

NEW YORK CITY FIRE DEPARTMENT

Notice of 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 hereby promulgates the above rule. The entire rule is underlined to indicate that it is new.

The public hearing was held on April 6, 2005. In accordance with Section 1043(e)(1) of the New York City Charter, this rule shall take effect on April 6, 2006.

This notice, the rule, and the statement of basis and purpose will be available for at least 90 days on the Fire Department Internet website at:

www.nyc.gov/fdny

Nicholas Scoppetta
Fire Commissioner

§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) ordered by the Department to comply with the requirements of this section, based upon a 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 a 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, relocate or evacuate.

Department. The New York City Fire Department.

Deputy Fire Safety/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 Drill. A training exercise by which building occupants are familiarized with and/or practice the procedures for sheltering in place, in-building relocation, 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 Fire Safety/EAP Director, Deputy Fire Safety/EAP Director, Fire Safety/EAP Building Evacuation Supervisor, Fire Safety/EAP Wardens, Deputy Fire Safety/EAP Wardens and members of the Fire Safety/EAP Brigade.

Emergency. An incident involving an explosion, a biological, chemical, radiological, nuclear or other chemical incident or release, natural disaster, or the threat thereof, or a declaration of emergency by a lawful authority, 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, in-building relocation, 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.

Fire Safety/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.

In-building relocation. The controlled movement of building occupants from an endangered area of a building to an in-building relocation area within the same building in response to an emergency.

In-building relocation area. A designated area within a building to which building occupants may be relocated 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, unless separated by a barrier to movement, such as a restricted access roadway or railway.

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 a Fire Safety/EAP Director, and Deputy Fire Safety/EAP Directors, Fire Safety/EAP Building Evacuation Supervisors, Fire Safety/EAP Wardens, Deputy Fire Safety/EAP Wardens, Fire Safety/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 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, with respect to the matters set forth in 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 to be distributed, and EAP Drills 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 Fire Safety/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, in-building relocation, 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 to Implement the Emergency Action Plan.
 - (i) The Emergency Action Plan shall be immediately implemented and building occupants directed to shelter in place, relocate, partially evacuate or evacuate, whenever such action is deemed necessary to ensure the safety of building occupants.
 - (ii) The ability of the Fire Safety/EAP Director to implement the Emergency Action Plan shall not be subordinated to the authority of any other person or impaired by any notification procedure established by the owner, in circumstances where, in the absence of direction from lawful authorities, the Fire Safety/EAP Director becomes aware of an emergency presenting an immediate danger to building occupants, and determines that delaying implementation of the Emergency Action Plan to obtain direction

from lawful authorities, the owner or the owner's designated representative, would likely result in harm to building occupants. The Fire Safety/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 Fire Safety/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 Fire Safety/EAP Director in the absence of the Fire Safety/EAP Director, or by a Fire Safety/EAP Building Evacuation Supervisor in the absence of a Deputy Fire Safety/EAP Director.

(3) Compliance with Orders of Lawful Authorities.

(i) The owner, Fire Safety/EAP Director and all other EAP Staff and building occupants shall comply with the orders of the Department or other incident commander or emergency response personnel should such incident commander or emergency response personnel be present at the building.

(ii) In the absence of any direction from an emergency response agency, incident commander or emergency response personnel, the owner, Fire Safety/EAP Director and all other EAP Staff and building occupants 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) The Fire Safety/EAP Director shall immediately report the emergency to 911.

(ii) The Fire Safety/EAP Director shall immediately report to 911 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 Fire Safety/EAP Director shall coordinate implementation of the Emergency Action Plan or conduct an EAP Drill.

(6) Communications with Building Occupants.

- (i) The Fire Safety/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 primary and any alternative means by which the Fire Safety/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.
- (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 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 relocated by elevators shall be designated in the Emergency Action Plan.
- (ii) Elevators that are to be used for evacuation or in-building relocation must be equipped with two-way voice communication.
- (iii) Elevator use shall be directed only when the Fire Safety/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 Fire Safety/EAP Director.
 - (vi) Building occupants shall board elevators only on designated floors and disembark elevators at floors as directed by the Fire Safety/EAP Director.
- (8) Assistance to Building Occupants With Special Needs.
- (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, disability or other special need, and procedures for providing such assistance. Assistance that may be required may include implementing procedures or modifying equipment to ensure receipt of Emergency Action Plan announcements, designating areas for assistance, and designating persons to provide assistance.
 - (ii) The owner shall make the procedure for requesting such assistance known to all building occupants and employers of building occupants.
 - (iii) A list of the building occupants who have requested such assistance, and their work location, shall be maintained at the fire command station, and made available to Department representatives or emergency response personnel, upon request.
 - (iv) The Fire Safety/EAP Director, Fire Safety/EAP Wardens and, as appropriate, other EAP Staff, shall periodically review the list of such building occupants on the floors or other areas of the building in which they perform their duties, so as to familiarize themselves with the building occupants requiring assistance to participate in the Emergency Action Plan.
- (9) Floor Plans. The Emergency Action Plan shall include, for each floor of the building (including any floors below grade), a current floor plan bearing the signature and seal of a registered architect or professional engineer, containing the information required for the fire protection plan pursuant to New York City Administrative Code §27-228.2, marked to

reflect exit routes, in-building relocation areas, and other information contained in the Emergency Action Plan amenable to graphic representation. Such plans shall be submitted to the Department in a form and manner to be specified by the Department, as set forth in paragraph (j)(2) of this section.

- (10) Building Information Card. A Building Information Card, in the format set forth as Appendix B, shall be maintained at the fire command station, and made available to Department representatives or emergency response personnel, upon request. 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 stairs, elevators, shafts, standpipes, 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, fire extinguishing systems, ventilation systems, and contact information.
- (11) EAP Floor Postings. Notices identifying the Fire Safety/EAP Wardens and Deputy Fire Safety/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 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, but not necessarily limited to, 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 management 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 In-Building Relocations

- (1) The in-building relocation 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 in-building relocation areas to which building occupants could be relocated, and, for each such in-building relocation area, identify:
 - (A) the type of area (such as a stairwell, interior office, conference room, file room or mechanical room);
 - (B) the floor and its exact location thereon;
 - (C) the type of protection it offers;
 - (D) the maximum number of building occupants each relocation area can accommodate; 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 in-building relocation 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 in-building relocation, including the building locations and systems set forth in paragraph (e)(2) of this section; and

- (v) the procedures by which employers of building occupants will account for their employees after an in-building relocation 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 shall be given to building occupants on floors or other areas of the building most at risk of harm, and, in the designation of exit routes, to the avoidance of congestion.
- (3) The Emergency Action Plan shall:
 - (i) set forth the number of building occupants on each floor, including an estimate of the number of visitors, if any, on a typical day;
 - (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 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 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) the procedures by which employers of building occupants will account for their employees after a partial evacuation or evacuation is completed.

(h) Emergency Action Plan Staffing Requirements and Duties

(1) Fire Safety/EAP Director

(i) The Emergency Action Plan shall designate a Fire Safety/EAP Director for a building.

(A) Qualifications. The Fire Safety/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 Fire Safety/EAP Director shall hold a Department Fire Safety/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 Fire Safety/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 Fire Safety/EAP Directors, Fire Safety/EAP Building Evacuation Supervisors, Fire Safety/EAP Wardens, Deputy Fire Safety/EAP Wardens and other EAP Staff, including conducting initial and refresher training to maintain the state of readiness of such staff;

(D) select qualified building personnel for the Fire Safety/EAP Brigade, organize, train and supervise the Fire Safety/EAP Brigade, and be responsible for the state of readiness of the Fire Safety/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, in-building relocation, 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 content of the Emergency Action Plan educational materials and the EAP Drills provided to building occupants pursuant to subdivision (I) of this section;
- (H) ensure that the required notices are posted on the floors and that the required recordkeeping is maintained;
- (I) review and approve the procedures established by employers of building occupants to account for building occupants after an evacuation, partial evacuation, in-building relocation or sheltering in place; and
- (J) with respect to the implementation of fire safety plans and the conduct of fire evacuations and fire drills, comply with the provisions of the Fire Prevention Code and 3 RCNY §6-01.

(2) Deputy Fire Safety/EAP Director

- (i) The Emergency Action Plan shall designate a sufficient number of Deputy Fire Safety/EAP Directors to ensure that a Deputy Fire Safety/EAP Director is present to perform the duties of the Fire Safety/EAP Director at all times that a Fire Safety/EAP Director is required to be on duty, but is absent.
- (ii) Qualifications. The Deputy Fire Safety/EAP Director shall hold a Department Fire Safety/EAP Director Certificate of Fitness, application for which shall be made in accordance with the provisions of subdivision (n) of this section. The Deputy Fire Safety/EAP Director shall receive training in the Emergency Action Plan from the Fire Safety/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 Fire Safety/EAP Director shall:

 - (A) in the absence of the Fire Safety/EAP Director, perform the duties of the Fire Safety/EAP Director, as circumstances warrant.
 - (B) in the presence of the Fire Safety/EAP Director, assist the Fire Safety/EAP Director in carrying out the requirements of the Emergency Action Plan and this section, as circumstances warrant.

- (3) Fire Safety/EAP Building Evacuation Supervisor

 - (i) At least one person shall be designated in the Emergency Action Plan as a Fire Safety/EAP Building Evacuation Supervisor, and qualified to serve in such position, shall be present and on duty in the building at all times when a Fire Safety/EAP Director is not required to be on duty, but there are occupants in the building. The Fire Safety/EAP Building Evacuation Supervisor at such times shall exercise the authority and responsibility of the Fire Safety/EAP Director to implement the Emergency Action Plan.
 - (ii) Qualifications. The Fire Safety/EAP Building Evacuation Supervisor shall receive training in the Emergency Action Plan from the Fire Safety/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 Fire Safety/EAP Building Evacuation Supervisor shall:

 - (A) in the absence of the Fire Safety/EAP Director and Deputy Fire Safety/EAP Director, perform the duties of the Fire Safety/EAP Director, as circumstances warrant.
 - (B) in the presence of the Fire Safety/EAP Director, assist the Fire Safety/EAP Director in carrying out the requirements of the Emergency Action Plan and this section, as circumstances warrant.

- (4) Fire Safety/EAP Wardens

 - (i) The Emergency Action Plan shall designate at least one Fire Safety/EAP Warden for each floor of the building. Fire

Safety/EAP Wardens shall be on duty on each floor during regular business hours for such floor.

- (ii) Qualifications. The Fire Safety/EAP Warden shall receive training in the Emergency Action Plan from the Fire Safety/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 Fire Safety/EAP Warden shall:
 - (A) be familiar with the Emergency Action Plan, including general sheltering in place, in-building relocation, partial evacuation and evacuation procedures, the exit and in-building relocation routes to be utilized for the floor, the location of in-building relocation areas and assembly areas; and the means of communicating with the Fire Safety/EAP Director;
 - (B) in the event of an emergency on the floor or immediately affecting building occupants on the floor, notify the Fire Safety/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 Fire Safety/EAP Director and, if possible, await direction from the Fire Safety/EAP Director;
 - (D) keep the Fire Safety/EAP Director informed of his or her location and the progress of the implementation of Emergency Action Plan measures;
 - (E) confirm the in-building relocation or evacuation of the floor or portion thereof by directing Deputy Fire Safety/EAP Wardens and/or other EAP Staff designated as searchers to search all areas of the floor to be relocated 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 Fire Safety/EAP Director, and to instruct

building occupants not to use elevators unless and until the Fire Safety/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 Fire Safety/EAP Director.

(5) Deputy Fire Safety/EAP Wardens

(i) At least one Deputy Fire Safety/EAP Warden 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 Fire Safety/EAP Warden shall be designated for each 7,500 square feet or portion thereof. At least the minimum required number of Deputy Fire Safety/EAP Wardens, with the training required for the position, shall be on duty on each floor during the regular business hours of such employer.

(ii) Qualifications. The Fire Safety/Deputy EAP Warden shall receive training in the Emergency Action Plan from the Fire Safety/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 Fire Safety/EAP Wardens shall:

(A) in the absence of the Fire Safety/EAP Warden, perform the duties of the Fire Safety/EAP Warden, as circumstances warrant.

(B) in the presence of the Fire Safety/EAP Warden, assist the Fire Safety/EAP Warden in carrying out the requirements of the Emergency Action Plan and this section, by searching all areas of the floor to be relocated 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 Fire Safety/EAP Warden.

(6) Fire Safety/EAP Brigade

(i) The Emergency Action Plan shall designate the members of a Fire Safety/EAP Brigade. The Fire Safety/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 Fire Safety/EAP Director and Deputy Fire Safety/EAP Directors shall not be designated as Fire Safety/EAP Brigade members.

(ii) Qualifications. All Fire Safety/EAP Brigade members shall receive training in the Emergency Action Plan from the Fire Safety/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 Fire Safety/EAP Brigade shall:

(A) perform their designated assignments, as set forth in the Emergency Action Plan or as directed by the Fire Safety/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 Fire Safety/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 the individual is required to perform even under emergency conditions.

(iii) Employers of building occupants may request that the Fire Safety/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 documented in writing and made available for inspection by Department representatives, upon request.

- (8) Identification. Upon implementation of the Emergency Action Plan, the Fire Safety/EAP Director and all EAP Staff shall identify themselves to building occupants and others by donning a vest, armband or other form of identification 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 be 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.
- (3) The owner of a building shall be deemed to have satisfied the requirements of this section notwithstanding the lack of cooperation on the part of the owners of Neighboring Buildings, if the owner makes reasonable efforts to engage in such consultations, and documents such efforts.

(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 April 6, 2006, or which is otherwise occupied before such date, shall file an Emergency Action Plan for such building in accordance with the following schedule:
- (A) August 31, 2006, for any building that is greater than forty stories in height, or that has been designated as a landmark by the New York City Landmarks Commission.
- (B) October 31, 2006, for any building that is greater than twenty-five stories in height.

- (C) December 31, 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 April 6, 2006, 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) 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. Unless otherwise specified by the Department, the filing shall consist of three paper copies of the Emergency Action Plan, at least one of which shall contain an original owner certification, and two electronic copies of the Emergency Action Plan on a Compact Disk, utilizing standard, commercially-available software acceptable to the Department. The floor plans required by paragraph (d)(9) of this section shall be submitted only in electronic format, as specified by the Department.
- (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, relocate, 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 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.

- (i) 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 Fire Safety/EAP Directors has been approved by the Department, the duties of the Fire Safety/EAP Director and Deputy Fire Safety/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 training 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 Fire Safety/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 forms set forth as Attachments 1, 2 and 3 to Appendix A to this section.
- (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. The owner may delete from the Emergency Action Plan distributed to such employers the floor plans, building information card or any other information that would compromise building security or personal safety. 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 Fire Safety/EAP Director explaining the Emergency Action Plan.
- (3) EAP Drills.
 - (i) The owner shall conduct EAP Drills on a regular basis, during regular business hours, in accordance with the requirements of this section, to familiarize all building occupants with the procedures for evacuation, partial evacuation, in-building relocation and sheltering in place, and the reasons for implementing each type of action.
 - (ii) Types, Scope and Frequency of EAP Drills.
 - (A) Types. EAP Drills shall consist either of instruction, or stairwell familiarization, or both, as follows:
 - (1) Instructional Drills. Such drills shall serve to familiarize building occupants with the requirements and procedures of the Emergency Action Plan by means of informational sessions approved by the Fire Safety/EAP Director, and may include the use of video presentations or other educational materials. Such sessions shall address implementation of the Emergency Action Plan both during regular business hours, and at other times, when Fire Safety/EAP Wardens and other EAP Staff may be absent from the building. Such sessions may be conducted by any qualified person, at any appropriate location, including but not limited to stairwell entrances or in-building relocation areas.

- (2) Stairwell Familiarization Drills. Such drills shall serve to familiarize building occupants with the process of in-building relocation or building evacuation via building stairwells. A stairwell familiarization drill shall require building occupants (other than building occupants who request and are granted exemption pursuant to subparagraph (o)(1)(iii) of this section) to enter a building stairwell and be escorted down at least four (4) floors of stairs (or to ground level, if below the fifth floor), during which time stairwell safety features and safe evacuation procedures shall be reviewed.
- (B) Scope. EAP Drills (involving instruction, stairwell familiarization, or both) may be conducted on all floors simultaneously, or by individual floor or groups of floors.
- (C) Frequency. EAP Drills shall be conducted on a regular basis, as follows:
- (1) At least two EAP Drills shall be conducted within one year of the date of Department acceptance of the building's initial Emergency Action Plan, the first of which shall be conducted within six months of such date of acceptance. At least one of these initial EAP Drills shall involve stairwell familiarization.
- (2) Beginning one year from the date of Department acceptance of the building's initial Emergency Action Plan, an EAP Drill shall be conducted on each floor of the building at least once a year. An EAP Drill involving stairwell familiarization, and an EAP Drill in which all floors participate simultaneously, shall each be conducted at least once every three years.
- (D) Participation. All building occupants present on the affected floors at the time the EAP Drill is conducted, including visitors, shall be required to participate in such drill.
- (iii) 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.

(4) 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 Field Public Communications Unit of the Department's Bureau of Fire Prevention not less than 72 hours in advance of any full building evacuation drill;

(B) notify the owners of Neighboring Buildings not less than 72 hours in advance of any full building evacuation drill. The owner of a Neighboring Building, upon receipt of such a notification, shall notify the occupants of such Neighboring Building of the drill, to prevent the evacuation from causing alarm; and

(C) provide not less than 72 hours advance notification to the New York City Police Department and New York City 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.

(5) The obligations of owners of buildings and employers of building occupants pursuant to this subdivision shall not be construed to apply to building occupants who are visitors in the building, except that visitors shall be required to participate in any EAP Drill being conducted at the time of their visit.

(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. The EAP Logbook may be consolidated with the recordkeeping required with respect to fire drills pursuant to 3 RCNY §6-01(d)(3).

- (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 EAP Staff 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) identification of floors and number of building occupants participating in drill;
 - (G) emergency scenario simulated;
 - (H) special needs addressed;
 - (I) problems encountered; and

(J) for a partial evacuation or evacuation, weather conditions and time required to accomplish complete evacuation.

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

(n) Fire Safety/EAP Director Certificate of Fitness

(1) Use. A Fire Safety/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 Fire Safety/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 of the Fire Safety/EAP Director at such building.

(2) Original certificate qualifications. Applicants for a Fire Safety/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, or meet the requirements for issuance of same, as set forth therein;

(ii) have successfully completed at least a seven-hour training 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 of a Fire Safety/EAP Director, including threat analysis and response and other homeland security issues; building evacuation, in-building relocation and shelter in place planning; elevator operation and building ventilation; special needs of the infirm and disabled, and incident command structure and emergency response operations, as set forth in 3 RCNY §9-08; and

(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 fee of \$305 for applicants currently holding a Fire Safety Director Certificate of Fitness, and \$725 for applicants that do not, and otherwise comply with the requirements of 3 RCNY §9-01(b) and (c).

(3) Examinations. Applicants for a Fire Safety/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:

- (i) shall comply with the directions of the Fire Safety/EAP Director and EAP Staff upon an announcement that the Emergency Action Plan has been implemented, including any shelter in place, in-building relocation, partial evacuation or evacuation directed by the Fire Safety/EAP Director;
- (ii) shall familiarize themselves with the requirements of the Emergency Action Plan, and cooperate with and participate in EAP Drills;
- (iii) shall request an exemption from the Fire Safety/EAP Director if participation in a EAP Drill involving stairwell familiarization, in-building relocation, partial evacuation or evacuation would cause injury or serious hardship; and
- (iv) are encouraged to identify themselves in accordance with the procedures of the Emergency Action Plan if they would require assistance in the event of an in-building relocation, partial evacuation or evacuation.

(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 Fire Safety/EAP Wardens, Deputy Fire Safety/EAP Wardens and members of the Fire Safety/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 in-building relocation, 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 FINAL 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 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 rule being promulgated requires 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 final rule requires that owners of office buildings develop procedures for sheltering in place, in-building relocation, partial evacuation and full evacuation of the building, in response to various emergency scenarios. The 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. For buildings with large numbers of building occupants, consideration should be given to the use of evacuation modeling software to accomplish compliance with the requirements of this subdivision.

The final rule requires the designation of a Fire Safety/EAP Director to be responsible for the implementation of the Emergency Action Plan. The Fire Safety/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 and Fire Department certification in areas relevant to the duties of the Fire Safety/EAP Director.

The Fire Safety/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, in-building relocation, 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.

The final rule that is being promulgated responds to public comment in various respects, and in particular, the following key respects:

1. Through use of the term "Fire Safety/EAP Director," the final rule clarifies that the individuals responsible for implementing the building's Emergency Action Plan are the same employees responsible for implementing the building's Fire Safety Plan.

2. The final rule clarifies the role of the building owner, the owner's designated representative (such as the building manager), and the Fire Safety/EAP Director, in relation to the implementation of the Emergency Action Plan.

3. The final rule substitutes the term "in-building relocation" for "invacuation," an unfamiliar term which comments suggested would be confused with "evacuation" were it to be used in building announcements over the building's voice communication system. The final rule also eliminates the requirement of ten square feet per person for relocation areas, which comments suggested was arbitrary, and did not recognize the limited availability of such spaces in many buildings.

4. The final rule clarifies the requirement that the Emergency Action Plan set forth "alternative means of communication" with building occupants in the event that the fire alarm system is inoperable or cannot be accessed. Comments indicated that this requirement was understood by some to require the installation of an additional building communications system. As revised, the final rule makes clear that the term "alternative means of communication" is intended to mean any other technologies that may be available that, with appropriate advance planning (as set forth in the Emergency Action Plan), can be utilized to communicate with building occupants in an emergency preventing use of building communications systems. Such alternative means of voice and data (e-mail) communication may include wireless devices (cellular phones, laptops, Blackberries, PDAs) and desktop computers.

5. The final rule responds to comments requesting greater specificity in the requirements of the Emergency Action Plan with respect to the provision of assistance to infirm and disabled persons in the Emergency Action Plan. While Emergency Action

Plans may authorize use of elevators for building evacuation, the final rule suggests a number of other accommodations that should be considered in the development of the Emergency Action Plan.

6. The final rule clarifies the provisions setting forth the types, scope and frequency of EAP Drills (which comments suggested was confusing), and modifies the schedule for periodic drills. The final rule also eliminates the requirement of a different alarm system alert tone (which comments suggested would be costly, introduce technical difficulties, and would not be recognized by building occupants), as well as unannounced drills (which comments suggested would be unnecessarily disruptive and discourage participation).

7. The final rule shifts the responsibility from the building owner to the employers of building occupants to account for their employees after an in-building relocation or building evacuation. Comments suggested that building owners do not maintain records of all building occupants, nor do they monitor their presence or absence on a daily basis.

8. The final rule affords additional time for submission of the Emergency Action Plan, and simplifies the submission schedule.

9. The final rule clarifies the format for submission of the Emergency Action Plan to the Fire Department, and elaborates upon the content of such submission. "Hazardous material incident or release" is eliminated as a separate component of the plan, as comments suggested that it was already addressed by the other plan components (chemical, biological, nuclear, etc.) that are encompassed within that term. The final rule also elaborates upon the content of the plan by requiring that each Emergency Action Plan incorporate a current floor plan for each floor of the building, containing the information required by the New York City Building Code for the building's fire protection plan, marked to reflect exit routes, in-building relocation areas, and other information contained in the Emergency Action Plan. These floor plans are to be submitted in electronic format only. At present, the floor plans are to be submitted on a Compact Disk, utilizing standard, commercially-available software acceptable to the Department. The Department anticipates that, in the future, such submissions will be made on-line.