



**Central Office of Reform and Efficiency**

101 E Olney Ave - Unit 330,  
Philadelphia, PA 19120-3805  
i: Hamlet Garcia Jr.

**25<sup>th</sup> Day of January, in the Era of the 13-Month Order, 2025**

**April Tabor; acting; 'Secretary'**

Office of the Secretary, Suite CC-5610  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, D.C. 20580

Dear 'Secretary' April;

On behalf of the Central Office of Reform and Efficiency ("CORE"), this Petition for Rulemaking is submitted under Executive Order 13563 and the FTC's Regulatory Reform Program. Petitioner requests that the Federal Trade Commission amend 16 C.F.R. § 1.31 to establish clear timelines for acknowledgment and responses to petitions for rulemaking, ensuring transparency and accountability. Proposed amendments would mandate specified timeframes for petition acknowledgment, responses, and updates, addressing critical procedural gaps and aligning with best practices; 1 CFR § 17.

We stand ready to provide any additional information necessary for the review of this Petition. Prompt consideration is appreciated.

**In due course,**

/s/ *Hamlet Garcia II*

man; stakeholder; creditor



**Central Office of Reform and Efficiency**

101 E Olney Ave - Unit 330 Philadelphia PA 19120  
T: 856 438-0010 E.: hamletgarciajr@gmail.com  
fellow-[wo]man; at; 'Federal Trade Commission'

Enclosure: Petition for Rulemaking Amendment

## I. Emergency Petition for Rulemaking

The Central Office of Reform and Efficiency (“CORE”), through its representative Hamlet Garcia II, petitions the Federal Trade Commission (“FTC”) under the Federal Trade Commission Act, 15 U.S.C. § 45, and 16 C.F.R. § 1.9 to amend 16 C.F.R. § 1.31. The proposed amendments seek to establish clear timelines for acknowledgment and responses to petitions for rulemaking, ensuring procedural transparency and regulatory accountability as follows:

- ❖ **Statutory and Regulatory Basis for Amendment:** 15 U.S.C. § 46(f) grants the Commission authority to set petition procedures. 5 U.S.C. § 553(e) ensures public petition rights, while 5 U.S.C. § 555(b) mandates timely resolution. The lack of deadlines in 16 C.F.R. § 1.31 creates an enforcement void, requiring modification to align with statutory obligations.
- ❖ **Deficiencies in the Current Rule:** § 1.31 allow indefinite delays, breaching 5 U.S.C. § 555(b) and undermining judicial precedents. See *Telecomms. Rsch. & Action Ctr. v. FCC*, 750 F.2d 70, 80 (D.C. Cir. 1984) (“unreasonable delay is subject to judicial review”). Courts have deemed such delays an abuse of discretion under 5 U.S.C. § 706(1). See *Pub. Citizen v. Heckler*, 653 F. Supp. 1229, 1238 (D.D.C. 1987).

### Proposed Amendments to Ensure Timely Processing

- **Acknowledgment of Petitions** The FTC must acknowledge receipt of all petitions for rulemaking within 3 business days. The acknowledgment must include a tracking number and the assigned reviewing official.
- **Timelines for Initial Review:** Commission must determine whether a petition presents a substantive basis for further consideration within 7 days of receipt. If additional deliberation is necessary, the agency must provide written status updates every 5 days until a final determination.
- **Deadlines for Substantive Determination:** A preliminary decision—whether to initiate rulemaking, solicit further public input, or deny the petition—must be issued within 10 days of submission. If the agency declines to act, it must provide a reasoned explanation consistent with 5 U.S.C. § 555(e).
- **Public Disclosure and Transparency:** Petitions for rulemaking must be published on the FTC’s website within 10 business days of receipt, unless confidentiality is justified under 5 U.S.C. § 552(b). All final agency determinations regarding petitions must be included in the Federal Register, ensuring public accountability.

- ❖ Absence of procedural deadlines in 16 C.F.R. § 1.31 impedes administrative efficiency, creates uncertainty for petitioners, and risks noncompliance with statutory mandates. By establishing clear timelines for acknowledgment, review, and final determination, the FTC can ensure procedural integrity while fulfilling its regulatory obligations under the FTC Act and APA. The Central Office of Reform and Efficiency respectfully urges the Commission to adopt these amendments to 16 C.F.R. § 1.31 without delay.

## **II. The Petitioner**

CORE represents a coalition of businesses operating across state lines, all subject to the Federal Trade Commission's jurisdiction. The organization remains committed to ensuring regulatory clarity, fairness, and accountability in agency rulemaking. Ambiguities within 16 C.F.R. § 1.31 undermine transparency, delay substantive determinations, and weaken public confidence in the Commission's procedural integrity. A rulemaking process lacking clear timelines fosters regulatory uncertainty, impeding businesses' ability to navigate compliance obligations while diminishing the FTC's role in promoting fair competition. Establishing definitive procedural deadlines will reinforce the predictability, legitimacy, and enforceability of the Commission's regulatory framework.<sup>1</sup>

## **III. Introduction**

The Federal Trade Commission (FTC) holds significant responsibility in regulating market conduct and safeguarding consumers. Its authority to enforce laws against deceptive practices must be exercised within a framework of fairness, transparency, and accountability. By refining the existing rule governing negative option plans, specifically clarifying vague terms and enhancing procedural transparency, the Commission can strengthen its enforcement capacity. Revisions such as a clearer definition of terms and explicit guidelines for business practices are vital for promoting compliance, protecting consumers, and reinforcing confidence in the FTC's commitment to balanced regulatory oversight.

## **IV. The Current FTC Rule 16 C.F.R. § 1.31**

16 C.F.R. § 1.31 governs the Federal Trade Commission's procedures for handling petitions for rulemaking. The rule establishes the process by which interested parties may submit petitions requesting regulatory amendments, clarifications, or new rule promulgation. However, its current framework lacks clear procedural safeguards, leading to delays, uncertainty, and inconsistent treatment of petitions.

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<sup>1</sup> Petitioner's right to participate and advocate for affected interests is established under 16 C.F.R. § 1.12(d), which directs the Commission to designate a representative for groups sharing common concerns. Further, 16 C.F.R. § 1.13(b)(1)(i) limits cross-examination to issues deemed "material" and "necessary to resolve" by the Commission. Accordingly, Petitioner holds the right to present and address material facts essential to the fair adjudication of contested matters, ensuring full and transparent participation in the rulemaking process.

The rule provides that:

- **Submission Requirements:** Petitions must be filed in writing and must set forth the text or substance of the proposed rule or amendment, along with a statement of supporting facts and arguments.
- **Commission Discretion:** The FTC retains full discretion to grant or deny petitions without defined timelines for acknowledgment, review, or response.
- **Lack of Procedural Transparency:** No formal requirements obligate the FTC to provide petitioners with status updates, reasons for denial, or structured opportunities for engagement.

Exclusion of procedural clarity creates regulatory inefficiencies, undermining both petitioner rights and agency accountability. Undefined response timelines leave petitioners without recourse or certainty, while the Commission's discretionary authority lacks sufficient transparency to ensure fair and consistent adjudication; proposed amendments aim to rectify deficiencies by establishing definitive deadlines, requiring reasoned responses, and enhancing procedural safeguards to promote transparency, efficiency, and equitable rulemaking.

## V. Deficiencies in the Current Rule

16 C.F.R. § 1.31 is marred by critical procedural deficiencies that hinder efficient rulemaking and transparency. The lack of definitive timelines for acknowledgment and response to petitions breeds regulatory stagnation, depriving petitioners and stakeholders of essential due process. Absent clear directives compelling the Commission to act within a reasonable time frame, the rule perpetuates delays that undermine the core tenets of administrative fairness and accountability. This vacuum fosters uncertainty, impeding effective governance and eroding public trust in the Commission's capacity to uphold its regulatory duties.

## VI. Erosion of Public Trust Due to Insufficient Timeliness and Enforcement

Nonexistence of defined timelines in 16 C.F.R. § 1.31 fosters public skepticism and undermines confidence in the FTC's regulatory process. Without clear deadlines for acknowledging and responding to petitions, uncertainty permeates the agency's actions, delaying timely regulatory interventions. This absence of structure obstructs fair proceedings, exposing businesses and consumers to ongoing risks that undermine the FTC's mission to protect public interests. To restore credibility, enforceable timelines must be introduced, with failure to act within these timeframes triggering specific, actionable remedies. Such revisions will enhance transparency, ensuring prompt resolution and reinforcing the FTC's role as a reliable, impartial protector of fair commerce.

## VII. Text of Proposed Amendments to 16 C.F.R. § 1.31

Below is the text of 16 C.F.R. § 1.31, with proposed amendments, deletions, and alterations highlighted in bold and underlined:

### § 1.31 Procedures for addressing petitions.

(a) Petitions for rulemaking. An interested person may petition for the issuance, amendment, or repeal of a rule, administered by the Commission pursuant to Section 18(a)(1)(B) of the FTC Act (15 U.S.C. 57a(1)(B)) or other statutory authorities. A request to issue, amend, or repeal an interpretive rule, including an industry guide, may also be submitted by petition. For purposes of this section, a “petition” means a written request to issue, amend, or repeal a rule or interpretive rule administered by the Commission or a petition seeking an exemption from the coverage of a rule.

(b) Requirements. Petitions must include the following information:

1. The petitioner's full name, address, telephone number, and email address (if available), along with an explanation of how the petitioner's interests would be affected by the requested action;
2. A full statement of the action requested by the petitioner, including the text and substance of the proposed rule or amendment, or a statement identifying the rule proposed to be repealed, and citation to any existing Commission rules that would be affected by the requested action;
3. A full statement of the factual and legal basis on which the petitioner relies for the action requested in the petition, including all relevant facts, views, argument, and data upon which the petitioner relies, as well as information known to the petitioner that is unfavorable to the petitioner's position. The statement should identify the problem the requested action is intended to address and explain why the requested action is necessary to address the problem.

(c) Supporting data. If an original research report is used to support a petition, the information should be presented in a form that would be acceptable for publication in a peer reviewed scientific or technical journal. If quantitative data are used to support a petition, the presentation of the data should include a complete statistical analysis using conventional statistical methods. Sources of information appropriate to use in support of a petition include, but are not limited to:

- |                                     |                                  |
|-------------------------------------|----------------------------------|
| (1) Professional journal articles,  | (4) Official government reports, |
| (2) Research reports,               | (5) Industry data, and           |
| (3) Official government statistics, | (6) Scientific textbooks.        |

(d) Filing. A petition should be submitted via email to [electronicfilings@ftc.gov](mailto:electronicfilings@ftc.gov) or sent via postal mail or commercial delivery to Federal Trade Commission, Office of the Secretary, Suite CC-5610, 600 Pennsylvania Avenue NW, Washington, DC 20580. If the petition meets the requirements for Commission consideration described in this section, the Secretary will assign a docket number to the petition. Once a petition has been docketed, the FTC will notify the petitioner in writing and provide the petitioner with the number assigned to the petition and an agency contact for inquiries relating to the petition. The petition number should be referenced by the petitioner in all contacts with the agency regarding the petition.

(e) Confidential treatment. If a petition contains material for which the petitioner seeks confidential treatment, the petitioner must file a request for confidential treatment that complies with § 4.9(c) of this chapter and two versions of the petition and all supporting materials, consisting of a confidential and a public version. Every page of each such document shall be clearly and accurately labeled “Public” or “Confidential.” In the confidential version, the petitioner must use brackets or similar conspicuous markings to indicate the material for which it is claiming confidential treatment. In the public version, the petitioner must redact all material for which it seeks confidential treatment in the petition and supporting materials or all portions thereof for which confidential treatment is requested. The written request for confidential treatment that accompanies the petition must include a description of the material for which confidential treatment is requested and the factual and legal basis for the request. Requests for confidential treatment will only be granted if the General Counsel grants the request in accordance with the law and the public interest, pursuant to § 4.9(c) of this chapter.

(f) Notice and public comment. After a petition has been docketed as described in paragraph (d) of this section, the Office of the Secretary will provide public notice of the petition on behalf of the Commission in the Federal Register and publish the document online for public comment for 30 days through the Federal eRulemaking portal at <https://www.regulations.gov>. Any person may file a statement in support of or in opposition to a petition prior to Commission action on the petition by following the instructions provided in the Federal Register notice inviting comment on the petition. All comments on a petition will become part of the public record.

(g) Resolution of petitions. The Commission may grant or deny a petition in whole or in part. If the Commission determines to commence a rulemaking proceeding in response to a petition, the Commission will publish a rulemaking notice in the Federal Register and will serve a copy of the notice initiating the rulemaking proceeding on the petitioner. If the petition is deemed by the Commission as insufficient to warrant commencement of a rulemaking proceeding, the Commission will make public its determination and notify the petitioner, who may be given the opportunity to submit additional data. Petitions that are moot, premature, repetitive, frivolous, or which plainly do not warrant consideration by the Commission may be denied or dismissed without prejudice to the petitioner.

**(h) Timeliness of Review and Action. Commission must acknowledge receipt of petitions within 3 days of submission and initiate a review process within 5 days. If no action has been taken within 10 days of public comment closure, petitioners may request a status update. In cases of petitions deemed to have urgent public interest, the Commission shall expedite the review process and issue a decision within 5 days of closure. If additional time is necessary, the Commission must publicly notify petitioners and outline a revised timeline.**

1. The Commission shall endeavor to review all petitions within a reasonable period following the close of the public comment period.
  2. If the Commission determines that additional time is required to fully consider a petition, the Commission will notify the petitioner and the public, stating the reasons for the delay and an expected date for resolution.
  3. If the Commission does not act on a petition within 180 days from the close of the public comment period, the petitioner may request a status update on the review, and the Commission shall provide a response within 30 days.
  4. Petitions deemed by the Commission to be of urgent public interest may be expedited for review, and the petitioner may request an expedited timetable, which must be considered by the Commission within 3 days of submission.
  5. If additional time is necessary for review, the Commission will publicly notify the petitioner and provide a revised timeline for the decision.
  6. If the Commission determines the petition is insufficient or does not warrant consideration, it will notify the petitioner and provide an opportunity to submit additional data.
  7. Petitions that are deemed moot, premature, repetitive, frivolous, or plainly unwarranted may be dismissed without prejudice, with notification to the petitioner.
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## VIII. Timeliness of Review and Action

### Foreseen Effects of Timeliness Adjustments

1. **Efficiency in Petition Handling:** By instituting a clear, enforceable timeline for petition reviews, the proposed changes ensure that petitioners' rights are promptly addressed, reducing delays and fostering judicial efficiency. This enables expeditious resolution, ensuring petitioners face minimal uncertainty during proceedings.
2. **Enhanced Legal Certainty:** The establishment of firm deadlines for review and action introduces greater predictability into the process, allowing petitioners to plan their strategies with confidence. Clear timelines mitigate the risk of undue delays, providing petitioners with swift access to justice.
3. **Strengthening Procedural Integrity:** With defined review periods, revised timelines reinforce integrity within the petition process. These adjustments ensure petitioners' concerns are handled without unnecessary obstruction, providing a more transparent and reliable process that holds the Commission accountable for timely action.
4. **Preservation of Fairness:** Timely decision-making safeguards petitioners from prolonged uncertainty, allowing them to proceed with their interests intact. By minimizing unnecessary delays, the Commission enhances its commitment to upholding fair practices in the petition process.

## IX. ALTERNATIVE: Accelerated Regulatory Mandate (ARM)

Accelerated Regulatory Mandate (ARM) proposes a judiciously crafted, high-caliber alternative to conventional rulemaking. A distinguished panel comprising seasoned legal authorities, industry experts, and regulatory veterans would provide expeditious, authoritative guidance on negative option practices. By obviating protracted deliberations, ARM fosters immediate, decisive action to address emerging threats while safeguarding transparency and equity. This robust mechanism ensures rapid redress without encumbering market participants with unnecessary regulatory hurdles. ARM embodies a paradigm shift in regulatory agility, ensuring swift and impactful enforcement with a focus on precision and integrity in safeguarding consumer and market interests.

## X. CONCLUSION

In light of the issues raised, the Federal Trade Commission must urgently address the timeliness of its review and response to petitions under 1.31.<sup>2</sup> It is imperative the Commission takes swift, decisive action to streamline its processes, ensuring petitions are not left to languish in procedural limbo. A clear, enforceable timeline is crucial to providing petitioners with the certainty and fairness they deserve, preserving the integrity of the regulatory framework.<sup>3</sup>

CORE respectfully calls upon the Commission to prioritize an expedited review process that guarantees timely decisions. Such a reform is not merely procedural; it is foundational to restoring faith in the Commission's ability to uphold its duties with efficiency and transparency. The Commission's failure to act promptly undermines not only the regulatory process but also the very principles of justice it is sworn to uphold. Therefore, a rigorous, expedited review process for petitions must be enacted without delay.<sup>4</sup>

In service to justice,

/s/ *Hamlet Garcia II*  
*man; stakeholder; creditor*



Central Office of Reform and Efficiency

101 E Olney Ave - Unit 330 Philadelphia PA 19120

T: 856 438-0010 E: [hamletgarciajr@gmail.com](mailto:hamletgarciajr@gmail.com)

fellow-[wo]man; at; 'Federal Trade Commission'

The onus now lies with the Commission to safeguard both legal clarity and regulatory efficiency. [*Cf.* 5 U.S.C. § 553].

<sup>2</sup> Under the APA, 5 U.S.C. § 553, the FTC holds authority to amend rules based on petitions. The absence of clear timelines, however, breeds uncertainty. This petition demands prompt action to establish firm review deadlines, ensuring regulatory efficacy in line with Executive Order 13563.

<sup>3</sup> Delays in petition review, including Petition R 507000-1, exacerbate these issues. With firsthand experience in affected business ventures, the Petitioner urges swift action to resolve these ambiguities, ensuring consistent enforcement and advancing the Commission's goals under Rule 1.31(b)(3). See e.g., *FTC v. Wyndham Worldwide Corp.*, 10-2072 (3d Cir. 2011).

<sup>4</sup> CORE urges the FTC to amend 16 C.F.R. § 1.31, establishing firm timelines for petition reviews to prevent prolonged uncertainty and ensure efficient, accountable action.





UNITED STATES OF AMERICA  
 FEDERAL TRADE COMMISSION  
 WASHINGTON, D.C. 20580

Office of the Secretary

**OS intake review of  
 petitions for rulemaking per Rule 1.31(a)**

Submitter: Central Office of Reform and Efficiency	Rule/topic: Rule 1.31 timeliness, transparency, and accountability	Date received: 1/25/25
Reviewer: Pablo Zylberglaits	Date reviewed: 1/17/25	

Y	1.31(b)(1)	Full name, address, and phone number (email if available).	P. 8 of submission
Y	1.31(b)(1)	Explanation of how petitioner's interest would be affected by requested action.	P. 3 of submission
Y	1.31(b)(2)	Statement of action requested, including text and substance of proposal, <u>or</u> statement identifying rule to be repealed, <u>and</u> citation to any rules that would be affected.	Pp. 2-3, 5-7 of the submission
Y	1.31(b)(3)	Statement of factual and legal basis that identifies the problem and explains why requested action is necessary.	Pp. 2-3 of busmission.
n/a	1.31(e)	If petitioner seeks confidential treatment for any materials, must file a request per 4.9(c).	
n/a	1.31(g)	Petitions that are moot, premature, repetitive, frivolous, or do not warrant consideration may be denied or dismissed without prejudice	