



Working for Municipalities

Minimum Maintenance Standards Update

Municipal Engineers Association Workshop
November 25, 2016



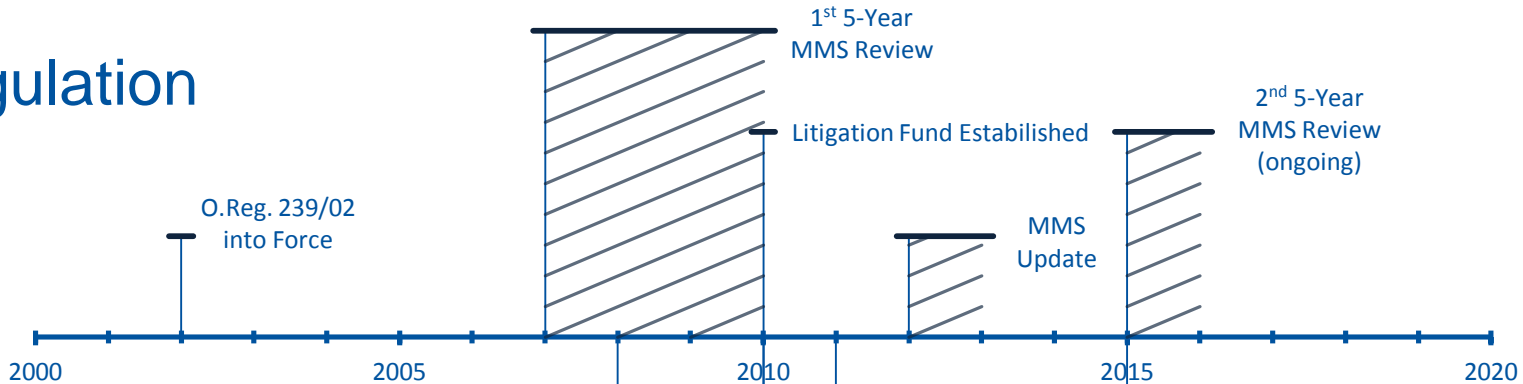
Presentation Overview

- MMS Timeline
 - Regulation
 - Precedent Setting Cases
- MMS 2nd 5-Year Review
 - Committee
 - By the Numbers
 - Next Steps
 - Communication

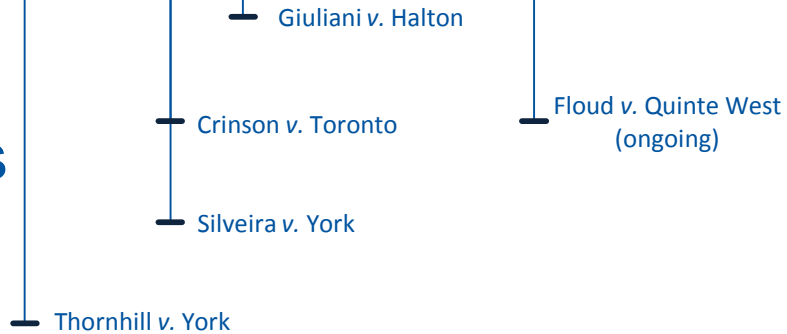


MMS Timeline

Regulation



Precedent Setting Cases





MMS 2nd 5-Year Review

Committee Makeup

Organizations:



Legal Council:





MMS 2nd 5-Year Review

Municipalities:





MMS 2nd 5-Year Review

Insurance Providers:





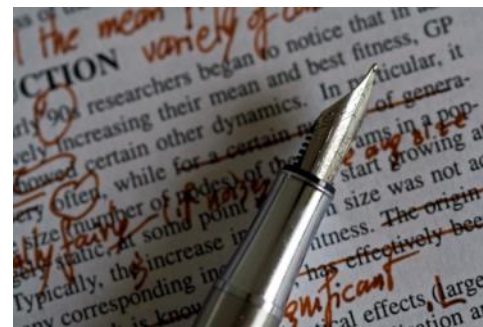
MMS 2nd 5-Year Review

- By the numbers



x12

786+ hours



x11

Renaming Ontario Regulation 239/02

- Proposal

- ~~Minimum~~ Maintenance Standards

- Voluntary participation reiterated and reinforced
- “Minimum” is, misleading and possibly undermining
- Other defences under s.44(3)(a) and (b) still apply
- ‘Minimum’ implies guilt if you do not comply/meet

Municipal Act, 2001
Loi de 2001 sur les municipalités

ONTARIO REGULATION 239/02

MINIMUM MAINTENANCE STANDARDS FOR MUNICIPAL HIGHWAYS

Consolidation Period: From January 25, 2013 to the [e-Laws currency date](#)

Last amendment: O. Reg. 47/13.

This Regulation is made in English only.

Definitions

1. (1) In this Regulation,
- “cm” means centimetres;
 - “day” means a 24-hour period;
 - “ice” means all kinds of ice, however formed;
 - “motor vehicle” has the same meaning as in subsection 1 (1) of the *Highway Traffic Act*, except that it does not include a motor assisted bicycle;
 - “non-paved surface” means a surface that is not a paved surface;
 - “Ontario Traffic Manual” means the Ontario Traffic Manual published by the Ministry of Transportation, as amended from time to time.



Classification of Highways Table

- Existing Classification table has been adjusted to include more categories above 15,000 for large volumes
- ~~AADT~~ vs. Average Daily Traffic





Weather Monitoring

- Consideration
 - Declaration of a ~~‘weather emergency’~~
‘significant weather event’
 - Identification of ways to communicate with the public



- Municipalities should set criteria for when to declare these events

Potholes

- Measurement/Calculation of pothole surface area
 - Actual measurement or visual estimate
 - Hole vs. ~~depressed/sunken area~~
 - Important clarification for a common deficiency





Sidewalk Surface Discontinuities

- Expand sidewalk inspection to cover a portion of the area adjacent to the sidewalk
 - Identify: holes/depressions/trip hazards/encroachments
 - ‘Highly unusual’ nature with 28 days to address



Snow and Ice Accumulation Sidewalks



- Requirement to address snow within 48 hour window after end of accumulation or notice of snow/ice
- Includes plowing, sanding, salting or combination



Bicycle Lanes

- Conventional vs Separated lanes
 - Attempt to identify additional winter maintenance challenges on separated facilities
 - Maintenance levels scale with adjacent road classification

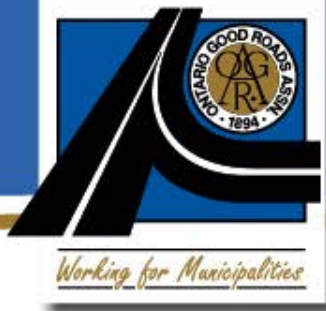




Sidewalks and Bicycle Lanes

- Why the focus on this infrastructure?
 - Previous standard was mostly silent
 - More claims occurring due to more use and expansion of these infrastructure networks





MMS 2nd 5-Year Review

Next Steps





MMS 2nd 5-Year Review

Communicating the Message

Heads UP Alert

keeping members informed

January 28, 2013

Minimum Maintenance Standards – amending regulation

The Honourable Bob Chiarelli, Minister of Transportation, today signed a regulation that amends Ontario Regulation 239/02 Minimum Maintenance Standards for Municipal Highways (MMS).

The regulation has been used successfully since 2002, to defend a number of claims against municipalities. However, a recent Ontario Court of Appeal decision *Giuliani v. Region of Halton et al.* [2011] ONCA 812 (CanLII) rendered sections 4 and 5 of the MMS largely meaningless as a defence by the limited interpretation given to them by the Court of Appeal. The judge's findings of default were directed at failures to take reasonable steps to avoid ice forming on a roadway and a failure to monitor the weather and to have deployed resources much earlier than was done so as to avoid the formation of ice. In response to the decision of the Court of Appeal, the MMS Task Force was convened and undertook to respond to the allegations of fault and revise the MMS.

On your behalf OGRA will:

1. Post a Fact Sheet on our website that explains the revisions to the regulation;
2. Hold a series of webinars on the MMS revisions; watch the OGRA website at www.ogra.org for dates and times; and
3. Conduct a workshop on the MMS revisions during the ROMA/OGRA Combined Conference. This workshop is scheduled for Tuesday February 28th at 2:15 p.m. in the Ballroom of the Royal York Hotel.

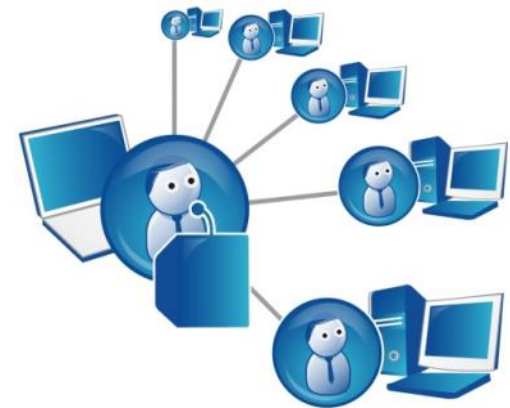
OGRA wishes to thank the members of the MMS Task Force. This group of dedicated individuals exceeded expectations in accomplishing what they did in a very short timeframe.

For further information, please contact Brian Anderson – brian@ogra.org or by phone 289-291-OGRA (3472).

ONTARIO GOOD ROADS ASSOCIATION
1525 Connaught Road, Unit 22 Oakville, ON L6M 3R2
289-291-OGRA (3472)

Amendments to O.Reg. 239/02 Minimum Maintenance Standards for Municipal Highways under the *Municipal Act, 2001*

<p>Snow accumulation</p> <p>4. (1) The minimum standard for clearing snow accumulation is:</p> <p>(a) while the snow continues to accumulate, to deploy resources to clear the snow as soon as practicable after becoming aware of the fact that the snow accumulation on a roadway is greater than the depth set out in the Table to this section; and</p> <p>(b) after the snow accumulation has ended and after becoming aware that the snow accumulation is greater than the depth set out in the Table to this section, to clear the snow accumulation in accordance with subsections (2) and (3) or subsections (2) and (4), as the case may be, within the time set out in the Table. O. Reg. 239/02, s. 4 (1).</p> <p>(2) The snow accumulation must be cleared to a depth less than or equal to the depth set out in the Table. O. Reg. 239/02, s. 4 (2).</p> <p>(3) The snow accumulation must be cleared from the roadway to within a distance of 0.6 metres inside the outer edges of the roadway. O. Reg. 239/02, s. 4 (3).</p> <p>(4) Despite subsection (3), for a Class 4 highway with two lanes or a Class 5 highway with two lanes, the snow accumulation on the roadway must be cleared to a width of at least 5 metres. O. Reg. 239/02, s. 4 (4).</p>	<p>Section 4 of the Regulation is amended by striking out the portion before the Table and substituting the following:</p> <p>Snow accumulation</p> <p>4. (1) The minimum standard for clearing snow accumulation is:</p> <p>(a) after becoming aware of the fact that the snow accumulation on a roadway is greater than the depth set out in the Table to this section, to deploy snow-clearing resources as soon as practicable; and</p> <p>(b) after the snow accumulation has ended, to clear the snow to a depth less than or equal to the depth set out in the Table within the time set out in the Table,</p> <p style="margin-left: 20px;">(i) to provide a minimum lane width of the lesser of three metres for each lane or the actual lane width; or</p> <p style="margin-left: 20px;">(ii) on a Class 4 or Class 5 highway with two lanes, to provide a total width of at least five metres.</p>	<p>The new wording of section 4(1) clarifies the standard for addressing snow accumulation and is based on the Review Task Force's consideration of court rulings and responses from public works practitioners. Section 4 addresses:</p> <p>(a) snow accumulation during a winter storm event.</p> <p>Deals with deployment of resources at the beginning of the storm event and any repeat activities during the storm event</p> <p>(b) snow accumulation after a winter storm event is over.</p> <p>Deals with clean-up after a winter storm event</p> <p>(i) & (ii) the width of roadway to be cleared after a storm event. (formerly 4(3) & 4(4))</p> <p>Note: Measurement for pavement width cleared b(ii) has been changed for easier implementation</p>
<p>(5) This section,</p> <p>(a) does not apply to that portion of the roadway designated for parking; and</p>	<p>(2) This section,</p> <p>(a) does not apply to that portion of the</p>	<p>Revised section 4(2) is formerly 4(5)(a) & 4(5)(b)</p>





Thank you

Alan Korell, P.Eng.

Executive Director

Municipal Engineers Association

Alan.Korell@municipalengineers.on.ca