

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 10**

NISSAN NORTH AMERICA, INC.

Employer

and

Case 10-RC-273024

**INTERNATIONAL ASSOCIATION OF
MACHINISTS AND AEROSPACE WORKERS
(IAM), DISTRICT LODGE 1888**

Petitioner

DECISION AND DIRECTION OF ELECTION

The Employer, Nissan North America, Inc., manufactures automobiles at its Smyrna, Tennessee, facility. On February 19, 2021,¹ the Petitioner, International Association of Machinists and Aerospace Workers (IAM), District Lodge 1888, filed a representation petition with the National Labor Relations Board (the Board) under Section 9(c) of the National Labor Relations Act (the Act). Petitioner seeks to represent a unit of approximately 87 Tool and Die Maintenance Technicians at the facility. The Employer asserts that the only appropriate unit would include all production and maintenance employees, a total of approximately 4300 employees, including Production Technicians and Maintenance Technicians as well as the Tool and Die Maintenance Technicians that the Petitioner seeks to represent. The parties stipulated that any appropriate unit should exclude:

All other employees, temporary (supplied) employees, contract employees, confidential employees, technical employees, office clerical employees, professional employees, managerial employees, guards, and supervisors as defined in the Act.

On ten days, from March 12 through March 26, a hearing officer of the Board conducted a hearing in this matter by videoconference, during which the parties were invited to present their positions and supporting evidence. After the close of the record, the parties submitted post-hearing briefs that were duly considered.

The Board has delegated its authority in this proceeding to me under Section 3(b) of the Act. Based on the entire record in this proceeding and consistent with relevant Board law, I find that the unit sought by Petitioner is an inappropriate one and that the smallest appropriate unit must include all production and maintenance employees. I am directing an election in the unit described herein. Further, in light of the current state of the pandemic in the county where the facility is located and based on recent Board decisions, I find that the circumstances are not sufficient to justify directing a mail ballot election. I am, therefore, directing a manual election.

¹ All dates herein are 2021 unless otherwise specified.

THE EMPLOYER'S OPERATION

Overview

The Employer's facility produces six vehicles: the Nissan Murano, Nissan Maxima, Nissan Leaf, Nissan Pathfinder, Nissan Rogue, and Infiniti QX60. It has the capacity to produce 650,000 vehicles a year, and this year is projected to produce 450,000. The facility manufactures around 2000 vehicles a day and, once production begins in the Body Shop, the facility can produce a finished, drivable vehicle in about 24 hours.

Part of the process of building the vehicles begins in the Stamping Shop. Coils of steel are delivered to a dock outside of the shop. The coiled steel is cut into flat panels and sent through a series of die presses that shape the flat steel into three-dimensional shapes to form unique panels such as doors, fenders, and hoods. The stamped panels are delivered to the Body Shop where those panels, along with purchased panels, are welded together to form the metal shell of the car. The petitioned-for Tool and Die Maintenance Technicians repair and maintain the dies that are used in the Stamping Shop, as well as a number of specialized dies in the Body Shop.

From the Body Shop, the vehicles' shells move to the Paint Shop where, through a combination of automated and manual processes, they are primed, painted and finished. The vehicles then progress to the Trim and Chassis Shop, where all of the interior and exterior components are installed. When the vehicles leave Trim and Chassis, they are fully finished and drivable. They undergo a final series of static and dynamic tests² in the fifth and final shop, Product Quality Assurance or "PQA." A separate Maintenance Department and a Material Handling group provide support to each of the production shops. Three of the five production shops have a single Director who reports to the Vice President of Production, and the Stamping Shop and Body Shop share a single Director of Body and Stamping Production. Three senior managers responsible for various areas of the Body Shop report directly to the Director of Body and Stamping Production, as well as one senior manager who is responsible for the Stamping Shop.

The Employer runs three shifts (day, afternoon and night,) but not all shops regularly operate during all three shifts. The start and end times of those shifts vary from department to department. Some shops have a regularly scheduled weekend shift while others operate on the weekends only when employees are working overtime. It appears that production in the Stamping Shop can run somewhat independently from the other shops so long as the parts needed for upcoming production have been made. To that end, when stamped parts are completed, they are stored in a warehouse until the Body Shop is ready for them. However, once the production cycle begins in the Body Shop, all "downstream" shops operate on a "just in

² As described more fully herein, there are many quality checks and controls in all shops at various stages of the processes performed in each shop.

time” basis so that the next department is ready to take over production when the previous shop has completed its work on a vehicle.

While hourly employees are sometimes described by the shop in which they work and the duties they perform there, there are only three job classifications at issue herein: Production Technician, Maintenance Technician, and Tool and Die Maintenance Technician.³ They share a single management/payroll classification: EVP-99 Manufacturing Operations.

Employees park in assigned lots adjacent to the portion of the facility in which they work. They use their badges to go through turnstiles that lead into the facility, but they do not clock themselves in and out. Rather, supervisors take attendance at the “start-up meeting” that is held at the beginning of each shift. These meetings are conducted in that team’s breakroom. Throughout the facility, each first-line supervisor has a dedicated breakroom that only his or her employees (or “crew”) use on a particular shift. For example, all the Tool and Die Technicians who report to a particular supervisor on a particular shift have a dedicated breakroom. Since the advent of COVID, there are signs on the breakrooms to indicate that only specified groups may use them. The facility’s cafeteria has been closed due to the pandemic, but there are a number of vending areas around the facility that all employees can use. Employees can eat in their assigned breakrooms or go outside for lunch. Employees use whichever restrooms are closest to them.

The Stamping Shop

A die is a block of metal used for cutting or pressing something into a shape or pattern. The facility has around 1000 unique dies that form the shape of each part that is produced at the facility. Each die consists of two sections. The bottom die, containing a network of electronic components and sensors, is fitted into the base of the press. When metal is fed through, the top die closes to cut and bend the metal into shape. Since the dies produce large automotive parts, such as hoods and doors, they are very large and can weigh up to 20 tons. The dies are not produced at the facility but rather are manufactured in Japan.

Coils of steel and sheets of aluminum are delivered to receiving and storage areas adjacent to the Stamping Shop. The coils of steel are first processed through one of five “blanking” lines. Dies on the blanking presses cut and trim the metal into a flat shape. These “blanks” are loaded into stacks, called “lifts.” These are stored until they are needed or taken directly to one of the eight stamping bays. Each bay houses a number of press lines that, in turn, contain a series of several dies. Each blank progresses through a sequence of dies on the press that bend, punch and cut the flat metal into a finished three-dimensional part. Those parts undergo a quality inspection and are loaded onto racks for transport to a warehouse and then to the Body Shop. On average, stamped parts spend two days or less in the warehouse before they go to the Body Shop.

³ To avoid confusion with the Maintenance Technicians, Tool and Die Maintenance Technicians will be referred to as Tool and Die Technicians in the remainder of this Decision.

Two hundred twenty-eight Production Technicians, 86 Tool and Die Technicians, and 46 Maintenance Technicians work in the Stamping Shop.

Production Technicians

Production Technicians have informal titles depending on the work that they do. Production Technicians called “die setters” are licensed to operate large overhead cranes used to place the dies in the presses, remove them, and move them to and from the die storage and die maintenance areas. Dies on the press lines are removed and replaced multiple times during a production shift. Certain Production Technicians are designated as “quality control” and production leads. There are 12 leads, 46 quality control, and 62 die setters. The remainder of Stamping Production is comprised of Production Technicians who serve roles such as press operators, material handlers, metal finishers, and members of the Improvement Team.

Production employees designated as No. 1 Press Operators are primarily responsible for the presses to which they are assigned. Once the die setters place the dies to begin a new production run, the No. 1 Operator sets the digital controls on the press, including the “slide settings” that determine the distance and force with which the top die closes on the metal. The operator will then run a test part, called a “first strike” to ensure that the press and die are set up correctly before the actual run commences. If there is a problem with the stamped part, the operator might call the Tool and Die Technician performing line patrol duties at the press (discussed in detail below) to determine if there is a problem with the die. Towards the end of a run of parts, certain technicians will perform a “last hit inspection” to again confirm the quality of the parts. The role of the employees involved in that inspection is discussed below.

When a product run is completed, the parts are reviewed for quality and stacked onto carts. Production Technicians who report to the Material Handling Department then take the carts to storage until they are needed in the Body Shop. Defective parts are sent to an offline area called Metal Finish, where designated Production Technicians repair them.

As will be discussed herein, some Stamping Production Technicians are stationed outside the Stamping Shop, primarily on the Metal Line in the Body Shop and in a few areas in the Paint Shop. Those technicians’ primary responsibility is to inspect the stamped panels after they have gone through various phases of the assembly process. If there are defects that might be attributable to the stamping process, those technicians are responsible for repairing the defect, if possible. Most importantly, they are responsible for alerting the Stamping Shop about the defect. Once a defect is reported, Stamping Shop quality supervisors will work with Tool and Die supervisors to determine the root cause of the defect. Senior Manager for the Stamping Shop Alan Lane testified that the main reason the Employer stamps its panels in-house is to enable it to monitor the quality of the panels and to minimize the response time to correct and prevent defects.

Most shops at the facility have Improvement Teams who are responsible for “productionizing” efforts, which usually involve creating tools and systems to improve the manufacturing process and to enhance safety. Improvement Teams are highly skilled in

fabrication. They frequently weld, grind, and use hand tools and milling machines. Some shops administer practical tests in welding and fabrication to Production Technicians who want to be on an Improvement Team. In the Stamping Shop, the Improvement Team is responsible for fabricating the rack conveyors that hold and transport parts around and out of the shop. The team has a shop area adjacent to the tool and die maintenance area in Bay 7, but they work all over the shop and sometimes are lent out to other shops as well. For example, at the time of the hearing in this matter, the Stamping Improvement Team was building structures for PQA. The Improvement Team also constructs items like “slug catchers” to collect small bits of metal, which the Tool and Die Technicians then attach to the dies.

Tool and Die Technicians

Tool and Die Technicians repair and maintain the metal surfaces of the stamping dies. As witnesses testified, their skills are such that they can shave the date off the head of a penny without disturbing the other surfaces. Although their duties and work location did not change, until a 2019, Tool and Die Technicians were considered part of and reported to the Maintenance Department, not the Stamping Shop. Tool and Die Technicians work one of three shifts: day, afternoon and night. They report to one of two supervisors on each shift and those six supervisors report to the Tool and Die Manager. One supervisor per shift is responsible for the Tool and Die techs assigned to Bays 1 through 4, the other for those on Bays 5 through 8.

Most Tool and Die Technicians are required to perform “line patrol” duties. Lead Tool and Die Technicians and those who operate special machinery called numeric control mills⁴ are not required to do line patrol, but the remaining 62 technicians are. They rotate these duties for one-week periods. Depending on how many Tool and Die Technicians are assigned to a particular bay, they may have to perform line patrol as often as every other week. When they are on line patrol, Tool and Die Technicians spend their entire shift walking around the presses in their assigned bay and communicating with the Production Technicians and Maintenance Technicians who are also working at and around the presses. Witnesses testified that line patrol duties are rotated among the Tool and Die Technicians for several reasons. The work is physically demanding because the technician is walking around all day. Some technicians like doing line patrol and others do not. Rotating line patrol also allows the Tool and Die Technicians to be familiar with which products are being produced, how they are produced, and how the dies effect the production process.

At the beginning of a production run, the technician performing line patrol gets information about the run from SIMS, the production software system, including the slide settings on the press. Once the production run begins, the line patrol walks around the presses to look for any problems or issues that could affect the parts being produced or that could damage the dies. He or she will confirm that the slide settings are correct. If the settings are not correct or if, although correct, the setting may be causing a problem with the part, line patrol will notify the press operator so that they can be adjusted. While the line patrol does not handle the stacks

⁴ About nine Tool and Die Technicians are assigned to these “CNC mills.” It is unclear what, exactly, their duties involve but all parties agree that they are part of the petitioned-for unit.

or “lifts” of parts going into the machine, he or she is responsible for making sure they are properly aligned, are not bent, and do not contain any debris.

Line patrol also monitors the press to make sure that the scrap metal created when sections are cut away from the blanks is properly flowing out of the machine. There are scrap chutes on the press that, during optimal operations, direct scrap material out the bottom of the press into an area below the production floor. Sometimes scrap gets stuck in the chutes and causes a buildup of material that can damage the parts, the dies, or both. The press operators also watch for scrap buildup. If anyone finds that scrap is accumulating, they will hit a button to stop the press. The Tool & Die line patrol, the press operators and sometimes a Maintenance Technician⁵ work together to clear the scrap and determine what needs to be done to prevent it from occurring again.

Near the end of a production run, a Production Technician serving as Quality Control will get a finished part for a “last hit inspection.” The Production Technician takes the part to a special lighted area at the end of the press line called a highlight booth to inspect it for quality. If the Production Technician notices an issue, he or she will notify the Tool & Die Technician on line patrol. The record is unclear as to whether the line patrol always inspects the panel or if he or she only does so if the Production Technician finds an issue. In any event, both the Production Technician and line patrol must fill out portions of a form titled Stamping Last Hit/Line Patrol Tool & Die Work Order and sign off on it. If the defect is significant, supervisors and managers may also come and review the panel to identify the source of the problem and determine a resolution.

The Tool and Die Technician must complete a Line Patrol Check Sheet for every production run on his or her shift. This form contains information about the part that is being produced and the press settings. The line patrol must record any downtime during the run and complete sections for “Concerns” and “Corrections,” including any recommended course of action. These sheets are turned in to the Tool and Die Lead Technician who will, if needed, prepare a work order for a die repair. When problems arise and it appears that the die may be causing the issue, line patrol will first determine whether the die can be repaired “line-side” or whether the die must be removed from the press and taken to the die repair area. There are no back-up dies and, if a die “crashes” (is damaged or malfunctions), the line can no longer produce the part until the die is repaired.

When they are not on line patrol, Tool and Die Technicians perform most of their work in the die maintenance areas at the end of each bay. There are no physical barriers that delineate the die maintenance areas. Die setters come to the area to drop off and pick up dies for modification and repair. They or other Production Technicians may come to the area to ask about the status of die repairs. As described below, Maintenance Technicians in the Stamping

⁵ As discussed more fully herein, Maintenance Technicians in the Stamping Shop also perform line patrol. They have their own rotation schedule and do not interchange with Tool & Die Technicians. Any time the presses are running, there is one Tool and Die Technician and one Maintenance Technician assigned to line patrol in the bay.

Shop are responsible for maintaining and repairing the electrical components on the die. Ideally, their work can be done while the die is in the press, but sometimes Maintenance Technicians come to the die maintenance areas.

In addition to scheduled maintenance and emergency repairs, Tool and Die Technicians modify the dies when a change to the panel that the die produces is required. These modifications may be solutions to quality problems detected in one of the “downstream” shops like Body or Paint. For example, “locate holes,” described below in connection with the Body Shop, may be added or moved, or the shape of the panel may need to be changed to allow for better clearance in other stages of production.

There are two “tryout presses” in the die maintenance area. Tool and Die Technicians use one of the cranes to place a die that they have repaired into the press and then run the press to produce a sample part in order to verify that the repair was successful. In order to get a part to use in the tryout press, the Tool and Die Technician contacts a Maintenance Technician to bring a “burden carrier,” which is a motorized cart with a flatbed. The two technicians go to the area where the stamping blanks are stored and retrieve a few blanks to take back to the tryout press.

The tryout presses are not generally used for production, but witnesses testified about one emergency situation when the tryout presses were used for production until one of the regular presses could be repaired. Die repairs are also infrequently tested on the stamping presses rather than the tryout press.

There are highlight booths in the tool and die maintenance areas like the ones at the ends of the press lines so that the Tool and Die Technicians can examine the sample parts. Sometimes, the Tool and Die Technician calls a Stamping Production Technician from Quality Control to examine the part as well. When a repair is completed, the repairing technician fills out a Stamping Die Repair Follow Up Form and places it on file so that the technician on line patrol where the repaired die has been placed can confirm that the problem was corrected and sign off on the form.

Tool and Die Technicians are also responsible for modifying and repairing hem dies that are located throughout the Body Shop. These dies connect the edge of two parts together by folding the edge of one part around the edge of another. If there is a problem with one of the hem dies, a production supervisor in the Body Shop calls for a Tool and Die Technician to look at the die on the production line. The Tool and Die Technician lock out the machine and examine the die to determine if it can be repaired line-side or if parts need to be removed and taken to the die maintenance area in the Stamping Shop. The dies on a hemming press cannot be removed because they are permanently mounted to the floor. Tool and Die Technicians must sometimes work on dies in the Body Shop on the weekends or when production is not running. If that is the case, a Body Shop Production Technician is present so that they can run the press and verify the quality of the die repair or modification.

In the past, Production Technicians could complete an in-house apprenticeship program to become Tool and Die Technicians. Accepted applicants went through formal classroom study

and training, both on-site and at a technical school, to learn how to weld and grind. They also worked on dies under supervision until they completed their course of study at trade school on non-working time. The in-house program ended in 2006. It was replaced by a work/study program similar to the one available for Production Technicians who want to become Maintenance Technicians. Technicians working at the facility who are supplied through Yates staffing agency⁶ are also eligible for the program. Employees who have completed some or all of a program at a trade school may begin “shadowing” Tool and Die Technicians while they complete their course of study. If they complete their program and have shown aptitude, they will be brought on as a Tool and Die Technician when a spot becomes available. If they did not show the requisite skill level, they return to their duties as Production Technicians. Neither the in-house apprenticeship program nor the work/study program conferred any license, certification, or journeyman status. At least 20 current Tool and Die Technicians are former Production Technicians who completed either the in-house apprenticeship program or the work/study program.

For external hires, the Employer prefers five or more years of experience in stamping die maintenance or two years of experience and a technical degree or machine tool technology certification. “Journeyman status in Tool and Die or equivalent knowledge and years of experience” is also listed on a job posting for Tool and Die Technicians, but Tool and Die Manager Chip Bryson testified that it is not a requirement for the job and, to his knowledge, the Employer has never hired anyone with a journeyman’s card or certification.

There is one Tool and Die Technician per shift designated as a trainer to assist the newer technicians and answer any questions they may have. Newer Tool and Die Technicians generally work on day shift at first, when more technicians are available to assist them.

Tool and Die Technicians work the same shifts as the Production Technicians in the Stamping Shop. The hours for those shifts are 6:00 a.m. to 2:30 p.m., 2:00 p.m. to 10:30 p.m. and 10:00 p.m. to 6:30 a.m. Some of the press bays are not scheduled to run every shift. For example, only a few bays run during the afternoon shift. Sometimes, a production line finishes all the production runs scheduled for the day before the end of the shift. The Production Technicians on that line may get to leave early but the Tool and Die Technicians will stay for the rest of their scheduled shift.

Maintenance Technicians

Maintenance Technicians assigned to the Stamping Shop are responsible for maintaining the press lines as well as auxiliary equipment such as the scrap grinders, the scrap conveyance system, and the tryout presses. Maintenance Technicians also fabricate any aids or assists that the Production Technicians may need. Maintenance Technicians perform some of their work in a

⁶ As discussed herein, some of the shops do not hire Production Technicians “off the street” but instead go through a staffing service. There is no evidence regarding how long it takes for these supplied employees to become employed by Nissan.

dedicated area called “Press Maintenance,” while some of their duties are done on the press lines.

Like the Tool and Die Technicians, Maintenance Technicians are assigned to line patrol duties. On the production floor, if there is an issue with one of the presses or there are quality issues, both Maintenance and Tool and Die will troubleshoot along with the Production Technicians to determine the source of and solution to the problem.

Maintenance Technicians work in the Tool and Die repair areas and are responsible for maintaining and repairing the electrical components on the dies. For example, the presses have a system called a “die protection fault.” When sensors on the press detect that a part is not in the proper location at the proper time, the die protection fault will activate to stop the press and keep the top of the die from stamping down. This prevents damage to the die that would result from the die clamping down on a misaligned or absent part. Maintenance Technicians install and maintain the circuitry for these die protection mechanisms. Some of the newer dies contain RFID sensors to ensure that the correct die is paired with the appropriate operating program. Maintenance Technicians install and maintain those sensors as well. All of the electrical components on the dies tie into a junction box that is also part of the die. Maintenance Technicians also work in the die maintenance areas to repair and maintain the tryout presses.

The Body Shop

About 700 production technicians work in the Body Shop, which houses two production lines. Body Line 1 assembles the Murano, Pathfinder and Infiniti QX60, and Body Line 2 handles the Rogue, Maxima and Leaf. When the vehicles ultimately leave the Body Shop, they proceed along the same designated lines through the Paint and Trim & Chassis Shops.

The parts produced in the stamping shop and well as other purchased parts go to the Automation area, where the frame of the vehicle is formed. Three hundred production technicians work in this area loading the parts that form the vehicle frame into assembly jigs. Jigs are large pieces of equipment with “locate pins” that hold the parts in place. Each part produced in the stamping shop has “locate holes” that hold the part in the correct position on the jig. Sensors in the jig detect whether the parts are seated correctly. Once all the parts are placed, the technician activates a switch to begin the robotic welding process. The jig will not activate if the sensors detect a misplaced part. At the end of the Automation process, Production Technicians perform “weld confirmations,” which include using a hammer and chisel to ensure the parts are solidly fused.

While the frames are assembled on the Automation line, the doors, fenders, hoods, trunks and rear hatches, called “closures,” are assembled in Metal Assembly using a similar process: the parts are placed on assembly jigs and robotically welded. Metal Assembly contains the hem dies that the Tool and Die Technicians maintain and repair.

The frames and closures go to the Metal Line, where another 300 production technicians work. The shell of the vehicle goes down a conveyor line and Production Technicians mount the

closures onto the vehicle. This stage of body assembly involves more manual processes. The closures are delivered to the Metal Line from Metal Assembly by fork trucks or automated guide carts. Due to the weight of the parts, Production Technicians use a hoist or “load assist” to pick up the closure, take it to the vehicle and hold it in place while they bolt it on using pneumatic and electric torque control tools. Production Technicians on the Metal Line also perform manual welding and grinding. They grind the perimeters of the closures to remove burrs and sharp edges. They hand-weld some spots that cannot be reached by the robotic welders and use sanders to remove small bits of metal that are thrown off by the welders.

After the closures have been attached, vehicles are sent through quality control to ensure that the panels are fitted together properly with the appropriate gap between them. Surface inspections are performed for imperfections in the metal and, if found, they are repaired. During this process, defects in the stamped panels may become apparent. For about three months after production begins on a new model, Stamping Production Technicians are stationed on the Metal Line to inspect the panels the shop produced.

Operations in the Body Shop are monitored in the Body Control Room, which was described as being “like air traffic control for Body Shop operations.” Two production technicians staff the room each shift and observe the workflow on six large screens. If there are problems in the production flow, those technicians direct a supervisor and/or a maintenance technician to the area.

There are over 1000 robots in the Body Shop. Production Technicians are responsible for performing “total productive maintenance,” or TPM, on their machinery. TPM is based on the philosophy that each employee is an “owner” of the equipment and is therefore responsible for it. Production Technicians are responsible for keeping their equipment in good working order and have assigned TPM that must be performed every shift, including confirming that the sensors are working properly, cleaning and lubricating the jigs, and changing out consumable parts like weld tips. If Production Technicians have a problem with a machine that is beyond their capabilities, they use a help call button at their station to call the Body Control Room and send for a Maintenance Technician. The duties of the Maintenance Technicians in this and other shops are discussed more fully herein.

Some Body Shop Production Technicians work on the New Model Team, which is also comprised of managers and supervisors. The team works closely with the engineers to prepare and plan for the production of new vehicles. Once the new equipment is installed by engineers and Maintenance Technicians, Production Technicians and supervisors prepare the area. They plan the layout of parts, racks, hoists and tools that the Production Technicians will need. Before the new model dies are delivered to the Stamping Shop, the team receives pre-stamped panels for the new models from Japan. They use those panels to train the operators in simulations of the work process and then decide if any improvements, additional tools, or other things are needed before full-scale production begins.

The Paint Shop

Five hundred-fifty production technicians work in the Paint Shop, which houses multiple production lines. The Pathfinders, Muranos, and Infinity QXs from Body Line 1 continue onto Paint Line 1, and the Rouges, Maximas, and Leafs go to Paint Line 2. The Paint Shop also houses two Fascia Lines where all front and rear bumpers are molded, assembled, masked, and painted.

When a vehicle arrives on one of the paint lines, it is a bare metal body. The first group of Production Technicians pretreat the vehicle to remove contaminants and then submerge the vehicle in “dip tanks” that contain a phosphate solution. The vehicle is then rinsed and sent to “e-coat,” which involves a similar bath and rinse process, after which the vehicle goes into an oven. Not all Production Technicians are trained to work in phosphate and e-coat as these are specialized processes that involve a lot of chemicals. Production Technicians who want to work in those areas must go through an interview process and a specialized three-month training program.

The vehicle then moves to the sealer deck. The first thing Production Technicians do at this stage is remove “production aids” that were placed on the vehicle in the Body Shop and install the production aids needed for the painting process. Production aids are parts that are placed on the vehicle to assist in a production process. For example, a Body Shop production aid that holds the hood open is left on to allow for drainage during the phosphate and e-coat systems and then removed and replaced with an aid that will keep the hood closed during sealing.

After the sealer deck, the vehicle moves to an area called “Damp Sand 4” where Paint Production Technicians wipe down the vehicle. It is at this stage that defects that may have been produced “upstream” in either the Body or Stamping Shop might first become apparent. First, two Paint Production Technicians ensure that the horizontal surfaces of the vehicle are smooth. After that, two Stamping Production Technicians who are permanently stationed in the Damp Sand 4 area inspect each vehicle for defects attributable to the stamping or body assembly process. Defects such as die marks, ripples, creases, or splits are generally produced in the stamping process. Dents (indented defects) and dings (protruding defects) generally arise in body assembly. Depending on the nature of the defect, the Stamping Production Technician may perform the repair on the line, with or without the assistance of a Paint Production Technician. If the defect will require a more extensive repair, the vehicle is sent to the “major metal” area.

A group of Body Production Technicians is stationed at the end of the Damp Sand 6 area. In Damp Sand 6, Paint Production Technicians inspect and repair any minor paint and sealer defects and tag any metal defects they find. As with Damp Sand 4, some paint and body defects may need to be sent to Major Metal for repair.

On the day shift, Major Metal is staffed by three technicians: one Stamping Production Technician, one Body Production Technician, and one Paint Production Technician. On night shift, the area is staffed only by a Paint Production Technician but, if needed, Production Technicians can be summoned from one or both of the other plants as needed. All three types of Production Technicians work together to repair the defect. Body and Stamping Production Technicians stationed in the Paint Shop report to a supervisor within their home departments, but

they receive communications regarding safety, production schedules and the like from Paint Shop supervisors.

Sealing, painting, top-coating, and underbody coating involve a combination of automated and manual processes. Production Technicians do the manual work. A different set of Production Technicians called “robot tenders” are responsible for operating and monitoring the automated portions of the process and for doing spot checks for quality. Robot tenders are required to perform TPM on the robots before, during, and after their shifts. Robot tenders also perform regularly scheduled TPM on weekends. Sealer robots require TPM every other weekend, while in topcoat, prime, and underbody, TPM is scheduled every weekend. If the robot tender encounters any problems with a robot, they will first attempt to reset or correct it. If they cannot resolve the issue, they will call a Maintenance Technician to assist.

When Production Technicians perform TPM, they follow the same lockout/tagout procedures that other Production Technicians, Maintenance Technicians and Tool and Die Technicians follow. Robot tenders also perform material handling duties. They help unload trucks when sealer material arrives, change out the sealer containers and bring materials such as plugs and sealer to the production line, which they then install. Robot tenders have radios that they use to contact Maintenance Technicians multiple times a day.

On Fascia Paint Lines 1 and 2, Production Technicians produce, paint, and assemble the front and rear bumpers. The fascia are produced in injections molds on Fascia Paint Line 2. Like a stamping die, these molds consist of two parts, one of which remains stationary while the other part moves. However, unlike the stamping dies, the two halves of the fascia molds or dies are fitted together and then injected with the material that forms the part. As discussed in more detail below, a number of Maintenance Technicians, including specialized Fascia Tool and Die Maintenance Technicians, are involved in the molding process.

Once the fascia are formed, Production Technicians inspect and trim away any excess molding. They place the parts on racks, and material handlers deliver them to the masking areas on both lines, where they are masked, then primed and painted in spray booths similar to those used on the body paint lines. Robot tenders in these areas monitor and perform TPM on the robots. The fascia then go to a subassembly area where other parts, such as sensors, backup cameras, fog lamps and headlights are installed. When the subassemblies are completed, they are transported to Trim & Chassis for installation.

The Paint Shop has an Improvement Team that supports all four paint lines. They are Paint Production Technicians with special skills. They build racks and install cameras, ramps, and safety railings. They do not handle electrical issues. Those issues are handled by the Maintenance Technicians.

Several Paint Production Technicians are permanently assigned to PQA. Like the Body and Stamping production employees stationed in Paint, these employees officially report to Paint Shop supervisors, but attend startup meetings in PQA. These Production Technicians review the

paperwork on any defect that has been written up and make decisions about whether a defect can be repaired in the PQA line or if it must be sent offline for the repair.

Trim & Chassis

The Trim & Chassis Shop is the final assembly shop in the production process. About 1600 production technicians work in this shop. When the vehicle enters the shop, it is a metal shell that has been painted and treated in the Paint Shop. Trim & Chassis installs all the remaining parts that make it a drivable vehicle.

Vehicles first go through the trim line where about 200 production technicians per shift install a total of about 2000 interior components including the electrical wiring, seatbelts, dashboard, radio, carpets, windshield and rear glass. It takes a vehicle about three hours to move through the trim line.

Next, vehicles go to the chassis line, where about 200 technicians per shift install the engine, transmission, axles, suspension, fascia, gas tank and exhaust. It takes about three hours for a vehicle to move through the chassis line. There is a separate area in Trim & Chassis called Tire & Wheel, which is discussed in more detail below. All the employees who work in Tire & Wheel, including Production Technicians and Maintenance Technicians, report to the Maintenance Department rather than to Trim & Chassis. The wheel assemblies that are produced in that area are installed on the Chassis line. The vehicles then move to the Final Line, where another 200 Production Technicians per shift install the seats, steering wheel and fluids, and program the computer software. It takes the vehicle about two hours to move through this line.

There are 18 quality confirmation stations on the Trim & Chassis lines, where Production Technicians inspect the vehicle and ensure that parts are correctly installed. If a technician notices a defect, they use a pull cord system to summon a production lead to review it. If the defect is determined to have arisen in Trim & Chassis, it will be diverted to an offline repair area when it reaches the end of the production line. Most of the repairs performed in this area involve electrical systems or programming issues. If, instead, the defect involves body assembly, paint or metal, the Production Technician will enter the issue in the Inspect system, which is a database that tracks vehicles by vehicle identification number (VIN). The entry notifies PQA that the unit will need repair when it arrives.

The remaining Trim & Chassis Production Technicians are assigned to the New Model Projects Team or Quality Team. The Quality Team, also known as the VAKA (value-added Kaizen activity) Team, is similar to the Improvement Teams in the other shops. The Quality Team participates in “root cause analysis” to identify the source of recurring defects, then makes improvements to eliminate the defect. They build racks, make unique tools, erect safety barriers, and fabricate other production aids as needs arise.

The Employer does not hire new employees “off the street” for the Trim & Chassis shop. All employees in Trim & Chassis were either initially hired through Yates, a staffing agency, or

came to the shop through the technician transfer program, discussed in more detail herein. About 15 percent of Production Technicians in the shop are supplied through Yates. Director of Trim & Chassis Robert Latimer testified that the Trim & Chassis shop is one of the most physically demanding locations in the plant, but employees there have a better chance of getting onto the day shift more quickly than in other shops.

Product Quality Assurance (PQA)

Five hundred-eighty production technicians work in the Product Quality Assurance (PQA) department. Director of PQA Timothy Slate testified that, to a certain extent, “[e]very employee at the plant” is responsible for the quality of the vehicles produced at the facility. He explained that there are inspections at every stage of the production process and that PQA is just “the final stamp of approval.”

Once vehicles come off the Trim & Chassis lines, they are moved to an open staging area where they are parked until they enter PQA. There are no barriers separating PQA from Trim & Chassis so someone not familiar with the area would not realize where one department left off and the other began.

Production Technicians in PQA get the vehicles from the staging area and test the brake equipment, wheel alignment, and headlight aim, and make adjustments as needed. Vehicles are then put on one of five inspection lines (called PDI, or pre-delivery inspection, lines), where conveyors carry them through a number of inspection stations. One of the stations is manned by Production Technicians who report to the Body Shop but are stationed in the inspection area. These Body Production Technicians are called “fitters.” They examine the closure areas, including doors, hoods, trunks, and rear hatches to make sure that the closures are flush with the other panels and that there is an appropriate gap between them.

The vehicles go through a portion of the PDI line where light tunnels help Production Technicians see any defects on the surface or the interior. It is during this portion of the inspection that defects may be noticed for the first time that are traceable all the way back to the stamping process. If a Production Technician finds a defect or if a portion of the vehicle doesn’t meet an established quality standard, he or she makes an entry in the Inspect system. The Inspect system keeps track of all non-conformities so that they can be resolved before a vehicle leaves the facility. All shops use the Inspect system to record and track defects found during the production process.

After the final inspection on the PDI lines, vehicles with defects or non-conformities are moved to one of five repair lines, where the problems will be reviewed and possibly resolved. For example, if there is a very small chip in the paint that has been noted somewhere in the process, a Production Technician will review the entry in the Inspect system and determine if the defect can be repaired while the vehicle is still on the conveyor line or if it needs to come off the line for a more time-consuming repair.

In some cases, the PQA Production Technicians can perform the needed repairs. In other instances, a technician from one of the “upstream” shops, including Trim and Chassis, Paint and Body, may need to perform the repair. For example, if the fitters from body production who are stationed in PQA found a significant defect in the gap or flush of a panel, a Body Production Technician may be needed. Likewise, if an extensive paint repair is needed, the PQA technicians may not have the skill or experience to efficiently make the repair and a Production Technician from the Paint Shop may be needed. It is not uncommon for splits in the metal panel that originated in the Stamping Shop to first become apparent in Trim & Chassis or PQA. Such a split might be on the bottom of the door so that it could go through Body and Paint undetected. Wherever the defect is detected, the Production Technician in that shop makes a notation in the Inspect system and, when the vehicle gets to the PQA repair area, it is pulled off the line. In most cases, a Production Technician from the Stamping Shop makes the repair because they have more experience in welding sheet metal. In any event, the “upstream” shops, including Stamping, are notified if it appears that the defects are recurring and are attributable to errors in the production processes. A stamping defect might ultimately require repair or modification of the die that caused the issue.

In the final stage of PQA, the vehicles are taken to the test track where they undergo a series of driving tests to check, among other things, the cruise control system and to see if there are any “squeaks” or “rattles” that might indicate an underlying problem. If any problems are detected, the technician makes an entry in the Inspect system, and the vehicle is returned to the building for repairs. If the vehicle passes the driving test, it is taken to a staging lot where it is handed off for shipping.

Slate testified that he conducts a daily meeting called a QRQC (Quick Response Quality Control) with supervisors and managers from all the other shops. The purpose of the meeting is to determine the root cause of any defects. Representatives from each shop are responsible for reporting on “carrybacks” from the previous day and explaining what is being done in their shop to correct defects. In the Stamping Shop, a carryback for a defect that arose when parts were stamped may result in a process change or a die adjustment.

PQA does not have a dedicated Improvement Team, but occasionally borrows members of another shop’s team. As of the date of the hearing in this matter, the Stamping Shop’s Improvement Team was working in PQA to build a metal structure on which lights and cameras could be mounted. The structure will be a large one, so the pieces were being fabricated in Stamping and transported to PQA for assembly. When the structure is completed, a Trim & Chassis technician will install the cameras.

Twenty-six Production Technicians from PQA are currently being lent out to Trim & Chassis to assist in establishing more inspection stations on the Trim & Chassis lines. Eventually, Trim & Chassis Production Technicians will fill those spots, and the PQA production techs will return to their department. PQA has hired technicians off the street in the past, but has not done so in the past several years. Since PQA is a preferred area, technicians frequently transfer into the department and, once there, very few of them transfer out.

The Maintenance Department

The Maintenance Department is responsible for maintaining all of the production equipment in the facility. There are about 360 Maintenance Technicians. They are assigned to the individual shops and ultimately report to four senior maintenance managers. The department uses a computerized maintenance management system called Maintenance Connect. The system contains all of the preventative maintenance tasks, work order history, and other information and is used to track and schedule all maintenance work in the plant. Maintenance Technicians in all departments work schedules similar to those of the production employees in their departments. Their start and end times may differ slightly if, for example, they need to report thirty minutes before production in order to ensure all the equipment is up and running.

There are currently 46 Maintenance Technicians in the Stamping Shop. Their duties have already been described herein. There are 85 maintenance technicians in the Body Shop. Along with the auxiliary equipment such as the conveyor system and line equipment, Maintenance Technicians maintain, repair and program about 1300 robots in the spot-welding cells where sheet metal is welded together to form the body of the vehicle. As discussed, Production Technicians in the Body Shop are responsible for performing TPM on their machines.

In addition to performing more extensive maintenance on the machinery, Maintenance Technicians in the Body Shop work with the Production Technicians when issues arise. Common problems can include welds that are not strong enough to hold the metal together, dimensional inaccuracies, or problems where the machinery is damaging the sheet metal. Since Production Technicians know how the equipment normally functions, they collaborate with the Maintenance Technicians to diagnose and resolve the issue.

There are about 80 Maintenance Technicians assigned to the paint lines. They maintain all the systems related to the robotic paint application as well as the ovens that cure the sealers and paint, and the air supply hoses that supply a downward draft as vehicles move through the process. As discussed herein, certain Production Technicians in the Paint Shop are responsible for performing TPM on the robots and other equipment. While Maintenance Technicians perform more extensive maintenance and repairs, they do not program the robots. That is done by engineering technologists, who are usually Production Technicians who have been promoted into the engineering department.

Fascia Paint line 2 contains the molding machines and plastic injection molds used to produce the front and rear bumpers and other molded parts. Maintenance Technicians in this area report to the same senior maintenance manager who is responsible for Trim & Chassis and Tire & Wheel. It is somewhat unclear from the record, but it appears that both specialized fascia tool and die Maintenance Technicians and general Maintenance Technicians are assigned to this area. The specialized Maintenance Technicians on this line are referred to as “plastic tool and die” or “fascia tool and die” maintenance. The fascia tool and die Maintenance Technicians interact with the Production Technicians if there are issues with the molding machines and collaborate on troubleshooting. They perform maintenance and repairs on the molds including taking the molds apart to clean, grease, inspect, and polish them.

Like the dies in the stamping shop, the molds contain electrical components. While fascia tool and die Maintenance Technicians perform maintenance and repairs to the mold itself, Director of Maintenance Thomas Jones testified that “if they get into trouble with the electrical components they will call Maintenance Techs to help them with diagnosing if it’s something beyond just a bad heater or a broken wire.” It also appears that the more general Maintenance Technicians are responsible for maintaining the molding machines themselves. Jones testified that the fascia tool and die Maintenance Technicians are more similar to the Stamping Tool and Die Technicians than they are to Maintenance Technicians. The mold they work on is similar to a stamping die, although they are used on a different material, and the fascia tool and die Maintenance Technicians work on the molds using polishers and grinders much like the Stamping Tool and Die Technicians do.

Production Technicians inspect the parts that come out of the molding machines. If defects are found, the machines may need to be shut down for repair. Defects in the molded parts can sometimes be repaired by trimming or sanding the defect out. Fascia tool and die Maintenance Technicians sometimes help with these repairs. If a defect gets through the line and is detected later in Trim & Chassis, both Production Technicians and fascia tool and die Maintenance Technicians may be called to repair the defects.

There are about 80 Maintenance Technicians in Trim & Chassis.⁷ There, they maintain equipment including robots, conveyors, and the high-speed “fill devices” that put fluids such as brake, air conditioner, and radiator fluids into the vehicle. Trim & Chassis Production Technicians have a TPM protocol similar to that in other areas of the plant. About 16 Maintenance Technicians per shift are assigned to work line-side with the Production Technicians.

Tire & Wheel is the section of Trim & Chassis where tires are placed on the rims, mounted on the rim, inflated, and fitted with pressure sensors. The tires are then balanced and tested before they are sent to be installed by Production Technicians in Trim & Chassis. There are 12 Maintenance Technicians and 25 Production Technicians assigned to Tire & Wheel, and all of them, including the Production Techs, report to the Maintenance Department.

Maintenance Technicians stationed throughout the plant are responsible for maintaining the automated guide tugs (AGTs) that transport racks of parts around the plant. They also maintain the conveyor systems and “drop lifters” that transport vehicles through the production process.

Due to overstaffing, the Employer recently offered a “buyout” to encourage Maintenance Technicians to resign or retire. The buyout was not offered to Production Technicians or Tool and Die Technicians. Although hiring has recently been curtailed due to COVID, the Maintenance Department typically hires between 10 and 14 Maintenance Technicians per year

⁷ Maintenance technicians in Trim & Chassis also perform work in PQA. It appears that since PQA does not contain any production equipment, less maintenance is required there.

from both internal and external sources. Production Technicians are hired into the department through a work/study program similar to the program for Tool and Die. Production Technicians who wish to be considered for the program must be enrolled in or have completed a trade school program.

For external hires, the Employer prefers three to five years of industrial maintenance experience, or zero to two years of experience and a two-year technical degree or certification. Industrial electrical knowledge or experience is also needed, as well as experience with and knowledge of programmable logic controllers (PLCs), which are computer systems that activate and deactivate certain parts of the automated production process. Maintenance technicians must also be able to perform rigging on heavy machinery that must be lifted for repair.

Material Handling

As noted herein, Production Technicians assigned to the five shops perform some material-handling duties within their departments. Some Production Technicians and Maintenance Technicians and all Tool and Die Technicians have crane and mobile powered equipment (i.e. forklift, tugs) licenses. Each license requires a physical exam and vision test, practical training and testing on the equipment, and a periodic renewal exam. The Employer maintains and applies a Corrective Action Matrix for each type of equipment, with corrective actions like verbal, written, and final warnings specified for each offense. Incidents involving the cranes and mobile powered equipment are reviewed by a group of supervisors from across the facility called the Incident Review Team.

A separate group of around 350 Production Technicians comprise the Material Handling group within the Body Material Handling/Manufacturing Support group. One hundred-forty Material Handler/Production Technicians are assigned to the Body Shop, and 210 are assigned to Trim & Chassis. Body Shop material handlers work in both the Body and Stamping shops and in the staging area between the two. They bring empty racks to the staging area from body assembly. Material handlers fill the racks with stamped parts and take them either to the warehouse or directly to body assembly. Material handlers use two-way radios and are in constant communication with Stamping Production Technicians regarding production schedules and changes. Material handlers also handle “quality quarantines” in the warehouse. If a defect is found in Stamping that effects parts already in the staging area or warehouse, material handlers will gather the racks together, tag them, and put a chain barrier around them to indicate that they are not to be used in production until the issue is resolved.

Material handlers have minimal contact with the Paint Shop because, as noted herein, Production Technicians in Paint perform most of the material handling themselves. Material handlers assigned to Trim & Chassis are responsible for bringing all the parts from the docks to the production lines and so are in constant contact with those Production Technicians.

Material handlers’ schedules, including overtime, are tied to the production schedules in Stamping, Body, and Trim & Chassis. Material Handling has an Improvement Team that fabricates, welds, and builds items to assist production in the three shops that they support.

Material Handling sometimes lends material handlers to Trim & Chassis and PQA to assist with quality initiatives and to deliver parts for repairs. Some Production Technicians, mostly from Trim & Chassis, are temporarily assigned to assist material handlers with “picking and kitting,” a process that involves placing smaller component parts required for a subassembly into a container to be assembled by Production Technicians on the Trim & Chassis lines.

Personnel Policies, Compensation and Plant Rules

The Employer does not maintain formal job descriptions for any of its hourly job classifications. All hourly employees receive the same benefits, and the same handbook and rules apply to all. All shops in the plant operate on the same holiday and vacation calendar. Tool and Die Technicians and Maintenance Technicians have the same pay scale: their hourly rates range from \$26.70 to \$33.04, depending on experience and seniority. Production Technicians earn from \$16.50 to \$28.17. The top rate for leads in all categories is \$1 more per hour than for non-leads. At one point, the Employer offered relocation expense reimbursement and a referral bonus for both Maintenance Technicians and Tool and Die Technicians.

There are two Human Resources offices at the facility. Employees are not formally assigned to a specific HR office or representative and can use either office they choose. The North office generally serves Trim and Chassis, including Tire and Wheel, and PQA, while the South office commonly covers Paint, Body and Stamping, including Tool and Die. Both offices handle Maintenance and Material Handling as those employees are spread throughout the plant.

The Employer offers a transfer program for Production Technicians, but not for Tool and Die or Maintenance Technicians. Production Technicians who wish to transfer to a different production shop put their preferences in a database that the Employer will consult if openings become available.

All employees are required to take certain training such as cybersecurity, anti-harassment, Manufacturing Code of Conduct, and Global Export Controls. All Tool and Die Technicians, Maintenance Technicians, and some Production Technicians have mandatory training in lockout/tagout and have their own locks to lock out machinery when needed. As discussed herein, all Tool and Die Technicians and some Production Technicians are required to have licenses and training on cranes. All Production Technicians in Material Handling and some other Production Technicians, Maintenance Technicians, and Tool and Die Technicians are trained and licensed to operate mobile powered equipment like forklifts.

Employees are not required to wear uniforms, but certain areas of the plant have required and prohibited attire, and some employees’ job duties necessitate certain PPE (personal protective equipment). For example, all employees in certain areas of the plant, including managers, must wear “mutilation-free apparel” which would include pants without rivets and exposed belt buckles so as not to mar painted surfaces. Many employees in Trim and Chassis wear shorts, while shorts are prohibited in the Stamping Shop. Maintenance Technicians are required to wear Kevlar sleeves when they work with electrical components that could create a spark, while Production Technicians in the Body Shop, who are exposed to sharp edges, must

wear Kevlar gloves and sleeves, eye protection, ear protection, all-leather shoes for cut protection, and a bump cap. Tool and Die Technicians must wear long pants, a hat with a brim (which can be a baseball cap), shirts with short or long sleeves, and safety-toed leather shoes. They also wear safety glasses, ear plugs, Viz-Tech or Kevlar gloves, and sometimes a leather smock or protective jacket for welding.

The same corrective action steps and policies apply to all three groups of technicians. Human Resources maintains a database into which supervisors or managers make entries to initiate a corrective action. Human Resources conducts an investigation and delivers the corrective action to the employee. More severe corrective actions must be approved by a senior manager. Corrective actions for Tool and Die Technicians and Stamping Production Technicians would be approved at least by Allen Lane, Senior Manager of Stamping. Terminations must often be approved by the Vice President of Manufacturing. Employees can appeal terminations either through a management review process or a peer review process. If an employee chooses peer review, the panel is comprised of hourly employees selected from all areas of the facility.

BOARD LAW

A petitioner is not required to seek a bargaining unit that is the only appropriate unit or even the most appropriate unit. The Act merely requires that the unit sought by Petitioner be *an* appropriate unit. *Wheeling Island Gaming*, 355 NLRB 637, fn. 2 (2010), citing *Overnite Transp. Co.*, 322 NLRB 723 (1996); *P.J. Dick Contracting, Inc.*, 290 NLRB 150 (1988). “The Board’s inquiry necessarily begins with the petitioned-for unit. If that unit is appropriate, then the inquiry into the appropriate unit ends.” *The Boeing Company*, 368 NLRB No. 67, slip op. at 3 (2019).

In *PCC Structural, Inc.*, 365 NLRB No. 160 (2017), the Board returned to the traditional community-of-interest standards for determining whether a unit is appropriate. There, the Board specifically found that the traditional community-of-interest test is the “correct standard for determining whether a proposed bargaining unit constitutes an appropriate unit for collective bargaining when the employer contends that the smallest appropriate unit must include additional employees.” *Id.*, slip op. at 1. In each case, the Board is required to determine:

whether the employees are organized into separate departments; have distinct skills and training; have distinct job functions and perform distinct work, including inquiry into the amount and type of job overlap between classifications; are functionally integrated with the Employer’s other employees; have frequent contact with other employees; interchange with other employees; have distinct terms and conditions of employment; and are separately supervised.

Id., slip op. at 11, citing *United Operations, Inc.*, 338 NLRB 123, 123 (2002). The Board must analyze “whether employees in the proposed unit share a community of interest *sufficiently distinct* from the interests of employees excluded from the unit to warrant a separate bargaining unit.” *Id.* (emphasis in original). The purpose of the inquiry is to ensure, among other things,

that bargaining units will not be arbitrary, irrational, or “fractured” -- that is, composed of a gerrymandered grouping of employees whose interests are insufficiently distinct from those of other employees to constitute that grouping a separate appropriate unit.

PCC Structurals, supra, slip op. at 5.

The Board has clarified that the traditional community-of-interest test, as articulated in *PCC Structurals*, involves a three-step analysis.

First, the proposed unit must share an internal community of interest. Second, the interests of those within the proposed unit and the shared and distinct interests of those excluded from that unit must be comparatively analyzed and weighed. Third, consideration must be given to the Board’s decisions on appropriate units in the particular industry involved.

The Boeing Company, supra, slip op. at 3. With respect to the first step, “the traditional community-of-interest standard is not satisfied if the interests shared by the petitioned-for employees are too disparate to form a community of interest within the petitioned-for unit.” *Id.*, citing *Saks & Co.*, 204 NLRB 24, 25 (1973); *Publix Super Markets, Inc.*, 343 NLRB 1023, 1027 (2004). In step two of the analysis, “the Board must determine whether the employees excluded from the unit ‘have meaningfully distinct interests in the context of collective-bargaining that outweigh similarities with unit members.’” *Boeing*, slip op. at 4, quoting *PCC Structurals*, slip op. at 11. “[W]hat is required is that the Board analyze the distinct and similar interests and explain why, taken as a whole, they do or do not support the appropriateness of the unit.” *Id.*

APPLICATION OF BOARD LAW TO THE FACTS OF THIS CASE

The Employer does not concede that the petitioned-for unit shares an internal community of interest as required by the first step of the *Boeing* analysis. On the other hand, the Petitioner maintains that the Tool and Die Technicians are a craft unit and, therefore, the petitioned-for unit should be found appropriate without further inquiry. I find that the evidence does not support either of these conclusions. The interests of the Tool and Die Technicians are not disparate, and they share the requisite internal community of interest.

A craft unit is one consisting of a distinct and homogeneous group of skilled journeymen craftsmen, who, together with helpers or apprentices, are primarily engaged in the performance of tasks which are not performed by other employees and which require the use of substantial craft skills and specialized tools and equipment. In determining whether a petitioned for group of employees constitutes a separate craft unit, the Board looks at whether the petitioned-for employees participate in a formal training or apprenticeship program; whether the work is functionally integrated with the work of the excluded employees; whether the duties of the petitioned-for employees overlap with the duties of the excluded

employees; whether the employer assigns work according to need rather than on craft or jurisdictional lines; and whether the petitioned-for employees share common interests with other employees, including wages, benefits, and cross-training.

Burns & Roe Services Corp., 313 NLRB 1307, 1308 (1994)(citations omitted). Even if Tool and Die Technicians could be considered a craft unit because they are a unit of journeymen craftsmen who undergo a formal training or apprenticeship program, which they do not in this case, the petitioned-for unit would still be inappropriate due to the community of interest they share with employees the Petitioner seeks to exclude.

Departmental Organization and Common Supervision

An important consideration in any unit determination is whether the proposed unit conforms to an administrative function or grouping of an employer's operation. For example, the Board will not generally approve a unit consisting of some, but not all, of an employer's production and maintenance employees. See, *Check Printers, Inc.* 205 NLRB 33 (1973). However, in certain circumstances the Board will approve a unit in spite of the fact that other employees in the same administrative grouping are excluded. *Home Depot USA*, 331 NLRB 1289, 1289 and 1291 (2000).

In this case, the unit sought by Petitioner does not conform to any administrative grouping of the Employer. Tool and Die Technicians comprise only a portion of the Stamping Shop and its operations. In fact, Tool and Die Technicians are not even the only highly skilled maintenance employees in the Stamping Shop; Maintenance Technicians are part of the shop as well. Although they have different responsibilities for maintaining equipment within the shop, Maintenance Technicians, like Tool and Die Technicians, perform line patrol duties and their pay scales are the same. All employees in the Stamping Shop work the same schedules and ultimately report to a single senior manager. Even setting aside the consideration that plant-wide units are presumptively appropriate,⁸ the petitioned-for unit is not even an appropriate departmental unit as it seeks to exclude employees who are part of the same administrative grouping. Rather, approval of the unit sought by the Petitioner would result in fractured units, that is, groupings of employees that are not rational. *Seaboard Marine*, 327 NLRB 556 (1999). At best, Tool and Die Technicians might be considered an administrative sub-group because they share common supervision and first-line management.

Common supervision weighs in favor of placing the employees in dispute in one unit. In examining supervision, most important is the identity of employees' supervisors who have the authority to hire, to fire or to discipline employees (or effectively recommend those actions) or to supervise the day-to-day work of employees, including rating performance, directing and assigning work, scheduling work, and providing guidance on a day-to-day basis. *Executive Resource Associates*, 301 NLRB 400, 402 (1991); *NCR Corporation*, 236 NLRB 215 (1978).

⁸ *Airco, Inc.*, 273 NLRB 348, 349 (1984); *Kalamazoo Paper Box Corp.*, 136 NLRB 134, 136 (1962).

In this case the record reveals that Tool and Die Technicians are separately supervised and managed up to the level of a Tool and Die Manager. However, the record also reveals that discipline and termination must be approved by the manager of the entire Stamping Shop, if not by the Director of Body and Stamping. Separate supervision does not mandate separate units. *Casino Aztar*, 349 NLRB 603, 607, fn. 11 (2007). Rather, more important is the degree of interchange, contact, and functional integration. *Id.* at 607.

Interchangeability and Contact among Employees

Interchangeability refers to temporary work assignments or transfers between two groups of employees. Frequent interchange “may suggest blurred departmental lines and a truly fluid work force with roughly comparable skills.” *Hilton Hotel Corp.*, 287 NLRB 359, 360 (1987). As a result, the Board has held that the frequency of employee interchange is a critical factor in determining whether employees who work in different groups share a community of interest sufficient to justify their inclusion in a single bargaining unit. *Executive Resources Associates*, *supra* at 401, citing *Spring City Knitting Co. v. NLRB*, 647 F.2d 1011, 1015 (9th Cir. 1081).

There is no evidence of temporary interchange between the petitioned-for Tool and Die Technicians and any other employees. However, there is little evidence of temporary transfers between or among any groups of the Employer’s employees because of the specialized nature of the work that they perform. On the other hand, due to that same degree of specialization, temporary work assignments are frequent among Production Technicians as groups of employees are lent out to other areas of the plant to share their expertise. For example, the Stamping Shop’s Improvement Team built a structure for PQA while PQA Production Technicians were on temporary assignment in Trim & Chassis.

The existence of permanent transfers is not as important as evidence of temporary interchange. *Hilton Hotel Corp.*, *supra*. Nonetheless, in this matter the record reveals that permanent transfers are quite common, even into the petitioned-for unit, since almost a quarter of Tool and Die Technicians are former Production Technicians.

Also relevant is the amount of work-related contact among employees, including whether they work beside one another. Thus, it is important to compare the amount of contact employees in a petitioned-for in the unit have with other employees. See for example, *Casino Aztar*, 349 NLRB 603, 605-606 (2007). The record in this matter is replete with evidence of close and constant contact between and among all three groups of employees at issue here. Tool and Die Technicians are on line patrol as much as half of their total working time. Even when they are working in the die maintenance areas, they are contact with the Production Technicians who work as die setters and with the Maintenance Technicians who work on the dies’ electronic components and maintain the equipment in that area, such as the tryout presses. Tool and Die Technicians’ duties and, therefore, contacts also extend beyond the Stamping Shop because they are responsible for the hemming dies in the Body Shop.

The Nature of Employee Skills and Functions

This factor examines whether disputed employees can be distinguished from one another on the basis of job functions, duties or skills. If they cannot be distinguished, this factor weighs in favor of including the disputed employees in one unit. Evidence that employees perform the same basic function or have the same duties, that there is a high degree of overlap in job functions or of performing one another's work, or that disputed employees work together as a crew, support a finding of similarity of functions. Evidence that disputed employees have similar requirements to obtain employment; that they have similar job descriptions or licensure requirements; that they participate in the same Employer training programs; and/or that they use similar equipment supports a finding of similarity of skills. *Casino Aztar*, 349 NLRB 603 (2007); *J.C. Penny Company, Inc.*, 328 NLRB 766 (1999); *Brand Precision Services*, 313 NLRB 657 (1994); *Phoenician*, 308 NLRB 826 (1992).

Undoubtedly, Tool and Die Technicians have unique skills and functions. As mentioned herein, they are highly proficient in detailed welding and grinding and their expertise can take years to perfect. They are the only group of employees that repairs and maintains the metal surfaces of the dies. On the other hand, all employees participate in some of the same training programs and Tool and Die Technicians share similar license requirements, specifically crane and mobile powered equipment licenses, with certain Maintenance and Production Technicians. On balance, I find that this factor, but only this factor, weighs in favor of a finding that the petitioned-for unit is an appropriate one.

Degree of Functional Integration

Functional integration exists when employees' work constitutes integral elements of an employer's production process or business. For example, functional integration exists when employees in the disputed unit work on different phases of the same product or, as a group, provide a service. *Arvey Corp.*, 170 NLRB 35 (1968); *Transerv Systems, Inc.*, 311 NLRB 766, 766 (1993). Likewise, functional integration exists where employees participate in the same "production work flow" of a facility and where their work "has a shared purpose." *Northrop Grumman Shipbuilding, Inc.*, 357 NLRB 2015, 2017 (2011), *enf. denied on other grounds sub nom. NLRB v. Enterprise Leasing Co. Southeast LLC*, 722 F.3d 609 (4th Cir. 2013).

It is "particularly inappropriate to carve out a disproportionately small portion of a large, functionally integrated facility as a separate unit." *Boeing*, 368 NLRB No. 67, slip op. at 5, quoting *Publix Super Markets, Inc.*, 343 NLRB 1023, 1027 (2004). See also, *Avon Products, Inc.*, 250 NLRB 1479, 1482 (1980) (wall-to-wall production and maintenance unit was appropriate and, specifically, must include those employees who make up the entire order flow process—i.e., receipt, filling, and shipment of orders); *Chromalloy Photographic Industries*, 234 NLRB 1046, 1047 (1978) (unit of all production and maintenance employees – including repair technicians – appropriate given that the employer was engaged in a single highly integrated process).

Both the Stamping Shop and the Tool and Die Technicians based there are part of a cohesive system that manufactures, from start to finish, up to 2000 vehicles a day. Extensive

coordination and communication is required through all phases of the process, and one shop cannot function in isolation. If the dies are not working, panels cannot be stamped, and if panels cannot be stamped, vehicles cannot be produced. The record clearly demonstrates that the Employer's operation is a highly integrated one.

Terms and Conditions of Employment

Terms and conditions of employment include whether employees receive similar wage ranges and are paid in a similar fashion (for example, hourly); whether employees have the same fringe benefits; and whether employees are subject to the same work rules, disciplinary policies, and other terms of employment that might be described in an employee handbook. However, the facts that employees share common wage ranges and benefits or are subject to common work rules does not warrant a conclusion that a community of interest exists where employees are separately supervised, do not interchange, and/or work in a physically separate area. *Bradley Steel, Inc.*, 342 NLRB 215 (2004); *Overnite Transportation Company*, 322 NLRB 347 (1996). Similarly, sharing a common personnel system for hiring, background checks and training, as well as the same package of benefits, does not warrant a conclusion that a community of interest exists where two classifications of employees have little else in common. *American Security Corporation*, 221 NLRB 1145 (1996).

The record reveals that Tool and Die Technicians share the same pay scale as the Maintenance Technicians and that all three groups of employees share the remainder of relevant terms and conditions of employment.

Conclusion

Based on the foregoing, I find that the petitioned-for Tool and Die Technicians share an overwhelming community of interest not only with the rest of the Stamping Shop, but with the Production Technicians and Maintenance Technicians throughout the facility. The only appropriate unit is a plant-wide unit of production and maintenance employees.

METHOD OF ELECTION

The Board has held that the mechanics of an election, such as the date, time, and place, are left to the discretion of the Regional Director. *Ceva Logistics U.S., Inc.*, 357 NLRB 628 (2011); *Manchester Knitted Fashions, Inc.*, 108 NLRB 1366, 1366 (1954). In addition, the Board has found that Regional Directors have the discretion to determine whether an election will be conducted manually or by mail ballot. See *Nouveau Elevator Industries, Inc.*, 326 NLRB 470, 471 (1998); NLRB Casehandling Manual (Part Two), Representation Proceedings, Section 11228 and Section 11301.2 (the determination over the method of election is not an issue subject to litigation).

On July 6, 2020, in response to the evolving realities of the pandemic, the Office of the General Counsel issued Memorandum GC 20-10, titled "Suggested Manual Election Protocols." The suggested protocols include: polling times sufficient to accommodate social distancing

without unnecessarily elongating exposure among Board Agents and observers; the employer's certification in writing that polling area is consistently cleaned in conformity with CDC standards; a spacious polling area, sufficient to accommodate six-foot distancing; separate entrances and exits for voters; separate tables spaced six feet apart; sufficient disposable pencils without erasers for each voter to mark their ballot; glue sticks or tape to seal challenge ballot envelopes; plexiglass barriers of sufficient size to protect the observers and Board Agent; and provision of masks, hand sanitizer, gloves and disinfecting wipes.

Memorandum GC 20-10 also requests an employer's written certification of how many individuals have been present in the facility within the preceding 14 days who have tested positive for Covid-19; who have been directed by a medical professional to proceed as if they have tested positive for Covid-19; who are awaiting results of a Covid-19 test; who are exhibiting symptoms of Covid-19; or who have had direct contact with anyone in the previous 14 days who has tested positive for Covid-19.

In *Aspirus Keweenaw*, 370 NLRB No. 45 (November 9, 2020), the Board set forth a detailed framework for how Regional Directors should exercise their discretion when considering whether to direct an election by mail. Specifically, the Board found that, in addition to the established circumstances where a mail ballot election can be conducted, one or more of the following situations will normally justify a mail ballot election:

1. The Agency office tasked with conducting the election is operating under "mandatory telework" status;
2. Either the 14-day trend in the number of new confirmed cases of COVID-19 in the county where the facility is located is increasing, or the 14-day testing positivity rate in the county where the facility is located is 5 percent or higher;
3. The proposed manual election site cannot be established in a way that avoids violating mandatory state or local health orders relating to maximum gathering size;
4. The employer fails or refuses to commit to abide by the General Counsel's protocols for Manual Elections established in GC Memo 20-10;
5. There is a current COVID-19 outbreak at the facility or the employer refuses to disclose and certify its current status; and/or
6. Other similarly compelling circumstances.

The Regional Director has discretion to conduct an election by mail ballot "under the peculiar conditions of each case." *Aspirus*, slip op. at 3 (citing *National Van Lines*, 120 NLRB at 1346). The Regional Director's determination to conduct an election manually or by mail is subject to an abuse of discretion standard. *Id.* (citing *San Diego Gas & Electric*, 325 NLRB at 1144 n. 4).

Recently, in *Rush University Medical Center*, 370 NLRB No. 115 (April 27, 2021), the Board provided further guidance regarding some of the factors outlined in *Aspirus*. First, the Board noted that “the *Aspirus* current outbreak factor is not satisfied by evidence that Covid-19 is present at a facility.” *Id.*, slip op. at 1. The Board explained,

Instead, the Regional Director should determine whether the Covid-19 cases at the facility would reasonably be expected to affect the conduct of a manual election. Relevant considerations in this regard include whether (1) the number or physical location of such Covid-19 cases, or the likelihood that those cases will result in unit employees being exposed to Covid-19, indicates that a manual election would pose a threat to health or safety; or (2) current Covid-19 cases among unit employees would result in their disenfranchisement by a manual election.

Id., slip op. at 1-2. Second, the Board considered whether the emergence of COVID-19 variants, which were not yet in the United States at the time of the Board’s decision in *Aspirus*, constitute a compelling circumstance justifying directing a mail-ballot election. The Board found that “no changes in prevention strategies have been recommended by the CDC based on [COVID-19] variants currently in circulation. Such changes are only recommended for ‘variants of high consequence,’ and no such variants have been identified by the CDC to date.” *Id.*, slip op. at 2. Thus, the Board concluded that “the CDC’s determination that new variants exist does not, as of this date, constitute a ‘similarly compelling circumstance’ within the meaning of *Aspirus* factor 6.” *Id.*

Proposed Election Arrangements

Both the Petitioner and the Employer are seeking a manual ballot election. The Employer contends that a manual ballot election could be safely conducted at its facility and has agreed to abide by all of the protocols set forth in GC Memo 20-10. It proposes that manual polling take place in a number of tents outside the facility. The tents would measure 30 by 60 feet.⁹ They would have opaque sides yet provide for adequate ventilation and for separate entrances and exits. These tents would be placed between the exterior turnstiles employees use to access the facility and the entrance doors to the facility itself so that employees could access them from either the parking lots or their work areas inside the facility. In addition to a tent outside the Stamping Shop, tents could be located in an additional seven locations. The parties agree that a minimum of six and a maximum of eight total locations would be appropriate.

⁹ Based on video evidence submitted by the Employer, it appears that the 30x60 foot area would actually be comprised of two 30x30 foot tents. Much of the area would accommodate a number of “switchback” type lanes that would allow for lines to form inside the tent. Although this would likely be appropriately resolved by the Region and the parties prior to any scheduled election, I note that this seems to be too large a polling area for Board agents to effectively control and recommend that employee lines form outside rather than inside the tents, and the tented areas be reduced to single tents of 30 x 30 feet.

The Employer stated that, if an election were directed in the petitioned-for unit only, two polling session running from 5:00 a.m. to 7:30 a.m. and from 1:00 p.m. to 3:30 p.m. would be sufficient, and Petitioner agreed. It was proposed that if an election in a larger unit were directed, the polling hours for other shops in the facility should run from 6:00 a.m. to 8:30 a.m. and from 2:00 p.m. to 4:30p.m. If a single day of polling would suffice, the parties agreed that Thursdays would be best. If more days were to be required, Tuesday and/or Wednesday sessions could be added.

In a number of Supplemental Offers of Proof in Support of Manual Ballot Election, the Employer has cited statistics indicating that the trend in the number of confirmed cases of COVID-19 in Rutherford County, Tennessee, where the facility is located, has continued to decrease and has now been below 5% positivity rate for over two weeks. The Employer's COVID-19 "Safe Start-Up" protocols remain in place, including a continued mask mandate in and around the facility. The 14-day positivity rate among employees at the facility has remained at a fraction of one percent, while vaccination rates in the county now exceed 35% of the population.

Conclusion on Method of Election

I have carefully considered the positions and arguments presented by the parties and the applicable legal authority. Based on the foregoing facts, the current status of the COVID-19 pandemic in Rutherford County, and Board law, I find that, in light of the Board's decision in *Rush University Medical Center*, the circumstances here are not sufficient to justify directing a mail ballot election under any of the factors outlined in *Aspirus*. Accordingly, for the reasons above and in accordance with the Board's duty under Section 9(a) of the Act to conduct secret ballot elections to determine employees' union representation preference, I am directing a manual election in this matter as soon as practicable.

CONCLUSIONS AND FINDINGS

In determining that the unit sought by Petitioner is not appropriate, I have carefully weighed the community-of-interest factors cited in *United Operations*, supra. I conclude that the only appropriate unit would include all production and maintenance employees at the Employer's facility.

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is a California corporation with a facility located at 983 Nissan Drive, Smyrna, Tennessee, and is engaged in the production of automobiles. During the past twelve months, a representative period, the Employer's gross revenue has exceeded \$500,000, and during the same period of time, the Employer purchased and received goods valued in excess of

\$50,000 at its Smyrna, Tennessee, facility directly from enterprises located outside the State of Tennessee. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.

3. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part time production technicians and production technician leaders, maintenance technicians and maintenance technician leaders, tool and die maintenance technicians and tool and die maintenance technician leaders employed by the Employer at its Smyrna, Tennessee facility, but excluding all other employees, temporary (supplied) employees, contract employees, confidential employees, technical employees, office clerical employees, professional employees, managerial employees, guards, and supervisors as defined in the Act.

Since I am directing that an election be held for a unit that is larger than the petitioned-for unit, I shall grant the Petitioner two business days from the date of issuance of this Decision and Direction of Election to provide an adequate showing-of-interest for the expanded unit. If the Petitioner fails to provide an adequate showing of interest, I shall dismiss the petition.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. Employees will vote whether or not they wish to be represented for purposes of collective bargaining by International Association of Machinists and Aerospace Workers, (IAM) District Lodge 1888.

A. Election Details

The election will be held in the location and on the dates and times as follows:

Election Dates: **Wednesday, July 7, and Thursday, July 8, 2021**

Election Times: 5:00 am to 8:00 am and 1:00 pm to 4:00 pm for the Turnstile 11 location
AND 6:00 am to 9:00 am and 2:00 pm to 5:00 pm for all other locations

Stamping: Turnstile 11 at Parking Lot 11

Paint Line 1: Turnstile 12B, Parking Lot 12

Body Shop - South Vestibule: Turnstile 1B, Parking Lot 1

Fascia Paint Line 1, Paint Line 2: Turnstile 1C and 1D, Parking Lot 1

Trim & Chassis: Turnstile 3B, Parking Lot 3

Trim & Chassis, PQA - North Vestibule: Turnstile 3C, Parking Lots 3 & 4

Product Quality Assurance: Turnstile 5A, Parking Lots 4 & 5

Fascia Paint Line 2, Tire & Wheel: Turnstile 9C, Parking Lot 9

In addition to the safety protocols outlined in GC 20-10, the election will be conducted consistent with the following:

- Each party will be allowed up to three representatives and designated observers for each polling site to attend the pre-election conference and the ballot count.
- Individuals present in the polling area must maintain six feet of distance from any other person, and individuals who are not a party, party representative or an observer, must stay at least 15 feet away from the Board Agent at the pre-election conference and the ballot count.
- Each party will be permitted to have one observer present during each polling period, and observers cannot be switched, replaced, or substituted in the middle of a polling period.
- There will be two voter lists, one for each observer.
- Only one voter will approach the observers' tables and election booth(s) at a time to ensure social distancing.
- After clearance by the observers, the Board agent will place an individual ballot on a table for the voter and then step back to maintain social distance.
- The polling area will be set up with the following tables:

One table for each observer with plexiglass barriers on three sides of the table that are of a sufficient size to protect the observers;

One table for the Board agent with plexiglass barriers on three sides of the table that are of a sufficient size to protect the Board agent;

One table for the Board agent to place ballots on for voters to pick up;

One table for the ballot box; and

Tables equal in number to the election booths to be used, about which the Board agent will inform the parties during the pre-election conference.

- All tables in the polling area must be at least six feet apart.
- The Employer will provide markings on the floor to remind/enforce social distancing, including:

Marking spaces six feet apart outside of the polling area for voters waiting in line to vote; and

Marking separate entrance and exit points for the polling area, including markings to depict safe traffic flow throughout the polling area.

- The Employer will provide sufficient disposable pencils without erasers for each voter to mark their ballot.
- The Employer will provide masks, hand sanitizer, gloves, and wipes for observers.
- The Employer will provide glue sticks or tape to seal challenge ballot envelopes.
- All voters, observers, party representatives, and other participants must wear CDC-conforming masks in all phases of the election, including the pre-election conference, in the polling area, or while observing the count. Signs will be posted in or immediately adjacent to the Notice of Election to notify voters, observers, party representatives, and other participants of this requirement.
- An inspection of the polling area will be conducted by video conference at least 24 hours prior to the election so that the Board agent and parties can view the polling area.

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending **Sunday, June 6, 2021**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

C. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the regional director and the parties two business days after the Region confirms that the Petitioner provided an adequate showing-of-interest for the expanded unit. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlrb.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlrb.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not

object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution. Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 10 business days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review must be E-Filed through the Agency's website and may not be filed by facsimile. To E-File the request for review, go to www.nlrb.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001, and must be accompanied by a statement explaining the circumstances concerning not having access to the Agency's E-Filing system or why filing electronically would impose an undue burden. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board. If a request for

review of a pre-election decision and direction of election is filed within 10 business days after issuance of the decision and if the Board has not already ruled on the request and therefore the issue under review remains unresolved, all ballots will be impounded. Nonetheless, parties retain the right to file a request for review at any subsequent time until 10 business days following final disposition of the proceeding, but without automatic impoundment of ballots.

Dated: June 11, 2021



LISA Y. HENDERSON
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