

registered entity, market participants, and the overall market. The narrative should describe the substance of the submission with enough specificity to characterize all material aspects of the filing.

(b) *Other Requirements*—A submission shall comply with all applicable filing requirements for proposed rules, rule amendments, or products. The filing of the submission cover sheet does not obviate the registered entity's responsibility to comply with applicable filing requirements (e.g., rules submitted for Commission approval under § 40.5 must be accompanied by an explanation of the purpose and effect of the proposed rule along with a description of any substantive opposing views).

(c) Checking the box marked "confidential treatment requested" on the Submission Cover Sheet does not obviate the submitter's responsibility to comply with all applicable requirements for requesting confidential treatment in § 40.8 and, where appropriate, § 145.9 of this chapter, and will not substitute for notice or full compliance with such requirements.

Issued in Washington, DC, on October 26, 2010, by the Commission.

**David A. Stawick,**  
*Secretary of the Commission.*

**Note:** The following attachment will not appear in the Code of Federal Regulations.

**Statement of Chairman Gary Gensler  
Provisions Common to Registered Entities  
October 26, 2010**

I support the proposal to publish for comment the proposed rule on the Commission's process for certification and approval of rules and new products for designated contract markets (DCMs), derivatives clearing organizations (DCOs), swap execution facilities (SEFs) and swap data repositories (SDRs). The Dodd-Frank Act establishes enhanced procedures for Commission review and certification of new rules, rule amendments and products. Today's rule gives important procedural guidance to registered entities on how to comply with Congress's mandate for the Commission's review of new rules and products.

[FR Doc. 2010-27533 Filed 11-1-10; 8:45 am]

**BILLING CODE 6351-01-P**

**COMMODITY FUTURES TRADING  
COMMISSION**

**17 CFR Chapter I**

**RIN Number 3038-AD26**

**Antidisruptive Practices Authority  
Contained in the Dodd-Frank Wall  
Street Reform and Consumer  
Protection Act**

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Advance notice of proposed rulemaking; request for comments.

**SUMMARY:** The Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act") amends section 4c(a) of the Commodity Exchange Act ("CEA") in section 747 to expressly prohibit certain trading practices deemed disruptive of fair and equitable trading. The Commodity Futures Trading Commission ("Commission") is issuing this advance notice of proposed rulemaking and request for public comment to assist the Commission in promulgating such rules and regulations to meet the requirements of section 747.

**DATES:** Comments must be in writing and received by January 3, 2011.

**ADDRESSES:** You may submit comments, identified by RIN number AD26, by any of the following methods:

- *Agency Web site, via its Comments Online process:* Comments may be submitted to: <http://comments.cftc.gov>. Follow the instructions for submitting comments on the Web site.
- *Mail:* David A. Stawick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.
- *Hand Delivery/Courier:* Same as mail above.
- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <http://www.cftc.gov>. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the established procedures in CFTC Regulation 145.9.<sup>1</sup>

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from <http://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

**FOR FURTHER INFORMATION CONTACT:**  
Robert Pease, Counsel to the Director of Enforcement, 202-418-5863,

[rpease@cftc.gov](mailto:rpease@cftc.gov), or Mark D. Higgins, Counsel to the Director of Enforcement, 202-418-5864, [mhiggins@cftc.gov](mailto:mhiggins@cftc.gov), Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1151 21st Street, NW., Washington, DC 20581.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On July 21, 2010, President Obama signed the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act").<sup>2</sup> Title VII of the Dodd-Frank Act<sup>3</sup> amended the Commodity Exchange Act ("CEA")<sup>4</sup> to establish a comprehensive new regulatory framework for swaps and security-based swaps. The legislation was enacted to reduce risk, increase transparency, and promote market integrity within the financial system by, among other things: (1) Providing for the registration and comprehensive regulation of swap dealers and major swap participants; (2) imposing clearing and trade execution requirements on standardized derivative products; (3) creating robust recordkeeping and real-time reporting regimes; and (4) enhancing the Commission's rulemaking and enforcement authorities with respect to, among others, all registered entities and intermediaries subject to the Commission's oversight. Section 747 of the Dodd-Frank Act amends section 4c(a) of the CEA to add a new section entitled "Disruptive Practices."

**II. Solicitation for Comments About Disruptive Practices Pursuant to Dodd-Frank Act Section 747**

In section 747 of the Dodd-Frank Act, Congress amended the CEA to expressly prohibit certain trading practices that it determined were disruptive of fair and equitable trading. Dodd-Frank section 747 amends section 4c(a) of the CEA to make it unlawful for any person to engage in any trading, practice, or conduct on or subject to the rules of a registered entity that—

- (A) violates bids or offers;
- (B) demonstrates intentional or reckless disregard for the orderly execution of transactions during the closing period; or
- (C) is, is of the character of, or is commonly known to the trade as,

<sup>2</sup> See Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law No. 111-203, 124 Stat. 1376 (2010). The text of the Dodd-Frank Act may be accessed at <http://www.cftc.gov/LawRegulation/OTCDERIVATIVES/index.htm>.

<sup>3</sup> Pursuant to Section 701 of the Dodd-Frank Act, Title VII may be cited as the "Wall Street Transparency and Accountability Act of 2010."

<sup>4</sup> 7 U.S.C. 1 *et seq.* (2006).

<sup>1</sup> 17 CFR 145.9.

“spoofing” (bidding or offering with the intent to cancel the bid or offer before execution).

Dodd-Frank section 747 also amends section 4c(a) by granting the Commission authority to promulgate such “rules and regulations as, in the judgment of the Commission, are reasonably necessary to prohibit the trading practices” enumerated in section 747 “and any other trading practice that is disruptive of fair and equitable trading.” The prohibition on the disruptive practices specified in new section 4c(a) will become effective 360 days after the enactment of the Dodd-Frank Act.

The Commission invites comment on all aspects of Dodd-Frank Act section 747. In particular, commenters are encouraged to address the following questions:

1. Should the Commission provide additional guidance as to the nature of the conduct that is prohibited by the specifically enumerated practices in paragraphs (A–C)?

2. With respect to the practice enumerated in paragraph (A)—violating bids and offers—how should the provision be applied in the context of electronic trading platforms with pre-determined order-matching algorithms that preclude a trader from executing an order against a quote other than the best one available? In particular, should the provision apply to “buying the board” in an illiquid market?<sup>5</sup>

3. How should the Commission distinguish between orderly and disorderly trading during the closing period as articulated in paragraph (B)? What factors should a factfinder consider in this inquiry?

4. How should “orderly execution” be defined? How should the closing period be defined? Should the definition of closing period include:

- a. Daily settlement periods?
- b. Some period prior to contract expiration?
- c. Trading periods used to establish indices or pricing references?

5. Should the Commission recognize that a trading practice or conduct outside of the closing period is actionable so long as it “demonstrates intentional or reckless disregard for the execution of transactions during the closing period?”

6. Should (B) extend to order activity as well as consummated transactions?

7. Should executing brokers have an obligation to ensure that customer trades are

not disruptive trade practices? If so, in what circumstances? What pre-trade risk checks should executing brokers have in place to ensure customers using their automated trading systems, execution systems or access to their trading platforms do not engage in disruptive trade practices?

8. How should the Commission distinguish “spoofing,” as articulated in paragraph (C), from legitimate trading activity where an individual enters an order larger than necessary with the intention to cancel part of the order to ensure that his or her order is filled?

9. Should the Commission separately specify and prohibit the following practices as distinct from “spoofing” as articulated in paragraph (C)? Or should these practices be considered a form of “spoofing” that is prohibited by paragraph (C)?

a. Submitting or cancelling bids or offers to overload the quotation system of a registered entity, or delay another person’s execution of trades;

b. Submitting or cancelling multiple bids or offers to cause a material price movement;

c. Submitting or cancelling multiple bids or offers to create an appearance of market depth that is false.

10. Does partial fill of an order or series of orders necessarily exempt that activity from being defined as “spoofing”?

11. Are there ways to more clearly distinguish the practice of spoofing from the submission, modification, and cancellation of orders that may occur in the normal course of business?

12. Should the Commission specify an additional disruptive trading practice concerning the disorderly execution of particularly large orders during periods other than the closing period? If so, at what size should this provision become effective and how should the Commission distinguish between orderly and disorderly trading?

13. Should the Commission specify and prohibit other additional practices as disruptive of fair and equitable trading?

14. Should the Commission articulate specific duties of supervision relating to the prohibited trading practices articulated in paragraphs (A–C) (as well as any other trading practice that the Commission determines to be disruptive of fair and equitable trading) to supplement the general duty to supervise contained in Commission Regulation 166.3? To which entities should these duties of supervision apply?

15. Should the Commission consider promulgating rules to regulate the use of algorithmic or automated trading systems to prevent disruptive trading practices? If so, what kinds of rules should the Commission consider?

16. Should the Commission consider promulgating rules to regulate the design of algorithmic or automated trading systems to prevent disruptive trading practices? If so, what kinds of rules should the Commission consider?

17. Should the Commission consider promulgating rules to regulate the supervision and monitoring of algorithmic or automated trading systems to prevent disruptive trading practices? If so, what kinds of rules should the Commission consider?

18. Should the Commission promulgate additional rules specifically applicable to the use of algorithmic trading methodologies and programs that are reasonably necessary to prevent algorithmic trading systems from disrupting fair and equitable markets? If so, what kinds of rules should the Commission consider?

19. Should algorithmic traders be held accountable if they disrupt fair and equitable trading? If so, how?

When commenting on the above questions, please comment generally and specifically, and please include empirical data and other information in support of such comments, where appropriate and available, regarding any of the comments provided and please also take into account the statutory text of Dodd-Frank Act section 747, reprinted herein as follows:

#### Sec. 747. ANTIDISRUPTIVE PRACTICES AUTHORITY

Section 4c(a) of the Commodity Exchange Act (7 U.S.C. 6c(a)) (as amended by section 746) is amended by adding at the end the following:

“(5) Disruptive practices.—It shall be unlawful for any person to engage in any trading, practice, or conduct on or subject to the rules of a registered entity that—

“(A) violates bids or offers;

“(B) demonstrates intentional or reckless disregard for the orderly execution of transactions during the closing period; or

“(C) is, in the character of, or is commonly known to the trade as, ‘spoofing’ (bidding or offering with the intent to cancel the bid or offer before execution).

“(6) Rulemaking authority.—The Commission may make and promulgate such rules and regulations as, in the judgment of the Commission, are reasonably necessary to prohibit the trading practices described in paragraph (5) and any other trading practice that is disruptive of fair and equitable trading.

“(7) Use of swaps to defraud.—It shall be unlawful for any person to enter into a swap knowing, or acting in reckless disregard of the fact, that its counterparty will use the swap as part of a device, scheme, or artifice to defraud any third party.”

Dated: October 26, 2010.

By the Commodity Futures Trading Commission.

**David A. Stawick,**

*Secretary of the Commission.*

#### **Statement of Chairman Gary Gensler Anti-Disruptive Practices Authority Contained in Title VII of Dodd-Frank Wall Street Reform and Consumer Protection Act, October 26, 2010**

I support the proposed Advanced Notice of Proposed Rulemaking concerning disruptive trading practices. Congress expressly prohibited three trading practices that it deemed were disruptive of fair and equitable trading. In addition, Congress granted the Commission authority to prohibit other

<sup>5</sup> Specifically, in a sufficiently illiquid market, a trader might enter an order for a large quantity at a price that is so far beyond the best available resting quote that the order executes against all resting quotes. In doing so, the trader would establish a new artificial best bid or offer that does not reflect market forces. See *In re Henner*, 30 Agric. Dec. 1151, 1155 (1971) (Defendant “bought the board”—accepted all outstanding offers—and then bid for a single contract well in excess of the previously prevailing price. He was sanctioned for manipulating the price of egg futures; the fact that he paid more than necessary for shell egg futures was the basis for finding an artificial price).

trading practices that are disruptive of fair and equitable trading. Today's advanced notice of proposed rulemaking asks 18 questions, the answers to which will inform moving forward with a proposed rule on this issue. Commission staff also will lead a roundtable on December 2 on disruptive trading practices. I am particularly interested in hearing from the public on algorithmic trading. In addition to the public comments and the December 2 roundtable, we will benefit from the input of the Joint CFTC–SEC Advisory Committee on Emerging Regulatory Issues.

[FR Doc. 2010–27547 Filed 11–1–10; 8:45 am]

BILLING CODE 6351–01–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 81

[EPA–R09–OAR–2010–0718; FRL–9219–8]

#### Determinations of Attainment by the Applicable Attainment Date for the Hayden, Nogales, Paul Spur/Douglas PM<sub>10</sub> Nonattainment Areas, Arizona

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to determine that the Hayden, Nogales, and Paul Spur/Douglas nonattainment areas in Arizona attained the National Ambient Air Quality Standard (NAAQS) for particulate matter with an aerodynamic diameter of less than or equal to a nominal ten micrometers (PM<sub>10</sub>) by the applicable attainment date of December 31, 1994. On the basis of this proposed determination, EPA concludes that these three “moderate” nonattainment areas are not subject to reclassification by operation of law to “serious.” Lastly, on the basis of a review of more recent ambient monitoring data, EPA also is proposing to determine that the Hayden, Nogales and Paul Spur/Douglas nonattainment areas are not currently attaining the PM<sub>10</sub> standard.

**DATES:** Comments must be received on or before December 2, 2010.

**ADDRESSES:** Submit comments, identified by docket number EPA–R09–OAR–2010–0718, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.
2. *E-mail:* [tax.wienke@epa.gov](mailto:tax.wienke@epa.gov).
3. *Mail or Deliver:* Wienke Tax, Air Planning Office, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

#### FOR FURTHER INFORMATION CONTACT:

Wienke Tax at telephone number: (415) 947–4192; e-mail address: [tax.wienke@epa.gov](mailto:tax.wienke@epa.gov), or the above EPA, Region IX address.

**SUPPLEMENTARY INFORMATION:** For further information, please see the direct final action, of the same title, which is located in the Rules section of this **Federal Register**. EPA is determining that the Hayden, Nogales, and Paul Spur/Douglas nonattainment area attained the PM<sub>10</sub> standard by the applicable attainment date (1994), and that the three areas are not currently attaining the standard, as a direct final rule without prior proposal because EPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the determinations is set forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule.

If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if we receive adverse comment on one of the determinations, EPA may adopt as final those determinations that are not the subject of an adverse comment.

Dated: October 25, 2010.

**Jared Blumenfeld,**

*Regional Administrator, EPA Region IX.*

[FR Doc. 2010–27635 Filed 11–1–10; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### 42 CFR Part 5

#### Negotiated Rulemaking Committee on Designation of Medically Underserved Populations and Health Professional Shortage Areas; Notice of Meeting

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Negotiated Rulemaking Committee meeting.

**SUMMARY:** In accordance with section 10(a)(2) of the Federal Advisory

Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting of the Negotiated Rulemaking Committee on Designation of Medically Underserved Populations and Health Professional Shortage Areas.

**DATES:** Meetings will be held on November 17, 2010, 9:30 a.m. to 6 p.m. and November 18, 2010, 8 a.m. to 4:30 p.m.

**ADDRESSES:** Meetings will be held at the Legacy Hotel and Meeting Centre, Georgetown Room, 1775 Rockville Pike, Rockville, Maryland 20852, (301) 881–2300.

**FOR FURTHER INFORMATION CONTACT:** For more information, please contact Nicole Patterson, Office of Shortage Designation, Bureau of Health Professions, Health Resources and Services Administration, Room 9A–18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–9027, *E-mail:* [npatterson@hrsa.gov](mailto:npatterson@hrsa.gov) or visit <http://www.hrsa.gov/advisorycommittees/shortage/>.

#### SUPPLEMENTARY INFORMATION:

*Status:* The meeting will be open to the public.

*Purpose:* The purpose of the Negotiated Rulemaking Committee on Designation of Medically Underserved Populations and Health Professional Shortage Areas is to establish a comprehensive methodology and criteria for Designation of Medically Underserved Populations and Primary Care Health Professional Shortage Areas, using a Negotiated Rulemaking (NR) process. It is hoped that use of the NR process will yield a consensus among technical experts and stakeholders on a new rule, which will then be published as an Interim Final Rule in accordance with Section 5602 of Public Law 111–148, the Patient Protection and Affordable Care Act of 2010.

*Agenda:* The meeting will be held on Wednesday, November 17 and Thursday, November 18. It will include a discussion of the various components of a possible methodology for identifying areas of shortage and underservice, based on the recommendations of the Committee in the previous meeting. The Thursday meeting will also include development of the agenda for the next meeting, as well as an opportunity for public comment.

Requests from the public to make oral comments or to provide written comments to the Committee should be sent to Nicole Patterson at the contact address above at least 10 days prior to the meeting. The meetings will be open