of any provision for orderly disposal of packages in inventory or with the trade. In addition, comments concerning the effective date of the regulations emphasize the need for a period of advance planning to accomplish plate changes, printing, and availability of complying packages.

The Commission recognizes that section 6(d) of the Act provides that regulations when issued will not preclude the orderly disposal of packages in inventory or with the trade as of the effective date of the regulation. This provision has been construed to permit the filling of nonconforming packages until the effective date of the regulation and further permits distribution of the nonconforming packaged products in inventory following that date. Unfilled nonconforming packaging on hand as of the effective date may not be used unless modified to comply with the regulation. The Commission assumes good faith in the quantitative nature of packaging and labeling prior to the effective date being related to normal packaging and distribution practices. In keeping with the mandates of the Act, to issue necessary regulations and consistent with the provision allowing for orderly transition to complying packaging, the Commission will establish effective date to provide, where necessary, for adequate advance planning to accomplish label changes. In view of the specific limitations set forth in the Act and the Commission's previously issued guidance, these objections do not warrant further consideration.

To facilitate making the above described change in response to the objection and comments received, the Commission concludes that § 502.100 of the final order of June 30, 1971 (36 F.R. 12284) should be canceled and a new final order on this matter should be adopted as set forth below.

Accordingly, the December 31, 1971, effective date of the remaining sections of Part 502 is confirmed and pursuant to the authority contained in the Fair Packaging and Labeling Act (sections 5, 6, 80 Stat. 1298, 1299, 1300; 15 U.S.C. 1454, 1455); it is ordered that Part 502 of Subchapter E be amended by revising § 502.100 to read as follows:

§ 502.100 "Cents-off" representations.

(a) The term "cents-off representation" means any printed matter consisting of the words "cents-off" or words of similar import, placed upon any packaging containing a consumer commodity or placed upon any label affixed to such commodity, stating or representing by implication that the commodity is being offered for sale at a price lower than the ordinary and customary retail sale price.

(b) Except as set forth in § 502.101, the package or label of a consumer commodity shall not have imprinted thereon by a packager or labeler a "cents-off" representation unless:

(1) The commodity has been sold by the packager or labeler at an ordinary and customary price in the most recent and regular course of business in the trade area in which the "cents-off" promotion is made, either to the trade in the event such commodity is not sold at retail by the packager or labeler, or to the public in the event such commodity is sold at retail by the packager or labeler.

(2) The packager or labeler sells the commodity so labeled (either to the trade in the event such commodity is not sold at retail by the packager or labeler, or to the public in the event such commodity is sold at retail by the packager or labeler) at a reduction from his ordinary and customary price, which reduction is at least equal to the amount of the "cents-off" representation imprinted on the commodity package or label.

(3) Each "cents-off" representation imprinted on the package or label is limited to a phrase which reflects that the price marked by the retailer represents the savings in the amount of the "cents-off" the retailer's regular price, e.g., "Price Marked is _____¢ Off the Regular Price". "Price Marked is _____ Cents-off the Regular Price of This Package"; provided, the package or label may in addition bear in the usual pricing spot a form reflecting a space for the regular price, the represented "cents-off" and a space for the price to be paid by the consumer.

(4) The packager or labeler who sells the commodity at retail displays the regular price, designated as the "regular price", clearly and conspicuously on the package or label of the commodity or on a sign, placard, or shelf-marker placed in a position contiguous to the retail display of the "cents-off" marked commodity, and the packager or labeler who does not sell at retail provides the retailer with a sign, placard, shelf-marker, or other device for the purpose of clearly and conspicuously displaying the retailers regular price, designated as "regular price", in a position contiguous to the "cents-off" marked commodity.

(5) The packager or labeler:

(i) Does not initiate more than three "cents-off" promotions of any single size commodity in the same trade area within a 12-month period;

(ii) Allows at least 30 days to lapse between "cents-off" promotions of any particular size packaged or labeled commodity in a specific trade area; and

(iii) Does not sell any single size commodity so labeled in a trade area for a duration in excess of 6 months within any 12-month period.

(6) Sales by the packager or labeler of any single size commodity so labeled in a trade area do not exceed in volume fifty percent (50%) of the total volume of sales of such size commodity in the same trade area during any 12-month period. The 12-month period used by the packager or labeler may be the calendar, fiscal, or market year provided the identical period is applied in this subparagraph and subparagraph (5) of this paragraph. Volume limits may be calculated on the basis of projections for the current year but shall not exceed 50 percent of the sales for the preceding year in the event actual sales are less than the projection for the current year.

(c) A packager or labeler will not make a "cents-off" promotion available in any circumstances where he knows or should have reason to know that it will be used as an instrumentality for deception or for frustration of value comparison, e.g., where the retailer charges a price which does not fully pass on to the consumers the represented price reduction or where the retailer fails to display the regular price in the display area of the "cents-off" marked product. Nothing in this rule, however, should be construed to authorize or condone the illegal setting or policing of retail prices by a packager or labeler in situations where he does not sell to the public.

(d) A packager or labeler who sponsors a "cents-off" promotion shall prepare and maintain invoices or other records showing compliance with this section. The invoices or other records required by this section shall be open to inspection by duly authorized representatives of this Commission and shall be retained for a period of 1 year subsequent to the end of the year (calendar, fiscal, or market) in which the "cents-off" promotion occurs.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Secretary, Federal Trade Commission, Washington, D.C. 20580, written objections thereto, specifying with particularity the provisions of the order deemed objectionable, stating the grounds therefor, and requesting a public hearing upon such objections. Objections will be deemed sufficient to warrant the holding of a public hearing only: (1) If they establish that the objector will be adversely affected by the order; (2) if they specify with particularity the provisions of the order to which objection is taken; and (3) if they are supported by reasonable grounds which if valid and factually supported may be adequate to justify the relief sought. Anyone who files objections which are not deemed by the Commission sufficient to warrant the holding of a public hearing will be promptly notified of that determination.

As soon as practicable after the time for filing objections has expired, the Commission will publish a notice in the FEDERAL REGISTER specifying those parts of the order which have been stayed by the filing of objections or, if no objections sufficient to warrant the holding of a public hearing have been filed, stating the fact. This order shall become effective on January 2, 1972, except (1) any provision that may be stayed by the filing of valid objections and (2) § 502.100(b)(3) which shall become effective on June 30, 1972.

By direction of the Commission dated December 1, 1971.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc. 71-17761 Filed 12-1-71;3:56 pm]

PART 503—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

Withholding Packaging With Retail Sale Price Representations

The Federal Trade Commission issued final regulations under Part 502 of Subchapter E covering the use of "cents-off", "introductory offer" and "economy size" representations imprinted on packaged or labeled consumer commodities. These regulations were issued pursuant to section 5(c) of the Fair Packaging and Labeling Act and published on June 30, 1971 (36 F.R. 12284). Since they are necessarily general in application, the Commission will entertain requests for formal rulings and statements of policy or interpretation as the need arises.

A request for interpretation and policy guidance has been received with reference to §§ 502.100(c), 502.101(d) and 502.102(c) of the regulations, all of which prohibit the packager or labeler from making available packages marked with "cents-off", "introductory offer" and "economy size" representations when it is known that such packages will be used as instrumentalities for deception.

Accordingly, pursuant to the authority contained in the Fair Packaging and Labeling Act (sections 5, 6, 80 Stat. 1298, 1299, 1300; 15 U.S.C. 1454, 1455); Part 503 of Subchapter E is amended by adding § 503.6 and § 503.1 is amended to read as follows:

§ 503.1 Interpretations.

The regulations in Parts 500, 501, and 502 of this chapter are necessarily general in application and requests for formal rulings, statements of policy or interpretations shall be addressed to the Secretary of the Commission for consideration. Statements of policy or interpretations binding on the Commission will be published in the FEDERAL REGISTER. However, technical questions not involving policy consideration may be answered by the staff.

§ 503.6 Packagers' duty to withhold availability of packages imprinted with retail sale price representations.

To clarify the requirements, under Part 502 of the regulations in this chapter, that a packager or labeler will not make packages marked with retail sale price representations available in any circumstance where he knows or should have reason to know that it will be used as an instrumentality for deception or for frustration of value comparison, the following represents the opinions of the Commission:

(a) Details of a plan to provide special packaging or special package sizes bearing retail sale price representations should contain the condition that customers will not be provided with such packages unless they resell the package at a price which fully passes on to the purchasers the represented savings or sale price advantage.

(b) A packager or labeler who, in good faith, takes reasonable and prudent measures to verify the performance of his customers will be deemed to have satisfied his obligation under the regulations. If the packager has taken such steps, the fact that a particular customer has failed to resell the packages at a price which fully passes on to the purchaser the represented savings or sale price advantage shall not alone place a seller in violation of the regulations.

(c) Any packager or labeler who determines that a customer does not intend to fulfill or has not fulfilled the conditions of an offer should immediately refrain from further sale under that offer to the customer. In situations where proper fulfillment of the conditions of an offer are in question, the Commission will resolve the issue after appropriate investigation of the facts submitted.

By direction of the Commission dated December 1, 1971.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.71-17762 Filed 12-1-71;3:56 pm]

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

PART 2—PUBLIC INFORMATION

On August 28, 1971, notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 17360) concerning the procedures to be followed by the Environmental Protection Agency in making records available to the public pursuant to the Freedom of Information Act, 5 U.S.C. 552. After consideration of all relevant comments and suggestions from interested persons, the proposed rules have been revised, and are hereby adopted as Part 2 of Title 40, as set forth below.

Effective date. In view of the importance of formalizing at the earliest practicable date the procedures that the Environmental Protection Agency will follow in response to requests for information, and in further view of the fact that no affected party will be required to alter his past practices as a result of promulgation of these regulations, it is found that good cause exists for dispensing with the 30-day period normally provided for by 5 U.S.C. 553(d). Accordingly, these regulations will be effective upon publication in the FEDERAL REGISTER (12-3-71).

WILLIAM D. RUCKELSHAUS,
Administrator.

NOVEMBER 30, 1971.

Sec.

2.100 Scope.
2.101 General policy.
2.102 Procedures applicable to the public.
2.103 Agency procedures in response to request.
2.104 Duties of responsible EPA office.
2.105 Exemptions.
2.106 Determinations by the Office of the General Counsel or a Regional Counsel.
2.107 Determinations by the Office of Public Affairs.
2.108 Creation of records.
2.109 Denial of requests for records.
2.110 Copies of documents.
2.111 Payment.

AUTHORITY: The provisions of this Part 2 issued under 5 U.S.C. 552, as amended by Public Law 90-23.

§ 2.100 Scope.

This part establishes procedures for the Environmental Protection Agency (EPA) to implement the provision of the Administrative Procedure Act (5 U.S.C. 552(a)(3)) relating to the availability to the public of identifiable records contained in agency files, and not published in the FEDERAL REGISTER. This part is applicable to all EPA components, including all EPA regional offices, field installations and laboratories.

§ 2.101 General policy.

It is the policy of EPA to make the fullest possible disclosure of information to any person who requests information, without unjustifiable expense or delay. Where information is exempt under 5 U.S.C. 552(b) from mandatory disclosure, the EPA Office of Public Affairs may, pursuant to § 2.107, order disclosure in the public interest, unless such disclosure is prohibited by law.

§ 2.102 Procedures applicable to the public.

(a) *Form of request.* A request need not be in any particular form, but it (1) must be in writing, and (2) must describe the records sought with sufficient specificity to permit identification.

(b) *Place of request.* A request for records may be filed with the EPA Office of Public Affairs, 401 M Street SW., Washington, D.C. 20460, or with any other EPA office. Requests for records located in the indicated States may be filed with the following EPA Regional Offices:

(1) *Region I.* (Massachusetts, Connecticut, Maine, New Hampshire, Rhode Island, Vermont), Room 2303, John F. Kennedy Federal Building, Boston, Mass. 02203.
(2) *Region II.* (New Jersey, New York, Puerto Rico, Virgin Islands), Room 847, 26 Federal Plaza, New York, NY 10007.
(3) *Region III.* (Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia), Post Office Box 12900, Philadelphia, PA 19108.
(4) *Region IV.* (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee), Suite 300, 1421 Peachtree Street NE., Atlanta, GA 30309.
(5) *Region V.* (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin), 1 North Wacker Drive, Chicago, IL 60606.
(6) *Region VI.* (Arkansas, Louisiana, New Mexico, Oklahoma, Texas), 1114 Commerce Street, Dallas, TX 75202.
(7) *Region VII.* (Iowa, Kansas, Missouri, Nebraska), Room 702, 911 Walnut Street, Kansas City, MO 64106.
(8) *Region VIII.* (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming), Room 9041, Federal Office Building, 19th and Stout Streets, Denver, CO 80202.
(9) *Region IX.* (Arizona, California, Hawaii, Nevada, American Samoa, Guam, Trust Territories of Pacific Islands, Wake Island), 760 Market Street, San Francisco, CA 94102.