

# RAINS, LUCIA & WILKINSON LLP

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## SPECIAL NEWS BULLETIN AN ULTIMATE BACKUP NEWSLETTER SUPPLEMENT April 15, 2003

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<i>Pleasant Hill</i>	<i>Sacramento</i>	<i>San Jose</i>	<i>Santa Rosa</i>
2300 Contra Costa Blvd., Ste 230 Pleasant Hill, CA 94523 Telephone: 925-609-1699 Facsimile: 925-609-1690	2485 Natomas Park Dr., Ste 340 Sacramento, CA 95833 Telephone: 916-646-2860 Facsimile: 916-646-2861	333 West Santa Clara St., Ste 800 San Jose, CA Telephone: 408-287-3803 Facsimile: 408-279-1998	2300 Bethards Dr., Ste F Santa Rosa, CA 95405 Telephone: 707-576-8954 Facsimile: 707-526-4018

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## UNITED STATES DEPARTMENT OF LABOR PROPOSES TO RELAX THE STANDARDS FOR DECLARING EMPLOYEES EXEMPT FROM OVERTIME

In the first significant overhaul of the Fair Labor Standards act in 28 years, on March 31, 2003, the United States Department of Labor published proposed rules that could relax the standards for declaring employees exempt from overtime.

The proposed rules exempt "administrative" employees from overtime if the primary duties consist of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers, and if the employees holds a "position of responsibility" with the employer, defined as either (a) performing work of substantial importance or (b) performing work requiring a high level of skill or training. In addition, the proposed rules for "executive" employees have been expanded to exempt from overtime those employees who manage the enterprise, and who customarily and regularly directs the work of two or more employees as well as has the authority to make recommendations concerning the hiring or firing of employees.

The Department of Labor has characterized the new rules as "strengthening" overtime requirements because other proposed changes ensure that workers earning less than \$22,100 cannot be exempted from overtime pay. However, the trade-off is that over half-a-million white-collar workers who now receive overtime pay could lose that additional compensation.

The proposed regulations may result in a greater number of mid-management employees in the public sector being declared "exempt" from overtime requirements. Public comments on the proposed rules is being solicited by the Department of Labor. Comments should be mailed to the Department of Labor, 200 Constitution Ave., NW Washington, DC 20210.

The actual proposed regulations were attached to this news bulletin in PDF format. In addition, a chart comparing the current requirements for exemption from the Fair Labor Standards Act with the regulations now being proposed by the Department of Labor can be found on the internet at [http://www.dol.gov/sec/media/speeches/541\\_Side\\_By\\_Side.htm](http://www.dol.gov/sec/media/speeches/541_Side_By_Side.htm).

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