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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Chapter I

Arrival Restrictions Applicable to Flights Carrying Persons Who Have Recently Traveled From or Were Otherwise Present Within the Democratic Republic of the Congo or the Republic of Guinea

AGENCY: U.S. Customs and Border
Protection, Department of Homeland
Security.

ACTION: Announcement of arrival
restrictions.

SUMMARY: This document announces the decision of the Secretary of Homeland Security to direct all flights to the United States carrying persons who have recently traveled from, or were otherwise present within, the Democratic Republic of the Congo or the Republic of Guinea to arrive at one of the U.S. airports where the U.S. government is focusing public health resources to implement enhanced public health measures. For purposes of this document, a person has recently traveled from the Democratic Republic of the Congo or the Republic of Guinea if that person has departed from, or was otherwise present within, the Democratic Republic of the Congo or the Republic of Guinea within 21 days of the date of the person's entry or attempted entry into the United States. Also, for purposes of this document, crew and flights carrying only cargo (*i.e.*, no passengers or non-crew), are excluded from the measures herein.

DATES: The arrival restrictions apply to flights departing after 11:59 p.m. Eastern Standard Time on March 4, 2021. Arrival restrictions continue until cancelled or modified by the Secretary of Homeland Security and notice of such cancellation or modification is published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Alyce Modesto, Office of Field Operations, U.S. Customs and Border Protection at 202-286-8995.

SUPPLEMENTARY INFORMATION:

Background

Ebola Virus Disease (EVD), caused by the virus family *Filoviridae*, is a severe and often fatal disease that can affect humans and non-human primates. Disease transmission occurs via direct contact with bodily fluids (*e.g.*, blood, mucus, vomit, urine). The first known EVD outbreak occurred in 1976. From 2013-2016, the largest EVD outbreak occurred in West Africa, primarily affecting Guinea, Liberia, and Sierra Leone, with cases exported to seven additional countries across three continents. The epidemic demonstrated the potential for EVD to become an international crisis in the absence of early intervention. Further, EVD can have substantial medical, public health, and economic consequences if it spreads to densely populated areas. As such, EVD may present a threat to U.S. health security given the unpredictable nature of outbreaks and the interconnectedness of countries through global travel.

On February 7, 2021, the World Health Organization (WHO) reported the resurgence of EVD, following the laboratory confirmation of one case in North Kivu Province, in the Democratic Republic of the Congo (DRC). As of February 23, 2021, eight confirmed EVD cases, including four deaths, have been reported. Although the source of infection is still under investigation, it is believed this outbreak is linked to the 2018-2020 EVD outbreak in the eastern DRC, the second largest EVD outbreak on record, which was officially declared over on June 25, 2020 by the WHO and the Ministry of Health in the DRC.

On February 14, 2021, the WHO reported a new outbreak of EVD in the southern prefecture of Nzérékoré, Guinea. The prefecture is located near the borders of Liberia and the Ivory Coast. As of February 23, 2021, Guinean officials have reported nine confirmed cases and at least five deaths. The WHO expects additional cases to be confirmed in the coming days and have warned six neighboring countries (Guinea-Bissau, Ivory Coast, Liberia, Mali, Senegal, and Sierra Leone) to be on alert for potential infections.

In order to assist in preventing or limiting the introduction and spread of this communicable disease into the United States, the Departments of Homeland Security and Health and Human Services, including the Centers for Disease Control and Prevention (CDC), and other agencies charged with protecting the homeland and the American public, are currently implementing enhanced public health measures at six U.S. airports that receive the largest number of travelers from the DRC and the Republic of Guinea. To ensure that all travelers with recent presence in the affected countries arrive at one of these airports, DHS is directing all flights to the United States carrying such persons to arrive at the airports where the enhanced public health measures are being implemented. While DHS, in coordination with other applicable federal agencies, anticipates working with the air carriers in an endeavor to identify potential travelers from the affected countries prior to boarding, air carriers will remain obligated to comply with the requirement of this notice, particularly in the event that travelers who have recently traveled from or were otherwise present within, the affected countries are boarded on flights bound for the United States.

Notice of Arrival Restrictions Applicable to All Flights Carrying Persons Who Have Recently Traveled From or Were Otherwise Present Within the Democratic Republic of the Congo or the Republic of Guinea

Pursuant to 6 U.S.C. 112(a), 19 U.S.C. 1433(c), and 19 CFR 122.32, DHS has the authority to limit the location where all flights entering the United States from abroad may land. Under this authority and effective for flights departing after 11:59 p.m. Eastern Standard Time on March 4, 2021, I hereby direct all operators of aircraft to ensure that all flights carrying persons who have recently traveled from, or were otherwise present within, the DRC or the Republic of Guinea only land at one of the following airports:

- John F. Kennedy International Airport (JFK), New York;
- Chicago O'Hare International Airport (ORD), Illinois;
- Hartsfield-Jackson Atlanta International Airport (ATL), Georgia;
- Washington-Dulles International Airport (IAD), Virginia;

- Newark Liberty International Airport (EWR), New Jersey; and
- Los Angeles International Airport (LAX), California.

This direction considers a person to have recently traveled from the DRC or the Republic of Guinea if that person departed from, or was otherwise present within, the DRC or the Republic of Guinea within 21 days of the date of the person's entry or attempted entry into the United States. Also, for purposes of this document, crew and flights carrying only cargo (*i.e.*, no passengers or non-crew), are excluded from the applicable measures set forth in this notification. This direction is subject to any changes to the airport landing destination that may be required for aircraft and/or airspace safety as directed by the Federal Aviation Administration.

This list of designated airports may be modified by the Secretary of Homeland Security in consultation with the Secretary of Health and Human Services and the Secretary of Transportation. This list of designated airports may be modified by an updated publication in the **Federal Register** or by posting an advisory to follow at www.cbp.gov. The restrictions will remain in effect until superseded, modified, or revoked by publication in the **Federal Register**.

For purposes of this **Federal Register** document, "United States" means the territory of the several States, the District of Columbia, and Puerto Rico.

Alejandro N. Mayorkas,

Secretary, U.S. Department of Homeland Security.

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DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Parts 780, 788, and 795

RIN 1235-AA34

Independent Contractor Status Under the Fair Labor Standards Act (FLSA): Delay of Effective Date

AGENCY: Wage and Hour Division, Department of Labor.

ACTION: Final rule; delay of effective date.

SUMMARY: Consistent with the Presidential directive as expressed in the memorandum of January 20, 2021, from the Assistant to the President and Chief of Staff, titled "Regulatory Freeze Pending Review," this action finalizes the Department of Labor's proposal to delay until May 7, 2021, the effective

date of the rule titled Independent Contractor Status Under the Fair Labor Standards Act ("Independent Contractor Rule" or "January 2021 Rule"), which was published in the **Federal Register** on January 7, 2021, to allow the Department to review issues of law, policy, and fact raised by the rule before it takes effect.

DATES: As of March 4, 2021, the effective date of the Independent Contractor Rule published January 7, 2021 at 86 FR 1168 is delayed until May 7, 2021.

FOR FURTHER INFORMATION CONTACT:

Amy DeBisschop, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693-0406 (this is not a toll-free number). Copies of this final rule may be obtained in alternative formats (Large Print, Braille, Audio Tape or Disc), upon request, by calling (202) 693-0675 (this is not a toll-free number). TTY/TDD callers may dial toll-free 1-877-889-5627 to obtain information or request materials in alternative formats.

Questions of interpretation or enforcement of the agency's existing regulations may be directed to the nearest Wage and Hour Division ("WHD") district office. Locate the nearest office by calling the WHD's toll-free help line at (866) 4US-WAGE ((866) 487-9243) between 8 a.m. and 5 p.m. in your local time zone, or log onto WHD's website at <https://www.dol.gov/agencies/whd/contact/local-offices> for a nationwide listing of WHD district and area offices.

SUPPLEMENTARY INFORMATION:

I. Background

On January 7, 2021, the U.S. Department of Labor ("the Department") published the Independent Contractor Rule in the **Federal Register** with an effective date of March 8, 2021. *See* 86 FR 1168. The Independent Contractor Rule would, among other actions, introduce into title 29 of the Code of Federal Regulations a new part (part 795) titled "Employee or Independent Contractor Classification Under the Fair Labor Standards Act." *See id.* In a memorandum dated January 20, 2021, and titled "Regulatory Freeze Pending Review," published in the **Federal Register** on January 28, 2021 (86 FR 7424) ("Regulatory Freeze Memorandum"), the Assistant to the President and Chief of Staff, on behalf of the President, directed the heads of Executive Departments and Agencies to consider delaying the effective dates of

all regulations that had been published in the **Federal Register** but had not yet taken effect. The Independent Contractor Rule fell within this category. The Regulatory Freeze Memorandum states that the purpose of such delays is for agencies to review any questions of fact, law, and policy that the rules may raise, noting certain exceptions that do not apply to the Independent Contractor Rule. On January 20, 2021, the Office of Management and Budget (OMB) also published OMB Memorandum M-21-14, Implementation of Memorandum Concerning Regulatory Freeze Pending Review, which provides guidance regarding the Regulatory Freeze Memorandum. *See* OMB Memorandum M-21-14, Implementation of Memorandum Concerning Regulatory Freeze Pending Review, <https://www.whitehouse.gov/wp-content/uploads/2021/01/M-21-14-Regulatory-Review.pdf> (last visited February 25, 2021). OMB Memorandum M-21-14 explains that pursuant to the Regulatory Freeze Memorandum, agencies "should consider postponing the effective dates for 60 days and reopening [the] rulemaking processes" for "rules that have not yet taken effect and about which questions involving law, fact, or policy have been raised." *Id.*

On February 5, 2021, the Department issued a notice of proposed rulemaking (NPRM) in accordance with the Regulatory Freeze Memorandum and OMB Memorandum M-21-14 proposing to delay the effective date of the Independent Contractor Rule to May 7, 2021, which would be 60 days beyond its original effective date. *See* 86 FR 8326.

In the NPRM, the Department explained that delaying the effective date of the Independent Contractor Rule would give the Department additional opportunity to review and consider the Independent Contractor Rule, as the Regulatory Freeze Memorandum and OMB Memorandum M-21-14 contemplate. The Department noted that the Independent Contractor Rule would be its first generally applicable regulation addressing the question of who is an independent contractor and thus not an employee under the FLSA, and would adopt a new legal standard for determining employee and independent contractor status under the FLSA. In light of the significance of this change, the Department proposed to allow itself more time to further review and consider, among other important issues, the legal, policy, and/or enforcement implications of adopting that standard, such as: Whether the January 2021 Rule effectuates the