

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2002-CE-27-AD]

RIN 2120-AA64

#### Airworthiness Directives; Mitsubishi Heavy Industries, Ltd. MU-2B Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Proposed rule; Withdrawal.

**SUMMARY:** This document withdraws a notice of proposed rulemaking (NPRM) that would have applied to all Mitsubishi Heavy Industries, Ltd. (Mitsubishi) MU-2B series airplanes. The proposed airworthiness directive (AD) would have superseded AD 88-23-01, which currently requires repetitively inspecting torque tube joints for cracks, and, if cracks are found, replacing the joints on all Mitsubishi MU-2B series airplanes. The proposed AD would have required you to replace the existing joints with new improved-design joints as terminating action for the repetitive inspections. The proposed AD was the result of a recent accident investigation that revealed that the improper reinstallation (following an AD 88-23-01 required repetitive inspection) of two cotter pins in the torque tube resulted in a disconnect in the flap drive train. Comments received on the NPRM suggest that the accident was related to human error and AD action is not necessary. We agree that the cause of the accident has been traced to human error, not to hardware failure. Therefore, we are withdrawing the NPRM.

**ADDRESSES:** You may look at information related to this action at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002-CE-27-AD, 901 Locust, Room 506, Kansas City, Missouri 64106, between 8 a.m. and 4

p.m., Monday through Friday, except holidays.

#### FOR FURTHER INFORMATION CONTACT:

Direct all questions to:

—For the airplanes manufactured in Japan (Type Certificate A2PC): Carl Fountain, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Boulevard, Lakewood, California, 90712; telephone: (562) 627-5222; facsimile: (562) 627-5228; and

—For the airplanes manufactured in the United States (Type Certificate A10SW): Werner Koch, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193-0150; telephone: (817) 222-5133; facsimile: (817) 222-5960.

#### SUPPLEMENTARY INFORMATION:

##### Discussion

##### *What Action Has FAA Taken To Date?*

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Mitsubishi Heavy Industries, Ltd. (Mitsubishi) MU-2B series airplanes. The proposal was published in the **Federal Register** as an NPRM on September 13, 2002 (67 FR 57989). The NPRM proposed to supersede AD 88-23-01 with a new AD that would eliminate the repetitive inspections by replacing the existing joints with new improved-design joints.

The FAA's policy is, when feasible, to require the accomplishment of a design modification when it would eliminate the need for repetitive inspections.

##### *Was The Public Invited To Comment?*

The FAA invited interested persons to participate in the making of this amendment. We received 63 comments on the proposed AD. The comments reflect the public's desire to have FAA withdraw the proposal and recommend that FAA consider additional training for the aircraft mechanics, revised maintenance procedures, improved inspections, and other related actions.

##### The FAA's Determination

##### *What Is FAA's Final Determination On This Issue?*

We evaluated the following since issuing the NPRM:

—There are no service difficulty reports indicating cracks in joints for the

current-design parts in the 14 years since the adoption of AD 88-23-01;

- The cost of installing the improved-design part is extremely expensive (now estimated at more than \$25,000) and combined with the cost of aircraft downtime and lost income for the installation is an overwhelming burden on owners/operators;
- Owners/operators comment that the repetitive inspection process through AD 88-23-01 is working effectively in addressing the unsafe condition; and
- The installation of the improved-design part is time consuming, difficult, and complex since there are very few facilities with the capability and competency to successfully accomplish this complex installation.

Based on this information, we have determined that AD 88-23-01 is effectively addressing the unsafe condition and we should withdraw the NPRM.

Withdrawal of this NPRM does not prevent us from issuing another notice in the future, nor does it commit us to any future action.

##### Regulatory Impact

##### *Does This AD Involve A Significant Rule Or Regulatory Action?*

Since this action only withdraws a proposed AD, it is not an AD and, therefore, is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

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

Air transportation, Aircraft, Aviation safety, Safety.

##### The Withdrawal

Accordingly, FAA withdraws the notice of proposed rulemaking, Docket No. 2002-CE-27-AD, which was published in the **Federal Register** on September 13, 2002 (67 FR 57989).

Issued in Kansas City, Missouri, on December 17, 2002.

##### David R. Showers,

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 02-32337 Filed 12-23-02; 8:45 am]

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