

**Material Incorporated by Reference**

(o) You must use the applicable service information contained in Table 2 of this AD

to do the actions required by this AD, unless the AD specifies otherwise. (The issue date of Dornier Alert Service Bulletin ASB-328-27-036, Revision 3, dated February 8, 2008;

and Dornier Service Bulletin SB-328-27-459, Revision 2, dated February 8, 2008; is specified only on the odd-numbered pages of these documents.)

TABLE 2—MATERIAL INCORPORATED BY REFERENCE

Document	Revision	Date
Dornier Alert Service Bulletin ASB-328-27-036 .....	3 .....	February 8, 2008.
Dornier Alert Service Bulletin ASB-328J-27-013 .....	Original .....	February 12, 2003.
Dornier Service Bulletin SB-328-27-459 .....	2 .....	February 8, 2008.

(1) The Director of the Federal Register approved the incorporation by reference of Dornier Alert Service Bulletin ASB-328-27-036, Revision 3, dated February 8, 2008; and Dornier Service Bulletin SB-328-27-459, Revision 2, dated February 8, 2008; under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The Director of the Federal Register previously approved the incorporation by reference of the Dornier Alert Service Bulletin ASB-328J-27-013, dated February 12, 2003, on June 9, 2004 (69 FR 24953, May 5, 2004).

(3) For service information identified in this AD, contact 328 Support Services GmbH, Global Support Center, P.O. Box 1252, D-82231 Wessling, Federal Republic of Germany; telephone +49 8153 88111 6666; fax +49 8153 88111 6565; e-mail [gsc.op@328support.de](mailto:gsc.op@328support.de); Internet <http://www.328support.de>.

(4) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425-227-1221 or 425-227-1152.

(5) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

Issued in Renton, Washington, on August 24, 2009.

**Ali Bahrami,**

Manager, Transport Airplane Directorate,  
Aircraft Certification Service.

[FR Doc. E9-21035 Filed 9-8-09; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2009-0465; Directorate Identifier 2007-NM-244-AD; Amendment 39-16012; AD 2009-18-16]

**RIN 2120-AA64**

**Airworthiness Directives; Airbus Model A310-203, -204, -221, -222, -304, -322, -324, and -325 Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** We are superseding an existing airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

DGAC [Direction Générale de l'Aviation Civile] France issued AD F-2005-078 [which corresponds to FAA AD 2006-02-06] to require the modification (Airbus modification 13023), defined in Airbus SB [service bulletin] A310-53-2124, to increase the service life of junctions of center box upper frame bases to upper fuselage arches. This structural modification falls within the scope of the work related to the extension of the service life of A310 aircraft and widespread fatigue damage evaluations.

The threshold timescales for accomplishment of the tasks as defined in SB A310-53-2124 were refined and reduced.

\* \* \*

The unsafe condition is fatigue cracking of the frame foot run-outs, which could lead to rupture of the frame foot and cracking in adjacent frames and skin, and which could result in reduced structural integrity of the fuselage. We are issuing this AD to require actions to correct the unsafe condition on these products.

**DATES:** This AD becomes effective October 14, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 14, 2009.

**ADDRESSES:** You may examine the AD docket on the Internet at <http://www.regulations.gov> or in person at the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Tom Stafford, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-1622; fax (425) 227-1149.

**SUPPLEMENTARY INFORMATION:****Discussion**

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on June 2, 2009 (74 FR 26312), and proposed to supersede AD 2006-02-06, Amendment 39-14458 (71 FR 3214, January 20, 2006). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

DGAC [Direction Générale de l'Aviation Civile] France issued AD F-2005-078 [which corresponds to FAA AD 2006-02-06, Amendment 39-14458, 71 FR 3214, January 20, 2006] to require the modification (Airbus modification 13023), defined in Airbus SB [service bulletin] A310-53-2124, to increase the service life of junctions of center box upper frame bases to upper fuselage arches. This structural modification falls within the scope of the work related to the extension of the service life of A310 aircraft and widespread fatigue damage evaluations.

The threshold timescales for accomplishment of the tasks as defined in SB A310-53-2124 were refined and reduced. Consequently, EASA issued AD 2007-0238 to require compliance with Revision 1 of SB A310-53-2124 at the reduced compliance times, superseding (the requirements of) DGAC France AD F-2005-078. Subsequently,

Airbus identified reference material that was erroneously introduced into Airbus SB A310-53-2124 Revision 1. As a result, the SB instructions could not be accomplished properly. Operators that tried to apply SB A310-53-2124 at Revision 1 had to contact Airbus; see also Airbus SBIT [service bulletin information telex] ref. 914.0135/08, dated 03 March 2008.

Consequently, AD 2007-0238 was revised to exclude reference to Airbus SB A310-53-2124 Revision 1 and to require accomplishment of the task(s) as described in the original SB A310-53-2124 instead, although retaining the reduced compliance times introduced by AD 2007-0238 at original issue. This new [EASA] AD is published to refer to Airbus SB A310-53-2124 Revision 02, the corrected version that is to be used to meet the requirements of this AD.

The unsafe condition is fatigue cracking of the frame foot run-outs, which could lead to rupture of the frame foot and cracking in adjacent frames and skin, and which could result in reduced structural integrity of the fuselage. The required actions include inspecting by rotating probe for cracking of holes H1 through H29 on frame (FR) 43 through 46 inclusive, and inspecting holes H1 through H29 on FR 43 through 46 inclusive to determine the edge distance of the hole, and corrective actions if necessary. You may obtain further information by examining the MCAI in the AD docket.

#### Comments

We gave the public the opportunity to participate in developing this AD. We considered the comment received.

#### Request To Remove Reference to Modification 13023 From Paragraph (c) of This AD

Airbus requests we remove the reference to modification 13023 from paragraph (c), Applicability, of the NPRM. The NPRM would have applied to certain Airbus airplanes, except those on which Airbus Mandatory Service Bulletin A310-53-2124, Revision 02, dated May 22, 2008, has been accomplished, or those on which Airbus modification 13023 has been accomplished in production. The commenter, Airbus, states that modification 13023 is a retrofit modification only and was never embodied in production. Modification 13023 is directly associated with Airbus Mandatory Service Bulletin A310-53-2124.

We agree, for the reasons provided by the commenter. We have revised this final rule accordingly.

#### Conclusion

We reviewed the available data, including the comment received, and

determined that air safety and the public interest require adopting the AD with the change described previously. We determined that this change will not increase the economic burden on any operator or increase the scope of the AD.

#### Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have required different actions in this AD from those in the MCAI in order to follow our FAA policies. Any such differences are highlighted in a NOTE within the AD.

#### Costs of Compliance

We estimate that this AD will affect about 68 products of U.S. registry.

The actions that are required by AD 2006-02-06 and retained in this AD take about 31 work-hours per product, at an average labor rate of \$80 per work hour. Required parts cost about \$1,730 per product. Based on these figures, the estimated cost of the currently required actions is \$4,210 per product.

We estimate that it will take about 41 work-hours per product to comply with the new basic requirements of this AD. The average labor rate is \$80 per work-hour. Required parts will cost about \$4,400 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be \$522,240, or \$7,680 per product.

#### Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in

air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

#### Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

#### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647-5527) is in the ADDRESSES section. Comments will be available in the AD docket shortly after receipt.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

#### Adoption of the Amendment

- Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

- 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

**§ 39.13 [Amended]**

■ 2. The FAA amends § 39.13 by removing Amendment 39–14458 (71 FR 3214, January 20, 2006) and adding the following new AD:

**2009–18–16 Airbus:** Amendment 39–16012. Docket No. FAA–2009–0465; Directorate Identifier 2007–NM–244–AD.

**Effective Date**

(a) This airworthiness directive (AD) becomes effective October 14, 2009.

**Affected ADs**

(b) This AD supersedes AD 2006–02–06, Amendment 39–14458.

**Applicability**

(c) This AD applies to Airbus Model A310–203, –204, –221, –222, –304, –322, –324 and –325 airplanes; all serial numbers; certificated in any category; except those airplanes on which Airbus Mandatory Service Bulletin A310–53–2124, dated April 4, 2005, has been accomplished.

**Subject**

(d) Air Transport Association (ATA) of America Code 53: Fuselage.

**Reason**

(e) The mandatory continuing airworthiness information (MCAI) states: DGAC [Direction Générale de l'Aviation Civile] France issued AD F–2005–078 [which corresponds to FAA AD 2006–02–06, Amendment 39–14458, 71 FR 3214, January 20, 2006] to require the modification (Airbus modification 13023), defined in Airbus SB [service bulletin] A310–53–2124, to increase the service life of junctions of center box

upper frame bases to upper fuselage arches. This structural modification falls within the scope of the work related to the extension of the service life of A310 aircraft and widespread fatigue damage evaluations.

The threshold timescales for accomplishment of the tasks as defined in SB A310–53–2124 were refined and reduced. Consequently, EASA issued AD 2007–0238 to require compliance with Revision 1 of SB A310–53–2124 at the reduced compliance times, superseding (the requirements of) DGAC France AD F–2005–078. Subsequently, Airbus identified reference material that was erroneously introduced into Airbus SB A310–53–2124 Revision 1. As a result, the SB instructions could not be accomplished properly. Operators that tried to apply SB A310–53–2124 at Revision 1 had to contact Airbus; see also Airbus SBIT [service bulletin information text] ref. 914.0135/08, dated 03 March 2008.

Consequently, AD 2007–0238 was revised to exclude reference to Airbus SB A310–53–2124 Revision 1 and to require accomplishment of the task(s) as described in the original SB A310–53–2124 instead, although retaining the reduced compliance times introduced by AD 2007–0238 at original issue. This new [EASA] AD is published to refer to Airbus SB A310–53–2124 Revision 02, the corrected version that is to be used to meet the requirements of this AD.

The unsafe condition is fatigue cracking of the frame foot run-outs, which could lead to rupture of the frame foot and cracking in adjacent frames and skin, and which could result in reduced structural integrity of the fuselage. The required actions include inspecting by rotating probe for cracking of holes H1 through H29 on frame (FR) 43

through 46 inclusive, and inspecting holes H1 through H29 on FR 43 through 46 inclusive to determine the edge distance of the hole, and corrective actions if necessary.

**Requirements of This AD: Actions and Compliance**

(f) Unless already done, do the following actions.

(1) Except for airplanes identified in paragraph (f)(2) of this AD, at the later of the times specified in paragraphs (f)(1)(i) and (f)(1)(ii) of this AD, accomplish inspections by rotating probe for cracking of holes H1 through H29 on frame FR 43 through 46 inclusive, and inspections of holes H1 through H29 on FR 43 through 46 inclusive to determine the edge distance of the hole, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A310–53–2124, Revision 02, dated May 22, 2008 (“the service bulletin”). If no cracking is found and the edge distance is equal to or greater than the distance specified in the Accomplishment Instructions of the service bulletin, before further flight, do the cold expansion of the most fatigue sensitive fastener holes, as identified in the service bulletin.

(i) Inspect at the applicable time indicated in Table 1 of this AD. Airbus Model A310–304, –322, –324, and –325 airplanes with an average flight time (AFT) equal to or less than 3.17 flight hours are short range airplanes. Airbus Model A310–304, –322, –324, and –325 airplanes with an AFT exceeding 3.17 flight hours are long range airplanes.

(ii) Within 500 flight cycles or 800 flight hours after the effective date of this AD, whichever occurs first.

TABLE 1—COMPLIANCE TIMES

Affected Airplanes	Inspection/Modification Threshold, whichever occurs later	
Model A310–304, –322, –324 and –325 short range airplanes.	Prior to accumulation of 26,500 flight cycles or 74,300 flight hours since first flight of the airplane, whichever occurs first.	Within 3,000 flight cycles after the effective date of this AD, without exceeding 29,200 flight cycles or 81,800 flight hours since first flight, whichever occurs first.
Model A310–304, –322, –324 and –325 long range airplanes.	Prior to accumulation of 23,400 flight cycles or 117,100 flight hours since first flight of the airplane, whichever occurs first.	Within 3,000 flight cycles after the effective date of this AD, without exceeding 25,800 flight cycles or 129,000 flight hours since first flight, whichever occurs first.
Model A310–203, –204, –221, and A310–222 ..	Prior to accumulation of 23,400 flight cycles or 46,800 flight hours since first flight of the airplane, whichever occurs first.	Within 3,000 flight cycles after the effective date of this AD, without exceeding 28,800 flight cycles or 57,700 flight hours since first flight, whichever occurs first.

**Note 1:** To establish the average flight time, take the accumulated flight time (counted from the take-off up to the landing) and divide by the number of accumulated flight cycles. This gives the average flight time per flight cycle.

(2) For airplanes that have been modified before the effective date of this AD in accordance with Airbus Mandatory Service Bulletin A310–53–2124, Revision 01, dated May 3, 2007: Within 500 flight cycles or 800 flight hours after the effective date of this AD, whichever occurs first, contact Airbus and follow their corrective actions.

(3) If, during any inspection required by paragraph (f)(1) of this AD, any cracking is found or if the edge distance is less than the distance specified in Airbus Mandatory Service Bulletin A310–53–2124, Revision 02, dated May 22, 2008, before further flight, contact Airbus and follow their corrective actions.

**FAA AD Differences**

**Note 2:** This AD differs from the MCAI and/or service information as follows: No differences.

**Other FAA AD Provisions**

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Tom Stafford, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1622; fax (425)

227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product*: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements*: For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

#### Related Information

(h) Refer to MCAI European Union Airworthiness Directive 2008–0212, dated December 4, 2008; and Airbus Mandatory Service Bulletin A310–53–2124, Revision 02, dated May 22, 2008; for related information.

#### Material Incorporated by Reference

(i) You must use Airbus Mandatory Service Bulletin A310–53–2124, Revision 02, dated May 22, 2008, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of Airbus Service Bulletin A310–53–2124, Revision 02, dated May 22, 2008, under 5 U.S.C. 552 (a) and 1 CF part 51.

(2) For service information identified in this AD, contact Airbus SAS—EAW (Airworthiness Office), 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; e-mail: [account.airworth-eas@airbus.com](mailto:account.airworth-eas@airbus.com); Internet <http://www.airbus.com>.

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

Issued in Renton, Washington, on August 24, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–21147 Filed 9–8–09; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9456]

RIN 1545–BI78, 1545–BI79, 1545–BI80

#### Treatment of Services Under Section 482; Allocation of Income and Deductions From Intangible Property; Apportionment of Stewardship Expense; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correcting amendments.

**SUMMARY:** This document contains corrections to final regulations (TD 9456) that were published in the *Federal Register* on Tuesday, August 4, 2009 (74 FR 38830) providing guidance regarding the treatment of controlled services transactions under section 482 and the allocation of income from intangible property, in particular with respect to contributions by a controlled party to the value of intangible property owned by another controlled party. These final regulations modify regulations under section 861 concerning stewardship expenses to be consistent with the changes made to the guidance under section 482.

**DATES:** This correction is effective on September 9, 2009, and is applicable on August 4, 2009.

**FOR FURTHER INFORMATION CONTACT:** Carol B. Tan or Gregory A. Spring, (202) 435–5265 for matters relating to section 482, or Richard L. Chewing, (202) 622–3850 for matters relating to stewardship expenses (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Background

The final regulations that are the subject of this document are under sections 482, 861, 6038, and 6662 of the Internal Revenue Code.

##### Need for Correction

As published, the final regulations (TD 9456) contain errors that may prove to be misleading and are in need of clarification.

##### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

##### Correction of Publication

■ Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

## PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*.

■ **Par. 2.** Section 1.482–1 is amended by revising the last sentence of paragraph (d)(3)(v) to read as follows:

#### § 1.482–1 Allocation of income and deductions among taxpayers.

\* \* \* \* \*

(d) \* \* \*

(3) \* \* \*

(v) \* \* \* For guidance concerning the

specific comparability considerations applicable to transfers of tangible and intangible property and performance of services, *see* §§ 1.482–3 through 1.482–6 and § 1.482–9; *see also* §§ 1.482–3(f), 1.482–4(f)(4), and 1.482–9(m), dealing with the coordination of intangible and tangible property and performance of services rules.

■ **Par. 3.** Section 1.482–6 is amended by revising the third sentence of paragraph (c)(3)(i)(B)(1) to read as follows:

#### § 1.482–6 Profit split method.

\* \* \* \* \*

(c) \* \* \*

(3) \* \* \*

(i) \* \* \*

(B) \* \* \*

(1) \* \* \* Thus, in cases where such

nonroutine contributions are present, there normally will be an unallocated residual profit after the allocation of income described in paragraph (c)(3)(i)(A) of this section. \* \* \*

■ **Par. 4.** Section 1.482–8 is amended by revising the second sentence of paragraph (b) *Example 10*. (iv) to read as follows:

#### § 1.482–8 Examples of the best method rule.

\* \* \* \* \*

(b) \* \* \*

*Example 10.* \* \* \*

(iv) \* \* \* A functional analysis indicates that USSub's activities to promote Product Y in year 4 are similar to activities performed by Agency A during years 1 through 3 under the contract with USSub. \* \* \*

\* \* \* \* \*

■ **Par. 5.** Section 1.482–9 is amended as follows:

■ 1. The last sentence of paragraph

(b)(8) *Example 22*. (i) is revised.

■ 2. Paragraphs (b)(8) *Example 23*. (ii) second occurrence, (b)(8) *Example 23*. (iii), and (b)(8) *Example 23*. (iv) are redesignated as paragraphs (b)(8)

*Example 23*. (iii), (b)(8) *Example 23*.

(iv), and (b)(8) *Example 23*. (v).

■ 3. The table of paragraph (e)(4)

*Example 4*. (ii) is revised.