

> COVID-19 Client Alert

New York State Issues Revised Interim Guidance Clarifying That 14-Day Quarantine Period Also Applies to Arriving International Travelers

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Authors and Key Contacts

If you require any additional information regarding COVID-19 related travel guidelines or other employment related issues, please contact any of the attorneys listed below.

Jeffrey P. Englander

Partner & Co-Chair
P (212) 735-8720
jenglander@morrisoncohen.com



Keith A. Markel

Partner & Co-Chair
P (212) 735-8736
kmarkel@morrisoncohen.com



Theresa D'Andrea

Associate
P (212) 735-8751
tdandrea@morrisoncohen.com



John B. Fulfree

Associate
P (212) 735-8850
jfulfree@morrisoncohen.com



Christopher W. Pendleton

Associate
P (212) 735-8783
cpendleton@morrisoncohen.com



On October 8, 2020, the New York State Department of Health (“NYDOH”) quietly released a revised [“Interim Guidance for Quarantine Restrictions on Travelers Arriving in New York State Following Out of State Travel”](#) (the “October 8, 2020, Interim Guidance”), which updated the previously issued [June 24, 2020 Interim Guidance](#). The October 8, 2020, Interim Guidance provides clarity that international travelers arriving to New York State from certain countries are required to quarantine for 14 days, as detailed below. Notably, the [New York State COVID-19 Travel Advisory](#) webpage was also recently updated to reflect this new information as well.

As background, since the issuance of the June 24, 2020 Interim Guidance, New York State has required all travelers to quarantine for a period of 14 days if they have entered New York State after having traveled to a state with either:

- A positive test rate higher than 10 per 100,000 residents over a seven-day rolling average; or
- A testing positivity rate of higher than a 10% over a seven-day rolling average,

New York State maintains a list of restricted states on the [New York State COVID-19 Travel Advisory](#) webpage, which is updated daily. In addition, all travelers arriving to New York State from such restricted states are required to complete and file an online [Traveler Health Form](#). Individuals traveling through a restricted state for less than 24 hours, such as stopping at rest stops for vehicles, buses, and/or trains; or lay-overs for air travel, bus travel, or train travel, are not required to quarantine. Importantly, there are no exceptions to this 14-day quarantine rule if an individual has traveled to and remained in a restricted state for at least 24 hours, and testing negative for COVID-19 will not negate the need to quarantine or reduce the duration of the quarantine period.

Surprisingly, the June 24, 2020 Interim Guidance did not address scenarios where individuals arrived in New York State after having traveled internationally. It may have been the case that New York State did not need to address this, as the Centers for Disease Control and Prevention (“CDC”) had previously advised travelers to quarantine for 14 days after all international travel, but such a recommendation was removed from the CDC website in or around August 2020. However, the October 8, 2020 further Interim Guidance now makes clear that, upon entering New York State, international travelers arriving from a country for

which the CDC has issued a [Level 2 or Level 3 Health Notice](#), or who were on a cruise ship (including river cruises), in the past 14 days, are required to complete a 14 day quarantine period. For an individual coming to New York from a Level 2 or Level 3 Health Notice country, there are no categorical exemptions from quarantine (*e.g.*, there is no essential worker exemption from quarantine). All individuals must complete a mandatory 14-day quarantine starting from the time of their last contact with the country and are also required to complete and file the Traveler Health Form upon arrival.

It is important to note that New York employees will forgo their paid sick leave benefits (*i.e.*, lose their entitlement to such benefits) from New York's COVID-19 paid sick leave law if they engage in non-essential travel to restricted states or countries for which the CDC has issued a Level 2 or Level 3 Health Notice. This does not restrict an employee's ability to obtain paid leave benefits under the Families First Coronavirus Response Act (which is scheduled to expire on December 31, 2020).

As New York's COVID-19 Travel Advisory is here to stay, and with the holidays around the corner, employers should continue to ensure that their employees report any domestic or international travel in order to ascertain whether an employee must quarantine for a 14-day period upon arriving to New York State, and thus not immediately return to the workplace during this quarantine period. Employees can also provide employers with the local quarantine order that is issued upon completing and filing the Traveler Health Form; otherwise employers can request that as well.

The foregoing makes clear that New York State employers have been tasked with balancing their operational and business needs with the requirement that employees quarantine for 14 days following personal travel. Though this requirement may hinder the most efficient operation of employers' businesses, employers must ensure that they do not discriminate against employees for engaging in lawful recreational activities, such as taking approved vacation (in accordance with New York Labor Law Section 201-3). To minimize legal liability, employers should allow employees to telework during the 14-day quarantine period to the extent possible.

The Morrison Cohen LLP Labor & Employment Team is available to provide legal advice on COVID-19 and employment-related issues or such other employment law matters as needed.