

**STATEMENT BY CSB CHAIRPERSON RAFAEL MOURE-ERASO AND
SUPERVISORY INVESTIGATOR JOHNNIE BANKS
NEWS CONFERENCE, DALLAS, TX
WEST FERTILIZER ACCIDENT**

APRIL 22, 2014

Good morning, and welcome to this CSB news conference.

First, I would like to commend the media in this region for having done such an excellent job of covering the tragic West Fertilizer accident over the past year, and in examining federal reporting regulations for hazardous chemicals, facility siting, and emergency response. The public deserves to know how this came to be.

The fire and explosion at West Fertilizer was preventable. It should never have occurred. It resulted from the failure of a company to take the necessary steps to avert a preventable fire and explosion and from the inability of federal, state and local regulatory agencies to identify a serious hazard and correct it.

Ammonium nitrate is an effective fertilizer. It is also a highly hazardous reactive oxidizer chemical. And it also can be -- under some circumstances -- a dangerous explosive. Yet ironically the fertilizer grade ammonium nitrate is not classified as an explosive.

Obviously, under extreme conditions -- like being subjected to a fire -- and if it not stored in a safe manner, as were the circumstances in West -- the potential for a powerful explosion becomes a painful reality.

The CSB recommended that reactive chemicals such as ammonium nitrate be specifically included in OSHA's process safety management regulations and in the EPA's Risk Management Program in 2002. The CSB has investigated too many violent decompositions and runaway reactions like the one at West -- though West was the most devastating of all.

Had regulators acted on our recommendations sooner, there would have been additional requirements for safer handling and storage and the accident might have been prevented. We have recently again formally recommended OSHA and EPA begin rulemaking on reactive chemicals.

Following the accident at West, it is particularly important that EPA act to strengthen its Risk Management Program, which is specifically designed to protect the public from chemical disasters.

Ammonium nitrate is not one of the chemicals currently listed. It should be. From West to Texas City to Toulouse, France -- no other single chemical has caused more widespread harm to the public in preventable accidents.

The EPA's Risk Management Program requires operators to adopt a range of safety management systems for handling hazardous materials. Among other things, the company would have had to consider the nearby homes and school as potentially being in harm's way.

Other EPA rules, known as EPCRA, have requirements for community preparedness for hazardous chemicals. But – there is an exemption for farm retail sales of fertilizer chemicals. In light of the explosion in West, that exemption should be revoked and planning should occur for all stored ammonium nitrate.

Next let me say, that in my view, the EPA has within its current authority the power to require companies handling these kinds of hazardous materials to employ what is called inherently safer technology in their operations. This is, of course, a bigger issue than just West Fertilizer. I believe these technologies should be more widely applied throughout the U.S. oil and chemical sectors. Even small companies like West can apply the principles of inherently safer design. If they do so, communities will be safer and workers will be better protected.

In the case of companies like West Fertilizer, such measures could include the following:

- Storing less of the material at any one time, to lower the potential danger.
- Using safer blends or formulations of the chemical to make it less explosive.
- Storing the chemical in dedicated, fireproof concrete structures instead of combustible wooden bins.

Now, I'd like to turn the podium over to lead investigator Johnnie Banks to discuss the team's ongoing investigation of the West Fertilizer incident.

Mr. Banks.

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STATEMENT BY JOHNNIE BANKS

Thank you, Chairperson Moure-Eraso.

I would like to begin my presentation with a virtual tour of the West Fertilizer facility. We have been able to re-create a view of the building and equipment as configured on the day of the incident. The bins are labeled with the materials that are thought to have been present on that day.

[SHOW VIDEO]

Our findings so far show that there is a patchwork of federal and state regulations with huge gaps that allowed this accident to happen.

At the state level, there is no fire code and counties under a certain population level are prohibited from having them. Local authorities – and specifically local fire departments—need fire codes so they can hold industrial operators accountable for safe handling of chemicals.

At the county level, McLennan County’s local emergency planning committee did not have an emergency response plan for West Fertilizer as it might have done under the federal Emergency Planning and Community Right to Know Act. That is because fertilizer in retail sales is exempted from the requirement. Technically, that exemption should not have applied at West, because it was blending as well as selling fertilizer. But in any case, the community clearly was not aware of the potential hazard at West Fertilizer.

At the federal level, there is no regulation preventing businesses from storing ammonium nitrate in combustible wooden bins and wood buildings without sprinkler systems.

After the West explosion, OSHA cited the company under the agency’s Explosive and Blasting Agents Standard. But the CSB has found that it is not clear to those in the fertilizer industry who store, handle or manage ammonium nitrate that a section of the explosives standard, known as standard 1910.109, applies to ammonium nitrate handling activities like those that were occurring at West. OSHA needs to clarify its existing coverage of ammonium nitrate under 1910.109 so that fertilizer distributors know what they are required to do under that regulation.

Furthermore, the CSB has found the standard itself should be made much stronger. For example it permits storage in wooden bins if they are, quote, protected from impregnation, unquote. But that guidance is not specific.

We are looking into the issues of siting – that is, having a highly hazardous chemical storage facility so close to residences, schools and public facilities.

West Fertilizer was built in open fields in 1961. Over the years, homes, schools and other buildings crept closer and closer as larger and larger amounts of ammonium nitrate were stored and distributed.

The CSB found at all levels of government a failure to adopt codes to keep populated areas away from hazardous facilities, not just in West, Texas. We found 1,351 facilities across the country that store ammonium nitrate. Farm communities are just starting to collect data on how close homes or schools are to ammonium nitrate storage, but there can be little doubt that West is not alone and that other communities should act to determine what hazards might exist in proximity to communities.

Tonight, the CSB will be holding a public hearing in West, Texas. This is the first safety hearing to be held at the site of the disaster. The meeting will focus on two of the issues we have discussed this morning – land use planning and emergency preparedness. We will have experts from around the country discussing these issues, and will have an opportunity for public comment from the people of West.

That hearing begins tonight at 5:30 p.m. at the West Community Center, located at 205 Tokio Road in West.

RME: Thank you, Mr. Banks.

Our hearts go out to the victims and the victims' families in this tragedy. At least 14 people died a year ago; mostly volunteer firefighters perished trying to do their job. We do not take away from their heroism in the least by finding that they were not fully aware of the risk of an explosion.

The guidance on fighting ammonium nitrate fires – from the federal government, national fire codes, and ammonium nitrate manufacturers – was vague and inconsistent at the time of the incident.

Firefighters perform tasks that may often put their lives on the line. In order to prevent deadly implications, it is important for firefighters to receive adequate training on how to effectively make timely decisions in fire situations.

Firefighter training varies across the country. Many volunteer fire departments have training programs equal to that of career fire departments.

For example, in Texas, the general requirements for volunteer fire protection personnel certification programs are the same as those for paid personnel. However, completing the certification program is optional for volunteer fire fighters.

While we believe regulations must be addressed here, I do want to commend the industry for taking recent steps to get fertilizer distributors and others to carefully handle ammonium nitrate.

Specifically, the Fertilizer Institute and the Agricultural Retailers Association created what they call, "Responsible-Ag," a third-party auditing program for fertilizer retailers. In addition, these associations have distributed a comprehensive document called "Safety and Security Guidelines for the Storage and Transportation of Fertilizer Grade Ammonium Nitrate at Fertilizer Retail Facilities."

We welcome this very positive step. We hope that the whole industry embraces these voluntary guidelines rather than being accepted only by the companies that choose to volunteer. It is incumbent on every company in the ammonium nitrate fertilizer business to learn the best available safety practices and follow them to the letter.

To summarize, the CSB finds that accidents like West can be prevented. Regulations need to be updated and new ones put in place. The state of Texas, McLennan County, OSHA and the EPA have work to do, because this hazard exists in hundreds of locations across the United States. However, it is important to note that there is no substitute for an efficient regulatory system that ensures that all companies are operating to the same high standards. We cannot depend on voluntary compliance alone.

Now, Lead Investigator Johnnie Banks and I will be happy to take any questions you may have.