commissions, boards and councils and other public agencies in this state exist to aid in the conduct of the people's business and are accountable to them pursuant to Chapter I, Article VI of the Vermont constitution.

(b) This subchapter may be known and cited as the Vermont open meeting law. (Amended 1979, No. 151 (Adj. Sess.), § 1, eff. April 24, 1980.)

§ 312. Right to attend meetings of public agencies

(a) All meetings of a public body are declared to be open to the public at all times, except as provided in section 313 of this title. No resolution, rule, regulation, appointment, or formal action shall be considered binding except as taken or made at such open meeting, except as provided under section 313(a)(2) of this title. A meeting may be conducted by audio conference or other electronic means, as long as the provisions of this subchapter are met. A

public body shall record by audio tape, all hearings held to provide a forum for public comment on a proposed rule, pursuant to 3 V.S.A. § n 840. The public shall have access to copies of such tapes as described in section 316 of this title.

(b)(1) Minutes shall be taken of all meetings of public bodies. The minutes shall cover all topics and motions that arise at the meeting and give a true indication of the business of the meeting. Minutes shall include at least the following minimal information:

(A) All members of the public body present;

(B) All other active participants in the meeting;

(C) All motions, proposals and resolutions made, offered and considered, and what disposition is made of same; and

(D) The results of any votes, with a record of the individual vote of each member if a roll call is taken.

(2) Minutes of all public meetings shall be matters of public record, shall be kept by the clerk or secretary of the public body, and shall be available for inspection by any person and for purchase of copies at cost upon request after five days from the date of any meeting.

(c)(1) The time and place of all regular meetings subject to this section shall be clearly designated by statute, charter, regulation, ordinance, bylaw, resolution or other determining authority of the public body and this information shall be available to any person upon request.

(2) The time, place and purpose of a special meeting subject to this section shall be publicly announced at least 24 hours before the meeting. Municipal public bodies shall post notices of special meetings in or near the municipal clerk's office and in at least two other public places in the municipality, at least 24 hours before the meeting. In addition, notice shall be given, either orally or in writing, to each member of the public body at least 24 hours before the meeting, except that a member may waive notice of a special meeting.

(3) Emergency meetings may be held without public announcement, without posting of notices and without 24-hour notice to members, provided some public notice thereof is given as soon as possible before any such meeting. Emergency meetings may be held only when necessary to respond to an unforeseen occurrence or condition requiring immediate attention by the public body.

(4) Any adjourned meeting shall be considered a new meeting, unless the time and place for the adjourned meeting is announced before the meeting adjourns.

(5) An editor, publisher or news director of any newspaper, radio station or television station serving the area of the state in which the public body has jurisdiction may request in writing that a public body notify the editor, publisher or news director of special meetings of the public body. The request shall apply only to the calendar year in which it is made, unless made in December, in which case it shall apply also to the following year.

(d) The agenda for a regular or special meeting shall be made available to the news media or concerned persons prior to the meeting upon specific request.

(e) Nothing in this section or in section 313 of this title shall be construed as extending to the judicial branch of the government of Vermont or of any part of the same or to the public service board; nor shall it extend to the deliberations of any public body in connection with a quasi-judicial proceeding; nor shall anything in this section be construed to require the making

public of any proceedings, records, or acts which are specifically made confidential by the laws of the United States of America or of this state.

(f) A written decision issued by a public body in connection with a quasi-judicial proceeding need not be adopted at an open meeting if the decision will be a public record.

(g) The provisions of this subchapter shall not apply to site inspections for the purpose of assessing damage or making tax assessments or abatements, clerical work, or work assignments of staff or other personnel. Routine day-to-day administrative matters that do not require action by the public body, may be conducted outside a duly warned meeting, provided that no money is appropriated, expended, or encumbered.

(h) At an open meeting the public shall be given a reasonable opportunity to express its opinion on matters considered by the public body during the meeting as long as order is maintained. Public comment shall be subject to reasonable rules established by the chairperson. This subsection shall not apply to quasi-judicial proceedings.

(i) Nothing in this section shall be construed to prohibit the parole board from meeting at correctional facilities with attendance at the meeting subject to rules regarding access and security established by the superintendent of the facility. (Amended 1973, No. 78, § 1, eff. April 23, 1973; 1979, No. 151 (Adj. Sess.), § 2; 1987, No. 256 (Adj. Sess.), § 2; 1997, No. 148 (Adj. Sess.), § 64, eff. April 29, 1998; 1999, No. 146 (Adj. Sess.), § 7.)

§ 313. Executive sessions

(a) No public body described in section 312 of this title may hold an executive session from which the public is excluded, except by the affirmative vote of two-thirds of its members present in the case of any public body of state government or of a majority of its members present in the case of any public body of a municipality or other political subdivision. A motion to go into executive session shall indicate the nature of the business of the executive session, and no other matter may be considered in the executive session. Such vote shall be taken in the course of an open meeting and the result of the vote recorded in the minutes. No formal or binding action shall be taken in executive session except actions relating to the securing of real estate options under subdivision (2) of this subsection. Minutes of an executive session need not be taken, but if they are, shall not be made public subject to subsection 312(b) of this title. A public body may not hold an executive session

except to consider one or more of the following:

(1) Contracts, labor relations agreements with employees, arbitration, mediation, grievances, civil actions, or prosecutions by the state, where premature general public knowledge would clearly place the state, municipality, other public body, or person involved at a substantial disadvantage;

(2) The negotiating or securing of real estate purchase options;

(3) The appointment or employment or evaluation of a public officer or employee;

(4) A disciplinary or dismissal action against a public officer or employee; but nothing in this subsection shall be construed to impair the right of such officer or employee to a public hearing if formal charges are brought;

(5) A clear and imminent peril to the public safety;

(6) Discussion or consideration of records or documents excepted from the access to public records provisions of section 317 of this title. Discussion or consideration of the excepted record or document shall not itself permit an extension of the executive session to the general subject to which the record or document pertains;

(7) The academic records or suspension or discipline of students;

(8) Testimony from a person in a parole proceeding conducted by the parole board if public disclosure of the identity of the person could result in physical or other harm to the person;

(9) Information relating to a pharmaceutical rebate or to supplemental rebate agreements, which is protected from disclosure by federal law or the terms and conditions required by the Centers for Medicare and Medicaid Services as a condition of rebate authorization under the Medicaid program, considered pursuant to 33 V.S.A. §§ 1998(f)(2) and 2002(c).

(b) Attendance in executive session shall be limited to members of the public body, and, in the discretion of the public body, its staff, clerical assistants and legal counsel, and persons who are subjects of the discussion or whose information is needed.

(c) The senate and house of representatives, in exercising the power to make their own rules conferred by Chapter II of the Vermont Constitution, shall be governed by the provisions of this section in regulating the admission of the public as provided in Chapter II, § 8 of the Constitution. (Amended 1973, No. 78, § 2, eff. April 23, 1973; 1979, No. 151 (Adj. Sess.), § 3, eff. April 24, 1980; 1987, No. 256 (Adj. Sess.), §§ 3, 4; 1997, No. 148 (Adj. Sess.), § 65, eff. April 29, 1998; 2005, No. 71, § 308a, eff. June 21, 2005; 2011, No. 59, § 7.)