

# 2021 ANNUAL REPORT TO THE LEGISLATURE

The readiness of state government  
to respond to discharges  
of oil or hazardous  
substances



**MINNESOTA DEPARTMENT OF TRANSPORTATION**

OFFICE OF FREIGHT AND  
COMMERCIAL VEHICLE OPERATIONS

**MINNESOTA DEPARTMENT OF AGRICULTURE**

**MINNESOTA POLLUTION CONTROL  
AGENCY**



**MINNESOTA  
DEPARTMENT OF PUBLIC SAFETY**

STATE FIRE MARSHAL

BUREAU OF CRIMINAL APPREHENSION

HOMELAND SECURITY AND EMERGENCY MANAGEMENT

MINNESOTA STATE PATROL

## **Background**

Minnesota Statute 2020, Chapter 115E requires responsible parties to prevent, prepare for and respond to discharges of oil and hazardous materials. State agencies also have responsibilities under this statute. The Department of Public Safety (DPS) commissioner coordinates state agency preparedness and response through the State Fire Marshal division (DPS-SFM).

Section 115E.08, Subdivision 4 requires the commissioner to report to the appropriate legislative committees annually about state government's readiness to appropriately respond to such incidents.

The following departments have responsibility for carrying out the specified duties and authorities of Chapter 115E:

- Department of Agriculture: agricultural chemicals
- Department of Natural Resources: assessment and rehabilitation of water resources
- Department of Public Safety: public safety and protection of property
- Department of Transportation: transportation regulations
- Minnesota Pollution Control Agency: all other matters relating to Chapter 115E

## **Minnesota Department of Public Safety**

### **Minnesota State Fire Marshal Division**

The DPS-SFMD mission is to protect lives and property by fostering a fire-safe environment through investigation, enforcement, regulation, data collection and public education. DPS-SFMD supports fire departments and law enforcement authorities, other agencies and the public. This is accomplished in several ways.

- Fire and arson investigation training for local public safety personnel.
- Fire investigations and fire death investigations.
- Materials, training and assistance to implement fire safety education programs.
- Fire inspections in public and charter schools, hotels, motels and health care facilities.
- Development and adoption of state fire code.
- Data collection to strengthen fire code, code enforcement and fire safety education.

DPS-SFMD has four Fire Service Specialists who work with Minnesota fire departments to address issues and concerns. The SFMD also oversees the State Emergency Response Teams.

### **Bureau of Criminal Apprehension**

The Bureau of Criminal Apprehension, a division of DPS, maintains the Minnesota Duty Officer (MDO) Program. The MDO has proven to be a critical statewide link in notifying state agencies of hazardous materials spills and releases.

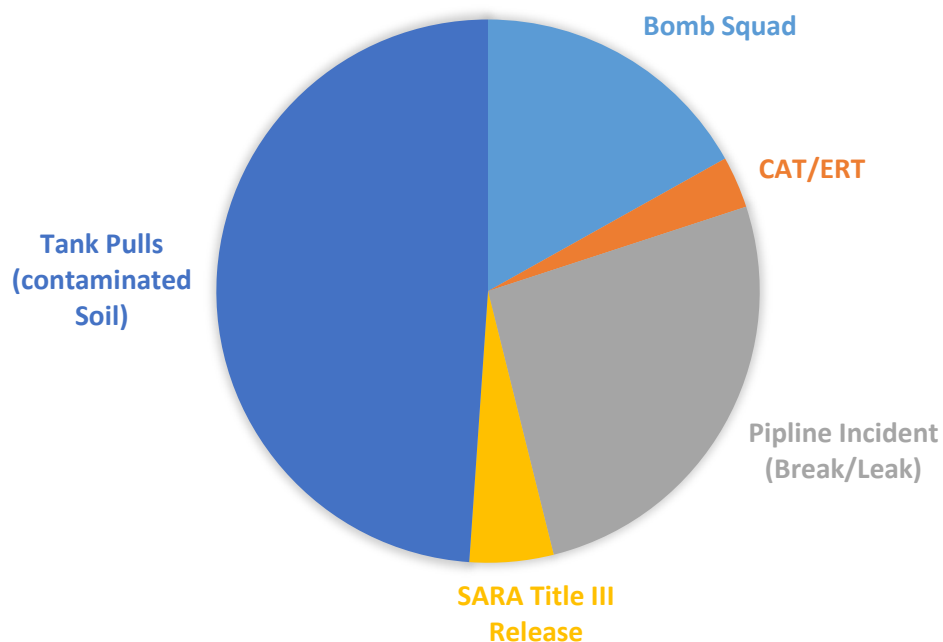
Incoming requests for assistance cover a broad range of topics, including environmental concerns, natural disasters and threats, and suspected acts of terrorism. The MDO operates 24 hours a day, seven days a week, coordinating assistance to local and tribal governments and professional response agencies.

**Figure 1**

Initiating call category	Initiating calls to MDO*	Resulting notifications/calls
Air Quality	178	848
Bomb Squad**	123	739
CAT/ERT**	31	546
Informational Call	2544	3079
Fishkill	211	1157
FM Investigator	753	2051
Methamphetamine Lab	0	0
Mutual Aid	4	30
National Guard/CAP/Aircraft	8	27
Nuclear Plant / Accident	205	244
Pipeline Incident (Break/Leak)**	147	693
SARA Title III Release**	35	156
Search and Rescue	2	7
Spills	2452	13275
Supplemental	699	6561
Tank Pulls (Contaminated Soil)**	240	686
Waste Water Bypass	133	711
Weather Incident	64	73
WMD Threat**	4	60
Totals***	7,655	30,095

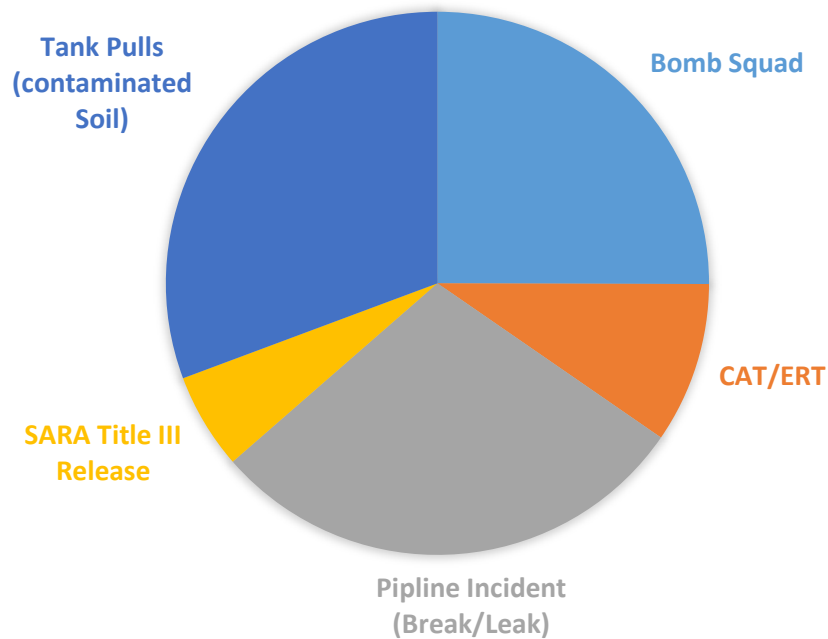
**Figure 2**

### INITIATING CALLS TO THE MINNESOTA DUTY OFFICER- STATE RESPONSE TEAMS



**Figure 3**

**NOTIFICATIONS RESULTED FROM INITIATING CALL -  
STATE RESPONSE TEAMS**



\*Initiating calls appear under all appropriate categories. For example, a spill call requiring a CAT/ERT response is listed under both “Spills” and “CAT/ERT Request.” These numbers reflect only calls resulting in an MDO report.

\*\*Related to discharges of oil or hazardous substances.

\*\*\* Call received to MDO Jan. 1, 2021, through Dec. 31, 2021



## **Minnesota State Patrol**

The Minnesota State Patrol (DPS-MSP) is a DPS division. DPS-MSP is routinely one of the first agencies to respond to an incident involving hazardous materials with commercial vehicles. These incidents might occur on or near a highway where public protection is critical. The Commercial Vehicle section DPS-MSP includes non-sworn inspectors and state troopers who inspect commercial vehicles involved in crashes while transporting hazardous materials. The inspections help identify regulation violations and factors contributing to the crash. The inspectors are trained in proper hazardous materials packaging and cargo tanker operations. Information discovered during an inspection can result in criminal charges or be referred to other state or federal agencies for further investigation.

Two trained inspectors conduct Commercial Vehicle Safety Alliance (CVSA) Level VI radioactive inspections on vehicles transporting high-level radioactive shipments. These loads must be inspected when originating in Minnesota or entering Minnesota from Canada.

DPS-MSP has a hazardous materials decontamination trailer that can be deployed anywhere in the state. In addition, DPS-MSPs only explosives-detecting K-9 and handler are assigned to a trooper on duty at the State Capitol.

## **State Emergency Response Teams**

### DPS-SFMD State Emergency Response Teams Coordinator

DPS-SFMD coordinates all State Emergency Response Teams, response asset programs, and statutory requirements. The coordinator ensures the state, as well as local and tribal governments, have the capability to respond to and protect the public from an incident — accidental or intentional — that might involve hazardous materials, explosive devices, and structural collapse or air rescue operations. The coordinator is a subject-matter expert with technical knowledge of the State Emergency Response Teams. The coordinator manages operations of the statewide system of regional response teams: hazardous materials, chemical assessment, bomb disposal, structural collapse and air rescue. The coordinator provides information and guidance to local and state responders so they can plan, train and prepare for all hazards, including terrorist threats.

### Hazardous Materials Regional Response Teams

DPS-SFMD maintains the Hazardous Materials Regional Response Team Program, which assists local authorities by providing technical guidance to incident commanders and recommending mitigation measures necessary to protect life, property and the environment. In addition to the chemical assessment and emergency response teams, six DPS-SFMD on-call staff members are trained in compliance with national standards. Both the teams and on-call staff are available 24 hours a day, seven days a week. Local authorities request assistance via the MDO.

The Hazardous Materials Regional Response Teams have proven to be effective, efficient means to supplement local response capabilities. COVID 19 restricted training (rail, pipeline, hazmat, ethanol emergency response classes) opportunities during 2021. The DPS-SFMD hazmat staff and state hazmat teams work with local authorities to develop training and design exercises. DPS-SFMD in cooperation with International Falls Fire and state hazmat teams completed a full-scale hazmat train derailment training exercise in August 2021. The exercise took place after two years of planning. It involved multiple local, state, and federal agencies and cross-border Canadian partners making the exercise successful. DPS-SFMD hazmat staff continue to work with local, state and federal partners to provide training and exercises across Minnesota.

State hazmat staff and the hazmat teams also work with the Minnesota National Guard's 55<sup>th</sup> Civil Support Team (CST), state agencies and federal agencies on training and exercises.

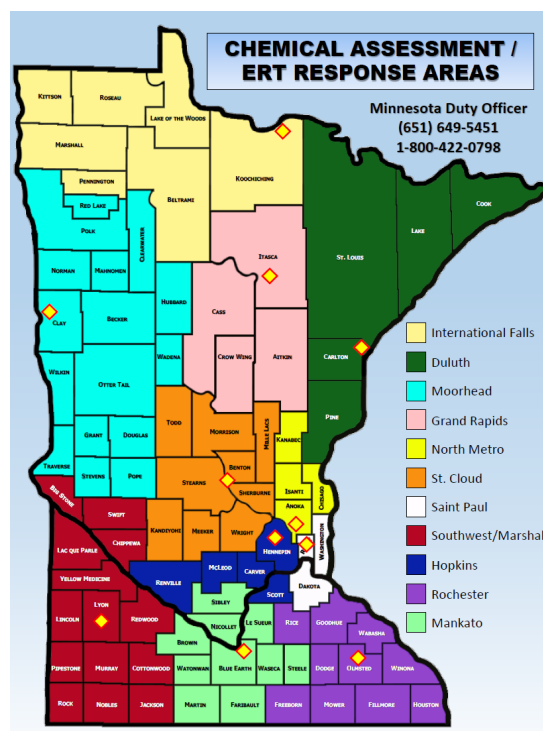
The state hazmat staff and teams continue working with Military Affairs staff at Camp Ripley. Construction of a new Joint Emergency Response Training Center (JERTC) at Camp Ripley is scheduled for completion in the summer of 2022. The facility will provide first responders from across the state with live scenario-based rail, pipeline and hazardous materials surface transportation training. The JERTC also includes space for weapons of mass destruction and clandestine labs training. This state of the art training facility will provide first responders with the knowledge and hands-on experience on responding to a hazardous materials incident.

### Chemical Assessment Teams (CATs)

CATs are comprised of a minimum of nine (9) trained personnel. One Hazardous Materials Specialist and two Technicians must be available to respond at all times. There were 10 CAT assistance requests in their respective jurisdictions this year. CATs also responded to 23 incidents occurring outside their jurisdictions.

DPS-SFMD on-call staff provided phone consultation in 16 incidents and were on-scene at six incidents.

CATs provide local incident commanders with technical support and monitoring, professional responders. Members are trained to exceed OSHA and National Fire Protection Association competencies, specialized equipment and reference materials, and additional support and follow-up by other state agencies. A CAT's primary incident scene responsibilities are hazard assessment, technical assistance, simple mitigation and basic decontamination. CATs are capable of product sampling, identifying unknown substances, air monitoring, plume projection, evacuation and sheltering recommendations, over-packing and containment of a suspected or confirmed hazardous substance, and non-evidentiary sample collection.



CATs cannot assume overall command of a local incident; nor do they clean up or transport hazardous materials, disarm explosive devices, mitigate clandestine drug labs, or respond to abandoned waste or abandoned barrel calls.

Local jurisdictions continue to provide positive feedback about Minnesota CATs.

Many municipal fire departments no longer maintain local hazardous materials teams so they depend on CATs to provide technical information and simple mitigation guidance. The responsible party pays most CATs response costs.

### Emergency Response Teams (ERTs)

An ERT, at the request of the incident commander, can take action necessary to protect life, property and the environment from the effects of a hazardous material release. Its actions include preventing a release, mitigating the effects of the release and stabilizing the situation.

ERTs are located in Duluth, Moorhead, St. Cloud and St. Paul. All serve as CATs when needed.

Each ERT has at least 30 trained personnel with defined critical response positions. An ERT response requires a minimum of eight team members and must adhere to ERT response protocols.

Hazmat on-call staff, several ERTs and a CAT assisted local authorities and incident command (IC) staff on a large train derailment in Albert Lea in May, 2021. Teams provided air monitoring and worked with the IC and railroad staff to make the scene safe.

In October a train derailment involving ethanol occurred. DPS-SFMD Hazmat and CAT worked with the IC on scene safety and stabilization until rail contractors arrived.

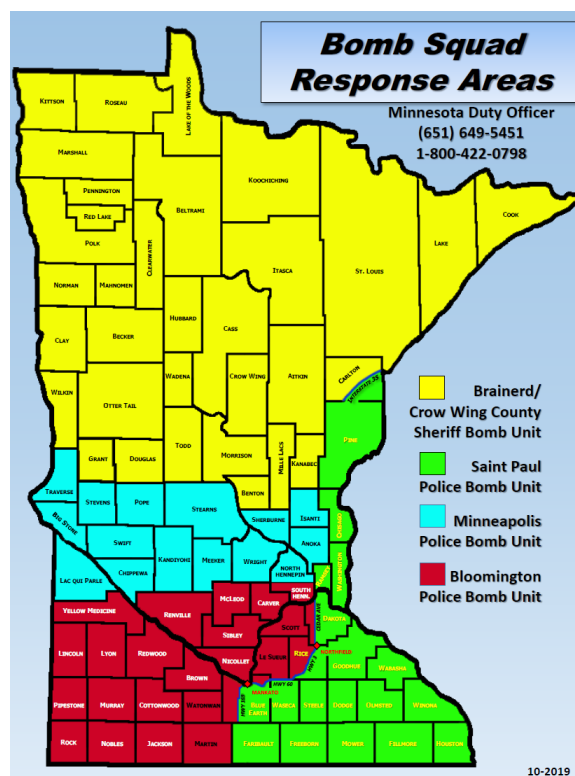
Another October incident involved an Amtrak train, with suspicious packages on board, on a Canadian Pacific rail in Red Wing. The nature of the incident required a joint response of state bomb squad and hazmat teams, DPS-SFMD hazmat staff and federal partners. Hazmat teams continued monitoring and ensured the safety of passengers and train once the bomb squad cleared the train.

### Bomb Disposal Units

There are four contracted bomb disposal units in the State Emergency Response Teams Program. These squads include universally trained and equipped licensed Minnesota peace officers who are also certified as hazardous device technicians and hazardous materials technicians or specialists. The Saint Paul Police Department Bomb Squad is the only underwater bomb disposal unit in Minnesota and is considered a regional team.

Bomb squads conduct post-blast investigations, evidence handling and packaging, reconstruction of detonated devices, investigating clandestine lab operations, and ensuring site safety. Each team is equipped with hazardous-device disposal robots, portable digital X-ray machines, single-vent (open) trailers, and total containment vessels for chemical or biological devices.

The MDO dispatched bomb squads to 117 incidents throughout the state in 2021.



## **Preparedness and Response Committees**

### State Agency Responders Committee

DPS-SFMD coordinates the State Agency Responders Committee. The committee is composed of initial on-call field responders with responsibilities for hazardous materials incident management from all state agencies. The group meets quarterly to review previous responses as a means of improving the effectiveness of state teams. The committee also actively seeks input from local responders to find out how the state can better assist the jurisdictions' response to hazardous materials events. This committee brings a wide variety of expertise to the table and includes: the Minnesota Pollution Control Agency, the National Guard's 55th CST, the departments of Agriculture, Health, Labor and Industry, Natural Resources, Public Safety, and Transportation.

### Minnesota Emergency Preparedness and Response Committee

The Department of Public Safety Homeland Security and Emergency Management division chairs the Minnesota Emergency Preparedness and Response Committee (EPRC). Members meet quarterly (or as needed) to share information and discuss topics of common interest. The EPRC has one member from each state agency identified in Governor's Executive Order 15-13 which assigns emergency responsibilities to state agencies. The EPRC guides state agencies as they provide support and resources to local jurisdictions during emergencies. The EPRC also facilitates updates to the Minnesota Emergency Operations Plan.

## **Minnesota Department of Agriculture**

The Minnesota Department of Agriculture (MDA) is the lead state agency accountable for responding to agricultural chemical incidents. The MDA Agricultural Chemical Emergency Response program is housed in the Pesticide and Fertilizer Management division (PFMD) and consists of a four-member on-call team based in St. Paul. Team members rotate on-call duties ensuring immediate agricultural chemical incident response is available anywhere in Minnesota at any time of day or night. The on-call team coordinator retired in 2021 leading to the MDA hiring a new coordinator who will work exclusively on agricultural chemical emergency response. MDA recently added a new team member as part of a general succession plan for staff approaching the end of their careers. The other three members are lead workers in related MDA programs.

The Agricultural Chemical Emergency Response program is augmented by 11 regional MDA agricultural chemical investigators and two specialized anhydrous ammonia inspection staff located throughout Minnesota. Inspection field staff can be dispatched by an on-call team member to provide a rapid on-site presence, emergency response support, and oversight for environmental cleanup. The team responded to 106 agricultural chemical spills in 2021, 40 of which involved the release or threatened release of anhydrous ammonia.

The on-call team regularly debriefs team members and management on agricultural chemical incidents. Debriefing ensures an improved response, providing high-quality service to the people of Minnesota.

In the event a responsible party is not able to be identified, or is unwilling or unable to respond to an incident, on-call staff have the authority, under Minnesota Statutes, Chapter 115B, to dispatch an emergency response contractor and initiate cost recovery and enforcement actions against the responsible party.

PFMD emphasizes emergency preparedness statewide by offering spill prevention and response training for new pesticide applicators and pesticide recertification workshops. MDA partnered with 10 different sponsors to offer 40 workshops in 2021. Compliance assistance with the simplified incident response sample plan includes clarified plan maintenance, training schedules and first responder notification as well as spill prevention and preparedness outreach to agricultural chemical users, dealers, manufacturers and safety officers.

The MDA consortium also offers inspection of anhydrous ammonia facilities and investigation of anhydrous ammonia incidents. In 2021, they conducted 73 inspections and 40 investigations. To help mitigate exposure risks associated with the COVID-19 pandemic, the MDA did not offer any Anhydrous Ammonia Safety workshops – a departure from the five (5) workshops MDA



typically offered. MDA instead created, and made available online to the public, three (3) training videos which covered all requirements related to anhydrous ammonia storage at facilities, equipment requirements and procedures for responding to anhydrous ammonia incidents.

## **Minnesota Pollution Control Agency**

The Minnesota Pollution Control Agency (MPCA) is one of three agencies with primary responsibilities for environmental hazard response duties under the Minnesota Emergency Operations Plan (MEOP). The MPCA Emergency Response Program consists of seven experienced and trained response staff in Brainerd, Duluth, Mankato, Rochester and St. Paul and one senior technical staff located in St. Paul. One responder is on-call and available during all evening and weekend hours, covering the entire state.

The MPCAs Emergency Response Program adjusted to personnel working from home and managing environmental emergencies remotely due to COVID-19 during fiscal year 2021. MPCA strives to improve the agency's internal preparedness for environmental emergencies, however it continues to be disrupted and progress is slow.

MPCA receives the following types of reports through the MDO program:

- Spills – which reflects reporting requirements for any substance or material discharged or spilled that can cause pollution of state waters. This includes everything from milk and manure to petroleum and industrial chemicals.
- Air Quality – these reports are air releases and equipment breakdowns and shutdowns.
- Sara Title III, Section 304 Supplemental – these reports are a subset of the air quality reports reflecting thresholds have been met according to the cited required legislation.
- Wastewater Facility Bypass – which includes permit-required notifications of wastewater spills and bypasses.
- Pipeline – these reports reflect notifications of all breaks, leaks and spills from pipelines.
- Railroad – noting all derailments or accidents resulting in a spill.
- Tank – used to record all notifications of leaking petroleum storage tanks or environmental contamination discoveries.
- Fishkill – reports used to capture public notifications of large numbers of dead fish discovered on a waterway. These reports are then investigated first by DNR to determine if it is a natural cause or due to a spill from a facility.

MPCA received approximately 3,109 notifications through the MDO program from Jan. 1 to Dec 14, 2021.

The Emergency Response (ER) Program triages these reports, assessing situations for emergency environmental conditions requiring state oversight. The MPCA ER Program handled approximately 1,936 of the 3,109 incidents reported. The program also managed 28 large or complex environmental emergencies.

The program works collaboratively and cooperatively with emergency responders from federal, state, tribal, county and local units of government on assessing and overseeing these cleanups. The MPCA's role is overseeing and directing environmental cleanups performed by the companies responsible for the incident. This can be as simple as a telephone call confirming that adequate cleanup of a small spill is underway, or as complex as extended onsite presence to oversee all aspects of assessment, sampling and cleanup. The ER Program often coordinates multiple MPCA programs

with interest or regulatory authority at the facility or incident.

The ER Program oversaw, directed and responded to 28 incidents in 2021.

The MPCA can hire a state contractor to clean up a spill in cases where the responsible party is unable or unwilling to conduct a cleanup or is perhaps impossible to identify immediately. The MPCA then pursues cost recovery and appropriate enforcement actions against the responsible party once responsibility is determined.

MPCA offers assistance and support to those affected by floods and storms. Assistance can include help organizing, sorting, collecting, recycling and disposing of debris; troubleshooting and restarting wastewater treatment plants; cleaning up spilled oil; and recovering scattered or floating tanks. MPCA can advise and assist local public safety officials with cleanup and recovery concerns during the public safety phase of incidents involving oil and hazardous materials.

MPCAs authorities and responsibilities under 115E allow for the review of regulated facilities' Prevention and Response Plans to determine their readiness to contain and recover oil spills, protect water resources from pollution and recover spills from land to protect groundwater. This statute was created without funding for implementation. Amendments provided funding for one full-time employee (FTE) for the MPCA in 2014. This funding allowed for implementation of only the railroad preparedness requirements. The agency, however, lacks resources to conduct reviews beyond the mandated unit-train railroad plans.

Railroads operating trains of petroleum or hazardous substances have additional preparedness requirements that MPCA and DPS are responsible for overseeing. MPCA has some additional, specific mandated responsibilities. Unfortunately the MPCA staff funding ends after Fiscal Year 2022 (FY22).MPCA will be forced to minimize efforts to meet these responsibilities if there is no legislation to fund this work and MPCA does not fund the work using other revenue sources. MPCA performed the following tasks related to the requirements in FY 2021:

- Received five Prevention and Response Plans for review and began reviews.
- Developed a three year cycle of plan reviews, conducting drills and follow up inspections of equipment or records.
- Participated in 18 exercises or training sessions involving industrial partners and fire departments. This included a two-day oil spill response training session conducted by one of the railroads transporting unit trains.
- Participated in quarterly State Agency Responders Committee meetings.

MPCA provides oil spill response training, as requested, to fire departments throughout the state. MPCA did not receive any training requests during calendar year 2021. MPCA historically offers classroom instruction, hands-on practice deploying equipment and assistance with exercises.

The MPCA Emergency Response Program staff are contributing partners in several public/private preparedness groups. MPCA is an active participant in the following organizations which promote coordinated spill preparedness and response:

- Red Wing Community Awareness and Emergency Response (CAER) Organization
- Wakota CAER in Washington and Dakota counties
- State Agency Fish Kill Work Group
- Upper Mississippi River Basin Association Hazardous Materials Spills Group
- EPA Region V Regional Response Team

- United States Environmental Protection Agency (EPA) Sioux Land, Red River and Twin Cities sub-area committees
- United States Coast Guard Western Lake Superior Port Area Committee

Fostering relationships and building partnerships results in a prepared state and unified, effective and efficient responses. MPCA emergency response program strives to improve the state's preparedness on a daily basis.

## **Minnesota Department of Transportation**

### Office of Freight and Commercial Vehicle Operations

The Minnesota Department of Transportation (MnDOT) Office of Freight and Commercial Vehicle Operations (OFCVO) responds to transportation-related hazardous materials incidents involving all transportation modes. This includes crashes or rollovers involving vehicles transporting hazardous materials, homeland security-related incidents, and spills and abandonments of hazardous materials on or near roadways throughout the Minnesota. OFCVO currently has two hazardous materials specialists (HMS) who share on-call duties. They are on-call and dispatched through the MDO 365 days a year at any hour of the day or night. The OFCVO is adding a third HMS to the on-call rotation after the requisite training is completed in early 2022.

The OFCVO HMS have in-depth knowledge of the Federal Hazardous Materials Regulations, the Federal Motor Carrier Safety Regulations (Code of Federal Regulations, Title 49,) and the Minnesota Motor Carrier Statutes (Chapter 221).

Every HMS will also have extensive training and experience in

- The Incident Command System
- Emergency response techniques and management
- The design, construction and functioning of hazardous materials cargo tanks, tank cars, and other hazardous materials packages
- Hazardous product transfer equipment and techniques
- Heavy-duty vehicle recovery and towing
- Chemical and radiological hazards
- Handling abandonments and illegal dumping of hazardous materials
- Handling vehicle fluid and cargo spills

The MnDOT's HMSs investigate the causes of transportation-related incidents and refer responsible parties for regulatory review when that is warranted. Transportation-related incidents are tracked internally. The OFCVO staff also use the U.S. Department of Transportation Incident Reporting System to help identify hazardous materials shippers and carriers involved in multiple incidents. Post-incident follow-up investigations include an examination of shipper and carrier procedures and records to determine whether hazardous materials tankers and other equipment were properly inspected and maintained, and whether all hazardous materials employees -- including truck drivers -- were properly trained, tested and certified.

One of the MnDOT's HMS is CVSA-certified to conduct Level VI inspections. These inspections ensure packaging and vehicles transporting transuranic wastes or highway-route controlled quantities of radioactive materials are defect-free and safe to enter and travel through Minnesota.

The OFCVO HMSs continue to offer and provide incident response/first-responder training to

police, fire departments, and state and local highway maintenance workers. These classes are designed to assist local and state agency personnel in identifying the hazards that may be present at a transportation-related hazardous materials incident. OFCVO staff provide hazardous materials training to the private sector and other government agencies with the goal of reducing highway crashes and hazardous materials incidents.

The OFCVO HMSs are active members of the State Agency Responders Committee.

## **Conclusion**

Minnesota has an effective response system in place with a centralized notification point — the MDO — and an ongoing coordination and communication system between the agencies primarily responsible for oil or hazardous substance discharge incidents. The state Emergency Response Teams and agencies meet regularly to maintain interagency cooperation, share training, and maintain and improve response levels in order to provide the best services possible in Minnesota. Minnesotans can be assured that highly trained specialists are on hand whenever an incident involving oil or hazardous substances occurs.