

On November 11, 2023, the California Department of Transportation's (Caltrans) right of way was impacted by a fire at an airspace site under Interstate 10 in Los Angeles. In response, Caltrans has implemented changes to the Airspace Lease Program to protect the traveling public and state highway structures.

Airspace Lease Program Changes

- No Open Storage near Structure(s) - Caltrans will cancel existing open storage leases under, over, or next to structures that conflict with the Federal Highway Administration (FHWA) policy and regulations per the Code of Federal Regulations.
- No Flammable Materials near Structure(s) - Flammable materials are prohibited in the airspace property under, over, or within adjacent properties.
- No Non-Operable Vehicles near Structure(s) - Non-operable vehicle storage shall be prohibited directly adjacent to, or on sites within any areas under or over structures.
- Restricted parking for Electric Buses under or near Structure(s) - The parking of Electric buses next to or on sites within any areas under or over highway structures is restricted.
- Liability Insurance Increase - In areas under, over, or next to the structure(s), the liability insurance threshold shall be increased to 20 million dollars (including Commercial General Liability policy plus umbrella). In all other areas, the insurance requirement will remain 5 million dollars.
- Limitation on New Lease Uses/Lessees near Structure(s) - Caltrans will limit new lessees to adjoining or government entities; or limit uses to wireless, clean energy connectivity, and utility infrastructure use for sites under, over, or next to the structure(s).
- Prohibit Construction of New Permanent Buildings - New permanent buildings on leased airspace sites will be prohibited.
- Evaluate Leases for Potential Cancellation and for Demolition of Existing Buildings near Structure(s) - Caltrans will review leases to evaluate whether non-renewal or cancellation of leases inconsistent with the new policy is possible, given the existing lease language. Leases for buildings near Caltrans' structures will also be evaluated for non-renewal or cancellation.
- Increase Reliance on Encroachment Permits - When possible, Caltrans will prioritize issuing encroachment permits as the controlling Right of Way Use Agreement document for the alternative use of operating right of way. This minimizes the creation of more complex, Landlord/Tenant relationships when not necessary.
- Exceptions from Policy - Caltrans has developed a process to permit exceptions to the policy that continue to maintain the safety/operational standards to support the state highway system.