

Current Intergovernmental Coordination Activities Department of Transportation

The Delaware Department of Transportation is already active in a broad array of comprehensive coordination activities with numerous other governments, agencies and organizations. Described below are our existing coordination efforts in relation to the Livable Delaware activities. This is not an exhaustive list of all of the Department's coordination activities. New opportunities for coordination through Livable Delaware are described separately.

Federal Coordination: The Delaware Department of Transportation regularly coordinates with the following federal agencies on Livable Delaware activities:

- U.S. Army Corps of Engineers
- U.S. Department of Agriculture
- U.S. Department of the Interior
- U.S. Department of Transportation
 - Federal Highway Administration
 - Federal Railroad Administration
 - Federal Transit Administration
 - National Transportation Safety Board
 - Rural Transit Assistance Program
- U.S. Environmental Protection Agency
- U.S. Fish and Wildlife Service
 - National Marine Fisheries Service

State Coordination: The Department of Transportation regularly coordinates with the following State of Delaware agencies and entities on Livable Delaware activities:

- Department of Administrative Services
 - Architectural Accessibility Board
- Department of Agriculture
 - Delaware Agriculture Lands Preservation Foundation
 - Delaware Invasive Species Council
- Delaware Economic Development Office
- Department of Natural Resources and Environmental Control
 - Delaware Open Space Council
- Department of Public Safety
 - Division of Communications
 - State Police
- Delaware Transit Corporation
- Office of State Planning Coordination
- State Historic Preservation Office
- University of Delaware
 - Delaware Cooperative Extension
 - Delaware Transportation Institute

- General Assembly
 - Individual Legislators
 - SB239 Committee
- Council on Transportation
 - Horticultural and Vegetation Management Advisory Group

County & Municipal Coordination: The Department of Transportation regularly coordinates with all three counties and with each municipality on a case by case basis in relation to the Livable Delaware activities.

Non-Government Entity Coordination: The Department of Transportation also regularly coordinates with non-government entities in the process of implementing Livable Delaware activities:

- Developers
- Environmental advocacy groups including:
 - Delaware Center for Horticulture
 - The Nature Conservancy
- Local business people including:
 - Outdoor advertising industry
 - Real estate industry
- Metropolitan Planning Organizations
 - Dover Kent County MPO
 - WILMAPCO
- Private Property Owners
- Railroads
- Utility/ Infrastructure providers

Current Coordination Activities with the Federal Government

DelTrac: The DelTrac program requires coordination and participation from **federal agencies**.

Project Development Process: Project Development activities are regulated by a multitude of Federal regulations (summarized at the end of this section). Initiatives such as the **Mid-Atlantic Transportation and Environment Task Force Environmental Streamlining Process Guide** have established a process with the environmental and regulating agencies that fulfills their requirements and seeks to streamline the process through active and early coordination efforts.

As indicated above, the project development process is governed by a multitude of environmental regulations and regulatory agencies. Primary coordination agencies include: **US Army Corps of Engineers** (wetlands, waterways), Architectural Accessibility Board (ADA compliance), **US Fish and Wildlife Service** (endangered species), **US Department of Agriculture** (farmlands), **US Environmental Protection Agency** (air quality), **National Marine Fisheries Service** (marine fishes), and **Department of the Interior** (endangered species).

Research Program: The Department coordinates with the **Federal Highway Administration** in the implementation of this program.

Roadside Environment: The use of regional native vegetation along roadsides is being heavily emphasized by **FHWA**. The **Federal Highway Administration** and the Delaware Department of Agriculture are encouraging eradication of invasive plant species that exist along roadsides. DelDOT has been an active participant in federal meetings that pertain to invasive plant species.

Wetland Mitigation/Banking: The Department must coordinate with the **U.S. Army Corps of Engineers permit program** in conducting wetland mitigation and banking activities. Our **Wetland Banking Memorandum of Agreement** is signed by the **Federal Highway Administration** among others, and other federal regulatory agencies outline the conditions for development and use of mitigation banks.

Current Coordination Activities with State Agencies

Commercial Entrance/Subdivision Street Reviews: The Department, including **DTC**, reviews proposals for access to commercial or residential subdivisions. DTC reviews any design details for transit facilities.

Corridor Capacity Preservation Program: The **General Assembly** formed the **SB 239 committee** consisting of legislators and local businessmen to review requests for advanced acquisition in connection with future projects and the Corridor Preservation Program. Opportunities for coordination also occur with **DNREC** and the **Dept. of Agriculture**.

DelTrac: The DelTrac program requires coordination and participation from multiple state agencies. A training curriculum for staff is being developed with the **University of Delaware**.

Design Development Process: The Project Development process is subject to the same federal, state and local regulations as discussed for Project Development. DelDOT has partnered with the **University of Delaware** and the **Delaware Cooperative Extension Service** to develop and offer workshops on Design Flexibility and Working with the Public.

LUPA Reviews: Departmental responses are prepared for a variety of Land Use Planning related items submitted to the Department by the **Office of State Planning Coordination**, for review in compliance with the **Land Use Planning Act**. DelDOT is only one of the participating Cabinet agencies. The Land Use Planning Act process is essential to the Livable Delaware Goal of coordinating public policy planning and decisions among state, counties, and municipalities in that it establishes the Office of State Planning Coordination as a clearinghouse for the review of land use decisions. A significant aspect of the Land Use Planning Act (LUPA) process is that the review comments are advisory. Comments from state agencies, including the Department, go to state, county, and local governments for use in their land development decisions.

Maintenance Policy: There are already numerous city-state agreements that address this issue on a site-specific basis, but there is no overall agreement between municipalities and the state on how to proceed in the future.

Project Development Coordinating state agencies include: **State Historic Preservation Office** (cultural resources), **Architectural Accessibility Board** (ADA compliance), and the **Delaware Department of Natural Resources and Environmental Control** (wetlands and waterways). The streamlining process adopted by DelDOT seeks to improve the working relationships and coordination between agencies.

Priority Process: The **Council on Transportation (COT)** is responsible for considering and approving, if appropriate, changes that DelDOT proposes to use for prioritizing and/or funding transportation projects.

Research Program: Base funding is provided through DelDOT's operating budget for transportation research by the **University of Delaware**. The Department also sponsors a series of infrastructure forums by the university. There is an agreement with the University of Delaware that governs the conduct of our research program for both state and federally funded research projects. A board of directors comprised of senior leaders from the Department, the university, other state agencies, and legislators oversees the activities of the transportation institute. Based upon the emphasis areas, prospective research projects are solicited among the university faculty. A committee of DelDOT staff and faculty (from universities other than the University of Delaware) ranks the proposals. Other state agencies participate in the selection of our research projects including **DNREC** and **DEDO**.

Roadside Environment: A contractual agreement was made in FY2001 with the **University of Delaware** through the **Delaware Transportation Institute** to fund a 5 year roadside environment study. This study will determine how native vegetation alone and in combination with existing plant communities on DelDOT rights-of-way can provide aesthetically pleasing surroundings in a cost-effective manner. The principal investigator for this study is an extension horticulturist at the University of Delaware. **State** agencies are encouraging replacement of "invasive plant species" that exist along roadsides. DelDOT is active in State meetings that pertain to invasive plant species, i.e. **Delaware Invasive Species Council**, and **DE Department of Agriculture** programs that address invasive species.

Sale & Disposal of Excess Lands: Excess lands may currently be conveyed to other governmental agencies for public purposes, to the **Delaware Agricultural Lands Preservation Foundation**, or the **Delaware Open Space Council** on terms agreeable to the Department and the other entities. All excess properties that have independent utility are currently first offered to the **Department of Administrative Services** and the **Delaware Economic Development Office**.

Scenic & Historic Highways: **Senate Bill 320** required that this program be developed under the guidance of the State Scenic and Historic Highways Board and it required that the Board be comprised of a wide range of interests. Members of the Board include representatives of the county government, other state agencies, the outdoor advertising industry, the real estate industry, and various environmental advocacy groups.

Traffic Calming: Coordination between the Department, the State's legislators, and local/municipal governments is an integral part of this program. In most cases, State legislators will be expected to contribute to the cost of construction and maintenance of measures on subdivision streets from their allocation of the **Community Transportation Funds** (the funding source allocated to each legislator for the maintenance of streets in subdivisions within their district).

Transit Planning: There is a strong tie between the activities of the State in its efforts to develop **affordable housing** and an improved transit system. Social programs such as **Welfare to Work** subsidize transit as part of their program in recognition of the important connection between transportation and economic well being.

Wetland Mitigation/Banking: Strong coordination is needed with the **Delaware Department of Natural Resources and Environmental Control** for the success of this program. To date we have developed a Wetland Banking Memorandum of Agreement signed by The Delaware Department of Transportation, and the Delaware Department of Natural Resources and Environmental Control, as well as federal regulatory agencies.

Current Coordination Activities with Municipal and County Governments

Bus Stop Policy: Currently, the requisite level of coordination between DTC and local and county governments prevails. This process is expected to become more structured and its mandates more apparent as municipalities are required by legislation to support anti-sprawl/Livable Delaware Initiatives.

Commercial Entrance/Subdivision Street Reviews: DelDOT coordinates all subdivision reviews with County or municipal planning departments (usually through a Development Advisory Committee).

Corridor Capacity Preservation Program: The Department has or will form working groups with the Counties and towns to assist in the development of future local investment plans. These include Kent County, Sussex County, formal working groups with the City of Harrington, Town of Bridgeville, City of Seaford, and Town of Laurel, and informal (Town Council Meetings) coordination with Felton and Greenwood.

DelTrac: The DelTrac program requires coordination and participation with local, as well as state and federal agencies.

Transit Planning: Note that specific suggested language has already been provided to Kent and New Castle Counties as part of the comprehensive planning process and we anticipate providing similar suggested language to Sussex County.

LUPA Reviews: Most of the items reviewed are municipal annexations, rezoning applications, or conditional use applications. However, county and municipal comprehensive plans, regulatory changes to county codes, State and county capital budgets, and other actions may also be included. The local governments that receive these comments do not have to abide by them. Comments from state agencies, including the Department, go to state, county, and local governments for use in their land development decisions.

Maintenance Policy: Currently, there are numerous city-state agreements that address this issue on a site-specific basis, but there is no overall agreement between municipalities and the state on how to proceed in the future.

Pavement Management: Interact with local cities and towns to coordinate street paving with local sewer and water projects.

Research Program: Other state and local agencies participate in the selection of our research projects.

Scenic and Historic Highways: Members of the Board include representatives of county government. At the county and local level, there is some concern that the Program will require enabling legislation if it is to have any affect on preserving agricultural land, something that is usually done at the state level. While the creation of the Program in and of itself will not cause any natural or cultural resource to be protected, the Program does

provide the mechanism for local governments and other interested organizations to identify a resource and develop a corridor management plan for its protection. Although the specific requirements of corridor plans are yet to be determined, the plan will serve to coordinate various regulatory mechanisms and preservation efforts (e.g., zoning, historic preservation, and/or agricultural preservation programs) rather than supercede them.

Site Plan Reviews: All three counties have a process dictated by their County Codes that requires some level of review of land development plans by the Department of Transportation among other state agencies. The process varies with each county. Most municipal governments do not require site plan reviews by the Department of Transportation.

Traffic Calming: Coordination between the Department, the State's legislators, and local/municipal governments is an integral part of this program.

Traffic Impact Studies: Parallel agreements with each of the three counties control some parts of the traffic impact study process for those studies relating to developments under county jurisdiction. In support of local land use decisions, primarily rezonings, subdivisions, and land development plans, the Department directs and reviews traffic impact studies. While the studies are technical, our reviews of them afford us an opportunity to present the Department's position on whether the subject application should be approved and if so, under what conditions it should be approved.

Current Coordination Activities with other Non-Government Entities

Bus Stop Policy: Establishment and upgrade of bus stops involves interaction with **public and private sector property owners**, compliance with local government requirements and coordination with surrounding **infrastructure/utilities**.

Commercial Entrance/Subdivision Street Reviews: **Developers** submit a plan to our Department in accordance with our design standards referenced in the Rules and Regulations for Subdivision Streets, the Standards and Regulations for Access to State Highways, and the DelDOT Road Design Manual. The Department will review, comment, and ultimately approve the design.

Corridor Capacity Preservation Program: **The Nature Conservancy** has been involved on working groups. SB 239 of the 139th General Assembly formed a committee consisting of legislators and **local businessmen** to review requests for advanced acquisition in connection with future projects and the Corridor Preservation Program.

Priority Process: The **Council on Transportation (COT)** was created by the Legislature as an oversight body whose members are appointed by the Governor. The COT is responsible for considering and approving, if appropriate, changes that DelDOT proposes to use for prioritizing and/or funding transportation projects. It has become the Department's policy because the Council on Transportation adopted the current process as well as **both Metropolitan Planning Organizations (MPOs)**.

Roadside Environment: Also participating as a consultant is the **Delaware Center for Horticulture**. Assessment and recommendations pertaining to this project are being provided to the Secretary of Transportation by the **Horticultural and Vegetation Management Advisory Group** chaired by a member of the Council on Transportation. This advisory group includes the project team, DelDOT employees, and residents of Delaware who have demonstrated an interest in native plants, horticulture, or vegetation management. The advisory group is a **subcommittee of the Council on Transportation**.

Scenic and Historic Highways: Senate Bill 320 required that the program be developed under the guidance of the State Scenic and Historic Highways Board and it required that the Board be comprised of a wide range of interests. Members of the Board include representatives of the county government, other state agencies, the **outdoor advertising industry, the real estate industry, and various environmental advocacy groups**.

Statewide SLRTP: At the regional level the plan will have to both consider the needs of the **Metropolitan Planning Organizations** long-range transportation plans and be supported by them.

Federal Regulations & Funding affect how we do business:

Bus Stop Policy: The need for a statewide bus stop improvement policy was originally driven by the accessibility requirements mandated under the **Americans with Disabilities Act (ADA)**.

Context Sensitive Design Policy: Implementation of this policy is subject to Federal laws, which may, at times, conflict with community desires, however, this policy has not been in effect long enough to identify specific problems. Federal regulations may also affect the placement and selection of plant materials.

DelTrac: Federal funds are used to implement the DelTrac program, which requires compliance with applicable federal laws and regulations.

Farebox Policy: This revenue neutral fare objective was established by DelDOT to avoid weakening the State's position to the **Environmental Protection Agency** for fulfilling federal regulations to correct ozone non-attainment.

Project Development Process: Project Development activities are regulated by a multitude of Federal regulations. Most notably are **the National Environmental Policy Act (NEPA), Section 106 of the National Historic Preservation Act (Section 106) and the Environmental Justice (EJ) Initiative**. **NEPA** requires an examination and consideration of potential impacts any proposed action might have on environmental resources. **Section 106** requires that we identify and avoid, minimize and/or mitigate impacts to historic buildings, districts and sites and archaeological resources. **EJ** fundamental principles are to avoid, minimize, or mitigate disproportionately impacts, ensure full and fair participation and prevent the denial of benefits by minority and low-income populations. An additional item affecting our ability to develop alternatives is **Federal Air Quality Conformity**. Failure to meet air quality standards either at the State Implementation Plan or the transportation systems level will keep the State from being able to add capacity for new or existing development and from being able to obtain federal permits needed for work to be completed. This will have great impact on the ability to expand the transportation system to support economic development or implement the strategies.

All projects undertaken by the Department are required to identify a transportation need as defined by the **National Environmental Policy Act (NEPA)** to justify the impacts to resources. The Department has had a problem in that many of the projects nominated for study are based only on a desire and cannot be justified.

Where **federal funds** are used, the Department is subject to federal requirements related to public notification.

Design Development Process: The Project Development process is subject to the same federal regulations as discussed for Project Development, listed herein.

Research Program: The **Federal Highway Administration** requires every state Department of Transportation to have an ongoing transportation research, development, and technology

transfer program. **Federal research, development, and technology transfer funds** have come to the state for a much longer period of time; they now amount to approximately \$650,000 per year. Of this amount, about \$200,000 is available for research projects. The balance goes to supporting regional and national research efforts and technology transfer to Delaware's local governments. Federal funds are increasing annually.

Sale & Disposal of Excess Lands: Federal law dictates that any land disposed of that was purchased utilizing federal funds, must be paid back to the federal government in the same percentage of federal funds used to purchase, unless the funds are utilized in other federally funded transportation projects. As a result, all right-of-way acquisitions are currently purchased using 100% state funds negating the need to pay back or reinvest federal monies.

Scenic & Historic Highways: The provisions of the state-level program being developed by Delaware cannot conflict with any of the provisions of the federal **Scenic Byways Program**. For example, the federal program does not allow the construction of the any new billboards along scenic and historic highways. The State program must include the same provision if state-level corridors are to qualify for federal funding.

Sidewalk Policy: This policy must be compatible with the **Americans with Disabilities Act**.

Statewide SLRTP: At the federal level, the plan update will have to conform to the federal planning requirements developed under the **Intermodal Surface Transportation Efficiency Act** and to the point reaffirmed by the **Transportation Equity Act for the 21st Century**. Although there is no specific requirement that the Statewide Long Range Transportation Plan be subject to an **air quality conformity** determination, the plan will nevertheless need to support statewide air quality goals.

Wetland Mitigation/Banking: Sites chosen for mitigation or banking have to be acceptable to federal regulatory agencies. There are a number of federal laws dealing with the protection of wetland resources. The most notable affecting The Delaware Department of Transportation's program is **Section 404 of the Clean Water Act**, administered by the **U.S. Army Corps of Engineers permit program**. The **Transportation Equities Act for the 21st Century** encourages the use of wetland banking. Presently there is a **Bill in Congress (H.R. 1474)** to amend the **Federal Water Pollution Control Act** relating to wetland mitigation banking, to encourage wetland mitigation banking as a means to mitigate unavoidable loss of wetlands.

State and Federal Coordinating Agencies and Regulations

The Project Development and Design Development processes must be based on socioeconomic, cultural and natural environmental impacts, and engineering considerations pursuant to complying with the following federal and state laws and associated regulations:

- **National Environmental Policy Act (NEPA)**
The planning and decision making process must be coordinated with inter-governmental agencies to minimize impacts to the socioeconomic, natural and cultural resources.
- **Section 106 of the National Historic Preservation Act of 1966**
Identify and avoid, minimize and/or mitigate impacts to historic buildings, districts and sites and archaeological resources.
- **Executive Order 12898, February 11, 1994: Federal Actions to Address Environmental Justice in Minority and Low-Income Populations**
Consideration of revisions to the public involvement process to provide minority and/or low-income populations with greater opportunities for involvement and access to information to prevent disproportionately high and adverse impacts to these groups, and to ensure that they receive a proportionate share of project benefits.
- **Section 4(f) of the US Department of Transportation Act of 1966**
Make special efforts to avoid or minimize impacts to public parks, recreation areas, or wildlife and waterfowl refuges, or land of historic sites.
- **Clean Air Act Amendments of 1990**
Project must meet the requirements of conforming to air quality standards.
- **Environmental Permits and Approvals**
The various permits and approvals needed for a project can include requirements for encroachments on wetlands (Army Corp), floodplains (Local Government) and waterways, Subaqueous Lands Permits (DNREC) to name a few.
- **Coastal Zone Management Act of Delaware**
Conform to guidelines and standards for Delaware's designated Coastal Zone.
- **Section 6(f) of the Land and Water Conservation Fund Act of 1965**
Comply with Comprehensive Statewide Outdoor Recreation Plan for conversion of 6(f) funded recreation land to other than public outdoor recreation uses.
- **Agency Coordination/Review**
 - US Army Corps of Engineers (wetlands, waterways)
 - State Historic Preservation Officer (cultural resources)
 - US Fish and Wildlife Service (endangered species)
 - Delaware Department of Natural Resources and Environmental Control (wetlands and waterways)
 - US Department of Agriculture (farmlands)
 - US Environmental Protection Agency (air quality)
 - National Marine Fisheries Service (marine fishes)
 - Department of the Interior (endangered species)

State Laws and Legislation affecting Department Activities

Corridor Capacity Preservation Program: **SB 239 of the 139th General Assembly** formed a committee consisting of **legislators** and local businessmen to review requests for advanced acquisition in connection with future projects and the Corridor Preservation Program.

LUPA Reviews: The **Land Use Planning Act** review process is detailed in its enabling **legislation** and is managed by the **Office of State Planning Coordination**.

Project Development activities are regulated by a multitude of Federal and **State environmental regulations** (See attachment). As indicated above, the project development process is governed by a multitude of environmental regulations and regulatory agencies.

Priority Process: The **State Legislature** (29 Delaware Code Sections 8409 & 8419), mandated that DelDOT take on the responsibility for developing, prioritizing, and implementing transportation capital investment requirements for Delaware. The **Council on Transportation (COT)** was created by the Legislature as an oversight body whose members are appointed by the **Governor**.

Sale & Disposal of Excess Lands: In 1997, the **General Assembly** of the State of Delaware formed a task force in part to review the excess lands held by the Real Estate Section of the Department of Transportation. On February 12, 1998 the **Governor's** office determined that the Department should make its disposition of surplus property a priority by immediately undertaking an aggressive effort to dispose of its current inventory.

Scenic & Historic Highways: **Senate Bill 320** required that the program be developed under the guidance of the State Scenic and Historic Highways Board and it required that the Board be comprised of a wide range of interests.

Traffic Impact Studies: Current agreements were negotiated per the requirements of the **1988 Quality of Life Act**.

Wetland Mitigation/Banking: There are a number of state laws dealing with the protection of wetland resources. Most notably those that affect The Delaware Department of Transportation's program is the **Delaware Wetlands Act (7 Del. C.c.60)**, administered by the **Delaware Department of Natural Resources and Environmental Control**.