

and an integral ATRS system. The methane monitor must meet the maintenance and calibration requirements of § 75.342(a)(4), the warning signal requirements of § 75.342(b), and the automatic de-energization requirements of § 75.342(c). Further, the rule requires the sensor head of the methane monitor to be positioned at a specific location on the ATRS. In addition to continuously monitoring the atmosphere at the roof bolting site, the monitor will warn miners when methane levels reach one per cent, and will de-energize the roof bolting machine when methane levels reach two per cent. This continuous monitoring provision is significant in light of the number of ignitions involving roof drilling or bolt installation. These ignitions generally occur when sparks, hot metal fragments, or hot drill bits ignite a flammable methane-air mixture. They can also occur when the miner inadvertently drills through metal roof straps or encounters harder than normal material in the mine roof.

#### *B. Regulatory Flexibility Certification*

The Regulatory Flexibility Act (RFA) requires regulatory agencies to consider a rule's economic impact on small entities. Under the RFA, MSHA must use the Small Business Act definition of a "small business concern" in determining a rule's economic impact unless, after consultation with the SBA Office of Advocacy, and after opportunity for public comment, MSHA establishes a definition which is appropriate to the activities of the agency and publishes that definition in the **Federal Register**. For the mining industry, SBA defines "small" as having 500 or fewer workers. MSHA has traditionally considered small mines to be those with fewer than 20 workers. To ensure that the rule conforms with the RFA, MSHA analyzed the economic impact on mines with 500 or fewer workers and also on mines with fewer than 20 workers. MSHA concluded that the rule will not have a significant economic impact on a substantial number of small entities under either definition.

#### *C. Unfunded Mandates Reform Act of 1995*

For purposes of the Unfunded Mandates Reform Act of 1995, the rule does not include any Federal mandate that may result in increased expenditures of more than \$100 million incurred by State, local, or tribal governments, or by the private sector.

#### *D. Paperwork Reduction Act of 1995 (PRA)*

The information collection requirements contained in this final rule have been approved by the Office of Management and Budget (OMB) and were issued control numbers pursuant to the Paperwork Reduction Act of 1995 (PRA), as codified at 44 U.S.C. 3501–3520 and implemented by OMB in regulations at 5 CFR part 1320. The PRA defines collection of information as "the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public of facts or opinions by or for an agency regardless of form or format." All paperwork burden hours and cost data used in this preamble are taken from MSHA's Regulatory Economic Analysis (REA), dated January, 2003. The REA can be accessed at <http://www.msha.gov/reginfo.htm>.

MSHA estimates that the information collection requirements in this rule will impose a total of 315 paperwork burden hours in the first year, with an annualized burden of 117 hours each year thereafter. The estimated total annualized cost associated with these paperwork burden hours is \$4,045.

Two information collection requirements are associated with § 75.362(d)(3)(ii). The first involves obtaining approval for field modifications to permissible electrical equipment, as required by § 18.81, and was approved by OMB as part of Information Collection No. 1219–0066, Permissible Equipment Testing, which expires on July 31, 2005. MSHA's Approval and Certification Center must approve all modifications to permissible equipment (including roof bolting machines) to ensure that permissibility of the equipment to operate in a gassy atmosphere has not been compromised. Each machine model at a mine requires a separate application for approval.

The second information collection requirement associated with § 75.362(d)(3)(ii) involves recording calibrations of methane monitors, as required by § 75.342(a)(4), and was approved by OMB as part of Information Collection No. 1219–0088, Ventilation Plans, Tests, and Examinations in Underground Coal Mines, which expires on March 31, 2004. Each methane monitor must be calibrated at least every 31 days, and a record of the calibration test must be maintained for at least one year from the date of the test.

Additionally, any information collection requirements that would be associated with the ventilation provision of § 75.362(d)(3)(vi) would be approved as part of Information

Collection No. 1219–0088. This provision of the final rule imposes no additional paperwork burden.

#### *E. Executive Order 12630 Governmental Actions and Interference With Constitutionally Protected Property Rights*

This rule is not subject to Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. That is, this rule does not involve implementation of any policy with takings implications.

#### *F. Executive Order 13045 Protection of Children From Environmental Health Risks*

In accordance with Executive Order 13045, Protection of Children from Environmental Health Risks, MSHA has evaluated the environmental health and safety effects that this rule could have on children. MSHA has determined that the rule will not have an adverse impact on children.

#### *G. Executive Order 12988 Civil Justice Reform*

MSHA has reviewed Executive Order 12988, Civil Justice Reform, and determined that the rule will not unduly burden the Federal court system. The rule has been written so as to provide a clear legal standard for affected conduct, and has been reviewed carefully to eliminate drafting errors and ambiguities.

#### *H. Executive Order 13175 Consultation and Coordination With Indian Tribal Governments*

MSHA certifies that this rule will not impose any substantial direct compliance costs on Indian tribal governments.

#### *I. Executive Order 13132 Federalism*

MSHA has reviewed this rule in accordance with Executive Order 13132 regarding federalism and has determined that the rule has no "federalism implications." In other words, the rule does not have any substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

#### *J. Executive Order 13211 Energy*

MSHA has reviewed this rule in accordance with Executive Order 13211 regarding the energy effects of Federal regulations, and has determined that the rule does not have any adverse effects on energy supply, distribution, or use.