



MSHA has consistently interpreted 30 CFR 75.1710-1(a) to require cabs or canopies on new electric face equipment or used equipment new to the mine operated in mining heights of 42 inches or greater (as measured from bottom of the mine floor to top). A full statement of MSHA's position is presented in the Mine Safety and Health Administration's Program Policy Manual, Volume V, Part 75, pages 137 through 140 (07/01/88 Release V-1). MSHA's policy reflects the intent of the statutory canopy standard, which was meant to improve health and safety conditions and practices at underground coal mines in order to prevent death and serious physical harm. One of the problems that greatly concerned Congress was the high fatality and injury rate due to roof falls. To combat the roof fall problem, Congress devised a two pronged plan. One remedial course of action was aimed at reducing the number of falls by requiring operators to adopt various roof control practices, including comprehensive roof control plans. The second important remedial provision authorized the Secretary to protect miners from those falls that did occur by requiring the installation of cabs or canopies on electric face equipment. In the express words of section 317(j) of the Mine Act, the devices were to be installed "to protect the miners operating such equipment from roof falls and from rib and face rolls."

Measurements taken by the investigating team of mining height on the active sections of the Petitioner's mine ranged from 39 to 52 inches; however, some mining heights in the returns ranged from 39 to 42 inches and there are locations on the mine's outby travelways as low as 40 inches. Scoops are used to transport supplies on those travelways. Additionally, the Petitioner's mine was observed to have a draw rock in the roof, which has required the increase in size of roof bolt plates. Furthermore, the investigation reported on six instances where citations to replace roof bolts damaged by mobile equipment were issued.

MSHA's investigators found the mine's electric face equipment to be as follows:

- a) Two (2) remote control continuous mining machines: Marietta Miners Model 2460, Serial No. 7793 and the other serial number is not known. The machines have no operator deck or compartment and are 29½ inches in height at the crawler covers.
- b) Two (2) Model 482, S & S (battery) coal haulers, Serial No. 1586 and second unit no number. Frame height of these machines is 28 inches.

- c) One (1) Model 484, S & S (battery) coal hauler, Serial No. 1519. The machine frame height is 29½ inches.
- d) Three (3) Model 482, S & S (battery) Scoops, two without serial numbers and Serial No. 1053. Frame height of these machines is 27 inches.
- e) Two (2) Joy Shuttle Cars, Model 21SC, Serial Nos. ET 12577 and ET 13387. Frame height of these machines is 27 inches.
- f) Two (2) Fletcher Dual Boom Room Bolters, Model DDO-15, Serial Nos. 80019 and 84108. Frame height of these machines is 27 inches at operator's controls.

The two remote control continuous miners listed above are not required to have cabs or canopies and are not subject to the petitioned standard because these machines do not have an operator compartment or control station.

MSHA's investigators confirmed the scoop and coal haulers travel roadways ranging in height from 40 to 52 inches. Because all of the battery scoops and coal haulers that frequently travel and rock dust the return aircourses, also routinely travel areas with road way clearance heights less than 42 inches when going to the surface for supplies or maintenance, they are not required to have cab or canopies. Furthermore, the working section is also reported to have mine heights of less than 42 inches. Therefore, the shuttle cars, coal haulers, and roof bolters are not required to have cabs or canopies installed when working the face areas.

On the basis of the petition and the findings of MSHA's investigation, Tech Leasing and Rebuild, Inc.'s request for the modification of the application of 30 CFR 75.1710-1(a) for its Mine No. 1 is dismissed for the remote control continuous miners and the battery equipment traveling returns and supply roads and denied for the shuttle cars and roof bolters used on the producing section and in mining heights of less than 48 inches but greater than 42 inches.

#### ORDER

Wherefore, pursuant to the authority delegated by the Secretary of Labor to the Administrator for Coal Mine Safety and Health, and pursuant to Section 101(c) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C., Sec. 811(c), it is ordered that Tech Leasing and Rebuild, Inc.'s Petition for Modification of the application of 30 CFR 75.1710-1(a) for its Mine No. 1 is hereby:

DISMISSED for the Marietta Model 2460 remote controlled continuous miners, which have no onboard operating controls, and the S & S battery scoops and coal hauler routinely used when rock dusting and examining the return aircourses and on supply roads both with travel heights less than 42 inches.

DENIED for the Joy 21SC shuttle cars and the Fletcher Model DDO-15 Dual Boom Room Bolters used on producing sections and in mining heights of less than 48 inches but greater than 42 inches.

Any party to this action desiring a hearing on this matter must file in accordance with 30 CFR 44.14 within 30 days. The request for hearing must be filed with the Administrator for Coal Mine Safety and Health, 1100 Wilson Boulevard, Arlington, Virginia 22203.

If a hearing is requested, the request shall contain a concise summary of position on the issues of fact or law desired to be raised by the party requesting the hearing, including specific objections to the proposed decision.

A party other than Petitioner who has requested a hearing shall also comment upon all issues of fact or law presented in the petition, and any party to this action requesting a hearing may indicate a desired hearing site. If no request for a hearing is filed within 30 days after service thereof, the Decision and Order will become final and must be posted by the operator on the mine bulletin board at the mine.

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John F. Langton,  
Deputy Administrator for  
Coal Mine Safety and Health