

«««« 2022 »»»»

# ANNUAL REPORT

TO THE LEGISLATURE

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



## MINNESOTA DEPARTMENT OF PUBLIC SAFETY

- STATE FIRE MARSHAL
- BUREAU OF CRIMINAL APPREHENSION
- HOMELAND SECURITY AND EMERGENCY MANAGEMENT
- MINNESOTA STATE PATROL

MINNESOTA DEPARTMENT OF TRANSPORTATION  
OFFICE OF FREIGHT AND  
COMMERCIAL VEHICLE OPERATIONS

MINNESOTA DEPARTMENT OF AGRICULTURE

MINNESOTA POLLUTION CONTROL  
AGENCY

## **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 (SFMD).

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**

### **State Fire Marshal Division**

The SFMD's mission is to protect lives and property by fostering a fire-safe environment through investigation, enforcement, regulation, data collection and public education. The 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.
- Hazardous materials training for surface transportation.
- State Emergency Response Teams training and exercises.

The SFMD has two State Emergency Response Teams specialists who coordinate the teams and state response to an incident. The SFMD has four fire service specialists who work with Minnesota fire departments to address issues and concerns.

### **Bureau of Criminal Apprehension**

DPS' Bureau of Criminal Apprehension (BCA) 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.

## **Minnesota State Patrol**

The Minnesota State Patrol is a DPS division. The State Patrol 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 State Patrol's Commercial Vehicle Section includes non-sworn inspectors and state troopers who inspect commercial vehicles involved in crashes while transporting hazardous materials. The inspections help identify regulatory 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.

Non-sworn inspectors and troopers conduct regular enforcement inspections on commercial drivers and vehicles that are transporting hazardous materials. The enforcement inspections help ensure there is compliance with the regulations and aides in the reduction of crash-related issues when hazardous materials are involved. Additionally, 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.

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

## **State Emergency Response Teams**

### SFMD State Emergency Response Teams Coordinator

The 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, can 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. Coordinators also continue to provide the MDO with training and education on state teams and response.

SFMD coordinators and on-call staff provided phone consultation in an additional 37 hazmat, seven explosive, and two urban search and rescue (USAR) incidents and were on-scene at eight incidents.

### Hazardous Materials Regional Response Teams

The 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 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. The SFMD hazmat staff and state hazmat teams work with local authorities to develop training and design exercises. SFMD in cooperation with Sartell police, fire, emergency management and state hazmat teams completed a full-scale hazmat pipeline training exercise in September 2022. 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 55th 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 the new Joint Emergency Response Training Center (JERTC) at Camp Ripley was completed 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 lab training. This state-of-the-art training facility will provide first responders with the knowledge and hands-on experience in responding to a hazardous materials incident.

Chemical Assessment Teams (CATs)

CATs comprise a minimum of nine trained personnel. One hazardous materials specialist and two technicians must be available to always respond.

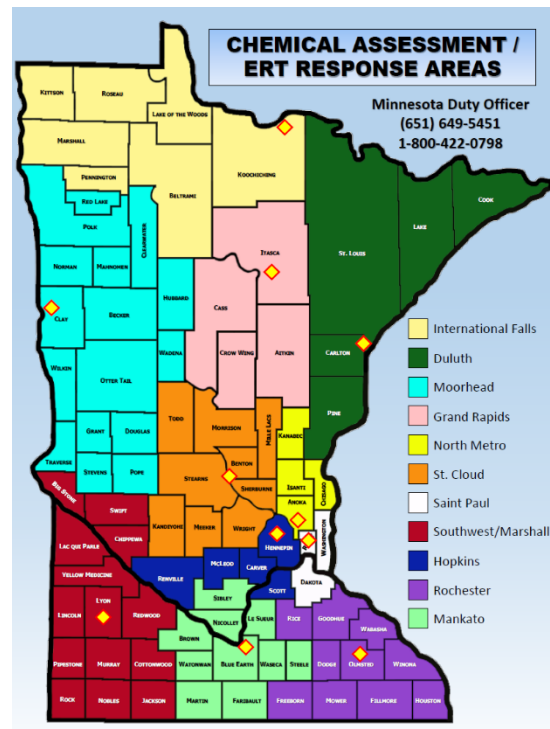
The MDO dispatched hazmat teams to 17 locations outside of their primary jurisdiction, 127 inside their primary jurisdiction, and provided 37 consultations throughout the state in 2022.

CATs provide local incident commanders with technical support and monitoring and 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 act as 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.

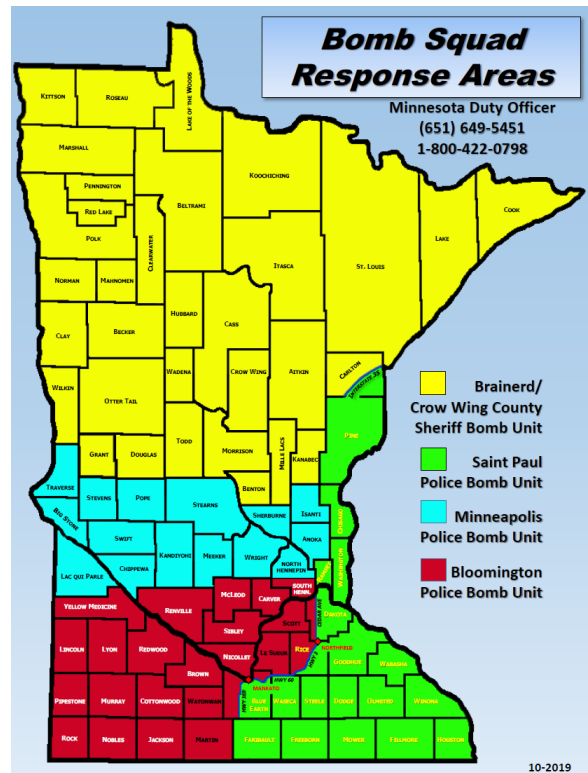
ERTs are in Duluth, Moorhead, St. Cloud, and St. Paul. All serve as CATs when needed. Each ERT has at least 30 trained personnel with defined critical response positions. An ERT response requires a minimum of eight team members and must adhere to ERT response protocols.

## 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 St. 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 105 locations outside of their primary jurisdiction, 57 inside their primary jurisdiction, and provided seven consultations throughout the state in 2022.



## **Preparedness and Response Committees**

### State Agency Responders Committee

The SFMD coordinates the State Agency Responders Committee. The committee includes 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 COVID-19 pandemic decreased attendance from state agencies at committee meetings. In November 2022, SFMD coordinators reassessed with state agencies on how to improve engagement. SFMD consulted with stakeholders and obtained input on expectations, and improvements for the group. 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. SFMD teams coordinators conduct and provide to DPS after action reports (AAR's) on incidents involving state teams and other state agencies response to an incident. 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**

DPS' 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 Saint 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. On-call team members are lead workers in related MDA programs of long-term incident remediation, pesticide and fertilizer misuse, and anhydrous ammonia use and storage.

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 68 agricultural chemical spills in 2022, 34 of which involved the release or threatened release of anhydrous ammonia.

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

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 Statute 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 39 workshops in 2022. 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.

In 2022 the MDA's Anhydrous Ammonia (NH<sub>3</sub>) program conducted inspections at approximately one-third of the permitted anhydrous ammonia bulk permitted facilities. Information and outreach are provided to all facilities prior to inspections that include links to MDA videos on how to inspect NH<sub>3</sub> bulk storage tanks and equipment, a summary of commonly found violations, and inspection checklists. This information and additional MDA NH<sub>3</sub> program information can be found at <https://www.mda.state.mn.us/pesticide-fertilizer/anhydrous-ammonia>.

## **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 (ER) Program consists of seven experienced and trained response staff members in Brainerd, Duluth, Mankato, Rochester, and Saint Paul, as well as one senior technical staff member located in Saint Paul. One responder is on-call and available to respond to environmental emergencies during the evening, weekend, and holidays, covering the entire state.

The MPCA's ER Program staff work from home offices managing environmental emergencies remotely and responding in person per agency protocols. MPCA strives to improve the agency's internal preparedness for environmental emergencies, however progress is slow due to lack of resources. The MPCA has one all hazard planner that is responsible for the coordination of internal preparedness activities among all the programs. In addition, the MPCA has an internal Emergency Preparedness Management Team (EPMT), which is composed of supervisors, managers, and directors to oversee the agency preparedness activities across the agency. Focus areas in 2022 include the development of an Incident Command System (ICS) chart for natural disasters and assigning positions to programs, writing job aids for staff, developing a robust call-back list, re-evaluation of the location and needs of the agency's emergency operations center and defining roles and responsibilities in areas of preparedness throughout the agency. Currently, the MPCA is exploring the creation of a preparedness staff lateral team and the development and use of an Incident Management Team (IMT).

The MPCA is a large customer of the MDO Program and receives the following types of reports for incidents regulated or overseen by the agency:

- Spills: represents incidents meeting state statute reporting requirements of any substance or material that can cause pollution of state waters. Materials include everything from milk and manure to petroleum and industrial chemicals.
- Air Quality: represents reports of contaminant releases to the air and/or air quality equipment breakdown/shutdown notifications.
- SARA Title III, Section 304 Supplemental: these reports reflect significant releases of concern to communities.
- Wastewater Facility Bypass: represents permit-required notifications of wastewater spills and bypasses.
- Pipeline: reflects notifications of breaks, leaks, and spills from pipelines.
- Railroad: represents derailments, accidents, and spills from trains.
- Tank: notifications of leaking petroleum storage tanks or environmental contamination discoveries.
- Fishkill: notifications of dead fish discoveries in surface waters. The DNR will determine if the cause is natural, or human induced from a facility where MPCA will lead then lead the investigation.

Total notifications in calendar year 2022 increased substantially, with MPCA receiving 4,317 reports through the MDO program, a 24 percent increase from 2021. These numbers reflect some multiple reports of the same incident and updated or supplemental reports. Nonetheless, the ER Program staff reads and triages each report on behalf of all MPCA programs, assessing the information and situation for emergency environmental conditions requiring state action and oversight. Of the incidents, 2,423 were spills or environmental emergencies that the ER program worked on directly, representing 56 percent of the volume received. The program managed, oversaw, and directed 32 large or complex environmental emergencies in 2022. The program either spent state funds to stabilize an emergency or spent significant time managing and overseeing the response to ensure the responsible party stabilized the site and performed timely cleanup activities on these incidents.

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 regulatory 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, containment, recovery, and cleanup. When multiple MPCA programs are involved in a response, the ER Program will lead and coordinate the response using the principles of the incident command system.

The MPCA uses and hires state emergency response contractors to clean up a spill in cases where the responsible party is unable, unwilling or unknown. The MPCA then pursues cost recovery and appropriate enforcement actions against the responsible party as appropriate. Last year was a record year in state-funded responses using Superfund monies and Petroleum Tank Release Cleanup monies. The availability of funding allows the Emergency Response Program to act quickly and mitigate emergency situations threatening human health, safety, and the environment. All MPCA responders are trained and empowered to manage and direct contractors. The MPCA works with the Department of Administration on establishing appropriate emergency response contracts to enable the state to respond to environmental emergency. In recent years, the MPCA discovered limitations to conduct emergency air sampling and monitoring during a large industrial fire. The MPCA is not prepared to adequately assess the impacts of a large industrial fire affecting communities. Reliance on federal resources is MPCA's current strategy to fill the gap. This will result in a delay in responding and therefore sampling and monitoring will only be possible for fires that last eight hours or more. The MPCA continues to explore other strategies to fill the gap, such as purchasing equipment and contracting for these services.

MPCA offers assistance and support to communities affected by natural disasters. Assistance provided in the past include helping to organize and plan the debris removal process; sorting and collecting household hazardous waste, advising on recycling and disposable options; troubleshooting and restarting wastewater treatment plants; cleaning up spilled oil and chemicals; and recovering scattered or floating fuel oil, propane tanks and drums. MPCA provides advice and assistance to local public safety officials with cleanup and recovery concerns during the public safety phase of incidents involving oil and hazardous substances events.

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

Railroads operating unit trains carrying oil or hazardous substances have additional preparedness requirements that MPCA and DPS are responsible for overseeing, and MPCA has some additional, specific mandated responsibilities. Unfortunately, the MPCA staff funding ends after the fiscal year 2023 (FY23). MPCA efforts will be minimal 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 calendar 2022:

- Received six Prevention and Response Plans and reviewed five of the plans. Review letters to the companies are pending.
- Planned and conducted five oil containment, recovery, and sensitive area protection drills with five railroad companies at locations and times chosen by MPCA staff. Environmental justice areas



were considered in the location selections and tribal officials were invited to participate or observe in areas near Indian Land.

- Participated in three exercises or training sessions lead by the following partners: BNSF Railway Company, DPS Homeland Security and Emergency Management and Enbridge Pipeline.

MPCA currently lacks resources to provide oil spill response training to fire departments and has stopped offering training throughout the state. MPCA historically offered classroom instruction, hands-on practice deploying equipment and assistance with exercises.

The MPCA Emergency Response Program staff are contributing partners in the following public/private preparedness organizations which promote coordinated spill preparedness and response. However, due to the lack of resources MPCA staff does not serve in leadership positions.

- 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
- United States Environmental Protection Agency (USEPA) Sioux Land, Red River, and Twin Cities sub-area committees
- United States Coast Guard Western Lake Superior Port Area Committee
- USEPA Region V Regional Response Team

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 daily.

## **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 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.

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.

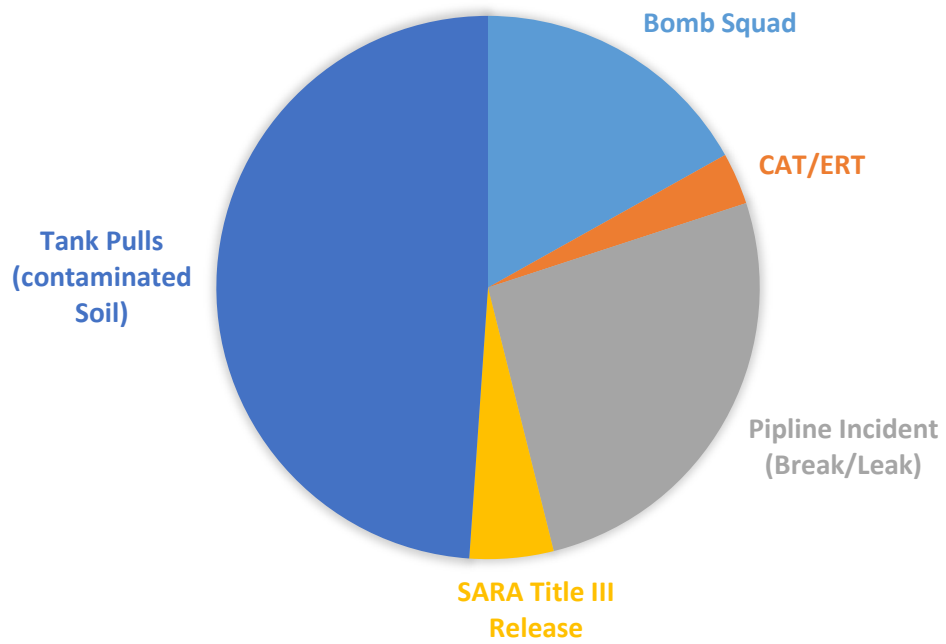
The OFCVO HMSs are active members of the State Agency Responders Committee.

**Figure 1**

Initiating call category	Initiating calls to MDO*	Resulting notifications/calls
Air Quality	123	735
Bomb Squad**	119	752
CAT/ERT**	29	494
Informational Call	2,592	2,521
Fishkill	172	1,051
FM Investigator	841	2,298
Methamphetamine Lab	0	0
Mutual Aid	13	83
National Guard/CAP/Aircraft	5	15
Nuclear Plant / Accident	151	231
Pipeline Incident (Break/Leak) **	97	544
SARA Title III Release**	23	257
Search and Rescue	5	30
Spills	2,559	15,350
Supplemental	705	7,041
Tank Pulls (Contaminated Soil) **	227	806
Wastewater Bypass	201	1,271
Weather Incident	159	165
WMD Threat**	3	44
Totals***	8,024	33,688

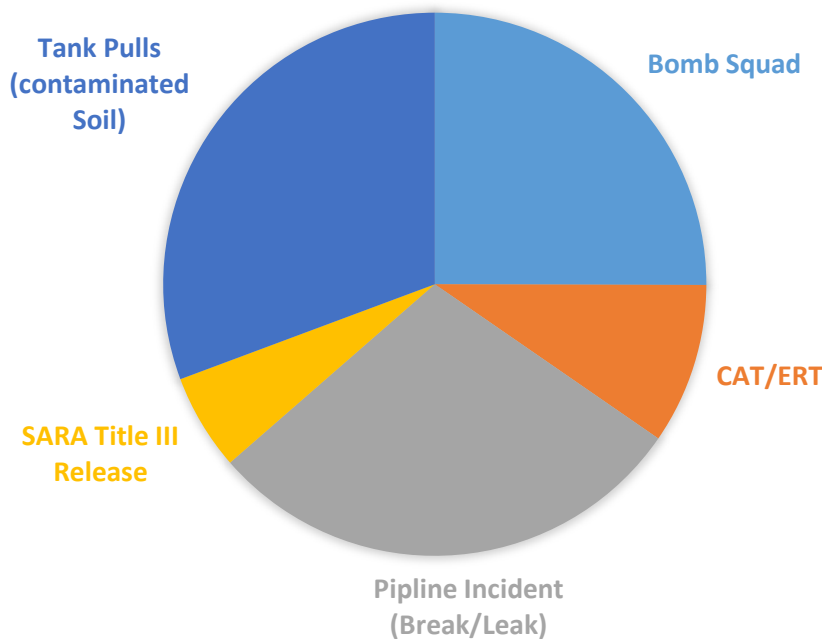
**Figure 2**

**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, 2022, through Dec. 31, 2022.

## **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 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.