

The performance of the Environment Department (NMED) continues to be mixed, with most below-target performance results associated with low inspection rates. Because these low rates are primarily associated with vacancies and the Covid-19 pandemic, LFC expects to see improved performance in FY22 resulting from significant budget increases to fill positions, as well as a return to normal operations as the state transitions out of a public health emergency. LFC staff will pay particular attention to how FY22 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.

Water Protection

Approximately 1.97 million New Mexicans receive their drinking water from community public water systems, and about 1.91 million, or an average of 97 percent, received water that met all health-based standards in 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 FY21 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.

Throughout most of FY21, on-site inspections of facilities operating under a groundwater discharge permit were suspended in an effort to prevent the spread of Covid-19. In the fourth quarter, as public health conditions improved, NMED conducted 33 inspections, bringing the FY21 total to 86, or about 19 percent of permitted facilities. Current fee revenue covers approximately 10 percent of the program’s costs. NMED is petitioning for a permit fee increase to generate additional revenue that can be used to fund vacant positions, but likely not until FY23.

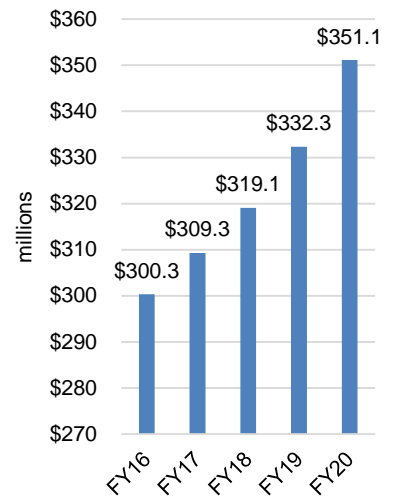
Budget: \$27,520.1 **FTE:** 180.25

	FY19 Actual	FY20 Actual	FY21 Target	FY21 Actual	Rating
Facilities operating under a groundwater discharge permit inspected annually	68%	47%	66%	19%	R
Population served by community water systems that meet health-based drinking water standards*	97%	99%	N/A	97%	
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	530	
EPA clean water state revolving loan fund capitalization grant and matching state funds committed for wastewater infrastructure	100%	100%	100%	100%	G
Number of outreach efforts to promote available clean water state revolving loan funds to eligible recipients throughout the state	NEW	NEW	30	48	G
Dollar amount of new loans made from the clean water state revolving fund, in millions*	NEW	NEW	N/A	\$20.1	

ACTION PLAN

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

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



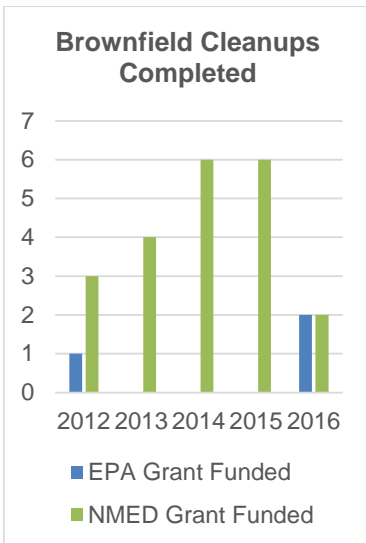
Source: State Auditor’s Office

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.

Program Rating



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



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

Resource Protection

There are 3,025 underground storage tank systems at 1,149 regulated facilities across the state, of which 95 have outstanding violations that can threaten groundwater. In the fourth quarter, nine facilities cleared significant violations, achieving an annual average of 90 percent compliance. However, a very small number of facilities are actually being inspected. Due to the Covid-19 pandemic, inspections in FY21 were a small fraction of what they were in FY20. This issue resulted in a mediocre performance rating on the compliance measure despite the program meeting its target.

Nine solid waste or medical facilities were inspected in the fourth quarter of FY21, and one transfer station was cited for three substantial violations. The Solid Waste Bureau recently filled 2 FTE, which is expected to increase the number of inspections in FY22. In FY21, there were 75 large quantity hazardous waste generators (LQGs) in the state, 23 of which were inspected; over the course of the year, only two were found to be in compliance with permit requirements. Although this is an explanatory measure and does not have a target, a rating was included to flag the low number of inspections. The FY22 general fund appropriation to NMED includes an increase of \$200 thousand to fill inspector vacancies in this program. In the next fiscal year, LFC will monitor whether this investment coincides with an increase in inspections.

Budget: \$15,275.9 FTE: 139.25

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.

	FY19 Actual	FY20 Actual	FY21 Target	FY21 Actual	Rating
Large quantity hazardous waste generators inspected and in compliance, cumulatively	39%	25%	N/A*	8.7%	R
Underground storage tank facilities compliant with release prevention and release detection requirements	86%	83%	90%	90%	Y
Solid waste facilities and infectious waste generators not in compliance with solid waste rules	5%	5%	5%	7%	Y
Percent of obligated corrective action funds expended	14%	10%	N/A*	18%	
Program Rating					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), was heavily involved in managing the Covid-19 public health emergency in FY21. 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 led 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.

Overall in FY21, 134 serious workplace violations were identified and 120 were corrected by the deadlines set by OHSB, falling slightly short of the 97 percent target. Other 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 to improve investigation timelines and response rates for complaints of unsafe working conditions, occupational injuries, and fatalities.

Ninety-nine 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. Ninety percent of days in FY21 had good or moderate air quality ratings, as measured by NMED’s statewide network of ambient air quality monitors.

Occupational Health and Safety Bureau (OHSB) Performance

Metric	Occurrence	OHSB Performance
Complaints by employees of unsafe working conditions	600 per year	Response rate: 33%
Occupational fatalities	10-20 per year	Response rate: 50%
Amputation, Burns, Chemical Exposures, Crushing, Traumatic Injuries/Organ Failure, etc.	2,000+ per year	Response rate: 1%
Investigation Completion Benchmark		OHSB Performance
Federally mandated investigation timeframe	40 days	Investigation timeframe: 120 days

Budget: \$26,251.2 **FTE:** 276.75

	FY19 Actual	FY20 Actual	FY21 Target	FY21 Actual	Rating
Serious worker health and safety violations corrected within the designated timeframes	95%	94%	96%	90%	
Priority food-related violations from inspections corrected within the designated timeframes	100%	95%	100%	99%	
Days with good or moderate air quality index rating*	87%	96%	N/A	91%	
Facilities taking corrective action to mitigate air quality violations within six months of violation	NEW	100%	100%	100%	
Radiation-producing equipment in violation when inspected	NEW	NEW	<20%	0%	
Program Rating					

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