

16 CFR Part 317

FEDERAL TRADE COMMISSION

[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 to submit comments in response to the Advance Notice of Proposed Rulemaking.

SUMMARY: In a Federal Register notice issued and announced on May 1, 2008,¹ and published in the Federal Register on May 7, 2008 (“Notice”),² the Federal Trade Commission (“Commission” or “FTC”) requested comment on its Advance Notice of Proposed Rulemaking (“ANPR”) in connection with its rulemaking pursuant to Section 811 of the Energy Independence and Security Act of 2007 (“EISA”). The ANPR stated that comments must be submitted on or before June 6, 2008. In response to a request to extend the comment period received on May 19, 2008, the Commission has determined to extend the comment period for an additional 15 days.

¹ The Notice was announced in a press release on May 1, 2008, available at: <http://www.ftc.gov/opa/2008/05/anpr.shtm>.

² Federal Trade Commission, *Prohibitions On Market Manipulation and False Information in Subtitle B of the Energy Independence and Security Act of 2007*, 73 FR 25614 (May 7, 2008).

DATES: Comments addressing the Market Manipulation ANPR must be received on or before June 23, 2008.

ADDRESSES: 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).³

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-marketmanipulationANPR/> (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-marketmanipulationANPR/>. 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 regulations.gov forwards to it. You may also visit the FTC website at <http://www.ftc.gov/opa/index.shtml> to read the ANPR 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

³ 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).

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>. 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.htm>.

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) 326-3772.

SUPPLEMENTARY INFORMATION:

On May 7, 2008, the Commission published an ANPR pursuant to the authority granted to it in Section 811 of the EISA to promulgate regulations prohibiting “market manipulation” in the petroleum industry. In that Notice, the Commission solicited comment on a variety of topics including the scope of a proposed Rule; the impact of other agencies’ extant rules against market manipulation on a proposed Rule; and the effectiveness of monetary penalties in curbing

behavior proscribed by a proposed Rule. The ANPR stated that the period for submitting initial comments would close on June 6, 2008.

On May 19, 2008, the Commission received a letter from counsel for the American Petroleum Institute (“API”) requesting that the Commission extend the comment deadline in the ANPR proceeding for an additional 60 days, resulting in a 90-day comment period. In its request, API advances three arguments in support of an extension of the comment period. First, API argues that additional time is needed to canvass its more than 400 members and to “consolidate and present that information for the Commission’s consideration.” Second, API contends that the extension is necessary to ensure that there is “sufficient time for thoughtful deliberation” about the “many novel and complex issues” addressed in the ANPR. 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 be beneficial to the Commission as it proceeds.

The Commission is sympathetic to the concerns raised by API. The Commission, however, is not persuaded that a full 60-day extension – which would triple the time allocated by the Commission for the receipt of comments – is necessary to ensure that interested parties have an adequate opportunity to prepare and submit thoughtful responses at this stage in the proceeding. The Commission believes that a 15-day extension of the initial 30-day comment period should be sufficient to enable API and all other commenters to finalize and submit comments in response to the ANPR while avoiding unnecessary delay. Further, in the event that the Commission determines to issue a Notice of Proposed Rulemaking in this proceeding,

interested parties will be afforded an additional period of time in which to submit comments in response to a proposed Rule. Accordingly, the Commission has determined to extend the comment period set forth in the ANPR until June 23, 2008.⁴

By direction of the Commission.

Donald S. Clark
Secretary

⁴ Under Commission Rule 4.3(a), the 15-day comment period begins on Monday, June 9, 2008, the first business day after the date on which the comment period is currently scheduled to end. 16 CFR 4.3(a).