

New York State Issues HERO Act Prevention Standard and Model Plans

By Blythe E. Lovinger, Jonathan A. Wexler and Victoria L. Jaus

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On July 6, 2021, the New York State Department of Labor (“NYSDOL”) published the [Airborne Infectious Disease Exposure Prevention Standard](#) (the “Standard”) and a [Model Airborne Infectious Disease Exposure Prevention Plan](#) (the “Model Plan”) under the New York HERO Act (the “Act”).

The Act was signed into law by New York Governor Andrew Cuomo on May 5, 2021 and requires employers to implement safety standards to prevent occupational exposure to airborne infectious disease. See our previous bulletins, [New York Enacts HERO Act](#) and [New York State Amendments to the HERO Act](#).

Airborne Infectious Disease Exposure Prevention Standard

The Standard applies: (1) to employers with worksites located in New York State; and (2) only where an airborne infectious agent or disease is designated by the Commissioner of Health as a highly contagious communicable disease that presents a serious risk of harm to the public health. The Standard requires the implementation of the following: (i) an exposure prevention plan; (ii) exposure controls; and (iii) anti-retaliation standard.

Airborne Infectious Disease Exposure Prevention Plans

To comply with the Act’s written plan requirement, employers may either adopt the Model Plan or establish an alternate plan that meets or exceeds the minimum requirements of the Standard. If an employer decides to implement an alternate plan, it must do so with “meaningful” participation by employees, or in conjunction with any labor union of which an employer’s employees are members. Employers must adopt a prevention plan by August 5, 2021. The exposure prevention plans will be activated only when an airborne infectious disease is designated by the New York State Commissioner of Health as a highly contagious communicable disease that presents a serious risk of harm to the public health. The plan adopted by an employer must be distributed to employees by September 4, 2021, provided to new hires, posted at the workplace, and made a part of any employee handbook the employer maintains.

The NYSDOL also published industry-specific templates for agriculture, construction, delivery services, domestic workers, emergency response, food services, manufacturing and industry personal services, private education, private transportation and retail.

If you have any questions about the HERO Act, prevention standard or prevention plans, please contact

Blythe E. Lovinger at (212) 407 7770, **Jonathan A. Wexler** at (212) 407 7732, **Victoria L. Jaus** at (212) 407 7745 or any other Vedder Price attorney with whom you have worked.

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