

NEW YORK CITY FIRE DEPARTMENT

Notice of Opportunity to Comment on the Proposed Promulgation of 3 RCNY §6-02,
entitled "Office Building Emergency Action Plans"

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Fire Commissioner of the City of New York by Section 489 of the New York City Charter and Sections 27-4267.4 of the New York City Administrative Code, and in accordance with the requirements of Section 1043 of the New York City Charter, that the New York City Fire Department intends to promulgate the above-entitled rule. The entire rule is underlined to indicate that it is new.

A public hearing will be held on April 6, 2005, at 10:00 a.m. in the Auditorium at Fire Department Headquarters, 9 MetroTech Center, Brooklyn, New York. Persons seeking to testify are requested to notify the Counsel to the Department at the New York City Fire Department, Bureau of Legal Affairs, 9 MetroTech Center, Brooklyn, New York 11201-3857. Persons who request that a sign language interpreter or other form of reasonable accommodation for a disability be provided at the hearing are requested to notify the Counsel to the Department at the foregoing address by March 18, 2005.

Written comments regarding this rule may be sent to the Counsel to the Department on or before April 6, 2005 at the above address. All written comments and a summary of oral comments received at the hearing will be available for public inspection, within a reasonable time after receipt, between the hours of 9:00 a.m. and 5:00 p.m., at the office of the Counsel to the Department.

The Notice of Opportunity to Comment, Proposed Rule and Statement of Basis and Purpose will be available on the Fire Department Internet Website at:
www.nyc.gov/fdny

§6-02 Office Building Emergency Action Plans

(a) Applicability

(1) This section applies to all office buildings and spaces that meet the definition of occupancy group E set forth in the New York City Building Code (New York City Administrative Code §27-253) that are:

- (i) greater than six (6) stories in height; or
- (ii) greater than seventy-five feet or more in height; or
- (iii) occupied or arranged to be occupied for an occupant load of more than one hundred persons above or below the street level or more than a total of five hundred persons in the entire building; or
- (iv) otherwise required by law, rule or regulation, or as a condition of a governmental approval, to provide a fire safety director in such building in accordance with the requirements of New York City Administrative Code §27-4267(a); or
- (v) directed by order of the Fire Department to comply with the requirements of this section, pursuant to the determination of a law enforcement agency, as set forth in subsection (j)(1)(i)(A) of this section, or the Department's determination that compliance with this section is required in the interest of public safety given the location, use or occupancy of the building.

(b) Definitions. For purposes of this section, the following terms shall be defined as follows:

Assembly area. A designated area outside of a building to which building occupants are directed to report upon implementation of an partial evacuation or evacuation in accordance with an Emergency Action Plan.

Building. A building subject to the provisions of this section.

Building occupants. All persons in the building, including office employees, building personnel and visitors.

Critical Operations Staff. Building personnel or other building occupants designated to remain after the Emergency Action Plan is implemented to perform or shut down critical operations, or perform essential services, before they shelter in place, invacuate or evacuate.

Deputy EAP Director. One or more employees designated by the owner as qualified and trained to perform the duties of such position in accordance with the requirements of this section.

EAP. Emergency Action Plan.

EAP Director. The employee designated by the owner to perform duties of such position, and who possesses the requisite training and qualifications, as set forth in this section.

EAP drill. A training exercise by which building occupants are familiarized with and/or practice the procedures for sheltering in place, invacuation, partial evacuation or evacuation, in accordance with an Emergency Action Plan.

EAP Staff. The individuals identified in an Emergency Action Plan as responsible for the implementation of such plan, including but not limited to the EAP Director, Deputy EAP Director, EAP Building Evacuation Supervisor, EAP Wardens, Deputy EAP Wardens and members of the EAP Brigade.

Emergency. An incident involving an explosion, a biological, chemical, radiological, nuclear or other hazardous material incident or release, natural disaster, or the threat thereof, that requires implementation of a building's Emergency Action Plan to help ensure the safety of the building occupants.

Emergency Action Plan. A written plan which sets forth the circumstances and procedures for the sheltering in place, invacuation, partial evacuation or evacuation of building occupants in response to an emergency.

Evacuation. The emptying of a building of all building occupants in response to an emergency.

Indeterminate Threat. An emergency that is not in or proximate to the building, and that does not present an immediate identifiable threat to the building, but which, in the judgment of the EAP Director and/or in accordance with predetermined criteria set forth in the Emergency Action Plan, constitutes a potential threat to the safety of the building and building occupants.

Invacuation. The controlled movement of building occupants from an endangered area of a building to an invacuation area within the same building in response to an emergency.

Invacuation area. A designated area within a building to which building occupants may be invacuated in accordance with an Emergency Action Plan.

Neighboring buildings. Buildings subject to the provisions of this section that are located on either side of a city street, up to a distance of 200 feet apart.

Owner. The fee owner or lessee of the building, or other person or entity having charge thereof.

Partial evacuation. The emptying of a building of some but not all building occupants in response to an emergency.

Regular business hours. Times of the day and days of the week during which a building will normally be occupied and business conducted, and in all circumstances when the building is occupied by more than one hundred persons above or below the street level or more than a total of five hundred persons in the entire building.

Shelter in place. The precaution of directing building occupants to remain inside the building, at their work locations, in response to an emergency.

(c) Emergency Action Plans

(1) Preparation of Emergency Action Plan

- (i) The owner of a building shall cause an Emergency Action Plan to be prepared for such building, and periodically reviewed and amended, in accordance with the provisions of subdivisions (d) through (h) and (k) this section. The Emergency Action Plan shall be in the form set forth in Appendix A to this section, and shall include a Building Information Card in the form set forth in Appendix B to this section.
- (ii) The owner of a building shall cause an EAP Director, and Deputy EAP Directors, EAP Building Evacuation Supervisors, EAP Wardens, Deputy EAP Wardens, EAP Brigade members and Critical Operations Staff, to be designated in the Emergency Action Plan in accordance with the provisions of subdivisions (d), (h) and (n) of this section, with the authority, duties, responsibilities and qualifications set forth therein.
- (iii) The owner of a building shall consult with the owners of Neighboring Buildings in connection with the preparation of the building's Emergency Action Plan, in accordance with the provisions of subdivision (i) of this section.

(2) Emergency Action Plan Filing, Acceptance, Training and Recordkeeping

- (i) The owner of a building shall cause an Emergency Action Plan to be filed with, and acceptance obtained from, the Department, in accordance with the provisions of subdivision (j) of this section.

- (ii) The owner of a building shall cause the Emergency Action Plan and educational materials distributed, and educational and training sessions conducted, in accordance with the provisions of subdivision (l) of this section.
 - (iii) The owner of a building shall cause recordkeeping to be maintained in accordance with the provisions of subdivision (m) of this section.
- (3) Compliance with Emergency Action Plan. All building occupants and employers of building occupants shall comply with the directions of the EAP Director and EAP Staff upon implementation of the Emergency Action Plan, and otherwise fulfill their obligations in accordance with the provisions of subdivision (o) of this section.
- (d) General Requirements For Emergency Action Plans. Each Emergency Action Plan adopted pursuant to this section shall include the following provisions:
 - (1) Types of Emergency Responses.
 - (i) The Emergency Action Plan shall set forth the circumstances and procedures for the sheltering in place, invacuation, partial evacuation and/or evacuation of building occupants in response to an emergency.
 - (ii) The Emergency Action Plan shall address how such measures will be implemented during regular business, and at times other than regular business hours, when EAP Staff may be absent from the building.
 - (2) Authority and Responsibility of EAP Director.
 - (i) The owner shall authorize the EAP Director to immediately implement the Emergency Action Plan whenever the EAP Director becomes aware of the need to do so, and to direct building occupants to shelter in place, invacuate, partially evacuate or evacuate.
 - (ii) The EAP Director shall determine the safest and most efficient course of action consistent with the Emergency Action Plan, depending on the nature of the emergency.
 - (iii) The authority of the EAP Director shall not be subordinated to the authority of any other person, nor shall the EAP Director be required to obtain the approval of any other person, or comply with

any procedure that would prevent the EAP Director from taking timely action to implement the Emergency Action Plan, except in the following circumstances:

- (A) In the circumstance of an Indeterminate Threat, nothing contained in this section shall preclude the EAP Director from taking direction from the owner, or any responsible representative of the owner, as designated in the Emergency Action Plan for such purpose.
 - (B) In all circumstances, the EAP Director shall comply with the orders of lawful authorities, in accordance with provisions of paragraph 3 of this subdivision.
- (iv) The authority and responsibility of the EAP Director to implement the Emergency Action Plan, as set forth in this section and in the plan itself, shall be assumed by a Deputy EAP Director in the absence of the EAP Director, or by a EAP Building Evacuation Supervisor in the absence of a Deputy EAP Director.
- (3) Compliance with Orders of Lawful Authorities.
- (i) The EAP Director and all other EAP Staff and building occupants shall comply with the orders of the Fire Department or other incident commander or emergency response personnel should such incident commander or emergency response personnel be present at the building prior to the time the EAP Director determines that the emergency requires implementation of the Emergency Action Plan. The EAP Director may exercise his or her authority to implement the Emergency Action Plan after the arrival of such incident commander or emergency response personnel at the building provided that such action does not contravene the orders of the incident commander or emergency response personnel.
 - (ii) Unless specifically directed by Fire Department or other emergency response agency to await the arrival of emergency response personnel, such as in the circumstance of a suspicious package at the building, the EAP Director shall not unduly delay implementation of the Emergency Action Plan in anticipation of the arrival of such personnel.
 - (iii) In the absence of any direction from an emergency response agency, incident commander or emergency response personnel, the EAP Director shall comply with the official announcements or directions of the Mayor of the City of New York or other lawful authority.

- (4) Official Notifications of Emergency and Implementation of Emergency Action Plan.
- (i) If not already reported, the EAP Director shall immediately report an emergency to 911.
 - (ii) The EAP Director shall cause an immediate notification to be made to 911 upon a determination to implement the Emergency Action Plan.
- (5) Designation of Fire Command Station. Except as otherwise provided in paragraph 6 of this subdivision, the Emergency Action Plan shall designate the fire command station as the location from which the EAP Director shall coordinate implementation of the Emergency Action Plan or conduct an EAP drill.
- (6) Communications with Building Occupants
- (i) The EAP Director shall be responsible for communicating information and directions to building occupants whenever the Emergency Action Plan is implemented, or an EAP drill conducted.
 - (ii) The Emergency Action Plan shall designate the means by which the EAP Director will communicate information and directions to building occupants. Buildings equipped with a fire alarm system with voice communication capability may utilize such fire alarm system for communications relating to the implementation of the Emergency Action Plan or the conduct of EAP drills. The Emergency Action Plan shall set forth alternative means of communication with building occupants in the event the building fire command station is inaccessible or the building fire alarm system is inoperable.
 - (iii) Implementation of the EAP or the conduct of an EAP drill shall be communicated to building occupants by the sounding of an alarm or alert tone followed by an announcement. The alert tone used to signal implementation of the Emergency Action Plan or conduct of an EAP drill shall be clearly distinguishable from the alarm or alert tone used for announcements relating to a fire condition or fire drill. The announcement shall include the following information:
 - (A) what has occurred;

- (B) where it has occurred;
 - (C) what provisions of the Emergency Action Plan will be implemented; and
 - (D) why it is necessary to implement this provision of the Emergency Action Plan.
 - (iv) The announcement shall be repeated or updated on a frequent basis, to inform and reassure building occupants.
- (7) Use of Elevators. Elevators may be used to implement the Emergency Action Plan, subject to the following considerations:
 - (i) Floors or building occupants to be evacuated or invacuated by elevators shall be designated in the Emergency Action Plan.
 - (ii) Elevators that are to be used for evacuation or invacuation must be equipped with two-way voice communication.
 - (iii) Elevator use shall be directed only after the EAP Director has assessed the situation and determined that such use would be safe.
 - (iv) Only designated elevators shall be used and only those elevators so designated shall remain in service. All other elevators shall be recalled to the lobby or their lowest floor of travel.
 - (v) Movement of elevators shall be controlled either by operation in manual mode by an EAP Staff member or at the elevator control panel in the lobby under the personal supervision of the EAP Director.
 - (vi) Building occupants shall board elevators only on designated floors and disembark elevators at floors as directed by the EAP Director.
- (8) Assistance to Infirm or Disabled Building Occupants.
 - (i) The Emergency Action Plan shall establish procedures for identifying in advance building occupants who require assistance to participate in the Emergency Action Plan because of an infirmity or disability, and procedures for providing such assistance.
 - (ii) The owner shall make the procedure for requesting the assistance required by this paragraph known to all building occupants and employers of building occupants.

- (9) Building Information Card. A Building Information Card, in the format set forth as Appendix B, shall be available at the fire command station. The Building Information Card shall be 11" x 17" in size, double sided and laminated. Side 1 shall contain a color-coded plot plan and elevation of the building detailing bordering streets, entrances, floors, and stair, elevator, shaft, standpipe, and mechanical equipment room locations, as set forth in Appendix B. Side 2 shall set forth detailed building information as set forth in Appendix B, including information regarding elevators, stairways, water supply and utilities, extinguishing systems, ventilation systems, and contact information.
- (10) EAP Floor Postings. Notices identifying the EAP Wardens and Deputy EAP Wardens shall be conspicuously posted on each floor, and kept at the fire command station, where they shall be made available for inspection by Fire Department representatives. The format of such notices shall be as set forth in Appendix C to this section.

(e) Specific Requirements For Sheltering In Place

- (1) The sheltering in place provisions of the Emergency Action Plan shall be based on an analysis of the circumstances in which such action would best ensure the safety of building occupants, and the manner in which it could best be implemented in the building.
- (2) The Emergency Action Plan shall set forth the actions that would be taken in the event of sheltering in place, including those in regard to the following building components or systems:
 - (i) access to and egress from the building, including entrances, exits and stairwells;
 - (ii) elevator operation;
 - (iii) ventilation system operation, including air handling equipment, heating, ventilation and air conditioning equipment and smoke purge systems;
 - (iv) openable windows;
 - (v) interior doors, including fire doors;
 - (vi) electrical, natural gas, steam and other utility operations; and
 - (vii) fuel oil storage systems and associated pumps and piping.

(f) Specific Requirements For Invacuations

- (1) The invacuation provisions of the Emergency Action Plan shall be based on an analysis of the circumstances in which such action would best ensure the safety of building occupants, and the manner in which it could best be implemented in the building.
- (2) The Emergency Action Plan shall:
 - (i) set forth the number of building occupants on each floor;
 - (ii) designate the invacuation areas on each floor to which building occupants could be invacuated, and, for each such invacuation area, identify:
 - (A) the type of area (stairwell, interior office or conference room, file room, mechanical room);
 - (B) its exact location;
 - (C) the type of protection it offers;
 - (D) its maximum capacity, allowing ten square feet per person; and
 - (E) whether it affords access to water, lavatories and/or other facilities, equipment or supplies, including any pre-positioned equipment or supplies.
 - (iii) designate the route by which building occupants would be directed to invacuate areas if such areas are on a different floor, and identify the stairwells and (if applicable) elevators to be utilized, and their capacity; and
 - (iv) set forth the actions that would be taken with respect to building components or systems in the event of an invacuation, including the building locations and systems set forth in paragraph (e)(2) of this section; and
 - (v) the procedures by which building occupants will be accounted for after invacuation is completed.

(g) Specific Requirements For Partial Evacuations and Evacuations

- (1) The evacuation provisions of the Emergency Action Plan shall be based on an analysis of the circumstances in which such action would best ensure the safety of building occupants.
- (2) The Emergency Action Plan shall identify the safest and most efficient means of evacuating persons from the building or designated floors or areas thereof. Priority should be given to building occupants on floors or other areas of the building most at risk of harm. Consideration should be given to avoiding congestion in the designation of exit routes. For buildings with large numbers of building occupants, consideration shall be given to the use of evacuation modeling software to accomplish compliance with the requirements of this subdivision.
- (3) The Emergency Action Plan shall:
 - (i) set forth the number of building occupants on each floor;
 - (ii) identify the location of exits, stairwells and (if to be utilized) elevators, and their capacity; and
 - (iii) set forth the actions that would be taken with respect to building components or systems in the event of a partial evacuation or evacuation, including the building locations and systems the set forth in paragraph (e)(2) of this section.
- (4) The Emergency Action Plan shall designate:
 - (i) primary designated exit routes for the evacuation of each floor or other area of the building, and alternative exit routes in the event that the primary designated routes cannot be used;
 - (ii) whether building occupants will be directed to leave the area by any safe means (other than in circumstances that preclude such action, such as contamination), or directed to one or more assembly areas that are:
 - (A) at a safe distance from the building (preferably a distance from the building not less than the height of the building);
 - (B) sufficient in number and size (allowing ten square feet per person) to accommodate the building occupants that will be assigned to report to such assembly area; and

- (C) allow for the continuous movement of building occupants away from the building to their assembly areas;
 - (iii) one or more alternative assembly areas in the event that the primary assembly areas are not safe or accessible; and
 - (iv) the procedures by which building occupants will be accounted for after a partial evacuation or evacuation is completed.
- (h) Emergency Action Plan Staffing Requirements and Duties

(1) EAP Director

- (i) The Emergency Action Plan shall designate at least one EAP Director for a building.
 - (A) Qualifications. The EAP Director shall be the person designated as the fire safety director in the fire safety plan filed for the building pursuant to New York City Administrative Code §27-4267(a). The EAP Director shall hold a Department EAP Director Certificate of Fitness, application for which shall be made in accordance with the provisions of subdivision (n) of this section.
- (ii) Duties and responsibilities. The EAP Director shall:
 - (A) be present and on duty in the building during regular business hours;
 - (B) be fully familiar with the provisions of the Emergency Action Plan;
 - (C) supervise and train the Deputy EAP Directors, EAP Building Evacuation Supervisors, EAP Wardens, Deputy EAP Wardens and other EAP Staff, including conducting providing initial and refresher training to maintain the state of readiness of such staff;
 - (D) select qualified building personnel for the EAP Brigade, organize, train and supervise the EAP Brigade, and be responsible for the state of readiness of the EAP Brigade, in accordance with the provisions of paragraph (h)(6) of this section;
 - (E) in the event of an emergency requiring sheltering in place, invacuation, partial evacuation or evacuation, report to the

fire command station or designated alternative location, and, if appropriate, implement the Emergency Action Plan in accordance with its terms and the provisions of this section, and notify arriving emergency response personnel and incident commander of the emergency and the building response thereto;

- (F) conduct the EAP drills required by this section;
- (G) approve the Emergency Action Plan educational materials and educational and training sessions provided to building occupants pursuant to subdivision (l) of this section;
- (H) ensure that the required notices are posted on the floors and that the required recordkeeping is maintained; and
- (I) review and approve the procedures established by employers of building occupants to account for building occupants after an evacuation, partial evacuation, invacuation or sheltering in place.

(2) Deputy EAP Director

- (i) The Emergency Action Plan shall designate a sufficient number of Deputy EAP Directors to ensure that a Deputy EAP Director is present to perform the duties of the EAP Director at all times that an EAP Director is required to be on duty, but is absent.
- (ii) Qualifications. The Deputy EAP Director shall hold a Department EAP Director Certificate of Fitness, application for which shall be made in accordance with the provisions of subdivision (n) of this section. The Deputy EAP Director shall receive training in the Emergency Action Plan from the EAP Director. Such training shall consist of not less than an initial three-hour training session and a semi-annual one-hour refresher session thereafter.
- (iii) Duties and responsibilities. The Deputy EAP Director shall:
 - (A) in the absence of the EAP Director, perform the duties of the EAP Director, as circumstances warrant.
 - (B) in the presence of the EAP Director, assist the EAP Director in carrying out the requirements of the Emergency Action Plan and this section, as circumstances warrant.

(3) EAP Building Evacuation Supervisor

- (i) At least one person shall be designated in the Emergency Action Plan as an EAP Building Evacuation Supervisor, and qualified to serve in such position, shall be present and on duty in the building at all times when an EAP Director is not required to be on duty, but there are occupants in the building. The EAP Building Evacuation Supervisor at such times shall exercise the authority and responsibility of the EAP Director to implement the Emergency Action Plan.
- (ii) Qualifications. The EAP Building Evacuation Supervisor shall receive training in the Emergency Action Plan from the EAP Director. Such training shall consist of not less than an initial three-hour training session and a semi-annual one-hour refresher session thereafter.
- (iii) Duties and responsibilities. The EAP Building Evacuation Supervisor shall:
 - (A) in the absence of the EAP Director and Deputy EAP Director, perform the duties of the EAP Director, as circumstances warrant.
 - (B) in the presence of the EAP Director, assist the EAP Director in carrying out the requirements of the Emergency Action Plan and this section, as circumstances warrant.

(4) EAP Wardens

- (i) The Emergency Action Plan shall designate at least one EAP Warden for each floor of the building. EAP Wardens shall be on duty on each floor during regular business hours for such floor.
- (ii) Qualifications. The EAP Warden shall receive training in the Emergency Action Plan from the EAP Director. Such training shall consist of not less than an initial two-hour training session and an annual one-hour refresher session thereafter.
- (iii) Duties and responsibilities. The EAP Warden shall:
 - (A) be familiar with the Emergency Action Plan, including general sheltering in place, invacuation, partial evacuation and evacuation procedures, the exit and invacuation routes to be utilized for the floor, the location of invacuation areas

and assembly areas; and the means of communicating with the EAP Director;

- (B) in the event of an emergency on the floor or immediately affecting building occupants on the floor, notify the EAP Director and building occupants on the floor of the emergency, and initiate appropriate action.
- (C) in the event of an emergency not on the floor or not immediately affecting building occupants on the floor, establish communication with the EAP Director and, if possible, await direction from the EAP Director;
- (D) keep the EAP Director informed of his or her location and the progress of the implementation of Emergency Action Plan measures;
- (E) confirm the invacuation or evacuation of the floor or portion thereof by directing Deputy EAP Wardens and/or other EAP Staff designated as searchers to search all areas of the floor to be invacuated or evacuated; to do so by visual inspection, not merely by the lack of a voice response; and to notify any remaining building occupants that they must immediately comply with the applicable Emergency Action Plan procedures; and
- (F) determine whether the stairwells are safe to enter before directing building occupants to use them, and, if unsafe, notify the EAP Director. Do not direct building occupants to use elevators unless and until the EAP Director authorizes their use; and
- (G) perform such other duties as set forth in the Emergency Action Plan, or as directed to do so by the EAP Director.

(iv) EAP Wardens shall be supplied with an armband or other form of identification to allow him or her to be easily identifiable to building occupants and others.

(5) Deputy EAP Wardens

- (i) At least one Deputy EAP Wardens shall be designated in the Emergency Action Plan for each employer of building occupants on a floor. If the floor area occupied by an employer of building occupants on a single floor exceeds 7,500 square feet, a Deputy EAP Warden shall be designated for each 7,500 square feet or

portion thereof. At least the minimum required number of Deputy EAP Wardens, with the training required for the position, shall be on duty on each floor during the regular working hours of such employer.

- (ii) Qualifications. The Deputy EAP Warden shall receive training in the Emergency Action Plan from the EAP Director. Such training shall consist of not less than an initial two-hour training session and an annual one-hour refresher session thereafter.
- (iii) Duties and responsibilities. The Deputy EAP Wardens shall:
 - (A) in the absence of the EAP Warden, perform the duties of the EAP Warden, as circumstances warrant.
 - (B) in the presence of the EAP Warden, assist the EAP Warden in carrying out the requirements of the Emergency Action Plan and this section, by searching all areas of the floor to be invacuated or evacuated, and notifying any remaining building occupants that they must immediately comply with the applicable Emergency Action Plan procedures, and by performing such other duties as assigned by the Emergency Action Plan or directed by the EAP Warden.

(6) EAP Brigade

- (i) The Emergency Action Plan shall designate the members of an EAP Brigade. The EAP Brigade shall consist of the building manager, chief engineer and director of security (or, in their absence, their qualified designees), and other building personnel, office employees or other building occupants designated to assist in the implementation of the Emergency Action Plan, including persons assigned to assist building occupants that require assistance to participate in the plan. The EAP Director and Deputy EAP Directors shall not be designated as EAP Brigade members.
- (ii) Qualifications. All EAP Brigade members shall receive training in the Emergency Action Plan from the EAP Director. Such training shall consist of not less than an initial two-hour training session and an annual one-hour refresher session thereafter.
- (iii) Duties and responsibilities. Members of the EAP Brigade shall:
 - (A) perform their designated assignments, as set forth in the Emergency Action Plan or as directed by the EAP Director; and

- (B) in the event of an emergency, immediately report to the designated locations, as set forth in the Emergency Action Plan or directed by the EAP Director, to be ready to undertake their designated assignments.

(7) Critical Operations Staff

- (i) The Emergency Action Plan shall designate Critical Operations Staff, who are to be exempted from participation in EAP Drills and/or the implementation of the Emergency Action Plan, as set forth in the Emergency Action Plan.
- (ii) Such staff shall be designated based on the critical nature of their duties, either to the operation of the building service equipment or other essential services. The Emergency Action Plan shall identify each such individual and the essential service that s/he is required to perform even under emergency conditions.
- (iii) Employers of building occupants may request that the EAP Director designate certain office employees as Critical Operations Staff. Such requests shall be granted only if the employer can demonstrate that the employee is performing an essential service in which there is a public safety function or other compelling public interest in maintaining even in the event of an emergency. All requests and designations shall be in documented in writing and made available for inspection by Department representatives, upon request.

- (8) Identification. Upon implementation of the Emergency Action Plan, the EAP Director and all EAP Staff shall identify themselves by donning a vest or armband indicating their role.

(i) Consultation With Neighboring Buildings

- (1) Prior to filing an Emergency Action Plan for a building, the owner shall consult with the owners of all Neighboring Buildings with respect to the terms of the proposed Emergency Action Plan as it affects such Neighboring Buildings. Such consultations shall include but not limited to designation of evacuation routes and assembly areas, and coordination and notification of EAP drills involving evacuation of building occupants.
- (2) Such consultations, and any agreements reached as a result, shall be documented in written form, and shall be made available for inspection by Department representatives, upon request.

(j) Submission and Acceptance of Emergency Action Plan

(1) Time for Submission.

(i) The owner of a building for which a Certificate of Occupancy or Temporary Certificate of Occupancy has been issued by the New York City Department of Buildings prior to [effective date of rule], or which is otherwise occupied before such date, shall file an Emergency Action Plan for such building in accordance with the following schedule:

(A) January 1, 2006, for any building that, as of the effective date of the rule, has been identified to the owner by a Federal, State or City law enforcement agency as a sensitive location or terrorist target.

(B) January 1, 2006, for any building that has been landmarked by the New York City Landmarks Commission, that is greater than thirty stories in height, or that is primarily occupied or is conspicuously identified as the offices of any domestic or foreign government or a large financial institution.

(C) April 1, 2006, for any building not in any of the preceding categories that is greater than twenty stories in height.

(D) July 1, 2006, for all buildings not in any of the preceding categories.

(ii) The owner of a building for which a Certificate of Occupancy or Temporary Certificate of Occupancy has not been issued by the New York City Department of Buildings on or after [effective date of rule], or which is otherwise occupied on or after such date, shall file an Emergency Action Plan for such building in accordance with the schedule set forth in this paragraph, or at the same time as the fire safety plan required pursuant to New York City Administrative Code §27-4267(a) is filed with the Department, whichever is the later date.

(2) Fire Department Review and Acceptance

(i) The Emergency Action Plan for a building shall be filed by the owner, or with the owner's written approval, with the Department's Bureau of Fire Prevention at Fire Department Headquarters, together with the applicable fee.

- (ii) The Department will issue a letter accepting an Emergency Action Plan that the Department determines is complete and, in the Department's judgment, satisfactorily sets forth the circumstances and sufficiently details the procedures by which building occupants will be directed to shelter in place, invacuate, partially evacuate or evacuate the building.
 - (iii) The Department will issue a letter of deficiency for an Emergency Action Plan that the Department determines is incomplete or deficient in any material respect. Such plan shall be amended and resubmitted to the Fire Department within thirty days after the date of the letter of deficiency, unless the letter of deficiency authorizes a greater period of time. An amended Emergency Action Plan filed with the Department after the allowed time shall be treated as a new (original) filing.
- (3) Plan Review Fee. There shall be the following non-refundable fees for Department review of an Emergency Action Plan:
- (i) Original application \$525
 - (ii) Amended application \$210/hr (up to a maximum of \$525)
- (4) Time For Implementation. All elements necessary for the implementation of the Emergency Action Plan, including all EAP Staff, shall be in place no later than 30 days from the date of Department acceptance of the Emergency Action Plan, except, if no training course for EAP Directors has been approved by the Department, the duties of the EAP Director and Deputy EAP Director may be performed by the building's fire safety director, or deputy fire safety director, respectively, until 90 days after one or more such courses have been approved and commenced instruction.

(k) Review and Amendment of Emergency Action Plans

- (1) The owner shall cause the Emergency Action Plan to be reviewed at least annually. An entry shall be made in the EAP Log that such review has been conducted and whether amendment of the Emergency Action Plan is required.
- (2) The Emergency Action Plan shall be amended to reflect significant changes in building operation or staff responsibilities, or in the design and arrangement or use and occupancy of the building, that affect the Emergency Action Plan. Such amendments shall be submitted in a timely manner, but in no event later than the occupancy of a space that has been reconfigured for an existing or new employer of building occupants.

- (3) Changes in the EAP Director or other EAP Staff designated in the Emergency Action Plan shall be reported to the Department by filing a Change in EAP Staff amendment on not less than a semi-annual basis, using the form designated by the Department for such purpose.
- (4) Amended Emergency Action Plans shall be submitted to the Department for acceptance in accordance with the procedures set forth in paragraph (j)(2) of this section.

(l) Emergency Action Plan Education and Drills

- (1) Distribution of Emergency Action Plan. The owner shall provide a copy of the Emergency Action Plan for the building, and any amended Emergency Action Plan, to each employer of a building occupant within the time set forth for implementation of the Emergency Action Plan set forth in paragraph (j)(4) of this section. Thereafter, the owner shall provide a copy of the Emergency Action Plan to each new employer prior to its employees occupying the building.
- (2) Distribution of Educational Materials to Building Occupants. The owner shall provide to each employer of building occupants, for distribution to all building occupants, educational materials approved by the EAP Director explaining the Emergency Action Plan.
- (3) Education and Training of Building Occupants.
 - (i) The owner shall conduct EAP drills in accordance with the requirements of this section. In conjunction with, or in addition to, EAP drills, the owner shall conduct such other educational and training sessions as may be required and/or approved by the EAP Director as necessary to familiarize building occupants with the requirements and procedures of the Emergency Action Plan.
 - (ii) Such sessions shall address implementation of the Emergency Action Plan both during regular business hours, and at other times, when EAP Wardens and other EAP Staff may be absent from the building.
 - (iii) Such sessions may be conducted by any qualified person.
- (4) EAP Drills.
 - (i) EAP drills shall be conducted on a regular basis, during regular business hours, to familiarize all building occupants with the procedures for evacuation, partial evacuation, invacuation and

sheltering in place, and the reasons for implementing each type of action.

- (ii) Each building occupant shall participate in an EAP drill at least once a year, either by floor or as part of a full building drill, as follows:
 - (A) Floor drills. EAP drills may be conducted by individual floor, or groups of floors.
 - (B) Full building drills. All building occupants shall participate simultaneously in an EAP drill at least once every two years. Such drill shall be based on a specific emergency scenario, which shall be announced at the time of the drill, and shall include a sheltering in place, invacuation and/or partial evacuation.
- (iii) Stairwell familiarization. At least once a year, all building occupants shall participate in an EAP drill that requires the building occupants (other than building occupants who in an emergency would be evacuated by elevator) to enter a building stairwell and be escorted down at least four (4) floors of stairs, during which time stairwell safety features and safe evacuation procedures shall be reviewed.
- (iv) Unannounced drills. Advance notice of the date and time of EAP drills may be given to building occupants, except for unannounced drills. An unannounced drill shall be conducted at least once every four EAP drills. Advance notice of unannounced drills shall be limited only to the extent of indicating that such a drill shall be conducted in a specific month and year.
- (v) Required notification. The EAP Director shall notify the Department's Bureau of Fire Prevention not less than 72 hours in advance of any Full Building Drill.
- (vi) EAP drills shall be conducted separately from fire drills required for the building pursuant to New York City Administrative Code §27-4267(a)(4), and shall highlight the differences between the building's fire safety plan and Emergency Action Plan, and the appropriate actions to be taken by building occupants upon implementation of each plan.

- (5) Schedule for Initial EAP Drills.
- (a) A floor drill shall be conducted in each building within six months of the date of Department acceptance of the building's Emergency Action Plan.
- (b) A full building drill shall be conducted in each building within one year of the date of Department acceptance of the building's Emergency Action Plan.
- (6) Full Building Evacuation Drills.
- (i) Except as otherwise provided in this paragraph, full building evacuation drills, in which all building occupants evacuate the building, are not required. Any owner wishing to undertake a full building evacuation drill shall:
- (A) notify the Department's Bureau of Fire Prevention not less than 72 hours in advance of any Full Building Drill;
- (B) notify the owners of Neighboring Buildings not less than 72 hours in advance of any Full Building Drill. The owner of a Neighboring Building, upon receipt of such a notification, shall notify the occupants of such Neighboring Building of the EAP drill, to prevent the evacuation from causing alarm; and
- (C) provide appropriate advance notification to the New York City Police Department and Department of Transportation of any Full Building Evacuation Drill, and make any necessary arrangements with such agencies for such drill.
- (ii) The Department may direct a building to conduct a full building evacuation drill should it determine that there is a need to evaluate the adequacy of the building's Emergency Action Plan or its compliance with the requirements of the plan or of this section.

(m) EAP Logbook

- (1) An EAP Logbook shall be maintained at the building's fire command station for purposes of recording all EAP-related events, staffing and educational and training matters.
- (2) The EAP Logbook shall be a bound journal with consecutively numbered pages, unless the Department has authorized or approved an alternative form of electronic recordkeeping.

- (3) A record shall be maintained in the EAP Logbook of all training provided to EAP Staff and building occupants, including EAP drills.
- (i) Entries for EAP-related events shall include:
 - (A) Any implementation of the Emergency Action Plan; and
 - (B) Any Emergency Action Plan-related notifications to the Department or other agencies.
 - (ii) Entries for training sessions conducted shall include:
 - (A) date of training session;
 - (B) person(s) conducting the training session;
 - (C) persons attending the training session; and
 - (D) content of training session.
 - (iii) Entries for EAP drills shall include:
 - (A) date and time of drill;
 - (B) person(s) conducting the drill;
 - (C) date and time that required notifications (to Department and other agencies) were made, and persons receiving such notifications;
 - (D) EAP Staff members participating in the drill;
 - (E) type of drill conducted;
 - (F) number and identification of building occupants participating in drill;
 - (G) emergency scenario simulated;
 - (H) problems encountered; and
 - (I) for a partial evacuation or evacuation, weather conditions and time required to accomplish complete evacuation.

(iii) The EAP Logbook shall be kept at the premises for a period of three years, and made available for inspection by Department representatives upon request.

(n) EAP Director Certificate of Fitness

(1) Use. An EAP Director Certificate of Fitness will be issued by the Department to a qualified applicant for a designated building, to certify that the holder has completed necessary and appropriate training relevant to the duties and responsibilities of the EAP Director pursuant to this section, and has demonstrated knowledge of the designated building, its systems and occupants, necessary to the performance of the duties and responsibilities of the EAP Director at such building.

(2) Original certificate qualifications. Applicants for an EAP Director Certificate of Fitness shall:

(i) hold a Fire Safety Director Certificate of Fitness issued by the Department pursuant to 3 RCNY §6-01;

(ii) have successfully completed at least a seven-hour course approved by the Department and offered by an educational institution or other organization accredited by the Department in the areas of knowledge relevant to the duties and responsibilities of an EAP Director, including threat analysis and response and other homeland security issues; building evacuation, invacuation and shelter in place planning; elevator operation and building ventilation; and incident command structure and emergency response operations, as set forth in 3 RCNY §9-08;

(iii) submit a complete application and non-refundable application and written examination fee of \$25, and, if scheduled for an on-site practical examination, a practical examination a fee of \$305, and otherwise comply with the requirements of 3 RCNY §9-01(b) and (c).

(3) Examinations. Applicants for an EAP Director Certificate of Fitness shall take and pass the required written and practical examinations. The practical examination shall be conducted at the building for which the certificate is being issued.

(o) Obligations of Building Occupants and Employers of Building Occupants

(1) Building Occupants. All building occupants shall:

- (i) comply with the directions of the EAP Director and EAP Staff upon an announcement that the Emergency Action Plan has been implemented, including any shelter in place, invacuation, partial evacuation or evacuation directed by the EAP Director;
- (ii) familiarize themselves with the requirements of the Emergency Action Plan, and cooperate with and participate in EAP training sessions, including EAP drills;
- (iii) identify themselves and request such assistance in accordance with the procedures of the Emergency Action Plan if they would require assistance in the event of an invacuation, partial evacuation or evacuation; and
- (iv) request an exemption from the EAP Director if participation in an EAP drill requiring invacuation, partial evacuation or evacuation, would cause injury or severe hardship.

(2) Employers of Building Occupants. All employers of building occupants shall:

- (i) promptly distribute to building occupants who are their employees the educational materials regarding the Emergency Action Plan provided to the employer by the owner;
- (ii) comply with the provisions of the Emergency Action Plan and paragraph (1) of this subdivision, and instruct their employees who are building occupants to do so;
- (iii) assign or allow responsible employees to serve as EAP Wardens, Deputy EAP Wardens and members of the EAP Brigade, and require such employees to conscientiously perform their duties under the Emergency Action Plan;
- (iv) establish and maintain a system of assigning responsibility for accounting for employees present in the building so that an accounting can be made in the event of an invacuation, partial evacuation or evacuation; and
- (v) identify any office employees performing essential services and request that they be designated as Critical Operations Staff for purposes of the Emergency Action Plan.

(p) Modification

Whenever circumstances, conditions, limitations, or surroundings are unusual, or such as to render it impracticable to enforce any or all of the foregoing provisions, the Commissioner may waive or modify such provisions to such extent as he or she may deem necessary consistent with public safety.

STATEMENT OF BASIS AND PURPOSE OF PROPOSED RULE:

Local Law 26 of 2004 required that the Fire Commissioner adopt standards, procedures and requirements for the orderly evacuation of occupants from any office building, including evacuation of persons necessitated by explosion, biological, chemical or hazardous material incidents or releases, natural disasters or other emergency, or the threat thereof.

The existing procedures for limited evacuations in the event of a fire in a high-rise office building (evacuation of fire floor and floor above) have proven effective in protecting building occupants in ordinary circumstances. These procedures are not the subject of the proposed rule, and remain unchanged.

The September 11, 2001 attacks on the World Trade Center made it clear that new procedures are required to protect the occupants of office buildings in the event of non-fire emergencies.

The Fire Department proposes to require that each office building subject to the requirements of the rule prepare an Emergency Action Plan, submit it for Fire Department review and acceptance, and implement it within designated time frames.

The proposed rule requires that owners of office buildings develop procedures for sheltering in place, invacuation, partial evacuation and full evacuation of the building, in response to various emergency scenarios. The proposed rule grants owners broad latitude in developing such plans, as is necessary given the site-specific nature of these plans, but does set forth specific guidelines and requirements for the form and content of the Emergency Action Plan.

The proposed rule requires the designation of an EAP Director to be responsible for the implementation of the Emergency Action Plan. The EAP Director must be the fire safety director of the building, as designated in the building's fire safety plan, and must receive additional training in areas relevant to the duties and responsibilities of the EAP Director.

The EAP Director will be responsible for arranging and overseeing periodic EAP drills that are to be conducted, separate and apart from existing fire drills, to educate and train building occupants with respect to the procedures for sheltering in place, invacuation, partial evacuation and evacuation. Education of building occupants will be critical to the successful implementation of the Emergency Action Plan, as building occupants must

understand the reasons for complying with the procedures that have been developed for their safety.

6-02 (2/15/05)