



the Municipal  
**RISK MANAGER**

A PUBLICATION OF THE MAINE MUNICIPAL ASSOCIATION

JULY 2024

## Risk Management Services Attends 2024 Tech Conference



MMA Risk Management Services was excited to be a sponsoring partner of the 2024 Technology Conference held at the University of Maine at Augusta in late-May. In addition to being a sponsoring partner, MMA Risk Management Services also covered the registration fee for members of our Property and Casualty Pool who wanted to attend. It was our goal to make this important event as accessible as possible.

The Technology Conference proved to be an excellent opportunity for our members to network with vendors and attend training on critical issues such as developing the framework for cybersecurity and responding to cyberattacks. The keynote speaker, Elijah Cedeno from the Center for Internet Security, spoke about the no-cost resources available to municipalities from the Multi-State Information Sharing and Analysis Center (MS-ISAC). The MS-ISAC offers resources and tools to state, local, and tribal government organizations to help them better prepare for and respond to cybersecurity threats. Closing out the training program was a review of the Maine Cyber Range which provides municipalities with an immersive hands-on training experience on how to best

detect, respond to, and prevent cyber incidents at no cost. The Maine Cyber Range is available through the University of Maine at Augusta's Cybersecurity Program.

MMA Risk Management Services also had its own vendor booth at the event, where we provided participants with our updated Best Practices for Cybersecurity and Data Protection publication, which focuses on the importance of a well-written Acceptable Use Agreement, proper password management, multifactor authentication, and other cybersecurity safeguards.

We also took the opportunity to promote the Risk Reduction Grant—a grant which provides up to \$3,000 to assist our Property and Casualty Pool members in their efforts to control or mitigate potentially hazardous exposures that could damage property or pose a liability risk. This grant does not have a match requirement to receive the full amount and the next cycle closes on September 15, 2024. In the past, grant funds have been used to help purchase data back-up equipment, lockable server racks, uninterruptible power supplies, and security camera systems.

More information on the Risk Reduction Grant and our Cybersecurity Best Practices can be found on our website: <https://www.memun.org/Risk-Management>.

***MMA Risk Management  
Services is excited to welcome the  
newest members of the  
Property & Casualty Pool:***

**Town of Mexico  
Town of Ogunquit  
Town of Wilton**

***We thank our dedicated members for  
their continued partnership.***

## Trench Trouble

There are various projects that necessitate trench or road openings, such as water main repairs, culvert replacements, and sewer manhole adjustments. While this maintenance is essential, trenches can pose significant issues when not adequately managed.

Consider a trench on a 35-mile-per-hour road left overnight. A maintenance team works late into a Friday afternoon, hastily backfilling the excavation across the road for a culvert replacement. Short on time and materials, they use what is on-site, leaving the trench poorly compacted. They place a few cones on the shoulder to alert motorists of the hazard. With weekend traffic now flowing, the fill settles quickly, creating a 2-inch rut between the pavement and the fill height in the trench. Subsequent rain erodes some of the unsuitable fill, exacerbating the situation. Saturday morning, a resident heads to the store, unaware of the roadwork. Seeing the cones, they proceed, assuming they indicate something on the roadside. They hit the trench, damaging their vehicle, and sustaining personal injury.

Vehicle damage claims and personal injuries resulting from such trenches occur for various reasons, with legal responsibility falling on members for improper trench maintenance or inadequate notice to motorists. In today's distracted driving environment, it is crucial for the performing entity to ensure proper marking and maintenance of work zones and road openings.

Under Maine law, specifically 23 MRSA, Chapter 313, regarding local highway law, the statute stipulates:

"Highways, town ways, and streets legally established shall be opened and kept in repair so as to be safe and convenient for travelers with motor vehicles."

The primary step to avoid "trench trouble" is meticulous planning. Even in emergencies, teams must assess hazards for both employees and the public and take steps to minimize risks. When planning for a road opening, consider:

- **Current Conditions.** How will the weather, traffic volumes, time of day, and other elements of the work environment affect the task that needs to be done?
- **The Work.** What is the goal of the project? What tools, materials, and equipment will be needed to complete the task. Are the necessary materials readily available to avoid project delays?
- **Safety.** What steps need to be taken to protect the maintenance team and the public? Do not forget work zone safety standards, excavation safety rules, and be sure to account for pedestrians and bicyclists in your plan.
- **Schedule & Timing.** How long with this project take? What precautions are needed to account for projects that require multiple days? Or question whether a two-day project should commence on Friday.



Many projects simply cannot be completed in a single day. Here are some things to remember when you are planning to leave a road opening or trench overnight or longer:

- **Plan Appropriately.** Do not bite off more than you can chew. Create a plan for the workday that is reasonable to complete and allows time to backfill or cover the trench so that it can be safely traveled in between workdays.
- **Prepare the Trench.** When leaving a trench overnight, it should be level. It is never a good idea to leave an area open. Trenches should be covered with engineered plates or appropriate backfill materials should be placed flush with the edge of pavement.
- **Maintain the Trench.** Make plans to regularly inspect the trench and make repairs when necessary to ensure it is safe.
- **Use Warning Signage.** Signs and other traffic control devices are extremely important for motorists as they approach the trench. They help warn that there is something up ahead and they need to slow down. Once they approach the trench, be sure the trench itself is adequately marked. Barrels left in the center of the roadway can slow drivers down more than just a couple of traffic cones left on each side of the project area, and "BUMP" signs can help slow people down at the trench itself.
- **Consider the Traveler.** When considering warning signage for a trench, you must put yourself in the shoes of the driver who has no idea you have been doing work. What would be adequate notice for them? Remember, it is also about the safety of the driver. Even with signage, it can be extremely difficult for drivers to appreciate the condition of the trench in the dark, especially on more rural roads.

If you take these precautions to provide motorists proper notice, and they ignore it and sustain damage, photos documenting how the work area is left, including warning signs further down the road, will assist the Pool in assessing those claims when they happen.

If damage does happen, report it! Many times, members DO NOT report a claim because they do not feel they are responsible. Months go by and the claim is reported when they hear from an insurance company or an attorney. When we request documentation about the incident, we often find that the member does not have the documentation we need to deny the claim. By reporting these claims promptly, we can assist you with identifying needed documentation while the information can still be obtained, such as photos and statements. The Pool is not only here to pay claims; we are also here to help.

For more information about work zone safety and trenching and best practices for excavation feel free to reach out to your MMA Risk Management consultant or try these helpful websites:

Manual on Uniform Traffic Control Devices (MUTCD)  
<https://mutcd.fhwa.dot.gov/index.htm>

Maine Department of Labor SafetyWorks!  
<https://www.safetyworksmaine.gov/index.shtml>

Maine DOT Maine Local Roads Center  
<https://www.maine.gov/mdot/mlrc/>

Maine Municipal Association – Risk Management Services  
<https://www.memun.org/Risk-Management>



## Parade Safety – Ready, Set, March

Throughout Maine, parades are commonly held as part of celebrations commemorating special occasions and traditions. In the planning of these events, entities appropriate funding and dedicate a great amount of time and resources to ensure that the event is enjoyed by the attending public, but in some cases, consideration is not given to safety and the use of risk management principles. The incorporation of risk management practices will not dampen the mood or reduce the level of enjoyment of your parade, but rather elevate the fun for all by diminishing anxieties and potential hazards.

This article provides some safety, legal, and insurance tips that your municipality may wish to consider before your parade begins to march.

**The first question of primary importance is: Whose parade is it?** Is your municipality truly sponsoring the event or is another entity responsible for the administration of the parade? In order for a municipality to officially sponsor a parade, the municipality must have the “ultimate authority” and “oversight” over the activity. Furthermore, all funds must be accounted for in the municipality’s annual audit and overseen by the municipal treasurer. If these conditions are not met, then this parade may belong to another entity and thereby they assume the associated liabilities.

**The second consideration is: Who is insuring the parade?** For municipally sponsored events, members of the MMA Risk Management Services Property & Casualty Pool may already have the liability coverage that they need for the special event. But, regardless of who provides liability coverage for your municipality, it is critical that you contact your insurer prior to the event taking place and verify conditions of coverage and potential exclusions. Furthermore, require that all owners of vehicles, including but not limited to motorcycles, tractors, mobile floats and automobiles provide proof of automobile

## Time out for Training at the 31st Annual Highway Congress

MMA Risk Management Services’ Loss Control Department continued their support for the Annual Highway Congress held on June 6 at the Skowhegan Fairgrounds. The “Time Out for Training” booth is a fixture of the Highway Congress and provides an opportunity to discuss various safety related issues with many of our members and interact with vendors in a more casual setting. This year’s safety focus was on storm preparedness, which centered on the short-term and long-term strategies that can be implemented to prepare for significant weather events.

The Storm Preparedness Check List addresses such topics as:

- Facility & infrastructure assessments to assist with resiliency investments;
- Communication plans to establish protocols for departmental responses and information sharing;
- Training for pre and post storm preparedness and response; and
- Seasonal preparedness for flood planning, drainage, vegetation management, traffic management and emergency action planning.

We would like to thank all the attendees that visited our booth, and for their dedication to risk management.

liability insurance and a current driver's license before being allowed to participate in the festivities. A *Certificate of Insurance* is a document which is typically used to provide evidence of insurance. It is recommended that you verify proof of *General Liability* coverage as well as which vendors/participants name your municipality as an *Additional Insured*.

**Plan and check the parade route.** The careful planning of the parade route can keep the event smoothly moving forward while reducing the likelihood of an accident occurring. You should ensure that the selected route is clear of obstructions and allows for adequate traffic control. Plan a staging area for people and floats to organize before the start of the parade, as well as an area for the parade to conclude and safely disperse without congestion and confusion. Determine which streets will need to be closed, where to place barricades, and the number of safety personnel that will be needed and where they should be located. It is also important to walk the parade route to observe the condition of the surface by taking note of potholes, cracks and other obstacles that may cause an injury or present a danger to parade participants and spectators. Once a hazard is identified, repair or clearly mark the item and document the preventative actions taken. The documentation of all steps to address safety concerns may provide a level of protection for your municipality in the event of an accident.

#### Implement parade safety guidelines.

1. Give consideration to the positioning of parade participants spacing and float procedures. Separate animals (if allowed) from units within the parade that create loud and sudden noises such as marching bands.
2. Prohibit the consumption and use of alcoholic beverages and other controlled substances by parade participants, as well as spectators.
3. Make certain that children always have qualified supervision.
4. Limit the size of floats and ensure that participants have clear visibility.
5. Ensure that persons riding on floats have proper footing/seating and do not hang appendages over the sides of the float.
6. Prohibit items or candy from being thrown from a float. Instead, require that items be distributed by accompanying walkers.
7. Prohibit the installation of fireworks or pyrotechnics on any vehicle or float.
8. Provide walking traffic guards along the route to ensure safety.
9. Perform weather checks and if you hear thunder, have all parties seek shelter immediately.
10. Conduct emergency planning for non-celebratory events. It is critical. Even though we all wish to participate in the festivities, we must carefully plan so that emergency responders are available to respond to other emergencies at other locations. Therefore, it is critical to ensure that critical apparatus, equipment, and staffing resources are readily available to respond in times of need.

These guidelines and recommendations only address some of the basic safety considerations that should be addressed when planning a parade and are provided as a tool to reduce the likelihood of a loss. With a little planning and the implementation of risk management best practices you can help protect your community and ensure a joyful celebration for all.

## FREQUENTLY ASKED QUESTIONS

### WHAT IS A RETURN-TO-WORK PROGRAM?

A return-to-work program is intended to help injured employees return to work sooner and reduce workers' compensation lost-time accident costs.

#### THE BEST RETURN-TO-WORK PROGRAMS SHARE TWO CHARACTERISTICS:

- An emphasis on the importance of communications.
- The opportunity to work with staff to identify alternative productive work that can be performed by a recovering employee.

If an employee is physically unable to perform former duties, a commonsense solution is to return the employee to alternative work that is physically less demanding but essential to your entity.

#### BENEFITS OF A RETURN-TO-WORK PROGRAM

Employee morale and cost savings are a great motivator for a Return-to-Work program, which is achieved by:

- Reassuring injured employees that they are valued by the organization.
- Reducing employee turnover by avoiding the need to hire and train replacement workers.
- Increasing productivity as employees are back on the job.
- Shortening the amount of time injured employees are away from work can reduce costs, and improve your experience modifier, which, in turn, can lower your entity's contributions.

By managing exposures, implementing safety and training programs, consistently using an occupational medical provider, and committing to a Return-to-Work program, municipalities can help to mitigate workers' compensation costs.



### The Municipal Risk Manager

The Municipal Risk Manager is published seasonally to inform members of developments in municipal risk management which may be of interest to you in your daily business activities. The information in these articles is general in nature and should not be considered advice for any specific risk management or legal question. You should consult with legal counsel or other qualified professional of your own choice for specific questions.

**Publisher:** Risk Management Services

**Editor:** Marcus Ballou

**Layout Design:** Sue Bourdon

P.O. Box 9109, Augusta, ME 04332

800-590-5583 or (207) 626-5583