About one quarter of the 8,350 plant closures and mass layoffs in 2001 appear subject to WARN’s advance notice requirements. Mass layoffs were less likely to be subject to the requirements than plant closures. The difference between mass layoffs and plant closures stems primarily from a rule exempting mass layoffs from WARN’s requirements if businesses lay off less than one-third of their workforce (up to 499 workers).

Employers provided notice for approximately one-third of layoffs and closures that appear subject to WARN requirements. Specifically, employers provided notices for almost one-half of plant closures, compared with approximately one-quarter of mass layoffs. The remaining mass layoffs and plant closures appear subject to WARN requirements, but notices were not provided. Two-thirds of the notices that employers provided gave the full sixty days’ advance notice required by the law. Employers that did not provide notice may be engaging in other practices that limit their liability under the law. In addition, other employers provided notice for mass layoffs and plant closures that were not subject to WARN’s requirements as encouraged in the law and the regulations.

Employers and employees find WARN’s definitions and calculations difficult to apply to their circumstances. Almost all state dislocated worker units reported that employers and/or employees contact them with basic questions on WARN—GAO calculated that states received thousands of communications from employers, employees, and their representatives per year. The courts have interpreted some of the provisions in the law in varying ways, which adds to the confusion and uncertainty when employers and employees apply WARN to their circumstances. Because of this uncertainty, employers, employees, and courts incur costs in time and resources in determining the applicability of WARN to specific circumstances. Finally, the enhanced educational materials being developed by the Department of Labor to address some of these issues have not been made widely available and therefore fail to answer many of the questions asked by employers and employees. This lack of clarity and guidance could ultimately circumvent the purpose of advance notice—namely, to assist dislocated workers in becoming reemployed.