

ACTION PLAN

Submitted by agency?	Yes
Timeline assigned?	Yes
Responsibility assigned?	Yes

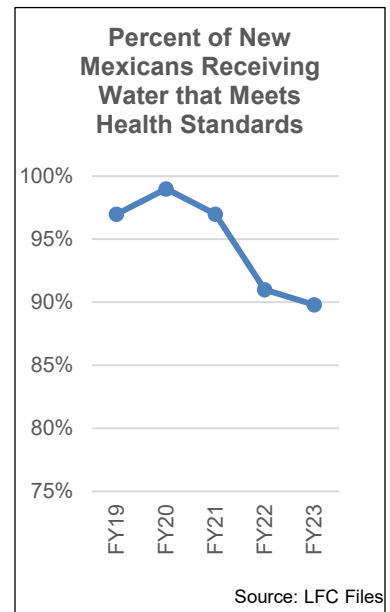
The Environment Department’s (NMED) regulatory programs continued to demonstrate mixed results on compliance levels in FY23. However, NMED is prioritizing compliance enforcement and continues to make progress toward achieving its performance goals despite maintaining a vacancy rate of 19 percent. While NMED showed improvement in the Resource Protection, Environmental Protection, and Environmental Health divisions, the results from the Water Protection Division’s Drinking Water Bureau remained concerning. Despite significant investments in personnel by the Legislature to add capacity, the agency’s recruitment and retention of key staff continues to be a challenge.

Water Protection

The Water Protection Division (WPD) continues to assist communities seeking to develop internal capacity to utilize state and federal funding for infrastructure improvement and water resource management. Of the 236 systems with one or more outstanding violations in the fourth quarter of FY23, 114, or 48.3 percent, had violations that were health related. The other outstanding issues of noncompliance were administrative violations, such as failure to submit required reports, failure to collect required samples, failure to notify customers of a violation, or failure to submit consumer confidence reports.

During the fourth quarter of FY23, the Construction Programs Bureau (CPB) processed disbursements for eight new funding agreements using clean water state revolving loan funds, Rural Infrastructure Program funds, or capital outlay project funds. Notably, this measure does not capture disbursements from programs not managed directly by NMED’s CPB, although many such projects receive extensive technical assistance from the bureau.

The decline in the percentage of New Mexicans receiving drinking water that meets health standards since FY21 was mainly impacted by stricter guidelines rather than more systems falling out of compliance. It is expected that this trend will continue due to proposed rules by the U.S. Environmental Protection Agency (EPA) limiting PFAS in drinking water, which will likely go into effect in early 2024. Many public water systems throughout New Mexico struggle to comply with current drinking water requirements due to a lack of operational capacity, requiring NMED staff to provide more technical and compliance related assistance.



Budget: \$30,576.4 **FTE:** 191.6

	FY21 Actual	FY22 Actual	FY23 Target	FY23 Actual	Rating
Percent of the population served safe and healthy drinking water	97%	97%	92%	89.8%	Y
Percent of surface water permittees inspected	New	155%	10%	145%	G
Percent of groundwater permittees inspected	19%	21.1%	65%	18.2%	R
Number of new water infrastructure projects	New	114	75	157	G
Program Rating	G	Y			Y

Resource Protection

The Resource Protection Division (RPD) failed to reach its inspection target in FY23. Solid Waste Bureau staff inspected four of 45 active permitted solid waste facilities in the fourth quarter, well below the trajectory needed to inspect every permitted facility each year or meet the performance target of 85 percent. The bureau continues to work to reclassify existing vacancies to higher-level positions to improve recruitment and retention, but the agency reports additional staffing is needed to improve the rate of inspections. Currently, the Solid Waste Bureau has a 35 percent vacancy rate.

In the fourth quarter of FY23, the petroleum storage tank bureau issued no further action (NFA) status determinations to nine petroleum release sites. The total number of open underground storage tank (UST) sites is 873 and the total number of UST and above-ground storage tank release sites is 956. Notably, NFA status determinations are fluid throughout the year, based on specific site conditions, staffing levels, and the availability of funding from the corrective action fund.

Q4 Inspections Showing Regulatory Compliance, by NMED Program	
Ground water	97.7%
Liquid waste	97.7%
Radiation sources	95.7%
Surface water	79.3%
Solid & infectious waste	75.0%
Restaurants/food manufacturers	70.2%
Air emitting sources	50.0%
Hazardous waste	25.5%

Budget: \$17,925.9 FTE: 146.6

	FY21 Actual	FY22 Actual	FY23 Target	FY23 Actual	Rating
Number of completed cleanups of petroleum storage tank release sites that require no further action	New	1,964	1,948	2,005	
Percent of solid waste facilities and infectious waste management facilities inspected	New	47%	85%	53.3%	
Percent of hazardous waste facilities inspected	New	4%	6%	3.7%	
Program Rating					

Environmental Protection

While inspections are valuable for determining whether regulated entities comply with applicable laws, rules, or permits, NMED’s regulatory compliance programs continually struggle to meet their target percentage of applicable entities inspected. The Environmental Protection Division’s Air Quality (AQB) and Radiation Control Bureaus (RCB) are responsible for enforcing regulatory and compliance measures to protect the environment and prevent harm to human health.

In addition to inspections and monitoring, the RCB’s work includes assisting nuclear workers who have become ill due to occupational exposures received while working for contractors or subcontractors at U.S. Department of Energy facilities or in the uranium industry. NMED contends that reaching the target of inspecting 85 percent of radiation sources would require 209 inspections from each staff member, and cannot be met with current staffing levels.

The AQB has deployed new air monitoring instruments that improve connectivity, efficiency, and remote access to air quality data. The bureau worked with the New Mexico Climate Change Task Force to develop rules for reducing volatile organic compounds and oxides of nitrogen emissions in the oil and gas industry. AQB inspected 14 of 128 air-emitting sources in the fourth quarter, and 42 for all of FY23. While AQB fell far short of the target of 50 percent for the year, it represented an increase of 40 percent above FY22 levels.

Budget: \$33,261.2 **FTE:** 304.1

	FY21 Actual	FY22 Actual	FY23 Target	FY23 Actual	Rating
Percent of ionizing/non-ionizing radiation sources inspected	New	12.6%	85%	15%	R
Percent of air emitting sources inspected	New	20.5%	50%	33.3%	R
Percent of the population breathing air meeting federal health standards	New	98.4%	99.5%	99.9%	Y
Program Rating		R			R

Environmental Health

The Environmental Health Division (EHD) continued to administer the state hemp extraction and manufacturing program, ensuring public health protection while supporting the growth and sustainability of the cannabis industry. EHD is also responsible for working to prevent workplace injuries and fatalities, avoiding unnecessary risks to public health from commercially prepared foods, regulating septic tanks, and ensuring the safety of public pools and spas.

The Occupational Health and Safety Bureau conducts thousands of inspections annually and targets workplaces with the greatest expectations of noncompliance to reduce illness, injuries, and fatalities. The bureau inspects approximately 1 percent of all workplaces each year. Still, it expects that a much higher percentage of workplaces are out of compliance at any given time, necessitating continuous refinement of the strategy by which the highest-risk workplaces are targeted.

The Environmental Health Bureau’s (EHB) Food Safety Program inspections increased drastically in the third and fourth quarters, which allowed it to hit its performance target for FY23. Under state statute and regulation, each restaurant and food manufacturer in the state should be inspected once per year. However, the same inspectors cover restaurants, food manufacturers, pools, and spas. Bureau staff currently have a compliance and enforcement workload of approximately 355 facilities per inspector, well above federal Food and Drug Administration guidance that retail food inspectors (a much narrower role than EHB’s inspectors) are assigned 280-320 inspections.

Budget: \$28,466.1 **FTE:** 281.6

	FY21 Actual	FY22 Actual	FY23 Target	FY23 Actual	Rating
Number of employers that did not meet occupational health and safety requirements for at least one standard compared with the total number of employers	New	63.5%	55%	64%	Y
Percent of restaurants/food manufacturers inspected	New	90.2%	80%	80%	G
Percent of new or modified liquid waste systems inspected	New	82.1%	85%	86%	G
Program Rating		R			G