

Order NO. 354

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
Cherokee National Forest

CONTROLLED SUBSTANCE PROHIBITIONS

Pursuant to 36 CFR 261.50 (a) and (b), the following acts are prohibited on all lands, which comprise the Cherokee National Forest, shown on the attached map.

For the protection of public health and safety, it is prohibited to possess a controlled substance unless such substance was obtained by the possessor directly, or pursuant to a valid prescription or order, from a practitioner acting in the course of professional practice or otherwise allowed by Federal or State Law. 36 CFR 261.53(e)

Controlled substance means a drug or other substance, or immediate precursor, included in schedules I, II, III, IV, or V of Part B of the Controlled Substances Act (21 U.S.C. §812) or a drug or substance added to these schedules pursuant to the terms of the Act.

Pursuant to 36 CFR, Section 261.50 (e)(4), the following persons or areas are exempt from this Order:

Any State, Local or Federal Law Enforcement Officer engaged in the performance of official duty.

Executed in Cleveland, Tennessee, this ___21___ day of ___September___, 2010.

/s/H. Thomas Speaks, JR.
H.THOMAS SPEAKS, JR
Forest Supervisor
Cherokee National Forest

ORDER EXPIRES FIVE (5) YEARS FROM DATE OF SIGNATURE

Violation of the prohibitions set forth above is punishable by a fine of not more than \$5,000 for an individual and \$10,000 for an organization, or imprisonment for not more than six months, or both. See U.S.C. 551, 18 U.S.C. 3559 and 3571.

CIVIL RIGHTS IMPACT ANALYSIS

Controlled Substance Prohibitions Cherokee National Forest

PURPOSE: This Closure is proposed to increase safety for the public and Forest Service employees by specifically outlawing the possession of certain controlled substances.

PROPOSED ACTION: A Forest-level prohibition is proposed for possessing a controlled substance unless such substance was obtained by the possessor directly, or pursuant to a valid prescription or order, from a practitioner acting in the course of professional practice or otherwise allowed by Federal or State Law. 36 CFR 261.53(e)

ALTERNATIVES: The second alternative to implementing this closure would be to continue to allow the possession of certain controlled substances. These substances are made, sold and/or used on National Forest lands, leading to increased crime and compromising the safety and enjoyment of Forest Service employees and other forest users.

CIVIL RIGHTS IMPACTS OF THE PROPOSED ACTION: This order is not expected to impact the civil rights of individuals lawfully using the Cherokee National Forest. It is expected to increase safety for all users.

1. Impacts on Employees: Employees should be safer if it becomes easier to confiscate controlled substances and remove those who possess them.
2. Impacts on Leadership: None are expected.
3. Impacts on Delivery of Services: Public safety should be increased by allowing law enforcement officers to cite individuals engaged in drug-related activities on national forest lands..

MITIGATION MEASURES: No impacts to the civil rights of any group of people are expected to result from the implementation of this Order. No additional actions are planned. These regulations will be posted at district offices, on the Cherokee National Forest web site and on information boards at major forests recreation areas.

No civil rights monitoring actions are planned or recommended.

NEPA Requirements – Controlled Substance Closure Order

Pursuant to 36 CFR 261.50 (a) and (b), and 36 CFR 261.53(e), the following acts are prohibited: Possession of a controlled substance unless such substance was obtained by the possessor directly, or pursuant to a valid prescription or order, from a practitioner acting in the course of professional practice or otherwise allowed by Federal or State Law.

This is an administrative decision that will not require any ground-disturbing activities to take place.

Since this action is administrative in nature, it is therefore categorically excluded from the requirements for preparation of a project or case file per 36 CFR 220.6 (d) and the 2004 Revised Land and Resource Management Plan, Cherokee National Forest. No additional NEPA documentation is required to proceed with implementation of this Order.

AGENCY: USDA-Forest Service, Cherokee National Forest

Contact: Forest Supervisor

Date: 21 September, 2010

/s/ H. Thomas Speaks, JR
H.THOMAS SPEAKS, JR
Forest Supervisor