

Statement of Dr. Gerald V. Poje  
Member of the U.S. Chemical Safety and Hazard Investigation Board  
before the Council of the City of New York  
Fire and Criminal Justice Services Committee  
December 10, 2003

Good morning Madam Chairman and Members of the Committee, and thank you for inviting us to testify once again on the need to modernize the New York City Fire Prevention Code. I am Dr. Gerald Poje, one of five members of the U.S. Chemical Safety Board – the CSB. With me is Mr. Stephen Selk, a professional engineer and CSB lead investigator.

As a native New Yorker, it's a pleasure to be back here this morning. I was born in Brooklyn, raised in Staten Island, and educated downtown at NYU. My beloved Uncle Hughie spent his life here as a city firefighter.

Reforming the New York City fire code will help prevent serious accidents involving hazardous materials. And it will save lives and property. On behalf of the Chemical Safety Board I commend the Committee for taking the lead on this important issue.

The bill before you represents a landmark first step toward a modern fire code for this great city. But the clock is ticking for New Yorkers' safety, and the need for an updated fire code is clear. I urge the Council and Mayor to move forward swiftly with the reform of the city's fire code.

The Chemical Safety Board is an independent federal investigative agency, established by Congress in 1990. We determine the root causes of serious chemical accidents and make safety recommendations to government, industry, and other bodies. Board investigations are unique in that we look not only at rules violations but also at the overall adequacy of regulations, standards, inspections, and oversight.

The Board recently concluded an 18-month investigation of the chemical explosion last year at a sign-making company in Chelsea. On September 30, 2003, we issued a series of related safety recommendations to the City of New York. The full Board investigation report and a summary digest are available from our website, [www.csb.gov](http://www.csb.gov).

Our investigation determined that the Chelsea explosion resulted from the improperly supervised mixing of unlabeled, unidentified hazardous wastes in the basement of a mixed-use commercial building. The explosion heavily damaged the building on West 19<sup>th</sup> Street and caused at least 36 injuries to building occupants, bystanders, and responding firefighters.

In the course of the investigation, we learned that the city's fire code dates from 1918 and has been amended in only a "piecemeal" fashion over the succeeding 85 years. As a result, the code lacks many of the present-day hazardous materials controls that are included in modern model fire codes, such as the National Fire Protection Association code and the International Fire Code.

Those controls -- had they been in place and enforced in New York City last year -- would likely have prevented the building explosion in Chelsea.

The Board therefore has recommended five specific reforms to the city fire code, at a minimum. The city should amend the code to require that:

1. All hazardous materials are identified and labeled;
2. Permit applications include a hazardous materials management plan and inventory statement;
3. Material safety data sheets are made accessible to the workforce;
4. Workers are trained on safe chemical handling;
5. Incompatible chemicals are adequately separated.

All five of these provisions are already part of the model fire codes. An additional advantage of the model codes is that there are expert code councils that keep the codes up-to-date, relieving individual jurisdictions of an ongoing administrative and technical burden.

With New York City now poised to accept the International Building Code, adopting a corresponding model fire code would help ensure efficient code administration citywide. A model fire code would promote safe, efficient, and modern businesses. Accordingly we believe the city should seriously weigh the advantages of adopting a model code, compared to attempting further revision of the existing 1918 code.

The fire permitting and inspection process offers an important opportunity for preventing major accidents. As the Board learned at a public hearing in April 2003, New York City fire inspectors conduct about 100,000 hazardous materials inspections every year. For many small businesses, these are the only regular government safety inspections they will ever receive. Indeed, the Chelsea sign-making company had been visited many times by city fire inspectors, but its deficient handling of hazardous chemicals was never detected or corrected.

Fire inspectors need to have full information about hazardous materials that are present at permitted establishments and need to be armed with a full set of modern, enforceable fire code provisions to ensure the safe handling of those materials.

Madam Chairman, after the Chelsea building explosion, we know that hazardous materials management can be one risky venture in New York City. The Committee has a significant window of opportunity to make the city safer, and I urge you to do so. Thank you again for inviting us to testify, and we will be pleased to answer your questions.