

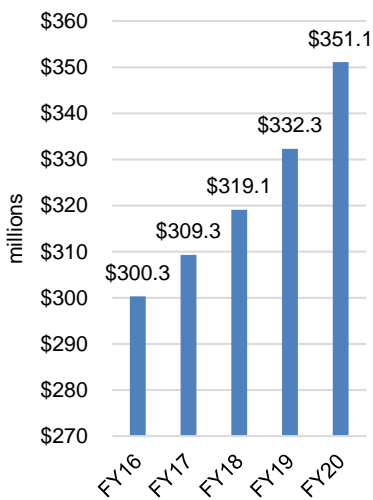
ACTION PLAN

Submitted by agency?	Yes
Timeline assigned?	No
Responsibility assigned?	No

Environment Department

The performance of the Environment Department (NMED) continues to be mixed, with most below-target performance results associated with low inspection rates. NMED attributes many performance issues to resource constraints that increase attrition and curb effective recruitment, but recent personnel decisions at the agency appear to prioritize management and leadership positions over entry- and mid-level staff. As NMED plans for FY22, LFC staff will pay particular attention to how budget increases are implemented and the associated performance measures to ensure the Legislature’s intent in providing the agency with additional funding is carried out.

Clean Water State Revolving Fund (CWSRF) Ending Net Position FY16 through FY20



Source: State Auditor’s Office

Through the CWSRF, local communities secure affordable financing for a wide range of projects. Communities benefit from CWSRF loans to finance essential wastewater, storm water, and solid waste projects at interest rates between 0 percent and 1 percent. These construction projects add revenue to local economies and improve quality of life through effective environmental infrastructure. The El Valle de Los Ranchos Water and Sanitation District in Taos County recently received national recognition for their successful project that provides sewer service to multiple small communities in place of substandard and failing septic systems and leach fields. The CWSRF program supported the multi-phase project through three loans totaling more than \$4.5 million.

Water Protection

Approximately 1.98 million New Mexicans receive their drinking water from community public water systems, and about 1.97 million, or 99 percent, received water that met all health-based standards in the third quarter of FY21. However, NMED expressed concern that this data point is misleading due to the reduction in onsite sanitary surveys conducted by the Drinking Water Bureau during the Covid-19 pandemic. Agency staff suspect they would have identified more health-based violations in FY20-21 had they been conducting inspections as usual. Furthermore, NMED was forced to reduce testing for drinking water contaminants due to the depletion of the water conservation fund, which derives revenue from fees on public water systems and supports the sampling and analysis of drinking water in small and rural communities. Legislation to increase this fee to keep up with program costs was vetoed by the governor, and as a result, additional services will be discontinued, potentially worsening water quality as communities struggle to afford the tests needed to identify contaminants. The questionable validity of this measure’s data is reflected by a yellow rating.

In the third quarter, NMED conducted 12 inspections of facilities operating under a groundwater discharge permit, less than 3 percent of the annual goal of 450 inspections. The agency reports a high vacancy rate and lack of modern tools such as databases in the Ground Water Quality Bureau affect its ability to perform inspections. NMED plans to petition for a permit fee increase in August to generate additional revenue that can be used to fund vacant positions in FY22 or FY23. The staff time invested in the rulemaking process, however, may impact other service levels in the bureau. Current fee revenue covers approximately 10 percent of the program’s costs.

	FY19 Actual	FY20 Actual	FY21 Target	FY21 Q1	FY21 Q2	FY21 Q3	Rating
Budget: \$27,520.1 FTE: 180.25							
Facilities operating under a groundwater discharge permit inspected annually	68%	47%	66%	6%	3%	3%	R
Population served by community water systems that meet health-based drinking water standards	97%	99%	N/A*	95%	97%	99%	Y
Number of miles of active watershed restoration, including wetlands projects, state-funded projects and federal Clean Water Act Section 319 projects	564	560	N/A*	548	481	545	
EPA clean water state revolving loan fund capitalization grant and matching state funds committed for wastewater infrastructure	100%	100%	100%	17%	34%	66%	G

Number of outreach efforts to promote available clean water state revolving loan funds to eligible recipients throughout the state	NEW	NEW	30	6	17	18	G
Dollar amount of new loans made from the clean water state revolving fund, in millions*	NEW	NEW	N/A	\$0	\$14.1	\$4.3	Y
Program Rating	G	Y					Y

*Measure is classified as explanatory and does not have a target.

Resource Protection

There are 3,033 underground storage tank systems at 1,151 regulated facilities across the state, of which 90 have outstanding violations that can threaten groundwater. During the third quarter, 16 facilities had significant violations cleared. New Mexico's compliance rate is above the national average of 70 percent, but a very small number of facilities are actually being inspected. Due to the Covid-19 pandemic, only 11 inspections were conducted in the third quarter of FY21, compared with 60 inspections in the same period of FY20. This issue resulted in a mediocre performance rating on the compliance measure despite the program meeting its target.

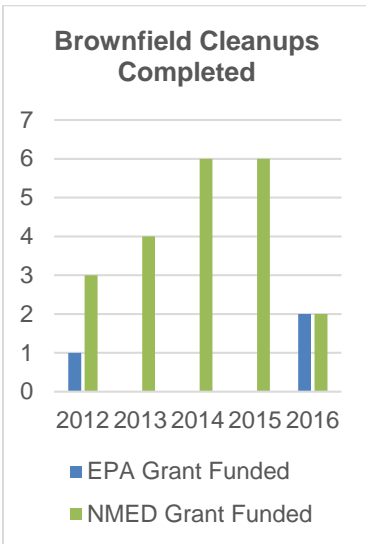
Twenty-three solid waste or medical facilities were inspected in the third quarter of FY21, and two municipal landfills were cited for two or more substantial violations each. The department has identified 75 large quantity hazardous waste generators (LQGs) in the state, four of which were inspected during the third quarter; none were in compliance with permit requirements. Although this is an explanatory measure and does not have a target, a rating was included to flag the extremely low number of inspections. The FY22 general fund appropriation to NMED includes an increase of \$200 thousand to fill inspector vacancies in this program.

	FY19 Actual	FY20 Actual	FY21 Target	FY21 Q1	FY21 Q2	FY21 Q3	Rating
Budget: \$15,275.9 FTE: 139.25							
Large quantity hazardous waste generators inspected and in compliance, cumulatively	39%	25%	N/A*	0%	50%	0%	R
Underground storage tank facilities compliant with release prevention and release detection requirements	86%	83%	90%	91%	86%	92%	Y
Solid waste facilities and infectious waste generators not in compliance with solid waste rules	5%	5%	5%	8%	0%	9%	Y
Percent of obligated corrective action funds expended	14%	10%	N/A*	18%	13%	20%	
Program Rating	Y	Y					Y

*Measure is classified as explanatory and does not have a target.

Environmental Protection

The Environmental Protection Division, through its Food Program and Occupational Health and Safety Bureau (OHSB), has been heavily involved in managing the Covid-19 public health emergency. The Food Program is responsible for protecting employees, consumers, and the public from adverse health and safety conditions in food establishments, and thus enforces statewide restrictions on indoor dining per public health orders and provides guidance to food establishments on safely operating during the pandemic. OHSB is responsible for protecting employees of private industry and state, county, and city governments from workplace hazards. As a result, OHSB leads



A brownfield is a property whose expansion, redevelopment, or reuse may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

Source: Environmental Council of the States

The Petroleum Storage Tank Bureau is increasing outreach and assistance to the regulated community to help improve compliance with regulatory requirements for underground storage tanks. Staff report that tank owners may still be learning about new regulations that were passed in 2018.

There are an estimated 905 leaking petroleum storage tanks throughout New Mexico that require and are in various stages of corrective action and are potentially eligible for reimbursement from the corrective action fund. The program currently has \$7 million worth of proposed cleanup work.

Occupational Health and Safety Bureau (OHSB) Performance

Metric	Value	NMED Result
Complaints by employees of unsafe working conditions	600 per year	OHSB response rate: 33%
Occupational fatalities	10-20 per year	NMED OHSB response rate: 50%
Amputation, Burns, Chemical Exposures, Crushing, Traumatic Injuries/Organ Failure, etc.	2,000+ per year	NMED OHSB response rate: 1%
Federal mandated investigation timeframe	40 days	NMED OHSB timeframe: 120 days

Response rate refers to the percentage of the instances of each metric that OHSB investigates.

the majority of the state’s rapid responses, which ensure employers are following proper safety precautions to prevent the transmission of Covid-19 within their workplaces. In the third quarter of FY21, 33 serious workplace violations were identified and 26 were corrected by the deadlines set by OHSB.

Significant issues within OHSB are not captured in the reported performance measures. For example, the agency reports that, due to personnel limitations, investigations into workplace fatalities and serious injuries are taking nearly three times as long as the U.S. Occupational Health and Safety Administration requires, delaying corrective action and putting the program’s federal grant funding at risk. The General Appropriation Act of 2021 includes a general fund increase of \$1.5 million to expand the capacity of OHSB.

In the third quarter, 100 percent of restaurant and food manufacturer priority violations were corrected within the timeframes specified by the Environmental Health Bureau. Priority violations indicate the highest level of risk for foodborne illness. The bureau has been conducting virtual inspections due to the additional demands created by the pandemic as well as limited resources for field staff. In the third quarter of FY21, 98 percent of days had good or moderate air quality ratings as measured by NMED’s statewide network of ambient air quality monitors.

	FY19 Actual	FY20 Actual	FY21 Target	FY21 Q1	FY21 Q2	FY21 Q3	Rating
Budget: \$26,251.2 FTE: 276.75							
Percent of serious worker health and safety violations corrected within the designated timeframes	95%	94%	96%	92%	100%	79%	Y
Priority food-related violations from inspections corrected within the designated timeframes	100%	95%	100%	95%	100%	100%	G
Days with good or moderate air quality index rating	87%	96%	N/A*	85%	97%	98%	G
Facilities taking corrective action to mitigate air quality violations within six months of violation	NEW	100%	100%	100%	100%	100%	G
Radiation-producing equipment in violation when inspected	NEW	NEW	20%	1%	0%	0%	G
Program Rating	G	G					G

*Measure is classified as explanatory and does not have a target.