

Cal-OSHA Regulatory Landscape

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The potential for autonomous tractors to alleviate labor and fuel costs for farms, while also enabling sustainable practices, will present exciting opportunities. However, one regulatory hurdle could be addressing farm-worker safety around these autonomous vehicles.

This may be why California OSHA through the Division of Occupational Safety and Health added a regulation prohibiting driverless agricultural machinery unless a person remains at the wheel. California's OSHA regulation requires all "self-propelled equipment" to have an operator "stationed at the vehicular controls" whenever the machine is moving. There is an exception for furrow guided equipment, which allows an operator to control the vehicle remotely provided he or she stays within 10 feet of the controls and the equipment is not moving at greater than 2 mph. There are no such regulatory requirements at the federal level where only federal OSHA regulates worker safety. Indeed, federal OSHA last issued non-binding guidance on general robotics and worker safety back in 1987. However, states may establish their own OSHA safety plans, such as in California. In a quick review of the issue, it does not appear that any other state program has issued this or any similar limitation on autonomous farm vehicles.

The Association of Equipment Manufacturers ("AEM") has petitioned Cal-OSHA to revise this regulation. AEM has communicated with Cal-OSHA and sought ways to allow automated agricultural equipment. In response, apparently Cal-OSHA advised that the regulation only applies when there are workers in the field along with the autonomous equipment. Thus, absent a regulatory change, those looking to utilize autonomous equipment must assess if the regulation would be applicable – in other words, if workers would be within the "zone of danger" of the vehicle in operation or if other defenses might be available to contest any attempt by the Division to cite an employer utilizing such farm equipment. The other option is to apply for a variance from the regulation. As with other federal and state OSHA programs, there is a process in California to seek a temporary or permanent variance from a regulation; however, this can be a lengthy process, particularly with the agency focused on COVID-19 matters.

Thus, while the future may be bright, the present Cal-OSHA regulatory landscape may take some navigation for those seeking to use autonomous farm vehicles in that state.