



RELEASE – REVISION OF DCMWC PROCEDURE MANUAL CHAPTER 2-800, RESPONSIBLE OPERATOR DETERMINATION

BLBA TRANSMITTAL NO. 21-04

March 2021

EXPLANATION OF MATERIAL TRANSMITTED:

This transmittal publishes the updated DCMWC Procedure Manual Chapter 2-800, Responsible Operator Determination. This update incorporates regulatory and procedural changes effective following the September 1994 release of the prior chapter. The updated chapter replaces the previous version in full and will be posted on the DCMWC website as well as the Black Lung Library. Accordingly, the prior chapter will be removed from the library and archived for historical purposes.

Changes in this chapter provide guidelines and procedures followed by DCMWC for the investigation and identification of coal mine operator and insurance carriers potentially, and ultimately, responsible for payment of benefits in Black Lung claims. Furthermore, the updated chapter includes guidance concerning the interpretation of “one year of coal mine employment” for cases under the jurisdiction of the Sixth Circuit Court.

In addition to updates within this chapter, is the revised 2000 regulations, which became effective January 1, 2001. This regulations, placed an increased emphasis on the accurate identification and notification of a responsible operator (RO) in that all operators, except the one that has been “designated” as the liable operator, must be dismissed prior to referral of a claim to the Office of Administrative Law Judges (OALJ). Furthermore, if the ALJ determines that the designated operator is not the RO, the claim will not be remanded to allow the district director (DD) a second chance to name another operator-the Trust Fund must assume responsibility for the payment of all benefits.

Also, in an effort to streamline and consolidate policy and procedural guidance, as each updated chapter is released, the previous chapter and associated guidance in the Black Lung Library will be removed from the library and archived for historical purposes.

Action: Staff should destroy locally-stored paper copies of the previous version of Procedure Manual Chapter 2-800.

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Distribution: All DCMWC Staff and Regional Directors