

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## FEDERAL TRADE COMMISSION

### 16 CFR Part 317

[Project No. P082900]

RIN 3084-AB12

### Prohibitions on Market Manipulation and False Information in Subtitle B of Title VIII of The Energy Independence and Security Act of 2007

**AGENCY:** Federal Trade Commission.**ACTION:** Extension of period within which to submit comments in response to the Notice of Proposed Rulemaking.

**SUMMARY:** In a **Federal Register** notice published on August 19, 2008, the Federal Trade Commission ("Commission" or "FTC") requested comment on its Notice of Proposed Rulemaking ("NPRM") in connection with its rulemaking pursuant to Section 811 of the Energy Independence and Security Act of 2007 ("EISA"). The NPRM stated that comments must be received on or before September 18, 2008. In response to a request to extend the comment period received on September 5, 2008, the Commission has determined to extend the comment period until October 17, 2008.

**DATES:** Comments addressing the Market Manipulation NPRM must be received on or before October 17, 2008.

**ADDRESSES:** Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to "Market Manipulation Rulemaking, P082900" to facilitate the organization of comments. Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with Commission Rule 4.9(c).<sup>1</sup> Comments should not

include any sensitive personal information, such as an individual's Social Security Number; date of birth; driver's license number or other state identification number or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records and other individually identifiable health information.

Because paper mail in the Washington area, and specifically to the FTC, is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following weblink: (<https://secure.commentworks.com/ftc-marketmanipulationNPRM/>) (and following the instructions on the web-based form). To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink: (<https://secure.commentworks.com/ftc-marketmanipulationNPRM/>). If this notice appears at <http://www.regulations.gov>, you may also file an electronic comment through that website. The Commission will consider all comments that [www.regulations.gov](http://www.regulations.gov) forwards to it. You may also visit the FTC website at (<http://www.ftc.gov/ftc/oilgas/rules.htm>) to read the NPRM and the news release describing it.

A comment filed in paper form should include the "Market Manipulation Rulemaking, P082900" reference both in the text and on the envelope, and should be mailed to the following address: Federal Trade Commission, Market Manipulation Rulemaking, P.O. Box 2846, Fairfax, VA 22031-0846. This address does not accept courier or overnight deliveries. Courier or overnight deliveries should be delivered to: Federal Trade Commission/Office of the Secretary, Room H-135 (Annex G), 600 Pennsylvania Avenue, NW, Washington, DC 20580.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive

public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at (<http://www.ftc.gov/os/publiccomments.shtml>.) As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at (<http://www.ftc.gov/ftc/privacy.shtml>).

**FOR FURTHER INFORMATION CONTACT:** James Mongoven, Deputy Assistant Director of Policy & Coordination, Bureau of Competition, Federal Trade Commission, Market Manipulation Rulemaking, P.O. Box 2846, Fairfax, VA 22031-0846, (202) 326-2879.

**SUPPLEMENTARY INFORMATION:** On August 19, 2008, the Commission published an NPRM<sup>2</sup> pursuant to the authority granted to it in Section 811 of EISA<sup>3</sup> to promulgate regulations prohibiting "market manipulation" in the petroleum industry. In the NPRM, the Commission solicited comment on a proposed Rule that would make it unlawful for any person, directly or indirectly, in connection with the purchase or sale of crude oil, gasoline, or petroleum distillates at wholesale:

(a) To use or employ any device, scheme, or artifice to defraud,

(b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or

(c) To engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person.<sup>4</sup>

The NPRM requested comment on several issues, and set a deadline of

<sup>2</sup> Federal Trade Commission, *Prohibitions On Market Manipulation and False Information in Subtitle B of Title VIII of the Energy Independence and Security Act of 2007*, 73 FR 48317 (August 19, 2008). The NPRM was announced in a press release on August 13, 2008, available at (<http://www.ftc.gov/opa/2008/08/nprm.shtml>).

<sup>3</sup> 42 U.S.C. 17301.

<sup>4</sup> Proposed Rule, § 317.3(a)–(c). See Federal Trade Commission, *Prohibitions On Market Manipulation and False Information in Subtitle B of Title VIII of the Energy Independence and Security Act of 2007*, 73 FR 48317, 48334 (August 19, 2008).

<sup>1</sup> The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with

applicable law and the public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).

September 18, 2008, by which comments had to be received.

On September 5, 2008, the Commission received a letter from the American Petroleum Institute ("API") requesting that the Commission extend the comment deadline in the NPRM proceeding until October 17, 2008. In its request, API advances three arguments in support of an extension of the comment period. First, API argues that it needs additional time to canvass its more than 400 members about the NPRM and to "consolidate and present that information for the Commission's consideration." Second, API contends that the extension is necessary to ensure "sufficient time for thoughtful deliberation" about the "many novel and complex issues" addressed in the NPRM. Third, API opines that "defining 'manipulation' is inherently difficult and not within the Commission's traditional antitrust or consumer protection experience," and thus providing additional time to commenters will yield more carefully considered comments, which will benefit the Commission as it proceeds.

Based on the arguments raised by API, the Commission believes that an extension of the initial 30-day comment period until October 17, 2008, is reasonable. The additional time should enable API and other commenters to finalize and submit detailed and thoughtful comments in response to the NPRM. Accordingly, the Commission has determined to extend the comment period set forth in the NPRM until October 17, 2008.

By direction of the Commission.

Donald S. Clark,  
Secretary.

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## FEDERAL TRADE COMMISSION

### 16 CFR Part 317

[Project No. P082900]

RIN 3084-AB12

### Public Workshop Concerning Petroleum Market Manipulation Rulemaking

**AGENCY:** Federal Trade Commission.

**ACTION:** Notice announcing public workshop.

**SUMMARY:** The Federal Trade Commission ("FTC" or "Commission") will host a public workshop to discuss issues arising from, and comments submitted in regard to, its rulemaking proceeding concerning Prohibitions on

Market Manipulation and False Information in Subtitle B of Title VIII of The Energy Independence and Security Act of 2007 ("EISA"). In particular, the workshop will consider the desirability and scope of the proposed rule prohibiting market manipulation in wholesale petroleum markets. The Commission will publish an agenda on its website prior to the workshop.

**DATES:** The workshop will be held on Thursday, November 6, 2008, in Room H-432 of the Federal Trade Commission's Headquarters Building, located at 600 Pennsylvania Avenue, NW, Washington, DC 20580. Requests to participate as a panelist must comply with all applicable requirements set forth in this document and must be received by October 6, 2008. To be considered as a panelist for the workshop, interested parties must also submit a comment in response to the FTC's Notice of Proposed Rulemaking ("NPRM") in this matter<sup>1</sup> by the close of the comment period on October 17, 2008.<sup>2</sup>

**ADDRESSES:** Requests to participate in the public workshop may be filed in paper form or sent via e-mail to [mmr@ftc.gov](mailto:mmr@ftc.gov),<sup>3</sup> and should refer to

<sup>1</sup> FTC, *Prohibitions On Market Manipulation and False Information in Subtitle B of Title VIII of The Energy Independence and Security Act of 2007*, 73 FR 48317 (Aug. 13, 2008). The NPRM was announced in a press release on August 13, 2008, available at (<http://www.ftc.gov/opa/2008/08/nprm.shtml>).

<sup>2</sup> Specific instructions for submitting a comment are included in the NPRM. See 73 FR 48317. Please note that all such comments, like requests to participate, are public filings and will be placed on the public record of this proceeding, including the FTC's public website. See footnote 3 below for further information.

<sup>3</sup> Please note that your request constitutes a public filing before the Commission, and will be placed on the public record of the proceeding, including on the publicly accessible FTC website, at <http://www.ftc.gov/os/publiccomments.shtml>. Therefore, your request should not include any sensitive or confidential information. In particular, it should not include any sensitive personal information—such as any individual's Social Security Number; date of birth; driver's license number or other state identification number or foreign country equivalent; passport number; financial account number; or credit or debit card number—or any sensitive health information, such as medical records or other individually identifiable health information. Your request should also not include any "[t]rade secrets and commercial or financial information obtained from a person and privileged or confidential. . . ." as provided in section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission rule 4.10(a)(2), 16 CFR 4.10(a)(2) (2008).

The Federal Trade Commission Act and other laws the Commission administers permit the collection of requests to participate in the above workshop to consider and use in this proceeding as appropriate. As a matter of discretion, the Commission makes every effort to remove home contact information for individuals before placing requests to participate on the FTC website. More information, including routine uses permitted by

"Market Manipulation Rulemaking Workshop—Request to Participate, P082900" to facilitate organization of such requests. Requests must comply with all other applicable requirements set forth in the **SUPPLEMENTARY INFORMATION** section below and elsewhere in this document. A request to participate filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to: Federal Trade Commission/Office of the Secretary, Room H-135 (Annex G), 600 Pennsylvania Avenue, NW, Washington, DC 20580. Because paper mail in the Washington area, and specifically to the FTC, is subject to delay due to heightened security screening, please consider submitting your request to participate via e-mail to: [mmr@ftc.gov](mailto:mmr@ftc.gov).

The workshop will be open to the public, and there is no fee for attendance. For admittance to the building, all attendees will be required to show a valid photo identification, such as a driver's license. Pre-registration is not required for attendees, but persons desiring to participate as panelists must submit a request to participate and file a comment in response to the FTC's NPRM in this matter. Members of the public and press who cannot attend in person may view a live webcast of the workshop on the FTC's website. The workshop will be transcribed, and the transcript will be placed on the public record.

The workshop venue will be accessible to persons with disabilities. If you need an accommodation related to a disability, call Carrie McGlothlin at (202) 326-3388. Such requests should include a detailed description of the accommodations needed and a way to contact you if we need more information. Please provide advance notice of any needs for such accommodations.

#### FOR FURTHER INFORMATION CONTACT:

Catherine Harrington-McBride, Bureau of Consumer Protection, Federal Trade Commission, Market Manipulation Rulemaking Workshop, P.O. Box 2846, Fairfax, VA 22031-0846; (202) 326-2452; [mmr@ftc.gov](mailto:mmr@ftc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

EISA became law on December 19, 2007.<sup>4</sup> Section 811 of EISA prohibits "any person" from directly or indirectly: (1) using or employing "any manipulative or deceptive device or

the Privacy Act, may be found in the FTC's privacy policy, at <http://www.ftc.gov/ftc/privacy.shtml>.

<sup>4</sup> Public Law 110-140, codified at 42 U.S.C. 17001-17386.