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U.S. Citizenship
and Immigration
Services

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AK

[REDACTED]

FILE: [REDACTED] Office: CLEVELAND, OH Date: **MAY 28 2008**

IN RE: Petitioner: [REDACTED]

PETITION: Petition for Alien Relative under Section 204(a)(1)(A)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1154(a)(1)(A)(i)

ON BEHALF OF PETITIONER:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The District Director, Cleveland, Ohio approved the petition in this matter on June 14, 2007, but subsequently revoked that approval. The revocation is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The record reflects that the U.S. citizen petitioner, [REDACTED], filed the Form I-130, Petition for Alien Relative, for her Syrian spouse, [REDACTED] on March 16, 2007. Citizenship and Immigration Services (CIS) approved the petition on June 14, 2007. However, on February 13, 2008, CIS revoked that approval. *Decision of the District Director*, February 13, 2008. Counsel for the applicant appealed the revocation to the AAO on February 28, 2008. *Form I-290B, Notice of Appeal or Motion*, dated February 27, 2008.

The authority to adjudicate appeals is delegated to the AAO by the Secretary of the Department of Homeland Security (DHS) pursuant to the authority vested in him through the Homeland Security Act of 2002, Pub. L. 107-296. See DHS Delegation Number 0150.1 (effective March 1, 2003); see also 8 C.F.R. § 2.1 (2003). The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003).

The AAO cannot exercise appellate jurisdiction over additional matters on its own volition, or at the request of an applicant or petitioner. As a "statement of general . . . applicability and future effect designed to implement, interpret, or prescribe law or policy," the creation of appeal rights for adjustment application denials meets the definition of an agency "rule" under section 551 of the Administrative Procedure Act. The granting of appeal rights has a "substantive legal effect" because it is creating a new administrative "right," and it involves an economic interest (the fee). "If a rule creates rights, assigns duties, or imposes obligations, the basic tenor of which is not already outlined in the law itself, then it is substantive." *La Casa Del Convaleciente v. Sullivan*, 965 F.2d 1175, 1178 (1st Cir. 1992) All substantive or legislative rule making requires notice and comment in the Federal Register.

The AAO does not have jurisdiction over the appeal of the denial or revocation of a Form I-130 filed under section 204(a)(1)(A)(i) of the Act. Such decisions are appropriately raised to the Board of Immigration Appeals. Accordingly, the appeal will be rejected.

ORDER: The appeal is rejected.