

## Revamped New York COVID-19 Travel Advisory Allows Individuals to “Test Out” of 14-Day Quarantine Mandate

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Governor Andrew Cuomo recently [announced](#) that, effective November 4, 2020, New York’s Travel Advisory will no longer maintain a rolling list of high-risk states that require travelers to New York from those states to quarantine for at least 14 days. Instead, new [guidelines](#) (“Guidelines”), set forth in [Executive Order 205.2](#) (“EO”), now allow all covered travelers to New York from any U.S. jurisdiction to significantly shorten the 14-day quarantine period via a “testing out” process. The guidance also applies to international travelers coming from any [Centers for Disease Control and Prevention \(“CDC”\) Level 2 or Level 3](#) Health Notice country.

### New York’s New “Testing Out” Process

The new “testing out” protocols are set forth below. *Importantly, travelers from states that are contiguous with New York (i.e., Connecticut, Massachusetts, New Jersey, Pennsylvania, and Vermont) and essential workers<sup>1</sup> are exempt from these protocols.*

- **Travelers (including New Yorkers) who were in another state (or states)<sup>2</sup> or U.S. territory or [CDC Level 2 or Level 3 country](#) for more than 24 hours must:**
  - obtain a COVID-19 test within three days prior to departing from that state;
  - upon arrival in New York, fill out a [Traveler Health Form](#)<sup>3</sup> and quarantine for three days (measured from time of arrival); and

<sup>1</sup> An “[essential worker](#)” is “(1) any individual employed by an entity included on the Empire State Development (ESD) [Essential Business list](#); or (2) any individual who meets the COVID-19 testing criteria, pursuant to their status as either an individual who is employed as a health care worker, first responder, or in any position within a nursing home, long-term care facility, or other congregate care setting, or an individual who is employed as an essential employee who directly interacts with the public while working, pursuant to [DOH Protocol for COVID-19 Testing, issued May 31, 2020](#), or (3) any other worker deemed such by the Commissioner of Health.” The specific travel protocols for essential workers are available [here](#).

<sup>2</sup> We have been advised by the State that a traveler to New York must follow the same protocols regardless of how many states the individual visited while outside of New York, including that he or she needs to be tested only once in the three-day period prior to arriving in New York.

- on day four of their quarantine, obtain another COVID-19 test.

If both tests comes back negative, “the traveler may exit quarantine early upon receipt of the second negative diagnostic test.”

- **Travelers (including New Yorkers) who were out of state for fewer than 24 hours:**

- need not get tested before departing from the other state, and
- need not quarantine upon arrival in New York,

**BUT:**

- must fill out a Traveler Health Form upon entering New York, and
- take a COVID-19 diagnostic test four days after their arrival in New York.

The Guidelines instruct that the testing will be validated by local health departments, which will issue an isolation order and initiate contact tracing if a test comes back positive. In addition, the local health department will notify the appropriate authorities in the state the traveler came from so that contact tracing may be undertaken there as well.

With respect to enforcement of, and penalties for noncompliance with, the revised Travel Advisory, the [FAQs](#) accompanying the original Travel Advisory instruct that the New York State Department of Health and the local health departments have the right to issue a mandatory quarantine order, if needed. Additionally, the new EO states that “[a]ny violation of a quarantine or isolation order issued to an individual pursuant to the Commissioner of the Department of Health’s travel advisory by a local department of health or state department of health may be enforced pursuant to article 21 of the public health law, and non-compliance may additionally be deemed a violation pursuant to section 12 of the public health law subject to a civil penalty of up to \$10,000.”

### **What Employers Should Do Now**

While the New York “testing out” policy most directly affects New York employers, it also impacts employers in other states whose employees travel to New York. Accordingly, all employers potentially affected by the State’s new procedures should do the following:

- Assess whether the new “testing out” process affords sufficient protection for your workforce or whether you prefer to adopt a more conservative policy. For example, you may wish to implement a variation of the “testing out” process for employees who are out of state for more than 24 hours, such as requiring:
  - a certain type of test (e.g., PCR, as opposed to a saliva test); and/or

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<sup>3</sup> New York has established a travel enforcement operation at airports in the State. Travelers entering the State via other means must complete the Traveler Health Form [online](#).

- two negative tests on or after the fourth day following arrival in New York;  
or
- adherence to the standard 14-day quarantine, notwithstanding the availability of the “testing out” process.

Similarly, for employees who were out of New York for fewer than 24 hours, you may want to consider adding a quarantine period while they wait to get tested on the fourth day after their return to the State.

- For all employers, once you have decided on a policy, put it in writing and have all employees sign an acknowledgement that they have read it and will abide by it. The policy should communicate all pertinent rules, such as the obligation to inform the company in advance of plans to travel out of state (or as soon as practicable), policies as to when and for how long they need to quarantine, when they must get tested, and potential consequences of noncompliance with the rules.
- If you have a safety plan that addresses travel protocols, determine whether it needs to be revised.
- If you provide safety training for employees returning to the office and it addresses travel protocols, determine whether revisions need to be made.

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