

## Background on Worker and Union Involvement During Clean Air Act Section 112(r) Inspections



On April 2, 2010, the US Environmental Protection Agency issued “Interim Guidance” for involving facility employees and employee representatives in EPA and local agency inspections conducted under Clean Air Act (CAA) section 112(r).

- CAA 112(r) regulates more than 13,000 chemical plants, oil refineries, dairies, meatpackers, paper mills, drinking and waste water treatment facilities, refrigerated warehouses, fertilizer plants, electric utilities, etc. that use “extremely hazardous substances” in over “threshold” amounts. This law requires management to develop “Risk Management Plans” and offsite consequence information and make them available to unions, employees, and the public.
- EPA staff are to offer facility employees and employee representatives the opportunity to participate in facility inspections. EPA staff will use the OSHA *Field Operations Manual* (FOM) for reference. The FOM provides for union representation, in part, in the opening conference, during the accompaniment of the inspector, and in the closing conference.<sup>1</sup>
- In nine states, state agencies enforce this law for EPA.<sup>2</sup> EPA will request that these states and a few local agencies adopt similar procedures once EPA issues the final policy later this year. The interim policy is effective now.

**This landmark policy establishes a national precedent for expansion to other EPA programs so that our unions can play even stronger roles to protect our member’s safety and jobs, communities, and the environment.**

On August 3, 2010, the US Chemical Safety and Hazard Investigation Board, responding to a WEC request, said they too would adopt a formal policy for worker and union participation during their investigations. WEC is urging CSB to engage labor in the development of their new policy.

<sup>1</sup> The OSHA Field Operations Manual is at [http://www.osha.gov/OshDoc/Directive\\_pdf/CPL\\_02-00-148.pdf](http://www.osha.gov/OshDoc/Directive_pdf/CPL_02-00-148.pdf)

<sup>2</sup> These states are Delaware, Florida, Georgia, Kentucky, Mississippi, New Jersey (which already enforces the policy), North Carolina, Ohio, South Carolina, and a few counties in Pennsylvania, Kentucky, and North Carolina.

