

NIRMA's

Loss Prevention and
Safety Department
Monthly Newsletter

NIRMA's Safety Shorts

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September Is National Preparedness Month

It is a time to prepare yourself and those in your care for emergencies and disasters. It is important to make a family emergency plan that can be put into action as soon as disaster strikes. Make sure to include plans for children, seniors, disabled, and don't forget pets!



GENERAL SAFETY

By Chad Engle, Loss Prevention and Safety Specialist

Distracted Driving and Kids

Lately the news has been full of tragic headlines involving children being severely injured or killed in accidents involving motor vehicles. One that really struck me was two-year-old child that was struck and killed by a parent in their own driveway. There were two youngsters struck and killed during the first week of school in the Omaha area. In no way am I alleging that the drivers involved in any of these incidents were at fault or distracted, but these types of incidents really drive home the point that operating motor vehicles is one of the most dangerous things we do and we need to commit to eliminating driving distractions.

School is back in session throughout the state, children are out and about, older kids are now on the road to and from school and school related activities. My morning commute went from almost relaxing to congestion, gridlock and road rage once school started in Lincoln. The heavier traffic gets the more important it is to focus on the task at hand. Distractions make it impossible to do this. Put the phone down, do your hair before you leave the house, eat breakfast at home. All your attention needs to be concentrated on driving and identifying and avoiding hazards, so you reach your destination safely.

NIRMA provides the National Safety Council's Defensive Driving Course 4-hour (DDC 4) to member counties and agencies at no cost. It is a 4-hour course focusing solely on how to avoid crashes while operating a motor vehicle. It doesn't matter what type of vehicle you drive or whether it is for work or personal purposes, it is an excellent session for any person the operates a motor vehicle.

Truth be told, we all know how we should be driving. We know the rules of the road, we know what to do at a stop sign, we know who should be given the right-of-way at an intersection, but at times we still choose not to. Changing behavior is difficult, it takes motivation, internal or external. My goal is to help members change their driving behavior, I want to do everything in my power help you avoid an incident like those I've read about recently in the news and I'm sure you do to.

If you would like to discuss defensive driver's training for your county or agency please contact me at chad@nirma.info or 1.800.642.6671.

Loss Prevention
and
Safety

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HIGHWAY DEPARTMENT

By **Tim Baxter, Road Safety and Loss Prevention Specialist**

Commissioners/Supervisors and County Equipment

This past spring and summer have been one of the worst mother nature has provided not only in recent memory but in our lifetime's memory for nearly the entire state of Nebraska. With severe snow storms in the west and severe flooding in the rest of the state, county road departments have been stressed to the max, not only from over work and the large number of damage sites, but also dealing with the public. Most of the general public has no idea what a road department highway superintendent and foremen go through during natural disasters like this. They just want the road in front of their house fixed, not next week, not tomorrow, right now, or in some cases, yesterday. Highway Superintendents and foremen have an overall view of countywide destruction where residents just see what's in front of their house as well as the road to the coffee shop. They don't know what countywide damage is and most don't care, they want their road fixed NOW!!!!

NIRMA has received numerous calls pertaining to this issue all summer long. Some of the most concerning are where commissioners/supervisors have allowed county residents to maintain a county road with their own personal equipment. It is understandable that residents need to get to town, etc. and the county may not be able to repair a resident's road as soon as they would like, but if this is allowed, an agreement should be entered into to release the county from liability. The county could easily be named in a lawsuit should a commissioner/supervisor allow a private citizen to maintain a county road. If the private citizen damages the road or leaves it in disrepair and an accident occurs which can be directly traceable to said citizens work, the county could and most likely would be named in the lawsuit due to allowing said work to be performed. That is why an agreement should be entered into, along with all hold-harmless provision and insurance requirements followed, to assist in defending the county. This practice should ONLY be allowed with an agreement AND under natural disaster emergency situations like this spring and summer.

On another note, there have been commissioners/supervisors providing county owned motor graders for private citizens to maintain county roads. There are many problems with allowing this type of activity. Most times the private citizen does not have the proper experience or training to operate the motor grader which may create more issues. If the inexperienced private citizen operator has or causes an accident with the motor grader or road he or she has maintained, he or she could be personally named in a lawsuit as well as the county. The private citizen would not be included under the county's coverages. And, NIRMA would have a very difficult time defending the county because the commissioner/supervisor had allowed the private citizen to operate county equipment to maintain public roads. This practice should never be allowed, even under contract.

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According to a 2013 study by Federal Highway Administration, Iowa comes in at 6th place in terms of the **most unpaved** mileage per **state**. Only Texas, Kansas, Minnesota, Illinois and North Dakota have more **unpaved** miles of **road**. Georgia's roads are among the best maintained in the country.



Commissioners/Supervisors and County Equipment

continued

The previous two paragraphs have numerous concerns including but not limited to the following:

1. Wage & hour and work comp laws. While this person is allegedly volunteering, he could fit the definition of an employee under work comp statutes.
2. This individual could claim an implied contract, and then assert some kind of unjust enrichment or claim for recovery under the Nebraska Construction Prompt Payment Act.
3. Civil liability for anyone or anything injured during the performance of the work.

Another concern is commissioners/supervisors maintaining county roads with their own equipment. We have received calls questioning the allowance of this type of work due to liability purposes.

Commissioners/Supervisors may have a farm with equipment that could be used to make road improvements and in good faith, the commissioner/supervisor wants to assist in making road improvements. NIRMA strongly discourages this not only because it opens the county to liability but also opens the commissioner/supervisor to liability should an accident occur and the cause of said accident be traced directly back to the commissioner/supervisor's actions with his private equipment on a public road. County government has maximum limits in lawsuits, but a commissioner/supervisor or private citizen operating his own equipment on a public road could be sued for any amount, which could include losing the entire farm that has been handed down through generations. Again, a claim arising out of the acts of a private citizen would likely not be encompassed under the county's coverages. Let the county road department make necessary road/bridge improvements and if they cannot get the roads improved fast enough, then contract road work out, as long as the proper specifications, hold-harmless and insurance requirements are met in the contract.

It is best to leave the road maintenance up to the experienced operators. Commissioners/supervisors operating equipment without experience opens the county to unnecessary liability so should refrain from doing so. Yes, there are some commissioners/supervisors that retired from the county motor grader operator position and are now commissioners/supervisors. In those cases, the individual is experienced and understands how to maintain roads and do so safely.

Again, if the county road department is behind in its road maintenance, which is understandable with the year we have had, hire experienced contractors, with proper agreements/contracts in place, to assist in making necessary road improvements. The aforementioned concerns have all been witnessed this summer and all are a huge liability concern.

Please share this newsletter with your county board and good luck with all your issues. After 32 years of working in nearly all phases of county road departments, I understand the misery you are going through and applaud and support your efforts. Please contact me at tim@nirma.info or 402-310-4417 if you have any questions or issues that we can assist you with. Good luck and be safe.



For a small investment of your time, you will receive big dividends!

**SELF
DEFENSE
FOR COUNTY
OFFICIALS
CONFERENCE**

October 3 & 4

Register Online
at
www.nirma.info



LAW ENFORCEMENT AND CORRECTIONS

**By Terry Baxter, Law Enforcement and Safety Specialist
Emergency Preparedness, Is Your County Ready?**

Since 2004, September has also been known for National Preparedness Month, encouraging Americans to take steps to prepare for emergencies in their homes, business, schools and communities. Simply put, it was instilled to prepare the general public to be able to respond to emergency events.

What is the definition of emergency preparedness? A present or imminent event requiring prompt coordination of action to protect the health, safety and welfare of the people and to limit damage to county property.

If you have attended any of my presentations, you have heard me stress the importance of emergency preparedness plans that basically addresses three concepts: 1) Being able to stay open for business, 2) Training your people, and 3) Protecting your investment, by that I mean every county's most important commodity... your staff.

Daily routines can be disrupted with little or no warning. Help may be readily available and sometimes it may not, so what do you do in the meantime?

Why the need? Anyone at anytime could be faced with an emergency and everyone should know how to respond when that unexpected event happens.

You see weekly news articles relating to tragedies that have occurred in the workplace. One of the most common responses given from events such as these, "I never thought it would happen here". Unfortunately, today's culture is shifting requiring workplaces to have a plan, have a response and most of all expect the unexpected.

Everyone has a responsibility when emergencies occur. The one most important responsibility is knowing what to do or where you go should you need to evacuate.

Emergency preparedness planning will assist with preparing the county for the emergency event, provide a recommended response that will hopefully mitigate injury or damages and then provide a recovery phase to get back to government operations.

Planning and training are a crucial component in any emergency event. Effective preparation has proven essential and helps alleviate some chaos wrought by an unexpected crisis. It is critical to have a written plan, but even more important is staff understanding their expected role in the plan.

NIRMA Loss Prevention Team can help with identifying training and providing model plans that can be developed to fit your county's needs.

I wish we had the ability to predict when bad things would happen. Imagine, nothing bad would ever occur again, but since we can't, the one thing we can do is prepare...want to minimize loss...then have a plan, communicate the plan and train on the plan.