

EPA Sides with NDA to Deny Petition to List PVC as Hazardous Waste

Today, the Environmental Protection Agency (EPA) [affirmed their decision](#) to deny a formal petition from the Center for Biological Diversity to list discarded polyvinyl chloride (PVC) as a hazardous waste under the Resource Conservation and Recovery (RCRA). The EPA issued a [preliminary denial](#) of the petition last year but opened up a public comment period to solicit feedback from stakeholders on whether to affirm their preliminary decision.

Last year, NDA [submitted comments](#) to the EPA urging them to affirmatively deny the petition to list PVC as a hazardous under RCRA and argued that the petitioners did not establish a compelling and scientific case for regulating discarded PVC as a hazardous waste. In today's ruling, the EPA agreed with NDA that the petitioners failed to provide sufficient information and scientific reasoning to justify the listing of discarded PVC as hazardous waste.

DOL Issues Final Rule on Overtime Regulations

On Tuesday, the Department of Labor (DOL) issued its [final rule](#) altering overtime regulations under the Fair Labor Standards Act. The rule establishes two-tiered increases to the minimum salary threshold and the threshold for highly compensated employees (HCE) as well as automatic updates to both thresholds.

By January 1, 2025, the minimum salary threshold for covered salaried employees to be exempt from overtime requirements will rise from \$35,568 to \$58,656 per year. For highly compensated employees, the salary threshold will rise from \$107,432 to \$151,164. The final rule increases the current thresholds by 60% and 71%, respectively.

- On July 1, 2024, DOL will update the standard salary level using the existing methodology from the 2019 final rule and current data, raising the salary level from \$684 per week to \$844 per week (equivalent to \$43,888 per year). For highly compensated employees, also following the 2019 methodology, the annual compensation level to be exempt from overtime pay will increase from \$107,432 to \$132,964.
- On January 1, 2025, DOL will implement a new salary methodology, setting the standard salary level at the 35th percentile of weekly earnings of full-time salaried workers in the lowest-wage Census Region (the South), resulting in a salary level of \$1,128 per week (equivalent to \$58,656 per year). For highly compensated employees, the compensation level will be set at the annualized weekly earnings of the 85th percentile of full-time salaried workers nationally, resulting in a compensation level of \$151,164.
- Future updates to the salary and compensation levels will occur every three years and will apply up-to-date wage data to the salary and compensation methodologies in the regulations at the time of the update. The next three-year update will take place on July 1, 2027.

NDA [submitted comments](#) to the Department of Labor last year opposing the drastic increases to the minimum salary thresholds and automatic updates that do not take into account current economic conditions. NDA is also [advocating for legislation in Congress](#) to overturn the final overtime rule. The new regulations are expected to face lawsuits in the court system which could delay implementation. As of now, the final rule will go into effect on July 1, 2024. NDA will be sure to keep members updated on the latest developments.

Overtime Rule Guidance

- [Final Rule Text: Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees](#)
 - [Frequently Asked Questions](#)
 - [Small Entity Compliance Guide](#)
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FTC Announces Final Rule Banning Noncompete Agreements

This week, the Federal Trade Commission (FTC) voted 3-2 to [finalize a new rule](#) to ban employers from enforcing noncompete agreements against workers. The final rule prohibits employers from entering into new noncompetes with workers on or after the effective date and also prohibits employers from enforcing existing noncompetes with workers other than senior executives. The rule takes effect 120 days from publication in the Federal Register, which has not yet been determined. NDA will keep members updated on when the rule is scheduled to go into effect.

- The rule prohibits employers from entering into new noncompetes with workers, as of the effective date in the Federal Register (to be determined).
- The rule prohibits employers from enforcing noncompetes with workers other than senior executives as of the effective date. Specifically, the final rule defines the term “senior executive” as workers earning more than \$151,164 who are in a “policy-making position.”
- The rule requires employers to notify workers whose noncompetes are no longer enforceable that their noncompetes are no longer in effect and will not be enforced. The FTC provides [model language](#) that employers can use to notify employees.
- The rule includes an exception that allows noncompetes between the seller and buyer of a business.

NDA expressed concerns about the proposal in [official comments](#) to the Federal Trade Commission last year and will be monitoring future developments both in Congress and the court system. Multiple business organizations have already threatened lawsuits to block the final rule. Additional guidance from the FTC can be found below.

FTC Noncompete Ban Final Rule

- [Final Rule Text](#)
- [Noncompete Rule Summary](#)
- [Fact Sheet](#)