proposed, the rule requires that no other facility 8 be within one mile of the proposed unit. Although distance is not as significant a factor as interchange in single location decisions, we believe that where the facilities are a mile or more apart, there is sufficient separation to justify a separate unit, if the other factors are met. Although the AFL-CIO (C-33) and the International Federation of Professional and Technical Engineers (PTE, C-22) argued that interchange should be the only factor considered in single location cases, considering both the level of interchange and the distance between locations ensures that there is neither significant actual interchange nor an immediate potential for interchange. Although we recognize that there are Board decisions in which there has been significant interchange despite the distance of 1 mile that we propose here, or conversely, lack of interchange where the distance between facilities is less than a mile, we are satisfied that where both standards are met, a separate facility unit will be appropriate, absent extraordinary circumstances.

Although a trucking industry commentator contended that geography is an unreliable guide in that industry (MotorFreight, C–35), this is only one factor, and the factor of interchange will help determine if distance is significant. Another commentator noted that with today's communication technology, distance should not be a determinative factor. (NAM, C–12.) Access to communications, however, would not necessarily negate the possibility of employees having a separate identity at a separate location.

Other comments contend that reliance on geography will run afoul of the prohibition of Section 9(c)(5) of the National Labor Relations Act that "the extent to which the employees have organized shall not be controlling." (Strauss, C-1; USCC, C-7, NAM, C-12; IMRA, C-41.) Contrary to this argument, the rule does not place determinative weight on extent of organization, but contains several objective factors, none of which is controlling. Moreover, geographical separation may or may not be related to the extent of organization, but, regardless, the factors are not the same

As to our proposed distance of one mile between locations for the rule to apply, although single location units have been found appropriate where the distance between locations is less than a mile, the line for applicability must be drawn somewhere. There is no logically compelling ascertainable optimum distance for a rule since single location decisions do not precisely correlate with mileage. Moreover, although the rule applies to locations a mile or more apart, that does not mean locations less than a mile apart cannot be appropriate units. Those units may be found appropriate by adjudication, but we are not sufficiently sure of their appropriateness to render them automatically acceptable under the rule. For example, although many retail chains locate their stores less than a mile apart, a single store unit may be found appropriate. See Haag Drug Co., 169 NLRB 877 (1968); Sav-on Drugs, 138 NLRB 1032 (1962). We do not intend for the rule to affect such Board precedent but only that such cases must be resolved through adjudication.

4. Local autonomy. The suggested rule in the ANPR incorporated local autonomy by requiring that the single location have a statutory supervisor on the site. Although the AFL and PTE contended that this factor is unnecessary, requiring some level of local control is consistent with the Board's traditional treatment of this factor as significant in single location decisions. See Executive Resources, 301 NLRB at 402, in which the Board noted that local authority in the form of separate supervision was an ''important["]' factor demonstrating that the employees enjoy a separate community of interest; see also Haag Drug, 169 NLRB at 878, in which the Board pointed out the "significance" of local autonomy in determining if a single location unit is appropriate. We continue to believe that the rule must incorporate evidence of local autonomy in some meaningful way to insure that there is some degree of independence and control at the requested location apart from other facilities. We are inclined to adhere to the requirement that a statutory supervisor be present at the requested location. Among other reasons, the Section 2(11) standards for determining supervisory status are generally known and understood.

Board decisions have evaluated local autonomy by an open-ended inquiry of the authority of local managers versus central managers. The full range of their authority is often litigated in an effort to determine the relative scope of local autonomy. See, e.g., *Red Lobster*, 300 NLRB at 912, in which the Board cited and distinguished seven Board decisions in evaluating the authority of local managers versus central managers. Although Board decisions have detailed

the extent of local authority of local managers, virtually all of these managers have been statutory supervisors. Rather than analyze the relative scope of each manager's authority, we believe that if a local manager has sufficient authority to be a statutory supervisor, this is sufficient evidence of local autonomy for purposes of unit appropriateness under the rule. Any greater inquiry would perpetuate what we believe is wasteful litigation and unnecessary use of the Board's resources. The purpose of including this factor in the rule is to insure some level of local independence from other locations; it is not an attempt to draw fine lines about the relative authority of local versus central managers. Our inclination, then, is to find that it is sufficient to establish local autonomy if the local individual is a statutory supervisor under any of the indicia.

Yet, we do have some reservations. We are concerned about whether requiring that a statutory supervisor be present is a better approach for the rule than the current open-ended approach of examining the full range of supervisory authority. Will requiring that a statutory supervisor be present result in more disputes about whether an individual is a statutory supervisor? Is it likely that the parties will stipulate in most cases as to the status of a local supervisor, or will the Regional Director have to decide the supervisory status of the local person in charge before determining whether the rule applies? Will requiring a statutory supervisor result in greater litigation than the openended approach now in use? The Board invites comments on whether this approach to deciding local autonomy will constitute a satisfactory method of determining whether this element of the rule exists, or whether, on the other hand, it will unnecessarily complicate the rule.

We also propose to modify slightly the language requiring that a local supervisor be on the site of the requested unit. We have added the requirement that the supervisor be present on the site for a regular and substantial period. This does not mean that a statutory supervisor need be present on each and every shift. Our purpose is to require that the supervisor have more than a casual and sporadic relationship to the requested location. In most cases this will mean that his or her supervisory authority will primarily be over the employees in the requested unit.

5. Minimum unit size. The rule as set forth in the ANPR applies only to requested units of 15 or more unit employees. It is our intention that a unit

⁸ The Board received virtually no comments on the issue of whether, and how, the Board should define whether a location is, in fact, a single or separate location. After carefully considering the scope of this rulemaking, we have decided that this issue should at the present time be left to litigation and the rule will not apply to this issue.