

particular position, the employing office must provide notice to the incumbent in that position. While part-time employees are not counted in determining whether office closing or mass layoff thresholds are reached, such workers are due notice.

**§ 639.7 What must the notice contain?**

(a) Notice must be specific. (1) All notice must be specific.

(2) Where voluntary notice has been given more than 60 days in advance, but does not contain all of the required elements set out in this section, the employing office must ensure that all of the information required by this section is provided in writing to the parties listed in § 639.6 at least 60 days in advance of a covered employment action.

(3) Notice may be given conditional upon the occurrence or nonoccurrence of an event only when the event is definite and the consequences of its occurrence or nonoccurrence will necessarily, in the normal course of operations, lead to a covered office closing or mass layoff less than 60 days after the event. The notice must contain each of the elements set out in this section.

(4) The information provided in the notice shall be based on the best information available to the employing office at the time the notice is served. It is not the intent of the regulations that errors in the information provided in a notice that occur because events subsequently change or that are minor, inadvertent errors are to be the basis for finding a violation of WARN.

(b) As used in this section, the term "date" refers to a specific date or to a 14-day period during which a separation or separations are expected to occur. If separations are planned according to a schedule, the schedule should indicate the specific dates on which or the beginning date of each 14-day period during which any separations are expected to occur. Where a 14-day period is used, notice must be given at least 60 days in advance of the first day of the period.

(c) Notice to each representative of affected employees is to contain:

(1) The name and address of the employment site where the office closing or mass layoff will occur, and the name and telephone number of an employing office official to contact for further information;

(2) A statement as to whether the planned action is expected to be permanent or temporary and, if the entire office is to be closed, a statement to that effect;

(3) The expected date of the first separation and the anticipated schedule for making separations;

(4) The job titles of positions to be affected and the names of the workers currently holding affected jobs.

The notice may include additional information useful to the employees such as information on available dislocated worker assistance, and, if the planned action is expected to be temporary, the estimated duration, if known.

(d) Notice to each affected employee who does not have a representative is to be written in language understandable to the employees and is to contain:

(1) A statement as to whether the planned action is expected to be permanent or temporary and, if the entire office is to be closed, a statement to that effect;

(2) The expected date when the office closing or mass layoff will commence and the expected date when the individual employee will be separated;

(3) An indication whether or not bumping rights exist;

(4) The name and telephone number of an employing office official to contact for further information.

The notice may include additional information useful to the employees such as in-

formation on available dislocated worker assistance, and, if the planned action is expected to be temporary, the estimated duration, if known.

**§ 639.8 How is the notice served?**

Any reasonable method of delivery to the parties listed under § 639.6 of this part which is designed to ensure receipt of notice of at least 60 days before separation is acceptable (e.g., first class mail, personal delivery with optional signed receipt). In the case of notification directly to affected employees, insertion of notice into pay envelopes is another viable option. A ticketed notice, i.e., preprinted notice regularly included in each employee's pay check or pay envelope, does not meet the requirements of WARN.

**§ 639.9 When may notice be given less than 60 days in advance?**

Section 3(b) of WARN, as applied by section 205 of the CAA, sets forth two conditions under which the notification period may be reduced to less than 60 days. The employing office bears the burden of proof that conditions for the exceptions have been met. If one of the exceptions is applicable, the employing office must give as much notice as is practicable to the union and non-represented employees and this may, in some circumstances, be notice after the fact. The employing office must, at the time notice actually is given, provide a brief statement of the reason for reducing the notice period, in addition to the other elements set out in § 639.7.

(a) The "unforeseeable business circumstances" exception under section 3(b)(2)(A) of WARN, as applied under the CAA, applies to office closings and mass layoffs caused by circumstances that were not reasonably foreseeable at the time that 60-day notice would have been required.

(1) An important indicator of a circumstance that is not reasonably foreseeable is that the circumstance is caused by some sudden, dramatic, and unexpected action or condition outside the employing office's control.

(2) The test for determining when circumstances are not reasonably foreseeable focuses on an employing office's business judgment. The employing office must exercise such reasonable business judgment as would a similarly situated employing office in predicting the demands of its operations. The employing office is not required, however, to accurately predict general economic conditions that also may affect its operations.

(b) The "natural disaster" exception in section 3(b)(2)(B) of WARN applies to office closings and mass layoffs due to any form of a natural disaster.

(1) Floods, earthquakes, droughts, storms, tidal waves or tsunamis and similar effects of nature are natural disasters under this provision.

(2) To qualify for this exception, an employing office must be able to demonstrate that its office closing or mass layoff is a direct result of a natural disaster.

(3) While a disaster may preclude full or any advance notice, such notice as is practicable, containing as much of the information required in § 639.7 as is available in the circumstances of the disaster still must be given, whether in advance or after the fact of an employment loss caused by a natural disaster.

(4) Where an office closing or mass layoff occurs as an indirect result of a natural disaster, the exception does not apply but the "unforeseeable business circumstance" exception described in paragraph (a) of this section may be applicable.

**§ 639.10 When may notice be extended?**

Additional notice is required when the date or schedule of dates of a planned office clos-

ing or mass layoff is extended beyond the date or the ending date of any 14-day period announced in the original notice as follows:

(a) If the postponement is for less than 60 days, the additional notice should be given as soon as possible to the parties identified in § 639.6 and should include reference to the earlier notice, the date (or 14-day period) to which the planned action is postponed, and the reasons for the postponement. The notice should be given in a manner which will provide the information to all affected employees.

(b) If the postponement is for 60 days or more, the additional notice should be treated as new notice subject to the provisions of §§ 639.5, 639.6 and 639.7 of this part. Rolling notice, in the sense of routine periodic notice, given whether or not an office closing or mass layoff is impending, and with the intent to evade the purpose of the Act rather than give specific notice as required by WARN, is not acceptable.

**§ 639.11 Duration of interim regulations**

These interim regulations for the House, the Senate and the employing offices of the instrumentalities are effective on January 23, 1996 or on the dates upon which appropriate resolutions are passed, whichever is later. The interim regulations shall expire on April 15, 1996 or on the dates on which appropriate resolutions concerning the Board's final regulations are passed by the House and the Senate, whichever is earlier.

The PRESIDING OFFICER (Mr. THOMAS). Are there others who wish to speak?

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

**MESSAGES FROM THE PRESIDENT**

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

**EXECUTIVE MESSAGES REFERRED**

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

**REPORT OF A BALANCED BUDGET PROPOSAL—MESSAGES FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT OF THE SENATE—PM 109**

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate on January 6, 1996, received a message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

*To the Congress of the United States:*

I hereby submit to the Congress a plan to achieve a balanced budget not later than the fiscal year 2002 as certified by the Congressional Budget Office of January 6, 1996. This plan has been prepared by Senator Daschle and if passed in its current form by the Congress, I would sign it into law.

WILLIAM J. CLINTON.

THE WHITE HOUSE, January 6, 1996.

# REPORT CONCERNING THE NATIONAL EMERGENCY WITH RESPECT TO LIBYA—MESSAGE FROM THE PRESIDENT—PM 110

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

I hereby report to the Congress on the developments since my last report of July 12, 1995, concerning the national emergency with respect to Libya that was declared in Executive Order No. 12543 of January 7, 1986. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c); section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c); and section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa-9(c).

1. On January 3, 1996, I renewed for another year the national emergency with respect to Libya pursuant to IEEPA. This renewal extended the current comprehensive financial and trade embargo against Libya in effect since 1986. Under these sanctions, all trade with Libya is prohibited, and all assets owned or controlled by the Libyan government in the United States or in the possession or control of U.S. persons are blocked.

2. There has been one amendment to the Libyan Sanctions Regulations, 31 C.F.R. Part 550 (the "Regulations"), administered by the Office of Foreign Assets Control (FAC) of the Department of the Treasury, since my last report on July 12, 1995. The amendment (60 *Fed. Reg.* 37940-37941, July 25, 1995) added three hotels in Malta to appendix A, Organizations Determined to Be Within the Term "Government of Libya" (Specially Designated Nationals (SDNs) of Libya). A copy of the amendment is attached to this report.

Pursuant to section 550.304(a) of the Regulations, FAC has determined that these entities designated as SDNs are owned or controlled by, or acting or purporting to act directly or indirectly on behalf of, the Government of Libya, or are agencies, instrumentalities, or entities of that government. By virtue of this determination, all property and interests in property of these entities that are in the United States or in the possession or control of U.S. persons are blocked. Further, U.S. persons are

prohibited from engaging in transactions with these entities unless the transactions are licensed by FAC. The designations were made in consultation with the Department of State.

3. During the current 6-month period, FAC made numerous decisions with respect to applications for licenses to engage in transactions under the Regulations, issuing 54 licensing determinations—both approvals and denials. Consistent with FAC's ongoing scrutiny of banking transactions, the largest category of license approvals (20) concerned requests by Libyan and non-Libyan persons or entities to unblock transfers interdicted because of an apparent Government of Libya interest. A license was also issued to a local taxing authority to foreclose on a property owned by the Government of Libya for failure to pay property tax arrearages.

4. During the current 6-month period, FAC continued to emphasize to the international banking community in the United States the importance of identifying and blocking payments made on or behalf of Libya. The Office worked closely with the banks to implement new interdiction software systems to identify such payments. As a result, during the reporting period, more than 107 transactions potentially involving Libya, totaling more than \$26.0 million, were interdicted. As of December 4, 23 of these transactions had been authorized for release, leaving a net amount of more than \$24.6 million blocked.

Since my last report, FAC collected 27 civil monetary penalties totaling more than \$119,500, for violations of the U.S. sanctions against Libya. Fourteen of the violations involved the failure of banks or credit unions to block funds transfers to Libyan-owned or -controlled banks. Two other penalties were received from corporations for export violations or violative payments to Libya for unlicensed trademark transactions. Eleven additional penalties were paid by U.S. citizens engaging in Libyan oilfield-related transactions while another 40 cases involving similar violations are in active penalty processing.

In November 1995, guilty verdicts were returned in two cases involving illegal exportation of U.S. goods to Libya. A jury in Denver, Colorado, found a Denver businessman guilty of violating the Regulations and IEEPA when he exported 50 trailers from the United States to Libya in 1991. A Houston, Texas, jury found three individuals and two companies guilty on charges of conspiracy and violating the Regulations and IEEPA for transactions relating to the 1992 shipment of oilfield equipment from the United States to Libya. Also in November, a Portland, Oregon, lumber company entered a two-count felony information plea agreement for two separate shipments of U.S.-origin lumber to Libya during 1993. These three actions were the result of lengthy criminal inves-

tigations begun in prior reporting periods. Several other investigations from prior reporting periods are continuing and new reports of violations are being pursued.

5. The expenses incurred by the Federal Government in the 6-month period from July 6, 1995, through January 5, 1996, that are directly attributable to the exercise of powers and authorities conferred by the declaration of the Libyan national emergency are estimated at approximately \$990,000. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the Office of the General Counsel, and the U.S. Customs Service), the Department of State, and the Department of Commerce.

6. The policies and actions of the Government of Libya continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. In adopting UNSCR 883 in November 1993, the Security Council determined that the continued failure of the Government of Libya to demonstrate by concrete actions its renunciation of terrorism, and in particular its continued failure to respond fully and effectively to the requests and decisions of the Security Council in Resolutions 731 and 548, concerning the bombing of the Pan Am 103 and UTA 772 flights, constituted a threat to international peace and security. The United States will continue to coordinate its comprehensive sanctions enforcement efforts with those of other U.N. member states. We remain determined to ensure that the perpetrators of the terrorist acts against Pan Am 103 and UTA 772 are brought to justice. The families of the victims in the murderous Lockerbie bombing and other acts of Libyan terrorism deserve nothing less. I shall continue to exercise the powers at my disposal to apply economic sanctions against Libya fully and effectively, so long as those measures are appropriate, and will continue to report periodically to the Congress on significant developments as required by law.

WILLIAM J. CLINTON.

THE WHITE HOUSE, January 22, 1996.

## MESSAGES FROM THE HOUSE

At 3:52 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution:

S. Con. Res. 39. Concurrent Resolution providing for the "State of the Union" address by the President of the United States.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1802. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of