

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS

UNITED STATES of AMERICA, )  
 )  
Plaintiff, and the )  
 )  
STATES OF DELAWARE, and )  
LOUISIANA, )  
Plaintiff-Interveners, )  
 )  
v. ) Civil Action  
 ) No. H-01-0978  
MOTIVA ENTERPRISES LLC, )  
 )  
Defendant. )  
\_\_\_\_\_ )

FIRST ADDENDUM TO CONSENT DECREE

Plaintiff, the United States of America (hereinafter "Plaintiff" or "the United States"), on behalf of the United States Environmental Protection Agency (hereinafter, "EPA"), Plaintiff Interveners, the State of Delaware and the State of Louisiana, and Defendant, Motiva Enterprises LLC ("Motiva"), hereby execute this First Addendum to the Consent Decree in the above-styled action. By the agreement of the United States and Motiva, and pursuant to the provisions of Paragraph 220, this First Addendum hereby modifies the Decree by (1) correcting the requirement to measure FCCU feed *nitrogen* content instead of FCCU feed *sulfur* content; (2) changing the NSPS Subpart A and J compliance deadline for the Norco FCCU for Opacity; (3) revising

paragraph 91 to remove a conflicting sentence; (4) correcting a reference in the stipulated penalties section; (5) correcting references in the reporting section; and (6) correcting a reference in Attachment 2.

The changed provisions to the Decree are as follows, and shall be binding on all parties and signatories to the Decree in this action.

With regard to Reductions of NOx Emissions from Fluidized Catalytic Cracking Units ("FCCUs"):

23. No later than sixty (60) days after the completion of the twelve-month demonstrations, Motiva shall report to EPA the results of each demonstration. The report shall include, at a minimum, the following information:

- (a) Regenerator flue gas temperature and flow rate;
- (b) Coke burn rate;
- (c) FCCU feed rate;
- (d) FCCU feed nitrogen content;
- (e) CO boiler firing rate and fuel type (Delaware City only);
- (f) Total fresh catalyst addition rate;
- (g) NOx adsorbing catalyst additive addition rate;
- (h) Low-NOx and conventional CO promotor addition rates, if applicable;
- (i) Temperature profiles (Delaware City only); and
- (j) Hourly average NOx and O2 concentration.

With regard to FCCU Regenerator NSPS Subparts A and J Applicability:

57(a). Motiva's FCCU Regenerators at the refineries identified at Paragraph 5 shall be affected facilities subject to the requirements of NSPS Subpart A and J for each relevant pollutant by the dates specified below:

**Norco:**

SO2 - upon lodging  
PM - upon lodging  
CO - upon lodging  
Opacity - Alternative Monitoring Plan by 12/31/02

With regard to program enhancements re: Benzene Waste NESHAP:

91. Beginning no later than the first full calendar quarter following EPA's approval under Paragraph 90, Motiva shall sample quarterly all uncontrolled waste streams that count toward the 6 Mg/yr calculation and contain greater than 0.05 Mg/yr of benzene.

With regard to Quarterly Reports:

172. Beginning with the first full calendar quarter after entry of this Consent Decree, the Company shall submit a calendar quarterly progress report ("calendar quarterly report") to EPA and the appropriate Plaintiff-Intervener within 30 days after the end of each calendar quarter during the life of this Consent Decree. In addition to any other information specifically required to be submitted per other Sections of this Consent Decree, this report shall contain the following:

- (a) progress report on the implementation of the requirements of Parts IV-IX, and XII (Compliance Programs);
- (b) a summary of all Hydrocarbon Flaring Incidents;
- (c) a summary of the emissions data as required by Parts IV and V of this Consent Decree for the calendar quarter; and
- (d) a description of any problems anticipated with respect to meeting the Compliance Programs of Parts IV-IX of this Consent Decree.

With regard to stipulated penalties:

175. For each violation, the amounts identified below shall apply on the first day of violation, shall be calculated for each incremental period of violation (or portion thereof), and shall be doubled beginning on the fourth consecutive, continuing period of violation, except such doubling shall not apply to Subparagraphs (g), (h), and (i). In the alternative, at the option of the United States or the Appropriate Plaintiff-Intervener, stipulated penalties shall equal 1.2 times the economic benefit of Motiva's delayed compliance, if this amount is higher than the amount calculated under this Paragraph.

In addition and for purposes of assessing stipulated penalties for a failure to comply with a concentration-based, rolling average emission limit established under Section IV.C, IV.G, IV.I, V.E, or V.G, an actionable violation will occur when there is noncompliance with such limit for 5% or more of each such unit's operating time during any calendar quarter.

(e) Requirements Applicable to SRPs and Flaring (Part VIII):

(i) Failure to comply with emission limits identified or referred to in Section C:

Number of rolling 12-hr average exceedances within calendar day	Penalty per rolling 12-hr average exceedance
1-12	\$ 350
Over 12	\$ 750

With regard to Attachment 2:

Initial NOx adsorbing catalyst additive addition rate shall be 0.25 weight percent of total catalyst addition rate. Once steady state has been achieved, the effect on NOx emissions of this rate shall be evaluated. To establish the optimized addition rate, NOx adsorbing catalyst additive addition shall be increased at increments of 0.25 weight percent of total catalyst additions up to 1.0 weight percent, and, once steady state has been achieved for each increment, the effect on NOx emissions and annual cost shall be evaluated. With EPA's approval, the schedule requirements of Paragraphs 21 or 22 may be changed based on the time required to reach steady state at each of the catalyst addition rates tested. If at any increment of NOx adsorbing catalyst addition, the total annualized cost-effectiveness of the NOx adsorbing catalyst additive used exceeds \$10,000 per ton of NOx removed as measured from an uncontrolled baseline, or the incremental pick-up factor is less than 1.8 pounds of NOx removed per pound of catalyst additive, the NOx adsorbing catalyst additive addition rate used to determine the final emission limit shall remain at that level. If the pickup factor at 0.25 weight percent of total catalyst added is less than 1.8 pounds of NOx removed per pound of catalyst additive, Motiva may apply for EPA approval to use a lower catalyst additive addition rate or to forego further catalyst usage and the requirements of paragraphs 21-27.

Respectfully submitted,

FOR PLAINTIFF, UNITED STATES OF AMERICA:

Date \_\_\_\_\_

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For Plaintiff-Intervener the State of Delaware:

Date \_\_\_\_\_

\_\_\_\_\_  
Nicholas A. DiPasquale  
Secretary  
Department of Natural Resources and  
Environmental Control  
715 Grantham Lane  
New Castle, Delaware 19720

Date \_\_\_\_\_

\_\_\_\_\_  
Kevin Maloney  
Deputy Attorney General

Delaware Department of Natural Resources and  
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89 Kings Highway  
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Preliminary Approval of Plaintiff-Intervener, the State of Louisiana, through the Department of Environmental Quality:

\_\_\_\_\_ Date \_\_\_\_\_

R. Bruce Hammatt  
Assistant Secretary  
Office of Environmental Compliance  
Louisiana Department of Environmental Quality

\_\_\_\_\_ Date \_\_\_\_\_

Ted Broyles, II  
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For Motiva Enterprises LLC:

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Date: \_\_\_\_\_

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