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Effective Date: 4/28/16

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Department of Safety and Homeland Security
Division:	Highway Patrol
Contact Person:	Sandra Braber-Grove
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1340-03-08	P25 Interoperable Communications System (Tennessee Advanced Communications Network [TACN])
Rule Number	Rule Title
1340-03-08-.01	Purpose
1340-03-08-.02	Definitions
1340-03-08-.03	TACN Participation
1340-03-08-.04	Fees
1340-03-08-.05	Authorization

RULES
OF
TENNESSEE DEPARTMENT OF SAFETY
AND HOMELAND SECURITY
HIGHWAY PATROL DIVISION

CHAPTER 1340-03-08
P25 INTEROPERABLE COMMUNICATIONS SYSTEM
(TENNESSEE ADVANCED COMMUNICATIONS NETWORK)

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1340-03-08-.01 Purpose.

To establish procedures and rules for constructing, operating, maintaining, enhancing, accessing, and collecting fees for the P25 Interoperable Communications System, also known as the Tennessee Advanced Communications Network (TACN).

Authority: T.C.A. §§ 4-3-2009 and 4-3-2018.

1340-03-08-.02 Definitions.

- (1) "Commissioner" means the Commissioner of the Department of Safety and Homeland Security.
- (2) "Contract" means an agreement between the TACN User and the Department to facilitate participation in the TACN.
- (3) "Department" means the Department of Safety and Homeland Security acting directly or through its duly authorized officers and agents and shall be the governing authority over the TACN.
- (4) "Director" means the Wireless Communications Director appointed by the Commissioner. The Director shall have the authority on day-to-day operational decisions for the TACN. Additionally, the Director will be responsible for the approval of requests for use of the TACN and management of the TACN Contracts.
- (5) "Fees" mean the amount contributed for constructing, operating, maintaining, enhancing, and establishing access to the TACN.
- (6) "STS" means Strategic Technology Solutions, a division within the Department of Finance and Administration acting directly or through its duly authorized officers and agents to provide direction, planning, resources, execution, and coordination in managing the information systems needs of the State of Tennessee. STS was formerly known as OIR, the Tennessee Department of Finance and Administration's Office for Information Resources.
- (7) "TACN" means the Tennessee Advanced Communications Network that is the P25 Interoperable Communications System.
- (8) "TACN Advisory Committee" means the Tennessee Advanced Communication Network Advisory Committee and is composed of Commissioners or their designees from the Department, TDOC, TDOT, the Chief Information Officer of STS, the Director of TEMA, a representative from the TVRCS, and at least

one TACN User representative from each of the following local government disciplines: law enforcement, fire, emergency medical services, and emergency management agencies. The TACN Advisory Committee advises on the management and operation of the TACN. The Commissioner or his designee shall be the chair of the Committee and shall have the discretion to select TACN User representatives, add additional members, and establish working subcommittees.

- (9) "TACN Site" means any State of Tennessee owned or leased property where the Department has constructed a building and/or tower for the TACN.
- (10) "TACN User" means a Director-approved entity that enters into a Contract with the Department for the purpose of participating in the TACN.
- (11) "TDOC" means the Tennessee Department of Correction acting directly or through its duly authorized officers and agents.
- (12) "TDOT" means the Tennessee Department of Transportation acting directly or through its duly authorized officers and agents.
- (13) "TEMA" means the Tennessee Emergency Management Agency acting directly or through its duly authorized officers and agents.
- (14) "TVRCS" means the Tennessee Valley Regional Communications System acting directly or through its duly authorized officers and agents.

Authority: T.C.A. §§ 4-3-2009 and 4-3-2018.

1340-03-08-.03 TACN Participation.

- (1) A potential TACN User must submit a written request for participation in TACN to the Director.
- (2) The request shall be reviewed by the Director and if approved, a Contract shall be sent either electronically or by U.S. Mail to the potential TACN User by the Department.
- (3) A Contract will be prepared using the Department of General Services' Central Procurement Office's templates in effect at the time of the request. Any contract negotiations shall be conducted in accordance with Tennessee procurement laws, rules, policies, and procedures.
- (4) A Contract shall be fully executed in accordance with the Tennessee procurement process prior to any use of the TACN.

Authority: T.C.A. §§ 4-3-2009 and 4-3-2018.

1340-03-08-.04 Fees.

- (1) The Department shall have exclusive authority for constructing, operating, maintaining, enhancing, establishing access to, and the collection of fees for, the TACN.
- (2) A Contract shall set forth the fees to be collected by the Department.
- (3) Any assessments collected by the Department pursuant to these Rules shall be expendable receipts of the Department for use in maintaining the TACN.

Authority: T.C.A. §§ 4-3-2009 and 4-3-2018.

- (1) Tennessee Code Annotated (T.C.A.) § 4-3-2009 authorizes the Commissioner to establish and to promulgate rules and regulations governing the administration and operation of the Department as may be deemed necessary by the Commissioner and that are not inconsistent with the laws of Tennessee. T.C.A. § 4-3-2018 authorizes the Department to promulgate rules and regulations regarding access to the statewide P25 interoperable communications system, including the authority to collect, by rules or regulations, assessments for the use and/or maintenance of the system. Any other Rule or Rules by other agencies that attempt to govern radio or communication systems that conflict with the TACN Rules shall be superseded and the Department's Rules governing the TACN and the TACN Site shall have precedence.
- (2) The Commissioner shall have the authority to waive any and all of the Rules of this section as necessary to maintain the integrity and interoperability of the P25 Interoperable Communications system known as the TACN.

Authority: T.C.A. §§ 4-3-2009 and 4-3-2018.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

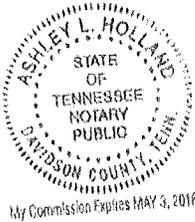
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee Highway Patrol on November 10, 2015, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 11-10-15

Signature: [Handwritten Signature]

Name of Officer: DERECK STEWART

Title of Officer: LIEUTENANT COLONEL



Subscribed and sworn to before me on: 11-10-15

Notary Public Signature: Ashley L. Holland

My commission expires on: 5-3-16

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
 Herbert H. Slatery III
 Attorney General and Reporter
1/15/2016
 Date

Department of State Use Only

Filed with the Department of State on: 1/29/16

Effective on: 4/28/16

Tre Hargett
 Tre Hargett
 Secretary of State

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Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

These new rules will not affect small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

This Rule may have a projected impact on local government, if the local government chooses to participate in the TACN. Local governments' expenditures could increase or decrease depending on the particular government's current radio system maintenance coverage.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The rule proposed will establish procedures for constructing, operating, maintaining, enhancing, accessing, and collecting fees for the P25 Interoperable Communications System, also known as the Tennessee Advanced Communications Network (TACN). This rule is new and is not an amendment to an existing rule.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. § 4-3-2018 authorizes the Department of Safety and Homeland Security to establish rules for the P25 interoperable communications system.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Governmental entities affected by this rule could include local governments including county and city governments and the Tennessee Valley Radio System (TVRS) and state entities such as: Department of Health, Department of Correction, TEMA, TDOT, TDEC, Agriculture, UT System, Board of Regents, Revenue, Office of Inspector General, and Commerce and Insurance. Corporations and organizations that could be affected by this rule are Motorola, radio vendors who sell P25 compatible equipment, and Volunteer Energy Corporation. Also, individuals that own property on which the state leases land for radio towers are affected by this rule.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

It is estimated that currently the revenue for the Department of Safety and Homeland Security would increase by \$ 650,000 per year but the revenue would be offset by the expenditures of \$ 3.5 million per year for the maintenance and support of the system. This Rule may have a projected impact on local government, if the local government chooses to participate in the TACN. Local governments' expenditures could increase or decrease depending on the particular government's current radio system maintenance coverage.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Arnold Hooper, Wireless Communications Director
Captain Tim Dover, Support Services - Supply/Fleet

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Arnold Hooper, Wireless Communications Director
Captain Tim Dover, Support Services - Supply/Fleet
Lieutenant Colonel Dereck Stewart, Administrative Services Bureau
Sandra Braber-Grove, Assistant General Counsel

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

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- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.