



Employment Law Monitor

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New York Department of Labor Revises its WARN Act Regulations Yet Again

As explained in our [April 7, 2010 post](#), earlier this year the New York Department of Labor (NY DOL) issued substantial revisions to the regulations governing the New York Worker Adjustment and Retraining Notification Act (NY WARN). In July, the NY DOL issued new rules, which replace the former ones and are effective immediately.

As explained in our previous post, NY WARN, like the federal WARN Act, requires employers, in certain circumstances, to give employees advanced, written notice of a mass layoff or plant closing. The NY WARN is, however, broader in scope than the similar federal WARN Act covering employers with only 50 or more employees (as opposed to 100 or more) and can be triggered by a layoff affecting 25 or more employees (as compared to 50 or more). Similarly, the notification period is also greater under NY WARN, requiring 90 days notice, instead of the 60 days required by the federal WARN Act.

The new regulations include, among other provisions: (1) revisions to the required language to be included in NY WARN notices; (2) clarification that the term “affected employee” excludes an officer, director or shareholder; (3) clarification that the calculation of the number of employees for notice purposes is determined based upon the date the first notice is required to be given under the Act; and (4) a new requirement to provide a “rescission notice” to affected employees if, after giving NY WARN notice of a mass layoff or plant closing, an employer determines to continue operations.

Any New York-based employer contemplating a mass layoff or plant closing should be familiar with these new regulations and consult legal counsel for guidance in navigating the requirements of NY WARN and the federal WARN Act.

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