



Oregon Occupational Safety & Health Division
Technical Guidance

DATE: July 2, 2020

TO: All Oregon OSHA Staff

FROM: Dave McLaughlin, Standards & Technical Resources Manager

SUBJECT: Low profile tractors and side by side all terrain vehicles

In relation to the exemption of Roll-over protective structures (ROPS) for tractors used in orchards 437-004-3600(5)(a), there has been a request to discuss examples of when the exemption (No ROPS) can be utilized. This exemption states:

“Low profile” tractors used in orchards, vineyards or hop yards where the vertical clearance would interfere with normal use, and while their use is incidental to the work done in that location.

There have been a number of questions and answers that are offered to provide clarification for the exemption.

Question:

Are ROPS required on tractors when mowing lawns, driving across empty fields, working another crop grown on the farm unrelated to trees (such as wheat or corn), working in orchard blocks where trees have been removed or are being planted, or similar activities?

Answer:

Yes, ROPS are required on tractors in these situations.

Question:

Are ROPS required on tractors when performing jobs in and around established blocks of trees, like spraying, mowing, chopping brush, dropping off empty fruit bins, hauling out full fruit bins, moving ladder trailers, or similar activities? In many, if not most, circumstances where those tasks are being performed it is not feasible or advisable to do so, both from the perspective of damage to the trees that produce the product keeping our growers in business, as well as the significant potential for serious injury from branches that catch on the ROPS and are flung towards the tractor operators.

Answer:

If ROPS are not feasible or if it's going to result in contact with trees, the ROPS could be down. But the orchard exemption is not absolute and applies only where the vertical clearance would interfere with normal use – so if there is no overhead clearance issue the ROPS is required, even if it is in an orchard.

Question:

Are ROPS required on tractors when doing jobs like moving between tree rows, working in and around the perimeter of a block of trees, leaving the trees where spraying is conducted to drive to the filling station and load another tank of product while staying within the borders of a given orchard location, crossing the road to move between orchard blocks, or driving down the road anywhere from a few hundred feet to a few miles.

Answer:

Oregon OSHA's interpretation of the exemption and it relates to the specific examples listed above:

- Moving between tree rows – **Incidental and therefore ROPS is not required.**
- Working in and around the perimeter of a block of trees - **Not incidental and therefore ROPS is required unless moving in and out of the trees.**
- Leaving the trees where spraying is conducted to drive to the filling station and load another tank of product while staying within the borders of a given orchard location – **Incidental and therefore ROPS is not required.**
- crossing the road to move between orchard blocks – **Incidental and therefore ROPS is not required.**
- Driving down the road a few hundred feet – **Incidental and therefore ROPS is not required.**

Question:

ROPS are an important safety feature and should be used when feasible, but shouldn't it but up to the farm to determine when it is feasible and will or will not be used?

Answer:

They *must* be used when feasible and when one of the exemptions does not apply; feasibility and the interpretation/application of the standards is not simply “up to the farm” and never was – Oregon OSHA will defer to the employer's *reasonable* determination on issues, but the rules are rules not suggestions and ultimately their interpretation is up to Oregon OSHA.

Question:

Putting the ROPS up and down multiple times throughout the day can create the potential for a rash of (albeit less serious than a roll-over) but still serious slip/trip/fall injuries to employees who would be required to climb on/off of their tractor potentially dozens of extra times per shift, potentially in wet/icy/dark conditions, in order to raise/lower their ROPS throughout their shift. Is there any consideration for this additional hazard?

Answer:

The incidental use provision (and, for that matter, feasibility) would certainly indicate that if it takes more time to install or elevate the ROPS for whatever activity is occurring between use in the orchard where there is an actual overhead clearance issue, such use is not required and Oregon OSHA will not enforce the ROPS requirement.

Question:

Some clarification related to ROPS on side-by-side/UTV type vehicles in orchard applications is greatly needed as well. These types of vehicles do not have ROPS that can be folded up/down or easily installed/removed, generally requiring ROPS to be unbolted or torched off of the vehicles. This means that equipment being driven in orchards blocks that would not permit clearance of ROPS would not have the option to fold them up for those aforementioned "incidental" tasks. Even though the tractor exemption rules do not specifically refer to UTV-style vehicles, can we apply the ROPS exemption to side-by-side UTV's

Answer:

Oregon OSHA will apply the ROPS exemptions applicable to UTV's when used in place of tractors, applying the same guidance described above (because they don't have collapsible ROPS, that would be a factor in assessing the time it would take to install ROPS – in practice, this would mean that ROPS would not be required when performing certain tasks on a UTV but would be required when performing those same tasks on a tractor with collapsible ROPS – which actually makes sense from a risk perspective since the UTV's are typically more stable.