



## **AMCA Comments on Draft MDV Framework April 2017**

DNR recently published its draft multiple-discharger variance (“MDV”) for public comment. In short, DNR has made positive revisions to the earlier version although, as AMCA explained in its comments, there is still room for improvement.

The MDV is intended for small/minor municipal POTWs who can demonstrate that complying with total ammonia nitrogen NPDES permitting requirements would result in substantial economic and social impact. The MDV will authorize a variance to the total ammonia nitrogen standard only – all other requirements within the NPDES state operating permit will need to be met.

Broadly, we believe that the currently proposed MDV is reasonable and is an improvement upon DNR’s earlier draft. Here are a few highlights:

- More communities will now qualify for the MDV than in the previous version and DNR will consider a greater number of factors to determine if compliance with the NPDES permitting requirement will result in substantial economic and social impact.
- The Highest Attainable Effluent Conditions are reasonable and will be based on the individual applicant’s past five years of reported data. This data will be used to determine the monthly average (95th percentile) and the daily max (99th percentile). This is an important change over the prior proposal which would have used average performance by a group of dischargers to set interim performance requirements.
- The MDV will have a 20-year term with a re-evaluation of the MDV framework every 5 years.
- Consistent with AMCA’s earlier advice, DNR removed the requirements that communities: (1) must raise their sewer rates by 2% of MHI and (2) must not have excessive inflow and infiltration.

In comments, AMCA suggested the following revisions:

**Related to Pollutant Minimization Program; Improved Processes Reporting.** To make clear that the annual report will simply chronicle improvements throughout the period of MDV coverage rather than requiring improvements annually, AMCA suggested clarifying subpart 10(j) (Page 6) to state: “The permit holder shall report to the department annually on any improved processes and pollutant controls implemented to minimize pollutant loadings using the PMP Annual Report Form.”



**Related to Pollutant Minimization Program; *Natural Heritage Review Report*.** AMCA suggested that DNR streamline sections of the MDV Framework that address the Natural Heritage Review Report (e.g., §10(l) of MDV Framework, §5.2 of MDV Application), as they unnecessarily burden the applicant. The process should be simplified by requiring the permit holder to only submit a query to the Missouri Department of Conservation (“MDC”) requesting information about species and natural communities of conservation concern at the point of discharge. MDC should deliver the report to the Department. The Department should then (1) determine if there is or is not an impact on species and/or natural communities of conservation concern; and (2) if the Department determines that there would be an impact, the Department should either impose conditions as necessary to address the impact or deny coverage.

**Related to the Certification Statement.** AMCA commented that the certification statement provided in the MDV Application (§8, Page 26 of Package) should mirror the federal requirement found at 40 CFR §122.22(d).