

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 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).¹ 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

¹ 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).

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 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.shtm>. 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.shtm>.

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 NPRM² pursuant to the authority granted to it in Section 811 of EISA³ 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.⁴

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

² 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.shtm>.

³ 42 U.S.C. 17301.

⁴ 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).

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