

# **NORTH AMERICAN REFRACTORIES COMPANY ASBESTOS PERSONAL INJURY SETTLEMENT TRUST**

## **Procedures for Supplementing the Worksite List**

### **Introduction**

1. The NARCO Asbestos Trust Distribution Procedures (“TDP”) require that a claimant demonstrate that a specific asbestos-containing product manufactured or distributed by NARCO or its predecessors was present at a worksite and that the claimant worked on a regular basis with the NARCO asbestos-containing product or worked in close proximity to workers engaged in the TDP specified activities. TDP Section 4.7(b)(1).
2. A claimant may demonstrate the presence of the asbestos-containing NARCO product by submitting competent evidence that the claimant worked at a site on the Worksite List. The Worksite List is attached to the TDP as Attachment C, and published on the [NARCO Trust’s Documents Page](#). TDP Section 4.7(b)(1).
3. Footnote 10 to the TDP provides: “The ‘Worksite List’ may be modified by the agreement of the NARCO Asbestos Trust Trustees, the NARCO Asbestos TAC, and the NARCO Asbestos Future Claimants Representative, consistent with the consent provisions of the NARCO Asbestos Trust Agreement.”
4. The NARCO Asbestos Trust has adopted these Procedures for Supplementing the Worksite List. Under these procedures, a person may submit a proposal to the NARCO Asbestos Trust to add sites to the Worksite List or to expand the date range associated with a site on the Worksite List in one of two ways as provided below in paragraphs 5 -7 (“Process I”) and paragraph 8 (“Process II”).

### **Process I**

5. A person may submit evidence that (i) a particular plaintiff alleged in the tort system prior to the NARCO Petition Date of January 4, 2002, that the plaintiff was exposed to a specific NARCO asbestos-containing product at a particular worksite during a particular time frame or date range, and (ii) NARCO settled that plaintiff’s claim prior to the Petition Date, or agreed to a specific settlement amount for the claim but the settlement payment was not made as of the Petition Date. See Agreement between NARCO Asbestos Creditors Committee, the NARCO Asbestos Future Claimants Representative, the Designated Trustees and Honeywell Concerning Procedures for Adding Worksites, NARCO Asbestos-Containing Products and/or Date Ranges to the NARCO Worksite List, dated September 8, 2008.
6. A person submitting a proposal under paragraph 5 must support the proposal with evidence in the form of sworn testimony that was generated in connection with the plaintiff’s assertion of the claim in the tort system prior to the Petition Date. The sworn testimony may include but is not necessarily limited to verified work history sheets

alleging exposure to a NARCO asbestos-containing product at a particular worksite, plaintiff affidavits, complaints, deposition transcripts or verified interrogatory responses that contain details regarding the plaintiff's allegation of exposure to a NARCO asbestos-containing product at a particular worksite. Sworn co-worker testimony in the form of deposition transcripts or affidavits may also be submitted to supplement the plaintiff's information where necessary. Social Security records will suffice to establish employment, but additional evidence is required to show both exposure at the worksite at issue and the plaintiff's pre-Petition Date settlement. Id.

7. In addition to the requirements of paragraphs 5 and 6, a person submitting a proposal under Process I shall also provide the plaintiff's name and Social Security number, the plaintiff's law firm at the time of the settlement with NARCO and/or Honeywell, the worksite in question, the date range or time period of the alleged exposure, the date and amount of the plaintiff's settlement with NARCO and/or Honeywell, and the name of the NARCO defense counsel, if known. Id.

### **Process II**

8. A person may submit evidence that a particular NARCO asbestos-containing product was present at a worksite at a particular period of time or that the NARCO asbestos-containing product was present at a site on the Worksite List at additional times. The evidence must be in the form of sworn testimony, sales or purchase invoices or other similar records, construction records, work orders, admissions, interrogatory responses, deposition transcripts or other credible evidence identifying the particular NARCO asbestos-containing product at the worksite and/or the particular time period associated with the site. The person shall provide a statement in support of the proposal.

### **Procedures for Submissions under Process I and Process II**

9. The proposal shall be submitted to the NARCO Asbestos Trust by email or regular mail to the Trustees with a copy to Trust counsel Sander Esserman.
10. The Trustees plan to review a proposal within 30 days of submission or as soon thereafter as practicable.
11. If the Trustees find evidentiary or other problems or deficiencies with the proposal, the Trustees will provide the person submitting the proposal with a notice and an opportunity to supplement the proposal. The person submitting the proposal may submit additional evidence and materials seeking to remedy any problems or deficiencies within 60 days of the notice.
12. The Trustees may schedule a conference with the person submitting the proposal to discuss the proposal.
13. If the Trustees conclude that the proposal is not supported by credible evidence, the NARCO Asbestos Trust will decline to adopt the proposal.

14. If the Trustees conclude that the proposal is supported by credible evidence, the Trustees will adopt the proposal subject to the consent process of Section 8.1(b) of the Second Amended and Restated NARCO Asbestos Trust Agreement. The Trustees will submit the proposal to the NARCO Asbestos TAC and the NARCO Asbestos Future Claimants Representative for their consent to the adoption of the proposal.
15. As provided in Section 8.1(b)(iii) of the Second Amended and Restated NARCO Asbestos Trust Agreement, disputes regarding consent to additions to the Worksite List shall be resolved pursuant to Section 8.14 of the Second Amended and Restated NARCO Asbestos Trust Agreement and the Alternative Dispute Resolution Procedures dated September 1, 2013. The person submitting the proposal may be invited to participate in the process.