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10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION

14 Centro Legal de la Raza, *et al.*, ) CASE NO. 3:21-cv-00463-SI  
15 Plaintiffs, )  
16 v. ) NOTICE  
17 Executive Office for Immigration )  
18 Review, *et al.*, )  
19 Defendants. )

20 Defendants through undersigned counsel hereby submit an updated version of the Currently  
21 Effective Regulations Handout, as discussed in the parties' July 8, 2024, joint status report. This version  
22 of the Handout reflects the changes made by the rule, *Efficient Case and Docket Management in*  
23 *Immigration Proceedings*, 89 Fed. Reg. 46,742 (May 29, 2024) (final rule), which became effective on  
24 July 29, 2024.

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Respectfully submitted,

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Dated: August 13, 2024

**OIL's Currently Effective Regulations Handout**

Unless otherwise specified, the current version of a regulation can be found at <http://www.ecfr.gov>. For the sections in the chart below, the current version of the section is not effective for some or all of the section. Where a prior version is effective, the chart below gives the version year and links to the language that was in effect on January 1 of that version year as provided on <http://www.ecfr.gov>. Where a sub-section is ineffective but effective amendments have been made to another sub-section of the section since the ineffective language was added, the chart explains which versions are effective for each part of the section. And in such cases the multiple entries for that section are highlighted in the same color for ease of viewing.

| Provision   | Effective Version               |
|---|---------------------------------|
| § 1003.1 (except (b)(9)) (amended by ECAS Rule <sup>^</sup> and BIA Rule <sup>1</sup> )                                       | <a href="#">Current Version</a> |
| § 1003.1(b)(9)  | <a href="#">2020 Version</a>    |
| § 1003.8 (except (a)(1)) (amended by ECAS Rule <sup>^</sup> )   | <a href="#">Current Version</a> |
| § 1003.8(a)(1)  | <a href="#">2020 Version</a>    |
| § 1003.10(b) (except last three sentences)  | <a href="#">Current Version</a> |
| § 1003.10(b) (last three sentences)   | <a href="#">2020 Version</a>    |
| § 1003.24 (except (c)(1)) (amended by ECAS Rule <sup>^</sup> )  | <a href="#">Current Version</a> |
| § 1003.24(c)(1)   | <a href="#">2020 Version</a>    |
| § 1003.29   | <a href="#">2020 Version</a>    |
| § 1003.42 (except section heading, (d), (h)(1) & (2))   | <a href="#">2020 Version</a>    |
| § 1003.42 section heading & (d) (amended by AP IFR* and CLP <sup>a</sup> ), (h)(1) & (2) (amended by STCA Rule <sup>#</sup> ) | <a href="#">Current Version</a> |
| § 1103.7 (except (a)(3))  | <a href="#">2020 Version</a>    |
| § 1103.7(a)(3) (amended by ECAS Rule <sup>^</sup> )   | <a href="#">Current Version</a> |
| § 1208.1  | <a href="#">2020 Version</a>    |
| § 1208.3 (except (c)(3)) (amended by AP IFR*)   | <a href="#">Current Version</a> |
| § 1208.3(c)(3) <sup>†</sup>   | See below <sup>†</sup>          |
| § 1208.4 (except (d)) (amended by AP IFR* and ECAS Rule <sup>^</sup> )  | <a href="#">Current Version</a> |
| § 1208.4(d)   | <a href="#">2020 Version</a>    |

| Provision  | Effective Version               |
|--|---------------------------------|
| § 1208.6   | <a href="#">2020 Version</a>    |
| § 1208.7   | <a href="#">2020 Version</a>    |
| § 1208.9   | <a href="#">2020 Version</a>    |
| § 1208.12  | <a href="#">2020 Version</a>    |
| § 1208.13 (except (c)(3)–(5), (f))   | <a href="#">2020 Version</a>    |
| § 1208.13(c)(3)–(5) (removed by CLP <sup>a</sup> ), (f) (added by CLP <sup>a</sup> ) | <a href="#">Current Version</a> |
| § 1208.15  | <a href="#">2020 Version</a>    |
| § 1208.16(b)(3) and (e)  | <a href="#">2020 Version</a>    |
| § 1208.16 (except (b)(3) and (e)) (amended by AP IFR*)                               | <a href="#">Current Version</a> |
| § 1208.18 (except (b)(1))  | <a href="#">2020 Version</a>    |
| § 1208.18(b)(1) (amended by AP IFR*)   | <a href="#">Current Version</a> |
| § 1208.20  | <a href="#">2020 Version</a>    |
| § 1208.30 (except (b)) (amended by AP IFR* and CLP <sup>a</sup> )                    | <a href="#">Current Version</a> |
| § 1208.30(b)   | <a href="#">2020 Version</a>    |
| § 1208.31  | <a href="#">2020 Version</a>    |
| § 1235.6 (except (a)(2))   | <a href="#">2020 Version</a>    |
| § 1235.6(a)(2) (amended by AP IFR*)  | <a href="#">Current Version</a> |
| § 1240.6   | <a href="#">2020 Version</a>    |
| § 1244.4   | <a href="#">2020 Version</a>    |

<sup>^</sup> “ECAS Rule” refers to *Executive Office for Immigration Review Electronic Case Access and Filing*, 86 Fed. Reg. 70,708 (Dec. 13, 2021), which became effective on February 11, 2022, and is currently in effect.

\* “AP IFR” refers to *Procedures for Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protection Claims by Asylum Officers*, 87 Fed. Reg. 18,078 (Mar. 29, 2022) (“Asylum Processing IFR”), previously known as the “Asylum Officer Rule” or “AO Rule,” which became effective on May 31, 2022, and is currently in effect.

† 8 CFR § 1208.3(c)(3) was amended by *Procedures for Asylum and Withholding of Removal*, 85 Fed. Reg. 81,698 (Dec. 16, 2020) (“EOIR-Only Asylum Procedures Rule”), which was preliminarily enjoined and had its effective date stayed. *See Nat’l Immigrant Justice Ctr. v. Exec. Office for Immigration Review*, No. 21-56 (RBW) (D.D.C. Jan. 14, 2021). The Asylum Processing IFR added some text to § 1208.3(c)(3) but did not replace the ineffective language. Thus, the currently effective language, including the additional effective language added by the Asylum Processing IFR in yellow, would be:

An asylum application **under paragraph (a)(1) of this section** that does not include a response to each of the questions contained in the Form I-589, is unsigned, or is unaccompanied by the required materials specified in paragraph (a) of this section is incomplete. The filing of an incomplete application shall not commence the 150-day period after which the applicant may file an application for employment authorization in accordance with § 1208.7. An application that is incomplete shall be returned by mail to the applicant within 30 days of the receipt of the application by the Service. If the Service has not mailed the incomplete application back to the applicant within 30 days, it shall be deemed complete. An application returned to the applicant as incomplete shall be resubmitted by the applicant with the additional information if he or she wishes to have the application considered.

# “STCA Rule” refers to *Implementation of the 2022 Additional Protocol to the 2002 U.S.-Canada Agreement for Cooperation in the Examination of Refugee Status Claims from Nationals of Third Countries*, 88 Fed. Reg. 18,227 (Mar. 28, 2023), which became effective on March 28, 2023, and is currently in effect.

<sup>a</sup> “CLP” refers to *Circumvention of Lawful Pathways*, 88 Fed. Reg. 31,314 (May 16, 2023) (“Lawful Pathways Rule”), which became effective on May 11, 2023. The rule removed amendments implementing *Asylum Eligibility and Procedural Modifications*, 85 Fed. Reg. 82,260 (Dec. 17, 2020) (“Third Country Transit Bar Rule”), and *Aliens Subject to a Bar on Entry Under Certain Presidential Proclamations; Procedures for Protection Claims*, 83 Fed. Reg. 55,934 (Nov. 9, 2018) (“Proclamation Bar IFR”). Although the Lawful Pathways Rule is currently in effect, it is subject to litigation. Such litigation will not change the effectiveness of the Third Country Transit Bar Rule and Proclamation Bar IFR provisions as those remain enjoined and vacated, respectively, through other litigation. However, a decision vacating or enjoining the Lawful Pathways Rule in its entirety would render ineffective 8 C.F.R. §§ 1208.13(f) and 1208.33.

<sup>1</sup> “BIA Rule” refers to *Expanding the Size of the Board of Immigration Appeals*, 89 Fed. Reg. 22,630 (Apr. 2, 2024), which became effective upon publication and is currently in effect. This rule amended paragraphs (1) and (4) of 8 C.F.R. § 1003.1(a).

### Explanation of Enjoined Provisions

The chart below includes the provisions of EOIR’s regulations that are not currently effective. This chart is not comprehensive. If you would like to see what a certain rule amended in a provision, go to <http://www.ecfr.gov> and navigate to the specific provision. On the left-hand side, click “Compare Dates” and then enter the dates one day before and one day after the specific rule’s effective date.

| Rule & Court Decision(s) Preventing Application  | Provision  | Description of Enjoined Amendment & Link to Currently Effective Provision  |
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| <p><b>Rule:</b><br/><i>Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review</i>, 85 Fed. Reg. 80,274 (Dec. 11, 2020) (“Global Asylum Rule”)</p> <p><i>Effective Date:</i> Jan. 11, 2021</p> <p><b>Court Order:</b><br/><i>Pangea Legal Servs. v. U.S. Dep’t of Homeland Sec.</i>, 512 F. Supp. 3d 966, 969–70 (N.D. Cal. 2021) (“<i>Pangea IP</i>”) (preliminarily enjoining Global Asylum Rule)</p> | Board jurisdiction over IJ decisions<br>§ 1003.1(b)(9)               | Rule modified § 1003.1(b)(9) to add an additional cross-reference, highlighted in yellow: “Decisions of Immigration Judges in asylum proceedings pursuant to § 1208.2(b) and (c) of this chapter.” The 2020 version of § 1003.1(b)(9) (referencing only § 1208.2(b)) is currently in effect.   |
|  | Definitions for asylum and withholding of removal<br>§ 1208.1(c)-(g) | Rule added definitions and other clarifications for the concepts of “particular social group,” “political opinion,” “nexus,” “persecution,” and “stereotype” evidence. The 2020 version of § 1208.1 is currently effective and does not include paragraphs (c) through (g).  |
|  | Disclosure to third parties<br>§ 208.6<br>§ 1208.6                   | Rule added additional exceptions to DHS’s and EOIR’s provisions regarding the confidentiality of asylum applications. The 2020 versions are currently effective and are available <a href="#">here</a> (DHS) and <a href="#">here</a> (EOIR).  |
|  | Internal relocation<br>§ 1208.13(b)(3)<br>§ 1208.16(b)(3)            | Rule changed the considerations relevant to determining whether internal relocation is reasonable and changed the burden shifting where past persecution. The rule added the following: “Regardless of whether an applicant has established persecution in the past, in cases in which the persecutor is not the government or a government-sponsored actor, or otherwise is a private actor, there shall be a presumption that internal relocation would be reasonable unless the applicant establishes, by a preponderance of the evidence, that it would be unreasonable to relocate.” The 2020 version of § 1208.13(b)(3) is currently effective and is available <a href="#">here</a> . The 2020 version of § 1208.16(b)(3) and (e) is currently effective and is available <a href="#">here</a> . For all other paragraphs, please cite the current version available <a href="#">here</a> . |
|  | Asylum discretion<br>§ 1208.13(d)                                    | Rule added paragraph setting out specific factors for adjudicators to consider when determining whether to grant asylum in an exercise of discretion. This paragraph is not currently effective. The 2020 version of § 1208.13(d) is currently effective and is available <a href="#">here</a> .   |
|  | Pretermission<br>§ 1208.13(e)  | Rule added a paragraph allowing IJ to pretermite asylum applications.  |

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|  | This paragraph is not currently effective. The 2020 version of § 1208.13(e) is currently effective and is available <a href="#">here</a> .  |
| Firm resettlement<br>§ 1208.15   | Rule made significant changes to firm resettlement.<br>The 2020 version is currently effective and is available <a href="#">here</a> .  |
| CAT state action<br>requirement (under color<br>of law)<br>§ 1208.18(a)(1) | Rule incorporated the “under color of law” standard set forth in <i>Matter of O-F-A-S-</i> , 28 I. & N. Dec. 35 (A.G. 2020). Although the provision is enjoined, <i>Matter of O-F-A-S-</i> remains good law and stands for the same proposition.<br>The 2020 version is currently effective and is available <a href="#">here</a> .<br><b>Note:</b> § 1208.18(b)(1) was amended by the Asylum Processing IFR, which is in effect. The currently effective version for that paragraph only is available <a href="#">here</a> . For any other provision of 1208.18, please cite the 2020 version as instructed above. |
| CAT state action<br>requirement (willful<br>blindness)<br>§ 1208.18(a)(7)  | Rule amended provision to clarify that actual knowledge and willful blindness can meet the acquiescence standard and defining willful blindness.<br>The 2020 version is currently effective and is available <a href="#">here</a> .<br><b>Note:</b> § 1208.18(b)(1) was amended by the Asylum Processing IFR, which is in effect. The currently effective version for that paragraph only is available <a href="#">here</a> . For any other provision of 1208.18, please cite the 2020 version as instructed above.   |
| Frivolous findings<br>§ 1208.20  | Rule expanded grounds for finding an application frivolous and added ability to withdraw application and accept voluntary departure in exchange for the IJ not entering such a finding.<br>The 2020 version is currently effective and is available <a href="#">here</a> .  |
| Credible Fear Provisions<br>§ 1208.30(b)<br>§ 1208.30(g)(1)                | Rule made various changes to the credible fear provisions, many of which were subsequently amended by the Asylum Processing IFR, the amendments of which are currently in effect. The provisions listed to the left are those that have not been replaced and remain enjoined.<br>For § 1208.30, generally cite to the currently effective version <a href="#">here</a> .<br>Note that CLP removed and reserved paragraph (g)(1). However, for paragraph (b), the proper version to cite is the version from 2020, which is available <a href="#">here</a> .  |
| Reasonable Fear<br>Provisions<br>§ 1208.31                                 | Rule amended paragraphs (f) and (g) to make stylistic changes and to add a provision that if the noncitizen “refuses” to indicate whether they want review of a negative fear finding, that refusal will be interpreted as declining review.<br>The 2020 version is currently effective and available <a href="#">here</a> .  |

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|   | Referral to the IJ<br>§ 1235.6  | Rule made changes to this provision regarding LPRs and asylees. The 2020 version is currently effective and available <a href="#">here</a> , except with respect to paragraph (a)(2), for which the current version should be cited (available <a href="#">here</a> ).  |
|   | TPS Ineligibility<br>§ 1244.4   | Rule updated a very out-of-date reference from INA 243(h)(2)—an old firm resettlement provision that applied to withholding of deportation—to INA 208(b)(2)(A)—the currently firm resettlement statutory provision. The change merely updated the regulation to match the language in the TPS statute, which renders ineligible for TPS any noncitizen “described in section 208(b)(2)(A)” of the INA. The 2020 version is currently effective and available <a href="#">here</a> , but if citing this provision, recommend citing the current statute instead of the outdated regulatory text. |
| <p><b>Rule:</b><br/><i>Procedures for Asylum and Bars to Asylum Eligibility</i>, 85 Fed. Reg. 67,202 (Oct. 21, 2020) (“Criminal Asylum Bars Rule”)</p> <p><i>Effective Date:</i> Nov. 20, 2020</p> <p><b>Court Order:</b><br/><i>Pangea Legal Servs. v. U.S. Dep’t of Homeland Sec.</i>, 501 F. Supp. 3d 792, 827 (N.D. Cal. 2020) (order preliminarily enjoining the rule)</p> | Additional criminal-activity-based bars to asylum<br>§ 1208.13(c)(6)-(9)                            | Rule added various bars to a grant of asylum based on criminal activity as well as definitions and other related provisions relating to the application of those new bars. The 2020 version of § 1208.13(c)(6)-(9) is currently effective and does not include (c)(6)-(9). That version of this provision is available <a href="#">here</a> .   |
|   | Reconsideration of discretionary asylum denial<br>§ 1208.16(e) removed                              | Rule removed a provision that requires reconsideration of a discretionary denial of asylum where the applicant is found eligible for withholding of removal. The 2020 version of § 1208.16(b)(3) and (e) is currently effective and is available <a href="#">here</a> . For all other paragraphs, please cite the current version available <a href="#">here</a> .  |
| <p><b>Rule:</b><br/><i>Procedures for Asylum and Withholding of Removal</i>, 85 Fed. Reg. 81,698 (Dec. 16, 2020) (“EOIR-Only Asylum Procedures Rule”)</p> <p><i>Effective Date:</i> Jan. 15, 2021</p>   | 180-Day Provisions<br>§ 1003.10(b) (general)<br>§ 1003.29 (continuances)<br>§ 1240.6 (adjournments) | Rule amended these provisions to provide that in taking the actions the provisions allow (such as continuances and adjournments), nothing authorizes an IJ to take an action that would cause the adjudication of an application for asylum to exceed 180 days absent exceptional circumstances. The 2020 versions are currently effective and are available <a href="#">here</a> (1003.10), <a href="#">here</a> (1003.29), and <a href="#">here</a> (1240.6).   |

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| <p><b>Court Order:</b><br/> <i>Nat'l Immigrant Justice Ctr. v. Exec. Office for Immigration Review</i>, No. 21-56 (RBW) (D.D.C. Jan. 14, 2021) (order granting preliminary injunction and staying rule's effective date under 5 U.S.C. § 705)</p> | <p>Asylum application filing requirements<br/> § 1208.3(c)(3)<br/> § 1208.4(d)</p> | <p>Rule amended multiple provisions dealing with the requirements for a complete asylum application and fee receipt filing requirements. The Rule further instituted a 15-day application filing requirement for applicants in asylum-and-withholding-only proceedings. Both §§ 1208.3 and 1208.4 have been amended since the Rule's amendments by other rules that are currently in effect. You should cite to the current version of these provisions except when citing the specific paragraphs listed here. For § 1208.4(d), cite to the 2020 version of the regulation, which is available <a href="#">here</a>. For § 1208.3(c)(3), see the discussion regarding that paragraph under the chart in section one of this guidance.</p> |
|   | <p>Reliance upon governmental sources<br/> § 1208.12(a)</p>                        | <p>Rule amended § 1208.12(a) to allow IJs to rely on certain governmental sources and to submit relevant evidence into the record. The 2020 version is currently effective and is available <a href="#">here</a>.</p>  |
|   | <p>Fees<br/> § 1003.8(a)(1)<br/> § 1003.24(c)(1)</p>                               | <p>Rule inserted cross-references to implement new rules providing for filing fees for asylum applications. The ECAS Rule amended other provisions of §§ 1003.8 and 1003.24 and is currently in effect. Cite to the current provisions <a href="#">here</a> (1003.8) and <a href="#">here</a> (1003.24), unless you are citing the paragraphs listed to the left, in which case you should cite to the 2020 versions <a href="#">here</a> (1003.8(a)(1)) and <a href="#">here</a> (1003.24(c)(1)).</p>   |
|   | <p>DHS Provisions<br/> § 1208.7<br/> § 1208.9</p>                                  | <p>Rule removed and reserved two provisions that related to DHS functions, specifically EADs and interviews before asylum officers. The 2020 versions are currently effective and are available <a href="#">here</a> (1208.7) and <a href="#">here</a> (1208.9).</p>   |