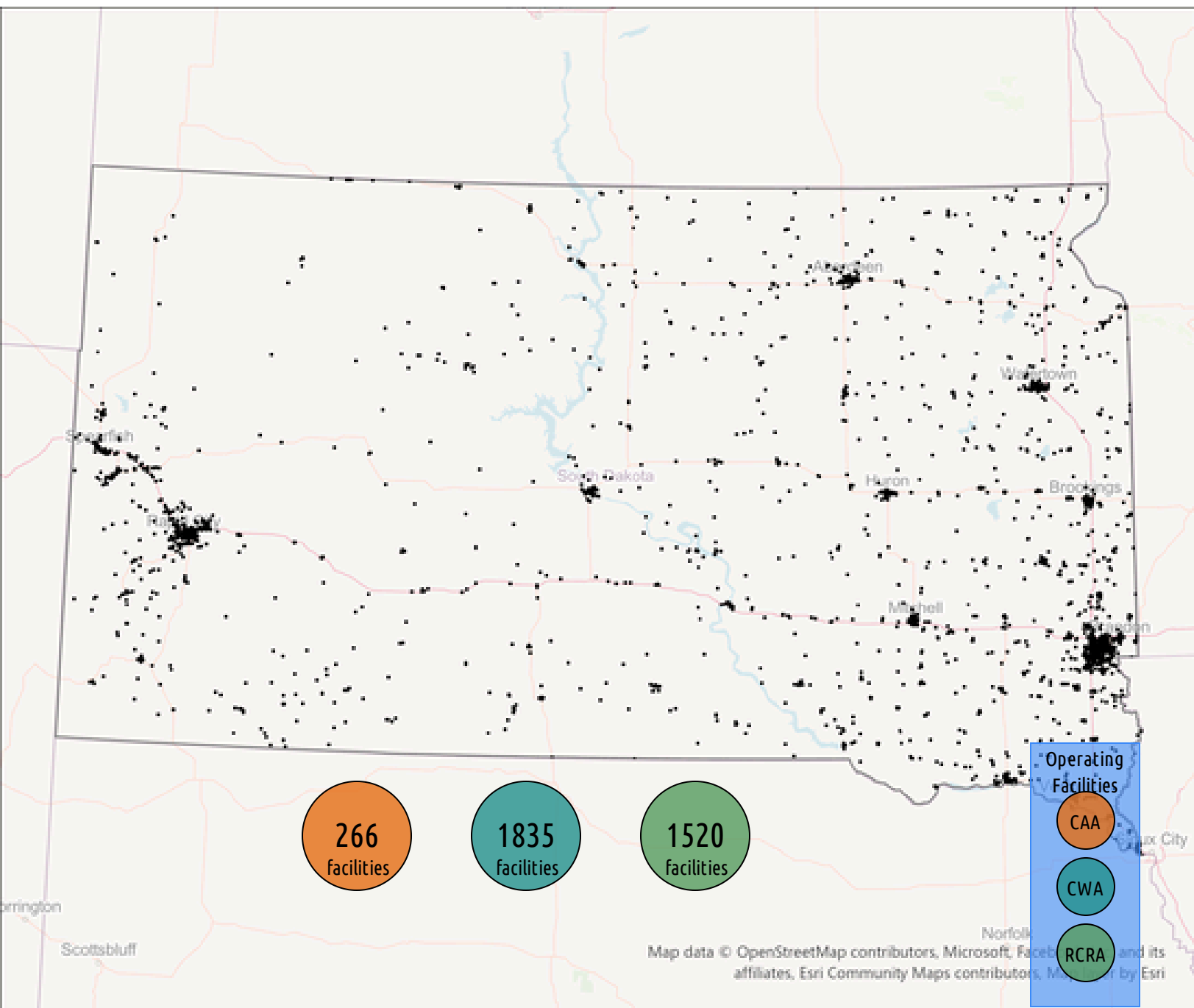


ENVIRONMENTAL ENFORCEMENT WATCH

Congressional Report Card

South Dakota's at large District; seat held by Dusty Johnson since 2019

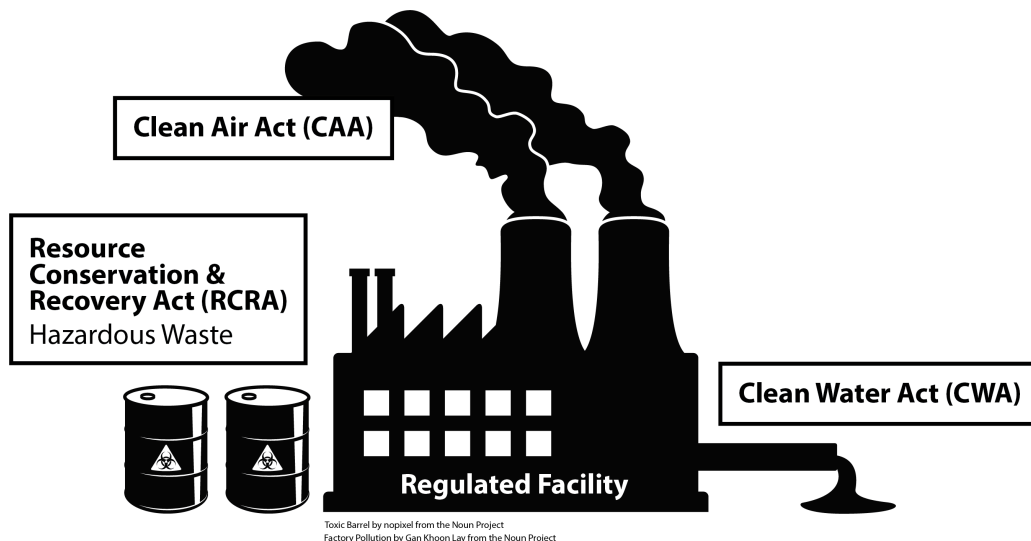


INTRODUCTION

Why report cards on compliance with and enforcement of environmental protection laws?

The Environmental Protection Agency (EPA) is charged by Congress to enforce laws that protect people from air pollution, water pollution and hazardous waste. **Without effective enforcement, these laws are meaningless.** Based on data from EPA's Enforcement and Compliance History Online (ECHO) database this report card reviews violations, inspections and enforcement actions under three laws: Clean Air Act (CAA), Clean Water Act (CWA) and Resource Conservation and Recovery Act (RCRA) for this Congressional District or State since 2001. Report cards like this one are becoming available on the [EEW website](#) for all House Representatives and Senators. The [EEW website](#) also has a summary analysis of enforcement trends and data issues for all geographies covered by the House Energy and Commerce and Senate Environment and Public Works Committees. The report cards contain data from *both* state environmental agencies and the EPA. If the states are enforcing the above laws, it is because the EPA has delegated that authority to them. The EPA must ensure that states are doing their job. Congress must ensure that the EPA is doing its job. And the public must have accurate data from states and the EPA in order to understand if national environmental laws are being properly enforced. For the first time, EEW Congressional Report Cards give members of Congress and their constituents the chance to evaluate whether the EPA is fulfilling its mandate in their district. Congress can strengthen EPA enforcement by increasing its budget, passing more effective laws, requiring better data collection, and holding the EPA accountable when it fails to protect people.

What is a “regulated facility”?

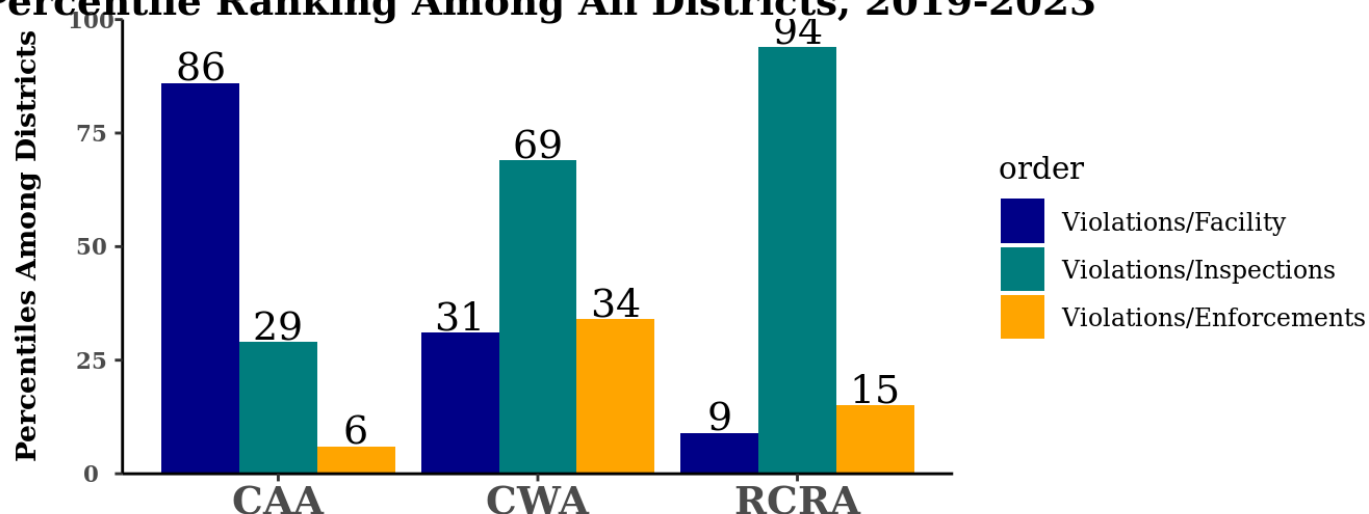


A regulated facility in this report is a facility that reports air or water emissions under the Clean Air Act or Clean Water Act, or a facility that generates, transports, or disposes of hazardous waste under the Resource Conservation and Recovery Act. Regulated facilities can be large-scale e.g. oil refineries, or small-scale e.g. dry cleaners.

GRADING THE DISTRICT ON DATA FROM 2019 THROUGH TARGET_YEAR

This graph shows how this district compares by its percentile with other U.S. congressional districts on three metrics: number of violations, number of violations per inspection, and number of violations per enforcement action. These metrics are used on the data from each of the three EPA programs—the Clean Water Act (CWA), the Clean Air Act (CAA) and the Resource Conservation and Recovery Act (RCRA). The data used is for the past five years, 2019 through 2023.

Percentile Ranking Among All Districts, 2019-2023



As an example, a Violations per Facility score of 31 for CWA violations means that this district has more violations than 31% of all districts in the United States. From these scores we can assign letter grades to districts—the top 20%, those districts with more violations than 80% of all districts, would get an F; the districts scoring between 60% and 80% get a D; between 40% and 60% get a C; between 20% and 40% get a B; and less than 20% get an A. As such, South Dakota's at large District receives the following grades:

- CAA Violations per Facility - F
- CAA Violations per Inspection - B
- CAA Violations per Enforcement - A
- CWA Violations per Facility - B
- CWA Violations per Inspection - D
- CWA Violations per Enforcement - B
- RCRA Violations per Facility - A
- RCRA Violations per Inspection - F
- RCRA Violations per Enforcement - A

Rationale for grading using these metrics:

- More **violations per active facility** are worse.
- More **inspections** mean more problems will be found, which is good. Dividing violations by inspections indicates the strength of the inspecting
- More **enforcements** when violations are found disincentivizes violating. Dividing violations by enforcements indicates EPA's willingness to penalize.

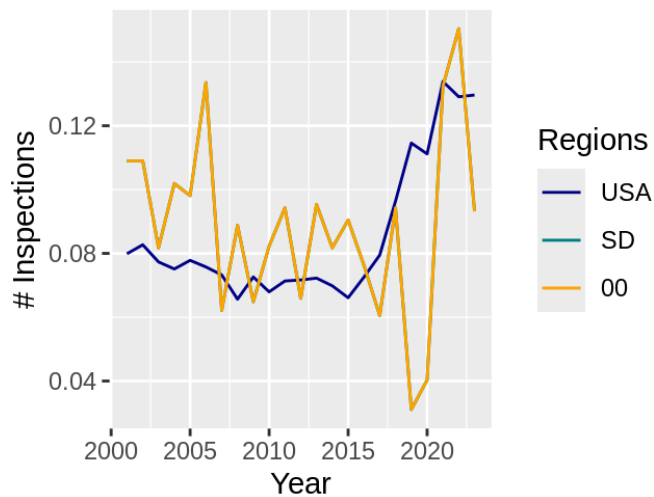
*see data limitations page for metric calculations

CLEAN WATER ACT - INSPECTIONS, VIOLATIONS, ENFORCEMENTS SINCE 2001

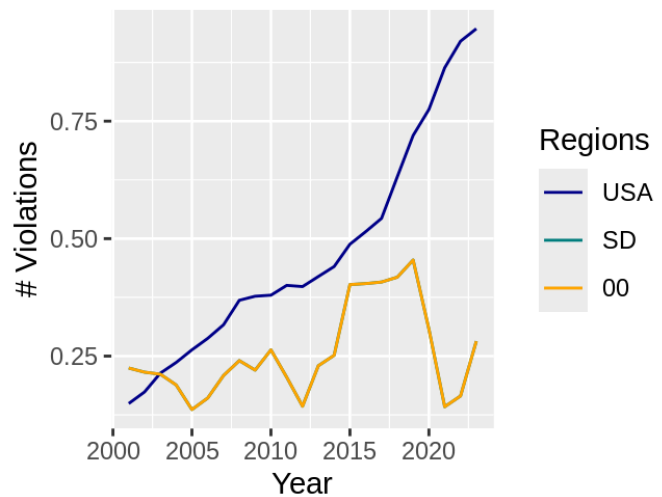
These graphs show the changes in numbers of inspections, violations and enforcement actions per facility for the U.S., the state of SD, and congressional district 00, under the Clean Water Act (CWA)*.

*(The current number of active facilities is used for the calculations for all graphs, as the historical data for facility counts was not available. The graphs therefore give trends rather than faithful statistics.)

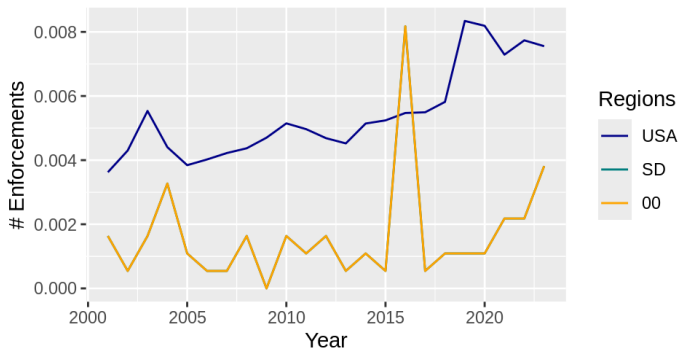
CWA - Inspections Per Facility



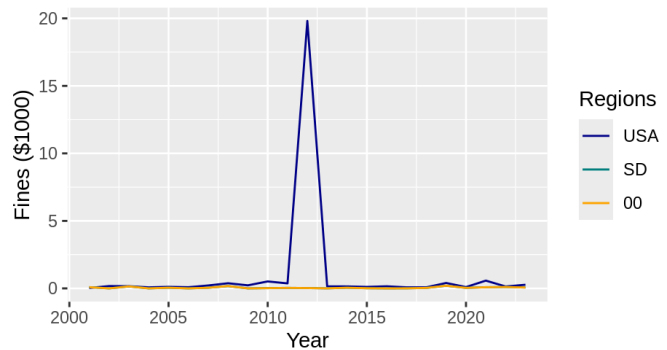
CWA - Violations Per Facility



CWA - Enforcement Actions Per Facility



CWA - Enforcement Fines Per Facility



Clean Water Act Violations*: **Violations during the Biden administration better** than the average over the previous 20 years, representing a **26% decrease** in violations

Enforcement actions under Clean Air Act, Clean Water Act, and the Resource Conservation and Recovery Act*: **much better** than the average over the previous 20 years, representing a **131% increase** in enforcement actions

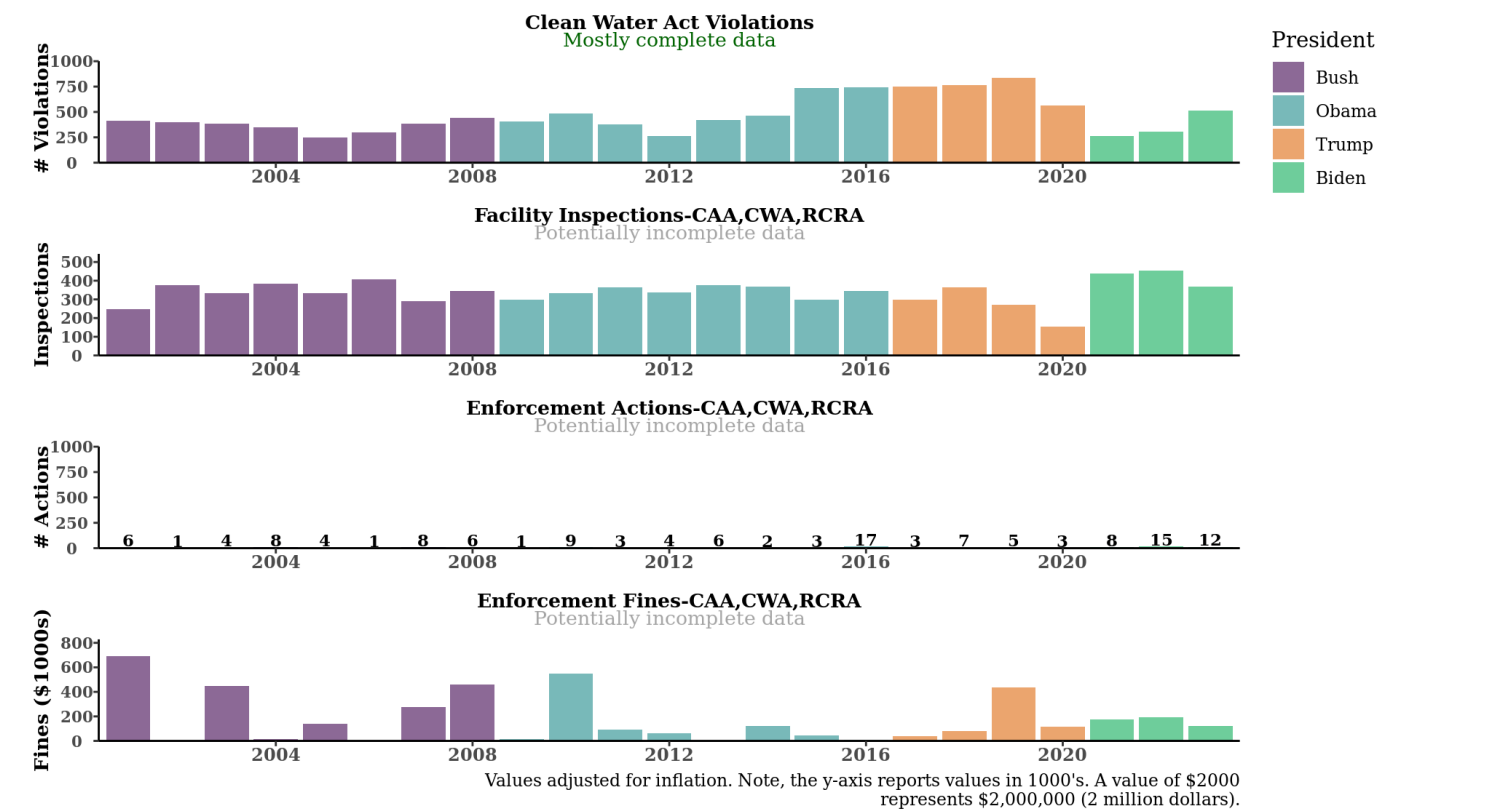
When comparing the graphs, note that the vertical axes may have considerably different scales.

*see data limitations page for metric calculations

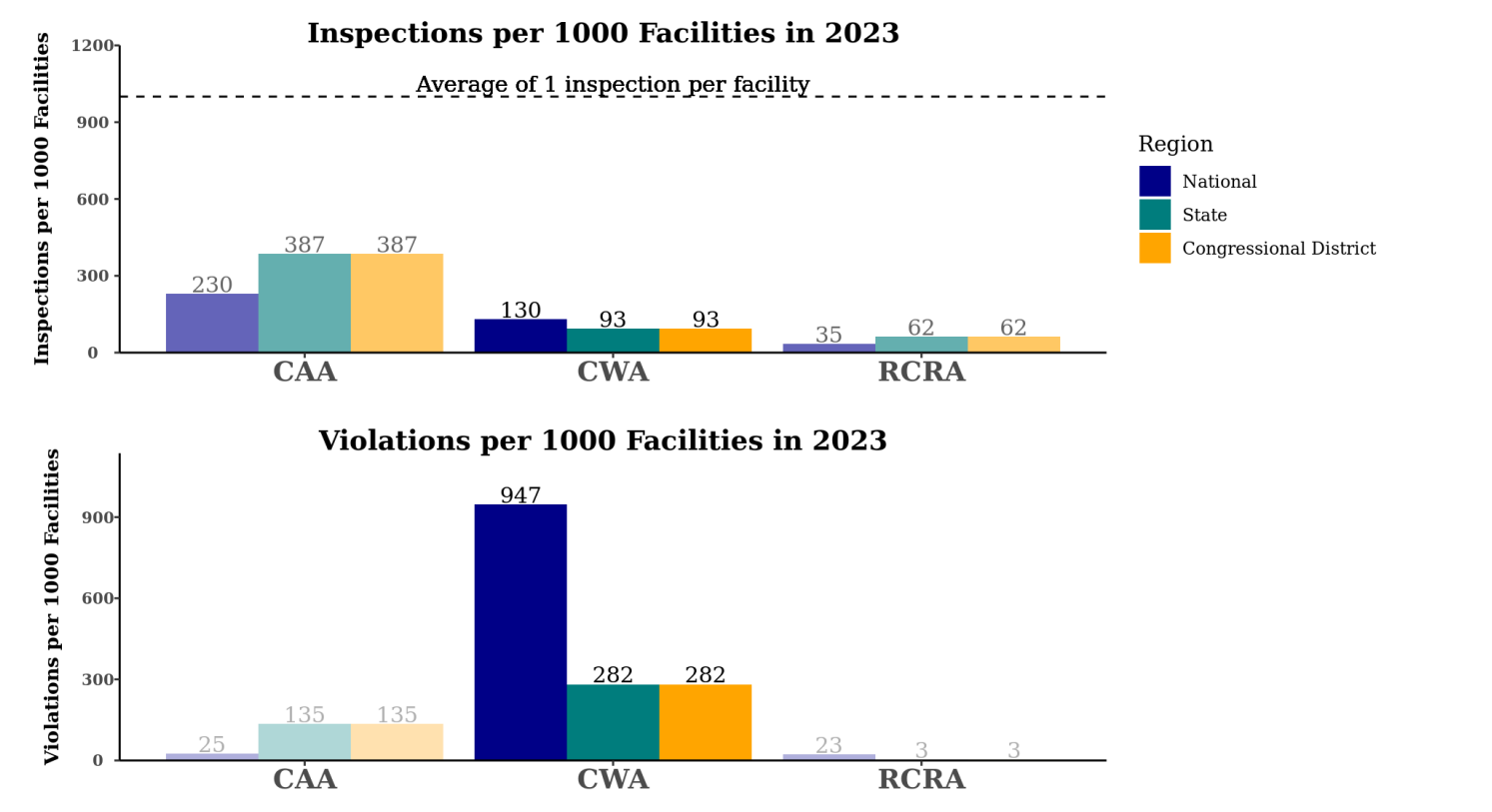
HIGHLIGHTS FOR SOUTH DAKOTA’S AT LARGE DISTRICT

Comparing the first three years of the Trump administration to those of the Biden administration, there was a 35% increase in inspections, 2% increase in fines, and a 133% increase in enforcement actions.

Under the Clean Water Act, the law whose regulation is best documented by available EPA data, 109 facilities, representing 5.9% of all regulated facilities in SD00, were in violation for at least 9 months of the last 3 years.



THIS DISTRICT IN COMPARISON

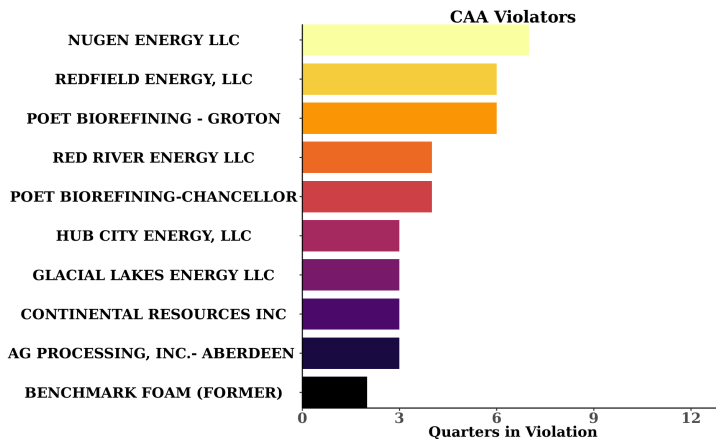


These two charts show how inspections and violations in this district compare to the national and state averages per 1000 facilities in 2023. We use data from 2023 as it was the most recent full year and the ECHO database only reports *currently* active facilities. To enable comparison across locations with a differing number of active facilities, we standardize the comparison to a value per 1000 facilities, proportionally adjusting the data if there are more or less than 1000 facilities in a district or state.

For access to the software which pulls data from ECHO, see the Github repository [here](#). The reliability of data in figures throughout this report is indicated by the figure subtitle and degree of transparency. Figure transparency illustrates data reliability: the more transparent, the more uncertain the data. See the data limitations page (Page 10) to view the transparency-coding table

RECENT NON-COMPLIANCE IN THIS DISTRICT

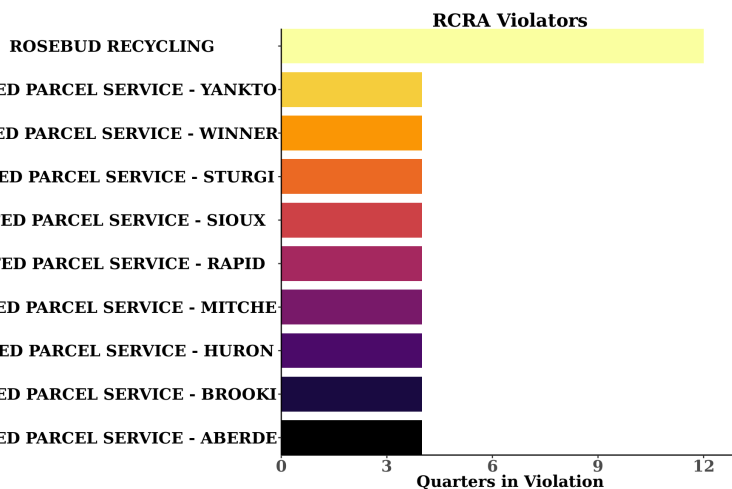
These figures show the ten facilities in this district with the worst environmental compliance based on the number of noncompliant quarters in the past 3 years (not necessarily consecutive). In some districts, for some programs, the number may be fewer than ten. The EPA data shows records for the past 12 months for CAA and RCRA, and 13 months for CWA. The facilities shown with equal number of quarters in violation are selected at random. We only have room for ten in the graph, so we note when there are more facilities with the same number of quarters in violation.



9 additional facilities with 2 quarters in violation

ECHO reports for facilities:

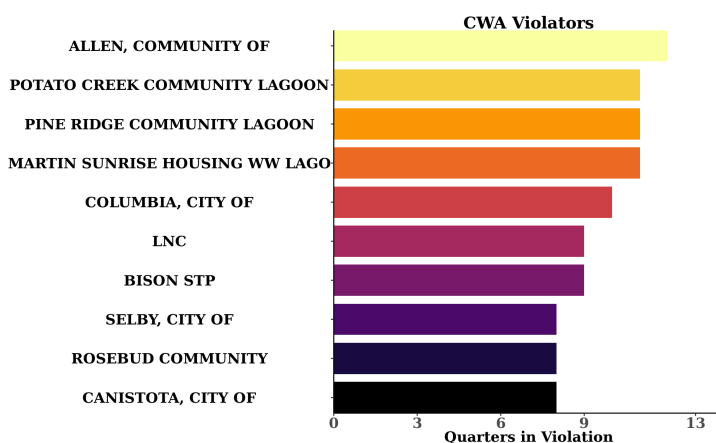
[NUGEN ENERGY LLC](#)
[REDFIELD ENERGY, LLC](#)
[POET BIOREFINING - GROTON](#)
[RED RIVER ENERGY LLC](#)
[POET BIOREFINING-CHANCELLOR](#)
[GLACIAL LAKES ENERGY LLC](#)
[AG PROCESSING, INC.- ABERDEEN](#)
[HUB CITY ENERGY, LLC](#)
[CONTINENTAL RESOURCES INC](#)
[BENCHMARK FOAM \(FORMER\)](#)



ECHO reports for facilities:

[ROSEBUD RECYCLING](#)
[UNITED PARCEL SERVICE - HURON](#)
[UNITED PARCEL SERVICE - SIOUX](#)
[UNITED PARCEL SERVICE - BROOKI](#)
[UNITED PARCEL SERVICE - WINNER](#)
[UNITED PARCEL SERVICE - STURGI](#)
[UNITED PARCEL SERVICE - MITCHE](#)
[UNITED PARCEL SERVICE - RAPID](#)
[UNITED PARCEL SERVICE - ABERDE](#)
[UNITED PARCEL SERVICE - YANKTO](#)

2 additional facilities with 4 quarters in violation



ECHO reports for facilities:

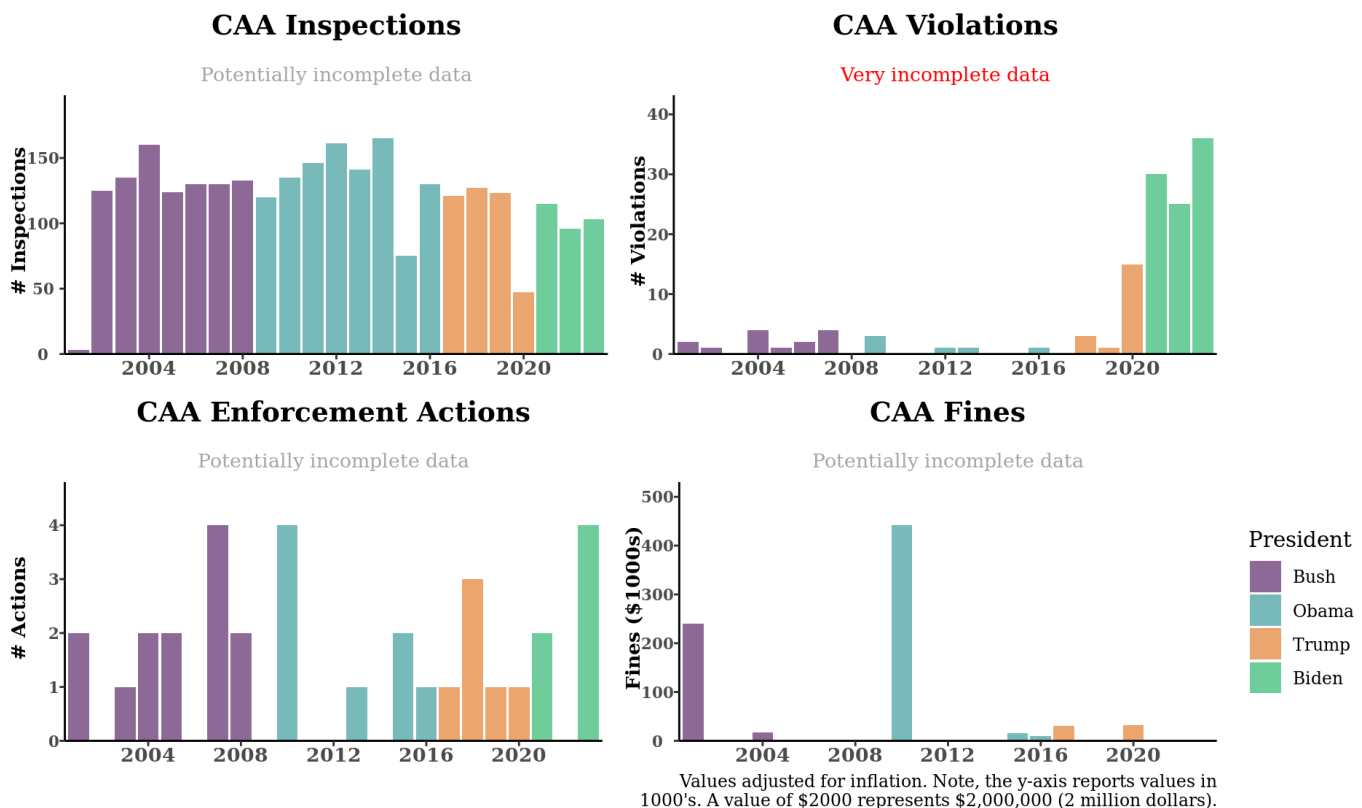
[ALLEN, COMMUNITY OF](#)
[PINE RIDGE COMMUNITY LAGOON](#)
[MARTIN SUNRISE HOUSING WW LAGO](#)
[POTATO CREEK COMMUNITY LAGOON](#)
[COLUMBIA, CITY OF](#)
[LNC](#)
[BISON STP](#)
[SELBY, CITY OF](#)
[CANISTOTA, CITY OF](#)
[ROSEBUD COMMUNITY](#)

3 additional facilities with 8 quarters in violation

CLEAN AIR ACT

The [Clean Air Act \(CAA\)](#) regulates air emissions from mobile sources, such as cars, and stationary sources, such as refineries and power plants. *Please note, in this report we are only utilizing data from stationary air emission sources.* For the CAA, violations are most commonly recognized via inspections. Infrequent inspection usually results in fewer identified violations. If CAA violations have decreased, make sure to check whether inspections have also decreased, as cuts in inspections are likely related to drops in CAA violations. Unless thorough inspections are occurring regularly, fewer violations does not necessarily mean air quality has improved. [More info on CAA](#)

There are 266 facilities currently reporting under the CAA in this district.



These figures show patterns of CAA inspections, violations, enforcement actions and fines in this district since 2001 based on available EPA data (see page 10). The bars are colored by the president in office that year. Figure transparency illustrates data reliability: the more transparent the figure is, the more uncertain the data. Data on CAA violations is particularly unreliable as emissions are often not directly monitored but are estimates. Inspection, enforcement, and fine data can be unreliable because state reporting to ECHO may be incomplete. For access to the Jupyter Notebook which pulls data from ECHO at the state and congressional district level, click [here](#). When comparing the graphs, note that the vertical axes may have considerably different scales.

CLEAN WATER ACT

The [Clean Water Act \(CWA\)](#) establishes quality standards for surface waters. In this report, we focus on CWA's National Pollutant Discharge Elimination System (NPDES) which permits facilities to discharge certain kinds and amounts of pollutants. Unlike the CAA, under the CWA effluent (waste emissions) is directly measured and routinely reported electronically to ECHO. CWA violations are automatically triggered if data is not submitted and if contaminant levels in effluent exceed the permitted amount. Such CWA violations can lead to inspections. [More info on CWA](#)

There are 1835 facilities currently reporting under the CWA in this district.



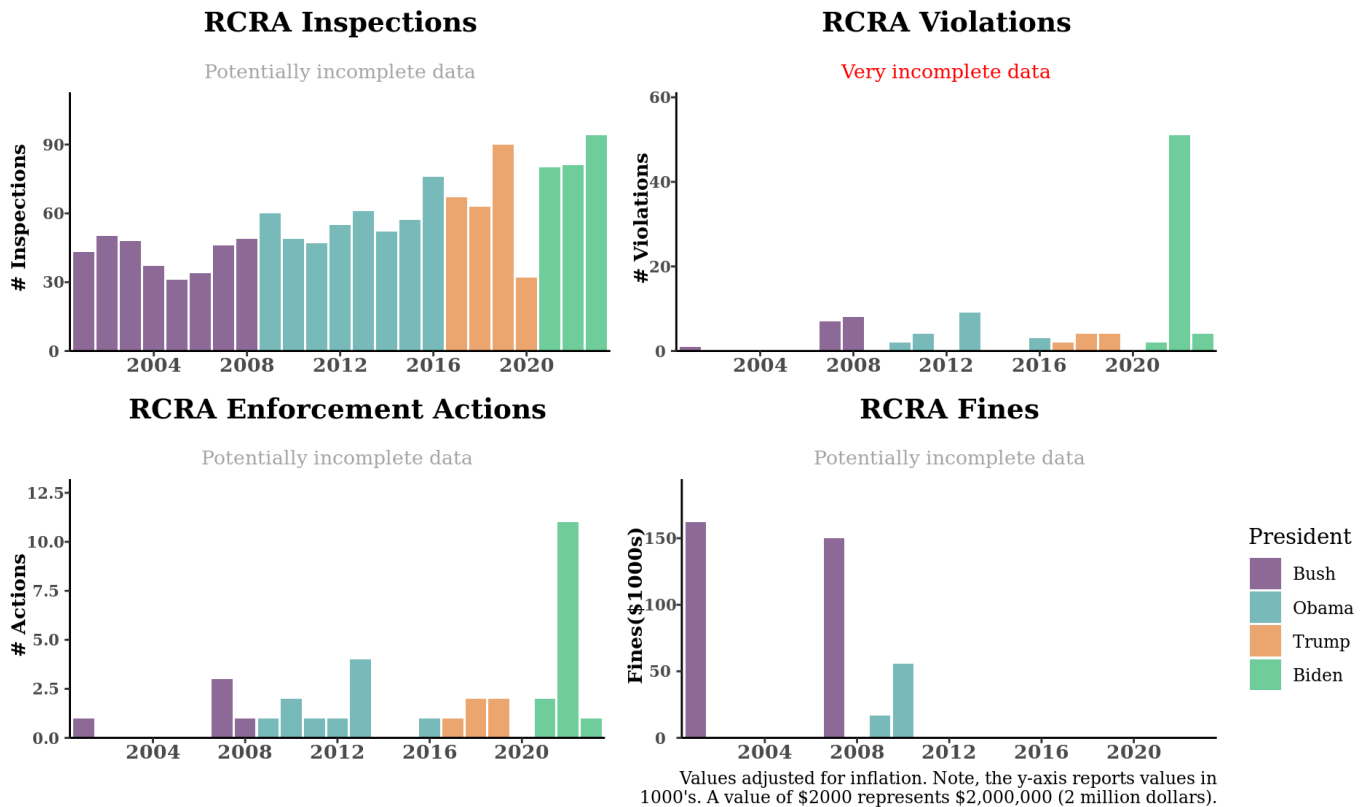
These figures show patterns of Clean Water Act inspections, violations, enforcement actions and fines in this district since 2001 based on available EPA data (see page 10). The bars are colored by the president in office that year. Figure transparency illustrates data reliability: the more transparent, the more uncertain the data. Data on CWA violations is particularly reliable as effluent violations are automatically reported to EPA. For access to the Jupyter Notebook which pulls data from ECHO at the state and congressional district level, click [here](#).

When comparing the graphs, note that the vertical axes may have considerably different scales.

RESOURCE CONSERVATION AND RECOVERY ACT

The [Resource Conservation and Recovery Act \(RCRA\)](#) gives EPA the authority to control hazardous waste from “cradle-to-grave”, regulating the generation, transportation, treatment, storage, and disposal of hazardous waste. Facilities self-report under RCRA, like the CAA, and violations are most often found after an inspection. If RCRA violations have decreased, make sure to check whether inspections have also decreased as recent cuts in inspections are likely related to drops in RCRA violations. [More info on RCRA](#)

There are 1520 facilities currently reporting under RCRA in this district.



These figures show patterns of RCRA inspections, violations, enforcement actions and fines in this district since 2001 based on available EPA data (see page 10). The bars are colored by the president in office that year. Figure transparency illustrates data reliability: the more transparent, the more uncertain the data. Data on RCRA violations is particularly unreliable as violations are not necessarily directly measured. Inspection, enforcement, and fine data can be unreliable because state reporting to ECHO may be incomplete. For access to the Jupyter Notebooks which pull data from ECHO at the state and congressional district level, click [here](#).

When comparing the graphs, note that the vertical axes may have considerably different scales.

LEGISLATOR INFORMATION



Dusty Johnson (Republican)

In office since January 3rd, 2019

[Govtrack web page](#)

[OpenSecrets web page](#)

This member of Congress serves on the following committees relevant to this report:

Committee Name: House Committee on Agriculture

Jurisdiction: The House Committee on Agriculture has legislative jurisdiction over agriculture, food, rural development, and forestry. [Committee web page](#)

Subcommittee: General Farm Commodities, Risk Management, and Credit, Rank: 5

Subcommittee: Commodity Markets, Digital Assets, and Rural Development, Rank: 1

ABOUT THE EPA DATA ANALYZED IN THIS REPORT CARD AND ITS LIMITATIONS

The data in this report is from EPA's publicly-available [ECHO database](#) that compiles information from a number of distinct state and federal sources. However, poor reporting by states and inconsistent reporting schemes result in data gaps and inaccuracies. EPA lists numerous specific issues on its ["Known Data Problems"](#) page. In addition, EPA [notes](#) that data on inspections, violations, and enforcement actions prior to 2001 should be treated as incomplete and unreliable. For that reason, we have only tracked data back to 2001. In addition to many data entry errors – too numerous to list here – there are several major problems with ECHO:

- There is serious under-recording and under-reporting of CAA violations at the state level. Most CAA violations – [perhaps 85% or more](#) – do not make it into ECHO. Violation data is therefore inaccurate and misleading: *states which report the fewest violations may be states whose recording and reporting of violations is actually the poorest.*
- Although there is no specific information about the quality of data on RCRA violations, it is likely that this program, like the CAA, has serious reporting problems. Therefore, RCRA violations data should also be considered inaccurate and potentially misleading. The key difference between these and the CWA is that the CWA entails mandatory electronic self-reporting.
- ECHO does not record how many regulated facilities there were for programs in previous years. Therefore, we cannot calculate the number of inspections, enforcement actions, and violations per regulated facility before 2023.

Data reliability coding

In this report, we have divided data issues into three categories, using transparencies in graphs as well as subtitles to indicate data reliability and completeness. See the table below:

Data Quality	Example	Opacity	Explanation
High	CWA NPDES violations	100% (full color)	These data are relatively reliable because effluent levels are frequently directly measured. The data are mostly complete due to mandatory electronic reporting.
Medium	CWA, CAA, RCRA inspections; CAA, CWA, RCRA enforcement actions and penalties	60%	These data can be incomplete due to incomplete state reporting to ECHO.
Low	CAA and RCRA violations data	30%	These data are unreliable and potentially misleading because emissions may not be directly measured, there are few mandatory federal electronic reporting requirements, and there are large gaps in state reporting to ECHO.

Notes on 2023 data

We do not include data from 2024 because we are only part way through the year.

HOW AND WHY EEW DEVELOPED THE METRICS IN THIS REPORT

Page 3: Comparisons to past years

To enable direct comparison between changes in enforcement and violations over the years, we calculate the percent change in Clean Water Act violations and enforcement actions per district or state between Biden's first three years in office, and the historical average in each district from 2001 to 2023. We analyze data since 2001, as EPA is most confident in its own data since 2001. We analyze violations data just for the Clean Water Act because that data is the most complete due to routine digital reporting requirements. We analyze all forms of enforcement actions, informal and formal. All data is drawn from the ECHO database.

We describe rates to be "Much Worse" if the percent increase in violations or decrease in enforcement actions is greater than 100%, "Worse" if the percent change is between 0% and 100% percent and "the same" if there is no change.

We describe rates to be "Better" if violation rates decreased or enforcement rates increased by 0% to 100% and "Much Better" if rates of enforcement or compliance increased by more than 100%.

Page 4: Highlights from this District

Trump and Biden Administration comparison: We compare levels of inspection and enforcement in the first three years of the Trump administration to those of the Biden administration. For these figures inspections and enforcement numbers for the CWA, CAA and RCRA are combined.

Does a reduction in violations indicate better adherence or less oversight?

Facilities in Violation (non-compliant facilities):

To highlight the problem of chronic and routine violations of major environmental laws, this bullet point provides data on the number of facilities in each Congressional District or state which have been out of compliance with environmental laws for 9 or more months in the past 3 years under the Clean Water Act.

HOW AND WHY EEW DEVELOPED THE METRICS IN THIS REPORT (CONTINUED)

Page 5: This District in Comparison

To generate a comparison across Congressional Districts, each of which has a different number of facilities, we look at the average number of violations, inspections and enforcement actions per 1000 facilities. In states where there are fewer than 1000 facilities this requires us to scale up their data.

Page 6: Recent Noncompliance in this District

To examine facilities with consistent records of noncompliance, we provide information on the 10 facilities with the most quarters of non-compliance under the CAA, CWA, and RCRA. Important notes here: these charts show the number of quarters of non-compliance, not exactly *which* quarters they were out of compliance. Non-compliance shown here may not be consecutive. Quarters can also be confusing: there are 4 quarters in a year, so 12 quarters equals 3 years of time. In some locations there may be more than 10 facilities out of compliance for all 12 quarters. We limit our figures to 10 facilities for space and clarity. A list of 20 facilities can be found in the Jupyter notebook for that district or state. Additionally, the x-axis for these figures displays a maximum of 12 quarters for the CAA and RCRA, but 13 for the CWA.

ABOUT THE AUTHORS AND LINKS TO DATA

About EEW

Environmental Enforcement Watch (EEW) is a collaborative project across working groups of the Environmental Data and Governance Initiative (EDGI). The EEW project builds on EDGI's 2020 [Sheep in the Closet Report](#) that documents large declines in EPA enforcement of environmental laws. This project uses data from EPA's [ECHO database](#), revealing how useful ECHO could be for communities to track pollution and EPA responses in their areas. However, it also reveals the inaccessibility of ECHO for non-specialists, and major omissions, errors, and confusions present in the data itself (see page 10). EEW aims to highlight gaps and inadequacies in the enforcement of environmental laws and to help investigate whether EPA is fulfilling its congressionally-mandated duty to enforce environmental laws. EEW's data analysis is conducted using open source and publicly available data using Jupyter Notebooks developed by EDGI members.

A full list of EEW members, including their roles in this project, can be found [here](#).

About this Project

This EEW project aims to make EPA data more directly accessible to the public and their representatives. By providing a novel look at the chronic state of non-compliance, we hope to provide representatives with the information they need to evaluate the state of environmental law compliance and enforcement in their communities so they might more effectively hold EPA accountable.

Useful Links

[State and Congressional District Jupyter Notebooks](#) | [National-Level Jupyter Notebook](#) | [Github Repository to produce reports](#) | [EEW website](#) | [Contact Us](#) | [Link to download PDF version of this report](#)

About EDGI

EDGI is an international network of over 175 members from more than 80 different academic institutions and non-profits, comprised foremost by grassroots volunteer efforts. Since 2016, EDGI has served as a preeminent watchdog group for federal environmental data, generating international effort to duplicate and monitor repositories of public data that are vital to environmental health research and knowledge. EDGI's work has been widely acknowledged, leading to EDGI testifying before Congress on declines in EPA enforcement, and hundreds of mentions in leading national and international media such as *The New York Times*, *The Washington Post*, Vice News, and CNN. For more about our work, read our [2023 Annual Report](#) and [2023 Annual Report](#). For more on EDGI see [our website](#).

