

No.	By:	Associated With:	Comment	Response
1	Howard Fortunato, Home Builders Association of Delaware (7/13 letter)	Section 2.13 - TIDs	The regulations emphasize the development of Transportation Improvement Districts (TID's) and that a developer can contribute to a TID in lieu of completing a TIS. We support the creation of TID's which promote clarity of costs associated with the off-site improvements in lieu of unnecessary and lengthy TIS. While this is a step in the right direction, we have questions regarding how payment is handled. Is it an impact fee? Is it to be paid at the time of building permit or at issuance of a certificate of occupancy?	Thank you for your support. Yes, the Infrastructure Fee would be an impact fee. The details of the Infrastructure Fee Program for a specific TID would be established in the TID Agreement, but we believe it is better to assess the fee at the time of the building permit.
2		Section 2.13 - TIDs	What is the timing of completion of the TID's? How are the areas going to be prioritized? What arrangements are going to be made with local jurisdictions?	We hope to have the first TIDs in effect by January 2014, with Target Horizon Years of 2033. Areas will be prioritized based on the readiness of local governments to work with us in creating TIDS. We have planned for three TIDs to start and have anticipated one per county. Presently, however, it appears that only Kent County and the City of Milford are ready to pursue TIDs. For each TID, we will negotiate a TID Agreement with the local government(s) defining their role and DeIDOT's.
3		Section 2.5.2.2 - Area of study - TIS	The regulations also include criteria for determining the scope required for a TIS which, to date, has been somewhat subjective. We support clarifying the scope of traffic studies to eliminate subjectivity. At this point, it appears 50 trips is reasonable. However, we suggest that this be monitored and re-evaluated after one year.	Thank you for your support. As provided in Appendix A of the <u>Standards and Regulations</u> , we have a standing committee charged with updating that manual. Presently they have been working about 2.5 years on a comprehensive revision of the manual, independent of this effort. They hope to complete it this winter and then to forgo further updates for at least a year after that.
4		Section 2.15.4 - Signal agreement process – revolving fund	The regulations include changes to the signal agreement process and now include provisions for a revolving fund such that a developer now has the option of either signing a signal agreement or contributing to the revolving fund. Again, we support clarity of costs throughout the development process. Signal agreements traditionally required developers to commit to unknown future	Thank you for your support. \$200,000 is the cost that we use internally for budgeting for signal installations when we do not yet have an engineer's estimate prepared. We find it reasonable to use this value in administering the fund. Developers who wish to wait until an engineer's estimate is available have the option of entering a standard signal agreement.

			financial obligations. As a result, we support this change. However, we do not recommend that DelDOT use actual estimates in lieu of \$200,000 and clearly define the required off-site improvements when determining the proportionate share contribution from developers.	
5		Section 2.15.4 - Signal agreement process – revolving fund	We recommend that DelDOT accept responsibility for background traffic at existing failing intersections when calculating the proportionate share.	In the revolving fund calculations, DelDOT does accept responsibility for background traffic at existing intersections except where the signal would be at a site entrance, and even there, if there is another entrance opposite the subject site, traffic is apportioned between the two sides.
6		Sections 2.15. 1 and 2.15.4 - Signal agreement process	We recommend that the revolving fund be permitted for developments at corner intersections. If the signal agreement option is utilized, we recommend that the required improvements be clearly defined within the signal agreement. Lastly, we do not support the inclusion of maintenance costs.	The revolving fund can be used for developments at corner intersections. The intent of Section 2.15.4.2, paragraph 1, is to address situations where a development creates a need to move or change existing equipment, e.g. an entrance is proposed where a pole is located. We will clarify Section 2.15.4.2, paragraph 1. We will consider making our signal agreements more specific. A sample Traffic Signal Agreement is included as Appendix I in the <u>Standards and Regulations</u> and it may need to be updated, but because it is an appendix, this can be done outside the regulation amendment process. Our standard signal agreements have, for some years, permitted us to charge parties to those agreements for signal maintenance. Therefore we find it only appropriate to include a one-time lump sum amount for maintenance costs in the Revolving Fund calculation.
7		Section 2.5.2.2 - Area of study – TIS	The regulations include language which reduces the scope area within central business districts which meet certain criteria. While we appreciate DelDOT’s effort to recognize the importance of development within CBD’s, we recommend that TIS be eliminated in CBD’s unless the local municipality specifically requires a TIS. These areas rarely meet the stringent requirements imposed by the Subdivision Manual due to existing constraints. As a result, this discourages development within an area that most agree should promote development.	While, as stated, we recognize the importance of development in Central Business Districts, it is still necessary to address safety, and in some instances congestion, through the TIS process. We find that there are sufficient exceptions provided to address the challenges posed by development in such areas.
8		Section 2.5.3 - TIS Review fee	There is now a fee for the review of TIS. The fee is \$5,000. We recommend that the fee be based on the size	Typical TIS review costs are between \$10,000 and \$20,000. While they can be less for smaller studies, we have not had a

			and scale of the study such that smaller studies not be required to pay such a large fee.	recent review cost less than \$5,000. We find the \$5,000 to be appropriate and not unduly onerous. As a point of information, we presently cannot charge this fee as we do not have authorization to do so from the General Assembly.
9		Section 2.14 - TOAs	The TOA process which DelDOT informally adopted is now formalized in the regulations. The conclusion of our members experience is that these become very complicated and costly. We suggest there be more detail regarding when TOA's will be required and what information is required. In addition, we suggest DelDOT provide a review timeline for TOA's.	The intent of the Traffic Operational Analysis (TOA) process is to ensure safe access to and from the State-maintained roadway system. We acknowledge that there has been some confusion between TOAs and Traffic Impact Studies (TIS), with the result that some documents that perhaps should have been called TIS have been called TOAs. We hope to correct that with the subject regulation changes. We find that proposed Section 2.14 and the revised definition for a TOA in Section 1.5 provide adequate detail regarding when TOA's will be required and what information is required. Because TOAs should be scoped to address specific concerns about access to a site and those concerns can vary, it is necessary to balance being specific with being concise. Regarding timelines, an extensive TOA could have a review timeline similar to that of a TIS but we would expect most to be shorter. Again because they necessarily vary we find that a generic timeline would not be useful.
10		Section 2.3 - Threshold for Requiring TIS	We did not see any reference to re-evaluating the minimum requirements for a TIS. As you recall, the threshold for requiring a TIS was modified from 2,000 trips to 400 trips for residential development. With the creation of the TOA, we recommend that DelDOT reconsider the 400 trip threshold. This requires a TIS for developments as small as 35 single family homes. With the average cost of a TIS in the range of \$25,000 - \$30,000, this is a significant obligation for such a small development when a TOA will likely garner the same information and result.	For residential developments, the 400 daily trip warrant is equivalent to the 50 peak hour trip warrant used by DelDOT and Kent and New Castle Counties. Thus, in those two counties, raising that warrant would have no effect. Where there is no local warrant, i.e. Sussex County and the municipalities, we have the option of allowing developers of whose developments generate between 400 and 2,000 trips per day to pay the Area Wide Study Fee (\$10 per daily trip) in lieu of doing a TIS. We find these provisions to be sufficient.
11	Howard Fortunato, Home Builders Association of Delaware	Section 2.13 - TIDs	The regulations emphasize the development of TIDs which include developing areas, traffic and improvement forecasting and set a fee for contributions by developments. We support the creation of TIDs. However, we suggest more clarity regarding how fees are calculated and when would be required to be paid. We	Refer to response to Comment No. 1. We plan to work with local governments in prioritizing areas. Thus far we have not heard interest from any of them with regard to creating TIDs for their central business and / or downtown districts.

	(9/20 letter)		recommend that fees be collected at the time of building permit. We also recommend that TIDs be prioritized to include central business and / or downtown districts first.	
12		Section 2.5.2.2 - Area of study - TIS	The regulations also include criteria for determining the scope required for a TIS, that is, how many intersections to be studied. We support clarifying the scope of traffic studies within the regulations. However, currently, the regulations do not allow signalized intersections to count toward the maximum of three (3) intersections if the signal is not at an intersection which includes state maintained roads. As you are aware, there are major intersections to shopping centers and other facilities which may not occur at state maintained roads. We believe that these intersections reflect the same level of priority as State Maintained Roads and therefore should be counted as one (1) of the maximum three (3) intersections. In addition, we recommend that municipal intersections be counted towards the maximum of three intersections. For example if a state maintained road intersects with a municipal intersection, the intersection should be counted towards the maximum of three intersections.	We acknowledge that there are land uses that generate sufficient traffic to warrant a signal at their entrance. However, and this is particularly true of shopping centers, in most cases a relatively small percentage of a development's peak hour traffic is actually lost at such an intersection. Similarly, most municipally maintained streets are relatively minor streets. We find no need to change Section 2.5.2.2 in this regard.
13		Section 2.5.3 - TIS Review fee	The regulations require a fee to review a TIS of \$5,000. The fee is the same no matter the scope of the study. We recommend that the fee be based on the number of intersections to be studied to reflect the varying level of review required dependent on the scale of the study.	See response to Comment No. 8.
14		Section 2.14 - TOAs	The regulations now outline when a TOA can be required. It is our understanding that this study can be required when a project exceeds 200 trips per day but less than 400 trips per day. At 400 trips per day, a full TIS can be required. With the implementation of the TOA, we recommend that the threshold to require a TIS be increased back to the original 2,000 trips per day. It is our understanding that the threshold was lowered to capture projects which may have a localized impact at major intersections. It would seem that the TOA now captures those scenarios and a lower threshold for TIS	See response to Comment No. 10. Note that TIS and TOAs serve different purposes. A TOA is not the same as a small TIS. Part of the proposed changes to our regulations is to clarify this point. See also our response to Comment Nos. 9 and 69.

			review is no longer necessary.	
15		Section 2.15.1 Signal agreements	The regulations clarify the requirement of signal agreements. We support further clarification of signal agreements and the required language. As you may be aware, signal agreements have been a hindrance as it relates to project financing through financial institutions. This is a result of the lack of clarity within the agreement. We recommend that all signal agreements include the required improvements, required cost, and timing of payment. While the regulations assume a blanket cost of \$200,000 for all signals unless DelDOT has prepared a design, we recommend that the developers be allowed to work with DelDOT to prepare a conceptual design and define the scope prior to execution of the agreement such that actual costs can be utilized. This eliminates a lack of financial predictability which is necessary for the success of projects and to secure project funding.	See responses to Comment Nos. 4 and 6. Our Traffic Section has been at work for some time on a Signal Design Manual. Until that manual is complete, we cannot provide sufficient guidance to developer's engineers for them to be of assistance in preparing the suggested conceptual designs. When the manual is complete, we will consider revisions to the <u>Standards and Regulations</u> in this regard.
16		General	We recommend that DelDOT be responsible for costs associated with existing traffic at failed intersections. As you are aware, a development which may impact an existing failed intersection is responsible for the cost to improve the intersection to support the development as well as the existing traffic. This creates an unnecessary financial burden on a project. In addition, it should be noted that most intersections within areas where growth is promoted involve the scenario described above. As a result, development is discouraged within those areas and encouraged in areas where existing capacity may already exist.	With regard to signal costs, see our response to Comment No. 5. In a real sense, DelDOT <u>is</u> responsible for costs associated with existing traffic at all intersections. However, we cannot in any realistic fiscal environment maintain Level of Service D or better at every intersection all of the time. Presently, developers have the choice of improving intersections or waiting for DelDOT to improve them, although that wait may be indefinite. Our proposed TID regulations would offer some relief in this regard.
17		Section 2.13 - TIDs	While we support the short term solution of TID's, we support a long term solution which includes the creation of an impact fee system per dwelling unit. This program could supplement the signal agreement process and eliminate the requirement for signal agreements altogether. DelDOT could collect an impact fee and use those funds to implement off site signal improvements and road improvements at their discretion. If this	Unless a sooner year is negotiated for a specific reason, TIDs would be established using a target year 20 years beyond the creation of the TID, or for the first TIDs we expect to create, 2033. The 20-year horizon was selected as it is the year for which DelDOT designs highway improvements. Also, while we intend to pursue it with all deliberate speed, we expect the creation of TIDs for a significant portion of the State's growth areas to take several years. For both reasons, we do not see

			program were implemented, we recommend that the collected fees be utilized within the respective TID for which the fee was collected.	TIDs as a short-term solution. While the infrastructure fees associated with TIDs are impact fees, and we hope to obtain legislative approval for them, previous attempts to establish statewide transportation impact fees have been poorly received by the General Assembly. We do not propose one now.
18	Michael A. Angelo, P.E., American Council of Engineering Companies	Section 2.13 - TIDs	What are the details regarding payment of the fee? How is the fee determined? When is the fee required to be paid?	See response to Comment No. 1.
		Section 2.13 - TIDs	How will the areas be determined and prioritized?	Approximate TID areas will need to be identified by local governments in their comprehensive plans. Specific boundaries will be established in the TID Agreements. See response to Comment No. 2.
19		Section 2.13 - TIDs	Will the area wide study fee process be eliminated if a TID is implemented?	We have not proposed changes to Section 2.3.2, which addresses the Area-Wide Study Fee. As that section is written, for qualifying developments DelDOT has discretion to accept this fee in lieu of a TIS or not. Therefore no change to our regulations would be necessary for us to stop accepting the fee in certain circumstances. Presently we are not proposing to eliminate the area wide study fee process in areas outside of TIDs, although that may be a future consideration. Inside of a TID, once an Infrastructure Fee Program is in place, we now find that it would be inappropriate to allow payment of the Area Wide Study Fee. Concurrent with the proposed changes to Chapter 2, DelDOT is undertaking a comprehensive update of the Standards and Regulations for Subdivision Streets and State Highway Access. As part of that update, we will propose an amendment to Section 2.3.2 to disallow payment of the Area Wide Study Fee in a TID for which an Infrastructure Fee Program has been established.
20		Section 2.13 - TIDs	How does the TID coincide with local jurisdictions ordinances?	The New Castle and Kent County Codes already contain provisions regarding TIDs and the proposed regulations are intended to fit with those provisions. To our knowledge the Sussex County Code and the various municipal codes do not have ordinances in this regard.
21		Section 2.13 -	Please clarify the monitoring program?	Each TID would have a monitoring program, monitoring

		TIDs		growth in traffic and the pace of development, to determine when infrastructure improvements, identified through the Land Use and Transportation Plan for the TID, need to be designed and constructed. Presently we have two such programs in place, a relatively formal one, involving an annually published report and a public advisory committee, in the US 40 Corridor, and a relatively informal one, involving an annual memorandum from a consultant to DelDOT, in the Churchmans Crossing Area.
22		Section 2.13 - TIDs	Can the TID be used towards frontage improvements?	Things to which the Infrastructure Fee would be applied would be established in the agreement for each TID, but yes, that is envisioned. It should be noted that where frontage improvements remain the responsibility of the property owner, the Infrastructure Fee will necessarily be lowered by the value of the improvement.
23		Section 2.15 - Signal agreement process	Should the required fee be based on the scale of the TIS? Can an engineer opt to prepare a preliminary signal design to estimate the associated cost of a signal improvement in lieu of assuming \$200,000? What is the basis for including maintenance costs? Will the signal agreement, if that option is chosen, outline the specific required improvements?	We do not understand what is suggested; we propose that the contribution to the revolving fund be based on the relative amount of traffic generated, except where the signal is needed only to support the subject development. See responses to Comment Nos. 6 and 15.
24		Section 2.13 - TIDs	Will DelDOT prioritize the creation of TID's in CBD's first?	See response to Comment No. 11.
25		Section 2.14 - TOAs	Can DelDOT clarify further what will be required to be included in the TOA? Is there a fee required for a TOA?	See response to Comment No. 9. No fee is proposed in association with TOAs now.
26		Section 2.3 - Threshold - TIS	Since DelDOT has implemented the TOA and now TID's, will DelDOT consider increasing the min. trip threshold from 400 trips per day. The previous requirement was 2,000 trips per day.	See response to Comment Nos. 10 and 14.
27	J. Harry Feldman, Council of Civic Organizations of Brandywine Hundred	Section 2.13 - TIDs	We think that creating TIDs scaled to the size of the true impact area is a significant and rational step forward.	Thank you for your support.
28		General	We want the confusion between DelDOT's authority and	We share your interest in eliminating confusion. The situation

			that of the County eliminated ASAP. There has been too much tossing of decisions back and forth between the two organizations while major decisions were being considered. It should be made clear who decides what and when, especially when state roads are involved.	with regard to Traffic Impact Studies for developments in New Castle County is complex because DeIDOT and the County have parallel but slightly different regulations regarding them and they have different but closely related roles. We will revise Section 2.1 of the <u>Standards and Regulations</u> to describe more clearly how DeIDOT and local governments use Traffic Impact Studies.
29		General	We strongly feel that DeIDOT-certified TIS data must be presented BEFORE any major development project is voted on by a County Council.	The General Assembly has delegated authority for land use decisions to the local governments and we will not presume to tell a local government when they may or may not make such a decision. With that said, Delaware Code Title 9, Chapters 26, 49 and 69 require the Counties to enter agreements with DeIDOT regarding rezoning and the communication of traffic data relating thereto. One of our priorities in 2013 will be to renegotiate the current agreements with the County governments.
30		Section 2.13 - TIDs / TIS	How will a TID be superior to a TIS? This needs to be stated clearly.	Creating a Transportation Improvement District (TID) for an area is superior to managing the transportation impacts of land development through the Traffic Impact Study (TIS) process in several ways. From a developer's perspective, it allows them to determine more quickly what they will need to spend on transportation improvements. From the public's perspective, it allows for more comprehensive planning of both land use and transportation and better prioritization of transportation improvement projects.
31		Definitions	Crash Analysis: Is there a difference between "Accident Analysis" and "Crash Analysis"? We note that "accident" is changed to "crash" multiple times until "crash" is used later in this document in relation to TOAs. Which do you want to use?	The terminology of traffic safety engineering is changing, such that the correct term is now "crash" rather than "accident." We are making that change now but failed to do so in Section 2.5.2.1 and Section 2.14.1. We will correct those sections to be consistent with the rest of the chapter.
32		Section 2.1 - LOS standards – TIS	Where are the LOS standards stipulated? If not in Section 2.1, a reference would be in order since they are key elements of decisions.	The LOS Standards are in Section 2.9.12, which is so titled. We will add a reference to that section in Section 2.1.
33		Section 2.1 - Wording of proposed regulations	Section 2.1, Paragraph 2 - Change to: ".....so that the impacts can be mitigated and system capacity can be maintained at least at pre-development levels."	The suggested change, from "preserved" to "maintained at least at pre-development levels," has technical implications that may not be apparent. Most of the regulatory measures in Chapter 2 address Level of Service (LOS), which is a qualitative measure that is related to, but not the same as,

				capacity. We will not make this change.
34		Section 2.1 - Wording of proposed regulations	Section 2.1, Paragraph 4 - Change to: “A study area should cover only the areas reasonably like to be impacted by the proposed development, based on known traffic conditions and patterns, and the size, nature and location of the proposed development.”	While we appreciate the goal that is expressed in the suggested change, this change could potentially conflict with the study area criteria proposed in Section 2.5.2.2. While those criteria should produce reasonable study areas, one could argue that they do not consistently capture all areas “reasonably likely to be impacted by [a] proposed development.” We will not make this change.
35		Section 2.1 - General	Section 2.1, Paragraph 5 – Key question that needs to be addressed is how much traffic did the current / old development generate? Can that be addressed?	In evaluating an existing development entrance, it is relatively common to compare the traffic generated by an existing or prior use to the traffic generated by a proposed use. In a Traffic Impact Study, it is possible to extend that calculation to offsite intersections by means of a travel demand model. We have not needed to do that often and we do not propose to address this matter in Section 2.1.
36		Section 2.1 - Wording of proposed regulations	Section 2.1, Paragraph 6 - Change to: “.....than 50 vehicle trips for any hour.”	We will make this change.
37		Section 2.1 - General	Section 2.1, Paragraph 7 – There needs to be a clearly stated way for concerned public groups to have input into the areas to be included in a TIS.	From our perspective, it is important that developers be treated fairly and consistently. Therefore, we seek to adopt a procedure for setting study areas that assures similar developments in similar locations will be treated similarly. We see public input into the determination of study areas as being inconsistent with that goal. However, as the results of Traffic Impact Studies (TIS) are often used by local governments for land use decisions that are legislative in nature, e.g. rezoning and conditional use applications, we acknowledge that they may want public input in the determination of study areas for TIS relating to such decisions. Section 2.5.2.2 already provides that “DeIDOT will also consider local requirements for area of influence when determining the study area limits.” We will revise that text to allow for the inclusion of areas identified through a local government’s public involvement process at the request of that local government.
38		Section 2.1 - Wording of	Section 2.1.c, Paragraph 3 – Replace “may” with “shall”	As proposed, a crash analysis would “be required if locations within the proposed study area are known or <u>alleged</u> to be high

		proposed regulations		crash locations,” without particular criteria for what “high” means. Changing “may” to “shall” in this context could result in unfounded allegations creating a need for otherwise unnecessary analysis. We will replace “may” with “shall” but will also replace “known or <u>alleged</u> to be high crash locations,” with more objective criteria based on crash rates determined through our Highway Safety Improvement Program.
39		Section 2.1 - Wording of proposed regulations	Section 2.1.d, Paragraph 3 – Replace “may” with “shall”	Consistent with Governor Markell’s Executive Order No. 6, we will make this change. There are rural areas in the State where the analysis involved will necessarily be minimal as there is no existing or forecast need for bicycle, pedestrian or transit facilities.
40		Section 2.2.5 - General	Section 2.2.5, Paragraph 1 – “...and to demonstrate that validity as necessary.” – what does this mean?	To provide an example, it is possible for a developer to complete a Traffic Impact Study and then for unrelated reasons not seek to obtain a Letter Of No Objection and record their plan for several years. If DeIDOT questions whether the findings and recommendations from the study are still sufficient to address the developments’ impact, perhaps because other developments have been approved or traffic volumes in the area have increased, DeIDOT may require additional work, short of a completely new study to verify that the findings and recommendations from the original study are still sufficient. We find the present wording of this paragraph to be sufficient.
41		Section 2.2.5 - Wording of proposed regulations	Section 2.2.5, Paragraph 2 – change to: “...if the development changes significantly in DeIDOT’s opinion.”	The current wording, “if the development changes in a way that necessitates a new record plan,” is more objective, and therefore better from our perspective. Recognizing that there can be some difference of opinion as to what “new” means, we will amend the sentence to read “if the development changes in a way that necessitates a new <u>or amended</u> record plan.”
42		Section 2.3.4 - General	Section 2.3.4 – After paragraph 1, we find the section confusing, especially the part about “DeIDOT may require participation in the TID...” What does “participation” in a TID mean? Wouldn’t the size, scope, nature and location of a proposed development affect an already existing TID?	“Participation” means payment of an Infrastructure Fee calculated using a formula established for that District, construction of off-site transportation improvements identified in the Land Use and Transportation Plan for that District, or some combination thereof. If we understand your question, the essential idea of Transportation Improvement Districts (TID)

				is to do one comprehensive study addressing the full development of the area within the district boundaries. That study is the basis for a Land Use and Transportation Plan. Developments proposed consistent with that Plan would pay the Infrastructure Fee and/or make improvements consistent with the Plan. Proposed developments that are inconsistent with the Plan would have to do a TIS and might have to make different improvements.
43		Section 2.2.3 - Payment - TIS	Who pays for a TIS? Does this depend on who initiates it?	As stated in Section 2.2.3, the developer pays for the TIS. The public, through DelDOT, pays for the review of the TIS.
44		Section 2.13 - TIDs	We think this is a terrific idea that will save money and time for all concerned and will eliminate confusion as to DelDOT and the County's roles. Several examples of how this has been used in the past would help clarify the idea.	Nothing exactly like this has been done in Delaware before. Churchmans Crossing and the US 40 Corridor have both had area studies similar to the proposed Land Use and Transportation Plans and have the sort of Monitoring Programs currently contemplated, but they lack Infrastructure Fee Programs. Westown, in Middletown, had an area study, but in place of an Infrastructure Fee Program it has a series of recoupment agreements between DelDOT, the Town and the developers. Westown has no Monitoring Program.
45		Section 2.5.2 - Scoping - TIS	We think that the heads of nearby civic associations and similar organizations that will be impacted should be invited to the scoping meeting. If they are not, they will be told later that the "time for scoping has already passed and it is too late for your input."	See response to Comment No. 37.
46		Section 2.5.3 - Option B - TIS	"Option B" should be explained before it is referenced as something that is understood. (Same for Option A).	These terms are explained in Section 2.4. Because no changes are presently proposed for Section 2.4, it was not included in the advertisement of proposed changes. As a point of information, Option A is for the developer to hire a consulting engineer to prepare a Traffic Impact Study. Option B is for the developer to pay DelDOT to have a consulting engineer, previously retained by DelDOT, prepare a Traffic Impact Study.
47		Section 2.15.4.1	Every school district in the state will work diligently to avoid having to make a contribution to the Fund. Therefore, this section should be written so they can't avoid doing so or that they don't have to do so at all	We share your concern that school districts will seek to use the Traffic Signal Revolving Fund for signals at school entrances without contributing to it. We cannot afford to open the Fund to such expenses on a regular basis. We will remove the

			because it's a school.	sentence allowing school districts to use the Fund without contributing.
48		Section 2.15 - Agreements	Wording should be included whereby timely public input is invited before any agreement is signed.	The word "timely" notwithstanding, a public involvement process would significantly hinder routine operations. Further, we find it to be unnecessary for the types of agreements contemplated in this section, which primarily concern funds to be paid to DelDOT or work to be done in the right-of-way by a developer. We will not make this change.
49		Section 2.15 - Agreements	Where an agreement calls for a future payment or payments, is it binding when a property is sold to another developer or owner?	Yes. Agreements are now recorded and run with the property to which they apply.
50		Section 2.15 - Agreements	Where an agreement calls for a future payment or payments, is a bond required to cover failure to pay or perform as stipulated?	We typically require bonds for construction, but not for payments.
51		Section 2.15 - Agreements	Where future payments are concerned, how are escalating costs of equipment and installation figured in? How often are they revised and by whom? Are there nationally recognized averages for different types of signals, etc., that should be referenced?	There are two types of signal agreement. The standard agreement is an agreement to pay one's share of the cost at the time DelDOT installs the signal. Where the Traffic Signal Revolving Fund is used, a different agreement is used, functioning primarily as a receipt. For contributions to the Fund, a current engineer's estimate is used if the signal has been designed and will be installed soon. Otherwise, we use a planning-level estimate of the cost, presently set at \$200,000 per signal.
52		Section 2.15 - Agreements	How will these agreements be audited to make sure they are fulfilled? How often? Who gets the report?	While most of the agreements contemplated in this section are not audited, per se, auditing is not necessary to see that they are fulfilled. Signal Agreements (Section 2.15.1) are for specific intersections. They are tracked in a database until it is determined that a signal is needed at that intersection, at which time they are exercised. If an agreement holder does not pay in accordance with the agreement, the State initiates collection procedures. Off-Site Improvement Agreements (Section 2.15.2) are typically tied to the issuance of building permits. For a developer to proceed with their development, they must comply with the agreement. Traffic Mitigation Agreements (Section 2.15.3) typically include audit provisions specific to the agreement. Such agreements are sufficiently infrequent that we do not have a standard format. Traffic Signal Revolving Fund Agreements (Section 2.15.4) function

				primarily as a receipt for monies paid into the Fund.
53		Section 2.15 - Signals	While we agree that a developer should participate in the cost of constructing or upgrading a new signal, we think making him / her responsible for the ongoing cost of the operation or maintenance of a signal is unreasonable as well as unworkable.	See response to Comment No. 6.
54		Section 2.15.4 – Traffic Signal Revolving Fund	Have contributions to the Traffic Signal Revolving Fund worked in the past? If so, how has performance been audited and reported? How will this be handled if these proposals are implemented?	The Fund is relatively new, having been established in October 2011. We find that it is operating acceptably. Like all our funds it is subject to our Internal Audit procedures. The proposed changes are not expected to significantly affect the Fund’s operation.
55		Section 2.15.4 – Traffic Signal Revolving Fund	Would a payment into the fund be one-time or annual? And, how are the inevitable requests for waivers handled?	Payments for signals are almost always one-time payments. The difference between the standard signal agreement and a payment to the Traffic Signal Revolving Fund is that in the standard signal agreement payment is required when the signal is installed, whereas in a Revolving Fund agreement payment is required at the time of signing. While standard agreements allow DelDOT to bill for operating costs, to date we have not done so because the likely expense of collection was expected to outweigh the amounts collectable. Waivers have been permitted only for school districts and we are now proposing to eliminate those waivers. See the response to Comment No. 47 in this regard.
56		Section 2.15.4.3 – Payments into the [Traffic Signal Revolving] Fund	“Near future” is vague and will be fraught with problems.	While we have not experienced any problems with this section, we see the potential for them. We will revise Section 2.15.4.3, Paragraph 2 to remove that term.
57		General	Who makes sure the Development Coordination section actually does what it is supposed to do? Who audits and receives reports – and how often? This is crucial in light of recent problems within DelDOT.	The Development Coordination Section, like every other part of the Department, is subject to normal management controls, including internal audit. With respect to the “recent problems” mentioned, we have changed the way the Department handles cash and checks received. Among other changes, all development-related funds now go directly to the Department’s Finance Section, or for traffic signals to our

				Traffic Section, and are deposited daily. The Development Coordination Section does not handle them.
58		Section 2.15.4.4 [Traffic Signal Revolving] Fund Administration	We note that most well run organizations require two-level oversight of large expenditures. Since traffic signals involve significant amounts of money and since two separate officers are being authorized to withdraw from the Fund to accomplish projects, withdrawals should require the approval of the Secretary or s/he should receive a timely report (monthly? Quarterly?)	Thank you for this comment. It drew our attention to a section reference in Paragraph 2 and a similar section reference in Section 2.15.4.3, Paragraph 3, both of which we will need to update. We acknowledge that traffic signals are expensive, but at an average cost of \$200,000 each, they are relatively small parts of our Capital Transportation Program, which averages about \$500 million annually. While Secretaries approve resolutions to install new signals, they are not typically involved in how specific signals are funded. While they typically do not sign for withdrawals either, the immediate supervisors of the officers who can authorize withdrawals from the Traffic Signal Revolving Fund (the Chief Traffic Engineer and the Assistant Director of Planning, Development Coordination) are the Chief Engineer and the Director of Planning. In some respects, the Chief Traffic Engineer and the Assistant Director of Planning, Development Coordination oversee each other as they are required to inform each other when authorizing withdrawals. In the normal course of business, all withdrawals are authorized by the Chief traffic Engineer and the Assistant Director of Planning, Development Coordination, provides the oversight.
59		Section 2.15.4.5 – Traffic Signal Revolving Fund Costs and Cost Allocation	How will the inevitable disputes of cost and cost allocation be handled?	This section is administered by Development Coordination staff. Disputes not resolved at the staff level are appealed to the Assistant Director of Planning, Development Coordination.
60		TIS - Counts	We question whether any developer should select the traffic engineer and pay for the data, rather than DelDOT doing this. The data in a study is paid for by someone who stands to benefit automatically becomes suspect.	We require that the developer employ a professional engineer, licensed in Delaware, to perform the Traffic Impact Study and to oversee the data collection as part of that effort. Further, DelDOT staff performs detailed checks of the data submitted. These checks are more for errors or irregularities than for manipulation, but they serve in that regard as well.
61		Section 2.15.4.5, Paragraph 6	Change to: “Based upon the engineering design submitted, a developer seeking access on a State-	We do not understand why this change is suggested. The intent of the paragraph is to address how a Traffic Signal

			maintained road where a signal would be permitted.....”	Revolving Fund calculation should be done for a development access to be located at an existing or planned T intersection. The words “Based upon the engineering design submitted,” seem unnecessary because it should be understood that an entrance design has been submitted at this point in the process and is being considered in the calculation. The words “where a signal would be permitted” potentially pose problems in that DelDOT does not “permit” others to install signals. Rather, we install them at our discretion.
62	Tom Dewson, Save Our County, Inc., Civic League for New Castle County, Southern New Castle County Alliance, Milltown – Limestone Civic Alliance, Greater Hockessin Area Development Association	General	The Department must reaffirm its legal authority to oversee the transportation network impacted by county land use decisions. The document needs to specifically describe when TIS / TOA are required (eliminating the use of “may” vs. “must”), and specifically enumerate LOS requirements.	Delaware Code Title 17 assigns DelDOT legal authority over much of the State’s transportation network and is cited in Section 1.2 of the Standards and Regulations. We need no further affirmation in this regard. Title 9 assigns the County governments authority to make land use decisions for the land in their jurisdictions. Those decisions necessarily impact the State’s Transportation network. With regard to when Traffic Impact Studies (TIS) and Traffic Operational Analyses (TOA) are required, it is important to understand DelDOT’s role in the land development process. DelDOT has, at most, two approvals to grant, a Letter of No Objection (LONO) and an Entrance Permit (which includes Entrance Plan Approval). LONOs say, frequently with conditions, that DelDOT has no objection to a county or municipal government recording a subdivision or land development plan. They are inherently advisory in nature; county and municipal governments are not bound by State law to require them as a condition for land use approvals and may approve subdivision and land development plans without them or counter to their provisions. When a county or municipal government approves a subdivision or land development plan, for which DelDOT has issued a LONO, DelDOT must permit access to the approved development or compensate the landowner for the access that is denied. When a county or municipal government approves a subdivision or land development plan, for which DelDOT has <u>not</u> issued a LONO, DelDOT can deny access to the approved development until the landowner provides a subdivision or land development plan meeting our standards. While meeting our standards could require them to seek new

				<p>plan approvals from the local government, we cannot deny a LONO for a plan that meets our standards. Complicating matters, New Castle and Kent Counties have their own requirements for when a TIS should be done and DelDOT, by agreements with all three counties, makes recommendations to them as to when they, the counties, should require a TIS. We will revise Section 2.3 and proposed Section 2.14 to more clearly define when DelDOT will recommend or require TIS and TOAs. Section 2.9.12 defines DelDOT's Level of Service (LOS) standards in detail and we find that it is presently adequate. As discussed above, the circumstances in which DelDOT can require that those standards be met are limited.</p>
63		Section 2.13 – Transportation Improvement Districts (TIDs)	<p>The infrastructure funding program whereby developers pay an assessment to DelDOT and are free to proceed with development is UNACCEPTABLE. This sets up a situation where developers can pay pennies on the dollar for improvements, the improvements never get made, and the public is left with a traffic nightmare that the taxpayer ends up eventually funding out of their own pockets. There needs to be DIRECT LINKAGE – needed improvements are identified up front, and developers make (and pay for) the required upgrades CONCURRENT with the build-out of their project. If this occurs within a TID, DelDOT can apportion the work across the responsible parties, but the developers fund and implement the work as a condition of occupancy. This is the only way to protect the public.</p>	<p>Presently, the County Codes in Kent and New Castle Counties include concurrency requirements of the sort discussed in this comment. Creation of a TID as provided in Section 2.13 would not relieve a developer of those local requirements. As we envision the Infrastructure Fee Programs, construction done to meet local concurrency requirements could count against the fee.</p>
64		Section 2.5.2.2 - Intersections and Roadway Segments to be Studied [in TIS]	<p>The standards need to address developments with regional impact to the transportation system. The “3<sup>rd</sup> road out limitation” specifically prevents this type of analysis and needs to be changed (Sec 2.5.2.2). Some states such as Florida have a square footage threshold for major land developments that have regional impact.</p>	<p>The working group (DelDOT staff and County planning directors) tasked with developing the regulations now proposed looked at several different standards in this regard, including distance from the proposed development and the amount of development traffic on a road segment as a percentage of the existing or projected total traffic. All had strengths and weaknesses. We find that the best approach is to create TIDs (Transportation Improvement Districts) in the areas where significant development is planned, which is why we included language regarding their creation in the proposed regulations. We find the proposed regulation regarding study</p>

				areas for TIS to be adequate for those locations where TIDs do not exist or to address developments that are inconsistent with the Land Use and Transportation Plans developed for the TIDs.
65		Section 2.13 - Transportation Improvement Districts (TIDs)	While TIDs, as currently conceived, may be an appropriate planning tool in selected cases, we strongly object to any broad-based conversion to this process at the present time. TIDs are complex, have a long-time horizon and present a number of pitfalls. Importantly, there appears to be limited, if any, role for the public.	Implementation of TIDs necessarily requires the cooperation of the local governments in whose jurisdictions they would be located. Presently, only Kent County, with 11 proposed TIDs, seeks a “broad-based conversion to this process.” DelDOT’s resource constraints, coupled with a desire to improve the process as we implement it, require that we proceed incrementally. We hope to start work on three TIDS in calendar year 2013 and perhaps six to ten more in 2014, depending on our progress with the first three. Regarding the public’s role, it is mentioned explicitly only with regard to Service Standards, in Section 2.13.2.6, but it is implicit in much of the process. Section 2.13.2.7 requires that TID locations be listed and mapped in local governments’ Comprehensive Plans and the development and amendment of those Plans is very much a public process. State law requires that local governments be guided by their adopted Comprehensive Plans, so we would expect those plans to be the basis for the land use forecasts that they provide for use in developing the Land Use and Transportation Plans associated with the TIDs. Section 2.13.3.1 recommends that the creation of TIDs be part of a local master planning process, which is again a public process. Finally, where transportation improvements are to be built by DelDOT, or right-of-way for them is to be purchased for them by DelDOT using public funds, existing laws govern what public involvement is necessary.
66		Section 2.1 - Purpose	Why should the scope of a TIS be impacted by “policy considerations” such as whether a project is “redevelopment” or “in an area suggested for more intensive development” – the key is change in traffic loading irrespective of what is driving this change (Sec 2.1). A TIS must be required for all large redevelopment projects.	On further consideration, we find that the quoted text conflicts with proposed Section 2.5.2.2. We will revise Section 2.1 to remove that text. Regarding the requirement of TIS, see the response to Comment No. 62.
67		Section 2.2.5 –	A new TIS MUST (not “may”) be required if projected	See response to Comment No. 40.

		Requirement of a New TOS or TOA	future conditions have changed significantly. (Sec 2.2.5)	
68		Section 2.13.2.6 – Service Standards [for Transportation Improvement Districts (TIDs)]	Service Standards MUST (not “may”) include LOS. When a proposed development threatens to worsen LOS, the public must be guaranteed a well conceived menu of multi-modal solutions as one option (DeIDOT complete streets policy) to reduce vehicular trips (Sec 2.13.2.6).	We chose “may” because of a statement from Kent County to the effect that Level of Service (LOS) was not a priority for them in at least some of their proposed TIDs. We will revise Section 2.13.2.6 to require that the service standards include LOS.
69		General	The comment about “some measure of public involvement” in Service Standards is disturbing...these are the public’s roads which are paid for by the taxpayer (Sec 2.13.2.6). To improve credibility, the entire TIS / TOA / TID process must be open to public engagement at all stages – and public input must play a role in the final outcome.	See responses to Comment Nos. 14, 37 and 65. We acknowledge that there has been some confusion between TOAs and Traffic Impact Studies (TIS), with the result that some documents that perhaps should have been called TIS have been called TOAs. However most TOAs to date have been, and all TOAs going forward will be, engineering studies intended to address technical concerns identified in the review of entrance locations and designs. To add a public involvement process to the requirements for such studies serves no one.
70	Christine Whitehead, Citizen	Section 1.5 - Definitions	You have defined only TOAs and not well at that. Besides trying again on that one, you should add the definitions of major and minor intersections and major and minor access drives in this section as well as further along in the document.	We find our proposed definition of TOA to be adequate. The words “major” and “intersection” and the term “access drive” are defined for the purposes of Chapter 2 in Section 2.1. As these terms may be used somewhat differently elsewhere in the regulations, we find that it is better to define them in Section 2.1 rather than in Section 1.5.
71		Section 2.1 - Purpose	The first paragraph (in this section) is explanatory and not directive. That’s fine for a start, but you continue that way. The use of words like “should” rather than “shall” and “may” or “can” means that you have not set limits on discretion anywhere.	Generally we want to retain discretion to fit the scope of a Traffic Impact Study (TIS) to the nature and location of the development proposed. With that said, we will add a sentence requiring that a TIS include Highway Capacity Manual/Level of Service (LOS) Analysis. Because this type of analysis is essential to virtually all TIS, adding this sentence is not a significant change. See also responses to Comment Nos. 38 and 39.
72		Section 2.3.4 – Development	TID’s are not necessarily a good idea. In fact, I would bet they are just another way to cut out public	See responses to Comment Nos. 20, 37, 62, 63and 65. Further, nothing in the proposed regulations changes, or

		within a Transportation Improvement District (TID)	participation in the land use approval process. Initial limited participation will mean a lack of hearings in the future. Twenty years is a long time to try to set plans in stone.	legally could change, the land use approval processes contained in county and municipal codes. Finally, if your reference to “twenty years” refers to the Target Horizon Year to be used in developing Land Use and Transportation Plans (Section 2.13.2.4) please note that Section 2.13.2.7 recommends updating those plans whenever the local government updates their Comprehensive Plan, which they are required to do every ten years and can do more often at their discretion.
73	Carl Lukach, Citizen	General	I have some concerns about the proposed amendment to the Standards and Regulations for Subdivision Streets and State Highway Access. My concerns agree with those you received in a joint comment letter dated September 30 <sup>th</sup> from Save Our County and the Civic League. The Amendment as currently written should not be implemented until these concerns are addressed.	See responses to Comment Nos. 62 through 69.
74	Mark Blake, Candidate, New Castle County Executive	General	Because a new administration may not agree with these proposed regulations, it behooves DeIDOT to wait to decide about adopting these changes until after the general election is over and the next county executive has time to review this proposed amendment.	We were not trying to adopt these regulations before the general election. We have been willing to meet with all interested parties regarding them and have met with many. While the initial public comment period on these regulations closed on October 20, we have now revised them and are seeking public comment on the revised regulations.
75		General	These changes lack sufficient standards and directions. In fact, they are so vague that they will permit DeIDOT to grant the wishes of developers with no controls over their judgement and decisions.	We disagree. See response to Comment No. 71.
76		General	These regulations require refining by a team of lawyers with experience in drafting legislation. To insure the public interest is protected, none of them should be currently employed by NCC or the State, or have represented developers or been employed by a firm who	The regulations have been reviewed by a Deputy Attorney General assigned to represent the Department and include input from other lawyers with relevant experience. Your suggestion regarding their qualifications would exclude the very lawyers with the expertise needed for the task.

			does.	
77		General	Controls have to be in place to ensure that oversized development in inappropriate places without adequate infrastructure does not become the standard model that is pushed forward and gains approval.	We agree. Comprehensive Plans are now required in all jurisdictions in Delaware, in part, for this purpose.
78		General	DelDOT has been cited by the business community as one of the biggest hurdles for obtaining a consistent and well paced progression of development, through the entire land use process. We all have an interest in seeing that DelDOT, with appropriate internal rules and regulations, can properly deal with all the applications they are presented.	Thank you. We are working to improve those internal rules and regulations now.
79	Carol Jones / Jane Dilley, League of Women Voters of Delaware	TIDs	As proposed in these regulations, TIDs within designated growth areas should provide for more comprehensive planning with long range implications and better decisions regarding specific development proposals.	Thank you for your support.
80		General	We have a continuing concern over the amount of development spreading into areas outside of growth zones into level 4 (as described in the State Strategies for Policies and Spending). In our view it is critical that DelDOT adhere strictly to policies in the State Strategies to finance transportation connections to state maintained roads for only those new developments that fall within defined and approved growth areas.	We share your concern. Generally, DelDOT does not finance connections from developments to the State-maintained road network. Those connections are paid for by the developers. To the extent that there is State participation, it is limited to growth areas.
81		LOS - Standards	These regulation modifications speak to the appropriate use of TIS and TOAs in decision-making about development proposals. Agreed upon LOS standards are one of the tools for applying these regulations to TIS and TOAs. This tool can work in the counties that have LOS	We agree that Level of Service (LOS) standards can be a useful tool for managing growth. We are ready to assist Sussex County if they would like to adopt such standards and request our help in that regard.

			standards. Since Sussex County has no LOS standards it seems residents of that county are more likely to be faced with helter-skelter development. It's not surprising that Sussex is the fastest growing county. Though we recognize that it is beyond the purview of these hearings, we believe Sussex County would be well served by instituting LOS standards.	
82	Roger Roy, Citizen	General	If a developer has already filed a plan with the County and has had his scoping meeting with DeIDOT and the scope of work for the TIS or TOA has already been defined, then that developer should be grandfathered in, and not be made to start over again when the new regulations take effect.	We anticipate providing DeIDOT staff with guidance on how to transition to the proposed regulations when they are adopted. The approach suggested has merit and will be considered.
83	Alan Marteney, Century Engineering	Agreements & Transportation Improvement Districts (TIDs)	Will letter agreements that have been executed for a development remain in effect if the development is within a TID that is established?	The proposed regulations would not affect developments for which plans have been recorded. If for some reason, a letter agreement has been executed in the absence of a recorded plan, we would need to examine the circumstances pertaining to that particular agreement.
84		Agreements & Transportation Improvement Districts (TIDs)	Would a development that has an executed letter agreement that is within a TID that is established also have to participate in the requirements of the TID?	The proposed regulations would not affect developments for which plans have been recorded. If for some reason, a letter agreement has been executed in the absence of a recorded plan, we would need to examine the circumstances pertaining to that particular agreement. If an Infrastructure Fee is assessed, cost of the improvements in the letter agreement would offset the amount of the fee.
85		Agreements & Transportation Improvement Districts (TIDs)	Would a development that has an executed letter agreement that is within a TID that is established have the option to drop out of the letter agreement if they participate in the TID requirements instead?	The proposed regulations do not address this situation specifically. We believe it can best be addressed in the TID Agreements and we will plan to do that.

86		Section 2.15.1 – Signal Agreements	Eliminate option to enter into a signal agreement. How will those funds be collected if the development is complete and the LLC dissolved?	We see the standard DelDOT signal agreement as a viable payment option that should remain available to developers as an alternative to participation in the Traffic Signal Revolving Fund. See also the response to Comment No. 49.
87		Section 2.13.2.8 Infrastructure Fee Program	Will TID contribution requirements account for commitments in executed letter agreements and signal agreements for the developments within the TID or developments outside of the TID?	As we see it, for developments within the TID, construction or payments toward construction, including payments toward signal construction, would count toward their Infrastructure Fee payment. The method(s) for valuing future payments will need to be detailed in the TID Agreements. Developments outside of a TID could, potentially be required to make, or contribute toward, improvements within the TID, but they would not have to pay the Infrastructure Fee associated with being in the TID.
88	James Thomen, Citizen	General – Wording of changes	<p>The proposed changes seem a little “fishy” to me, i.e. they do not pass my smell test. I urge you to reconsider the wording of these proposed changes with the view in mind of making them:</p> <ol style="list-style-type: none"> <li>1. Very clear, not ambiguous, wording – no “ifs”, or “buts”, “must”, not “may” or other modifying words that can give rise to opportunity for exploitation by developers.</li> <li>2. Provide protection for neighborhoods for which a lawyer is not necessary to protect citizen’s interest.</li> <li>3. Put the burden on developers, not citizens.</li> <li>4. And finally, that require traffic studies ordered by DelDOT, but paid for by developers, not taxpayers.</li> </ol>	<p>Regarding your first point, see response to Comment No. 71.</p> <p>Regarding your fourth point, see our response to Comment No. 43.</p>
89	Mitsuru Tanaka, P.E., PTOE, PTP,	General	The public hearing presentation on September 17 at DelDOT building was very good. I had a very good	Thank you.

	Rummel, Klepper & Kahl		chance to ask many questions about the proposed changes as talking face to face. Many of my questions were immediately answered by the attending DelDOT staff.	
90		Section 2.5.2.2 - Intersections and Roadway Segments to be Studied	I think that it is a very good idea to modify the TIS scope area with the new methodology. It looks like the scoped areas with the new methodology show more appropriate sizes that the ones with current methodology to determine the study areas based on the examples.	Thank you for your support.
91		Section 2.13 - Transportation Improvement Districts (TIDs)	I think that it is a very good idea for setting up the TIDs for locations where several developments are going on at the same time.	Thank you for your support.
92		Section 2.9.11.6 – LOS Analysis	The capacity analysis for a TID or a relatively large size TIS may include several signalized intersections to analyze along a major corridor. In such a case, the capacity analysis results from Synchro model may be more useful for the corridor analyses rather than HCM (HCS) results, which analyses are based on individual intersections. You may want to include the words such as “Corridor analysis such as using Synchro models may be additionally required or substituted with HCM analysis up on DelDOT’s request in some specific cases.”	We agree. We will revise Section 2.9.11.6 to include the suggested text or a similar provision.
93		Section 2.9.11.6 – LOS Analysis	Simulation analysis may be useful in case of two close separated intersections or irregular intersections where regular HCM analysis could not apply due to the specific geometries. You may want to include the words such as “Simulation analysis may be additionally required for specific intersection geometry cases up on DelDOT’s request.” in the capacity analysis section in case that an	We agree. We will revise Section 2.9.11.6 to include the suggested text or a similar provision.

			additional simulation analysis is desired.	
94		Section 2.13.2.4 – Target Horizon Year	The paragraph 2.13.2.4 says that a target horizon year of a TID is usually set at 20 years from the last Census. It seems that the target horizon year (usually minimum 10+ year?) may be a little long for a TID, in which developers normally want to complete their development constructions within several years. It depends on the development plans, but I thought usually several to 10 years may be more appropriate for a target horizon year. Even in the same TID, it may be a good idea to set multiple target horizon years with multiple different developer groups as organizing and grouping them based on their desired construction completion years. (If a developer has multiple construction phases for a large development, each of the phases may belong to a different horizon year even in the same TID.)	See response to Comment Nos. 17 and 72. If we correctly understand your comment, it suggests more complex Land Use and Transportation Plans than we see as being necessary. A Monitoring Program would be set up for each TID and would determine when to begin design and construction of the projects listed in the Capital Transportation Program (TID-CTP) for that TID. This Program would include all improvements needed to support development in the Target Horizon Year. Subject to local requirements, such as concurrency, developers would have the option of paying an Infrastructure Fee, building improvements listed in the TID-CTP, or some combination thereof.
95	D.J. Hughes, Davis, Bowen & Friedel	Section 2.13 – Transportation Improvement Districts (TIDs) and Section 2.5.2.2 - Intersections and Roadway Segments to be Studied	Placing more focus on Transportation Improvement Districts (TIDs) is a step in the right direction as long as the TIDs are set up and implemented correctly and consistently. However, the study area determination criterion seems to be an overreaction to a small number of citizens in one portion of the state. The existing way study areas are determined allows professional engineers to use engineering judgment to determine the intersections to be studied on a site-specific basis, while the proposed methodology may result in unnecessary analysis and review of it thus wasting resources (time and money) for both the developers and the state. My specific comments follow based on the subject section of Chapter	Thank you for your support of TIDs. We believe that the procedure in Section 2.5.2.2 is reasonable, and because of the limitation that trip distributions of less than 50 vehicles per hour are excluded, it will not result in unnecessary analysis.

			2.	
96		Section 2.3.4 – Development within a Transportation Improvement District (TID) Paragraph 3.a	How will land use and traffic projections be determined within the LUTP for vacant lands or lands with redevelopment potential?	Land uses will be determined by the local governments in accordance with their Comprehensive Plans and zoning regulations. Traffic projections will be determined using a DeIDOT travel demand model and the land uses just mentioned.
97		Section 2.3.4 – Development within a Transportation Improvement District (TID) Paragraph 4	Once a TID is created, if an LUTP or specific improvements and associated costs have not been determined, it is assumed a TIS would still be required within the TID. Please verify that is correct or state otherwise.	In a sense, that is correct. The designation of a District in a Comprehensive Plan or the execution of the initial TID Agreement is not sufficient to begin substituting the existence of the TID for completion of a TIS; all of the required elements of a TID (see Section 2.13.2) must be in place. We will revise Section 2.3.4 to make that clearer. However, there areas that have previously been studied and which DeIDOT and Kent and New Castle Counties have agreed function like TIDs in some ways. As per Section 2.13.2.9, DeIDOT and the Counties can continue these arrangements until they agree otherwise.
98		Section 2.3.4 – Development within a Transportation Improvement District (TID) Paragraph 5	<p>Why, or [in] what scenario, would a formula not be defined for determination of the equitable cost share of improvements within a TID? If not defined, why is the percentage contribution based upon the increase in traffic and not all intersection traffic? The improvements will be designed to accommodate all traffic, not just the increase. In some cases the improvements may be needed irrespective of a subject development and the development may not impact the level of improvements. Basing the developers contribution on only the increase seems to relieve (or at least reduce) DeIDOT of the responsibility for existing traffic.</p> <p>For example, assume an intersection needs improving under existing or Case 2 (no build) conditions and the existing volumes are 1000 vph. Assume the total</p>	<p>We anticipate that for each TID, a formula will be developed before DeIDOT and the local governments begin substituting the existence of the TID for completion of a TIS. However, to answer your question, the subject paragraph assumes that the existing facilities are adequate to handle the existing traffic, so the cost of improvements beyond the existing condition should be apportioned among future developments. We understand your concern and will amend the paragraph.</p> <p>While the Infrastructure Fee Programs have yet to be established, we have no plans at present to give credit toward their contributions for previous expenditures for traffic studies.</p>

			<p>projected volumes increase by 200 vph, including 50 vph from the site. Based on the proposed regulations, the developer contribution would be 25% of the improvements. However, the developer's site traffic would only consist of 4.17% of the total intersection traffic. The existing traffic (DelDOT's responsibility) would consist of 83.33% of the traffic and that should increase due to background growth projections that would also be considered DelDOT's responsibility. In this example the over 20% additional contribution costs could be very significant to a proposed development. It is requested the developers cost share be based on entire intersection traffic such that the cost share is equitable and not just based on the increase.</p> <p>It is also noted that identifying improvements and estimating costs will require a significant upfront investment to collect traffic data, analyze the data, and estimate the costs. As TIDs are created, developer contributions could also be considered via traffic data collection and analysis.</p>	
99		Section 2.5.2.1. – Scoping Meeting, General Provisions, Item c	Not proposed for changes but for consistency accident should be changed to crash.	See response to Comment No. 31.
100		Section 2.5.2.2 - Intersections and Roadway Segments to be Studied	Consultants should still be able to determine their specific site trip distributions based on local travel patterns and local knowledge of the area. The model may not always be best calibrated for all areas of the state. The new 50 vph (less than 1 trip per minute) through an intersection requirement and including up to 3	There will always be the potential to improve the calibration of our travel demand models and we will certainly consider data supplied in this regard. If, in the future you believe our modeling is in error and wish to submit traffic counts suggesting that, we will re-evaluate, and perhaps change, the our estimate of the trip assignment on that basis.

			<p>intersections in each direction will likely lead to unnecessary data collection, analysis, write-up and review costing resources (time and money) for both the developers and the state. The proposed study area determination seems to be an overreaction to concerns from a small amount of citizens in a certain area of the state. It is requested the way the facilities to be evaluated are determined remains basically the same as it is today. Changes for the entire state are not needed as a result of a few projects within a specific area of the state. The intersections should be determined based on the likely impacts of the proposed project as determined by experienced professional engineers instead of a blanket regulation for all projects.</p>	<p>We understand the desire to determine study areas based on engineering judgment and we believe that that has served us well in the past. Nonetheless, our understanding is that if we do not adopt a more rigorous approach by regulation, one will be legislated. We find that the approach outlined in Section 2.5.2.2 is reasonable and sufficient.</p>
101		Section 2.13.2.4 – Target Horizon Year	<p>With 20-year build-out analysis, improvements may reach a level where smaller developments (such as pharmacies) become “priced out” from contributing to the TID due to the size of their development not being able to undertake the required improvements within a TID. How will the specific improvements within a TID be identified for a specific development so not all improvements within a TID are required of each development within a TID? It is assumed multiple improvement projects within a TID will be identified, but intersections that would not have been included within a TIS for a development would seemingly not be figured into the developers cost share. Otherwise, projects such as pharmacies may not have an option to participate in the TID due to excessive costs and it may be more beneficial to do a TIS.</p>	<p>While the specific formula for each TID will be established in the TID Agreement, following development of the Land Use and Transportation Plan and the TID-specific Capital Transportation Program (TID-CTP) our intent is to calculate an Infrastructure Fee for each development based on the entire TID- CTP and their trip generation relative to all future travel in the TID. We are aware that the Infrastructure Fees will need to be fair for all concerned and cannot unduly burden small businesses.</p>
102		Section 2.14.1 – Traffic	<p>While not proposed for amendment, it is noted the 98th percentile reference for signalized intersections should be</p>	<p>Thank you for this suggestion. You are correct that our current practice is to use the 95<sup>th</sup> percentile queue for both</p>

		Operational Analysis – Introduction, Paragraph 1	changed to 95th percentile consistent with DelDOT practices.	signalized and unsignalized left turns. We will change Section 2.14.1.1 to reflect our current practice.
103		Section 2.14.1 – Traffic Operational Analysis – Introduction, Paragraph 3	While not proposed for amendment, Accident Analysis should be changed to Crash Analysis for consistency.	See response to Comment No. 31.
104		Section 2.14.2 – Rules for Requirement of a Traffic Operational Analysis (TOA)	TOA requirements based on 200 to 399 ADT are unnecessary and such a TOA would provide little to no significant value unless a signalized intersection exists or is proposed. The TOA and review of it often will end up as wasted resources (time and money) for both the developer and the state. Any unsignalized site access improvements will likely be determined using the DelDOT auxiliary lane design spreadsheet irrespective of any analysis provided within a TOA. Right-turn deceleration lanes, if required, are based on the ADT of the right turn and the frontage roadway and are not impacted by analysis for unsignalized intersections. Left-turn lanes are designed based on the number of left turns per hour and the opposing peak hour volumes, which again are not impacted by analysis. So while a TOA is often pitched as needed for site access purposes, in reality the TOA does little, if anything, to assist with the site access design. It is requested the TOA ADT warrant be dropped. A TOA should only be required if a specific operational need is identified that can be addressed by analysis within a TOA.	We agree that a TOA should only be required if a specific operational need is identified that can be addressed by analysis within a TOA. We acknowledge that in some cases TOAs we may have required TOAs where that was not the case. Thus we are changing the wording of the first sentence from “A TOA <u>will</u> be required...” in our existing guidelines to “A TOA <u>may</u> be required...” in our proposed regulations. The 200 vehicle trip per day warrant is necessary to establish a limit below which we will not require a TOA.
105		Section 2.14.2 – Rules for Requirement of	Why are TMPs, especially Type B, required for private projects? According to the FHWA, TMPs are only required for federal aid projects. So why does DelDOT	Transportation Management Plans (TMPs) are mentioned in this section primarily as an example of other traffic analyses that <u>may</u> be required in the review of land development plans.

		<p>a Traffic Operational Analysis (TOA)</p>	<p>require them for non-federally aided private projects? Experience with DeIDOT directed TMPs indicates the entire TMP process is geared towards public projects and is cumbersome to do for private projects. If they are to be done for private projects, it seems the contractor-oriented TMPs as discussed by the FHWA would be more appropriate. Currently, when required to do a TMP the traffic engineer is forced to make construction decisions they may not necessarily be qualified to make, especially considering the project has not been bid for construction at the time of the TMP and the contractor has not been determined. Furthermore, based on a recent project for which I completed, signed and sealed the TMP which was also signed by DeIDOT, the TMPs are not necessarily even followed during construction. While it was stated during the presentation that nighttime construction could be offered in lieu of doing a Type B TMP, we have done that and were told nighttime construction would be required and a Type B TMP was also still required. However, in that case in the field daytime construction occurred in direct conflict with the Type B TMP specifications and I was never contacted regarding the changes. It is requested that DeIDOT no longer require TMPs for private projects. The FHWA does not require it and the process thus far on the private end has not been productive.</p>	<p>Concurrent with the proposed changes to Chapter 2, DeIDOT is undertaking a comprehensive update of the Standards and Regulations for Subdivision Streets and State Highway Access. We will address the question of whether to continue requiring TMPs in that update.</p>
106		<p>Section 2.15.4.5 – Traffic Signal Revolving Fund Costs and Cost Allocation, Paragraph 6</p>	<p>While not proposed for amendment, removing the mainline traffic from the revolving fund calculation simply because an access aligns with another access or a state-maintained roadway discourages contribution to the revolving fund. The costs become higher without inclusion of the mainline traffic such that costs could be</p>	<p>Payment into the Fund is offered as an option to entering a standard signal agreement. If an access were proposed <u>without</u> another access or a state-maintained roadway opposite it, then the cost would be entirely the developer’s because the signal would exist only to serve their development. We find this paragraph to be appropriate as written.</p>

			prohibitive and traditional signal agreements may be more likely to be entered in lieu of the revolving fund contribution. To encourage more participation in the fund, DelDOT should consider calculating costs the same regardless of whether the intersection has 3 or 4 legs.	
107		Section 2.15.4.5 – Traffic Signal Revolving Fund Costs and Cost Allocation, Paragraph 8	Why is this necessary? Corner parcels with restricted access do not receive the benefit of direct access to the highway. The intersection of the two frontage roads being treated as a site access would further penalize the corner parcels that are typically subjected to intense scrutiny even if a redevelopment project. This item will essentially eliminate any chance for corner parcels to contribute to the revolving fund. To encourage more participation in the fund, DelDOT should remove this item in its entirety. This specific proposed amendment is unnecessary and will be counter-productive to building the revolving fund.	Payment into the Fund is offered as an option to entering a standard signal agreement. This paragraph is being added because the developments benefit from the signals as though the signals served those developments exclusively. That is, we typically would not be installing the signal but for the development, or perhaps the access across from the minor road serving the development. We find this paragraph to be appropriate as written.
108	Nancy Willing, Citizen	Section 2.13.2.6 – Service Standards [for Transportation Improvement Districts (TIDs)] and General	The first problematic ambiguity is the ill-defined "some measure of public involvement" as stated or implied throughout this document. The exact nature of public involvement must be defined within these Regulations for Traffic Impact Studies, Level of Service and in the planning of TIDs. A set schedule of public hearings for these project considerations must be included in these Regulations.	See responses to Comment Nos. 37, 48, 65 and 69. With particular regard to Traffic Impact Studies and TIDs, in both cases DelDOT is and will be working closely with local governments, which have established schedules for public meetings and hearings. Additional hearings would be duplicative and are not proposed.
109		General	Concurrency means that road improvements will be paid for and implemented ahead of or during the construction of a project. A by-right plan can only be given permits for occupancy when the infrastructure is in place. There should be no wiggle room in TID funding schemes for	See response to Comment No. 63.

			concurrency.	
110		Section 2.5.2.2 - Intersections and Roadway Segments to be Studied [in TIS]	The true measure of the regional impact of a combination of projects within a TID cannot be limited to a "3rd Road Out" per project and still make sense - Sec. 2.5.2.2.	See response to Comment No. 64.
111		Wording	Also, the use of may rather than must is a problem throughout this document. To assure public certainty and confidence that the procedures will not be applied subjectively, "may" is not an acceptable terminology.	See responses to Comment Nos. 38, 39, 62, 67, 68 and 71.
112		Section 2.13.2.6 – Service Standards [for Transportation Improvement Districts (TIDs)]	Service Standards MUST include Level of Service.	See response to Comment No. 68.
113		Section 2.2.5 – Requirement of a New TIS or TOA	A new TIS MUST be required if projected future conditions have changed significantly.	See response to Comment No. 40.
114		Section 2.1 - Purpose	A TIS MUST be required for all large redevelopment projects.	See responses to Comment Nos. 62 and 66.
115	Robert Weiner, Councilman, New Castle County	Transportation Improvement Districts (TID's)	I support expanding the use of Transportation Improvement Districts (TID's) and better defining their requirements as presented in the Regulations. I believe that the current system has failed citizens by allowing developers and their paid consultants to perform too many of the studies as to communities' transportation needs. TID's, as reimagined by the Regulations, will place that responsibility more squarely in the hands of the State, where it should have been all along.	Thank you for your support.

116		Transportation Improvement Districts (TID's)	It further appears that the TID's will result in more aggressive transportation improvement costs being passed on to developers by using models based on future demographic projections, instead of merely relying on plans that have been actually approved or built out in the relevant area. By creating a realistic picture of future transportation needs, TID's could go far to end the "Band-Aid" approach whereby the developers are naturally motivated to produce findings indicating that only a minimum in transportation improvements need be demonstrated to get a development approved.	Acknowledged.
117		Transportation Improvement Districts (TID's) and Levels of Service (LOS)	My support for TID's and the proposed Regulations generally is predicated on the provision allowing the community to have input into the scope of each TID, as well as the appropriate level or levels of service (LOS) within each such TID. Again, I believe that LOS is an issue where the public has been largely voiceless in the past.	See response to Comment No. 65.
118		Section 2.5.2.2 - Intersections and Roadway Segments to be Studied [in TIS]	I ask that historic and scenic byways, such as those in my district, be considered a "physical restraint on road widening" under section 2.5.2.2. I do not consider it appropriate to widen such roads to accommodate additional projected traffic. Rather solutions should be considered to divert out of state commuters from such roads.	We understand your concern about the potential impacts of widening "historic and scenic byways." However, we find that this concern can more appropriately be addressed by adding text to Section 2.10, Mitigation Identification. We will add text there.

119	Transportation Improvement Districts (TID's)	I also ask that the agency involve me directly in any discussions regarding any TID proposed in my district, by inclusion in any Memorandum of Agreement between the agency and the County or otherwise.	While in Section 2.3.4 we acknowledge the authority of the General Assembly and the Councils of the Metropolitan Planning Organizations (MPOs) to create TIDs, going forward we see them as being created primarily by Memorandum of Agreement between DelDOT and the local governments, with the MPOs as additional parties where they have jurisdiction. We will work with the local government's authorized representatives, which would normally be persons in the executive branch. If you believe that members of County Council should be directly involved in the discussion of TIDs in their districts, we recommend that you initiate a County ordinance in this regard.
120	General	I have carefully studied some of the comments submitted by other stakeholders. The agency must understand that some of the concerns are being raised in the context of anger and disappointment over the failure of the current system to function properly when large, controversial projects were approved. However, I understand from experience, that some of the larger transportation improvements needed in certain areas cannot, and never will be, funded by any one developer; so there needs to be a functional system to allow planning and funding for such improvements over a period of time by many developers.	Acknowledged. We believe Transportation Improvement Districts will be helpful in this regard.
121	General	I am also cautious about moving to a model followed elsewhere allowing the State government to usurp local zoning decision-making by designating certain projects as having a "regional impact." I do not think it would	Acknowledged. We do not propose to usurp local land use authority.

			benefit the community to effectively remove overall development approval authority from the hands of local governments in the way those systems contemplate, as Kent and Sussex Counties have very different development concurrency challenges than does New Castle County.	
122		General	Finally, one area of intense public controversy has been how to treat redevelopment projects from a traffic impact prospective. I am pleased that the Regulations incorporate some of the concepts I had included in my proposed amendment to New Castle County’s Unified Development Code on the subject. Redevelopment projects that have already been “booked” into planned transportation improvements should certainly receive favorable treatment if they in fact utilize existing infrastructure and save green fields. However, if a “redevelopment” project proposes substantial increases in peak hour trips over what has been planned for, as per a previously approved plan or constructed buildings, then the Regulations as implemented should require concurrent traffic improvements to account for the increase.	Acknowledged. See responses to Comment Nos. 62 and 63.
123	Karen Peterson, Senator	Response to Save Our County letter (Tom Dewson’s comments)	I concur with the objections and suggestions raised in letter and respectfully request that the Department give serious consideration to what they propose. Their concerns address issues that have been problematic in several land-use cases in the 9th Senatorial District. I would like to see these issues resolved definitively and I believe that the proposals set forth in the letter would	Acknowledged.

			accomplish that goal.	
124	Wayne Henderson, Delaware Transit Corporation	Sections 2.13.2.6 – Service Standards and 2.13.2.8 – Infrastructure Fee Program	Transit service must be determined in consultation with the Delaware Transit Corporation's (DTC) Planning Department.	Acknowledged.
125		Sections 2.13.2.6 – Service Standards and 2.13.2.8 – Infrastructure Fee Program	Population densities (origin) and trip generators (destinations) forecast in the LUTP at the parcel level will be used to determine the standards for the presence and frequency of transit service.	Part of the rationale for TIDs is that local governments should have a role in determining what infrastructure should be provided in the TIDs in their jurisdiction. It is reasonable and rational to use population densities and trip generators forecast in the LUTP at the parcel level to determine the presence and frequency of transit service that should be provided in a TID. However, we would be open to discussing changes to that service with the local government(s) having jurisdiction over the land in that TID.
126		Sections 2.13.2.6 – Service Standards and 2.13.2.8 – Infrastructure Fee Program	Transit service and the level of service will ultimately be subject to DTC's Service and Business Plans and Public Hearing process.	Acknowledged to the extent that the transit service is provided by Delaware Transit Corporation (DTC). Just as some road improvements in a TID may be built by private businesses rather than by DeIDOT, it is possible that some transit service may be provided by private businesses rather than by DTC.
127		Sections 2.13.2.6 – Service Standards and 2.13.2.8 – Infrastructure	Transit amenities may range from the inclusion of pedestrian connections, new ADA accessible transit stops, shelters, benches and Park and Rides to financial contributions to DTC for future construction or maintenance of these assets.	Acknowledged.

		Fee Program		
128		Sections 2.13.2.6 – Service Standards and 2.13.2.8 – Infrastructure Fee Program	All agreements will be delineated as part and parcel of the TID agreements or more specifically in Traffic Mitigation Agreements.	Thank you for your comment. It is not clear what Is meant by “All agreements.” Chapter 2 includes references to various agreements, some of which are unrelated to TID Agreements and Traffic Mitigation Agreements, and those two types of agreement are not closely related.
129		Section 2.15.2 – Off-site Improvement Agreement	Transit off-site improvements may include the construction or upgrade of compatible bus stop pairs. The compatible bus stop for improvement may exist in juxtaposing public right to the subject development.	We acknowledge that bus stops are best established in compatible pairs and that an important off-site improvement is often to construct or improve a stop across the road from one on the frontage of the subject development. However, we find that this concern can more appropriately be addressed by adding text to Section 2.10, Mitigation Identification. We will add text there.
130		Section 2.15.2 – Off-site Improvement Agreement	Improvements or financial contributions may be required by DTC to meet safety regulations in service to the subject property.	Acknowledged.
131		Section 2.15.2 – Off-site Improvement Agreement	The intent here is to prevent staggered improvements, connecting bus stops on bi-directional roadways where it is reasonable and necessary.	Acknowledged. See response to Comment No. 129.
132		Section 2.15.2 – Off-site Improvement	Improvements may require the developer to install opposing waiting pads, sidewalk, benches, shelters and/or crosswalk as required by the Traffic Division.	Acknowledged. See response to Comment No. 129.
133		Section 2.15.2 – Off-site Improvement	Financial contributions may be apportioned for the maintenance or expansion of area Park and Rides.	Acknowledged. See response to Comment No. 129.

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