Public Comments and EPD Responses on Draft NPDES Permit
General Electric Company – Rome – Permit No. GA0024155

COMMENT RECEIVED	EPD RESPONSE
Part I.D.1.c. of the Draft Permit requires that "The Permittee shall submit the DMR, OMR, and additional monitoring data no later than 11:59 p.m. on the 15th day of the month following the sampling period." GE objects to the inclusion of this requirement because of the serious implications for the continued future compliance of the Rome Facility. Given the unique circumstances associated with GE's facility and NPDES Permit, the proposed change in the submission due date is neither practical nor reasonable and will very likely result in wholly avoidable alleged violations. From 2002 until 2016, our Permit required DMR submittal within 45 days of the end of the monitoring period. In the current version of the Permit issued in 2016, the DMR submittal due date was changed to the end of the month following the monitoring period, generally allowing 30 days for DMRs to be prepared and submitted. With this further proposed reduction in timeframe between the end of the monitoring period and the DMR submission due date, it is nearly certain that GE will be unable to submit every DMR by the 15th day of the following month. Since all our monitoring is contingent on rainfall occurring and then being captured, treated, and sampled, unlike most NPDES permit holders, the Rome Facility is not able to schedule discharges or sampling events on a pre-determined schedule. Please consider the following scenario which assumes typical turnaround times and reflects the need for the DMR to be submitted by an authorized individual as specified in the applicable regulations. At the Rome Facility, there is only one such person, Cody Platt, as he is only GE employee at the Rome facility: • A stormwater discharge occurs on Friday, April 30, requiring sample collection;	Since the federal E-Reporting Rule became effective on December 21, 2015, Georgia EPD has been implementing on a statewide basis a Discharge Monitoring Report (DMR) due date of no later than the 15th day of the month following the sampling period for all new and reissued permits. This applies to all point source permitted facilities, including those with daily and/or weekly monitoring frequencies which would encounter the same timespan between sample collection and the reporting deadline as is contemplated within this public comment. In such cases, EPD has not encountered significant compliance concerns regarding the reporting deadline. The analysis of historical laboratory turnaround times during an unprecedented year shows that, on average, the time between sample collection and receipt of the laboratory results is 12 days. This turnaround time would allow for permit compliance with the reporting deadline even if sample collection occurred on the last day of the month. Furthermore, in the unlikely event the discharge occurs on the last day of the month, the laboratory turnaround time can be shortened through expedited analysis and other methods in instances where timing is of particular concern. EPD commends the facility for being conscientious regarding their risk analysis ensuring compliance with the permit, however based on a review of the information provided the concerns raised regarding the reporting deadline for the General Electric Company – Rome facility do not account for a deviation from the standardized reporting deadline applicable to all permitted point source discharges in the State of Georgia. The final permit retains the condition that, "The Permittee shall submit the DMR, OMR, and additional monitoring data no later than 11:59 p.m. on the 15th day of the month following the sampling period."

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• The April 30 composite sample is collected the morning of Saturday, May 1; • The sample is sent via overnight courier to the lab on Monday, May 3, arriving at the lab on Tuesday, May 4; • GE receives the lab results on Friday, May 14 (10 days after receipt by the lab); but • The authorized signatory is out of the office on Friday, May 14, and thus unable to prepare the DMR for submittal through the NetDMR Portal prior to the due date of May 15. The above scenario does not take into account any other real, reasonably anticipated potential delays, such as laboratory equipment problems, that can impact the reporting of the test results to GE, or the possibility that Cody Platt, the sole authorized signatory, is out of the office for a longer period due to the vacation, business travel, or illness. In preparing these comments, GE reviewed laboratory turnaround times for the required PCB analysis for the past nine months. The number of days from sample collection and submission to laboratory sample receipt ranged from 1 to 6 days; the number of days from lab receipt to final laboratory report issuance ranged from 3 to 19 days; and the total time from sample date to laboratory report date ranged from 8 days (the shortest example) to 21 days (the longest example), with an average of 12 days. Therefore, if a sample has to be collected anytime in the last week of the month, GE could violate the reporting deadline established in the draft Permit through no fault of its own. GE does not believe that EPD can or should issue an NPDES permit that creates this kind of unavoidable enforcement risk.	

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As EPD must appreciate, GE's corporate policies will not allow the Rome Facility to accept a Permit with an enforceable requirement that GE realistically may not be able to meet due to circumstances wholly beyond our control. While GE believes that EPD would consider a valid explanation for a late submission, such as the one described in the above example, and not take formal enforcement action, as you know, the provisions of NPDES permits are enforceable by third parties (e.g., a citizen's suit plaintiff). Third parties are not bound to follow EPD's (or EPA's) enforcement discretion decisions. Therefore, the only real option to avoid frivolous, but potentially costly, enforcement actions against GE is for EPD to modify the terms of the Draft Permit by adopting the provisions of the current Permit concerning the submission of DMRs. For these reasons, GE respectfully requests that the EPD re-issue the Permit with the same DMR submission due date (i.e., the last day of the month following the monitoring period) that is in the current Permit.	
The Draft Permit imposes significant new monitoring obligations on GE for nutrients in the form of phosphorus- and nitrogen-related compounds. Reviewing the summary page that EPD provided with the Draft Permit and the other information that EPD has furnished to GE, there is no explanation of the reason for adding these new burdensome and costly nutrient testing requirements into the re-issued Permit other than these are now part of EPD's "boilerplate." For the reasons explained below, GE requests that the proposed nutrient sampling requirements be deleted in their entirety. While GE acknowledges that these compounds have been identified as pollutants of concern on a State level, GE knows of no basis for EPD to impose these requirements on the Rome Facility, which only discharges stormwater and where the only nutrients in our discharges are present in the rain that falls from the sky.	Nutrient pollution is a concern on a national level, illustrated by the US EPA's involvement and development of a *National Strategy for the Development of Regional Nutrient Criteria*, EPA-822-R-98-002 (June 1998) and memorandum for *Working in Partnership with States to Address Phosphorus and Nitrogen Pollution through the Use of a Framework for State Nutrient Reductions* (March 2011). As part of this nutrient framework, EPA has requested each State develop a mutually agreed upon strategy for adopting nutrient water quality standards. In Georgia, this has been accomplished through the development of *Georgia's Plan for the Adoption of Water Quality Standards for Nutrients (2013)* [Plan]. Key to the success of this Plan is the characterization of nutrients in the source waterbodies and from permitted point sources. EPD's *Strategy for Addressing Phosphorus in*

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EPD's 2011 Strategy for Addressing Phosphorus states that even non-point sources of phosphorus can be significant and identifies run-off from agricultural fields, feed lots and urban areas as examples of such sources. The common aspect among these examples, however, is the presence of a source of phosphorus (e.g., livestock or fertilizer) that can add to the quantity of the nutrient found in otherwise uncontaminated rainfall run-off. Moreover, EPD's Phosphorus Strategy envisions working with other Georgia agencies, like the Department of Agriculture, to reduce the presence of these nutrients in the non-point sources of impacts to streams. These critical aspects are missing at the Rome Facility. While this comment focuses upon phosphorus, the same rationale applies to the possible presence of nitrogen in our stormwater effluent, EPD's proposal that GE monitor for it and GE's objection to the proposed requirement. As EPD knows, much of the Rome Facility that generates the stormwater covered by the Permit is impervious (e.g., building roofs or paved surfaces) and another large portion is less pervious (clay covered by gravel). These facts further reduce the possibility that nutrients, such as could result from run-off from the excess fertilizing of grass at the Rome Facility, might be found in our stormwater discharges. When EPD includes a monitoring or discharge requirement in an NPDES permit, there must be legally sufficient basis for imposing the requirement. For example, GE samples its stormwater discharges for the presence of PCBs because PCBs were used at the Rome Facility in the past and PCBs have been identified in previous stormwater discharge sample results. GE believes that many NPDES dischargers in the State are not required to routinely sample their effluents for the presence of PCBs because those dischargers neither used PCBs nor have they routinely found that constituent in prior sampling events. Moreover, no	*NPDES Permitting* [Strategy] is one component of this plan and the Strategy includes the monitoring of effluent phosphorus at all facilities. Additionally, Georgia EPD is required through the Lake Weiss TMDL (2004) to achieve a 30% reduction of total phosphorus at the State Line (equivalent to a 70 ppb annual average concentration). The location of the permitted discharge upstream of Lake Weiss adds additional importance in the characterization of phosphorus from the facility's discharge to ensure compliance with the TMDL. As is discussed extensively in Georgia's Plan, sufficient data is necessary for navigating the complexities involved in the development of water quality models to develop numeric nutrient criteria. Additionally, the Fact Sheet at Section 4.2 of the Draft Permit indicates that, where there is insufficient data, "the permit writer [may] include monitoring requirements to collect additional data related to the presence or absence of a specific pollutant to provide information for further analyses for the development of appropriate numeric or narrative standard". The application for reissuance included a singular analysis for total phosphorus and total nitrogen from outfalls 002 and 003. This data is insufficient for characterizing the discharge and additionally indicates the potential for nitrogen in the discharge with a concentration of 1.2 mg/l of total nitrogen reported for outfalls 001, 002, and 004. Regarding the cost and sampling frequency, EPD did consider the nature of the discharge and is only requiring semiannual monitoring. Comparatively, where EPD has determined there is insufficient nutrient data for continuous discharges, EPD has required monthly sampling for a five (5) year permit term providing 60 data points spanning multiple seasons. EPD did consider the intermittent nature of this discharge and therefore is only requiring 10 data points to characterize the discharge over the five (5) year permit term. Based on EPD's existing data

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portion of the Rome Facility is or ever has been involved in agriculture or the production or use of phosphorus- or nitrogen-related compounds in its raw materials or its former manufacturing processes. The likelihood that nutrients are present (i.e., greater than background in rainfall) quantities in our NPDES discharges is exceedingly small. Therefore, to include a "general" nutrient monitoring requirement in the Rome Facility's NPDES stormwater discharge permit would be equivalent to EPD imposing PCB monitoring requirements on every other NPDES discharger in the Coosa River Basin or the entire State. EPD has not and would not impose such a PCB testing requirement on those permit holders, and the requirements to oblige GE to conduct nutrient testing of the Rome Facility's stormwater discharge is similarly not justified. Finally, the Plan and Strategy documents cited by EPD in Section 4.5 of the reissuance analysis do not relieve EPD from examining what occurs at the Rome Facility, what is likely to be found in our treated stormwater effluents, and how those factors might justify imposing nutrient testing requirements on our discharges. NPDES permits are issued using case-by-case factual analyses, and when the specific facts for the Rome Facility and its stormwater discharges are considered, GE concludes, as EPD must, that there is no lawful basis to include nutrient testing requirements in the re-issued stormwater discharge Permit. For all of these reasons, GE concludes that the proposed, costly nutrient testing requirements included in the Draft Permit are unnecessary and legally insufficient. GE request that the nutrient testing requirements be deleted in their entirety except during the application process for the next renewal of the Permit.	regarding laboratory analytical costs, the total annual cost of analysis for the prescribed nutrient monitoring for all outfalls is ~ $700. EPD has included semiannual nutrient monitoring to aide in the collection of required data for water quality modeling, has determined the collection of data is not cost-prohibitive, and is reflective of facility-specific considerations. The inclusion of nutrient monitoring requirements for permitted point sources is well established and enforceable.