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MILITARY COMPENSATION AND RETIREMENT MODERNIZATION COMMISSION

5 CFR Chapter XCIX

RIN 3260–AA00

Freedom of Information Act Regulations

AGENCY: Military Compensation and Retirement Modernization Commission.

ACTION: Interim final rule.

SUMMARY: The Military Compensation and Retirement Modernization Commission (MCRMC) is issuing an interim final rule, establishing procedures for the public to obtain information from MCRMC under the Freedom of Information Act (FOIA).

DATES: This interim final rule is effective on September 15, 2014. Written comments on the interim final rule should be received on or before October 15, 2014.

ADDRESSES: Written comments concerning this interim final rule may be submitted to the MCRMC Desk Officer at the Office of Management and Budget (OMB) by email at *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Christopher Nuneviller, Associate Director, Administration and Operations, Military Compensation and Retirement Modernization Commission, at (703) 692–2080 or by email at *foia@mcrmc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On January 2, 2013, the President signed into law the National Defense Authorization Act for Fiscal Year 2013, Public Law 112–239, Subtitle H, 126 Stat. 1632, 1787 (2013) (amended by National Defense Authorization Act for Fiscal Year 2014, Public Law 113–66, Sec. 1095, 127 Stat. 672, 878 (2013)), which created the Military Compensation and Retirement Modernization Commission (MCRMC). To establish procedures to facilitate public interaction with MCRMC, the agency is issuing interim final regulations under FOIA.

II. Summary of Interim Final Rule

This interim final rule establishes procedures for MCRMC necessary to implement FOIA, 5 U.S.C. 552. FOIA provides for the disclosure of agency records and information to the public, unless that information is exempted under statutory exemptions or exclusions. The procedures established herein are intended to ensure that MCRMC fully satisfies its responsibility to the public to disclose agency information.

III. Procedural Requirements

These regulations establish procedures under FOIA to facilitate the interaction of the public with MCRMC. MCRMC's policy of disclosure follows the Presidential Memorandum of January 21, 2009, ''Transparency and Openness,'' 74 FR 4685, and the Attorney General's March 19, 2009 FOIA policy guidance, advising Federal agencies to apply a presumption of openness in FOIA decision making. This interim final rule parallels the procedures currently used by other agencies to implement FOIA.

MCRMC has determined that good cause exists under 5 U.S.C. 553(b) and 5 U.S.C. 553(d)(3) to waive the notice and comment and delayed effective requirements of the Administrative Procedure Act to publish this regulation as an interim final rule with a request for comments. MCRMC is a temporary, independent establishment with statutorily defined deadlines and a limited existence. It is the intent of the agency to be as transparent as practicable in making information available to the public. This regulation establishes procedures to facilitate MCRMC's interactions with the public and the public's access to information about MCRMC. In light of this agency's limited duration, as set forth in its enabling legislation, and the need for timely access, MCRMC has decided that full notice and comment rulemaking is impracticable and contrary to public policy. The absence of FOIA regulations could impair the public's ability to access information. MCRMC has determined that this interim final rule should be issued without a delayed effective date pursuant to 5 U.S.C. 553(d)(3).

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. Chapter 6) do not apply. This rulemaking is not a significant regulatory action for the purposes of Executive Order 12866. Accordingly, a regulatory impact analysis is not required.

List of Subjects in 5 CFR Part 9901

Administrative practice and procedure, Reporting and recordkeeping requirements.

■ Therefore, for reasons discussed in the preamble, the Military Compensation and Retirement Modernization Commission amends title 5 of the Code of Federal Regulations by establishing chapter XC IX, consisting of part 9901, to read as follows:

Chapter XCIX—Military Compensation and Retirement Modernization Commission

PART 9901—DISCLOSURE OF RECORDS AND INFORMATION

Sec.

Freedom of Information Act

9901.1 Authority, purpose, and scope.
9901.2 Proactive disclosure of records.
9901.3 Requests for records.
9901.4 Timing.
9901.5 Response to requests.
9901.6 Production of records.
9901.7 Appeals.
9901.8 Fees.

Authority: National Defense Authorization Act for Fiscal Year 2013, Pub. L. 112–239, Subtitle H, 126 Stat. 1632, 1787 (2013) (amended by National Defense Authorization Act for Fiscal Year 2014, Pub. L. 113–66, Sec. 1095, 127 Stat. 672, 878 (2013)); 5 U.S.C. 552.

Freedom of Information Act

§ 9901.1 Authority, purpose, and scope.

(a) *Authority.* This information is furnished for the guidance of the public and in compliance with the requirements of the Freedom of Information Act (FOIA), 5 U.S.C. 552. This subpart should be read in conjunction with FOIA.

(b) *Purpose.* (1) The National Defense Authorization Act for Fiscal Year 2013, Public Law 112–239, Subtitle H, 126 Stat. 1632, 1787 (2013) (amended by National Defense Authorization Act for

Fiscal Year 2014, Public Law 113–66, Sec. 1095, 127 Stat. 672, 878 (2013)), established the Military Compensation and Retirement Modernization Commission (MCRMC). MCRMC's purpose, pursuant to its enabling statute, is to conduct a review of the military compensation and retirement systems and to make recommendations to modernize those systems to:

(i) Ensure the long-term viability of the All-Volunteer Force by sustaining the required human resources of that force during all levels of conflict and economic conditions;

(ii) Enable the quality of life for members of the Armed Forces and the other uniformed services and their families in a manner that fosters successful recruitment, retention, and careers for members of the Armed Forces and the other uniformed services; and

(ii) Modernize and achieve fiscal sustainability for the compensation and retirement systems for the Armed Forces and the other uniformed services for the 21st century.

(2) The Commission will make its recommendations only after it examines all laws, policies and practices of the Federal Government that result in any direct payment of authorized or appropriated funds to current and former members (veteran and retired) of the uniformed services, including the reserve components of those services, and the spouses, family members, children, survivors, and other persons authorized to receive such payments as a result of their connection to Service members.

(c) *Agency.* MCRMC is an independent establishment of the Federal government as defined by Sections 104 and 105 of Title 5 of the U.S. Code, and a temporary organization under section 3161 of such title. The Commission is composed of nine members, appointed by the President and Congressional leadership. Members of this Commission are deemed to be Federal employees. MCRMC maintains its headquarters in Arlington, Virginia.

(d) *Records on individuals.* MCRMC does not maintain any of its own systems of records on individuals. Pursuant to a Memorandum of Understanding between the Department of Defense, Director of Administration & Management and MCRMC, the Department of Defense, Washington Headquarters Services is responsible for MCRMC personnel records management including compliance with the Privacy Act.

§ 9901.2 Proactive disclosure of records.

(a) *Proactive disclosure.* Subject to the application of FOIA exemptions, 5 U.S.C. 552(b), records that are required by FOIA to be made available for public inspection and copying and records identified by the agency as records of interest to the public, including Commission hearing schedules, testimony, minutes, press releases, and documents provided to the Commission, are available on the MCRMC Web site at *http://www.mcrmc.gov.*

(b) *Final report.* The Commission's final report will be available on its Web site.

(c) *Released records.* The Commission will post records released in response to FOIA requests on its Web site.

§ 9901.3 Requests for records.

(a) *Generally.* Many documents are available on the MCRMC Web site and MCRMC encourages requesters to visit the Web site before making a request for records pursuant to this subpart. MCRMC will provide records to individual requesters in response to FOIA requests for records not available on its Web site.

(b) *Electronic or written requests required.* For records not available on the Web site, requesters wishing to obtain information from MCRMC should submit a request on the MCRMC Web site. If a computer is not available to the requester, a written request may be made to the MCRMC FOIA Officer. Such requests should be addressed to: FOIA Officer, Military Compensation and Retirement Modernization Commission, Post Office Box 13170, Arlington, VA 22209. As there may be delays in mail delivery, it is advisable to send the request via facsimile to (703) 697–8330 or email to *foia@mcrmc.gov.* MCRMC will communicate with the requester by email unless he or she specifies otherwise.

(c) *Contents of request.* Requests must include the following:

(1) A statement that the request is being made under FOIA, the requester's full name and address, a telephone number at which the requester can be reached during normal business hours, and an email address for the requester, if the requester has one;

(2) A description of the records sought in enough detail to allow the records to be located with a reasonable amount of effort. The request must identify/describe the records sought and include information such as date, title or name, author, recipient, and subject matter of the records sought, where possible;

(3) If submitting the request as an *educational institution,* a *non-commercial scientific institution,* or a *representative of the news media,* the request must specifically identify the organization on which the status is based, and if a free-lance representative of the news media, the requester should submit a history of past publications and/or demonstrate a solid basis for expecting publication through a news-media entity;

(4) A fee waiver, if applicable; and

(5) If the request is made by mail, the words ''FOIA REQUEST'' or ''REQUEST FOR RECORDS'' must be clearly marked on the cover letter, letter, and envelope.

(c) *Perfected requests.* MCRMC will process only perfected requests. A perfected request must meet all of the requirements of this subpart.

§ 9901.4 Timing.

(a) *Acknowledgment of request.* MCRMC will provide an acknowledgment notice with an individualized tracking number and a summary of the records requested to each requester within 10 working days after receiving a request.

(b) *Response time.* Every effort will be made to respond to the request within 20 days (excluding Saturdays, Sundays, and legal public holidays) of receiving the request.

(c) *Appeal.* MCRMC will make a decision with respect to an appeal of a denial of a request for records within 20 days (excluding Saturdays, Sundays, and legal public holidays) after receipt of the appeal.

(d) *Clarification/Additional information.* If a request for records does not reasonably describe the records sought, MCRMC will contact the requester to seek additional information. Requesters may discuss their request with the MCRMC FOIA Public Liaison and modify the request. The MCRMC FOIA Public Liaison may be reached via telephone at (703) 692–2080 or by U.S. Mail at FOIA Public Liaison, Military Compensation and Retirement Modernization Commission, Post Office Box 13170, Arlington, VA 22209. As there may be delays in mail delivery, it is advisable to send the request via facsimile to (703) 697–8330 or email to *foia@mcrmc.gov.* MCRMC may make one request for clarification/additional information to the requester for information and suspend the 20-day period while awaiting such information. When a requester fails to clarify by providing additional information, MCRMC will notify the requester that the request has not been properly made and that no further action will be taken on the request. The requester may appeal such a decision under the procedures set forth in subpart 9901.7.

(e) *Expedited processing.* A request for expedited processing must accompany the initial request for records. It must be a written statement of compelling need for expedited processing, stating that the facts are true and correct to the best of the requester's knowledge and belief. In determining whether processing should be expedited, the FOIA Officer may consider whether:

(1) Failure to obtain the requested records on an expedited basis could reasonably be expected to pose an imminent threat to a person's life or physical safety; or

(2) With respect to a request made by a person primarily engaged in disseminating information, there is an urgency to inform the public about actual or alleged Federal government activity.

(f) *Extension for unusual circumstances.* If MCRMC determines that unusual circumstances exist, the time limits described in paragraphs (b) and (c) of this subpart may be extended by no more than 10 days (excluding Saturdays, Sunday, and legal public holidays) by providing written notice of the extension to the requester. The time limit may be extended if the request cannot be processed within the time limits of this subpart due to the need to search, collect, and examine a voluminous amount of records, coordinate, or consult with another agency. The requester will be given an opportunity to limit the scope of the request or to arrange with MCRMC an alternative time frame for processing the request. The FOIA Officer shall include with the notice of extension a brief statement of the reason for the extension and the date the FOIA Officer expects to make a determination.

§ 9901.5 Response to requests.

(a) *Authority to grant or deny requests.* The MCRMC FOIA Officer is authorized to grant or deny any request for MCRMC records.

(b) *Grant of request.* If the MCRMC FOIA Officer grants a request, in full or in part, the FOIA Officer shall promptly provide the requester written notice of the decision. The requester will be notified whether the request has been assigned to the Standard or Complex track, pursuant to paragraph (d) of subpart 9901.6.

(c) *Request denial.* If the FOIA Officer denies a fee waiver request or finds there are no responsive records subject to FOIA, the FOIA Officer will notify the requester of that fact. If the FOIA Officer denies the request, in full or part, the FOIA Officer will provide the requester written notice of the denial, which will include a description of the material withheld, the FOIA exemption under which the information was withheld, and the approximate number of pages of information withheld. When a portion of a record is withheld, the amount of information redacted and the claimed exemption will be noted at the place in the record where the redaction was made. The notice will also describe the procedure for filing an appeal.

(d) *Referral of records.* When a responsive record that originated in another agency is located, the responsive record will be referred to its originating agency for response.

(e) *Referral of request.* The requester will be notified when all or part of a request is referred to another agency and will be given contact information for the FOIA office of the agency to which the request and responsive record were referred.

§ 9901.6 Production of records.

(a) *Generally.* MCRMC will apply a presumption of openness when processing FOIA requests and will only withhold exempt information if it reasonably foresees that disclosure would harm an interest protected by one of the statutory exemptions or if disclosure is prohibited by law. Before withholding information, MCRMC will conduct a foreseeable harm analysis, which clearly identifies the harm that would occur with disclosure.

(b) *Large requests.* If a request involves a voluminous amount of material or searches in multiple locations, MCRMC will provide the requester with interim responses, releasing the information on a rolling basis.

(c) *Copies.* MCRMC will maintain copies of records that have been the subject of any pending or closed request, appeal, or lawsuit under the FOIA, to include all correspondence pertaining to the subject request, until disposition is authorized under the National Archives and Records Administration's General Records Schedule 14.

(d) *Multi-Track processing.* (1) MCRMC uses a multi-track system to process FOIA requests. This means that a FOIA request is processed based on its complexity. When MCRMC receives a request it will be assigned to the *Standard* or *Complex* track.

(i) *Standard Track.* Requests that are routine and require little search time, review, or analysis are assigned to the Standard Track. MCRMC will respond to these requests in the order in which they are received and make every effort to respond no later than 20 working days after receipt of the request.

(ii) *Complex Track.* Requests that are non-routine are assigned to the Complex Track if the response may:

(A) Be voluminous;

(B) Require an unusually high level of effort for search, review, or duplication; or

(C) Cause an undue disruption to the day-to-day activities of MCRMC in carrying out its statutory responsibilities.

(2) The requester will be notified if the request is assigned to the Complex Track and will be given an estimate of the time for response. MCRMC will respond to Complex Track requests as soon as practicable. MCRMC may discuss with the requester the possibility of reformulating the request to reduce processing time.

§ 9901.7 Appeals.

(a) *Initiating appeals.* Requesters not satisfied with the FOIA Officer's decision may request review of the decision by the MCRMC FOIA Appellate Authority. The appeal must be received within 60 days of the date of the FOIA Officer's decision. Appeals may be made through the MCRMC Web site at the FOIA tab or in writing, addressed to: FOIA Appellate Authority, Military Compensation and Retirement Modernization Commission, Post Office Box 13170, Arlington, VA 22209. As there may be delays in mail delivery, it is advisable to send the request via facsimile to (703) 697–8330 or email to *foia@mcrmc.gov.* The requester may wish to explain why the Appellate Authority should grant the appeal, to the extent that an explanation could assist the Appellate Authority in making a decision on the appeal.

(b) *Appeal decisions.* MCRMC's Chief FOIA Officer will decide the appeal within 20 days (except Saturdays, Sundays, and legal public holidays) from the date it receives the appeal. If the appeal is denied, MCRMC will notify the requester in writing of the decision and the provisions for judicial review. If the appeal is granted, the Chief FOIA Officer will notify the requester in writing.

(c) *Mediation.* A response to an appeal will advise the requester of the 2007 FOIA amendments, which created the Office of Government Information Services (OGIS), which offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. A requester may contact OGIS at: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740; email: *ogis@nara.gov;* telephone: (202) 741–5770;

facsimile: (202) 741–5769; toll free telephone: (877) 684–6448.

§ 9901.8 Fees.

(a) *Generally.* MCRMC may charge reasonable fees that recoup the allowable direct costs incurred in responding to FOIA requests. MCRMC may assess charges for time spent searching for records even if MCRMC is unable to locate the records or if the records are located and determined to be exempt from disclosure.

(1) *Timing.* MCRMC may toll the response time limit while awaiting information from the requester regarding fee assessment. Time limits resume upon MCRMC's receipt of a response from the requester.

(b) *Definitions.* For purposes of this subpart:

(1) *All other request* means a request from or on behalf of a person who does not qualify as a *commercial use requester,* an *educational institution* requester, a *non-commercial scientific institution* requester, or a *representative of the news media requester.*

(2) *Commercial use request* means a request from or on behalf of a person who seeks information for a use or purpose that furthers the requester's or other person's commercial, trade, or profit interests.

(3) *Direct costs* means those costs incurred searching for and duplicating (and, in the case of commercial use requests, reviewing) documents in response to a FOIA request. Direct costs include, for example, salaries of employees who perform the work and costs of conducting large-scale computer searches. Direct costs do not include, for example, overhead expenses such as the costs of space, and of heating or lighting a facility.

(4) *Duplication* means to copy records in response to a FOIA request. Copies can take the form of paper, audio-visual materials, or electronic records, among others.

(5) *Educational institution* is any school that operates a program of scholarly research. Records requested with the intention of fulfilling credit requirements or completion of individual research goals do not qualify as a request by an educational institution.

(6) *Non-commercial scientific institution* means an institution that is not operated on a commercial basis and operates solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(7) *Representative of the news media* means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn raw materials into a distinct work, and distributes that work to an audience.

(8) *Review* means to examine a record to determine whether any portion of the record may be withheld, and to process a record for disclosure.

(9) *Search* means to look for and retrieve records for a FOIA request, to include looking page-by-page or line-by-line to identify responsive material within individual records. Search includes time spent looking for records even if responsive records are not found.

(c) *Reduction of fees.* (1) MCRMC will not charge fees for any request where the fees would total less than $50.

(2) MCRMC will provide, except for *commercial use requesters,* without charge, the first 100 pages of duplication (or the cost equivalent for other media) and the first two hours of a search.

(3) MCRMC shall not assess search fees if the agency fails to comply with time limits set forth in subpart 9901.4 if no unusual circumstances, as defined in subpart 9901.4, apply to the processing of the request.

(d) *Waiver of fees.* MCRMC shall waive all or part of any fee provided for in this subpart where the FOIA Officer determines that disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government and the records sought are not primarily in the commercial interest of the requester. Requests for a fee waiver must explain how the information requested contributes to the public interest. In determining whether a fee should be waived, the FOIA Officer shall consider whether the requester has demonstrated that:

(1) The subject matter of the request specifically concerns identifiable operations or activities of the Government;

(2) The information is already in the public domain;

(3) Disclosure is primarily in the commercial interest of the requester; and

(4) Disclosure of the information would significantly enhance the public's understanding of the subject matter.

(e) *Categories of requesters.* Subject to the limitations of this subpart, MCRMC will assess fees for categories of requesters as follows:

(1) *Commercial use requesters* pay for search, review, and duplication.

(2) *Educational institutions, noncommercial scientific institutions* and *representatives of the news media* pay only for duplication (excluding charges for the first 100 pages or its cost equivalent).

(3) *All other requesters* pay for search (excluding the first two hours) and duplication (excluding charges for the first 100 pages or its cost equivalent).

(f) *Charges.* In responding to FOIA requests, MCRMC will charge the following fees unless a waiver or reduction of fees has been requested and granted under this subpart. The fee amounts provided below account for direct costs.

(1) *Search and review.* For each quarter hour spent by MCRMC searching for requested records, including electronic searches, or reviewing records, the fee will be $10.77.

(2) *Duplication.* Duplication fees will be charged to all requesters, subject to the restrictions of this subpart. MCRMC will honor a requester's preference for receiving a record in a particular format where it is readily reproducible in that form or format. Where photocopies are supplied, MCRMC will provide one copy per request at a cost of five cents per page. For copies of records produced on tapes, disks, or other electronic media, MCRMC will charge the direct costs of producing the copy, including operator time. Where paper documents must be scanned to comply with a requester's preference to receive the records in an electronic format, the requester shall pay the direct costs associated with scanning those materials. For other forms of duplication, MCRMC will charge the direct costs.

(3) *Special charges.* MCRMC shall recover the full cost of providing special services, such as sending records by an overnight delivery service, to the extent that MCRMC elects to provide them, as special services are not required by FOIA.

(4) *Aggregating requests.* When the FOIA Officer reasonably believes that a requester or a group of requesters acting in concert is/are attempting to divide a request into a series of requests for the purpose of avoiding fees, the FOIA Officer may aggregate those requests and charge fees accordingly.

(5) *Advance payment.* When a requester has previously failed to pay fees in a timely fashion or MCRMC has determined that the fee will exceed $250, MCRMC may require advance payment of fees.

(6) *Remittances.* Payment shall be made in the form of check or money order made payable to the Treasury of the United States. At the time the FOIA Officer notifies a requester of the

applicable fees, the FOIA Officer shall inform the requester of where to send the payment.

Christopher Nuneviller,

Associate Director, Administration and Operations.

[FR Doc. 2014–21710 Filed 9–11–14; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2014–0420; Special Conditions No. 25–565–SC]

Special Conditions: Bombardier Aerospace, Models BD–500–1A10 and BD–500–1A11 Series Airplanes; Automatic Speed Protection for Design Dive Speed

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Bombardier Aerospace Models BD–500–1A10 and BD–500–1A11 series airplanes. These airplanes will have a novel or unusual design feature associated with a reduced margin between design cruising speed, V_C/M_C, and design diving speed, V_D/M_D, based on the incorporation of a high-speed protection system that limits nose down pilot authority at speeds above V_D/M_D. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: *Effective Date:* October 14, 2014.

FOR FURTHER INFORMATION CONTACT: Mark Freisthler, FAA, Airframe and Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–1119; facsimile 425–227–1232.

SUPPLEMENTARY INFORMATION:

Background

On December 10, 2009, Bombardier Aerospace applied for a type certificate for their new Models BD–500–1A10 and BD–500–1A11 series airplanes (hereafter collectively referred to as ''CSeries''). The CSeries airplanes are swept-wing monoplanes with an aluminum alloy fuselage sized for 5-abreast seating. Passenger capacity is designated as 110 for the Model BD–500–1A10 and 125 for the Model BD–500–1A11. Maximum takeoff weight is 131,000 pounds for the Model BD–500–1A10 and 144,000 pounds for the Model BD–500–1A11.

Bombardier Aerospace proposes to reduce the margin between V_C/M_C and V_D/M_D required by Title 14, Code of Federal Regulations (14 CFR) 25.335(b) based on the incorporation of a high-speed protection system in the airplane's flight control laws. The airplane is equipped with a high-speed protection system that limits nose down pilot authority at speeds above V_C/M_C and prevents the airplane from actually performing the maneuver required under § 25.335(b)(1).

These special conditions are necessary to address the proposed high-speed protection system. These special conditions identify various symmetric and non-symmetric maneuvers that will ensure that an appropriate design dive speed is established. Symmetric (pitching) maneuvers are specified in § 25.331, ''Symmetric maneuvering conditions.'' Non-symmetric maneuvers are specified in § 25.349, ''Rolling conditions,'' and § 25.351, ''Yaw maneuver conditions.''

Type Certification Basis

Under the provisions of 14 CFR 21.17, Bombardier Aerospace must show that the CSeries airplane meets the applicable provisions of part 25 as amended by Amendments 25–1 through 25–129.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the CSeries airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the CSeries airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36, and the FAA must issue a finding of regulatory adequacy under section 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The CSeries airplanes will incorporate the following novel or unusual design feature: Bombardier Aerospace proposes to reduce the margin between V_C/M_C and V_D/M_D required by § 25.335(b) based on the incorporation of a high-speed protection system in the airplane's flight control laws. The high-speed protection system limits nose down pilot authority at speeds above V_C/M_C and prevents the airplane from actually performing the maneuver required under § 25.335(b)(1).

Discussion

Section 25.335(b)(1) is an analytical envelope condition that was originally adopted in Part 4b of the Civil Air Regulations in order to provide an acceptable speed margin between design cruise speed and design dive speed. Flutter clearance design speeds and airframe design loads are impacted by the design dive speed. While the initial condition for the upset specified in the rule is 1g level flight, protection is afforded for other inadvertent overspeed conditions as well. Section 25.335(b)(1) is intended as a conservative enveloping condition for potential overspeed conditions, including non-symmetric ones. To establish that potential overspeed conditions are enveloped, Bombardier Aerospace needs to demonstrate that any reduced speed margin, based on the high-speed protection system, will not be exceeded in inadvertent or gust-induced upsets resulting in initiation of the dive from non-symmetric attitudes; or that the airplane is protected by the flight control laws from getting into non-symmetric upset conditions. Bombardier Aerospace needs to conduct a demonstration that includes a comprehensive set of conditions, as described below.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Discussion of Comments

Notice of Proposed Special Conditions No. 25–14–06–SC for the Bombardier Aerospace CSeries airplanes was published in the **Federal Register** on July 2, 2014 (79 FR 37674). No comments were received, and the