

McManus, Mary E (LABOR)

From: Faraone, Janet M (LABOR)
Sent: Monday, May 24, 2010 11:26 AM
To: dandavis83@gmail.com
Subject: FW: WARN Question about the definition of a site

Dear Mr. Davis:

This is in response to your email and telephone call asking what constitutes a “site” under the WARN Act regulations, and specifically what is “reasonable geographic proximity.” “Single site of employment” is defined in the WARN Act regulations at 12 NYCRR §921-1.1(p). You indicate in your email that “the Owego site” for employer Lockheed Martin Mission Systems and Sensors “has traditionally been defined as the Owego main section with buildings in Endicott, Apalachin, and a few other places.”

Under the WARN regulations, separate buildings or facilities which are not physically connected or are not in proximity to one another may be considered a single site of employment, if the following factors are present:

- (1) they are in reasonable geographic proximity,
- (2) they are used by the employer for the same purpose, and
- (3) they share the same staff or equipment.

The regulation provides an example that where an employer has two separate locations in the same geographic area, and the purpose of one is to support the operations of the other location, and the support requires travel between the two locations, the two locations will be considered a single site. 12 NYCRR §921-1.1(p)(iii)

Further, the regulation provides that non-contiguous sites in the same geographic area do not constitute a single site of employment if they have the following characteristics:

- they have separate management,
- produce different products or provide different services, and
- have separate workforces. 12 NYCRR §921-1.1(p)(v).

The regulation does not specifically define “reasonable geographic proximity” or “same geographic area.” However, it is noted that Owego, Endicott and Apalachin are in approximately a 15 mile radius of each other. As these three locations are within a 15 mile radius, they would be considered to be within reasonable geographic proximity; however, whether or not they constitute a single site of employment would depend on the following factors: whether they are used by the employer for the same purpose, they share the same staff/workforce or equipment, whether or not they have separate management, and whether they produce different products or provide different services.

You further indicate that the Owego business merged with Lockheed MS2 a few months ago, which includes Syracuse. With regard to including Syracuse within the single site of employment with Owego, since Syracuse is approximately 75 miles from Owego, it does not appear that these two locations would be in reasonable geographic proximity or the same geographic area for determining a single site of employment under the WARN Act.

From: Daniel Davis [mailto:dandavis83@gmail.com]
Sent: Tuesday, April 20, 2010 12:50 PM

To: Faraone, Janet M (LABOR)

Subject: Question about the definition of a site

My name is Daniel Davis and I have a question about what constitutes a site. The reason I ask this, is because there was a layoff today at Lockheed Martin Mission Systems and Sensors (MS2). Well over 250 people were laid off between Owego and Syracuse. The Owego site has traditionally been defined as the Owego main section with buildings in Endicott, Appalachen, and a few other places. The Owego business merged with Lockheed MS2 a few months ago, which includes Syracuse. Right now there is no common manager for all Owego employees without reaching the President of the MS2 business. For example, the director of software engineering manages people from Owego and Syracuse, the director of Integration and Test Engineering manages people from Owego and Syracuse, Director of Manufacturing, etc.

I ask this because there are a lot of employees of Owego that live north of Binghamton, and could commute to Syracuse or Owego in about the same time.