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## IMPROVEMENT COMPANY

J.L. McCormick, Chairman of the Board  
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09/10/99

Ms. Diane Miller  
NIOSH Docket Officer  
Mailstop C-34  
4676 Columbia Parkway  
Cincinnati, Ohio 45226-1998

Dear Ms. Miller:

I am writing in response to the NIOSH Document on Highway Work Zone Safety (hereafter referred to as the report). Many of NIOSH's recommendations find their way into regulations. It is for this reason we feel compelled to respond to insure that any recommendations are realistic with regard to highway construction.

Northern Improvement Company is a highway/heavy construction company that has been in business since 1935. We currently employ approximately 700 employees in the Midwestern region of the United States. The Safety and Health of our employees is our highest priority. In 1998 we worked a total of 1,079,466.5 hours with an incidence rate of only 4.26. Work zone safety is an issue we face every day in our industry. There are recommendations within the above-mentioned NIOSH document that we agree with. There are however also recommendations within this document that would simply complicate workzone safety and put an undue hardship on both the contractor and the taxpaying public. It has often been said that corporations do not pay for legislation but merely pass additional costs on to their customers, in this case, the taxpayer.

With regard to traffic control and work zone layout, the MUTCD was developed to provide guidance in "typical" situations. Although a great deal of effort has been put into the development of this manual, no one set of signs or other traffic control devices can typically satisfy all conditions for a given project. At the same time, defining detailed standards that would be appropriate to cover all applications is simply not practical. If such a manual were further developed, it would contain volumes of layouts and would be more confusing than helpful.

With regard to uniformity of traffic control devices within a single work zone, we feel the same set of standards should apply across the board. Traffic control devices should be the same whether they are used on a Federal highway project, State project, County project or City project. This standardization would in time save contractors and taxpayers money by eliminating the need for different or special devices.

We agree that flaggers should have the authority to recommend changes and improvements to work zone layouts to their supervisors. We do however feel that these individuals should be required to pass a minimum training requirement prior to assuming these positions. Far too many contractors do not adequately train flaggers prior to employment. Requiring a



minimum standard for flaggers would go a long way in leveling the playing field in competitive bidding. We see a problem with substandard contractors winning bids because they do not dedicate the resources necessary to provide the safest and healthiest work places for their employees.

The report mentions that contractors should utilize alternative speed control devices such as radar and video surveillance in highway construction zones. We agree alternative speed control measures in work zones can be an effective method of reducing accidents and injuries. We do not feel however that the contractor should buy these devices. It is our opinion that the Federal and State Highway Administrations should be responsible for the purchase and upkeep and utilization of these devices. We have found that by using only one device for a job soon becomes ineffective. For example: we have used radar in the past to slow traffic in a work zone. The problem comes when there is no enforcement backup used in conjunction with the radar. The motoring public soon realizes the radar is a form of "crying wolf" and disregards it all together. We believe a variety of devices should be used on a job to keep the lawbreaker guessing if you will. A good scenario might be radar one day, videotape another, patrolman presence the next day etc., however to be effective the burden needs to be put on the regulatory agencies with the authority to do something about law breakers, not the contractor. We do believe the increase in penalties for work zone traffic violations is an effective method of controlling the motoring public. Again some State to State consistency would be helpful. Because each work zone inherently contains hazards that are applicable to that specific job, we are opposed to a one speed fits all attitude. Contractors and officials need the flexibility to raise and lower speeds at times to protect both the construction worker and the motoring public.

Internal traffic control plans are something that have been in existence for quite some time, however for similar reasons as previously stated with regard to the MUTCD, plans for each and every project would simply be impractical. We would recommend that plans only be required on projects over a certain time duration, dollar amount, or project length in miles. Most contractors provide services that would be completed before a traffic control plan could even be written. At present, larger projects have engineered traffic control plans. These plans are written specific to the project however cannot usually take into consideration each and every potential hazard. Plans need to be flexible enough to adapt to changing work zone hazards. Bureaucracies have a tendency to hinder the flexibility to change. Contractors and highway officials should "Partner" problems to effectively deal with ultimate changes.

The report makes reference to the testing of driver backing skills at the time a CDL is obtained. We feel this could help provide the industry with more and better qualified drivers. We wonder how current drivers with CDL's would come into compliance. Perhaps current CDL holders could be "grand fathered" in with new CDL candidates being tested for backing skills as a part of their initial test.

The report mentions the requirement of parabolic mirrors on trucks similar to those on school busses. This will cause an undue hardship on contractors with regard to cost. Perhaps the original equipment manufacturers should be contacted and begin installing mirrors on new equipment similar to the way seat belts were introduced. The report also makes mention of ultrasonic sensors, sonar or similar warning devices. Again the cost to a contractor to install these types of devices would cause an extreme financial hardship. Northern Improvement Company just purchased many new pieces of equipment. To be forced to go back and spend a significant amount of money for the installation these devices could very easily be the difference in getting or not getting a job. Additionally the effectiveness of these devices is unproven. We have concerns about their responsiveness in tight quarters and when the sensor becomes covered with dirt or mud. In this case we would hope you again put the responsibility on the OEM's and conduct a series of real life tests in the field to evaluate there effectiveness.

The report makes mention of scheduling work tasks to keep workers on foot out of areas where heavy equipment is in use. The nature of asphalt and concrete paving requires the use of workers on foot such as concrete finishers and screed operators. Unless extreme technological advances in the paving process are developed, human workers on foot will always be required to perform their duties in relatively close proximity to heavy equipment.

The report also makes mention to changing the contracting process. We believe this is probably the most significant suggestion the report makes. We agree that there is a need to improve worker safety in construction work zones. There are a number of contractors that do not play by the rules and quite often are rewarded by taking work away from good contractors. All contractors should be bidding work from a level playing field. Good contractors risk losing jobs when they have to bid higher to cover the costs of training, maintenance, and other safety programs while others do not. We agree that all contractors should be pre-qualified to ensure good safety records. Contractors that can not meet the pre-qualification criteria should not be allowed to bid.

Diane, the NIOSH report mentions a great many issues. The report for the most part, appears to have been written as a result of analytical data. We firmly believe the best source of information comes right from the source. I think NIOSH would do well to pick a few projects throughout the country to test the report recommendations. This would surely give NIOSH a true sense of what is realistic and appropriate for the issues of work zone safety. Good intentions often go astray when practical first hand knowledge is not taken into consideration. NIOSH should take the opportunity to pro-actively engage these issues in partnership with the construction industry to ensure the recommended regulations that will more than likely evolve from this report are something we all can safely live with. The Association of General Contractors of America may well be the best place to start in forming this partnership.

In review: 1) Northern Improvement Company feels the MUTCD should serve as a guide only for the construction industry.

- 2) Traffic control devices should be standardized.
- 3) Flaggers should be trained.
- 4) Speed control devices should be used by authorities in work zones.
- 5) Internal Traffic Control Plans should only be required on large projects.
- 6) Only new CDL drivers should be tested for backing skills.
- 7) Original Equipment Manufacturers should be responsible for mirrors and reverse sensing devices.
- 8) Workers will at times always have to work where heavy equipment is also working.
- 9) All contractors should have to pre-qualify before being allowed to bid work.

I thank you for the opportunity to respond to the above-mentioned report. I am sure there are a good number of other contractors that would respond if given some additional time. We at Northern Improvement Company believe this is an extremely important issue and feel an extension of the public comment period to December 31<sup>st</sup>, 1999 would be in the best interest of all involved.

Respectfully submitted for your consideration,  
Northern Improvement Company



**Jack Kolberg**  
Assistant Vice President  
Safety Director

CC: Steve McCormick – Executive Vice President – NIC  
Curt Peterson – Executive Vice President – AGC of ND  
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