- b. "Whose Presence Is Required to Perform." This phrase means either a crewmember or a non-crewmember who will participate in carrying out the governmental function. Examples:
- (1) Firefighters who are being carried to a fire scene to fight the fire, when the aircraft is also used for aerial assessment to ensure safe and efficacious deployment of the firefighters, are included.
- (2) Persons on board aircraft used in search and rescue operations who are needed to conduct the search when the aircraft is indispensable to the search, or to conduct the rescue operation when the aircraft is the only feasible means of reaching the victim with the necessary speed, are included. Medical evacuation operations carrying persons whose presence is required to perform the medical evacuation, but where the aircraft is used only because it is an equal or better means of transportation than other means are not included; these are considered civil aircraft operations.

(3) Persons on board aircraft conducting law enforcement operations for the purpose of operating searchlights or performing similar observational functions are included. Transporting prisoners is not included.

(4) Persons on board aircraft conducting aeronautical research who are required to make observations and gather data, provided the work can only be done in the aircraft, are included.

(5) Persons on board aircraft engaged in biological and geological resource management, who perform scientific and technical tasks that can only be done from the air, are included.

c. "Associated with the Performance of." This clause connotes a noncrewmember support person who, while not essential to performance of the governmental function, is expected to contribute to the effectiveness of those whose presence is required to perform the function.

(1) One of Congress' primary purposes in enacting the new statutory definition of "public aircraft" was to increase FAA regulatory oversight of government aircraft. See Congressional Record, S14418-S14424 (October 6, 1994). Giving the phrase "associated with the performance of" an overly broad interpretation would be contrary to that intent.

(i) Examples:

(A) A government executive who accompanies firefighters to a fire scene solely to assess what further action the government should take in regard to fighting the fire is "associated with the performance of" the governmental function of firefighting. Persons

gathering information for dissemination through new media are not considered within the exception.

(B) A government-owned aircraft is used to survey a natural disaster. Individuals whose presence is required to monitor equipment installed in the aircraft for the purpose of the survey are persons "associated with the performance of" the governmental

d. "Governmental Function such as * * " The term "such as" in the clause "a governmental function such as firefighting, search and rescue, law enforcement, aeronautical research, or biological or geological resource management" indicates that the listed functions are not exhaustive, but that certain other governmental functions would be included as well. In the context of the clause "governmental function such as firefighting, search and rescue, law enforcement, aeronautical research, or biological or geological resource management," the term "such as" implies other governmental functions that share a common characteristic with those listed. The unifying characteristic shared by the governmental functions listed in the statute is that they each involve the use of the aircraft as an integral or indispensable element of the operation. That is, the presence of those aboard the aircraft performing the governmental function is required on the aircraft, in the air—rather than merely at the end of the flight.

(1) Examples:

(i) An aerial survey in a governmentowned aircraft to determine the extent of a natural disaster is a governmental function within the scope of the statute. This operation would be a public aircraft operation.

(ii) Firefighters are transported from a base camp to the firefront, and before the aircraft lands, it is used for reconnoitering to determine the most effective deployment of the firefighters. This operation falls within the firefighting exception, and is a public aircraft operation.

(iii) Firefighters are flown from one area of the country to a firefighting base in another part of the country. This operation involves transportation that does not fall within the firefighting exception. As a result, compliance with appropriate FAA safety regulations for civil aircraft would be required.

(2) "Firefighting." This term includes the drop of fire retardants, water, and smoke jumpers, and transportation of firefighters from a base camp to the firefront, if the flight includes use of the aircraft as an integral part of the firefighting operation, as, e.g., with

reconnoitering to determine the most effective deployment of the firefighters.

(3) "Search and Rescue." "Search and rescue" is a term of art meaning aircraft operations that are flown to locate and rescue people who cannot be located and rescued in a timely manner from the ground. The term includes operations where the aircraft is indispensable to the search, or is the only feasible means of reaching the victim. Victims would be considered to be "associated with" the search and rescue operation.

(i) The FAA interprets this term narrowly. The term "search and rescue" does not include routine medical evacuation of persons from traffic accidents and the like. However, if no commercial operators are available, medical evacuation operations by a government operator will be considered public aircraft. The FAA does not believe that Congress intended for injured people to be carried in aircraft that are not subject to FAA regulation when other, equally effective means are readily available. Nor does the FAA believe that Congress intended to put state and local governments in competition with commercial operations, which generally provide ample civil aircraft capacity for medical evacuation operations.

(ii) Examples:

(A) A car crashes in a remote location, and the driver will die if she is not immediately transported to a hospital. No commercial operators are available to fly the injured driver to the hospital in an expeditious manner, but the sheriff's helicopter is. The sheriff's flight carrying the injured driver to the hospital is a public aircraft operation.

(B) Same situation, but this time commercial operators are available. The medical evacuation operation by the

sheriff is a civil aircraft operation. (4) "Law Enforcement." Law enforcement operations that employ aircraft with searchlights and law enforcement personnel ready for immediate on-the-spot deployment (e.g., spotters looking for fugitives on the ground) are public aircraft operations. Transportation of prisoners; however, does not fall within the category of "law enforcement" and is not a public aircraft operation.

(5) "Aeronautical Research." Aeronautical research (e.g., conducting flights to determine aircraft performance in various operating environments), even when it requires the presence on board the research aircraft of engineers and technicians who are not part of the crew, is a public aircraft operation.

(6) "Biological and Geological Resource Management." This term