



February 17, 2023

To: PRISM Pollution Program Members

From: Gina Dean, CEO

Re: Stakeholder Message PRISM Pollution Program

The pollution marketplace continues to be a challenging marketplace for public entities. While there are over 40 markets writing pollution legal liability (PLL) coverage, there are currently only a handful that are willing to underwrite public entity programs and this number continues to dwindle for primary players on large public entity programs. And while the overall pollution marketplace remains relatively stable with 3-5% rate increases, the public entity sector continues to experience higher rates and more restrictive coverage. In addition, deductibles are increasing and multiyear terms are seldom offered, and overall carriers are reducing both per incident and aggregate limits.

Across the marketplace and across the country, coverage terms have been impacted by a combination of high-profile mold incidents, rising legionella claims, wildfire claims, claims for contaminated water supplies and a growing focus and new legislation on new and emerging contaminants such as perfluoroalkyl and polyfluoroalkyl substances (PFAS/PFOAS). PFAS, in particular, are impacting the nation's drinking water and these "forever chemicals" are linked to a variety of health problems, including thyroid disease, and cancer. The regulation of PFAS and PFOAS was fast-tracked in November of 2021 when President Biden signed the Bipartisan Infrastructure Law, which included a proposal to designate PFAS/PFOAS as hazardous chemicals. The proposal to designate these chemicals as hazardous under CERCLA means that corporations, tribes, municipalities, and other property owners may be liable parties responsible for, in whole or in part, the presence of PFAS at their sites, regardless of whether the chemical was previously regulated. According to an article published by Politico on September 13, 2022, early estimates of the cost of removing PFAS from drinking water nationwide is about \$400 billion—dwarfing the cost of settlements and cleanup costs from environmental contamination like asbestos and lead pipes or other public health settlements tied to tobacco and opioids. As a result total exclusions for PFAS have been applied across the marketplace.

Changes in the pollution marketplace are being driven by many different risk factors. For the past two years we saw the impacts of the frequency of PLL claims that occurred in 2019 and 2020 that were mostly due to the microbial matter exposures afflicting the habitational, hospitality, healthcare, and education industries. In 2021 we saw an uptick in losses related to mold and legionella due to long term building closures associated with COVID-19 shutdowns.

Once again, environmental-related risks (extreme weather events, climate change, human-made environmental disasters, biodiversity loss, and natural disasters) dominate the Global Risks Report identified by the 2022 World Economic Forum. Many of these risks and the resulting remediation and tort exposures associated with these events are addressed by pollution policies, leading markets to prepare for a continued increase in frequency and severity of pollution losses. Wildfires across California in 2021 and 2022 contributed to an uptick in runoff claims (fuel, debris,



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landfill material and various contaminants being spread as a result of water used to put out the fires and that water running offsite, into storm drains, etc.). The recent floods in California are also expected to impact the pollution marketplace by causing mold, water contamination, and disbursement of chemicals, fuel, debris, from both onsite and offsite sources across the state. Wildfires and floods are also leading underwriters to take a closer look at landfills and to impose further restrictions.

PRISM Losses:

There are currently five open claims. Total paid losses to date equal less than \$14,000.

Marketing Effort:

In 2021, we reached out to 25 insurers for the renewal of the PRISM Pollution Program. Of these, 24 markets declined the primary layer without any further discussion for reasons including losses, lack of appetite for ensuring a large portfolio of risks with shared limits, and for coverages requested for water and sewage. In 2022 we explored many different structures including primary and excess layers and quota shares among carriers and many declined or were not competitive with Ironshore's pricing for the full \$50M aggregate. We intend to continue these conversations in 2023 and to achieve additional quotes for the Program on primary and excess layers now that claims activity has improved over the past year.

Safety in Numbers:

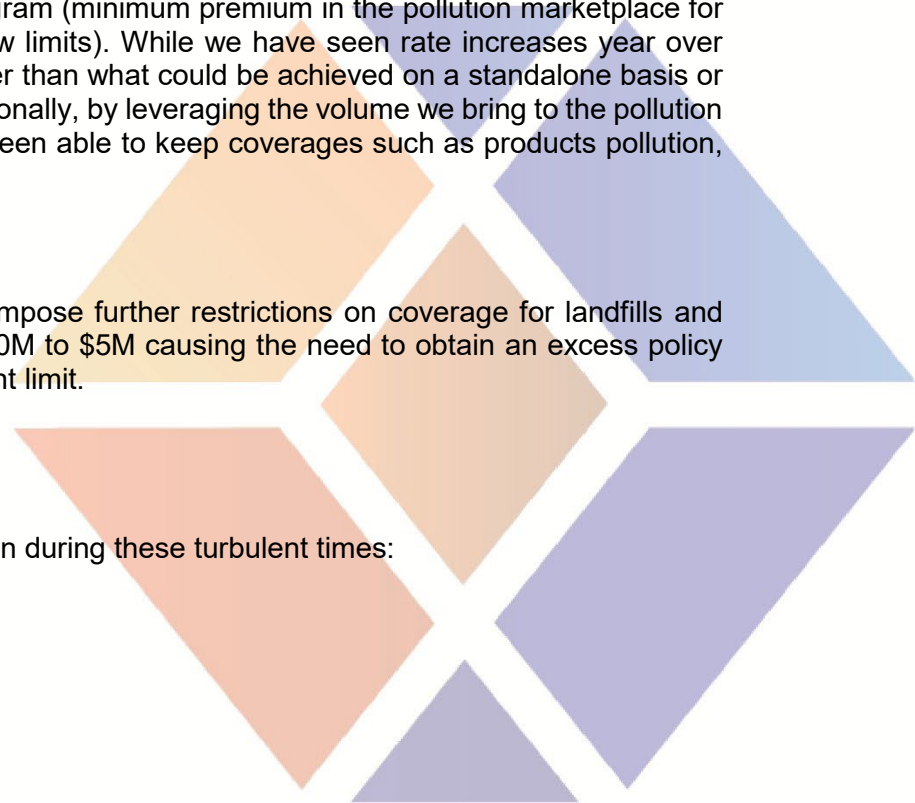
Fortunately for PRISM pollution members, the size of the Program creates stability and achieves economies of scale that could not be achieved outside of a pool. Additionally, coverage in the PRISM Pollution Program is broader than what would be found in the open market. If the Program were rated using Ironshore's (the current carrier) standard rating model and not the model we negotiated on behalf of the pool, premiums would be roughly 35-45% higher than what was bound. If quoted on a standalone basis most members would be paying at least 3 times more than their annual premiums under the PRISM program (minimum premium in the pollution marketplace for a single member start at \$15,000 for low limits). While we have seen rate increases year over year, premiums remain significantly lower than what could be achieved on a standalone basis or anywhere else outside of the pool. Additionally, by leveraging the volume we bring to the pollution marketplace through PRISM, we have been able to keep coverages such as products pollution, that otherwise would not be available.

Changes to the Program:

In 2023 we anticipate Ironshore could impose further restrictions on coverage for landfills and could reduce per incident limits from \$10M to \$5M causing the need to obtain an excess policy over Ironshore's \$5M primary per incident limit.

Member's Response

There are several steps that can be taken during these turbulent times:



1. First, communicate the state of the market to all your stakeholders, so there is an understanding of the industry problem and the types of losses that are impacting the marketplace.
2. In 2021 and 2022 we were able to identify a pattern and areas where we were seeing the most claims among members. Those areas where we saw a high claims frequency were addressed with various sublimit and restrictions to coverage (mold, sewer backup, lead, asbestos) and as a result, the frequency of claims has decreased, and losses have stabilized. This will have a positive effect on the marketing, placement, and longevity of this program in future years.
3. Anticipate coverage to remain on an annual term.
4. Anticipate a restructuring of the limits with addition of an excess carrier to maintain the \$10M per incident limit.
5. Report claims as soon as possible. Work very closely with your insurance claims manager during a claim, and obtain prior consent from the carrier before testing, investigation or remediation of any pollution incident (except in the event of emergency response).

As always, if you have questions or need additional information to better understand the current environment or to communicate to your internal management and governing officials, please let us know.

