

MEMORANDUM

To: CHAIR AND COMMISSIONERS
CALIFORNIA TRANSPORTATION COMMISSION

CTC Meeting: June 26-27, 2025

From: STEVEN KECK, Chief Financial Officer

Reference Number: 3.16, Information Item

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Division of Right of Way and Land Surveys

Subject: **FISCAL YEAR 2024-25 – THIRD QUARTER – AIRSPACE PROGRAM REPORT**

SUMMARY:

In accordance with Resolution G-25-14, adopted by the California Transportation Commission (Commission) in January 2025, the California Department of Transportation (Department) will present its Airspace Program Quarterly Report for the third quarter of Fiscal Year 2024-25, covering the period from January 1, 2025, to March 31, 2025. This will be an informational item at the Commission's meeting on June 26-27, 2025.

BACKGROUND:

Resolution G-25-14 (Procedure for Leasing Airspace to Private Entities) and Resolution G-25-24 (Procedures for Leasing Airspace to Public entities) require the Department to report to the Commission on its progress towards ensuring compliance as it relates to airspace leases, the Department's guidelines and procedures, and all applicable State/Federal laws and regulations. Compliance with the aforementioned items requires that the Department enforce airspace lease terms, conduct regular inspections, and promptly take the necessary administrative and legal actions to safeguard the transportation system.

Furthermore, under Resolution G-25-14, the Department will report to the Commission each quarter with details on the status of each airspace site, any instances of identified unauthorized right-of-way encroachments, and efforts undertaken for management and monitoring to ensure compliance. The report will highlight any safety risks or violations discovered during inspections, safety incidents, and actionable plans to promptly address any issues. Additionally, the quarterly report will provide an overview of the Department's efforts in providing the necessary guidance and training to ensure proper execution of airspace leases, promptly addressing identified safety risks and violations, and managing and monitoring airspace sites.

Attachment



Department of Transportation Airspace Program Quarterly Report

**Fiscal Year (FY) 2024-25
Third Quarter
(Reporting Period Ending March 31, 2025)**

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Department of Transportation Airspace Program Report FY 2024-25, Third Quarter

1 Executive Summary

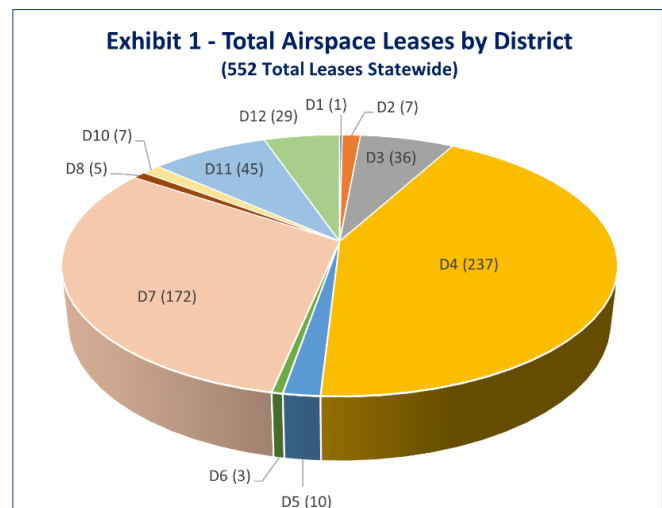
The Department of Transportation (Department) managed 552 airspace sites throughout the state, which are properties within operating right of way that support a secondary use without undue interference to highway operations. The Department is committed to upholding public safety and safeguarding the traveling public through effective and efficient management of its airspace program. To this end, the Department is providing the Commission with a report on the status and progress of statewide airspace sites, including the status of policy changes to the program. Furthermore, the Department has taken greater measures to increase transparency and accountability by enhancing the management of various aspects of the airspace leasing program and implementing quality control mechanisms to ensure compliance with state and federal laws, the Resolutions G-25-14 and G-25-24, and the Department's policies and guidance.

The sections to follow provide additional analyses of key elements of airspace leases, management and oversight, including inspection status and actions the Department has taken to address lease violations, safety risks, and other continued efforts to improve the airspace program. A separate detailed report of each airspace lease site has been provided to the Commission Staff.

2 Statewide Airspace Leases

In FY 2024-25, during the third quarter reporting period ending March 31, 2025, the Department managed a total of 552 airspace leases across 11 districts (Exhibit 1). Although 55 leases were vacated during the reporting period, recent reanalysis of the database holding airspace lease information led to the identification of an additional 55 actively managed sites, resulting in the total leases statewide remaining at 552.

District 4 accounted for 43% of the total statewide airspace leases, with District 7 managing the next highest number of leases at 31% of the statewide total.

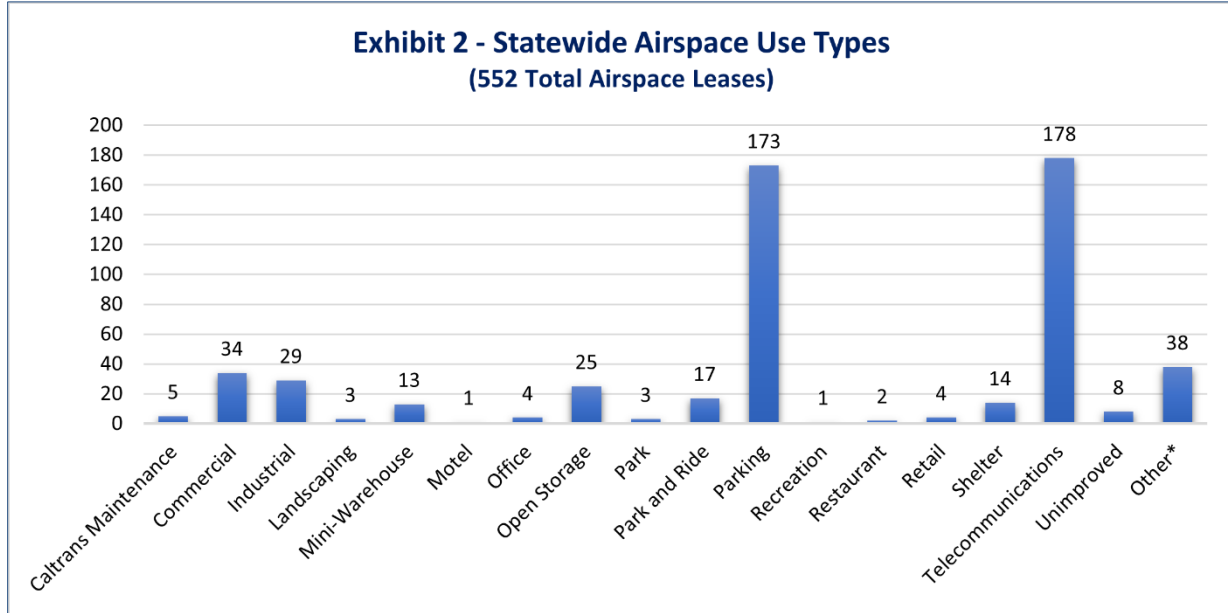


Note: There were no leases in District 9 during this reporting period.

2.1 Types of Airspace Uses

In this reporting period, the Department leased 64% of its airspace sites for parking and telecommunications combined. The Department has completed the review of all parking sites and ensured proper use designation, which identified 25 active open storage sites.

Other uses and the number of sites leased for each use are illustrated in Exhibit 2. Please refer to Table 1 for various use types by district.



* Other uses may include tower crane weathering, construction tie backs, temporary landscaping, public agency use of right of way, etc.

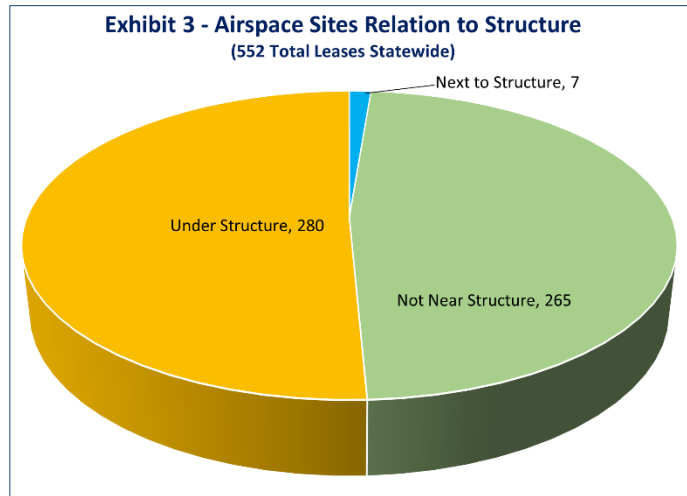
Table 1 - Airspace Use Types by District

District	Route(s)	Caltrans Maintenance	Commercial	Industrial	Landscaping	Mini-Warehouse	Motel	Office	Open Storage	Park	Park & Ride	Parking	Recreation	Restaurant	Retail	Shelter	Telecom	Unimproved	Other	Total
D1	255																		1	1
D2	5, 36, 299	1															4		2	7
D3	Various	1						1				22			1	1	5	3	2	36
D4	Various		30	2	1	2			14	1	1	84				8	72	1	21	237
D5	17, 101, 154																10			10
D6	41, 180									2		1								3
D7	Various	3	4	27	1	8	1		9		5	48				1	57	4	4	172
D8	Various																2		3	5
D9	None																			0
D10	4, 5							1				2				2				7
D11	Various				1	3		3	1		11	12		2	2	2	6		2	45
D12	Various											4	1		1		22		1	29
Total		5	34	29	3	13	1	4	25	3	17	173	1	2	4	14	178	8	38	552

2.2 Airspace Site in Relation to Structure

The Department has 51% of the total airspace sites located under the state highway structures, and 48% are not near a structure (Exhibit 3). Sites that are over a structure are not currently captured in the Department's database. However, the Department intends to capture this information in future database enhancements.

The Department management of airspace sites is directed by *Chapter 15 – Airspace*, of the Right of Way Manual. Prior guidance did not differentiate the different standards of rules for sites located under, over, or next to a structure. However, new policies have recently been implemented to clarify leasing in areas over, under, or next to a structure. These new policies and procedures are reflected in the Right of Way Manual effective January 2025. HQ Division of Right of Way and Land Surveys (RWLS) has issued guidance to the districts that reflected the newly implemented policy changes, which may impact historical legacy tenants who have been in place since the 1970's. The Department continues to closely coordinate with its Legal Division, ensure close communication with the tenants near structures, and may exercise the option to cancel leases, if necessary.



2.3 Third Quarter Spotlight: Homeless Shelters

The airspace program has 10 temporary homeless shelters allowed by Streets & Highways Code (SHC) 104.30 in the following counties: Alameda, Sacramento, San Francisco, Santa Clara, and Los Angeles. These shelters range from tiny homes, portable buildings with approximately 20 beds, to larger, more traditional shelter improvements. Additionally, the department has 4 permanent structures allowed by other SHC sections outside of 104.30 located in San Diego and San Joaquin Counties.

2.4 Status of Lease Agreements and Auctions

As of March 31, 2025, 128 leases have expired, which represented approximately 23% of the total leases. This was a reduction of 7 expired leases from the second quarter reporting of 135 expired leases. Expired leases are in holdover¹ status while the Department is implementing programmatic changes to the airspace program. It should be noted that telecommunication sites are excluded from this count as their leases have options to renew, and the expiration dates on record do not reflect these available options. The Department continues to review all district files and is anticipated to be completed by July 31, 2025.

¹ Holdover is when the lease has expired and the Department continues to accept rent payment from the tenant. The lease is still valid but is on a month-to-month basis.

Determining which leases may be cancelled may take an additional 9-12 months for legal review and the unlawful detainer² process. The remaining sites with expired leases will be scheduled for public auction or presented to the CTC for approval of direct negotiations in an upcoming CTC meeting, with the goal of being in compliance by January 2026. Meanwhile, expired leases will remain in holdover until compliance is achieved within the next calendar year.

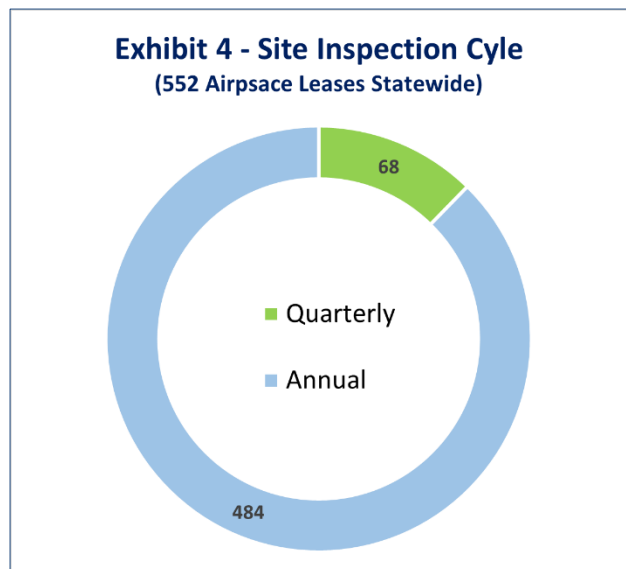
Since the Department is preparing for future auctions, there were no bid auctions during the third quarter. There was one submittal to the CTC for direct negotiations during this reporting period.

3 Airspace Site Inspections

HQ RWLS is responsible for developing policies and procedures, providing oversight of the airspace program and guidance to the districts for site inspections of airspace properties, and overseeing other site management activities. Each district airspace office is responsible for the compliance of leased airspace sites within its area. This includes conducting routine inspections of the sites, whereby developed leased sites (with structures) are inspected at least quarterly and non-developed leased sites (parking lots, wireless locations, parks, etc.) are inspected at least annually.

Site inspections are conducted by both district staff and the State Fire Marshal (SFM), a program within the Department of Forestry and Fire Protection (CAL FIRE). District staff conducts quarterly or annual inspections for general lease violations, hazards, and unauthorized uses. The SFM conducts site inspections per their authority according to their inspection schedule, when requested by the Department, or if potential fire code violations or fire hazards are identified by the district staff.

During the reporting period, 68 sites (12%) were designated as quarterly inspection, which less than the quarter before due to a tenancy being vacated. The remaining 484 sites (88%) were designated as annual inspection (Exhibit 4). The designation of inspection cycle may change in response to changes in site use and policies, and the Department will continue to address these changes in an ongoing basis.



² An Unlawful Detainer, commonly called an eviction, is a court action used when the tenant will not peaceably vacate a property.

3.1 Site Inspection Status & Plan

The Department completed 182 site inspections during the reporting period. In addition, there were 47 sites overdue for inspection, of which 29 were quarterly inspection sites. The decrease in overdue inspections compared to the second quarter was largely due to an increase in the number of sites inspected.

In the fourth quarter, the Department plans to conduct 142 annual site inspections in addition to the 68 quarterly, that are due for inspection. The Department remains committed to bringing all overdue inspections to compliance immediately and will continue to coordinate with districts on timely inspections to reduce the number of overdue site inspections to zero. Furthermore, the Department will reassess the inspection schedules to establish a more balanced inspection plan for each quarter in the next fiscal year.

3.2 Inspection Findings & Enforcement Actions

Of the 182 site inspections conducted by district staff during the reporting period, 180 (99%) passed district inspection. Two failed initial inspections due to minor violations, such as weed abatement, materials stored, and litter.

As of March 31, 2025, the Department also had 17 leased sites with outstanding failed inspections by the SFM, a decrease from the 22 sites reported in the second quarter. The failed SFM inspections were due to various reasons, which included fire protection and life safety issues, permitting issues, electrical issues, combustibles, etc. Enforcement actions have been initiated on the 17 sites, summarized as follows:

- Seven sites have initiated corrective actions or are in the process of taking corrective actions. These sites will be re-inspected within 90 days from the date of notice. Failed re-inspections will result in the cancellation of leases.
- Seven sites have been issued a notice to correct and have made progress to correct violations, though some issues may be uncorrectable; see additional information below.
- Three sites have ongoing inspections due to multiple buildings.

Upon a failed inspection, district staff take a series of actions to address the violations. These actions include, but are not limited to, providing guidance to the tenant after failed inspections, issuing notices to correct, and potentially initiating the unlawful detainer process. Additionally, HQ RWLS meets with the SFM monthly to discuss various issues and solutions, such as high-risk concerns, obtain the status of necessary permits, or reinspection needed to clear deficiencies.

HQ RWLS and the SFM have met this quarter to review the outstanding failures, specifically the seven sites identified above. Many of the issues noted in the failed SFM reports are the result of permitting issues that are uncorrectable or cost-prohibitive for the tenant. These sites have active leases; therefore, the Department must address these issues through a multidisciplinary review committee and request funding to

remove the improvements if corrections are unachievable.

4 Program Enhancement Measures

The Department has taken significant measures to enhance the management and oversight of the Airspace Program, which includes the following:

1. **Statewide Training:** HQ RWLS has conducted all three phases of airspace training to district airspace staff. Each phase was conducted twice and focused on specific topics of airspace management. All trainings were recorded and posted on the Department intranet to be available anytime. The trainings were as follows:
 - a. Phase 1, conducted in October 2024, comprised of inspection processes and procedures, communication protocol with lessee, lease violation enforcement actions and resolution process, legal action process, and elevating unresolved violations.
 - b. Phase 2, conducted in December 2024, comprised of the competitive bidding process and new lease agreement process.
 - c. Phase 3, conducted in January 2025, comprised of delinquent actions and the resolution process (late fees, penalties, interest charges, delinquencies, unlawful detainer actions, etc.) and communication protocol with the lessee on delinquency.
2. **Task Force:** The Department is in the process of establishing a task force to spot-check district airspace sites, in partnership with the HQ Division of Maintenance, Office of Structure Maintenance & Investigations, SFM, and District Maintenance staff. This task force is anticipated to be established by the end of FY 2024/25. An annual site review plan will subsequently be developed and implemented to enhance HQ oversight of the airspace program.
3. **Auctions:** The Department continues to track expired and upcoming expiring leases and monitor district plans for conducting auctions for these sites on a quarterly basis. There were no reported auctions in the third quarter.
4. **Quality Enhancement Joint Review (QEJR):** The Department has developed a QEJR Plan to review current district operations and ensure quality work products that are consistent with current policies and guidance. The QEJR will begin in July 2025 and will be conducted at least annually with each district or sooner on an ongoing basis.
5. **Enforcement:** The Department has begun tracking airspace enforcement actions and status (inspections, delinquencies, violations, legal actions, etc.) on a quarterly basis and closely coordinated with district staff to ensure areas of concern are addressed timely.
6. **Executive Reporting:** The Department will deliver an Airspace Progress Report to district executive management, Project Delivery Deputy Director, and

Chief Deputy Director on the status and progress of various aspects of district lease management and enforcement actions.

5 Policies, Manuals, & Guidance Updates

Since November 11, 2023, the Department has implemented significant changes to airspace policies and manual guidance. Some of these changes are listed below.

1. **District Weekly Reporting:** Districts are required to report weekly to HQ RWLS on site-specific actions taken during the week, including but not limited to, district annual inspections, SFM inspections, SFM inspection results, and notices of correction or termination issued.
2. **Enforcement Actions:** All corrective notices must be in writing and include the date the corrections must be completed. A follow-up action must be taken by district staff on that date, such as a re-inspection. If corrections are not completed by the follow-up date, the district must proceed with termination of tenancy or appropriate proceedings in consultation with Department Legal.
3. **New Prohibitions:** Following Federal Highway Administration (FHWA) clarification of its guidance on prohibited materials, the Department sent notices to all airspace tenants in April 2024 that included a list of materials prohibited on the Department airspace sites. District airspace managers will review leased sites for the presence of prohibited materials during routine inspections and take immediate actions according to the latest policy and guidance.
4. **Applications and Credit Checks:** The Department updated the lease application for potential tenancies, which now requires review of the applicant's credit history and the applicant certifying they have had no bankruptcies or unlawful detainers in the last 10 years.
5. **Pause on New Leases and Lease Renewals:** In the past quarter, with all staff trained in the auction and CTC processes, districts are able to begin processing new leases. Districts have begun to address and plan for future auctions, with goal of being in compliance with new policies by January 31, 2026.
6. **Open Storage Prohibition:** The Department currently has 25 open storage leases, of which 18 sites are underneath a structure. The Department is reviewing the 18 lease agreements and may consider terminating the leases. As part of the new programmatic policy changes, no new open storage leases will be executed for a site located, over, under, or next to a structure, except for uses that are permitted by policy, such as construction staging and leases to government entities.

7. **Holdovers:** In this reporting period, 128 of the total airspace leases were in holdover, of which 123 have inspections that are up to date, and the remaining five sites were overdue for inspection but are expected to complete inspection in the fourth quarter. Telecommunication sites were excluded from the holdover count as their leases have the option to renew, and the expiration dates on record do not reflect these available options. Leases in holdover will be addressed by cancellation or renewed through the renewal process.
8. **Unlawful Detainers (UDs):** During the reporting period, three UD's were filed. Previously, UD requests required District Director approval. New policy changes streamlined the approval process by lowering the approval delegation for UD requests to the District Right of Way Manager. This will increase efficiency by addressing and remedying tenancy issues in a timely manner.
9. **Insurance Certification:** The Department will verify that all insurance certifications are current. As part of the recent programmatic changes, all sites must have a combined insurance policy of \$20M coverage (general liability plus umbrella) for any leases under, over, or next to a structure as the lease dictates. The new insurance coverage is effective March 1, 2025. Lessees that do not comply by this date may be subject to termination.
10. **Subleasing:** The district must request approval from HQ RWLS if a tenant requests a sublease that is not allowed under the lease agreement. The districts have been notified to survey all their leases to identify any existing subleases not allowed under the agreement. HQ RWLS will continue to coordinate closely with the districts to resolve any outstanding subleases to ensure compliance with the current policy, and the district will take immediate corrective actions for any non-compliant subleases.

The Department did not receive any sublease requests during the reporting period. There was one sublease request from the first quarter that is currently awaiting approval from FHWA on the programmatic changes and the sublease request.

11. **Action Plans:** The Department is aggressively inspecting all properties to ensure compliance with lease terms and conditions. Violations are being addressed through written notices to comply; some notices to terminate agreements are pending. HQ RWLS convenes a statewide weekly hot topics meeting to review changes in the airspace leasing program and address district challenges. A monthly meeting is also held with the State Fire Marshal and HQ RWLS to identify where increased oversight is required.