proposes to amend 14 CFR Pat 71 as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, is proposed to be amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the Earth

* * * * *

AEA VA E5 Staunton, VA [Revised]

Shenandoah Valley Regional Airport, VA (lat. 38° 15′49″ N, long. 78° 53′47″ W)

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of Shenandoah Valley Regional Airport and within 8 miles northwest and 4 miles southeast of the Shenandoah Valley Regional Airport localizer southwest course extending from the STAUT NDB to 16 miles southwest of the NDB and within a 6.8-mile radius of Bridgewater Air Park and within 4 miles northwest and 8 miles southeast of the 208° bearing from the Bridgewater NDB extending from the NDB to 16 miles southwest of the NDB.

* * * * *

Issued in Jamaica, New York, on October 21, 1996.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 96–28109 Filed 10–31–96; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 382

[Docket OST–96–1880; Notice 96–25]

RIN 2105–AC28

Nondiscrimination on the Basis of Handicap in Air Travel

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: The Department is proposing to amend its rules implementing the Air Carrier Access Act of 1986 concerning seating accommodations for individuals with disabilities and the stowage of collapsible electric wheelchairs. These proposals are the result of petitions for rulemaking on which the Department previously received comment. The Department is also proposing to clarify the meaning of the general nondiscrimination provision in the Air Carrier Access Act rule. The Department is also seeking comment on petitions requesting a smoke-free path through airports for passengers with severe respiratory disabilities.

DATES: Comments are requested within January 30, 1997. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Comments should be sent, preferably in triplicate, to Docket Clerk, Docket No. OST–96–1880, Department of Transportation, 400 7th Street, S.W., Room PL–401, Washington, D.C., 20590. We request that, to facilitate scanning comments into the Department's electronic docket system, commenters put comments on 8½ by 11 inch white paper using dark ink, without tabs and unbound. Comments will be available for inspection at this address from 9:00 a.m. to 5:00 p.m., Monday through Friday. Commenters who wish the receipt of their comments to be acknowledged should include a stamped, self-addressed postcard with their comments. The Docket Clerk will date-stamp the postcard and mail it back to the commenter.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 7th Street, S.W., Room 10424, Washington, D.C., 20590. (202) 366–9306 (voice); (202) 755–7687 (TDD); or Nancy Ebersole, Office of the Assistant Secretary for Transportation Policy, same street address, Room 9217, (202) 366–4864.

SUPPLEMENTARY INFORMATION:

Background

In its September 1993 notice of proposed rulemaking on the Air Carrier Access Act (ACAA) rules (58 FR 47681; September 9, 1993), the Department asked for comment on three petitions for rulemaking. These concerned use of oxygen by airline passengers, seating accommodations for passengers with disabilities, and the stowage of collapsible electric wheelchairs. The Department is considering addressing the first of these issues through a negotiated rulemaking. The Department has decided to grant the other two petitions, by issuing this NPRM proposing amendments to the ACAA rule. The public will have the opportunity to comment on these proposals before the Department takes any final action on them. In addition, having become aware of misunderstanding on the part of some parties concerning the scope and nature of the general nondiscrimination obligation under the ACAA, the Department is proposing a clarification of Part 382's statement of that obligation.

General Nondiscrimination Obligation

The history of the ACAA clearly shows that Congress enacted the statute to fill a gap in nondiscrimination coverage left by a Supreme Court decision that said that section 504 of the Rehabilitation Act did not apply to air carriers, since they do not (with the exception of participants in the Essential Air Service program) receive Federal financial assistance. The intent of the statute was to achieve the same protection from discrimination for airline passengers that section 504 provides persons affected by Federally-assisted programs. For a summary of the history of the Act, see the preamble to the Department's 1990 final ACAA rule (55 FR 8009; March 6, 1990).

When Congress enacted the Americans with Disabilities Act (ADA), it excluded transportation by aircraft from the definition of ''specified public transportation.'' Congress did so specifically because air transportation was covered by the ACAA. (*See* H. Rept. 101–485, Pt. 1; May 14, 1990; p. 36.) There is no evidence that Congress intended this exclusion, which simply avoids duplication in coverage, to suggest that a weaker standard of nondiscrimination applies to air carriers than to transportation providers covered by the ADA.

Under section 504 and the ADA, providers of transportation and other facilities and services to the public have the obligation to take steps to accommodate customers who have disabilities, though these obligations have limits. For example, places of public accommodation under Title III of the ADA are required to make

> reasonable modifications in policies, practices, or procedures, when the modifications are necessary to afford goods, services, facilities, privileges, or accommodations to individuals with disabilities, unless the public accommodation can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, or accommodations. (28 CFR § 36.302.(a))

Under the ADA, public accommodations must remove barriers where doing so is ''readily achievable i.e., easily accomplishable and able to be carried out without much difficulty or expense'' (28 CFR § 36.304(a)). One option open to a public accommodation is making its services available through readily achievable alternative means where barrier removal itself is not

readily achievable (28 CFR § 36.305(a)). These provisions are intended to be compatible with the section 504 standards, which requires recipients of Federal funds to make accommodations to the needs of individuals with disabilities, as long as doing so does not create undue financial or administrative burdens.

The Department has become aware that there may be some misunderstanding concerning the applicability of these basic nondiscrimination principles to air carriers. To avoid such misunderstanding, the Department is proposing to add language to the nondiscrimination section of Part 382 reciting explicitly the existing legal requirement that carriers have the duty of accommodating disabilities of passengers, consistent with these principles, even where a specific accommodation is not mandated elsewhere in the regulation.

Seating Assignments to Accommodate Passengers' Disabilities

Background

Section 382.37 of the existing rule, concerning seating assignments, prohibits carriers from excluding a person from a particular seat location or requiring a person to sit in a particular location, on the basis of disability, with certain exceptions (e.g., to comply with the FAA's exit row seating rule). The intent of this provision was to preclude carriers from limiting a passenger's choice of seats on the basis of disability. The issue in this rulemaking is the other side of this coin: should carriers be required to provide a particular seat assignment that a passenger needs to accommodate a disability?

The petitioner, a consumer, has a disability that prevents her from bending one of her legs. She requested that the ACAA rule be modified to require airlines to seat a passenger in a location requested by the passenger (e.g., a bulkhead seat) when sitting in that location is necessary to reasonably accommodate the passenger's disability, even if this requires changing the seat assignment of another passenger. In addition to asking for comment on this petition, the 1993 NPRM also requested comment on whether, if such a requirement were added to the rule, carriers should be permitted to require advance notice for this accommodation.

Comments

There was strong support for this petition from consumers. About 50 comments from passengers and disability groups said that airlines should accommodate passengers with disabilities by placing them in a seat that facilitates their travel. Examples cited in the comments included ensuring that passengers with mobility impairments had the opportunity to sit in a a row with a movable aisle armrest, that people with fused legs could sit in bulkhead seats, that personal care attendants could sit next to passengers whom they serve, and that people with guide dogs could choose either a bulkhead or non-bulkhead seat.

One commenter suggested that, if an appropriate seat in coach was not available, the airline should offer a first-class upgrade if it would facilitate the passenger's travel and there was a seat available in first class. A few commenters suggested that it would be acceptable for an airline to require passengers requesting a seating accommodation to provide documentation of their need (e.g., a note from their doctor). Four disability community commenters opposed permitting airlines to request advance notice for providing seating accommodations. Three commenters suggested that seating accommodations be made for tall people, since they have trouble being comfortable in many airline seats, and one suggested similar treatment for parents traveling with infants.

Carriers and their associations generally opposed the petition. They had several objections. First, it would be difficult to determine which people deserved priority for seating accommodations. For example, if multiple persons arrived for a flight and asked for a bulkhead seat, how would carrier personnel decide who should be selected to receive the desired seat? Airline personnel should not have to decide who is the most deserving passenger. Second, it would be unfair and annoying to other passengers who were asked to move to make room for the disabled passengers. Passengers typically reserve flights on a first-come/first-serve basis, and often seek aisle or bulkhead seats because there is more space there, because they are tall, because they have infants to care for, etc. They do not want to be bumped from the seat assignment they had called in advance to obtain. Third, having to deal with seat reassignments would distract flight attendants and other personnel from other pre-flight duties, including those related to safety.

One commenter pointed out that, like other passengers, people with disabilities could call early for a seat assignment in order to get the accommodation they wanted. This commenter suggested that carriers should not have to do more than hold back one or two seats from advance assignment, and then only until 24 hours before departure. Another commenter suggested that, rather than mandating seating accommodations, airlines should ask for volunteers to move from seats, perhaps providing incentives like extra frequent-flier miles. One commenter thought disabled passengers present a risk because they clog the aisles. The commenter believes that such passengers should be kept out of aisle seats and deplaned last. Another said that passengers who want extra room should pay for it or find another mode of transportation. Three commenters thought that passengers desiring seating accommodations should have to provide advance notice, to minimize last-minute seat changes for other passengers.

DOT Response

As noted above, carriers have an obligation to accommodate the disabilities of passengers, through means such as altering policies and practices, as long as doing so does not create an undue financial or administrative burden or fundamentally alter the nature of the service provided. After reviewing the comments on this petition, the Department believes that responding to requests for seat assignments to accommodate the needs of an individual with a disability comes well within the scope of this obligation.

Many people with disabilities—particularly those with mobility impairments—find it very difficult to travel by air in the absence of seat assignments that facilitate their use of the aircraft. Having to transfer over a fixed aisle armrest, when moveable armrests are available elsewhere in the cabin, burdens wheelchair users. Sitting in a middle non-bulkhead seat may make it unfeasible for someone with a fused leg to travel. Sitting apart from a personal care attendant may make it impossible for a person with severe mobility impairment to eat or to receive other needed assistance during the flight. Seating accommodations that permit an individual who travels with a service animal to sit with the animal may also be necessary.

The proposal would apply only to requests in these four categories. The Department does not believe it would be relevant to apply the provision to persons with other disabilities (e.g., vision or hearing impairments, less severe mobility impairments). However, we seek comments on whether there are additional situations in which seating accommodations should be provided. In addition, we seek comment on whether

it is necessary or appropriate for persons seeking these seating accommodations to provide any documentation to the carrier.

To accommodate these needs of individuals with disabilities would not appear to impose significant financial or administrative burdens on carriers, or fundamentally alter the nature of the service they provide to passengers. What appears to be needed is a limited modification of existing administrative policies. There could be some inconvenience to other passengers, but when a carrier is implementing a nondiscrimination statute like the ACAA, accommodating the needs of passengers with disabilities outweighs this inconvenience.

Under the proposal, a passenger seeking seating accommodations would call the airline at least 48 hours before the scheduled departure of the flight (see discussion of advance notice below). If the airline had any seats that would provide the accommodation that had not yet been assigned to another passenger, it would assign such a seat to the requester. This includes situations in which there are unassigned seats that have not been made available for assignment to the general passenger population (e.g., seats that are not assigned until a short time before the flight or that are held for frequent fliers). If, however, all seats in which the needed accommodation could be provided to the requester have been assigned to other passengers, the airline would change the seat assignment of another passenger. In no case, however, would another passenger be bumped off the flight to accommodate the seating requests of an individual with a disability.

Part 382 already contains a number of accommodations for disabled passengers for which carriers may request advance notification (see 14 CFR § 382.33(b)). The purpose of this provision is to give carriers time to prepare to provide the accommodations. While the Department is aware that consumers with disabilities have opposed provisions of this kind, we believe that they strike a fair balance between the needs of passengers to receive accommodations and the needs of carriers to do the work of providing them. Therefore, in addition to requiring seating accommodations, we propose to add a 48 hours' advance notice provision.

We would point out that, for all accommodations to which the advance notice provisions apply, a carrier is required to provide the accommodation even when the passenger does not provide advance notice, if the carrier can do so by making a reasonable effort that will not delay the flight (see 14 CFR § 382.33(c)). In the case of seating accommodations, this should prove possible to do in most instances, since all that may be involved is a quick request by carrier personnel to another passenger to switch seats to accommodate the situation of a disabled passenger. While, in a case where advance notice had not been provided, the airline would not be mandated to change another passenger's seating assignment, the carrier would be obligated to make the request, and could, as comments suggested, provide incentives to persons who agreed to a seat assignment change.

The Department does not believe that implementing this proposed requirement would place carriers in the position of determining who was the most deserving occupant of a given seat. Airlines could, under the proposal, operate in a ''first-come/first-served'' manner. That is, if a passenger with a disability for which sitting in a bulkhead seat would be an accommodation (e.g., an individual with a fused leg, a passenger traveling with a service dog) makes a request to sit in that seat, another passenger subsequently requesting that seat as an accommodation to a disability could be told that the seat was unavailable. The airline would find a different seat to accommodate the second passenger to the extent feasible.

A few things that this NPRM does not propose to require in this provision should be noted. The proposal would not require airlines that do not pre-assign seats to passengers to begin doing so. These airlines allow passengers needing various kinds of accommodations to preboard. Permitting passengers who need particular kinds of seating accommodations to preboard would satisfy the intent of this provision. It might be necessary, however, for the carrier to request or direct that some preboarded passengers move to accommodate a passenger with a disability who needed a particular seat location as an accommodation. The Department seeks comment on whether any specific regulatory provisions are needed to handle this situation.

Nor would this proposal require the airline to provide upgrades to first class for coach passengers or provide more than one seat to an individual. In this context, we note that the Department has received occasional inquiries concerning passengers who are very obese. It may be necessary for some such passengers to occupy the space of two seats. The Department has been asked whether it is consistent with the ACAA for carriers to charge for two seats in this situation. We have replied that, if an individual is actually using two seats, it is not discriminatory for the airline to charge the individual for two seats. The Department seeks comments on whether this approach should be changed. Should there be circumstances in which such a passenger should be accommodated without being charged for more than one seat?

Handling of Collapsible Electric Wheelchairs

Background

The Department received a petition from Mr. Ralph Black, an attorney representing a consumer who uses a collapsible electric wheelchair, powered by a non-spillable battery. The consumer has encountered difficulty with airlines that, in her view, treat the wheelchair as it were a non-collapsible wheelchair powered by a spillable battery. The petition set forth a rationale for changing the ACAA rule and suggested revisions to the rule's language.

Comments

Disability commenters generally supported this petition. A few expressed the concern that airlines may damage wheelchairs, either by dropping them when being located into the luggage compartment or when disassembling or reassembling them. (Two carriers suggested, in response to this latter problem, that wheelchair manufacturers or passengers be required to provide written instructions for disassembly and reassembly.)

Air carrier comments focused on the battery-related portions of the petition. They reiterated a long-standing industry concern that passengers are not reliable sources of information about whether a battery is spillable or non-spillable. Reliance on passenger-representations, they said, could lead to safety problems. Some carrier comments suggested that FAA certify or label which batteries are non-spillable or that carriers be able to rely on their own list of approved non-spillable batteries.

DOT Response

The Department has decided to partially grant this petition for rulemaking. We believe it is useful to clarify that collapsible electric wheelchairs, like folding manual wheelchairs, can be carried in the cabin if they can be transported in appropriate storage locations, such as in closets or overhead compartments, or under seats. Indeed, commenters appeared to have

no objections to this idea. The Department has interpreted its existing rule consistent with this idea. Consequently, we are proposing to adopt the petitioner's proposed amendment to § 382.41(g)(2), as well as adding clarifications to § 382.41(e) concerning in-cabin storage.

However, the issue of distinguishing spillable from non-spillable batteries continues to be complex, and it continues to be discussed among the Department and representatives of the industry and disability community. We believe that is premature to propose further rulemaking on the subject of handling batteries at this time. We also believe that the existing, permissive provision concerning written instructions for disassembly and reassembly is adequate. We do not see in the comments an adequate basis for making the provision of such instructions mandatory.

Additional Provisions for Passengers With Hearing Impairments

The Department has received some suggestions for additional rulemaking concerning accommodations for persons with hearing impairments. These include captioning of video material (e.g., movies and other entertainment features) shown on the aircraft, and making telecommunications devices for the deaf (TDDs) available where air phone service is provided to other passengers. Part 382 requires captioning of safety videos, but not other videos shown on flights. Another suggestion was for providing assistive listening technology for public address announcements in the aircraft. The Department has also received suggestions for electronic message and/or assistive listening technology in gate areas, to ensure that hearing-impaired passengers would receive information about flight departures and arrivals, boarding announcements, etc. The Department seeks comment on the need for such accommodations, as well as their technical feasibility and cost.

Petitions Concerning an Accessible Path Through Airports for Persons With Severe Respiratory Disabilities

The Department is seeking comment on petitions from individuals with respiratory disabilities for a requirement for an accessible path through airports. Petitions on this subject have been received from Dr. Dwain Eckberg, a physician and medical school faculty member from Richmond, Virginia, and Dr. Judith Plotkin, a Maryland resident. Both individuals suggested that the Department add regulatory provisions to protect such individuals from exposure to tobacco smoke.

The petitions make the point that some individuals have respiratory conditions that can create significant health problems for them if they are exposed to tobacco smoke. If such an individual must, in order to get from the entrance of an airport to an aircraft, pass through areas in which he or she is exposed to smoke, he or she may suffer these health problems, require oxygen that is not immediately available, or require emergency medical treatment. Exposure to smoke, then, acts as a significant barrier for such individuals to the use of the air travel system.

If granted, these petitions would lead to a proposal that carriers and airports carrier ensure that an individual with a severe respiratory disability that is triggered by exposure to tobacco smoke have available a path of access from the terminal entrance to the aircraft free from exposure to tobacco smoke. As with other airport terminal accessibility issues, amendments to both the ACAA and section 504 rules would be needed as part of such a proposal. The air carrier and airport would be expected to work together to meet an obligation to provide such passengers with a means of getting to an aircraft that does not expose them to significant adverse health effects.

We anticipate that any proposal resulting from this petition would not specify or limit the means to be used. A smoke-free path through the airport, transportation from the gate to the tarmac that does not go through a terminal in which smoke is present, an enclosed cart that took the passenger through the airport without exposure to smoke that was present, etc. might all be possibilities.

The Department would not intend, if it granted these petitions, to propose to ban all smoking in terminals. Regulating smoking in public places is traditionally a state or local matter, and the Department would not attempt to pre-empt state or local decisionmaking.

The Department seeks comment on whether we should propose a provision of the kind requested by the petitioners. We seek comments on the extent to which such a provision is needed and on cost and feasibility considerations that should be taken into account.

The Department is also aware of people with environmental sensitivities to a wide variety of common substances (e.g., cleaning agents, perfumes). In some cases, these sensitivities may be severe. In addition to seeking comment on whether to proceed with a proposal based on the petitions, the Department seeks comment on whether it would be desirable and feasible to have similar provisions for people with severe environmental sensitivities.

Regulatory Analyses and Notices

This NPRM does not propose a significant rule under Executive Order 12866 or a significant rule under the Department's Regulatory Policies and Procedures. The Department certifies that this rule, if adopted, would not have a significant economic effect on a substantial number of small entities. The basis for this statement is that the modifications to airline practices and procedures involved if the rules are made final would involve little additional cost to carriers or airports.

The Department has determined that there would not be sufficient Federalism impacts to warrant the preparation of a Federalism Assessment. As it implements a nondiscrimination statute, this rule is not subject to scrutiny under the Unfunded Mandates Act.

List of Subjects in 14 CFR Part 382

Aviation, Handicapped.

Issued this 8th Day of October, 1996, at Washington, D.C.

Federico Peña,

Secretary of Transportation.

For the reasons set forth in the preamble, the Department proposes to amend 14 CFR Part 382 as follows:

1. The authority citation for 14 CFR Part 382 would continue to read as follows:

Authority: 49 U.S.C. 41702, 47105, and 41712.

2. In § 382.7, a new paragraph (c) would be added to read as follows:

§ 382.7 General prohibition of discrimination.

* * * * *

(c) In carrying out their nondiscrimination obligations under this part, carriers shall, in addition to meeting the specific requirements of this part, provide accommodations to passengers with disabilities and remove barriers to the use of facilities and aircraft by such passengers. In meeting this obligation, carriers shall apply the standards of section 504 of the Rehabilitation Act of 1974, as amended, and Title III of the Americans with Disabilities Act.

3. In § 382.33(b), the ''and'' at the end of paragraph (b)(7) is proposed to be removed, a semicolon and the word ''and'' are proposed to be substituted for the period at the end of paragraph (b)(8), and a new paragraph (b)(9) is proposed to be added, to read as follows:

§ 382.33 Advance notice requirements.

* * * * *

(b) * * *

(9) Designation of a particular seat as an accommodation to a passenger's disability.

* * * * *

4. In § 382.37, a new paragraph (d) is proposed to be added to read as follows:

§ 382.37 Seat assignments.

* * * * *

(d) On request of a passenger with a disability designated in paragraph (d)(1) of this section for a particular seat assignment needed to accommodate the disability, the carrier shall provide the seat assignment to the passenger.

(1) Requests for seating accommodations required to be accommodated under this paragraph include a request by a wheelchair user for a seat in a row with a moveable armrest, a request by a person traveling with a personal care attendant whose services will be needed on the flight to sit next to the personal care attendant, a request by an individual traveling with a service animal for a bulkhead or non-bulkhead seat, or a request by an individual with a fused or immobile leg for a bulkhead seat or other seat that provides greater legroom than other seats.

(2) In responding to requests from passengers for seat assignments to accommodate a disability, carriers shall comply with FAA safety rules, including those pertaining to exit row seating (see 14 CFR 121.585 and 14 CFR 135.129).

(3) When a person makes a request for a seating accommodation covered by paragraph (d)(1) of this section, the carrier shall assign the person a seat providing the requested accommodation if it has not already been assigned, even if the seat is not available for assignment to other passengers at the time.

(4) When a person makes a request for a seating accommodation covered by paragraph (d)(1) of this section, and all seats providing the requested accommodation have already been assigned to other passengers, the carrier shall change the seat assignment of other passengers as needed to provide the accommodation.

(5) The carrier is not required to provide the accommodations in paragraphs (d) (4) and (5) in response to a request made less than 48 hours before the scheduled departure time of the flight.

(6) If an individual making the request does not make it 48 hours before the scheduled departure time of the flight, the carrier shall attempt to meet the request by asking other passengers to move to a different seat location to accommodate the individual. No other passenger shall be required to change assigned seats, however.

(7) If the carrier has already assigned a seat to an individual with a disability in response to a request covered by this paragraph, the carrier shall not reassign that individual to another seat in response to a subsequent request from another individual with a disability without the first individual's consent.

(8) In no case shall any passenger be removed from a flight or denied transportation in order to accommodate an individual with a disability under this paragraph.

5. In § 382.41, paragraphs (e)(2) and (g)(2) are proposed to be revised to read as follows:

§ 382.41 Stowage of personal equipment.

* * * * *

(e) * * *

(2) In an aircraft in which a closet or other approved stowage area is provided in the cabin for passengers' carry-on items, of a size that will accommodate a folding, collapsible, or break-down wheelchair, the carrier shall designate priority stowage space, as described in paragraph (e)(2)(ii) of this section for at least one such wheelchair in that area.

(ii) An individual with a disability who takes advantage of a carrier offer of the opportunity to preboard the aircraft may stow his or her wheelchair in this area, with priority over the carry-on items brought onto the aircraft by other passengers enplaning at the same airport. An individual with a disability who does not take advantage of a carrier offer of the opportunity to preboard may use the area to stow his or her wheelchair on a first-come, first-served basis along with all other passengers seeking to stow carry-on items in the area.

(g) * * *

(2) Whenever feasible, the carrier shall transport electric-powered wheelchairs secured in an upright position, so that batteries need not be separated from the wheelchair in order to comply with DOT hazardous materials rules. However, when an electric-powered wheelchair is designated to fold or collapse, the passenger may request that the batteries be removed and the wheelchair be folded. The carrier shall, in any case, take those actions (and only those actions) required by DOT hazardous materials regulations with respect to the transportation of batteries by air.

* * * * *

[FR Doc. 96–27192 Filed 10–31–96; 8:45 am]

BILLING CODE 4910–62–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 300

[Release No. SIPA–160; File No. SIPC–96–1]

Rules of the Securities Investor Protection Corporation

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule change.

SUMMARY: The Securities Investor Protection Corporation (''SIPC'') filed a proposed rule change with the Securities and Exchange Commission (''Commission''). The proposed rule change amends SIPC Rules 300 [1] and 301,[2] which relate to the closeout and completion of contracts for the purchase or sale of securities made by debtors in liquidation under the Securities Investor Protection Act of 1970 (''SIPA''). The Commission is publishing the proposed rule change for public comment. Within thirty-five days of publication of notice, the Commission must (absent an extension) by order approve the proposed rule change or institute disapproval proceedings. Because SIPC rules have the force and effect as if promulgated by the Commission, those rules are published in Title 17 of the Code of Federal Regulations.[3]

DATES: Comments are to be received on or before November 22, 1996.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filings will also be available for inspection and copying at the principal

[1] 17 CFR 300.300 (1996). Rule 300 sets out the definitions of certain terms used in SIPC's rules.

[2] 17 CFR 300.301 (1996). Rule 301 governs contracts to be closed out or completed in a liquidation.

[3] 17 CFR 300.100–300.503 (1996).