



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF TRANSPORTATION

Stephen C. Brich, P.E.  
Commissioner

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October 5, 2021

The Honorable David W. Marsden  
P.O. Box 10889  
Burke, VA 22009

The Honorable Delores L. McQuinn  
P.O. Box 406  
Richmond, VA 23218

Dear Senator Marsden and Delegate McQuinn:

I am pleased to submit this report in accordance with § 46.2-749.3 (A.3) of the Code of Virginia. Section 46.2-749.3 (A.3) directs the Commissioner of Highways to annually report the "traffic volumes on the HOV facilities that result in a degraded condition as identified in SAFETEA-LU or other applicable federal law and reported to the Federal Highway Administration".

Per 23 U.S.C. 166, a High Occupancy Vehicle or "HOV" facility is considered to be degraded if vehicles operating on the facility are failing to maintain a minimum average operating speed 90 percent of the time over a consecutive 180-day period during morning or evening weekday peak hour periods (or both). The minimum operating speed means (a) 45 miles per hour, in the case of an HOV facility with a speed limit of 50 miles per hour or greater; and (b) not more than 10 miles per hour below the speed limit, in the case of an HOV facility with a speed limit of less than 50 miles per hour (United States Code, Title 23, Section 166).

At this time, the only facility that meets the operating speed degraded condition continues to be Interstate 66 outside of the Capital Beltway. A recent analysis revealed that varying levels of degradation exist along this corridor between the Capital Beltway and Route 234.

The traffic volumes of this HOV facility that are associated with a degraded condition vary by location. At milepost 58 the average traffic volume during HOV hours is 1,100 vehicles per hour in the eastbound direction. For the westbound direction at the same location, the average traffic volume is 1,100 vehicles per hour during HOV hours. The reporting period for these traffic volumes was comprised of all non-holiday weekdays between October 9, 2020, and June 30, 2021<sup>1</sup>, which includes a period of reduced volumes due to COVID-19.

<sup>1</sup> The corresponding FHWA report VDOT prepares to certify HOV lanes performance requires a review of the last 180 non-holiday work days. The ending date aligns with the end of the Commonwealth's fiscal year (June 30<sup>th</sup>).

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Federal law and regulations require that the state take steps to bring a degraded facility into compliance, including “limiting or discontinuing the use of the facility by the [clean special fuel] vehicles whenever the operation of the facility is degraded.” The Virginia Department of Transportation (VDOT) developed a plan that presents a phased approach to mitigate degradation in the I-66 Corridor that began with the General Assembly’s limitation on use of I-66 HOV lanes by clean special fuel vehicles to those vehicles with clean special fuel license plates issued prior to 2011 (see Chapter 390 of the 2010 Acts of Assembly)<sup>2</sup>. The plan measures include expanding the number of dedicated HOV lanes and converting those lanes to High-Occupancy Toll (HOT) lanes, which incorporates a managed lanes concept of operation and will require vehicles using the lanes, including clean special fuel vehicles, to either satisfy an HOV requirement of three occupants or pay a toll.

The Public-Private Partnership project for development and operation of the HOT Lanes on I-66 outside the Capital Beltway has been awarded, and the project is expected to become operational in 2022.

If you have any questions, please do not hesitate to contact me or Kevin Gregg, Chief of Maintenance and Operations, at 804-786-2712.

Sincerely,



Stephen C. Brich, P.E.  
Commissioner of Highways

cc: The Honorable Shannon Valentine  
Mr. Kevin Gregg  
Mr. John Lynch  
Mr. Ali Farhangi  
Mr. Paul Szatkowski

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<sup>2</sup> It is also noted that, due to expiration of certain provisions in federal law (23 USC § 166), since September 30, 2019, the majority of hybrid vehicles are not eligible to use HOV lanes unless the vehicle contains the required number of occupants. This applies even if the vehicle displays a Clean Special Fuel License Plate. In accordance with federal law, HOV lanes may continue to be used by alternative fuel motor vehicles and vehicles that are described in section 30D(d)(1) of the Internal Revenue Service (IRS) Code of 1986 until September 30, 2025. This section of the IRS Code lists a very small number of qualified *plug-in* electric drive motor vehicles that are hybrid vehicles eligible for HOV use without the occupancy requirement.