



1000 River Road – B966
Essex Junction, VT 05452

March 12th, 2019

Re: Concerns with S.37 (An act relating to medical monitoring damages)

Dear Senator Ashe,

GLOBALFOUNDRIES' Vermont operations have a long history of environmental excellence. We have made significant investments in our Vermont facility to create a regulatory compliance regimen that is world class. We not only aim to achieve compliance with our permit parameters and requirements, but strive to exceed these standards, where feasible. We are committed to a "Beyond Compliance" approach, seeking to exceed the requirements of applicable regulations. We have implemented consistent and rigorous EHS standards, management systems, metrics, external reporting, and compliance assurance programs and continually review and update them as needed.

GLOBALFOUNDRIES urges members of the Vermont Senate to carefully consider the impact of S.37 before giving the bill your full support. Protecting Vermonters from exposure to toxic substances is critically important, but in its current form, the bill creates an unreasonable and unnecessary risk of liability for Vermont employers like GF:

- S.37 creates risk for any Vermont company with more than ten employees using chemicals in its operation, even if that company's use of those chemicals is fully compliant with all applicable federal, state, and local laws and regulations.
- The bill introduces into statute a **strict liability** standard for use of a broad range of chemicals, a standard that has always been reserved for a handful of ultra-hazardous activities and hazardous waste remediation directed by the State, not individual plaintiffs.
- Proponents of the bill suggest that shifting this risk to Vermont companies is appropriate because mid-size and large employers are better able to bear that risk than consumers or neighbors of a commercial facility; we believe this shift is unnecessary:
 - Vermont companies like GF already operate under some of the toughest environmental laws in the country, and we take very seriously our duty of care to protect our neighbors, community, and environment from potential harm; and
 - We support, consistent with Associated Industries of Vermont (AIV's) position, the effort to codify a legal standard for medical monitoring consistent with judicial decisions in other states. S.37 is not consistent with these other states in its present form.

- Based on the precedent adopted by courts in other states, we ask the Vermont Senate to consider amending S.37 in order to (1) strike the strict liability standard and (2) recognize claims for medical monitoring based on a negligence standard. A negligence standard holds users of chemicals responsible for harm that results from activities they knew – or should have known – would cause harm. This is a standard that ensures companies evaluate their processes, develop state-of-the-art control mechanisms, and rigorously follow all permitting requirements.
- A negligence standard allows Vermont’s insurance markets to continue functioning. The Department of Financial Regulation has testified that imposition of strict liability will cause some insurers to pull out of the Vermont market and will cause the insurers who remain to raise rates. The Department predicts that when these rates increase, the effect will be on the entire insurance market affecting all Vermonters – not just manufacturers. This is not the goal of S.37, but it will be the result in an unacceptable level of uncertainty with respect to insurability and future costs.

GLOBALFOUNDRIES embraces our responsibility to guard against unpermitted chemical releases that could harm our neighbors and community. However, in-line with our concerns with the over-inclusiveness of a strict liability standard we encourage the Senate to move towards a legal standard for medical monitoring consistent with judicial decisions in other states.

We make these suggestions in the spirit of cooperation with the General Assembly and are open to further discussion about how to achieve our shared goals. Please feel free to contact me at 1-802-769-4269 or ruma.kohli@globalfoundries.com for any further questions.

Thank You

Ruma Kohli, Product Stewardship Program Manager