

**ACTION PLAN**

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

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 FY22-23 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 is particularly interested in how FY22-23 budget increases are implemented and the impact on associated performance measures to ensure the Legislature’s intent in providing the agency with additional funding is carried out.

**Water Protection**

**Drinking Water.** Approximately 1.9 million New Mexicans or 90 percent, received drinking water that met all health-based standards in the second quarter of FY22. NMED continues to express concern that this data point is misleading due to the reduced number of onsite sanitary surveys conducted by the Drinking Water Bureau over the past two years due to Covid-19 concerns. Agency staff expect to identify more non-compliance occurrences as inspections ramp up to their usual frequency. While NMED has worked to develop virtual inspection capability, the agency reports it lacks the necessary technological equipment to successfully perform these virtual inspections. Additionally, many of the smaller mutual domestic systems and small municipalities lack technical expertise and equipment to participate in virtual inspections.

Starting this year, NMED changed which data is used in the calculation of this measure to include all uncorrected violations rather than only new violations identified. This reduced the reported performance on this measure from prior fiscal years.

In FY21, 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.

**Surface and Ground Water Inspections.** Of the 20 surface water permitte inspections the Surface Water Quality Bureau planned to complete in FY22, six were performed in the second quarter. Nine additional inspections or inspection reports were in progress at the end of the second quarter. The bureau curtailed inspections at the direction of the U.S. Environmental Protection Agency (EPA) out of concern for the health and safety of the regulated community and EPA contractor staff who perform the inspections.

The number of groundwater permittees increased from 589 to 593 in the second quarter, and the Ground Water Quality Bureau conducted 20 inspections. Inspections typically occur at sites requiring immediate attention due to complaints, failures, or other causes outside normal operations. To optimize resources, staff make additional inspections of nearby systems to increase efficiency in travel planning and time in the field.

**Water Infrastructure.** This new measure reports the number of funding agreements executed each quarter for drinking water, wastewater, and stormwater infrastructure projects supported by capital outlay funding, the clean water state revolving fund



Source: Office of the State Auditor

Through the clean water state revolving fund (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.

**Nonrecurring Appropriations to NMED, 2021-2022 Special and Regular Sessions**

River Stewardships Program	\$11.5 million
Eastern New Mexico Rural Water System	\$10 million
Emerging contaminants initiatives	\$525 thousand
Interstate ozone pollution	\$450 thousand
Superfund and uranium mine site cleanup	\$400 thousand
Radiation Control Bureau	\$300 thousand
Surface water discharge permitting program	\$250 thousand

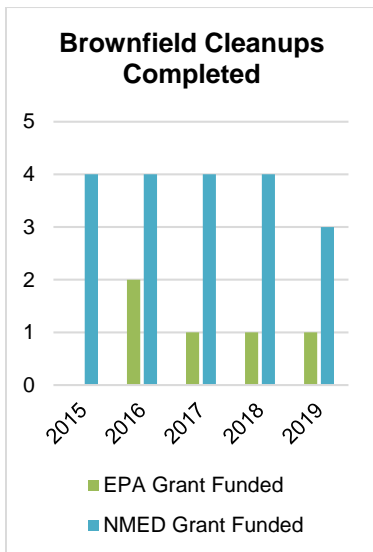
(CWSRF), or the Rural Infrastructure Program. These projects are managed by NMED's Construction Programs Bureau (CPB) and improve ground and surface water quality and increase access to reliable and safe drinking water across New Mexico. In the second quarter, agreements were executed for 29 capital outlay projects, one CWSRF loan, and one Rural Infrastructure Program project. The CPB disbursed \$5.8 million to communities for 75 projects this quarter, bringing total water infrastructure investments for the first half of FY22 to \$14.8 million.

	Budget: \$30,576.4	FTE: 184.3	FY20 Actual	FY21 Actual	FY22 Target	FY22 Q1	FY22 Q2	FY22 Q3	Rating
Percent of the population served safe and healthy drinking water			97%	97%	92%	94%	90.4%		Y
Surface water permittees inspected			NEW	NEW	10%	15%	30%		G
Ground water permittees inspected			47%	19%	65%	4%	3%		R
New water infrastructure projects			NEW	NEW	75	40	31		G
Community water system violations corrected as a result of NMED assistance			NEW	NEW	500	39	69		Y
<b>Program Rating</b>									Y

**Resource Protection**

NMED inspected two solid waste or medical facilities this quarter, or 4 percent of the 45 active, permitted facilities, which is below the pace needed to meet the annual target. The Solid Waste Bureau recently filled 2 FTE, which is expected to increase the number of inspections in FY22, but infectious waste generator inspections and illegal dumping investigations, which are not reported on, were prioritized in the second quarter.

Of the 2,330 facilities in the EPA database that tracks regulated hazardous waste handlers, NMED inspected 18 this quarter. The agency also inspected six hazardous waste facilities not included in the database and, therefore, not counted in the performance measure. The FY22 general fund appropriation to NMED included an increase of \$200 thousand to fill inspector vacancies in this program. LFC will monitor whether this investment coincides with additional in inspections in the remainder of FY22.



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 Results Project

	Budget: \$16,651.1	FTE: 142.3	FY20 Actual	FY21 Actual	FY22 Target	FY22 Q1	FY22 Q2	FY22 Q3	Rating
Completed cleanups of petroleum storage tank release sites that require no further action*			NEW	NEW	1,938	1,946	1,946		
Ratio of underground storage tank (UST) cleanups to total leaking USTs remaining			NEW	NEW	20:944	6:873	0:944		Y
Solid and infectious waste management facilities inspected			NEW	NEW	85%	20%	4%		Y
Hazardous waste facilities inspected			NEW	NEW	2%	1%	1%		Y
<b>Program Rating</b>									Y

\* FY22 target is a baseline rather than a goal, so this measure was not given a rating.

### Environmental Protection

The Environmental Protection Division inspected 49 X-ray machine registrants and radioactive material licensees this quarter out of 1,710 registrants and licensees total. The agency reports additional funding is needed to sufficiently train and equip staff to perform inspections, but a budget increase for the Radiation Control Bureau was not requested in FY22 or FY23. In the Air Quality Bureau, NMED reports a vacancy rate of more than 50 percent was the cause of only eight inspections being completed in the second quarter.

	Budget: \$28,466.1	FTE: 281.5	FY20 Actual	FY21 Actual	FY22 Target	FY22 Q1	FY22 Q2	FY22 Q3	Rating
Ionizing/non-ionizing radiation sources inspected			NEW	NEW	85%	2.4%	3%		<b>R</b>
Air emitting sources inspected			NEW	NEW	50%	1%	1%		<b>R</b>
Percent of the population breathing air meeting federal health standards			NEW	NEW	95%	97%	99%		<b>G</b>
<b>Program Rating</b>			<b>G</b>	<b>G</b>					<b>Y</b>