

subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action in the event the direct final rule is withdrawn.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

1. The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

a. The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

b. The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

c. The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

2. The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

3. The comment causes the NRC staff to make a change (other than editorial) to the rule, CoC, or TS.

For additional procedural information and the regulatory analysis, see the direct final rule published in the Rules and Regulations section of this **Federal Register**.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Hazardous waste, Nuclear materials, Occupational safety and health, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended, and 5 U.S.C. 553; the NRC is proposing to adopt the following amendments to 10 CFR part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

1. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–10 (42 U.S.C. 2014, 2021, 2021b, 2111).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c),(d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. In § 72.214, Certificate of Compliance 1014 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1014.

Initial Certificate Effective Date: May 31, 2000.

Amendment Number 1 Effective Date: July 15, 2002.

Amendment Number 2 Effective Date: June 7, 2005.

Amendment Number 3 Effective Date: May 29, 2007.

Amendment Number 4 Effective Date: January 8, 2008.

Amendment Number 5 Effective Date: July 14, 2008.

Amendment Number 6 Effective Date: August 17, 2009

Amendment Number 7 Effective Date: December 28, 2009.

SAR Submitted by: Holtec International.
SAR Title: Final Safety Analysis Report for the HI–STORM 100 Cask System.
Docket Number: 72–1014.
Certificate Expiration Date: May 31, 2020.

Model Number: HI–STORM 100 System.

* * * * *

Dated at Rockville, Maryland, this 24th day of September 2009.

For the Nuclear Regulatory Commission.

R.W. Borchardt,

Executive Director for Operations.

[FR Doc. E9–24562 Filed 10–9–09; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0906; Directorate Identifier 2009–NM–075–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Boeing Model 747 series airplanes. This proposed AD would require replacing the power control relays for the main tank fuel boost pumps and jettison pumps, and the center tank scavenge pump, as applicable, with new relays having a ground fault interrupt (GFI) feature. The proposed AD also would require revising the maintenance program to incorporate Airworthiness Limitations (AWLs) No. 28–AWL–23 (for Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747SP, and 747SR series airplanes), and Nos. 28–AWL–28 and 28–AWL–29 (for Model 747–400, 747–400D, and 747–400F series airplanes). This proposed AD results from fuel system reviews conducted by the manufacturer. We are proposing this AD to prevent damage to the fuel pumps caused by electrical arcing that could introduce an ignition source in the fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by November 27, 2009.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* 202-493-2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H-65, Seattle, Washington 98124-2207; telephone 206-544-5000, extension 1; fax 206-766-5680; e-mail me.boecom@boeing.com; Internet <https://www.myboeingfleet.com>. You may review copies of the referenced 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.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT:

Georgios Roussos, Aerospace Engineer, Systems and Equipment Branch, ANM-130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98057-3356; telephone (425) 917-6482; fax (425) 917-6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No.

FAA-2009-0906; Directorate Identifier 2009-NM-075-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled "Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements" (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 ("SFAR 88," Amendment 21-78, and subsequent Amendments 21-82 and 21-83).

Among other actions, SFAR 88 requires certain type design (i.e., type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address

the failure types under evaluation: single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

As part of SFAR 88 analysis, Boeing determined that the power control relays for the main tank fuel boost pumps and jettison pumps and the center tank scavenge pump should be replaced with new relays having a ground fault interrupt (GFI) feature. The relays are located in the P414, P415, and P52 panels. The GFI feature is intended to protect the fuel pumps from damage caused from electrical arcing by removing electrical power from the pump if a ground fault is detected. Electrical arcing, if not prevented, could introduce an ignition source in the fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 747-28A2261, dated February 19, 2009. The service bulletin describes procedures for replacing the relays for the main tank fuel boost pumps and jettison pumps, and the center tank scavenge pump, as applicable, with new relays having a GFI feature. The replacement also includes reworking certain wiring and doing an operational test of the fuel boost pumps and new relays.

We have also reviewed the following documents, which include a repetitive inspection (test) to verify continued functionality of the GFI relays:

- For Model 747-400, 747-400D, and 747-400F series airplanes: Subsection D, "AIRWORTHINESS LIMITATIONS—FUEL SYSTEMS," of Boeing 747-400 Maintenance Planning Data (MPD) Document, Document D621U400-9, Section 9, Revision April 2008. Subsection D of Revision April 2008 of the MPD includes new airworthiness limitations (AWLs) 28-AWL-28 and 28-AWL-29. (These AWLs were first introduced in Revision October 2007 of the MPD document.) Incorporating these AWLs are an optional action in AD 2008-10-06, Amendment 39-15512 (73 FR 25990, May 8, 2008).

- For Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747SP, and 747SR series airplanes: Subsection D, “AIRWORTHINESS LIMITATIONS—SYSTEMS,” of Boeing 747–100/200/300/SP Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), Document D6–13747–CMR, Revision March 2008. Subsection D of Revision March 2008 of the AWLs includes new airworthiness limitation AWL 28–AWL–23. (This

AWL was first introduced in Revision September 2007 of the AWLs/CMRs document.) Incorporating this AWL is an optional action in AD 2008–10–07, Amendment 39–15513 (73 FR 25977, May 8, 2008).

FAA’s Determination and Requirements of This Proposed AD

We are proposing this AD because we evaluated all relevant information and determined the unsafe condition described previously is likely to exist or

develop in other products of the same type design. This proposed AD would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

We estimate that this proposed AD would affect 258 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

TABLE—ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per product	Number of U.S.-registered airplanes	Fleet cost
Replacement	10 to 14 ¹	\$80	\$16,800 to \$36,200 ¹ .	\$17,600 to \$37,320 ¹ .	258	\$4,540,800 to \$9,628,560 ¹ .
Revision of Airworthiness Limitations section.	1	\$80	None	\$80	258	\$20,640.

¹ Depending on airplane configuration.

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 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.

For the reasons discussed above, I certify this proposed regulation:

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.

You can find our regulatory evaluation and the estimated costs of compliance in the AD Docket.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA 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 AD:

Boeing: Docket No. FAA–2009–0906; Directorate Identifier 2009–NM–075–AD.

Comments Due Date

(a) We must receive comments by November 27, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 747–28A2261, dated February 19, 2009.

Note 1: This AD requires a revision to a certain operator maintenance document to include new inspections. Compliance with these inspections is required by 14 CFR 43.16 and 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these limitations, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 43.16 and 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (j) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

Subject

(d) Air Transport Association (ATA) of America Code 28: Fuel.

Unsafe Condition

(e) This AD results from fuel system reviews conducted by the manufacturer. The Federal Aviation Administration is issuing this AD to prevent damage to the fuel pumps caused by electrical arcing that could introduce an ignition source in the fuel tank which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

Compliance

(f) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Replacement

(g) Within 60 months after the effective date of this AD: Replace the power control relays for the main tank fuel boost pumps and jettison pumps, and the center tank scavenge pump, as applicable, with new relays having a ground fault interrupt feature, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747-28A2261, dated February 19, 2009.

Maintenance Program Revision

(h) Concurrently with the actions required by paragraph (g) of this AD: Revise the maintenance program by incorporating the applicable information in paragraphs (h)(1) and (h)(2) of this AD. The inspection interval for AWLs 28-AWL-23, 28-AWL-28, and 28-AWL-29 starts on the date the replacement required by paragraph (g) of this AD is done.

(1) For Model 747-400, 747-400D, and 747-400F series airplanes: Incorporate new airworthiness limitations 28-AWL-28 and 28-AWL-29 of Subsection D, "AIRWORTHINESS LIMITATIONS—FUEL SYSTEMS," of Boeing 747-400 Maintenance Planning Data (MPD) Document, Document D621U400-9, Section 9, Revision April 2008. (These AWLs were first introduced in Revision October 2007 of the MPD document.)

(2) For Model 747-100, 747-100B, 747-100B SUD, 747-200B, 747-200C, 747-200F, 747-300, 747SP, and 747SR series airplanes: Incorporate new airworthiness limitation 28-AWL-23 of Subsection D, "AIRWORTHINESS LIMITATIONS—SYSTEMS," of Boeing 747-100/200/300/SP Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), Document D6-13747-CMR, Revision March 2008. (This AWL was first introduced in Revision September 2007 of the AWLs/CMRs document.)

No Alternative Inspection or Inspection Intervals

(i) After accomplishing the action required by paragraph (h) of this AD, no alternative inspections or inspection intervals may be used, unless the inspections or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j) of this AD.

Alternative Methods of Compliance (AMOCs)

(j)(1) The Manager, Seattle Aircraft Certification Office (ACO), 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:* Georgios Roussos, Aerospace Engineer, Systems and Equipment Branch, ANM-130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98057-3356; telephone (425) 917-6482; fax (425) 917-6590. Or, e-mail information to *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. 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.

Issued in Renton, Washington, on September 25, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9-24490 Filed 10-9-09; 8:45 am]

BILLING CODE 4910-13-P

COMMODITY FUTURES TRADING COMMISSION**17 CFR Part 1**

RIN 3038-AB87

Electronic Filing of Financial Reports and Notices

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission" or "CFTC") is proposing to amend certain of its regulations in connection with electronic filing of financial reports and other notices ("Proposal"). The Proposal would broaden the language in the Commission's regulations applicable to electronic filings of financial reports to clarify that, to the extent a futures commission merchant ("FCM") submits a Form 1-FR to the Commission electronically, it may do so using any user authentication procedures established or approved by the Commission. The Proposal also would permit registrants to electronically submit filings in addition to financial reports, including an election to use a non-calendar fiscal year, requests for extensions of time to file uncertified financial reports and "early warning" notices required under Commission regulations. In connection with the filing of financial reports, the Commission also is proposing to specify, consistent with other requirements and existing practice, that a statement of income and loss is included as a required part of the non-certified 1-FR filings for FCMs and introducing brokers ("IBs"). The Commission also is proposing to require more immediate, but less prescriptive, documentation regarding a firm's capital condition when a firm falls below its required minimum adjusted net capital. Finally, the Commission is proposing several other minor amendments to correct certain outdated references and to make other clarifications to existing regulations.

DATES: Comments must be received on or before November 12, 2009.

ADDRESSES: You may submit comments, identified by RIN 3038-AB87, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov/search/index.jsp>. Follow the instructions for submitting comments.

- *E-mail:* secretary@cftc.gov. Include "Electronic Filing Amendments" in the subject line of the message.

- *Fax:* (202) 418-5521.

- *Mail:* Send to David Stawick, Secretary, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581.

- *Courier:* Same as Mail above.

All comments received will be posted without change to <http://www.cftc.gov>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT:

Thelma Diaz, Associate Director, Division of Clearing and Intermediary Oversight, 1155 21st Street, NW., Washington, DC 20581. Telephone number: 202-418-5137; facsimile number: 202-418-5547; and electronic mail: tdiaz@cftc.gov, or Lawrence T. Eckert, Special Counsel, Division of Clearing and Intermediary Oversight, 140 Broadway, New York, New York 10005. Telephone number (646) 746-9704; and electronic mail: leckert@cftc.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

Section 4f(b) of the Commodity Exchange Act, as amended (the "Act") authorizes the Commission to impose by regulation minimum financial and related reporting requirements on futures commission merchants ("FCMs") and introducing brokers ("IBs").¹ Commission Regulation 1.10 sets forth the financial reporting requirements for FCMs and IBs.² This regulation includes a requirement for FCMs and IBs to file annual financial statements that have been certified by an independent public accountant in accordance with Regulation 1.16. Regulation 1.10 also requires generally that FCMs file with the Commission non-certified Form 1-FR-FCM financial reports each month and that IBs file non-certified Form 1-FR-IB financial

¹ The Act is codified at 7 U.S.C. 1 *et seq.* (2009), and section 4f(b) of the Act is codified at 7 U.S.C. 6f(b). The Commission's regulations cited in this proposed rulemaking may be found at 17 CFR Ch. 1 (2009).

² For simplicity, references in this **Federal Register** release to IBs in connection with financial reporting and notice requirements are intended to refer to IBs that are not operating pursuant to a guarantee agreement.