

# SEPCO ASBESTOS PERSONAL INJURY TRUST

## Exposure and Product Identification Guidelines

November 12, 2021

This policy is meant to clarify the requirements in the Trust Distribution Procedures for claimants providing proof of “Debtor Exposure.” The TDP provides:

**5.6(b)(3) Debtor Exposure.** The claimant must demonstrate meaningful and credible exposure to asbestos, asbestos-containing products, or conduct for which the Asbestos Trust has legal responsibility as described in this Section 5.6(b)(3) (“**Debtor Exposure**”). That meaningful and credible exposure evidence may be established by an affidavit or sworn statement of the claimant, by an affidavit or sworn statement of a co-worker or the affidavit or sworn statement of a family member in the case of a deceased claimant (providing the Asbestos Trust finds such evidence reasonably reliable), by invoices, employment, construction or similar records, or by other credible evidence. In order for a claim to be approved by the Asbestos Trust, the injured party must demonstrate to the Asbestos Trust’s satisfaction that he or she regularly worked with **the Debtor’s** asbestos gaskets, asbestos packing, asbestos tubing, asbestos thermal insulation for tubing and/or piping, and/or asbestos insulation blankets in settings where those products were being ground, scraped, brushed, cut, removed, or physically manipulated in such a manner as to cause the release of asbestos fibers. The specific exposure information required by the Asbestos Trust to process a claim shall be set forth on the proof of claim form to be used by the Asbestos Trust. The Asbestos Trust can also require submission of other or additional evidence of exposure when it deems such to be necessary.

The goal of the Trust is to treat all claimants equitably, to process and pay claims “on an impartial, first-in-first-out basis, with the intention of paying all claimants over time as equivalent a share as possible of the value of their claims based on historical values for substantially similar claims in the tort system.” TDP, Section 2.1. In order to meet that goal, the Trust must require that Sepco product identification be based on more than an unsubstantiated assertion that claimant was exposed to a Sepco product. Without such a requirement in place, the Trust may prematurely run out of assets or be required to reduce the payment percentage to something negligible. Accordingly, the Trust requires that a product identification affidavit or testimony provide a foundation for that Sepco product identification. Such a foundation must be based on personal knowledge and specify how the affiant or witness knew that the product was a

Sepco product. The Trust will not limit or specify in advance the requirements of that foundation testimony. While there are obvious types of evidence, such as what was displayed or printed on a box, packaging, or a product, written sales records or the like, the Trust will evaluate any and all foundation evidence provided on a case-by-case basis.

Notwithstanding the requirements set forth in the preceding paragraph, the Trust is mindful that the amount of foundation evidence required must be moderated by a claimant's current circumstances. In assessing evidence provided in support of a claim, the Trust will consider the totality of claimant's circumstances, including whether the injured party is deceased or otherwise unavailable to provide an affidavit or other information, as well as the limited sales records available pertaining to Sepco products.

The Trust encourages claimants to provide as much information as possible about the circumstances of the alleged exposure to asbestos-containing Sepco products, such as the location and timing of the activities involving the exposure, the job role or title of the claimant during the alleged exposure, the purpose for which the alleged Sepco product was used, and any other information the claimant believes would assist the Trust in evaluating the information submitted in support of concluding the claimant has established exposure to an asbestos-containing Sepco product.