availability based on DOE's estimates of the timing of the suitability determination. 55 FR 38494. These DOE projections were used by the Commission as a starting point for determining ''availability.'' But, because of DOE's need to focus exclusively on Yucca Mountain, the probability that site characterization activities would not proceed entirely without problems, and the chronic delays in the program, the Commission was unwilling to accept DOE's then current projection of repository availability in 2010. Instead, the Commission chose to take a ''conservative'' approach to the timing of ''availability'' by setting a conservative upper bound of 2025. *See* 55 FR 38494, 38595 and 38500. This would allow for DOE's estimate of a 25-year time period needed for the availability of a repository at an alternative site if DOE found the Yucca Mountain site to be unsuitable and had to start over from scratch.

If in 1990 the Commission had been thinking in terms of 25 years being needed for an alternate repository site following an adverse Commission finding of acceptability, obviously it could not have chosen 2025 as the date for which it had reasonable confidence that a repository would be available. DOE's submission of a license application was at that time scheduled to be in 2001, meaning that any Commission rejection of the license could not have been the basis for computing the 25 years needed for evaluation of an alternative site. In fact, the use of a Commission acceptability finding as the basis for repository availability is impossible to implement because it would require the Commission to prejudge the acceptability of any alternative to Yucca Mountain in order to establish a reasonably supported outer date for the Waste Confidence finding. That is, if the Commission were to assume that a license for the Yucca Mountain site might be denied in 2015 and establish a date 25 years hence for the ''availability'' of an alternative repository (*i.e.*, 2040), it would still need to presume the ''acceptability'' of the alternate site to meet that date.

Because it was untenable to presume the ''acceptability'' of any site, including Yucca Mountain, the Commission, in 1990, chose instead to take a two pronged approach to determining ''availability.'' First, it would use DOE's statutorily mandated suitability determination as a basis for providing assurance that a repository would be available in 2025. Specifically, the Commission stated that it believed that DOE's site suitability determination process should provide a ''* * * strong basis for evaluating the likelihood of meeting the 2025 estimate of repository availability.'' 55 FR 38495. Second, the Commission allowed for reconsideration of its findings pending significant and unexpected events. Certainly, the denial of a license for the Yucca Mountain site would meet these criteria and the Commission would need to reevaluate its findings at that time.

The State would recast the approach the Commission took to defining ''availability'' by presuming that ''some acceptable disposal site'' would be available at some undefined time in the future. We find this approach inconsistent with that taken in the 1984 Waste Confidence Decision because it provides neither the basis for assessing the degree of assurance that radioactive waste can be disposed of safely nor the basis for determining when such disposal will be available.

In sum, petitioner has not submitted any information establishing that significant and pertinent unexpected events have occurred which raise substantial doubt about the continuing validity of the second Waste Confidence finding and, in particular, that reasonable assurance exists that at least one mined geologic repository will be available by 2025. Even if DOE's estimate as to when it will tender a license application should slip further, the 2025 date would still allow for unforeseen delays in characterization and licensing. It also must be recognized that the Commission remains committed to a fair and comprehensive adjudication and, as a result, there is the potential for the Commission to deny a license for the Yucca Mountain site based on the record established in the adjudicatory proceeding. That commitment is not jeopardized by the 2025 date for repository availability. The Commission did not see any threat to its ability to be an impartial adjudicator in 1990 when it selected the 2025 date even though then, as now, a repository could only become available if the Commission's decision is favorable. Should the Commission's decision be unfavorable and should DOE abandon the site, the Commission would need to reevaluate the 2025 availability date, as well as other findings made in 1990. However, that day has not yet come and until it does the Commission finds no reason to undertake the burden of reopening its Waste Confidence findings in the absence of information meeting the criteria it has established for this purpose.

Conclusion

Petitioner misapprehends the Commission's 1990 Waste Confidence findings and has not shown any significant and pertinent unexpected event that raises substantial doubt about the continuing validity of the 1990 Waste Confidence findings. Accordingly, for the reasons stated above, the NRC denies the petition for rulemaking to amend the Commission's Waste Confidence decision in its entirety.

Dated at Rockville, Maryland, this 10th day of August, 2005.

For the Nuclear Regulatory Commission.

Andrew L. Bates,

Acting Secretary of the Commission.

[FR Doc. 05–16253 Filed 8–16–05; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–21787; Directorate Identifier 2005–CE–34–AD]

RIN 2120–AA64

Airworthiness Directives; Shadin ADC–2000 Air Data Computers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Shadin ADC–2000 air data computers (ADC) installed on airplanes. This proposed AD would require you to replace affected ADC–2000 units with a modified unit. This proposed AD results from reports that certain ADC–2000 units display incorrect altitude information on the Electronic Flight Information System (EFIS) to the pilot. We are issuing this proposed AD to prevent ADC–2000 units, part numbers (P/Ns) 962830A–1–S–8, 962830A–2–S–8, and 962830A–3–S–8, configurations B, C, and D, from displaying incorrect altitude information. This could cause the flight crew to react to this incorrect flight information and possibly result in an unsafe operating condition.

DATES: We must receive any comments on this proposed AD by October 11, 2005.

ADDRESSES: Use one of the following to submit comments on this proposed AD:

• *DOT Docket Web Site:* Go to *http://dms.dot.gov* and follow the instructions

for sending your comments electronically.

• *Government-wide Rulemaking Web Site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.

• *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.

• *Fax:* 1–202–493–2251.

• *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

To get the service information identified in this proposed AD, contact Shadin, 6831 Oxford Street, St. Louis Park, Minnesota 55426–4412; telephone: (800) 388–2849 or (952) 927–6500; facsimile: (952) 924–1111; e-mail: *www.shadin.com*.

To view the comments to this proposed AD, go to *http://dms.dot.gov*. The docket number is FAA–2005–21787; Directorate Identifier 2005–CE–34–AD.

FOR FURTHER INFORMATION CONTACT: Jeffrey Kuen, Aerospace Engineer, Chicago Aircraft Certification Office (ACO), FAA, 2300 East Devon Avenue, Room 107, Des Plaines, Illinois 60018; telephone: (847) 294–7125; facsimile: (847) 294–7834; e-mail address: *jeffrey.kuen@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I comment on this proposed AD? We invite you to submit any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES.** Include the docket number, ''FAA–2005–21787; Directorate Identifier 2005–CE–34–AD'' at the beginning of your comments. We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed rulemaking. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). This is docket number FAA–2005–21787; Directorate Identifier 2005–CE–34–AD. You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://dms.dot.gov*.

Are there any specific portions of this proposed AD I should pay attention to? We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. If you contact us through a nonwritten communication and that contact relates to a substantive part of this proposed AD, we will summarize the contact and place the summary in the docket. We will consider all comments received by the closing date and may amend this proposed AD in light of those comments and contacts.

Docket Information

Where can I go to view the docket information? You may view the AD docket that contains the proposal, any comments received, and any final disposition in person at the DMS Docket Offices between 9 a.m. and 5 p.m. (eastern standard time), Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5227) is located on the plaza level of the Department of Transportation NASSIF Building at the street address stated in **ADDRESSES.** You may also view the AD docket on the Internet at *http://dms.dot.gov*. The comments will be available in the AD docket shortly after the DMS receives them.

Discussion

What events have caused this proposed AD? We have received reports that the pressure altitude output of certain Shadin ADC–2000 air data computers (ADC) drift outside Technical Standard Order (TSO) tolerance.

Shadin ADC–2000 units, part numbers (P/Ns) 962830A–1–S–8, 962830A–2–S–8, and 962830A–3–S–8, configurations B, C, and D (labeled with TSO–C106 and TSO–C44a), provide altitude information that is displayed on the Electronic Flight Information System (EFIS) to the pilot. The ADC/EFIS combination is used to display primary altitude information to the pilot.

The maximum altitude error allowed by TSO–C106 and TSO–C44a is 25 feet at ground level. Shadin ADC–2000 units, P/Ns 962830A–1–S–8, 962830A–2–S–8, and 962830A–3–S–8, configurations B, C, and D, have shown errors from 100 to 8,000 feet from the correct altitude.

The errors are caused by the ADC–2000 altitude measurement system. A pressure transducer in the ADC measures the altitude from the airplane static pressure system. The pressure transducer converts static pressure to an electrical signal.

We have determined that the electrical output from the pressure transducer in the affected ADCs changes over time resulting in the display of misleading altitude information to the pilot.

What is the potential impact if FAA took no action? If this situation occurs while the flight crew is making critical flight decisions, the display of incorrect altitude information could cause the flight crew to react to this incorrect flight information and possibly result in an unsafe operating condition.

Is there service information that applies to this subject? Shadin has issued Service Bulletin SB28–05–002, Rev C, dated June 29, 2005.

What are the provisions of this service information? The service bulletin includes procedures for doing preflight checks to ensure ADC/EFIS altimetry accuracy and specifies having ADC–2000, P/Ns 962830A–1–S–8, 962830A–2–S–8, and 962830A–3–S–8, configurations B, C, and D, upgraded to new P/Ns 962831A–1–S–8, 962831A–2–S–8, and 962831A–3–S–8.

FAA's Determination and Requirements of this Proposed AD

What has FAA decided? We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on these ADCs that are installed on type design airplanes.

What would this proposed AD require? This proposed AD would require you to incorporate the actions in the previously-referenced service bulletin.

How does the revision to 14 CFR part 39 affect this proposed AD? On July 10, 2002, we published a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs FAA's AD system. This regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. This material previously was included in each individual AD. Since this material is included in 14 CFR part 39, we will not include it in future AD actions.

Costs of Compliance

How many airplanes would this proposed AD impact? We estimate that this proposed AD affects 457 units installed on airplanes in the U.S. registry.

What would be the cost impact of this proposed AD on owners/operators of the affected airplanes? We estimate the following costs to do this proposed modification:

Labor cost	Parts cost	Total cost per unit
2 work hours × $65 per hour = $130	Not applicable ...	$130.

Shadin will reimburse the owner/operators for labor to remove and replace the ADC and shipping costs to Shadin Repair Facility to the extent specified in the service bulletin.

Authority for This Rulemaking

What authority does FAA have for issuing this rulemaking action? 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 AD.

Regulatory Findings

Would this proposed AD impact various entities? We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would 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.

Would this proposed AD involve a significant rule or regulatory action? For the reasons discussed above, I certify that this proposed 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 summary of the costs to comply with this proposed AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include ''AD Docket FAA–2005–21787; Directorate Identifier 2005–CE–34–AD'' in your request.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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 adding the following new airworthiness directive (AD):

Shadin: Docket No. FAA–2005–21787; Directorate Identifier 2005–CE–34–AD

When Is the Last Date I Can Submit Comments On This Proposed AD?

(a) We must receive comments on this proposed airworthiness directive (AD) by October 11, 2005.

What Other ADs Are Affected by This Action?

(b) None.

What Airplanes Are Affected by This AD?

(c) This AD affects Shadin ADC–2000 air data computers (ADC), part numbers (P/N) 962830A–1–S–8, 962830A–2–S–8, 962830A–3–S–8, configurations B, C, and D, that are installed in, but not limited to, the following aircraft (all serial numbers), and are certificated in any category:

Manufacturer	Model
Alliance Aircraft Group, LLC	H–250.
B–N Group Ltd	BN2A.
Bombardier Inc	DHC–3, DHC–6.
Cessna Aircraft Company	172, 180, 180E, 185, 206, 206E, 206F, 206G 208, 210L, 310.
deHavilland Inc	DHC–2.
The New Piper Aircraft, Inc	PA–28–180, PA–28–181, PA–31–350, PA–32–300, PA–32–301, PA–32R–300, PA–34–200T.

What Is the Unsafe Condition Presented in This AD?

(d) This AD is the result of reports that certain ADC–2000 units display incorrect altitude information on the Electronic Flight Information System (EFIS) to the pilot. The actions specified in this AD are to prevent ADC–2000 units, P/Ns 962830A–1–S–8, 962830A–2–S–8, and 962830A–3–S–8, configurations B, C, and D, from displaying incorrect altitude information. This could cause the flight crew to react to this incorrect flight information and possibly result in an unsafe operating condition.

What Must I do to Address This Problem?

(e) To address this problem, you must do the following, unless already done:

Actions	Compliance	Procedures
(1) To ensure the air data computer (ADC) and the Electronic Flight Information System (EFIS) altimetry accuracy, do the normal preflight check. If the altitudes, altimeter, and elevation differ by more than 75 foot, do not fly the airplane in IMC/IFR.	Within the next 25 hours time-in-service (TIS) after the effective date of this AD and thereafter before each flight until the ADC is upgraded as specified in paragraph (e)(2) of this AD.	Follow the Interim Procedures contained in Shadin Service Bulletin SB28–05–002, Rev C, dated June 29, 2005. The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may do the check specified in paragraph (e)(1) of this AD. Make an entry into the aircraft records showing compliance with this portion of the AD following section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).
(2) Return all Shadin ADC–2000s, part numbers 962830A–1–S–8, 962830A–2–S–8, 962830A–3–S–8, Configurations B, C, and D, to the Shadin Repair Facility for upgrade. Contact the Shadin Technical Support department for a Return Merchandise Authorization (RMA) number. Until the ADC–2000 is modified, returned, and reinstalled, only fly the airplane if equipment requirements for that airplane are still met.	Within the next 15 months after the effective of this AD.	Follow Shadin Service Bulletin SB28–05–002, Rev C, dated June 29, 2005.
(3) Do not install any Shadin ADC–2000, part number 962830A–1–S–8, 962830A–2–S–8, or 962830A–3–S–8, Configurations B, C, and D, unless it has been upgraded as specified in paragraph (e)(2) of this AD.	As of the effective date of this AD	Not applicable.

May I Request an Alternative Method of Compliance?

(f) You may request a different method of compliance or a different compliance time for this AD by following the procedures in 14 CFR 39.19. Unless FAA authorizes otherwise, send your request to your principal inspector. The principal inspector may add comments and will send your request to the Manager, Chicago Aircraft Certification Office (ACO), FAA. For information on any already approved alternative methods of compliance, contact Jeffrey Kuen, Aerospace Engineer, Chicago ACO, FAA, 2300 East Devon Avenue, Room 107, Des Plaines, Illinois 60018; telephone: (847) 294–7125; facsimile: (847) 294–7834; e-mail address: *jeffrey.kuen@faa.gov.*

May I Get Copies of the Documents Referenced in this AD?

(g) To get copies of the documents referenced in this AD, contact Shadin, 6831 Oxford Street, St. Louis Park, Minnesota 55426–4412; telephone: (800) 388–2849 or (952) 927–6500; facsimile: (952) 924–1111; email: *www.shadin.com.* To view the AD docket, go to the Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC, or on the Internet at *http://dms.dot.gov.* The docket number is Docket No. FAA–2005–21787; Directorate Identifier 2005–CE–34–AD.

Issued in Kansas City, Missouri, on August 10, 2005.

Kim Smith,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–16267 Filed 8–16–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22120; Directorate Identifier 2004–NM–92–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319–100 Series Airplanes, Model A320–111 Airplanes, Model A320–200 Series Airplanes, and Model A321–100 Series Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for Airbus Model A319–100 series airplanes, Model A320–111 airplanes, Model A320–200 series airplanes, and Model A321–100 series airplanes equipped with any additional center tank (ACT). This proposed AD would require identifying the part number of the ACT and, for certain ACTs, replacing the outer ACT manhole cover and seal. This proposed AD is prompted by reports of an ACT fuel transfer failure due to air leakage around the seal of the outer manhole covers of the ACTs. We are proposing this AD to prevent this leakage, which could result in fuel or fuel vapor leaking into the cargo compartment, and consequent increased risk of a fire in the cargo compartment.

DATES: We must receive comments on this proposed AD by September 16, 2005.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- *DOT Docket Web Site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide Rulemaking Web Site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL–401, Washington, DC 20590.
- *By Fax:* (202) 493–2251.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France.

You can examine the contents of this AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, on the plaza level of the Nassif Building, Washington, DC. This docket number is FAA–2005–22120; the directorate identifier for this docket is 2004–NM–92-AD.