

**Publix Super Markets, Inc. and United Food and Commercial Workers International Union, Local 1625, AFL-CIO & CLC.** Cases 13-RC-20891, 13-RC-20892, and 13-RC-20893 (Formerly Cases 12-RC-8844, 12-RC-8845, and 12-RC-8846)

December 16, 2004

# DECISION ON REVIEW AND ORDER

BY CHAIRMAN BATTISTA AND MEMBERS SCHAMBER  
AND WALSH

On April 29, 2003, the Regional Director for Region 13 issued a Decision and Direction of Election in which she directed an election in two units: a fluid processing unit and a “Dallas/non-Dallas” or distribution unit. Thereafter, in accordance with Section 102.67 of the National Labor Relations Board’s Rules and Regulations, the Employer filed a timely request for review, contending that the smallest appropriate unit was a plantwide unit. By Order dated May 28, 2003, the Board granted the Employer’s request for review. The Employer and the Petitioner filed briefs on review.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Having carefully considered the entire record, including the briefs on review, we find, contrary to the Regional Director, that there is insufficient evidence to warrant finding that a separate fluid processing unit is appropriate apart from the other production and maintenance employees. Consequently, we reverse the Regional Director’s unit determination and remand this case for further proceedings consistent with this decision.

## I. FACTS

The Petitioner seeks to represent employees at the Employer’s distribution facility in Deerfield Beach, Florida. The employees at the main building, along with employees at three nearby satellite buildings, are engaged in processing and distributing grocery items to the Employer’s retail stores. Along with distribution operations, employees at the Deerfield Beach main facility also “fresh pack” produce, package ice, and process and bottle drinks, including soda, milk, and juice. The satellite buildings consist of a pallet repair facility about 2 to 5 miles from the main building, a dispatch office about 100 feet from the main building, and a garage (also about 100 feet from the main building) where fleet operations’ employees perform maintenance on the facility’s tractors and trailers.

There are over 900 employees working in the Deerfield Beach complex. Distribution Manager Jeffrey Day is in charge of the distribution aspect of the facility. Many of the employees in the distribution operation per-

form typical warehouse shipping, receiving, and storage functions. In addition, the distribution operation under Day includes the “fresh pack” department, which processes bulk produce, and various support employees.

The distribution operation can be summarized as follows: receiving employees receive bulk produce, fresh meats, frozen foods, and other perishable grocery items<sup>1</sup> and store them in the warehouse. The facility has a variety of different storage areas, based on the different temperatures and other conditions necessary to store the items. Part of the frozen foods warehouse is automated with conveyors, the ASRS system. The products are stored in the Deerfield Beach facility until they are selected to be part of a delivery to a Publix retail store.

When orders are received from Publix retail stores, shipping employees remove the correct items from the warehouse (or from the ASRS system), prepare them on pallets for shipping, and load the pallets onto trailers. Publix truckdrivers then deliver the trailers to the retail stores and bring back returns and recyclable packaging from the stores to the facility. Spotter/jockeys, who work out of the dispatch office, are responsible for staging the trailers on the property.

In addition, the distribution operation under Day includes the “fresh pack” department, which processes bulk produce. Fresh pack employees inspect, process, and package fresh produce using a conveyor line system. The produce is bagged or packaged, weighed, labeled, and inspected again before being transported out of the department. Examples of fresh pack processing operations include trimming and packaging corn on Styrofoam trays and bagging potatoes. After processing, fresh pack items are stored and shipped in the same manner as the rest of the produce.

The facility also includes a fluid processing operation, headed by Jay Sapp. The fluid processing operation (the “milk plant,” although it processes fluids in addition to milk) and the distribution operation are in separate business units within the Publix Corporation. The milk plant processes and bottles milk, soda, juice, and water and manufactures and bags ice.

Milk processing is the most complicated aspect of the operation. Incoming raw milk arrives in tankers and is weighed, agitated, and tested.<sup>2</sup> Operators then pasteurize, separate, and homogenize the milk using computer-operated machines. The milk plant also mixes soft drinks. The processed milk and soft drinks, as well as juice and water, are then bottled in bottles primarily

<sup>1</sup> The vast majority of the truckdrivers who deliver these items to the facility are not employees of Publix.

<sup>2</sup> The lab employees, who test the raw milk, were not included in the unit by the Regional Director, and neither party seeks their inclusion.

manufactured in the facility's blow mold room. The bottles are filled, labeled, and stacked into pallets by an automated conveyor system. As the Publix retail stores place orders for certain quantities of milk, water, juice, or soda, the bottles are loaded on to Publix trailers and delivered to the retail stores by Publix truckdrivers.

## II. THE REGIONAL DIRECTOR'S FINDINGS

The Petitioner originally sought three units: a unit of fluid processing (milk plant) employees, a unit of warehouse employees who use the "Dallas system," and a unit of warehouse employees who do not use the "Dallas system." The Dallas system is computer software used by certain distribution employees, who access the system through terminals in the facility and mounted on forklifts. The system tracks the movement of product through the warehouse and tracks some employees' use of time. The Regional Director found the three petitioned-for units to be inappropriate, reasoning that the Dallas system employees perform identical duties to their "non-Dallas" counterparts. According to the Regional Director, that employees used the Dallas system was, in itself, insufficient to warrant excluding such employees from a unit including their non-Dallas counterparts.

The Regional Director concluded, however, that two units were appropriate: (1) a fluid processing unit more expansive than the one requested by the Petitioner, and (2) a "Dallas/non-Dallas" or distribution unit, which included the employees sought in the other two petitioned-for units, plus certain additional employees. The Regional Director's fluid processing unit essentially consists of all employees who ultimately report to Jay Sapp. The Dallas/non-Dallas or distribution unit essentially consists of all production and maintenance employees at the main building (plus the spotter/jockeys) who ultimately report to Jeffrey Day. The Regional Director excluded the employees at the three satellite locations except for the spotter/jockeys, who were among the satellite employees requested in the petitioned-for non-Dallas unit. The Employer contends that only a single plant-wide unit including all satellite employees is appropriate.<sup>3</sup>

## III. ANALYSIS

We find, contrary to the Regional Director, that the record evidence does not establish that the fluid processing operation is sufficiently distinct from the distribution operation to support a finding that it is an appropriate unit. Moreover, we find that the Regional Director erred

<sup>3</sup> The Employer argues only for the inclusion of all satellite employees in a plantwide unit and does not make an alternative argument contending that the Regional Director erred in including the spotters in a unit excluding all other satellite employees.

in excluding the employees in the pallet repair facility, the garage, and the dispatch office while including the spotters, who also work out of the dispatch office. We agree with the Regional Director that the truckdrivers may be excluded from the unit.

### A. Fluid Processing and Distribution

We find, contrary to the Regional Director, that the evidence does not demonstrate that the fluid processing employees have a separate community of interest apart from the distribution employees. In determining whether unit employees possess a separate community of interest, the Board examines such factors as: (1) functional integration; (2) frequency of contact with other employees; (3) interchange with other employees; (4) degree of skill and common functions; (5) commonality of wages, hours, and other working conditions; and (6) shared supervision. See *Ore-Ida Foods*, 313 NLRB 1016 (1994), *affd.* 66 F.3d 328 (7th Cir. 1995). We review these factors below.

#### 1. Functional integration

In general, the milk plant employees are engaged in receiving bulk product and processing, bottling, warehousing, and shipping milk and other drinks to Publix retail stores. The distribution operation is likewise divided according to the type of grocery product. Employees in the fresh pack operation process and package the bulk produce, while the produce employees receive bulk produce, warehouse the inventory, and ship product (including produce processed by fresh pack) to Publix retail stores. Dairy/box meat employees receive fresh dairy and meat products (such as cottage cheese or packaged chicken breasts), warehouse the inventory, and ship product to Publix retail stores. And, similarly, frozen foods employees receive frozen foods, warehouse the inventory (either manually or with the ASRS system), and ship product to Publix retail stores.

A number of employees included in the distribution unit that was found appropriate by the Regional Director are not warehouse or processing employees but rather are employees who perform support functions throughout the entire facility. These employees perform duties functionally integrated with all aspects of the plant, including the fluid processing operation. For instance, the spotter/jockeys and the rest of the dispatch office support both the distribution operation and the milk plant operation. The pallets repaired by the pallet repair shop are essential to all operations at the facility, including the milk plant.<sup>4</sup>

<sup>4</sup> As discussed below, we find, contrary to the Regional Director, that the employees working out of the satellite buildings cannot appropriately be excluded from the unit.

Further, in-house maintenance employees are responsible for maintaining the building structure throughout the Deerfield Beach facility. Refrigeration maintenance employees maintain the freezer and refrigeration systems used by both fluid processing and distribution employees. Pest control employees are responsible for pest control throughout the entire facility. Parts room employees provide all manner of supplies, including office supplies, uniforms, and mechanical parts, to all employees. Distribution sanitation employees clean nonproduction areas throughout the facility. The facility trainer certifies and recertifies all material handling equipment operators (whether from the milk plant or distribution) on the operation of their equipment. All of these support employees report to Jeffrey Day.

Forklift operators and material handling equipment operators throughout the facility (milk plant and distribution) must visit the battery changing station once or twice per shift to obtain a recharged battery for their equipment. The employees who change the batteries are distribution maintenance employees included in the distribution unit. Likewise, the forklift repair employees responsible for repairing and maintaining all material handling equipment for the entire facility are included in the distribution unit.

The cafeteria used by many milk plant and distribution employees is part of the sanitation department and cafeteria employees are included in the distribution unit. Products from the milk plant and from the distribution warehouses are served in the cafeteria.

Even within the warehousing and processing operations there are multiple areas in which the operations overlap. For instance, the ice produced and bagged in fluid processing is stored and shipped by distribution unit employees in the frozen food warehouse. Milk receivers, who are milk plant employees responsible for receiving and weighing raw milk, often weigh watermelons or other bulk produce for produce employees. There is also a storage area within the dairy/box meat warehouse in which milk from the milk plant is stored.

Although each department generally ships its own product (i.e., produce employees ship produce on trailers designated for produce deliveries, frozen food employees ship frozen foods on trailers designated for frozen food deliveries, etc.), the nature of the business is such that additional orders routinely need to be shipped from other areas of the facility. Thus, products from the milk plant are routinely shipped on produce trucks and sometimes on dairy/box meat trucks.

## 2. Contact

As discussed above, there is a significant amount of functional integration between the distribution and milk

plant operations, which results in a significant amount of work-related contact among employees. In particular, there is significant work-related contact between nonprocessing milk plant employees and distribution employees. For instance, a main transit route used by distribution employees to travel through the facility (both on foot and with material handling equipment) goes through the nonprocessing areas of the milk plant. Milk plant shipping employees have regular contact with the spotters, who are responsible for jockeying trailers throughout the facility. Distribution employees unloading trailers as they return from the stores often find returned products; when milk plant products are returned, the unloaders must coordinate with someone from the milk plant to return the product to its proper location. Sapp testified that distribution employees enter the milk plant's beverage and water palletizer area, empty case room, milk receiving dock, and milk shipping area in the course of their duties.

On the other hand, because of the nature of their work, the processing employees do not have a great deal of work-related contact with employees outside of their work areas, whether distribution employees or nonprocessing milk plant employees. However, there is some contact between milk plant processing employees and distribution employees. During each shift, employees from throughout the facility, including the processing areas of the milk plant, take garbage and recycling from the work areas to the support dock using material handling equipment. Moreover, employees hauling garbage and recycling will occasionally need to visit the battery changing station in the course of those duties. Milk plant processing employees occasionally need to visit the parts room for parts and supplies.

In addition to the above work-related contact, all milk plant employees also have casual contact with distribution employees in the cafeteria and the parking lot, when passing through the distribution area to reach their workplace, in the breakrooms and other shared areas of the facility.

The Regional Director emphasized the fact that employees not involved in milk processing are discouraged from entering the processing areas. The milk plant processing areas are considered "clean areas" and require employees to don hairnets, wash their hands, and pass through a footbath before entering. The clean areas undoubtedly prevent contact between the milk processing employees and the distribution employees during worktime. However, they also prevent contact between the milk processing employees and most of the *other* milk plant employees included in the same unit by the Regional Director. Thus, the existence of the clean areas

lends little support to the Regional Director's unit determination.

### 3. Interchange

There have been a significant number of permanent transfers between the milk plant and distribution. Sapp estimated that about one-third of the milk plant employees transferred from distribution. Specific examples of permanent transfers include two milk plant mechanics who transferred from parts and one who transferred from the forklift repair shop.

There has also been temporary interchange between fluid processing and distribution employees. Sapp testified that forklift operators from distribution help out in the empty case room in the milk plant. Day testified that fresh pack employees have been temporarily assigned to the milk plant.

### 4. Skills and duties

Processing, shipping, receiving, warehousing, and maintenance functions take place throughout the Deerfield Beach facility. Many of the employees in the distribution unit perform the same or similar duties as employees in the fluid processing unit. Both the milk plant and distribution have forklift operators moving pallets of groceries. Both have employees loading product onto trailers. Both have plant clericals responsible for managing shipping and receiving documents. Both have receiving employees responsible for receiving bulk product, whether corn, frozen peas, or raw milk. Both have maintenance employees responsible for repairing and maintaining automated conveyor machinery. While the job responsibilities may vary between the distribution employees and their fluid processing counterparts, the skills and duties of most employees in distribution and fluid processing are relatively similar.

We recognize that the processing operation in the milk plant is more extensive than the processing that occurs in distribution.<sup>5</sup> The milk plant employees homogenize and pasteurize the milk, blend soft drinks, and manufacture bottles in a blow mold room. These specific tasks are not performed in distribution. However, we find, contrary to the Regional Director, that the overall skills and functions of employees in fluid processing are substantially the same as those in distribution.

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<sup>5</sup> The Petitioner emphasizes the duties that are unique to the milk processing employees. It also emphasizes the "Good Manufacturing Practices" handbook, which provides guidance on personal grooming, instructions for maintaining a sanitary work area, and other guidelines for safe and sanitary food processing. All milk plant employees must read and follow this handbook. The employees involved with pasteurization are also subject to the PMO or pasteurized milk ordinance, which is issued by governmental regulators.

Much of the milk plant processing is done with automated equipment, some of which appears to be operated in a similar manner as the automated aspects of the distribution operation. For instance, the employees in both the milk plant and the fresh pack operation print price labels and apply the labels to packaged product. Some of the bagging equipment used in fresh pack is similar or identical to the ice bagging equipment in the milk plant. Distribution employees who operate the ASRS conveyors keep the conveyor running, clear jams, and realign the machine's photo eye; these functions also make up much of a milk plant processing employee's work.

Moreover, as discussed above, the differences in skills and functions that exist between the milk plant and distribution are largely confined to the milk plant employees engaged in processing. Although the Regional Director's decision emphasizes the differences between the processing functions of the milk plant and the primarily warehouse-related functions of the distribution operation, it does not acknowledge the fact that many of the employees in the milk plant are themselves performing warehouse-related functions, not processing functions. Many of the employees in the Regional Director's fluid processing unit perform traditional shipping, receiving, and warehousing functions that are similar to or the same as those performed by employees in the distribution unit.

### 5. Wages, hours, and other working conditions

All Deerfield Beach employees have substantially the same wages, benefits, work rules and policies, and other conditions of employment.<sup>6</sup>

The milk plant employees have additional rules concerning food safety as detailed in the Good Manufacturing Practices handbook. This lone distinction, however, does not negate the fact that the overall working conditions are substantially similar throughout the Deerfield Beach facility.

### 6. Supervision

The fluid processing unit consists of all of the employees ultimately supervised by Jay Sapp. The distribution unit consists of all production and maintenance employees at the main building (plus spotters) ultimately supervised by Jeffrey Day. Within each of the units there are many first-line supervisors and superintendents. This separation of fluid processing and distribution in different business units creates a distinction between the two groups in terms of supervision and control of labor relations. Indeed, this is the strongest fact supporting the Regional Director's unit determination. Nonetheless, we

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<sup>6</sup> Although the fluid processing employees are not paid according to the same wage structure as the distribution employees, the record indicates that similar jobs in each operation receive roughly similar pay.

find that the other factors demonstrating the community of interest between the two groups of employees outweigh this distinction. Moreover, the fact that few of the employees within the two units have shared first-level or second-level supervision diminishes the relevance of this distinction.

### 7. Conclusion

The Petitioner contends that the Regional Director correctly found that the milk plant employees have a separate community of interest based on the separate management by Jay Sapp, the PMO and Good Manufacturing Practices handbook, the lack of work-related contact between fluid processing and distribution employees, and the existence of the clean areas. The Petitioner also claims that there is no functional integration between the distribution and warehouse activities.

The factors cited by the Petitioner are not insignificant. However, weighing all the factors in this particular case, we find that it has not been established that the fluid processing employees have a separate community of interest apart from the distribution employees.

We find that there is substantial functional integration between the milk plant and distribution, particularly with regard to plantwide support operations such as the parts room, forklift repair, dispatch, and pallet repair. We further find, in agreement with the Regional Director, that there is significant plantwide interchange and plantwide uniformity in terms and conditions of employment.

In reaching the conclusion that the Regional Director's unit determinations are not appropriate, we rely on the fact that the differences *among* the fluid processing unit employees and *among* the distribution unit employees are nearly as great as the differences *between* the units. For instance, the clean areas and the PMO apply only to a portion of the fluid processing unit employees and therefore distinguish them from other milk plant employees as well as distribution employees.

Likewise, in terms of skills and duties, the ASRS conveyor operators (officially called MS operators) and the milk processing employees have more in common with each other than either has with the forklift operators working in either distribution or the milk plant. Although the employees within each of the Regional Director's units share supervision by either Jay Sapp or Jeffrey Day, most of them have separate first and second level supervision.

The different operations within distribution operate on different shifts: a produce shipping employee whose shift starts at 5 a.m. may have little contact with a frozen foods shipping employee whose shift starts at 4 p.m. Yet, a produce shipping employee will have regular contact with milk plant employees dropping off milk to be

shipped out on a produce trailer. Indeed, the record indicates that some distribution employees have more contact with some milk plant employees than with many other distribution employees.

Moreover, in terms of functional integration, the distribution operation itself is split into areas according to product; there is not a great deal more functional integration between frozen foods and produce than there is between the milk plant and produce.

Finally, the Regional Director's fluid processing unit includes only about 60 of the approximately 900 employees at the facility. We find it particularly inappropriate to carve out a disproportionately small portion of a large, functionally integrated facility as a separate unit.

We recognize that, in other factual circumstances, units confined to specific business units within a plant may be appropriate. In this particular case, however, we find, based on the record before us, that the evidence does not support the Regional Director's unit determination. Under these circumstances, we find that the smallest appropriate unit including the petitioned-for employees is a single production and maintenance unit.

### B. The Satellite Buildings

The Regional Director excluded the pallet repair employees, dispatch employees, and garage employees based on the single-facility presumption, while including the spotters.<sup>7</sup> All of these employees work out of satellite buildings on or near the Deerfield Beach property. We find that the Regional Director erred in excluding the pallet repair employees, dispatch employees, and garage employees. First, the Regional Director erred in excluding dispatch employees from the unit based on the single-facility presumption while at the same time including spotters, who work out of the same building; once the spotters working out of the dispatch satellite building are included in the unit, the single-facility presumption is no longer applicable—at least with regard to the dispatch satellite building. In any event, we find, contrary to the Regional Director, that the satellite employees have no separate community of interest apart from the included employees, and the production and maintenance unit is therefore inappropriate without the inclusion of the satellite employees.

#### 1. Pallet repair

The pallet repair shop is less than five miles away from the main building. There is no evidence of separate control of labor relations at the pallet repair shop. The pallet repair supervisor reports to the sanitation superintendent at the main building, who in turn reports to Jef-

<sup>7</sup> As noted above, no party contests the inclusion of the spotters.

frey Day. The pallet repair employees are subject to the exact same terms and conditions of employment as the rest of the distribution department.

Contrary to the Regional Director's assertion, the evidence establishes that the pallet repair employees visit the main building regularly. Admittedly, the pallet repair employees choose not to travel to the main facility to take advantage of the free meals offered to all employees in the cafeteria. However, they go to the main building for meetings, to visit human resources with questions about their benefits, for training on material handling equipment, and for other business they might have in the administrative offices.

The pallet repair employees have significant contact with included employees. The parts room in the main building supplies parts and other supplies to the pallet repair shop, creating the need for interaction between the pallet repair employees and parts room employees, who are included in the unit. The pallet repair employees have daily interaction with the spotter/jockeys that bring trailers full of pallets back and forth between pallet repair and the main building. Distribution and milk plant employees from the main building regularly visit the storage areas that are in the same building as the pallet repair shop. In so doing, they interact with the pallet repair employees to use their material handling equipment to move items in the storage area. While at the satellite location, spotters and other employees from the main facility use the break room at the pallet repair shop. Maintenance from the main building is responsible for any repairs to the physical structure of the pallet repair/warehouse building.

The pallet repair shop is functionally integrated with the distribution and milk plant operations—the pallets they repair are essential to both operations. Moreover, the pallet repair shop exists solely to repair pallets for distribution and the milk plant; there is no separate pallet repair business. The pallet repair employees have similar skills and perform similar duties as employees at the main building, including forklift operation, pallet sortation, and the operation of automated conveyor machinery. Finally, there is temporary interchange between the pallet repair shop and the main building; a sanitation employee from the main building fills in at pallet repair.

## 2. Dispatch

The dispatch office is about 100 feet from the main building. While there is separate supervision of dispatch employees, they are managed by Jeffrey Day, and there is no separate control of labor relations. All of their terms and conditions of employment are identical to those of the other distribution employees.

Contrary to the Regional Director's assertion, the dispatch clerks are in constant contact with unit employees. The spotters included in the unit are in constant contact with dispatch in order to coordinate the movement of trailers around the property. The spotters also clock in and out of dispatch, although they spend most of the day in their tractors. The employees who load the trailers have frequent contact with dispatch.

There is functional integration between dispatch and the shipping employees in the main building, both in the milk plant and in distribution—all orders from retail stores are routed through dispatch to coordinate how the orders will be loaded onto the trailers. Employees at the main building perform all of the building maintenance in the dispatch office, and all of their parts and supplies come from the parts room in the main building.

## 3. Garage

The garage is about 100 feet from the main building. Again, despite separate supervision, there is no separate control of labor relations, and Jeffrey Day is in charge of the garage employees. These employees' terms and conditions of employment are the same as the other distribution employees.

Garage employees have significant contact with included employees. Employees at the main building perform all of the building maintenance in the garage, and all of their parts and supplies come from the parts room in the main building. The garage employees generally eat in the cafeteria in the main building. Garage employees, dispatch, and the spotters regularly coordinate with each other to ensure that trailers and tractors in need of repair are brought to the garage and repaired. For instance, when a driver notices a maintenance problem with a trailer, he might leave a note on his driver's log for dispatch to have a spotter bring the trailer to the garage after it has been unloaded. Or, the driver may tell dispatch about a problem with a tractor or trailer, and dispatch will notify the garage about the problem. Similarly, when a spotter notices a problem with a tractor, they might alert dispatch or contact the garage directly.

Many of the garage employees have skills similar to those of included employees. Like the spotters, the fuel truck operator spends most of the day driving a truck around the facility. Like the refrigeration maintenance employees in the main building, the trailer refrigeration maintenance employees repair refrigeration units and maintain the certifications necessary to do such work. Trailer maintenance employees in the garage repair the trailers; in-house maintenance employees in the main building repair the loading bay doors, to which the trailers dock. Fleet maintenance in the garage repairs truck

tractors; forklift maintenance in the main building repairs material handling equipment.

Considering the extent of the community of interest between the excluded satellite employees and the included spotters and the rest of the unit, we find that the unit is inappropriate without the inclusion of the garage employees, the pallet repair employees, and the remainder of the dispatch employees.

Therefore, we reverse the Regional Director's exclusion of the satellite building employees from the unit.

### C. Truckdrivers

The Regional Director correctly found that the truckdrivers need not be included with the production and maintenance employees.

The drivers depart the facility with a loaded trailer and deliver the grocery items to one or more retail stores. As they off-load product at each store, the drivers load returns and recyclable packaging back onto the trailer for return to the plant. Each individual driver works a shift consisting of one or more runs and returns his tractor-trailer to the facility before going home for the day.

There is unquestionably a community of interest between the truckdrivers and the unit employees. For instance, the Employer's fleet safety supervisor trains both the truckdrivers and the spotters. Both the truckdrivers and the spotters spend most of their shift driving tractor-trailers. The truckdrivers are not separately supervised; the dispatch department supervises both the truckdrivers and the spotters, using the same evaluation forms that are used to evaluate all the distribution employees. The truckdrivers communicate regularly with dispatch. In terms of permanent interchange, all truckdrivers were promoted from within the facility, both from the milk plant and from distribution.

Based on the above, we find that a production and maintenance unit including the truckdrivers would be an appropriate unit. However, there may be more than one appropriate unit in a given case, and the Petitioner may seek an election in any appropriate unit. In this case, the truckdrivers are not so integrated with the production and maintenance unit that they have lost their separate identity, requiring their inclusion in the unit. See *Overnite Transportation Co.*, 322 NLRB 723, 724 (1996); *Purnell's Pride, Inc.*, 252 NLRB 110 (1980), reaffirming 234 NLRB 197 (1978); and *Pacemaker Mobile Homes*, 194 NLRB 742, 743 (1971).

The truckdrivers are required to have a commercial drivers license (CDL). Most other employees do not have this license.<sup>8</sup> After they have received their CDL license and are no longer considered trainees, the truckdrivers are paid based on a formula that accounts for the number of stops they make, the number of pallets they deliver, and other factors. All other unit employees are paid on an hourly basis. The truckdrivers spend most of their day away from the facility. Unlike all unit employees, the truckdrivers can essentially choose their own schedule and work as little or as much as they want to. Like the spotters, the truckdrivers do not have prescheduled break times; unlike the spotters, however, the truckdrivers do not have to coordinate their breaks with anyone else.

Moreover, the truckdrivers do not perform work within the facility, and there is no evidence of temporary interchange between the truckdrivers and the unit employees other than the truckdrivers' occasional trip to the pallet repair facility. There is no evidence of any contact between the truckdrivers and the vast majority of unit employees and only minimal contact with others.

Under these circumstances, the Board generally does not require truckdrivers to be included in a unit when they spend most of their day away from the facility, have little interchange and contact with unit employees, and do not perform unit work. See, e.g., *Home Depot USA, Inc.*, 331 NLRB 1289 (2000).

Therefore, we find that a production and maintenance unit at the Deerfield Beach facility is appropriate without the inclusion of the truckdrivers.

### ORDER

For the reasons discussed above, we reverse the Regional Director and find that the smallest appropriate unit is a plantwide production and maintenance unit including all employees working out of the satellite buildings but excluding truckdrivers. The case is remanded to the Regional Director for further action consistent with this decision.

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<sup>8</sup> There is a fuel island position in the garage that requires a CDL license. Moreover, at least one of the spotters has a CDL in order to transport pallets to the pallet repair facility. It is not clear how many of the spotters have a CDL or whether they are required to maintain a CDL.