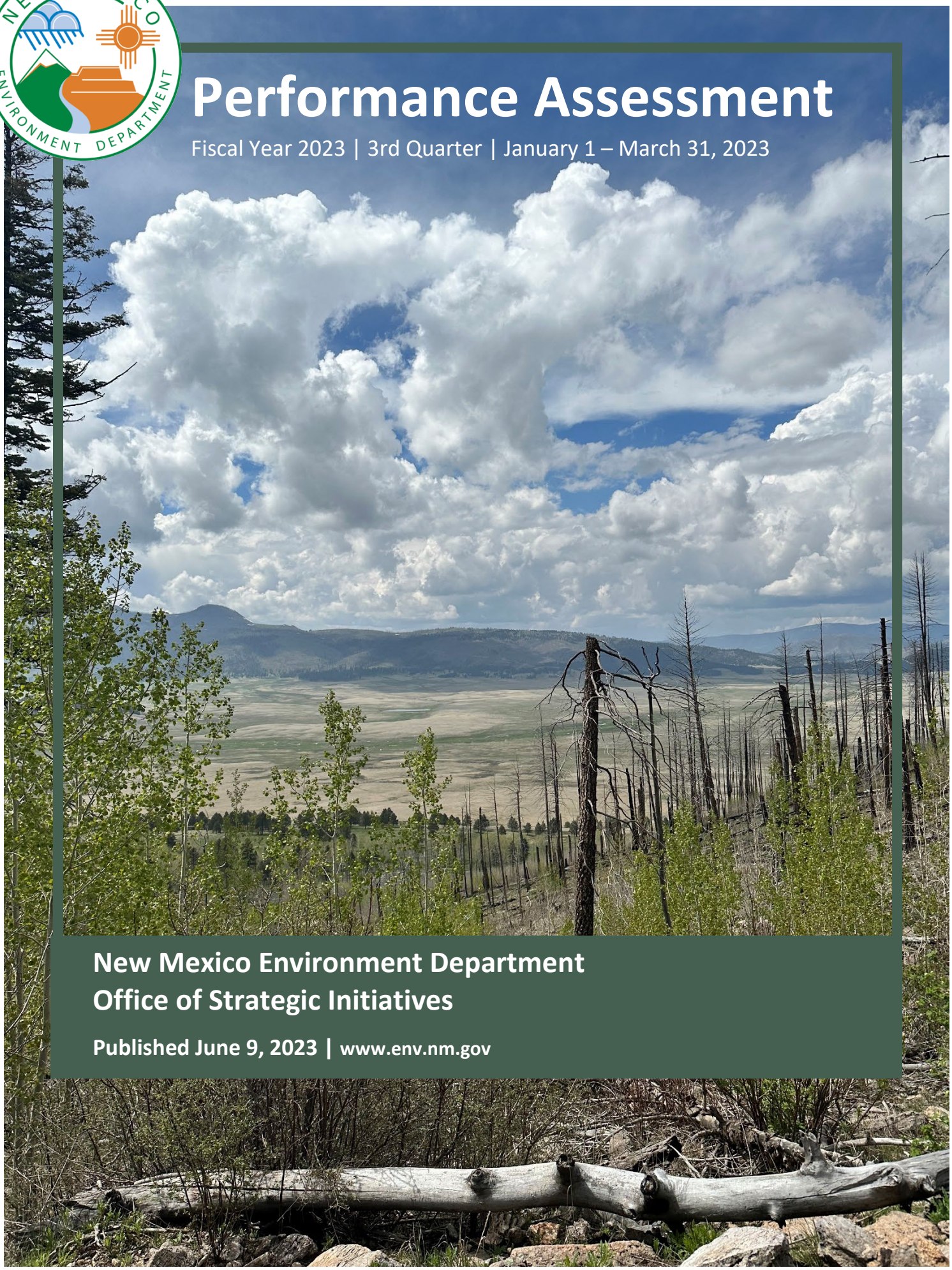
Performance Assessment

Fiscal Year 2023 | 3rd Quarter | January 1 – March 31, 2023



New Mexico Environment Department
Office of Strategic Initiatives

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FY23 Third Quarter Highlights

Our mission is to protect and restore the environment and to foster a healthy and prosperous New Mexico for present and future generations. We implement our mission guided by four core values: science, innovation, collaboration, and compliance. We use the best available science to inform our decision-making in protecting public health and the environment. We employ creative engineering and technical solutions to address environmental challenges. We engage communities and interested stakeholders in environmental decision-making. Finally, we do our best to ensure compliance with state regulations and permits, leveling the playing field by holding violators accountable, although we have insufficient resources to fully protect all communities. We embrace our mission and core values at every level of the organization.

In FY23, we will strategically deploy our limited funding and personnel to advance public health, protect our natural resources, hold responsible parties accountable, and work to ensure access to clean land, air, and water for New Mexicans. For more information on NMED's program workloads, see Appendix A, beginning on page 14 of this report.

For FY23, NMED received appropriations totaling $114.0 million to protect public health and the environment. This included $20.3 million in general fund, $57.4 million in special revenue funds (e.g., permit fees), $36.3 million in federal funds, and $1.9 million in special appropriations for earmarked projects/purposes.

About this Report

The New Mexico Environment Department (NMED) began publishing quarterly assessments in Fiscal Year 2022 (FY22). This is the third quarterly performance assessment for FY23, which began on January 1, 2023, and provides a retrospective look at the quarter while providing insights for the rest of the fiscal year.

For more information, please visit our website, www.env.nm.gov > About > Performance, to see past reports and other metrics. You can also contact:

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Our approximate budget breakdown is:

- 17.8% state general fund;
- 50.4% special revenue funds; and
- 31.8% federal funds.

Beginning on page 8, this report covers 46 performance measures across these five categories:

- 6 Public Health Measures;
- 9 Environmental Protection Measures;
- 24 Compliance Measures;
- 4 Economic Investment Measures; and
- 3 Operational Measures.

Governor Signs Nine NMED-Related Bills into Law

For the 2023 legislative session, 68 NMED staff members worked tirelessly to assign, analyze, review, edit, and submit 42 bill analyses to Legislative Finance Committee (LFC) staff. Agency analyses inform LFC's Fiscal Impact Reports (FIRs), which serve as the go-to source of information on a bill for legislators, lobbyists, and the public. Nine of those bills became law.

Governor Lujan Grisham signed 211 bills into law during the 2023 legislative session

House Bill 142, requires NMED and the Energy, Minerals and Natural Resources Department to study environmental contamination at the San Juan Generating Station and mine and develop a restoration and reclamation plan. The Legislature made a one-time appropriation of $860,000 for NMED to support this work.

House Bill 505, the capital outlay bill, includes 133 local water system projects, totaling $65 million. NMED knows communities need water infrastructure funding, but the new projects will add to the overwhelming workload for the Construction Programs Bureau, which already oversees 606 projects with just four technical staff. The bill did not provide additional resources for NMED to manage the new projects.

Senate Bill 1 provides a framework for water and wastewater systems to regionalize and establish economies of scale to help provide clean water to their customers. Many communities do not have the staffing, technical, and management capacity to effectively operate their systems. The Legislature provided $1 million for NMED to support regionalization.

Senate Bill 9 created the Conservation Legacy Permanent Fund (CLPF) and the Land of Enchantment Legacy Fund (LELF), to provide consistent funding for conservation, agriculture, outdoor and recreation programs. This includes recurring funds for NMED's River Stewardship Program, which enhances the natural functioning of streams and rivers by funding projects that improve surface water quality or river habitat.

Senate Bill 53 prohibits state permitting for construction of a storage or disposal of nuclear waste in New Mexico until the state consents to the creation of the facility and a permanent national repository is in operation. NMED's General Counsel, Bruce Baizel, and Resource Protection Division Director, Rick Shean, worked closely with the bill's sponsors as it progressed through the Legislature, serving as the expert witness during hearings and providing technical guidance.

NMED Delegation Visits Mexico for Task Force Meeting

Government and institutional authorities from both Chihuahua and New Mexico held a binational task force meeting, "Mexico-United States Environmental Program: Border 2025" in Puerto Palomas de Villa, where various issues were analyzed, focusing on four main goals: reducing air pollution, improving water quality, promoting waste management, and preparing for a coordinated emergency response to hazardous material incidents along the border.

Secretary Kenney sent a delegation, led by Kathryn Becker, Assistant General Counsel and Border Liaison, which included Kate Cardenas, Community Engagement Coordinator, and Stephen Connolly, Incident Response Coordinator. In addition to local dignitaries, the delegation was hosted by Carlos A. Rincón, director of the Environmental Protection Agency's (EPA) Border Program.

The group discussed development of sanitary landfills, a water purification project using nanoparticles, the Columbus-Palomas binational flood control infrastructure and runoff capture project, and the issue of funds and resources available from EPA and the North American Development Bank.

NMED Alliance with Somos Un Pueblo Unido

NMED and EPA Discuss Revenue Stabilization

In March, NMED met with U.S. Environmental Protection Agency (EPA) senior leadership to discuss recruitment, retention, and revenue stabilization by maximizing funding from federal grants that can be used to support NMED agency operations, like leases, utilities, and human resources and accounting support. By using federal funds on direct costs (like staffing) NMED could stabilize its indirect rate, freeing up more of the funding to cover indirect costs (like leases), but NMED needs state funding for leases as a bridge to get there.

With states seeing unprecedented levels of federal funding, indirect rates may not be sufficient to realize the potential of the Bipartisan Infrastructure Law and the Inflation Reduction Act. Within NMED, indirect rates have varied from 24% to 19% which greatly impacts financial stability. The EPA agreed to work with NMED to model financial scenarios to help minimize the variance in indirect rates to stabilize revenues.

NMED's indirect revenues fluctuated over the last decade, making it more difficult for the agency to plan its budget from year to year:

FY2013: $2,591,494
FY2014: $2,437,255
FY2015: $2,647,416
FY2016: $1,996,291
FY2017: $2,243,435
FY2018: $2,305,307
FY2019: $2,211,932
FY2020: $2,350,063
FY2021: $2,552,397
FY2022: $2,072,843

Kicking off 2023, NMED's Occupational Health and Safety Bureau (OHSB or OSHA Bureau) formalized an Alliance with Somos Un Pueblo Unido. Alliance agreements provide organizational, educational, and business entities an opportunity to participate in a voluntary cooperative relationship with NMED for training and education, outreach, and communication, and promoting a dialogue on workplace health and safety. These Alliances have proved to be valuable tools for the Department and its partners.

Somos Un Pueblo Unido Representative (left) and OHSB Bureau Chief Robert Genoway (right)

OHSB Compliance Assistance Specialist Isidro Herrera worked with Somos Un Pueblo Unido to draft achievable goals for the Alliance that will benefit workers and organization members throughout New Mexico. Some of the objectives for 2023 include:

- Providing occupational safety and health outreach materials.
- Coordinating virtual events to present occupational safety and health information.
- Providing technical assistance and guidance concerning worker rights, employer responsibilities, and occupational safety and health regulations and requirements in New Mexico.

Somos Un Pueblo Unido was founded in 1995, as a statewide community-based and immigrant-led organization that promotes worker and racial justice. The organization has an active membership of 2,500 people in eight counties, offers community education about rights and remedies, and creates leadership opportunities for immigrants and low-wage workers.

NMED reaches settlement with Rust Movie Productions

In February, the NMED Occupational Health and Safety Bureau (OHSB) reached a settlement with Rust Movie Productions LLC ("RMP") regarding two citations issued by the Bureau following the workplace fatality and injury that occurred on Oct. 21, 2021, on the set of the film "Rust." Under the settlement, RMP agreed to withdraw its contest of the citations and pay $100,000, the largest OSHA penalty in the State of New Mexico since 2010.

On Oct. 21, 2021, cinematographer Halyna Hutchins was fatally shot and director Joel Souza was injured on the set of Rust when a live round was discharged from a revolver used by actor Alec Baldwin during a rehearsal. The Bureau found that RMP violated workplace safety laws by exposing employees to being struck by discharged rounds or projectiles when firearms were used on the set of the motion picture production. The Bureau issued the highest level of citations available under law and Rust contested the citations.

Under the New Mexico Occupational Health and Safety Act, employers are responsible for providing safe and healthful workplaces for their employees. The Bureau's role is to ensure these conditions for New Mexico's workers by setting and enforcing standards, and providing training, education, and assistance. For more information, visit the Bureau's webpage.

NMED Staff Participate in Rio Rancho Career Fair

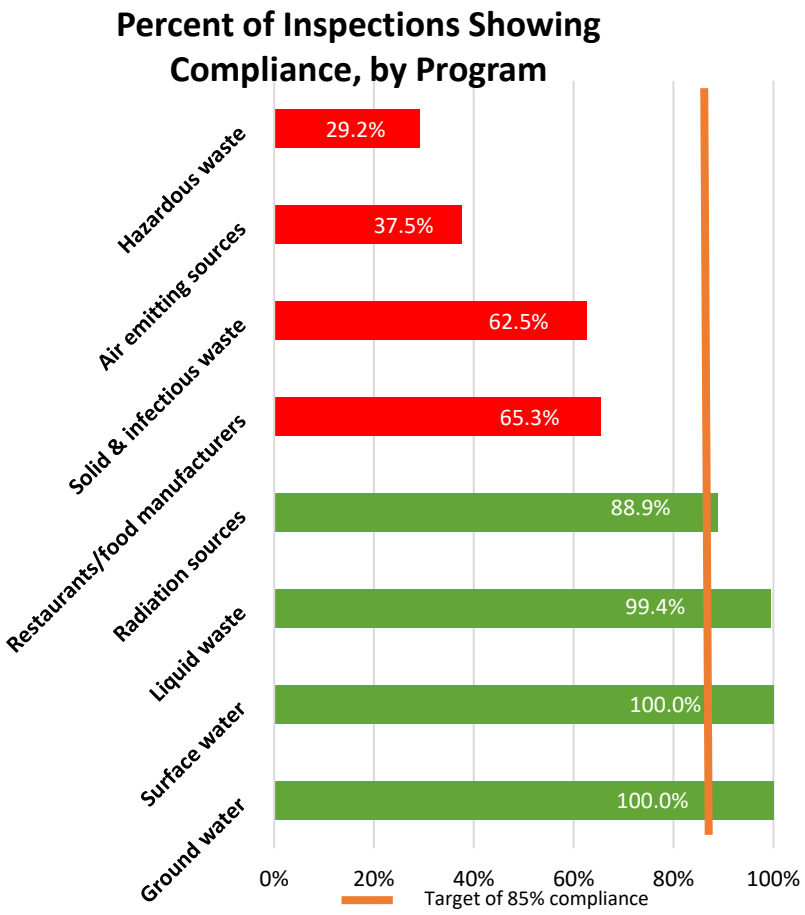
NMED staff from the Water Protection Division presented at an all-ages career fair on March 25, 2023, at the Loma Colorado Main Library in Rio Rancho. The career fair was part of the Smithsonian traveling exhibition, "The Way We Worked," that explores how work became such a central element in American culture by tracing the many changes that affected the workforce and work environments over the past 150 years.

Staff answered questions about their water quality careers and education backgrounds. They also demonstrated the groundwater pollution model and displayed water quality monitoring equipment and macroinvertebrate samples. Stakeholders were especially interested in discussing local water topics like aquifer levels and Rio Grande water quality.

Left to right: Heidi Henderson (Surface Water Quality Bureau), Diana Aranda (Drinking Water Bureau), Jason Herman, and Avery Young (Groundwater Quality Bureau) at an all-ages career fair in Rio Rancho on March 25, 2023

Compliance Programs Update

For FY23, NMED's regulatory compliance programs are making a concerted effort to conduct inspections for compliance with applicable licenses, permits, and rules. The figure below shows the levels of compliance found in second quarter inspections across various programs compared to the target of 85% compliance. Four program areas fell below the target (depicted in red) and four program areas exceeded the target (depicted in green).



NMED Attends ABCWUA Board Meeting

On March 22, NMED's Resource Protection Division (RPD) Director, Rick Shean appeared at the monthly Albuquerque Bernalillo County Water Utility Authority (ABCWUA) board meeting, to discuss the regulatory status of Corrective Action activities related to the Kirtland Air Force Base (KAFB) Bulk Fuel Facility Spill (BFF) Site. Since 1999, KAFB has been slowly addressing a jet fuel leak discovered near its former BFF offloading rack, creating a dissolved-phase groundwater plume of ethlyene dibromide (EDB) that was at one point over a mile long and half a mile wide. Since, most of it has been removed by a pump and treat system.

Director Shean told the board that although the plume has been stabilized for the time being, KAFB needs to focus on the Resource Conservation and Recovery Act investigation activities to the source area, including the related vadose (above groundwater), groundwater, and vapor contamination reaching from near the surface to more than 400 feet below ground surface. The Board expressed its support for NMED and asked how it can assist to ensure there is sufficient funding to get the site moved to final remedies quickly.

RPD Director Rick Shean provides the ABCWUA Governing Board with an update on the KAFB BFF Site

Oil and Gas Production Company Settles to Resolve Clean Air Act Violations

NMED Hosts Public Meeting on LANL Activities

NMED held an informational meeting at the Cities of Gold Hotel on March 29, regarding the clean-up plan for the legacy waste at Los Alamos National Lab (LANL) for federal fiscal year (FFY) 2023. The annual planning process meeting is required by the Compliance Order on Consent (CO) that was signed between NMED and the Department of Energy (DOE) in 2016. The annual planning process allows for updates to the corrective action activities that are grouped in the CO under campaigns. Appendix B of the CO lists corrective action activities associated with campaigns as milestones and targets, which are updated annually based on factors such as work progress, changed conditions, risk and funding. NMED and DOE met several times to discuss the proposed work plan for FFY2023 before finalizing it.

Resource Protection Division Director Rick Shean provided a brief overview of the corrective action and annual planning process required by the CO. In addition to the status of milestones from FFY 2022, he discussed proposed milestones for FFY 2023. The meeting was well attended, and Neelam Dhawan, LANL Program Manager, fielded several questions regarding cleanup of Material Disposal Area C and the hexavalent chromium contamination plume during the public comment and Q&A portion of the meeting.

See NMED's website for more info.

Matador Production Company agreed to a $6.2 million-valued settlement that includes a civil penalty of $1.15 million and at least $1.25 million on a diesel engine replacement project to reduce nitrogen oxide and carbon dioxide emissions. Matador will also spend $500,000 to conduct aerial monitoring of its New Mexico facilities and to address leaks of methane and other pollutants identified. Finally, Matador will spend an estimated $2.5 million in injunctive relief and $800,000 in mitigation costs to offset the harm caused by the alleged violations by reducing emissions from pneumatic devices and vapor recovery units used in its operations.

The complaint, filed jointly by the United States, on behalf of the EPA, and the New Mexico Environment Department (NMED), alleges that Matador failed to capture and control emissions from storage vessels; comply with inspection, monitoring, and recordkeeping requirements; and obtain required state and federal permits at 25 of its oil and gas production operations in New Mexico. NMED and EPA identified the alleged excess emissions through flyover surveillance and field investigations conducted in 2019.

The consent decree requires Matador to ensure that all 239 of its tank batteries in New Mexico are operated properly and in compliance with the law. Under the settlement, Matador will implement extensive design, operation, maintenance, and monitoring improvements, including installing new tank pressure monitoring systems that will provide advance notification of potential emissions and allow for immediate response action by the company. Under the settlement agreement, Matador will be the first producer to implement measures that will serve as a model in future resolution of violations by other producers.

Matador's compliance with the consent decree will result in a reduction of more than 16,000 tons of oxides of nitrogen, volatile organic compounds, and carbon monoxide combined. In addition, as a co-benefit of these reductions, the consent decree will result in significant reductions of greenhouse gas emissions, such as methane – a powerful greenhouse gas – in an amount equating to over 31,000 tons of carbon dioxide (CO2). Greenhouse gases from human activities are a primary cause of climate change and global warming.

The consent decree is available on NMED's Enforcement Watch webpage under "Resolved Matters" at https://www.env.nm.gov/enforcement-watch.

Public Health Measures

Clean air and land, safe drinking water and food, and healthy communities are critical public health measures for developing and maintaining a prosperous New Mexico. The table below provides an at-a-glance view of our progress toward our FY23 targets.

	FY23 Target	Q1	Q2	Q3	Q4	FY23 Actual
Percent of the population breathing air meeting federal health standards.	95.0% or more	97.0%	99.9%	99.5%		
Percent of the population served safe and healthy drinking water.	92.0% or more	89.4%	90.5%	89.2%		
Number of drinking water systems serving drinking water that did not meet at least one standard compared to the total number of drinking water systems.	260/ 564 (46.1%)	231/ 573 (40.3%)	241/573 (42.1%)	235/574 (40.9%)		
Number of community water system violations returned to compliance as a result of NMED assistance.	500	28	12	27		
Number of superfund sites cleaned up as compared to the number of superfund sites remaining.	0/15					
Number of employers that did not meet Occupational Safety and Health Administration (OSHA) requirements for at least one standard compared to the total number of employers.	55.0%	59.3%	60.0%	75.3%		

Note: Grey boxes in tables represent fields with no data reported because the respective measure is reported on a semi-annual or annual basis, rather than quarterly.

Our public health performance measures are described in detail in Appendix B. These explanations include additional definitions and assumptions to provide further insight into the significance of these measures.

NMED Participates in Farmworker Workshops in Southern New Mexico

In February, NMED presented and participated in farmworker workshops organized by the New Mexico Workforce Connection in Deming, Anthony, and Hatch to provide information about resources and services available to New Mexico farming communities. Over 350 farmworkers and representatives from agencies and organizations participated in the events, including the U.S. Department of Labor and Worker's Compensation Administration, the Consulate of Mexico, and New Mexico State University.

NMED Compliance Assistance Specialist Isidro Herrera presented on safety and health regulations specific to the established standards related to employee occupational health and safety in agriculture. He also emphasized the importance of Heat Stress to the farmworkers and provided posters explaining employee rights and employer responsibilities under the federal law. Fact Sheets and injury log forms were distributed as well to help farm contractors keep their employees safe at work.

Environmental Protection Measures

Environmental protection is a set of mitigation techniques aimed to help protect and manage different environmental issues. Environmental protection can be accomplished by reducing pollutants and other factors that contribute to the degradation of the environment. The table below provides an at-a-glance view of our progress toward our FY23 targets.

	FY23 Target	Q1	Q2	Q3	Q4	FY23 Actual
Amount of volatile organic compounds emitted statewide, in tons per year (TPY).	101,095					
Amount of volatile organic compounds emitted illegally, in TPY.	5,000					
Amount of nitrogen oxides emitted statewide, in TPY.	136,906					
Amount of nitrogen oxides emitted illegally, in TPY.	7,000					
Quantity of nutrient-based pollutants reduced due to implementation of watershed restoration and on-the-ground improvement projects, in pounds.	650		941			
Reduction in nonpoint source sediment loading attributed to the implementation of watershed restoration and on-the-ground improvement projects, in pounds.	400,000		788,000			
Number of nonpoint source impaired waterbodies restored by the Department relative to the number of impaired water bodies.	1/377 (0.3%)					
Number of underground storage tank sites cleaned up compared to the total number of leaking underground petroleum storage tank sites remaining.	20/944 (2.1%)	18/869 (2.1%)	0/956 (0%)	12/873		
Number of completed cleanups of petroleum storage tank release sites that require no further action. Cumulative over all time.	1,958	1,984	1,984	1,996		

Our environmental protection performance measures are described in detail in Appendix B. These explanations include additional definitions and assumptions to provide further insight into the significance of these measures.

Air Quality Bureau Accepting Diesel Emission Reduction Project Applications

NMED's Air Quality Bureau held a virtual workshop at the start of the third quarter to provide information to potential applicants on $1.3 million in grant funding available through the Clean Diesel Program funded by the EPA under the Diesel Emissions Reduction Act (DERA). Applications for projects to reduce emissions from heavy-duty vehicles and equipment can be submitted through the end of the year or until the grant funding is exhausted. Since 2008, NMED has awarded over $1.7 million in grant funding for such projects. Complete information is available on the NMED website.

Successful vehicle replacement project - Duke City Redi-Mix.

Compliance Measures

Environmental regulatory compliance is essential to protect the environment and prevent harm to human health. Inspections are a valuable tool for NMED to determine whether regulated entities are in compliance with applicable laws, rules or permits. The table below provides an at-a-glance view of our progress toward our FY23 targets.

	FY23 Target (%)	Q1 (%)	Q2 (%)	Q3 (%)	Q4 (%)	FY23 Actual (%)
Air						
Percent of air emitting sources inspected.	50.0	12.4	3.9	6.3		
Percent of air emitting sources in compliance.	85.0	53.3	60.0	37.5		
Percent of air emitting sources in violation.	15.0	0.2	0.1	0.1		
Groundwater						
Percent of groundwater permittees inspected.	65.0	4.5	5.6	3.6		
Percent of groundwater permittees in compliance.	85.0	96.3	100.0	100.0		
Percent of groundwater permittees in violation.	15.0	0.8	0.5	0.3		
Hazardous Waste						
Percent of hazardous waste facilities inspected.	6.0	0.7	1.0	1.0		
Percent of hazardous waste facilities in compliance.	85.0	36.8	10.3	29.2		
Percent of hazardous waste facilities in violation.	15.0	1.0	1.0	0.7		
Radiation Sources in Medical Equipment						
Percent of ionizing/non-ionizing radiation sources inspected.	85.0	2.9	4.3	3.1		
Percent of ionizing/non-ionizing radiation sources in compliance.	85.0	94.0	96.9	88.9		
Percent of ionizing/non-ionizing radiation sources in violation.	15.0	0.2	0.2	0.4		
Restaurants and Food Manufacturers						
Percent of restaurants/food manufacturers inspected.	80.0	18.7	18.6	22.4		
Percent of restaurants/food manufacturers in compliance.	85.0	69.7	75.7	65.3		
Percent of restaurants/food manufacturers in violation.	15.0	3.6	4.5	7.8		
Septic Systems						
Percent of new or modified liquid waste systems inspected.	85.0	83.0	84.5	82.3		
Percent of new or modified liquid waste systems in compliance.	85.0	99.6	99.8	99.4		
Percent of new or modified liquid waste systems in violation.	15.0	0.4	0.2	0.6		
Solid/Infectious Waste						
Percent of solid and infectious waste management facilities inspected.	85.0	13.3	13.3	17.8		
Percent of solid and infectious waste management facilities in compliance.	85.0	100	100	62.5		
Percent of solid and infectious waste management facilities in violation.	15.0	0.0	0.0	6.7		
Surface Water						
Percent of surface water permittees inspected.	10.0	20.0	20.0	15.0		
Percent of surface water permittees in compliance.	85.0	100	50.0	100.0		
Percent of surface water permittees in violation.	15.0	8.0	6.3	6.3		

Our compliance performance measures are described in detail in Appendix B. These explanations include additional definitions and assumptions to provide further insight into the significance of these measures.

Economic Investment Measures

NMED is dedicated to making economic investments that promote public health, environmental protection, and compliance. Economic investment is critical to New Mexico's ability to continue to build resilient environments. The table below provides an at-a-glance view of our progress toward our FY23 targets.

	FY23 Target	Q1	Q2	Q3	Q4	FY23 Actual
Total investment of grant dollars awarded to communities, year to date.	$65,000,000					
Number of brownfield acres of contaminated land cleaned up and available for reuse.	150					
Investments in water, in dollars.	$30,000,000	$10,900,000	$4,940,000	$9,670,000		
Number of new water infrastructure projects.	75	31	38	38		

Our economic investment performance measures are described in detail in Appendix B. These explanations include additional definitions and assumptions to provide further insight into the significance of these measures.

Construction Programs Bureau Publishes 2022 Infrastructure Development Report

The Construction Programs Bureau (CPB) published the 2022 Infrastructure Development Report on January 26, 2023. The Infrastructure Development Report is a yearly review of the three funding programs CPB directly manages, Capital Outlay Appropriations, the Clean Water State Revolving Loan Fund Program (CWSRF), and the Rural Infrastructure Program (RIP). The Infrastructure Development Report also covers the New Mexico Finance Authority (NMFA) programs CPB engineering staff provide technical assistance on, including water, wastewater, drainage, watershed restoration, and solid waste projects. In 2022, over $40 million was disbursed from the directly managed programs and over $44 million was disbursed from the NMFA programs, including the Drinking Water State Revolving Loan Fund (DWSRF), Colonias Infrastructure Fund, Planning Grant Fund, and Water Trust Board.

CPB Active Projects by Program (as of the end of 2022)	
Program	**Projects**
Capital Outlay	404
CWSRF	34
RIP	7
Sewer Overflow and Stormwater Reuse	1
Colonias	72
DWSRF	36
Planning Grant Fund	14
Water Trust Board	59

During the third quarter of FY23, CPB processed disbursements for 38 individual projects (i.e., both new and continuing) totaling nearly $10 million. Funds are disbursed when projects meet certain milestones and submit for reimbursements.

Operational Measures

NMED is committed to modernizing and improving operational efficiency while reducing operational costs with no loss in customer service. Increasing operational efficiency enables NMED to provide greater services to the public, industry, and our employees. The table below provides an at-a-glance view of our progress toward our FY23 targets.

	FY23 Target	FY23 Actual
Percent of NMED financial transactions completed online by the public or regulated community.	50%	
Total dollars collected by NMED and transferred to the general fund resulting from successful prosecutions and/or settlements stemming from non-compliance with laws, rules, or permits administered by the Department.	$500,000	

	FY23 Target	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	FY23 Actual
Vacancy rate by month.	6.0%	21.2%	20.9%	21.3%	19.9%	21.0%	21.0%	19.0%	17.8%	17.2%				

As of the end of the third quarter in FY23, NMED had 708 authorized full-time equivalent (FTE) positions. However, based on NMED's available staffing budget and average FTE cost at the end of the first quarter of FY23, the Department was budgeted for 662 FTEs; this is adjusted downward somewhat from the 668 used for our first quarter FY23 reporting, resulting in revised figures for July through September in the table above.

In January 2022, the State Personnel Office (SPO) delegated authority to NMED to approve certain personnel transaction, including hiring and in-band pay adjustments, without the need for SPO approval. At the end of the third quarter, SPO notified NMED that it would no longer retain that delegated authority. At that time, 548 of 662 budgeted FTEs were filled, up from 522 at the start of FY23 (July 2022) and bringing NMED's vacancy rate down to 17.2%. However, that has since declined to 536 filled FTE as of May 2023, a 19% vacancy rate. Based on exit interview data and the Department's annual employee engagement surveys, NMED's vacancies are driven by opportunities for greater compensation with less complex work and retirements.

While NMED's overall vacancy rate declined since the start of FY23, this improvement has not been seen in every program across the Department. The table to the right shows the budgeted vacancy rates range from 10.5% in the Resource Management Division to 23.1% in the Environmental Protection Division. Going into FY24, NMED will continue to work to reduce vacancy rates for the Department overall and especially in those programs where employees are still stretched too thin.

NMED Budget Vacancy Rate, by Division as of May 2023	
Division	**Budgeted Vacancy Rate**
Resource Management Division (P567)	10.5%
Water Protection Division (P568)	21.8%
Resource Protection Division (P569)	22.8%
Environmental Protection Division (P570)	23.1%
Environmental Health Division (P570)	13.2%
NMED Total	**19.0%**

NMED Staff Workload Snapshot

Based on existing staffing levels and assuming 235 workdays per year, it would take most NMED programs multiple years to assure compliance with all permitted or licensed facilities.[1] This means that businesses subject to laws passed by the Legislature, regulations adopted by state boards and commissions, and permits and licenses issued by the Department go largely unchecked by NMED staff for years. New Mexicans likely perceive greater oversight by NMED than what is achievable under existing budget and staffing levels. In reality, NMED cannot meaningfully offer technical assistance to the regulated community or assure compliance with legislation, rules, permits and licenses that protect public health and the environment.

- Occupational Health and Safety Bureau (or OSHA Bureau) – There are 6,186 regulated facilities per inspector. If the employees inspected one facility per day, it would take this team 26 years to visit each site.

- The Air Quality Bureau had 22 filled permitting and enforcement staff spending about 10% of their time on compliance inspections. With this staffing level and distribution of work, it would take 6.5 years for the team to visit all permittees. This does not include the vast majority of smaller air-emitting sources, including the majority of oil and gas operations.

- The Ground Water Quality Bureau's Pollution Prevention Section has six filled permitting and enforcement staff spending about 10% of their time on compliance inspections. With this staffing level and distribution of work, it would take more than 3 years for the team to visit all permittees.

For other, non-regulatory bureaus, the workload is also enormous.

- The Drinking Water Bureau has 724 utility operators per each of the three Utility Operator Certification FTEs despite a growing need to support existing operators with renewing their certifications and to certify more utility operators to ensure New Mexicans receive clean drinking water. The Bureau also has the equivalent of one person focused on providing infrastructure funding support to the 1,068 public systems in New Mexico.

- Only two FTE are available to oversee protections of over one million acres of freshwater wetlands in New Mexico. This work is even more critical following the U.S. Supreme Court's recent ruling that dramatically limits the authority to protect water systems under the federal Clean Water Act.

- The OSHA Bureau's Consultation Program has three staff to serve 68,041 employers, or 22,680 employers per person, which limits the program's opportunity to help employers prevent fatalities, amputations, or injuries resulting from occupational hazards

- The Surface Water Quality Bureau oversees 6,698 miles of perennial (present year-round) streams, 190,225 miles of non-perennial streams, and all lakes, with only the equivalent of one staff person responsible for developing water quality standards and six staff persons collecting all water quality data.

- Each of the Construction Programs Bureau Technical Section's four staff manage 152 water infrastructure projects per person.

[1] Assuming an employee works five days per week, receives the 11 state holidays, and exercises their right to two weeks of annual leave but does not take any sick leave.

Appendix A

NMED Program Workload Data

Regulatory Permitting and Enforcement Programs

Division	Bureau	Program	Known Regulated Universe / Number of Permits	Authorized Permitting & Enforcement FTE	Filled Permitting & Enforcement FTE	% Time Permitting	% Time Enforcement	Regulated Entities/Permits per Filled Permitting & Enforcement FTE	As of Date
EHD	EHB	Liquid Waste, Food Safety, & Pool and Spa Programs	13,297	56.0	49.0	25%	75%	241	4/7/2023
EHD	OHSB	Compliance Program	68,041	17.0	11.0	0%	100%	6,186	4/1/2023
EPD	AQB	Permitting and Enforcement	3,390	27.0	22.0	90%	10%	154	4/1/2023
EPD	RCB	Radiation Protection Program	1,713	9.0	7.0	90%	10%	245	4/11/2023
RPD	HWB	Compliance and Tech. Assistance Program	2,447	6.8	5.8	0%	100%	422	4/11/2023
RPD	HWB	Permitting Program	21	22.0	19.0	100%	0%	1	4/14/2023
RPD	PSTB	Prevention/Inspection - Delivery Prohibition	1,721	15.0	10.0	0%	100%	172	4/9/2023
RPD	PSTB	Remedial Action Program	926	16.0	10.0	0%	100%	93	4/14/2023
RPD	SWB	Solid Waste Bureau	1,297	14.0	11.0	36%	64%	118	4/12/2023
WPD	DWB	Public Water System Supervision	1,068	13.0	12.0	90%	10%	89	4/11/2023
WPD	GWQB	Agriculture Compliance Section	206	5.0	4.0	90%	10%	52	3/29/2023
WPD	GWQB	Mining Environmental Compliance Section	42	12.0	8.0	90%	10%	5	3/29/2023
WPD	GWQB	Pollution Prevention Section	446	11.0	6.0	90%	10%	74	3/29/2023
WPD	SWQB	Dredge/Fill Permits	76	4.0	3.0	15%	5%	25	4/12/2023
WPD	SWQB	NPDES permit compliance	3,955	7.0	3	50%	50%	1,318	4/12/2023

Non-Regulatory Programs

Division	Bureau	Program	Permittees / Facilities	Known Universe Category	Authorized FTE	Filled FTE	Workload per filled FTE	Descriptor	As of Date
EHD	OHSB	Consultation Program	68,041	Employers	6.0	3.0	22,680	Employers per Consultation Program FTE	4/1/2023
RPD	HWB	Incident Coordination	365	Emergency calls	1.3	1.3	280.8	Emergency calls per Incident Coordination FTE	4/11/2023
RPD	SWB	Recycling and Illegal Dumping Grants	19	FY23 grants	1.1	0.7	27	FY23 grants per Recycling and Illegal Dumping Grants FTE	4/12/2023
WPD	CPB	Technical Section	606	Infrastructure Projects	7.0	4.0	152	Infrastructure Projects per Technical Section FTE	3/31/2023
WPD	DWB	Engineering	1,068	Public Water Systems	2.0	2.0	534	Public Water Systems per Engineering FTE	4/11/2023
WPD	DWB	Infrastructure Funding Support	1,068	Infrastructure Funding Support	1.0	1.0	1,068	Infrastructure Funding Support per Infrastructure Funding Support FTE	4/11/2023
WPD	DWB	Sustainable Water Infrastructure	1,068	Public Water Systems	13.0	9.0	119	Public Water Systems per Sustainable Water Infrastructure FTE	4/11/2023
WPD	DWB	Utility Operator Certification	2,173	Utility operators	3.0	3.0	724.3	Utility operators per Utility Operator Certification FTE	4/11/2023
WPD	GWQB	Remediation Oversight Section	189	Sites	8.0	6.0	31.5	Sites per Remediation Oversight Section FTE	3/29/2023
WPD	GWQB	Superfund Oversight Section	29	Sites	10.0	7.0	4.1	Sites per Superfund Oversight Section FTE	3/29/2023
WPD	SWQB	Water Quality Standards	6,698	Perennial stream miles in NM	4.0	1.0	6,698	Perennial stream miles in NM per Water Quality Standards FTE	4/12/2023

Division	Bureau	Program	Permittees / Facilities	Known Universe Category	Authorized FTE	Filled FTE	Workload per filled FTE	Descriptor	As of Date
WPD	SWQB	Water Quality Standards Program	190,225	Non-perennial stream miles in NM	4.0	1.0	190,225	Non-perennial stream miles in NM per Water Quality Standards Program FTE	4/12/2023
WPD	SWQB	Monitoring Program	6,698	Perennial stream miles in NM	6.0	5.0	1,340	Perennial stream miles in NM per Monitoring Program FTE	4/12/2023
WPD	SWQB	Monitoring Program	190,225	Non-perennial stream miles in NM	6.0	5.0	38,045	Non-perennial stream miles in NM per Monitoring Program FTE	4/12/2023
WPD	SWQB	Monitoring Program	173	Number of Significant Lakes and Reservoirs	6.0	5.0	35	Number of Significant Lakes and Reservoirs per Monitoring Program FTE	4/12/2023
WPD	SWQB	TMDL & Assessment	538	Number of assessed river/stream reaches	5.0	4.0	135	Number of assessed river/stream reaches per TMDL & Assessment FTE	4/12/2023
WPD	SWQB	Wetlands Protection	1,053,809	Acres of freshwater wetlands in NM	4.0	2.0	526,905	Acres of freshwater wetlands in NM per Wetlands Protection FTE	4/12/2023
WPD	SWQB	Nonpoint Source Pollution - Planning & Restoration	3,223	Number of sub-watersheds	9.0	6.0	537	Number of sub-watersheds per Nonpoint Source Pollution - Planning & Restoration FTE	4/12/2023
WPD	SWQB	Effectiveness Monitoring	191	Number of impaired river/stream reaches	1.0	1.0	191	Number of impaired river/stream reaches per Effectiveness Monitoring FTE	4/12/2023

Appendix B

Public Health Measures	Definitions and Assumptions
Percent of the population breathing air meeting federal health standards.	“Meeting federal health standards” means meeting the National Ambient Air Quality Standards (NAAQS) for air pollutants. “Population” means 32 percent of the total population of New Mexico since 35 percent of the total population live in 20 counties without air monitors and 33 percent of the total population live in Bernalillo County and the City of Albuquerque which operate their own air monitoring sites and monitors and do not contribute to the NMED data set. Therefore, 32 percent of the population will be used as the denominator when calculating the percent of the population in the 10 monitored counties breathing air meeting federal health standards.
Percent of the population served safe and healthy drinking water.	"Community water system" means a public water system that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents. "Safe and healthy drinking water" is defined as drinking water served by a community water system that meets primary health-based drinking water standards. Health-Based Standards are standards that fall into one of three categories: 1) maximum contaminant levels (MCLs) that specify the highest allowable contaminant concentrations in drinking water; 2) maximum residual disinfectant levels (MRDLs) that specify the highest concentrations of disinfectants allowed in drinking water; and 3) treatment technique requirements that specify certain processes intended to reduce the level of a contaminant. The numerator will exclude the population served by systems with unresolved violations from prior quarters and will be based on the compliance status of each community water system at any time during the quarter. The denominator is the total number of people served by community water systems.
Number of drinking water systems serving drinking water that did not meet at least one standard compared to the total number of drinking water systems	"Drinking water system serving drinking water that did not meet at least one standard" is a community water system with one or more violations of primary health-based drinking water standards. See above for "community water system" definition. The numerator will exclude population served by systems with unresolved violations from prior quarters; also, the numerator will be based on compliance status of each community water system at any time during the quarter. The denominator is the total number of people served by community water systems.
Number of community water system violations returned to compliance as a result of NMED assistance.	See above for "community water system" definition. "Violations" means all violations, including monitoring, reporting, public notice, and exceedances. "Returned to compliance" means that a violation has gone from non-compliant status to compliant status in the data system of record (i.e., Safe Drinking Water Information System). Note that there can be a lag between when the system addresses the violation and when NMED documents that the system returned to compliance.
Number of superfund sites cleaned up as compared to the number of superfund sites remaining.	“Superfund site” means an entire Superfund Site on the National Priorities List, including all operational units. As of September 30, 2021, there are 15 Superfund Sites in New Mexico. Superfund Site clean-ups take many years, and it is common for Sites to remain on the National Priorities List for decades. As a result, most years the number of Superfund Sites cleaned-up will be zero. If, in a given year, a Superfund Site is partially delisted (e.g., one operational unit is delisted and one or more remains) we will note this in the narrative, but a partial delisting will not count toward this measure.
Number of restaurants/food manufacturers that did not meet at least one standard compared to the total number of restaurants/food manufacturers.	"One standard" means having at least one priority violation during an annual inspection. "Priority violations" are the highest risk violations that indicate the greatest risk of consumers possibly becoming ill as a result of eating food from the restaurant/food manufacturer. The denominator is the number of facilities for which NMED made a compliance determination during the quarter, following an inspection of the facility. The denominator does not include facilities for which the program made a compliance determination without conducting an inspection (e.g., based on records review).
Number of employers that did not meet Occupational Safety and Health Administration (OSHA) requirements for	"Number of employers that did not meet OSHA requirements" includes all employers issued at least one citation for violation(s) of OSHA standards (numerator). "Total number of workplaces" includes all employers found in compliance (case closed with no citations) and employers issued citation(s) during the fiscal year (denominator).

at least one standard compared to the total number of employers.	

Environmental Protection Measures	Definitions and Assumptions
Amount of volatile organic compounds emitted statewide, in tons.	This measure will use the annual calendar year volatile organic compounds (VOCs) emissions inventory which includes actual emissions (i.e., routine, start up, shut down, maintenance, malfunction (SSM/M)) and all illegal VOC emissions. The tons per year reported at the end of the fiscal year will constitute emissions for the previous calendar year. Qualified sources are defined in 20.2.73.300.B(1) as "Any source which emits, or has the potential to emit, 5 tons per year or more of lead or lead compounds, or 100 tons per year or more of PM10, PM2.5, sulfur oxides, nitrogen oxides, carbon monoxide, or volatile organic compounds shall submit an emissions report annually". NMED will assume for this performance measure that legal emissions are from sources in NMED's jurisdiction, which excludes Bernalillo County and Tribal areas.
Amount of volatile organic compounds emitted illegally, in tons.	"Illegal emissions" are those that exceed permitted (allowable) limits. This is a reporting of the illegal total tons of VOC emissions for comparison to total tons of emissions. The tons per year reported at the end of the fiscal year will constitute emissions for the previous calendar year. NMED will assume for this performance measure that illegal emissions are from sources in NMED's jurisdiction, which excludes Bernalillo County. This measure assumes all excess emissions reported to NMED by regulated facilities are in violation of state and federal law. Note: nonpermitted sources are not required to report excess emissions because they do not have an "allowable" limit.
Amount of nitrogen oxides emitted statewide, in tons.	This measure will use the annual calendar year nitrogen oxides (NOx) emissions inventory which includes actual emissions (i.e., routine, start up, shut down, maintenance, malfunction (SSM/M)) and all the illegal NOx emissions. The tons per year reported at the end of the fiscal year will constitute emissions for the previous calendar year. See above for "qualified sources" definition. NMED will assume for this performance measure that legal emissions are from sources in NMED's jurisdiction, which excludes Bernalillo County and Tribal areas. The data is collected from permitted and registered industrial facilities (point sources).
Amount of nitrogen oxides emitted illegally, in tons.	See above for "illegal emissions" definition. This is a reporting of the illegal total tons of NOx emissions for comparison to the total tons of emissions. The tons per year reported at the end of the fiscal year will constitute emissions for the previous calendar year. NMED will assume for this performance measure that illegal emissions are from sources in NMED's jurisdiction, which excludes Bernalillo County. This measure assumes all excess emissions reported to NMED by regulated facilities are in violation of state and federal law. Note: nonpermitted sources are not required to report excess emissions because they do not have an "allowable" limit.
Quantity of nutrient-based pollutants reduced due to implementation of watershed restoration and on-the-ground improvement projects, in pounds.	"Nutrient-based pollutants" are nitrogen and phosphorus. "Pounds of nitrogen" are measured as Total Nitrogen. "Pounds of phosphorus" are measured as Total Phosphorus. NMED will count load reductions toward this measure when NMED confirms individual project completion. The data do not include pollutant load reductions resulting from programs and projects not represented in the U.S. Environmental Protection Agency's (EPA) Grants Reporting and Tracking System (GRTS). Due to the requirement for NMED to report to EPA once annually, along with the cycle for implementation of water quality restoration projects that generate pollutant reductions, numbers reported for this measure mid-year may not demonstrate progress toward annual targets.
Reduction in nonpoint source sediment loading attributed to implementation of watershed restoration and on-the-ground improvement projects.	"Nonpoint source sediment loading" means the amount of sediment (in pounds) that is carried by rain and snowmelt and deposited in aquatic environments from many diffuse (i.e., nonpoint) sources over a specific period (e.g., day, year, etc.). "Nonpoint source pollutant" means a pollutant released into the aquatic environment from a wide area and many diffuse sources. NMED will count load reductions toward this measure when NMED confirms individual project completion. The data do not include pollutant load reductions resulting from programs and projects not represented in EPA GRTS. Due to the requirement for NMED to report to EPA once annually, along with the cycle for implementation of water quality restoration projects that generate pollutant reductions, numbers reported for this measure mid-year may not demonstrate progress toward annual targets.

Number of nonpoint source impaired waterbodies restored by the Department relative to the number of impaired water bodies.	See above for "nonpoint source pollutant" definition. "Impaired waterbody" means a surface water of the state (i.e., stream, river, lake, wetland) is not meeting the applicable surface water quality standards for one or more pollutants. In other words, the concentration of the pollutant(s) is higher than the levels established to protect fish, recreation, irrigation, and other uses. Full restoration of a waterbody takes years and typically many combined projects to address the causes of the impairment. Despite successful efforts to restore certain waterbodies and remove them from the impaired waters list, the total number of impaired waterbodies will increase over time due to: (1) monitoring and assessment of more waterbodies; and (2) the general trend for changing land uses over time, combined with impacts of climate change.
Number of underground storage tank sites cleaned up compared to the total number of leaking underground petroleum storage tank sites remaining.	"Cleaned up" means that soil and groundwater contaminants of concern have met the applicable state's standards. "Underground storage tank" means a single tank or combination of tanks, including pipes connected thereto, that are used to contain an accumulation of regulated substances and the volume of which, including the volume of the underground pipes connected thereto, is ten percent or more beneath the surface of the ground. "Petroleum storage tank" means a storage tank system that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. Such systems include those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils. "Leak" means any spilling, emitting, discharging, escaping, or disposing of a regulated substance due to the failure of components of a storage tank system to contain a regulated substance as designed. A leak may or may not result in a release to the environment. "Petroleum" means crude oil, crude oil fractions, and refined petroleum fractions, including gasoline, kerosene, heating oils, and diesel fuels. This measure does not reflect ongoing work to clean up sites to achieve No Further Action (NFA) status. Also, this measure does not report NFA releases from above ground storage tanks.
Number of completed cleanups of petroleum storage tank release sites that require no further action.	"No Further Action" is a technical determination issued by NMED that documents that the owner or operator of a site has met all applicable WQCC and EIB remediation standards and that no contaminant will present a significant risk of harm to public health, safety, welfare, and the environment. "Completed cleanups" is another term for "No Further Action." See above for "petroleum storage tank" definition. "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing of a regulated substance from a storage tank system into the groundwater, surface water or soil. See above for "petroleum" definition. This measure does not reflect ongoing work to clean up sites to achieve NFA status.

Compliance Measures	**Definitions and Assumptions**
Air	
Percent of air emitting sources inspected.	"Inspected" means a full compliance evaluation, either on-site or off-site (with photographic verification of equipment and other physical verifications required) that is conducted to inform a compliance determination and support enforcement actions, if appropriate. Inspections include evaluation of all appropriate regulatory requirements and permit conditions. "Air emitting source" means a source of air pollutants, usually an industrial facility, that is included in the Air Quality Bureau (AQB) list of sites to inspect in the universe of sources that may be included in a given annual Compliance Monitoring Strategy (CMS) Plan.
Percent of air emitting sources in compliance.	"Air emitting source" means an industrial facility that is included in the annual CMS Plan that is subject to approval by the EPA. "In compliance" means, upon completion of an on-site or off-site evaluation by NMED, the air emitting source meets all the requirements of permit(s), state regulations and federal regulations that apply to the facility and its operations. The denominator is the number of facilities for which NMED made a compliance determination during the quarter, following an inspection of the facility. The denominator does not include facilities for which the program made a compliance determination without conducting an inspection (e.g., based on records review).
Percent of air emitting sources in violation.	See above for "air emitting source" definition. "In violation" means that one or more potential violations were discovered through analysis of state or federal regulatory requirements or permit conditions. Numerator is all permittees with one or more potential violations that remain unresolved (i.e., permittees with an ongoing violation). Denominator is the total number of regulated entities (permittees/facilities).

Groundwater	
Percent of groundwater permittees inspected.	"Inspected" means an on-the-ground compliance inspection that is conducted to inform a compliance determination and support enforcement actions, if appropriate. "Groundwater permittees" means a person or facility with an active discharge permit issued by the NMED Ground Water Quality Bureau (GWQB) under the authority of Water Quality Control Commission (WQCC) regulations found at 20.6.2 NMAC, 20.6.6 NMAC, and 20.6.7 NMAC; this term does not include sites under abatement pursuant to WQCC regulations unless the facility is abating groundwater contamination under discharge permit. The numerator is the number of permittees inspected during the reporting period; the denominator is total regulated permittees. The denominator will be set on July 1 each year and quarterly inspection activity will vary. This measure will be tracked and reported cumulatively across quarters.
Percent of groundwater permittees in compliance.	See above for "groundwater permittees" definition. "In compliance" means that GWQB inspected the facility and determined that no violations of the permit conditions or regulations were found at the time of inspection. See above for which permits are included in this measure. This measure will provide a compliance rate as a snapshot in time (one quarter only). The numerator is the number of permittees inspected in past quarter that are in compliance with applicable requirements and permit conditions. The denominator is the number of permittees for which a compliance determination was made during the quarter following an inspection of the permittee. The denominator does not include facilities for which the program made a compliance determination without conducting an inspection (e.g., based on records review).
Percent of groundwater permittees in violation.	See above for "groundwater permittees" definition. "In violation" means a permittee with a violation that has not yet been resolved. This will include permittees that are working on ongoing corrective actions but have not completed them. See above for which permits are included in this measure. Numerator is the number of facilities with an unresolved violation, regardless of whether the violation was identified during the reporting quarter. Denominator is the total number of regulated facilities/entities.
Hazardous Waste	
Percent of hazardous waste facilities inspected.	"Inspected" means an on-the-ground compliance inspection that is conducted to inform a compliance determination and support enforcement actions, if appropriate. "Facilities" tracked under this measure include hazardous waste generators, transporters, and treatment, storage and disposal facilities.
Percent of hazardous waste facilities in compliance.	See above for "facilities" definition. "In compliance" means that there were no violations of the New Mexico Hazardous Waste Management Regulations (HWMR) 20.4.1 New Mexico Administrative Code (NMAC) found at the time of inspection. This percentage will be calculated based on the number of compliant facilities out of the total number of facilities inspected.
Percent of hazardous waste facilities in violation.	See above for "hazardous waste facilities" definition. "In violation" means the facility was found to be out of compliance with the New Mexico HWMR 20.4.1 NMAC at the time of inspection. Numerator is the number of facilities with an unresolved violation, regardless of whether the violation was identified during the reporting quarter. Denominator is the total number of regulated facilities/entities.
Radiation Sources in Medical Equipment	
Percent of ionizing/non-ionizing radiation sources inspected.	"Inspection" means an official examination or observation including, but not limited to, tests, surveys and monitoring to determine compliance with rules, regulations, orders, requirements and license or registration conditions of the department. In other words, an on-the-ground compliance inspection that is conducted to inform a compliance determination and support enforcement actions, if appropriate. "Ionizing radiation" means a form of energy that acts by removing electrons from atoms and molecules of materials that include air, water, and living tissue. "Non-ionizing radiation" means a form of radiation with less energy than ionizing radiation. Unlike ionizing radiation, non-ionizing radiation does not remove electrons from atoms or molecules of materials that include air, water, and living tissue. The denominator is the total regulated entities.
Percent of ionizing/non-ionizing radiation sources in compliance.	See above for "ionizing radiation" and "non-ionizing radiation" definitions. "In compliance" means no violations of state regulations were found during onsite or virtual inspections. The denominator is the number of facilities for which NMED made a compliance

	determination during the quarter, following an inspection of the facility. The denominator does not include facilities for which the program made a compliance determination without conducting an inspection (e.g., based on records review).
Percent of ionizing/non-ionizing radiation sources in violation.	See above for “ionizing radiation” and “non-ionizing radiation” definitions. "In violation" means a violation of at least one state regulation was found during and on-site or virtual inspection. Numerator is the number of facilities with an unresolved violation, regardless of whether the violation was identified during the reporting quarter. Denominator is the total number of regulated facilities/entities.
Restaurants and Food Manufacturing	
Percent of restaurants/food manufactures inspected.	“Inspected” means an on-the-ground compliance inspection that is conducted to inform a compliance determination and support enforcement actions, if appropriate. The denominator is the total regulated entities with scheduled inspections within the quarter being reported.
Percent of restaurants/food manufactures in compliance.	"Compliance" means an inspected facility did not have priority violations during an annual inspection. "Priority violations" are the highest risk violations that indicate the greatest risk of consumers possibly becoming ill as a result of eating food from the restaurant/food manufacturer. The denominator is the number of facilities for which NMED made a compliance determination during the quarter, following an inspection of the facility. The denominator does not include facilities for which the program made a compliance determination without conducting an inspection (e.g., based on records review).
Percent of restaurants/food manufactures in violation.	"Violation" means having at least one priority violation during an annual inspection. See above for "priority violations" definition. Numerator is the number of facilities with an unresolved violation, regardless of whether the violation was identified during the reporting quarter. Denominator is the total number of regulated facilities/entities.
Septic Systems	
Percent of new or modified liquid waste systems inspected.	“Inspected” means an on-the-ground compliance inspection that is conducted to inform a compliance determination and support enforcement actions, not including photo or virtual inspections. A liquid waste system inspection includes, for the purpose of this measure, an inspection of a new or modified system that has been installed, complete and not ready for a compliance inspection. This measure does not include compliance-based inspections. The denominator is total number of systems inspected as a result of the installation of a new or modified system.
Percent of new or modified liquid waste systems in compliance.	“Compliance” of a new or modified liquid waste systems means the system has been inspected on-site and found to meet regulatory requirements during the initial inspection and may be issued a final approval. The denominator is the total number of systems inspected as a result of the installation of a new or modified system by department personnel, not including photo and unpermitted system inspections.
Percent of new or modified liquid waste systems in violation.	“Violation” of new or modified liquid waste systems are those that have been inspected and have been found to not meet regulatory requirements and could not be issued a final approval. The system installation requires a re-inspection before final approval. The denominator is the total number of systems inspected as a result of the installation of a new or modified system by department personnel, not including photo and unpermitted system inspections.
Surface Water	
Percent of surface water permittees inspected.	“Inspected” means an off-site or on-site compliance inspection that is conducted to evaluate compliance with the EPA permit and support EPA enforcement actions, if appropriate. "Surface water permittees" refers to NPDES surface water discharge permittees. The numerator is the number of permittees subject to NMED-led inspections completed that quarter; the denominator is the number of NMED-led inspections planned for the fiscal year through SWQB’s commitment to EPA Region 6. This measure represents surface water discharge inspections NMED conducts on behalf of EPA Region 6, which is currently the permitting authority for these regulated entities in New Mexico.
Percent of surface water permittees in compliance.	See above for "surface water permittees" definition. "In compliance" means the permittee scored a 3 or higher on their facility evaluation rating on a scale of 1 (very unreliable programs) to 5 (very reliable programs). The denominator is the number of

	permittees for which NMED issued a final Facility Evaluation Rating during the quarter, following an NMED-led inspection of the permittee. The numerator is the number of permittees for which final inspection reports were issued with a Facility Evaluation Rating of 3 or higher during the quarter.
Percent of surface water permittees in violation.	See above for "surface water permittees" definition. "In violation" means that EPA issued an enforcement action against an inspected facility. Numerator is the number of facilities with an unresolved violation, regardless of whether the violation was identified during the reporting quarter. Denominator is the total number of regulated facilities/entities. "Enforcement action" is an EPA-issued administrative order or administrative penalty order. If SWQB completes an inspection report during the 1st quarter, that facility may not be in the numerator for percent in violation for the 1st quarter because the noncompliance determination may not be made until another quarter. This facility would end up in the numerator for the percent in violation measure in the quarter when the EPA issues the enforcement action.

Economic Investment Measures	**Definitions and Assumptions**
Total investment of grants dollars awarded to communities, year to date.	"Investment" means the action of investing money to a particular undertaking with the expectation of a worthwhile result. "Grant dollars" means money from state or federal funds. "Communities" means a physical location of census tracts or a neighborhood bounded by certain streets and geophysical features. "Awarded" means funds given to communities. This performance measure will include data from many sources, including but not limited to: Solid Waste Bureau's Recycling and Illegal Dumping (RAID) grants, the Construction Program Bureau (CPB)'s Clean Water State Revolving Loan Fund (CWSRF) and Rural Infrastructure Program (RIP). These data do not include tracking funds as they are reimbursed or capital outlay funds. Also, these data do not include funds awarded to contractors or areas without populations.
Number of brownfield acres of contaminated land cleaned up and available for reuse.	"Brownfield acres" means brownfields sites that utilize the Brownfield Revolving Loan Fund (BRLF) program or a national brownfield grant to fund assessment or clean-up. "Cleaned up and available for reuse" means the acres are remediated and "Ready for Anticipated Use (RAU)," a technical determination that environmental conditions at the site are protective of human health and the environment based on current use(s) or planned future use(s). This measure will not report on sites being regulated through the State Cleanup Program.
Investments in water infrastructure, in dollars.	"Investments" means actual disbursements from CWSRF, RIP and Capital Outlay to communities for water infrastructure projects. "Water infrastructure" includes drinking water, wastewater, stormwater and any other projects eligible for CWSRF or RIP, and any Capital Outlay projects appropriated to NMED and managed by the CPB. These data are reported by quarter, not as a rolling total of dollars from quarter to quarter. It is important to note that the number of new Capital Outlay projects in a given year is dependent on legislative appropriation. Disbursements from programs not managed directly by CPB are not included in this measure, so a total amount of financial impact to the state from water programs CPB only participates in as a contractor are not included.
Number of new water infrastructure projects.	"New water infrastructure project" means Clean Water State Revolving Loan Fund (CWSRF), Rural Infrastructure Program (RIP) and capital outlay projects with a funding agreement executed during the reporting period (i.e., quarter). Capital outlay funding agreements are a consequence of appropriations made to the NMED by the Legislature. Because this measure does not capture disbursements from programs not managed directly by NMED CPB, reporting of this measure does not reflect the total amount of financial impact to the State of New Mexico from all water infrastructure financing programs.

Operational Measures	Definitions and Assumptions
Total dollars collected by NMED and transferred to the general fund resulting from successful prosecutions and/or settlements stemming from non-compliance with laws, rules, or permits administered by the Department.	Enforcement actions are administrative or judicial actions initiated by NMED in response to some information that a regulated entity is violating a statute and/or rule (regulation) for which NMED has legal enforcement authority, or a permit administered by NMED. NMED administers permits pertaining to the following: air quality, water quality, drinking water quality, solid waste, hazardous waste, liquid waste, food safety, ionizing radiation, hemp (warehousing, extraction processing, manufacturing), and public recreation water safety. NMED has enforcement authority for all these matters, in addition to occupational health and safety. The intent of this measure is to display the success of enforcement actions and litigation, as well as the benefit to the entire state via general fund revenue generation. Ideally, the target is zero since compliance with state rules and permits is always required. Realistically, and as the compliance and violation performance measures indicate, NMED is likely to see violations that merit civil penalties in all regulatory programs. Note that NMED may transfer penalties to the general fund from actions initiated by NMED, the Attorney General, a federal agency, etc.
Vacancy rate by month.	The intent of this measure is to track NMED's effort to achieve our budgeted vacancy rate. A negative trend will convey greater staff retention and increased hiring to reduce our vacancy rate. “Vacancy rate” is calculated by subtracting the number of filled full-time equivalent (FTE) positions from the number of budgeted FTE positions (i.e., 662 for FY23) and dividing by the number of authorized FTE positions. Note that as FTE goes down, vacancy rate increases.
Percent of NMED financial transactions completed online by the public or regulated community.	A “financial transaction” facilitates the utilization of ACH and credit card payments for NMED license permitting, loan payments, corrective action fees, certification renewal fees, and other compliance, primacy, and regulatory fees which NMED bills to the constituent and regulated community via email, paper mail, or at the Wells Fargo portal, who pay directly to Wells Fargo, who processes the payment, and the money is deposited into individual program’s Wells Fargo account. The intent of this measure is to drive NMED's modernization, cost-saving efforts, and improved customer service (e.g., online transactions require different resources than in-person or by mail). A positive trend will convey that a greater share of financial transactions is being completed online, directly resulting from modernization, human capital, and cost-saving efforts to improve efficiency and provide enhanced customer service. The following transactions are not being measured here: legal settlements, compliance agreements, State of New Mexico budgets, federal and state grants, inter/intra agency transfers, and special revenue funds.