

Revision 1, dated November 15, 1994 (for Model CL-600-2A12 and -2B16 series airplanes); or Canadair Service Bulletin S.B. 601R-27-015, Revision 'A,' dated October 31, 1994 (for Model CL-600-2B19 series airplanes); as applicable. Accomplishment of this modification eliminates the need for the inspection required by paragraph (a) of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The inspections and modifications shall be done in accordance with Canadair Challenger Service Bulletin No. 600-0637, Revision 1, dated November 15, 1994; Canadair Challenger Service Bulletin No. 601-0426, Revision 1, dated November 15, 1994; Canadair Regional Jet Alert Service Bulletin S.B. A601R-27-011, Revision 'A,' dated September 21, 1993, as revised by Notice of Revision A601R-27-011A-1, dated October 6, 1993, and Notice of Revision A601R-27-011A-2, dated June 14, 1994; or Canadair Service Bulletin S.B. 601R-27-015, Revision 'A,' dated October 31, 1994; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on October 30, 1995.

Issued in Renton, Washington, on August 29, 1995.

Darrell M. Pederson,
*Acting Manager, Transport Airplane
Directorate, Aircraft Certification Service.*
[FR Doc. 95-21593 Filed 9-27-95; 8:45 am]
BILLING CODE 4910-13-U

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release Nos. 33-7221; 34-36269; 35-26377; 39-2335; IA-1521; IC-21370]

Commission Records and Information; Incorporation by Reference

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission is updating its Records control schedule to identify new retention values for Commission records and to expand the availability of certain records for incorporation by reference into new filings.

EFFECTIVE DATE: October 30, 1995.

FOR FURTHER INFORMATION CONTACT: Wilson Butler, Associate Executive Director, Ann Sykes, Associate Director, or Suzanne McHugh, Records Officer, at (202) 942-8938, Office of Filings and Information Services, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Alexandria, Virginia 22312.

SUPPLEMENTARY INFORMATION: The Commission is required to create records containing accurate and complete documentation of its organization, functions, policies, decisions, procedures, and essential transactions, and to dispose of such records in accordance with prescribed standards. 44 U.S.C. 3102. The Commission's Records control schedule, at 17 CFR 200.80(f), states how long the Commission retains records on-site or at the Federal Records Center pending disposition or transfer for permanent retention to the National Archives and Records Administration ("NARA").¹ The Commission is revising its Records control schedule to state new, NARA-approved administrative retention values for many Commission records.²

The schedule also has been reorganized, includes certain new records, and identifies obsolete records. In addition, since the retention values in the Records control schedule limit the availability of Commission records for incorporation by reference (see Rule 10(d) of Regulation S-K (17 CFR 229.10(d)),³ the amendment of the schedule also changes the length of time that records that previously have been filed with the Commission are available for incorporation by reference into new filings.⁴ Amending the Records control schedule is action with respect to a matter of agency management and a rule of agency organization, procedure, or practice within the meaning of the Administrative Procedure Act (5 U.S.C. 553(a)(2) and (b)(A), respectively) and therefore is not subject to the Administrative Procedure Act's notice and comment requirement. For the same reason, these amendments also are not subject to the Regulatory Flexibility Act (5 U.S.C. 601-612).

List of Subjects in 17 CFR Part 200

Administrative practice and procedure; Reporting and recordkeeping requirements.

Text of the Amendment

For the reasons set forth in the preamble, title 17, chapter II of the Code of Federal Regulations is amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. The general authority citation for Subpart D is revised to read as follows:

Authority: 15 U.S.C. 77f(d), 77s, 77ggg(a), 78m(f)(3), 78w, 79t, 79v(a), 77sss, 80a-37, 80a-44(c), 80a-44(b), 80b-10(a), 80b-11, and 36 CFR 1228.10.

* * * * *

2. Section 200.80f is revised to read as follows:

§ 200.80(f) Appendix F—Records control schedule.

200.80f (emphasis added). See also Rule 10(f) of Regulation S-B at 17 CFR 228.10(f).

⁴ For example, a registrant now will be allowed to incorporate into a current year's annual report on Form 10-K an exhibit that was filed with the Commission up to thirty years ago, rather than a maximum of only ten years ago under current practice.

¹ The Records control schedule does not cover the Commission's electronic records or its generally scheduled records pursuant to 36 CFR 1228.44.

² The administrative retention value for a record is the length of time that NARA has authorized that it be retained by an agency for agency purposes.

³ Until recently, rule 10 was rule 24 of the Commission's Rules of Practice. See Securities

Exchange Act Release No. 34-35833 (June 9, 1995). Rule 10 provides, in pertinent part, that no document on file with the Commission for more than five years may be incorporated by reference except: ... (b) documents that the registrant specifically identifies by physical location and by SEC file number reference, *provided such materials have not been disposed of by the Commission pursuant to its Records control schedule at 17 CFR*

File No.	Type of filing	Retention period
Securities Act of 1933		
2-33	Registration statements and amendments thereto (Regulation C)	30 years.
2-33	Periodic reports (annual, quarterly, current, and proxy material)	30 years.
9-	Notice of proposed resale of restricted securities and resale of securities by control persons (Form 144).	21 years.
15-	Notice of sale of securities pursuant to Rule 242 (Form 242). (Obsolete).	6 years.
18-	Applications for exemption from section 5 registration for interests or participations issued in connection with Keogh Plans (section 3(a)(2)).	10 years.
19-	Notice of sale of securities pursuant to section 4(6) of the Securities Act of 1933 (Form 4(6)). (Obsolete).	6 years.
20-	Offering sheets for oil or gas royalties—Regulation B (Schedules A, B, C).	15 years.
20-	Reports of sale (accorded confidential treatment) (Form 1-G)	7 years.
20-	Reports after termination of offering (Form 3-G)	7 years.
21-	Notice of sale for offerings under Regulation D and section 4(6) (Form D).	6 years.
24-	Notification of exemption from registration (Regulation A)	Until completion or termination of offering plus 10 years or order of the Commission permanently suspending exemption, whichever comes first.
29-	Report of issuers of sale of securities deemed not to involve any public offering (Form 146). (Obsolete).	6 years.
92-	Application for relief from disability (Regulation A)	Until when final action on appeal is taken plus 10 years.
94-	Notification of exemption for assessment or assessable stock (Regulation F).	10 years.
95-	Notification of exemption for securities issued by a small business investment company (Regulation E).	Until completion or termination of offering plus 5 years or until order of Commission permanently suspending exemption, whichever comes first.
96-	Application for relief from disability (Regulation F)	Until final action on appeal is taken plus 5 years.
98-	Notice of proposed sale by non-controlling person of restricted securities of issuers which do not satisfy all of the conditions of Rule 144.	6 years.
100-	Notification of exemption pursuant to Rule 236	6 years.

Securities Exchange Act of 1934

0-1	Registration statements (sections 12(b) and 12(g), exemptions thereunder).	30 years.
0-1	Periodic reports (annual, quarterly, current and proxy materials)	30 years.
3-	Applications for continuance in membership and applications for review of disciplinary actions (self-regulatory organizations).	10 years.
4-281	Consolidated quotation system plan and amendments	For as long as plan remains approved plus 6 years.
4-208	Intermarket trading system plan and amendments	For as long as plan remains approved plus 6 years.
5-	Acquisitions, tender offers and solicitations	20 years.
6-	Reports of beneficial ownership of securities (Forms 3, 4, & 5)	6 years.
7-	Applications for permission to extend unlisted trading privileges and related applications pursuant to Rule 12(f).	10 years.
8-	Applications for registration as broker, dealer, municipal securities broker, or government securities broker or dealer and related reports.	For as long as broker-dealer is registered with the Commission plus 50 years.
8-00-2A	Annual audit report (fiscal or calendar year basis) (Form X-17A-5). (Non-public) Supplemental report detailing Securities Investor Protection Corporation assessment payment or overpayments (Rule 17a-5). (Non-public).	For as long as broker-dealer is registered with the Commission plus 13 years.
8-00-2A-19	Reports of changes in membership of any of its members required of national securities exchanges and registered national securities associations (Form X-17A-19). (Public).	For as long as broker-dealer is registered with the Commission plus 6 years.
8-00-3X	Examination/inspection reports of brokers and dealers, investment companies and investment advisors	
	1. Exam reports:	
	a. Home Office	13 years.
	b. Regional Offices	13 years.
	2. Exam workpapers	13 years.

File No.	Type of filing	Retention period
8-00-9	Uniform application for securities and commodities industry representative and/or agent; certification for associated persons engaged in securities activities outside the jurisdiction of the United States; annual assessment form for registered brokers and dealers not members of a registered national securities association (Forms U-4, SECO 2-F, SECO-4, 5).	For as long as broker-dealer is registered with the Commission plus 50 years.
8-2A10	Annual report of revenue and expenses filed by exchange members, brokers and dealers (Form X-17A-10). (Obsolete).	10 years.
8-2A12	Report by registered brokers and dealers who are over-the-counter market makers in any OTC margin securities (Form X-17A-12).	6 years.
8-2A16(1), -2A16(2)	Notification by qualified market makers at least five business days before such broker-dealers obtain third market maker exempt credit pursuant to Regulation U; and quarterly report by broker and dealer, who during a calendar quarter is or has been qualified as a third market maker (Forms X-17A-16(1); X-17A-16(2)) (Obsolete).	6 years.
8-2A17	Quarterly report filed by every broker-dealer block positioner who has filed a notice pursuant to paragraph (a) of Rule 17a-17 (Form X-17A-17) (Obsolete).	6 years.
10-	Applications by an exchange for registration as a national securities exchange.	For as long as exchange is registered with the Commission plus 6 years.
13-	Applications for listing securities on an exempted exchange, periodic reports.	10 years.
14-	Annual reports of issuers having securities listed on an exempted exchange.	10 years.
16-	Application for registration as a national securities association or affiliated securities associations.	For as long as association is registered with the Commission plus 6 years.
17-	Reports on stabilizing activities (Form X-17A-1). (Obsolete)	6 years.
23-	Applications for exemption pursuant to paragraph (g) of Rule 11Aa3-1	Until closed plus 6 years.
26-	Plans by exchanges authorizing payment of special commission in connection with a distribution of securities on exchanges (Rule 10b-2(d)).	For as long as exchange is registered with the Commission plus 50 years.
27-	Applications for exemption from section 13(f)	10 years.
28-	Reports by institutional investment managers of information with respect to accounts over which they exercise discretion. (Form 13F).	4 years.
80-	Annual and supplemental reports of Municipal Securities Rulemaking Board (Rule 17a-21).	Indefinitely (contingent).
81-	Exemptions from registration under section 12(g)	10 years.
82-	Exemptions—American depository receipts	10 years.
83-1	Periodic reports and related correspondence by the Inter-American Development Bank.	3 years.
83-2	Periodic reports by the Asian Development Bank	3 years.
84-	Application for registration as a transfer agent (non-bank) and amendments thereto.	For as long as transfer agent is registered with the Commission plus 50 years.
85-	Application for registration as a transfer agent (bank) and amendments thereto (Form TA-1).	For as long as transfer agent is registered with the Commission plus 50 years.
86-	Application for registration as a municipal securities dealer which is a bank or separately identifiable department or division of a bank (Form MSD).	For as long as municipal securities dealer is registered with the Commission plus 50 years.
87-	Application for registration as a securities information processor and amendments thereto (Form SIP).	For as long as securities information processor is registered with the Commission plus 50 years.
88-	Application for exemption as a securities information processor correspondence.	For as long as securities information processor is registered with the Commission plus 50 years.
89-	Waiver for foreign issuers furnished by American depository receipts; waiver of information furnished by American depository receipts regarding foreign issuers for Form F-6; waiver of Rule 12g3-2(b) reporting requirements, annual reports to shareholders, F-6 waiver, proxy.	10 years.
89-	Other waivers for foreign issuers furnished by American depository receipts..	3 years.
128-8	Reports of disciplinary actions by stock exchanges (Rule 19d-1)	6 years.
205-3c	Reports of disciplinary actions by NASD (Rule 19d-1)	6 years.
500-	Suspension of trading of securities other than on a national securities exchange.	10 years.
600-	Applications for registration as a (non-bank) clearing agency; amendments thereto.	For as long as clearing agency is registered with the Commission plus 50 years.
600-9	Reports of disciplinary actions by clearing agencies (Rule 19d-1)	6 years.

File No.	Type of filing	Retention period
601-	Applications for exemption from registration as a (non-bank) clearing agency.	For as long as clearing agency has reporting requirements with the Commission plus 20 years.
SR	Proposed rule changes and notice as to stated policies and interpretations by self-regulatory organizations.	For as long as self-regulatory organization is registered with the Commission plus 6 years.
XX	Reports for missing, lost or counterfeit securities (Form X-17F-1A)	Indefinitely.

Public Utility Holding Company Act of 1935

12-	Statements pursuant to section 12(i) by persons employed or retained by a registered holding company or subsidiary thereof (Forms U-12(I)-A & B).	2 years.
30-	Notification and registration by public utility holding companies, annual supplements.	For as long as holding company has reporting requirements with the Commission plus 10 years.
31-	Statement of exemption from the Act by Commission order	For as long as company relies on exemption plus 10 years.
32-	Exemption of purchaser, assignee, etc. of leased facilities (Form U7D)	Until lease is terminated or cancelled plus 5 years.
33-1	Annual statement by banks holding public utility securities but claiming exemption under Rule 3.	2 years.
34-	Annual statement by banks holding public utility securities but claiming exemption under Rule 3 (Form U-3A3-1).	2 years.
37-	Applications and declarations for authorization of service companies (Form U-13-1).	For as long as service company is part of a registered holding company plus 5 years.
38-	Statement under Rule 70(a)(1) executed by financial authorizing representative to serve as officer/director of holding company, filed by representative.	For as long as officer/director serves plus 3 years.
40-	Certificates of notification by registered holding companies and subsidiaries of security issues exempted from section 6(a) by section 6(b) or exempt under Rule 47(b) and not the subject of an order of the Commission (Form U-6B-2).	3 years.
49-	Annual report by mutual and subsidiary service companies (Form U-13-60).	For as long as service company is part of a registered holding company system plus 15 years.
50-	Order granting or withdrawing exemptions from rules and related correspondence.	Until close plus 3 years.
52-	Application for approval or reorganization under section 11(f)	Until closed plus 3 years.
54-	Divestment of securities, assets or control (section 11(e))	Until closed plus 3 years.
55-	Application for approval of fees incurred in connection with plan under section 11(f).	Until closed plus 3 years.
59-	Simplification of corporate structure, sections 11(b) (1) and (2)	Until closed plus 3 years.
62-	Report by an affiliate service company or one engaged principally in the performance of services (Form U-13E-1).	For as long as service company is part of a registered holding company system plus 4 years.
68-	Declaration with respect to solicitations regarding reorganizations of registered holding companies or subsidiaries subject to Rule 62 (Form U-R-1).	10 years.
69-	Annual statements by holding companies claiming exemption pursuant to Rule 2 (intrastate or predominantly operating companies (Form U-3A-2).	2 years.
70-	Applications and declarations pursuant to sections 6(b), 7, 9, 9(c)(3), 10, 12(b), 12(c), 12(d), 12(f) and applicable rules thereunder (Form U-1).	Until closed plus 3 years.
72-	Report of communication with stockholders	2 years.

Trust Indenture Act of 1939

22-	Statements of eligibility and qualification of corporations or individuals as trustees under qualified indenture under which debt security has been or is to be issued and exemptions thereto.	Until indenture is terminated or cancelled plus 30 years.
25-	Applications relative to affiliations between trustees and underwriters (Rule 10b-3).	Until applicable indenture is terminated or cancelled plus 33 years.
93-	Reports of indenture trustee to indenture security holders with respect to eligibility and qualification under Section 310.	1 year.

File No.	Type of filing	Retention period
Investment Advisers Act of 1940		
801-	Application for registration as investment adviser and related correspondence.	For as long as investment adviser is registered with the Commission plus 9 years.
803-	Application for exemption from registered and other relief	For as long as investment adviser conducts business under an exemption plus 6 years.
Investment Company Act of 1940		
90-	Notice of sales of securities by closed-end issuers (issuers with 100 or less beneficial owners) other than investment companies, registered or required to be registered.	6 years.
811-	Notifications and registration statements	For as long as registrant is registered with the Commission plus 30 years.
811-	Periodic reports (annual, quarterly, semi-annual, proxy material)	10 years.
812-	Applications for exemption and other relief	10 years.
812-	Application by foreign management investment companies for order permitting registration.	For as long as registrant has reporting requirement with the Commission plus 33 years.
813-	Applications for exemption of an employee's security company (Section (b)).	For as long as registrant has reporting requirement with the Commission plus 33 years.
814-	Notice of intent to elect to be subject to sections 55 and 65	2 years from filing date.
814-	Notification of withdrawal of election to be subject to sections 55 through 65.	2 years from filing date.
814-	Notification of election to be subject to sections 55 through 65	30 years or for as long as a class of the issuer's equity securities is registered under the Securities Exchange Act of 1934 plus 10 years, whichever comes first.
816-	Request for advisory report re reorganization of registered investment company (17 CFR 270.02), and related correspondence.	6 years.
817-	Report of repurchase of securities by closed-end investment company	6 years.
818-	Sales literature regarding securities of certain investment companies .	6 years.
819-	Statement of the Federal Savings and Loan Corporation relating to the exemption of certain issuers.	6 years.
820-	Reports showing that companies have complied with requirements of the rule in purchasing new issues of securities from underwriters.	6 years.
821-	Reports by registered small business investment companies and affiliated banks, with respect to investments.	10 years from date of such action(s).
Miscellaneous Files and Reports		
3-	Disciplinary proceedings (broker-dealer and investment adviser)	25 years.
3-	Administrative proceeding stop orders	For as long as registrant has reporting requirement with the Commission plus 30 years.
4-	102(e) proceedings (previously 2(e) proceedings) (chaned to 3-)	25 years.
4-	Miscellaneous studies, general conferences, roundtable, etc., authorized by the Commission.	25 years.
111-	Federal government agencies miscellaneous correspondence	30 years.
119-	Securities violation files (information regarding persons against whom actions were reported on charges of violating state or federal laws in the purchase and sale of securities.	Until date of last reported action plus 10 years.
122-2	Members of Congress (inquiries relating to various subjects)	1 year after expiration of term in office.
122-3	Correspondence and other materials between the various Senate Committees and the Commission.	30 years.
122-4	Correspondence and other materials between the various House Committees and the Commission.	30 years.
122-6	Correspondence and other materials between Congressional Commissions and Joint Committees and the Commission.	30 years.
123-13	Correspondence relating to the development of a Canadian Extradition Treaty.	30 years.
124-	Stock exchanges (General Correspondence)	For as long as exchange is registered with the Commission.
124-1	Legislation and Laws: Drafts and comments concerning suggested amendments to the various Acts administered by the Commission.	30 years.
124-6		

File No.	Type of filing	Retention period
124-11 124-20 124-7, 124-7a	Subject files—Drafts, comments and correspondence concerning proposed legislation submitted by the Senate and the House to the Commission for comment.	30 years.
124-7b	Drafts of bills not yet reported in Congress that are submitted to the Commission for comment.	30 years.
132-3	General Correspondence—Active companies. Inquiries and complaints concerning companies registered under the various Acts administered by the Commission.	10 years.
132-3	General Correspondence—Inactive companies (no longer required to file reports with the Commission). Inquiries and complaints concerning companies registered under the various Acts administered by the Commission.	6 years.
132-3	General Correspondence—Miscellaneous. Requests for interpretation of rules and regulations under the Acts administered by the Commission.	6 years.
140-	Drafts, internal memoranda, correspondence concerning rules and regulations under each of the Acts administered by the Commission.	30 years.
206-, 207- to 215-, 917-	Reorganization proceedings under Chapters IX, X, XI of the Bankruptcy Act in which the Commission participates.	30 years.
265-	Advisory Committees established by the Commission (correspondence, questionnaires, reports).	30 years.
Confidential treatment materials	Periodic reports and other materials containing contracts, commercial and financial information, disclosure of which would impair the value thereof, submitted under confidential cover.	10 years.
CHR	SEC Chairman's Subject Case Files	20 years.
CHR	SEC Chairman's Chronological Files for Period 1972 to Present	Chairman's tenure in office plus 3 years.
CHR	SEC Chairman's General Subject File	Chairman's tenure in office plus 3 years.
COMM	SEC Commissioners' Files (excluding Chairman), 1934 to Present	Commissioner's tenure in office plus 1 year.
ENF	Investigative Case Files—Closed	Until closed plus 25 years.
ENF	Investigative Case Files—Inactive	Until inactive plus 25 years.
LIT	Litigation files:	
	1. Briefs	25 years.
	2. File contents other than briefs	10 years.
S7	Issuance, amendment or rescission of rules under the various Acts—public comments and views, transcript of hearings, correspondence.	30 years (permanent).
XX	Reports of internal inquiries:	
	1. Supporting documentation	Until date of final action plus 5 years, if no report is issued, or until date of final report plus 5 years.
	2. Final reports	5 years.

By the Commission.
 Dated: September 22, 1995.
 Margaret H. McFarland,
Deputy Secretary.
 [FR Doc. 95-24032 Filed 9-27-95; 8:45 am]
BILLING CODE 8010-10-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Milbemycin Oxime

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Ciba-Geigy Animal Health, Ciba-Geigy Corp. The supplemental NADA provides for the use of milbemycin oxime tablets in puppies 4 weeks of age or greater and 2 pounds (lb) of body weight or greater for the prevention of heartworm disease, control of adult hookworm infections, and removal and control of adult roundworm and whipworm infections.

EFFECTIVE DATE: September 28, 1995.

FOR FURTHER INFORMATION CONTACT: Marcia K. Larkins, Center for Veterinary Medicine (HFV-112), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-0614.

SUPPLEMENTARY INFORMATION: Ciba-Geigy Animal Health, Ciba-Geigy Corp.,

P.O. Box 18300, Greensboro, NC 27419-8300, filed a supplement to NADA 140-915 for INTERCEPTOR® (milbemycin oxime) tablets. The NADA provides for veterinary prescription use of 2.3-, 5.75-, 11.5-, and 23.0-milligrams INTERCEPTOR® tablets for use as an anthelmintic in dogs in the prevention of heartworm disease caused by *Dirofilaria immitis*, control of adult *Ancylostoma caninum* (hookworm), removal and control of adult *Toxocara canis* (roundworm), and *Trichuris vulpis* (whipworm) infections in dogs. The supplement provides for use of the product to treat puppies 4 weeks of age or greater and 2 lb of body weight or greater for the same infections.

The supplemental NADA 140-915 is approved as of August 16, 1995, and the regulations are amended by revising 21 CFR 520.1445(c)(2) and (c)(3) to reflect