

## Consultation Process for Non-metropolitan Locally Elected and Appointed Officials

Delaware Department of Transportation

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### Introduction

The 1998 Federal Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21) required the states to give “non-metropolitan” locally elected and appointed officials (non-metropolitan local officials) a stronger role in statewide long range transportation planning and capital improvement programming. TEA-21 defined “non-metropolitan” areas as the areas outside designated metropolitan planning areas, which include urbanized areas of 50,000 residents or more. Non-metropolitan local officials were defined as elected or appointed officials or general-purpose local governments that have jurisdiction over or responsibility for transportation. TEA-21 specifically required that each state consult with its non-metropolitan local officials during the development of the statewide long-range transportation plan and capital transportation program. The intent of this provision is to ensure that areas of states not represented by Metropolitan Planning Organizations (MPOs) are given fair and equal access to the transportation planning and capital programming processes.

The Local Official Consultation Rule was developed as a result of the passage of Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA-LU). SAFETEA-LU requires that States have a documented process for consulting and considering the concerns of non-metropolitan officials when making transportation decisions in their Statewide Transportation Planning and Programming processes. This rule further provides for the participation of non-metropolitan local officials that is separate and discreet from public involvement.

In Delaware this requirement pertains only to areas of Sussex County not included in the planning area of the Salisbury/Wicomico MPO, which includes the Census designated urbanized area. The Salisbury/Wicomico MPO is a relatively new MPO that has recently expanded from Delmar, Delaware to Seaford Delaware along the US 13 corridor. New Castle County is part of a larger area that is represented by the Wilmington Area Planning Council (WILMAPCO). WILMAPCO is the designated MPO for the region that also includes Cecil County, Maryland. Kent County is represented by the Dover/Kent County MPO, which includes the City of Milford (including the Sussex County portion) and the Town of Smyrna (including the New Castle County portion).

On January 23, 2003, the United States Department of Transportation, Federal Highway Administration (FHWA) published its final rule related to this requirement. This rule included two actions required of all states. First, it required that states with “non-metropolitan” areas implement and document a consultation process for non-metropolitan local officials by February 24, 2004. This provision also required that the process be separate and distinct from more generalized public involvement process used by the state. Second, it required that states review and solicit comments on

their consultation process within two years of documenting and implementing it, and every five years thereafter.

On May 28, 2010, the Delaware Department of Transportation (the Department) completed the documentation of its Consultation Process for Non-metropolitan Locally Elected and Appointed Officials (Non-metropolitan Consultation Process). The Department provided copies of Non-metropolitan Consultation Process to the Delaware Division of the FHWA in Dover and the regional office of the Federal Transit Administration (FTA) in Philadelphia, Pennsylvania, and posted the same to its website.

On February 11, 2016, the Department initiated its five year review of the Non-metropolitan Consultation Process. The Department advertised its availability for review by posting a notice on its website. The Department also provided a copy of the Non-metropolitan Consultation Process to the Sussex County Administration. The County indicated that they believe the existing process provides them with fair and equal access to the transportation and capital program planning that is done by the Department, and that in the absence of a formal metropolitan planning organization they support the existing process.

#### *Consultation Process for Non-metropolitan Locally Elected Officials*

Since 1994, the Department has involved non-metropolitan local officials in the development of its Capital Transportation Program (CTP), and has done the same for its Statewide Long-Range Transportation Plan since 1995. The consultation process used for both of these products is described below.

#### **Capital Transportation Program (CTP)**

In Delaware, the programming of funds for the purpose of improving the transportation system is governed, in part, by the Council on Transportation (COT). The COT is a nine-member panel appointed by the Governor to advise on issues related to transportation and to seek public comment on and adopt the Department's six-year CTP. The COT plays a key role in the consultation process with non-metropolitan local officials in Sussex County in two very important ways.

First, in appointing and maintaining the membership of the COT, the Governor must maintain equal representation among the three counties in the State. The Governor endeavors to ensure that the interest of people living, within and outside, of incorporated areas in Sussex County are well represented. Second, at the end of August of each year the COT reviews the projects to be included in the draft CTP and actively seeks comments through public hearings held in each county during September. COT members reach out to locally elected and appointed officials as they consider the projects included in the draft CTP. Sussex County reviews the proposed CTP and provides comments regarding proposed capital projects through this process. The County Administrator, as spokesman for the Sussex County Council, has historically provided the Department with its coordinated list of priorities during this time.

## **Statewide Long Range Transportation Plan**

The purpose of the Statewide Long Range Transportation Plan (Plan) is to help everyone understand what the Department is going to do to maintain, manage, and build the transportation system over a twenty year horizon. The Plan provides overarching policy guidance, and it outlines the goals, strategies, policies, and actions it is using to meet its mission and provide transportation facilities and services throughout the State. These elements of the Plan influence the work of the entire Department. They are developed in concert with the comprehensive land use plans and long range transportation plans produced by metropolitan planning organizations, and at the county and local level. The Plan is created in close consultation, coordination and cooperation with non-metropolitan local officials. They are involved with its development and implementation of the Plan in two very important ways.

First, the Department specifically engages non-metropolitan local officials, as the Plan is developed and updated. Although the approach and levels of participation varies slightly each time the Plan is updated, at a minimum outreach efforts include the following:

- Introductory letter mailed directly to locally elected and appointed officials at the county and local levels. The purpose of these mailings is to let officials know what the Department is doing, to distribute draft products for review, and to let them know when and how they can provide comments;
- Interviews with briefings for locally elected and appointed officials. This includes interviews and/or briefings with the Sussex County Administrator, the Sussex County Council, and with managers, mayors and councils of local governments throughout the County. The purpose of these interviews and briefings is to solicit comments on the current Plan and how it should be updated to reflect new or changing needs within the county or particular municipality; and,
- Extensive mailings to other agencies and organizations. These include social service agencies, public libraries, association of towns (e.g. the Sussex County Association of Towns and the Association of Coastal Towns), and other agencies and organizations engaged with local government officials in the decision making process.

Second, the Department maintains a county-based transportation plan for Sussex County. There is no federal or state mandate to maintain a long range transportation plan for Sussex County, but the Department does so as a means of providing the County with the same level of long range transportation planning afforded Kent and New Castle Counties through their respective MPOs. While the Statewide Long Range Transportation Plan provides overarching policy guidance, the Sussex County Long Range Transportation Plan provides more specific details.

Although the Department provides the resources and manages the effort to update and produce the Sussex County Long Range Transportation Plan, the Plan belongs to the County and is adopted as the Mobility Element to the Sussex County Comprehensive Plan Update. The mobility element of the county's comprehensive plan is updated in concert with the comprehensive plan

update. The Department works with the county and attends all public outreach events as part of the comprehensive plan update. The Department then expands upon the Mobility Element of the Sussex County comprehensive Plan and develops a separate long range transportation plan for Sussex County.

Maintaining a separate long-range transportation plan for Sussex County is an important means of ensuring effective consultation with the non-metropolitan local officials in Sussex County. Locally elected and appointed officials that are responsible for making land use decisions are involved in its development, so the Plan serves to strengthen the tie between the county comprehensive land use plan and the Statewide Long Range Transportation Plan, and for all other facilities and services that the Department develops within the County.

The Department will document the consultation process by maintaining a list of transportation planning activities occurring in Sussex County. The documentation should include:

- a) Meeting dates for long range plan workshops and other community outreach efforts;
- b) General information about the subject matter and contents of what took place at the meeting(s);
- c) Copies of public notices for meetings, lists of meeting invitees and attendees (sign in sheets).

#### Next Steps

The Department is committed to meeting the provisions of the final rule, and to carrying out and pursuing opportunities to improve its Non-metropolitan Consultation Process. The Department will continue to make copies of the Non-metropolitan Consultation Process available via its website and upon request. Although the final rule requires that the Non-metropolitan Consultation Process be revisited five years from its first biennial review, the Department will revise it more frequently if conditions and circumstances warrant.

#### Contact Information

Anyone with questions, comments or suggestions regarding the Non-metropolitan Consultation Process is encouraged to contact:

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