

AMENDING RESOLUTION NO. 98-01 OTHERWISE KNOWN AS, THE RULES AND REGULATIONS OF THE DOE-DOJ TASK FORCE

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Pursuant to paragraph (d) of Section 14 of Republic Act No. 8479, "THE DOWNSTREAM OIL INDUSTRY DEREGULATION ACT OF 1998", the Department of Energy-Department of Justice Task Force resolves, as it is hereby resolved to adopt the following amendments.:

SECTION 1. Section 4 of Resolution No. 9801 is hereby amended to read as follows:

"SECTION 4. ACTION ON THE REPORT. - The report if found sufficient in form and content, shall be forwarded by the Task Force to the panel of State Prosecutors duly designated by the Secretary of Justice. Otherwise, the report shall be dismissed by the Task Force."

SECTION 2. Section 5 of Resolution No. 98-01 is hereby deleted.

SECTION 3. Section 6 of the Resolution is renumbered to Section 5 and is hereby d o read as follows:

"SECTION 5. TASK FORCE INVESTIGATION.- In the process of conducting a preliminary investigation of the report, the Task Force, through the State Prosecutor, shall issue a subpoena against the respondent. Within ten (10) days from receipt of subpoena, the respondent may submit counter-affidavits and other supporting documents and shall be allowed to examine all the evidence considered in the findings of the Task Force.

If the Respondent cannot be subpoenaed or if subpoenaed, does not submit counter-affidavits within ten (10) day period, the Task Force shall resolve the matter on the basis of the records and evidence on hand. The Task Force may, : however, set a hearing where it may propound clarificatory questions to the parties or their witnesses.

The following parameters (the "Parameters") shall guide the Task Force in determining whether or not there has been an "unreasonable rise" in the price or prices of petroleum products:

1. MOVEMENTS IN WORLD OIL PRICES. — When an increase in price is inconsistent with the increase or increases in the price of:

(a)Crude Oil as registered in the Singapore market within a particular period as determined by the DOE as regards refiners of crude oil; or

(b) Petroleum Products as registered in the Singapore market within a particular period as determined by the DOE as regards importers of petroleum products;

2. FOREIGN EXCHANGE FLUCTUATIONS. - When an increase in price is inconsistent with foreign currency adjustments resulting from fluctuations or changes in the Philippine Peso-US Dollar rates;

3. VIOLATION OF REPORTORIAL REQUIREMENTS. - When an oil company fails to report an increase in price pursuant to the pertinent department circular or rules/regula tions issued by the DOE Secretary pursuant to the Act; and

4. TIMING AND FREQUENCY-When an increase in price occurs during a period of and inconsistent with a

prevailing oil industry advisory issued in accordance with Rule V Section 19-A of the Implementing Rules and Regulations of R.A. 8479.

In determining whether or not an increase in price is "unreasonable", the Task Force shall give due consideration to the interaction of all local and international factors affecting the price of petroleum products. The Task Force may consider such other factors not included in the parameters set forth in this Section as may be relevant under the circumstances."

SECTION 4. Section 7 of the Resolution is renumbered into Section 6 and hereby amended to read as follows:

"SECTION 6. RESOLUTION OF TASK FORCE. -The Task Force shall prepare a written Resolution on the results of investigation of the report within thirty (30) days after the commencement thereof. The Resolution shall state whether or not there has been an unreasonable rise in the price of a petroleum product or if evidence warrants/probable cause exists for the filing of a criminal complaint against the respondent for cartelization or predatory pricing. The Secretaries of DOE and DOJ, and all concerned parties, shall be furnished with copies of the Resolution. The DOE Secretary may make said Resolution public

SECTION 5. Section 9 of the Resolution is renumbered into Section 8 and is hereby to read as follows:

"SECTION 8. FILING OF COMPLAINT. - If the evidence warrants/probable cause exists for the filing of a complaint for cartelization, predatory pricing or Unreasonable rise in the price of petroleum product as determined by the State Prosecutor, the Task Force shall approve the resolution and, thereafter refer the same to the Provincial or City Prosecutor having jurisdiction of the case for the filing of the appropriate criminal complaint with the Regional Trial Court of the : place where the defendant or any of the defendants reside or has his place of business."

SECTION 6. EFFECTIVITY. -These Rules shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

Adopted: 14 July 2008

For the Department of Energy:

For the Department of Justice:

(SGD.) ROY V. KYAMKO

(SGD.) JOSE VICENTE B. SALAZAR

Undersecretary

Undersecretary

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