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MILLER, HAMILTON, SNIDER & ODOM, L.L.C.

ATTORNEYS AND COUNSELLORS AT LAW

254 STATE STREET

MOBILE, AL 36603

POST OFFICE BOX 46

(251) 432-1414

TELECOPIER (251) 433-4106

GEORGE A. LEMAISTRE  
(1911 - 1994)

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PALMER C. HAMILTON  
JOHN C. H. MILLER, JR.  
RONALD A. SNIDER  
GEORGE A. LEMAISTRE, JR.  
LESTER M. BRIDGEMAN  
CHRISTOPHER G. HUME, III  
RICHARD A. WRIGHT  
MATTHEW C. McDONALD  
JOSEPH R. SULLIVAN  
A. CARSON I. NICOLSON  
JAMES REBARCHAK  
GREGORY C. BUFFALOW  
WILLARD H. HENSEN  
MICHAEL M. SHIPPER  
THOMAS J. WOODFORD  
KENNETH A. WATSON  
ERIC J. DYAS  
GILES G. PERKINS

BEN M. HARRIS, III  
\*M. GARY PANNELL  
A. LEE MARTIN  
BEVERLY P. HEAD, III  
HUGH C. NICKSON, III  
DAVID F. WALKER  
SCOTT W. CORSCADDEN  
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W. KYLE MORRIS  
H. WADE FAULKNER, JR.  
ROBERT L. CAROTHERS, JR.  
BRIAN V. CASH  
MICHAEL A. WHITE  
EDWARD B. HOLZWANER  
VANN A. SPRAY

RETIRED  
LEWIS G. ODOM, JR.

\*LICENSED IN VIRGINIA ONLY

Mobile, Alabama  
Direct Dial: 251-439-7536  
E-mail: [lmb@mhsolaw.com](mailto:lmb@mhsolaw.com)

**Via Facsimile 202-493-2251**

Docket Section  
U.S. Department of Transportation  
Room PL-401  
400 Seventh Street, S.W.  
Washington, DC 20590-0001

COMMUNICATIONS SECTION  
DEPT. OF TRANSPORTATION

Re: Docket No. TSA-2002-11602; Civil Aviation Security Rules

Gentlemen:

I have attached for filing two (2) copies of the comments of Britannia Airways, Ltd. on the Civil Aviation Security Rules.

Sincerely yours,

Lester M. Bridgeman  
Attorney for Britannia Airways, Ltd.

LMB:vnw  
Enclosure

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UNITED STATES DEPARTMENT OF TRANSPORTATION  
TRANSPORTATION SECURITY ADMINISTRATION

03/25/02 13:49  
TRANSPORTATION SECURITY ADMINISTRATION

Civil Aviation Security Rules  
Final Rule

Docket No. TSA 2002-1 1602-5

COMMENTS OF BRITANNIA AIRWAYS, LTD.

Britannia Airways, Ltd ("Britannia") submits the following comments on this final rule as published in the Federal Resister of February 22,2002,

Britannia is a British charter air carrier, holding a foreign air carrier permit authorizing operation between the United Kingdom and the United States, since 1980. It does no screening of passengers in the United States. This has heretofore been done by airport contractors.'

Britannia limits its comments here primarily to its concerns about the ambiguity of certain provisions of the new rule.

Certain segments of § 1546.201 et seq would impose meaningless and impossible or impractical burdens upon foreign air carriers, which do not perform their own screening under any circumstances, and do not rely upon their own x-ray equipment or screening

<sup>1</sup>On May 4, 2000, Britannia submitted comments on the proposed rule for "Certification of Screening Companies" in Docket No. FAA-1999-6673 ("Comments of Britannia Airways, Ltd and Monarch Airlines, Ltd"), and it will not repeat here any of the facts and arguments submitted in that matter,

employees. This anomaly is particularly apparent in the case of large aircraft charter carriers such as Britannia which would land only at TSA screening airports. For example:

§ 1546.201 (b) appears to require foreign air carriers to assume ultimate liability for the inspection of persons entering sterile areas; a requirement that is inconsistent with TSA's responsibility. It is TSA's duty, by statute, to assure the inspection of persons entering sterile areas at TSA airports.

Similarly, § 1546.207(b) appears to impose a duty on air carriers to supervise TSA to assure its inspection of passengers. Britannia recognizes that it is in its self-interest and it is its ultimate responsibility, under other laws and regulations, to protect its passengers and its aircraft. However, where the statute requires TSA to assume the responsibility for passenger screening at all airports at which it carries out its statutory screening function, there is no rational basis to impose financial or other penalties upon carriers for TSA's failures.

Although § 1546.207(c) does provide that "this paragraph does not apply when TSA is conducting Screening..." that limiting terminology ("this paragraph") is not extended to subsections .209(b), (c), (d), or (f), all of which suggest that carriers have certain duties related to screening at TSA airports where they "use" screening, screening personnel and screening equipment none of which, however, is under their control.<sup>2</sup>

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<sup>2</sup>At page 8345 of the Federal Register in which the new rule was published, the discussion concerning "Screening," under the heading "49 CFR Part 1544..." concedes, as it must, that TSA is "taking over responsibility for most inspections of individuals and property in the United States,"

The simple and rational resolution of these ambiguities is (1) to apply the language of the second sentence of § .207(c) not merely to “this paragraph” but to all of paragraph ,209 or (2) to incorporate the language of subsection 1546.211(a), applying the rules of subsection .209 to “airports within the United States not governed by Part 1542...” or (3) to apply the rule of subsection .401(a).

Respectfully submitted,



Lester M. Bridgeman  
Miller, Hamilton, Snider & Odom, LLC  
254 State Street  
Mobile, Alabama 36603  
Tel: 251-432-1414  
Fax: 251-431-9411

Attorney for Britannia Airways, Ltd.

Match 25, 2002