

PART 28: AGRICULTURE

Definitions 28.1 In this Part:

“agricultural tractor” means a vehicle, with more than 20 engine horsepower, running on wheels, designed to furnish the power to pull, carry, propel or drive an implement that is designed or used for agriculture, but does not include a self-propelled implement;

“low-profile tractor” means an agricultural tractor with the following characteristics:

- (a) the front wheel spacing is equal to the rear wheel spacing, as measured from the centre line of each right wheel to the centre line of the corresponding left wheel;
- (b) the clearance from the bottom of the tractor chassis to the ground does not exceed 46 cm (18 in);
- (c) the highest point of the hood does not exceed 1.5 m (60 in);
- (d) the tractor is designed so that the operator straddles the transmission when seated;

DIVISION 4 – EQUIPMENT

ROPS exception for agricultural tractors

28.41 (1) ~~Section 16.22(1) does not apply to an agricultural tractor manufactured on or before January 1, 1985.~~

(2) ~~An agricultural tractor manufactured after January 1, 1985 must be equipped with a rollover protective structure, except for~~

Rollover protective structures for agricultural tractors

- ~~(a) a low profile tractor used in agricultural situations where there is low overhead clearance, such as orchards, hop yards, farm buildings and greenhouses where overhead clearance is not adequate to allow a tractor equipped with a rollover protective structure to operate, and when its use is incidental to the work in those situations, and~~
- ~~(b) an agricultural tractor fitted with implements incompatible with the rollover protective structure.~~

(1) In this section:

“risk assessment”

means an assessment of the risk that an agricultural tractor will roll over while it is being operated, based on the relevant circumstances of the proposed operation including the following:

- (a) the stability of the agricultural tractor, taking into account such factors as the configuration of the agricultural tractor and any attachments mounted on or pulled by the agricultural tractor during operation;
- (b) the ground conditions where the agricultural tractor will be operated, including the presence of ditches, drop-offs and ground irregularities such as holes, soft spots or mounds;
- (c) the grades on which the agricultural tractor will be operated;
- (d) the nature of the activities to be performed with the agricultural tractor;
- (e) the applicable safe work procedures established by the employer;
- (f) the training and experience of the operator;
- (g) the presence or absence of direct supervision of the operator by a qualified person;

"ROPS"

means a rollover protective structure that meets the requirements of sections 16.23, 16.24, 16.25 and 16.26.

- (2) Section 16.22 does not apply to an agricultural tractor if it is being driven or used as part of agricultural operations on farm land.
- (3) Subject to subsection (4), a worker must not drive or use an agricultural tractor as part of agricultural operations on farm land unless the agricultural tractor has a ROPS.
- (4) A worker may drive or use an agricultural tractor without a ROPS as part of agricultural operations on farm land if a qualified person has carried out a risk assessment and has determined that, in the circumstances, the agricultural tractor can be operated safely and with a low risk of a rollover, and any of the following apply:
 - (a) the agricultural tractor was manufactured on or before January 1, 1985;
 - (b) the agricultural tractor
 - (i) is a low profile tractor that is used in agricultural operations on farm land in places that have low overhead clearance, such as orchards, hop yards, farm buildings or greenhouses, where overhead clearance is not adequate to allow an agricultural tractor with a ROPS to operate, and
 - (ii) is being driven or used as part of those agricultural operations;
 - (c) the agricultural tractor is fitted with implements that are incompatible with a ROPS.
- (5) The employer must permanently affix, on an agricultural tractor without a ROPS that is driven or used as part of agricultural operations on farm land, a notice that is legible and visible to a person in the operator's position, stating that the agricultural tractor
 - (a) does not have a rollover protective structure, and
 - (b) may be driven and used only in areas and for activities authorized by the employer.

Explanatory Notes:

It is proposed to amend section 28.41 of the Occupational Health and Safety Regulation ("OHSR") to limit the activities and places where an agricultural tractor without a rollover protective structure ("ROPS") may be driven and used.

Under section 28.41(2) of the OHSR, agricultural tractors manufactured after January 1, 1985 must have a rollover protective structure except for low profile tractors used in agricultural situations where there is low overhead clearance, or if the tractor is fitted with implements incompatible with a ROPS. This exception specifically references orchards as a situation where this exception could be applicable. As a result, some orchard operators believe that ROPS is never required on their low profile tractors, which is not the case. This misunderstanding extends to other types of agricultural operations but is particularly prevalent in the interior of BC. The ROPS exemption for low profile tractors only applies if the tractor is being used primarily in the stated applications.

Between May and October 2009, there were three incidents resulting in fatalities involving tractor rollovers. The tractors involved did not have ROPS.

**AMENDMENTS FOR PART 28: AGRICULTURE
IN THE OCCUPATIONAL HEALTH AND SAFETY REGULATION**

Published guidance documents from WorkSafeBC limit the use of a tractor without a ROPS to ground surfaces with a slope of not more than 20%, and to roads at least twice as wide as the tractor if there is a ditch or drop off at an edge of the road. The 20% slope criteria is a “one size fits all” slope criteria and does not take into account the variation in stability between agricultural tractors of different design. For example, a low profile tractor would be more stable than a “conventional” tractor in terms of its tendency to tip over because it has a lower centre of gravity and a wider wheel track. Also, the stability of a particular tractor will vary based on attachments mounted on or being used with the tractor. In addition to the equipment-related factors, the ground conditions where the tractor will travel or be used will affect the stability of the tractor. There are too many variables affecting tractor stability to allow the OHSR to stipulate a single slope limit criteria to be applied to all tractors without a ROPS. And there is concern if a slope limit is specified for an agricultural tractor it will be assumed by some people that any use of a tractor on ground up to that slope limit would be safe from a rollover. That is not the case because, as stated above, there are a number of factors besides ground slope that can affect the risk of a tractor rollover.

The proposed amendment will require the employer to limit the use of a tractor without a ROPS to areas and activities where the employer has done a risk assessment and determined the conditions are such that the tractor can be operated safely and there is a low risk of a rollover. The employer would need to ensure all workers authorized to operate the tractor are aware of the areas and activities where the tractor may be used. The risk assessment would require consideration of at least the factors set out in proposed new section 28.41(1).

Proposed section 28.41(2) will exempt an agricultural tractor being driven or used as part of an agricultural operation from section 16.22. The effect of this clause is to require an agricultural tractor being used other than as a part of an agricultural operation to be subject to the provisions of section 16.22.

Proposed section 28.41(3) will require all agricultural tractors driven or used as part of an agricultural operation to have a ROPS, except as permitted by proposed section 28.41(4).

Proposed section 28.41(4) will allow certain tractors to be driven and used without ROPS but only in circumstances where a risk assessment has determined such tractors can be driven or used safely and with a low risk of rollover. The tractors eligible for the exemption from ROPS are the ones currently exempt, namely tractors built on or before January 1, 1985, low profile tractors being used where there are overhead clearance issues that preclude having a ROPS, and tractors fitted with implements that are incompatible with ROPS.

A risk assessment will determine the travel routes and places that a tractor without a ROPS can be driven and used. The risk assessment will also determine what attachments can be carried by or used with the tractor. The employer must ensure every worker authorized to drive or use a tractor without a ROPS is provided with sufficient training and supervision to understand the limitations on where and how the tractor can be driven and used.

Proposed section 28.41(5) will require an agricultural tractor without a ROPS to have a sign or notice displayed so it is visible to a person in the operator’s position stating the tractor does not have a ROPS and may only be used in areas and for activities authorized by the employer.

Some tractors have a ROPS that can be folded down when the tractor is to be used in an area with low clearance. When such a tractor is being used with the ROPS in the folded down position, it is to be considered as not having a ROPS and the provisions of the proposed amendment would apply.