

**GLOBALFOUNDRIES Testimony on S.37 - An Act related to Medical Monitoring**  
**House Committee on Judiciary**  
**Ruma Kohli, Product Stewardship Program Manager**  
**Global EHS & CSR**  
**May 8th, 2019**

GLOBALFOUNDRIES (GF) appreciates the opportunity to provide input on S.37.

GF is the largest for-profit employer in Vermont, and accounts for roughly 53% of all Vermont exports. With a manufacturing footprint spanning three continents, GF has the flexibility and agility to meet the dynamic needs of clients across the globe. Our customers include many of the largest global semiconductor and electronics manufacturers - and in turn they supply to the entire global electronics/consumer electronics industry.

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, wherever possible. We are committed to a “Beyond Compliance” approach, seeking to exceed the requirements of applicable regulations. We measure our operational Environmental, Health and Safety performance using key environmental performance indicators (KEPIs), reflecting resource consumption, environmental emissions, waste generation, and regulatory compliance, which are reported to stakeholders, customers and government regulators. We have compliance assurance programs in place and continuously review and update them as needed. We cascade quality, environmental and Corporate Social Responsibility (CSR) requirements to our worldwide supply chain holding our suppliers to the same high standards.

Our location has a long history of environmental excellence: proactively evaluating the chemicals proposed for or used in our processes and products; reducing usage, identifying potential substitutes that may have less impact on the environment, health and safety; and eliminating, restricting and/or prohibiting the use of substances for which a more preferable alternative is available that is capable of meeting quality and safety requirements of our processes and products. Our record of voluntary material restrictions and prohibitions stretches back over three decades, and is evidence of our commitment to and expertise in safe and responsible chemical use that is protective of human health and the environment. These practices and programs have resulted in our location receiving numerous environmental awards and recognition.

As Product Stewardship Program Manager for GF, I ensure that our products meet worldwide chemical content regulations and customer requirements. I have served for several years as a member and as Chair of the Vermont Advisory Committee on Mercury Pollution, and as a member of the State of Vermont Beyond Waste Advisory Group, I have also served as an Act 154 Working Group member. I was named by Governor Shumlin to the Act 188 Working Group and most recently have been named to the Citizen Advisory Panel of the Interagency Committee on Chemical Management as authorized by Executive Order 13-17.

GLOBALFOUNDRIES has continued to follow S.37 since its introduction in January. We have actively engaged with the other stakeholders and the legislature to provide feedback. We have sent several letters to the Senate Judiciary Committee, Senate and the House Judiciary

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Committee documenting our concerns with earlier versions of the bill and suggestions for improvement. Copies of the letters are attached.

GLOBALFOUNDRIES appreciates the careful consideration given by the House Judiciary Committee members in making this bill more workable by removing the strict liability standard. A strict liability standard has always been reserved for a handful of ultra-hazardous activities and hazardous waste remediation directed by the State, not individual plaintiffs. This would have resulted in an unacceptable level of uncertainty with respect to insurability and future costs. We believe that with a few additional changes S. 37 can strike an appropriate balance.

The key concerns we continue to have with the latest draft of the bill are as follows:

The proposed Vermont bill sets a lower bar of proof for a plaintiff to recover medical monitoring damages compared to medical monitoring criteria established by courts in other states:

- The bill adopts a liability standard in which a claimant is only required to show that as a proximate result of an exposure, the claimant has a “greater risk than the general public of contracting a latent disease.”
- The threshold for the risk of developing a latent disease (as a determining factor for provision of medical monitoring) should be defined as a “significantly increased risk” above that faced by the general public.

Limiting claims to those individuals with a significantly increased risk due to exposure to a particular substance is crucial to limiting medical monitoring to those who may truly need it. Moreover this would harmonize with the requirements established in other states.

For example, Pennsylvania’s conditions for awarding Medical monitoring require a plaintiff to prove, among other elements:

- (1) exposure to greater than normal background levels;
- (2) to a proven hazardous substance;
- (3) caused by a defendant’s negligence; and
- (4) as a proximate result of the exposure, plaintiffs have a significantly increased risk of contracting a serious latent disease. In addition, expert testimony is required to prove these elements.

Another concern we have is with a new provision stating that the legislation can be applied retroactively to any exposure to a toxic substance discovered by a person over the past 6 years. We recommend this be amended for consistency with the 3-year statute of limitations for personal injury.

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We make these suggestions in the spirit of cooperation with the House Committee and are open to further discussion about how to improve S. 37. We appreciate your consideration of our views. Please contact me at 1-802-769-4269 or [ruma.kohli@globalfoundries.com](mailto:ruma.kohli@globalfoundries.com) if I can be of any further assistance.