can adversely affect the Agency's ability to ascertain the facts important to understanding the cause of the accident.

In order to seek a wide range of viewpoints in its review of these procedures, particularly as they pertain to witness interviews, the Agency is soliciting comments, especially from people who would be directly affected if revised witness interview procedures result from this review. The principal procedures that are the subject of the review are contained in this notice.

I. Legislative and Regulatory Background

The responsibility of MSHA to conduct accident investigations is found in the statutory provisions of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. section 801 et seq. (Mine Act).

Among other responsibilities, section 103(a) of the Mine Act directs that MSHA shall make frequent inspections and investigations for the purpose of obtaining, utilizing, and disseminating information relating to health and safety conditions, the causes of accidents, and the causes of diseases and physical impairments originating in mines. MSHA is also given the responsibility in section 103 to gather information with respect to mandatory health and safety standards, determine whether an imminent danger exists, and whether there is compliance with the mandatory health and safety standards or with any citation, order, or decision issued under the Mine Act.

In addition to the general provisions of section 103(a) for the investigation of accidents, the Mine Act provides significant and specific responsibilities for MSHA to assume in connection with those investigations. For example, section 103(b) provides that the Agency may hold a public hearing and issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents. In connection with any public hearing, oaths may be administered as well.

Other statutory authority in section 103 can indirectly affect accident investigations. Section 103(j) provides that in the event an accident occurs, the operator shall notify MSHA and shall take appropriate measures to prevent the destruction of any evidence which would assist in investigating the causes of the accident. MSHA is authorized, where rescue and recovery work is necessary, to take whatever action is deemed appropriate to protect the life of any person, and the Agency may supervise and direct the rescue and recovery activities in such mine. Finally, section 103(d) requires that accidents are to be investigated by the mine operator or his agent to determine the cause of the accident and means of preventing a recurrence. Records regarding the accident and investigation are to be made available to MSHA. Regulations regarding operator accident investigations and recordkeeping are contained in 30 CFR part 50.

II. Current Investigation Procedures

MSHA currently has guidelines and instructions for conducting investigations of accidents in the MSHA handbook, "Investigation of Mining Accidents and Other Occurrences Relating to Health and Safety." The guidelines and instructions are primarily procedural and administrative, and are intended to serve as organizational and technical aids for MSHA's accident investigators. The handbook, originally dated September 1988, was last substantively revised in July 1991.

MSHA's objective is to conduct its investigations in an independent and unbiased manner. As part of each accident investigation, Agency staff in various areas of expertise thoroughly examine the circumstances, determine the causes, and disseminate information which may be used to prevent future similar accidents. MSHA conducts its investigations in a manner designed to assure that the information gathered is complete and accurate. Each investigation is composed of three phases including a physical inspection of the affected mine, complete analysis and testing of mining equipment which may have been involved in the accident, and interviews of persons who may have relevant information about the conditions or practices surrounding the accident. The following discussion addresses each phase.

A. Physical Examination of the Accident Site

The physical examination of an accident site is usually conducted in cooperation with the relevant state agency that has authority over matters of mine safety and health, the mine operator, and the miners' representative. State mine safety and health agencies generally have some statutory or regulatory authority to conduct accident investigations. Consistent with the Mine Act, mine operators accompany MSHA personnel during the physical examination of the accident site. Section 103(f) of the Mine Act provides rights for miners' representatives to participate in enforcement-related activities of MSHA. In the accident investigation context, these rights include the

participation of miner representatives during the physical examination of accident sites.

B. Equipment Analysis

Another phase of MSHA accident investigations involves the analysis of mining equipment which may have been involved in the accident. In these cases, MSHA investigators have invited the equipment manufacturer's representative to participate as an information source for MSHA. The equipment manufacturer assists the MSHA investigators in making determinations relative to equipment failures or malfunctions. MSHA may also perform testing of equipment or other physical evidence as necessary to identify contributing or causative factors. Other private interests may participate in these testing activities if MSHA believes that their participation will assist in the Agency's analysis of the cause of the accident. State officials, representatives of the mine operator, the manufacturer, and miners' representatives ordinarily may observe equipment testing.

C. Witness Interviews

The witness interview phase is an important part of the accident investigation. Because witness recollections can become vague with the passage of time, these interviews usually occur as soon as possible after the accident scene has been physically examined. The goal of the interview is to obtain a candid, precise, and accurate statement from the witness. Cooperation between the mine operator, miners, and any other interested parties in the investigation during the interview phase is essential. It results in a greater opportunity for MSHA to develop a comprehensive accident report based on accurate facts, resulting in valid conclusions as to the cause of the accident. These conclusions, in turn. lead to better guidance for MSHA and the public in preventing future accidents.

Under current accident investigation policy, each person is interviewed separately to obtain his or her personal recollection of the relevant events and circumstances. The witness' statement is completely voluntary. The witness may refuse to answer any question or may terminate the interview at any time. Witnesses are advised prior to the interview that they have a right to have a personal representative of their choice present during the interview process. They are also advised that there will be a verbatim record of the interview, which will be made available to the public at the conclusion of the