

U.S. DEPARTMENT OF AGRICULTURE  
WASHINGTON, D.C. 20250

<b>DEPARTMENTAL REGULATION</b>		<b>NUMBER:</b> <b>1042-135</b>
<b>SUBJECT:</b>  Land Between The Lakes Advisory Board	<b>DATE:</b> November 24, 2004	
	<b>OPI:</b> Forest Service	

## 1 PURPOSE AND SCOPE

- a In compliance with the Land Between The Lakes Protection Act of 1998 (LBL Protection Act), the Secretary of Agriculture (Secretary) establishes the Land Between The Lakes (LBL) Advisory Board (Board) in order to broaden representation of diverse interests and increase the frequency of advice the United States Department of Agriculture (USDA) receives from the public and private sectors in regard to the following:
  - (1) Means of promoting public participation for the land and resource management plan for LBL, and
  - (2) Environmental education.
- b The Board will operate in accordance with the LBL Protection Act (*16 USC sec 460 iii et. Seq.*) and the Federal Advisory Committee Act (FACA) (*5 USC App. 2*), excepting *Section 14(a)(2)* of FACA as outlined in the LBL Protection Act in Section 522(h).

## 2 SPECIAL INSTRUCTIONS

- a This regulation supersedes DR-1042-135, dated March 10, 2004.
- b The LBL Protection Act states *Section 14(a)(2)* of FACA shall not apply to the Board. Thus, the Board cannot terminate unless provided for by law.

## 3 OFFICERS AND MEMBERSHIP

- a The Board shall consist of 17 voting members, appointed as follows:

- (1) Four persons appointed by the Secretary of Agriculture, including:
    - (a) Two residents of the State of Kentucky
    - (b) Two residents of the State of Tennessee
  - (2) Two persons appointed by the Governor of Tennessee;
  - (3) Two persons appointed by the Governor of Kentucky;
  - (4) Two persons appointed by the Commissioner (or designee) of the Kentucky Department of Fish and Wildlife Resources;
  - (5) One person appointed by the Commissioner (or designee) of the Tennessee Wildlife Resources Agency
  - (6) Two persons appointed by the Judge Executive of Lyon County, Kentucky;
  - (7) Two persons appointed by the Judge Executive of Trigg County, Kentucky; and
  - (8) Two persons appointed by the County Executive of Stewart County, Tennessee
- b Members' terms shall be for 5 years, and members may not succeed themselves.
- (1) When a 5-year term of a member ends, a new appointment will be made by the applicable appointing agency, and the new appointee will begin a 5-year term at the time of their appointment.
  - (2) Alternates are not considered members of the Board, thus the succession rule does not apply. An alternate may be appointed as a primary member.
  - (3) Alternates are officially appointed and therefore they may step up to a vacancy in a primary membership for their appointing agency and begin a 5-year term as a primary member.
  - (4) Appointments from agencies other than USDA will be final when notification of the appointment is received by the DFO from the appointing agency. The Secretary will be notified, through the Washington Office, of all new appointments to the Board.
  - (5) Members may not succeed themselves on the Board. They may be appointed to additional terms so long as no individual serves more than five consecutive years as a member of the Board.
  - (6) Alternates do not have a term, so there is no limit to the amount of time they may serve in that capacity. They do, however, serve at the pleasure of the appointing agency.

- c All members of the Board shall be persons possessing demonstrated professional or personal qualifications relevant to achieving the mission of LBL.
- d The Regional Forester, Southern Region, USDA Forest Service, or designee, shall serve as Chairperson of the Board.
- e The LBL Area Supervisor, or designee, shall serve as the Designated Federal Officer (DFO) for the Board. The DFO (or a designated substitute) shall approve the proposed agenda for each meeting, attend each meeting, ensure detailed minutes are taken at the meeting, ensure the minutes and other Board records are available to Board members and the public, ensure adequate facilities are provided for Board meetings and other needs, and make such reports about the operation of the Board as may be required or desirable.
- f Board members may create and operate subcommittees recommended by a majority of the committee members and approved by the Secretary or the DFO.
- g Members shall be considered representatives of LBL user groups or State or local government. Members shall not use Board resources for unauthorized purposes. In addition, the Ethics in Government Act of 1978 and any other conflict of interest statutes shall apply according to their provisions.
- h Members shall not, except in connection with such representation (or as otherwise disclosed to the Board), either
  - (1) Participate in Board matters affecting a personal interest of the member or the interest of a person or organization with which the member is closely affiliated, or
  - (2) Accept any gift from any person or organization having an interest in matters coming before the Board.
- i The Secretary, with the cooperation of the public officials appointing Board members, shall ensure the membership of the Board is balanced and represents and includes a broad range of diverse views and interests, including recreational, environmental, commercial, educational, and community leadership interests.
- j Equal opportunity practices, in line with USDA policies, will be followed in all USDA appointments to the Board. To ensure the recommendations of the Board have taken into account the needs of the diverse groups served by USDA, membership should include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

- k In the event a member is unable to attend a meeting of the Land Between The Lakes Advisory Board, an alternate may represent them providing the alternate is predesignated in the same manner as the respective member was appointed.

#### 4 DUTIES

- a The Board may advise the Secretary on means of promoting public participation for the land and resource management plan for LBL.
- b The Board may advise the Secretary on environmental education at LBL.
- c In accordance with the LBL Protection Act and FACA, the duty of the Board is to provide advice only, and USDA retains sole responsibility for the management and operation of LBL and for all decisions regarding matters under consideration by the Board.

#### 5 ESTIMATED ANNUAL OPERATING COSTS

- a Each member shall serve without compensation and shall not be considered an employee of USDA.
- b Each member shall be entitled to reimbursement for travel and subsistence expenses incurred in connection with attendance of Board meetings or otherwise incurred while engaged in performance of Board duties and approved by USDA. Such reimbursements shall be subject to, computed, and paid in accordance with USDA travel regulations and shall be submitted on vouchers signed by the DFO.
- c USDA will provide the Board with appropriate clerical support as needed. USDA shall provide such additional funding as reasonably necessary to achieve the purposes for which the Board was created and shall provide any further guidelines and management controls as may be necessary to further the objectives of the Board. The estimated annual operating costs of the Board are \$42,000 and USDA staff time equal to 0.6 full time equivalent.

#### 6 NUMBER AND FREQUENCY OF MEETINGS

- a The Board shall meet at least twice annually at the call of its Chairperson, with concurrence of the DFO.
- b Nine voting members shall constitute a quorum for conduct of business, and any recommendation by the Board to the Secretary shall require an affirmative vote of at least a majority of the total Board membership on that date.

- c Notice of each meeting shall be provided in the *Federal Register* at least 15 calendar days before each meeting. Two weeks' notice of each meeting shall be given in local newspapers generally covering the region surrounding LBL.
- d The DFO and the Chairperson shall agree on the proposed agenda for each meeting sufficiently in advance of the meeting so that the agenda can be included in the Federal Register notice.
- e Each meeting shall be open to the public. Interested members of the public may attend meetings and submit comments to the Board and, if permitted by the Chairperson and in accordance with Board procedures, may speak at a meeting.
- f Meetings may be adjourned by the Chairperson upon approval by a majority. Meetings may also be adjourned by the DFO.

## 7 REPORTS/SUPPORT

- a USDA shall provide the Board with sufficient facilities in which to conduct its meetings and to provide a repository for its minutes and other records.
- b The Board reports to the Secretary of Agriculture through the Regional Forester for the Southern Region (Region 8), the Chief of USDA Forest Service, and the under Secretary for Natural Resources and Environment.
- c Financial, administrative, and technical support for the Board will be provided by the Forest Service.

END