



Appealing a Denial of Verification or the Cancellation of a Participant's Verified Status

Issue:

This brief explains the post-determination process for applications that have been denied verification or participants that CVE has cancelled their verified status in the VA Center for Verification and Evaluation (CVE) Vendor Information Pages (VIP) database.

(For purposes of this brief, the regulations when referring to Service-Disabled Veterans applies equally to Veterans; applicant refers to the business entity applying for verification; and participant refers to a business entity that has already been verified.)

The Regulations:

13 CFR § 125.11 provides:

Veteran owned small business concern means a small business concern:

(1) Not less than 51 percent of which is owned by one or more veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans. All of the provisions of subpart B of this part apply for purposes of determining ownership and control.

38 CFR 74.13(a) provides that “[a]n applicant may appeal CVE’s decision to deny an application by filing an appeal with the United States Small Business Administration (SBA) Office of Hearings and Appeals (OHA) after the applicant receives the denial in accordance with

13 CFR part 134. The filing party bears the risk that the delivery method chosen will not result in timely receipt by OHA.”

38 CFR 74.22(e) provides “[a] participant may file an appeal with OHA concerning the Notice of Verified Status Cancellation decision in accordance with 13 CFR part 134. The decision on the appeal shall be final.”

13 CFR § 134.1103 provides “[d]enials and cancellations of verification of CVE status may be appealed to OHA, so long as the denial or cancellation is not based on the failure to meet any veteran or service-disabled veteran eligibility criteria. Such denials and cancellations are final VA decisions and not subject to appeal to OHA.”

13 CFR § 134.1104 provides:

(a) A concern whose application for CVE verification has been denied or whose CVE status has been cancelled must file its appeal within 10 business days of receipt of the denial or cancellation.

(b) The rule for counting days is in §134.202(d).

(c) OHA will dismiss an untimely appeal.

13 CFR § 134.1101 provides:

(a) The rules of practice in this subpart apply to appeals of denials and cancellations of verification for inclusion in the U.S. Department of Veterans Affairs Center for Verification and Evaluation Database (CVE Appeals).

(b) Except where inconsistent with this subpart, the provisions of subparts A and B of this part apply to appeals listed in paragraph (a) of this section.

What This Means:

- Subpart B as referred to in 13 CFR § 125.11 is saying that anywhere in the regulations where the term Service-Disabled Veteran is used, it is equally applicable to Veterans for purposes of determining eligibility.
- CVE will no longer be handling Requests for Reconsideration or Appeals.
- Appeals will now be processed through the United States Small Business Administration (SBA) Office of Hearings and Appeals (OHA).
- The rules governing appeals are published at 13 CFR part 134.
- Appeals must be filed within 10 business days of receipt of the denial or cancellation.
- OHA will dismiss an untimely appeal.

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For more information about VA Small and Veteran Business Programs, visit <http://www.va.gov/osdbu>.

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