

Overview of Pretreatment Regulations and Legal Authority

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City of Richmond, VA



**REGION VI PRETREATMENT ASSOCIATION
(RVIPA)**

Serving the Pretreatment Professionals of EPA Region VI

History

- 1899 Rivers and Harbors Act
 - 1956 Federal Water Pollution Control Act
 - 1965 Water Quality Act
 - 1972 FWPCA Amendments create NPDES Program
 - 1977 Clean Water Act
 - 1987 Water Quality Act
 - ? Clean Water Act Reauthorization
-
- 1970 EPA established through an executive order

Statutes (Laws) vs. Regulations

- Legislature – Legislation or Act passed then signed (governor/president)
 - Directs agency to take action
- Federal/State Register notice of action
- Regulations into effect
- Appropriate Entities act out provisions
 - Policy and guidance

Federal Law

Clean Water Act [33 U.S.C. 1251, et seq.]

101, 212, 301, 307, 308, 309, 402,
502

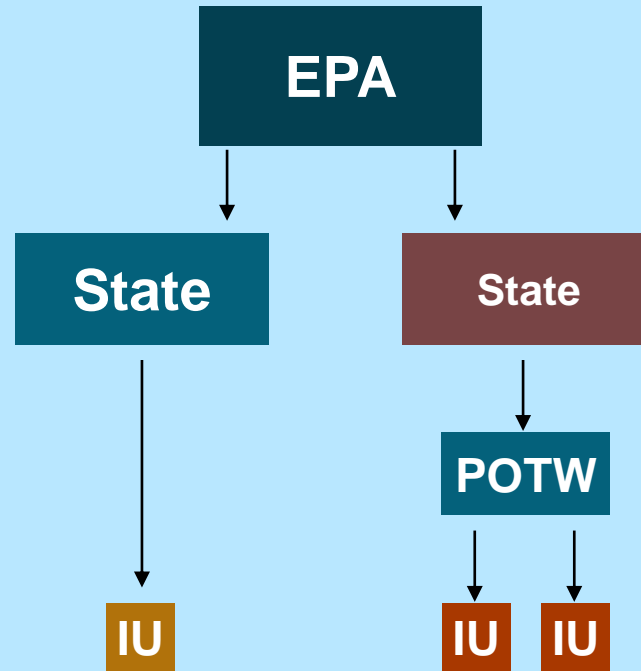


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Roles and Responsibilities

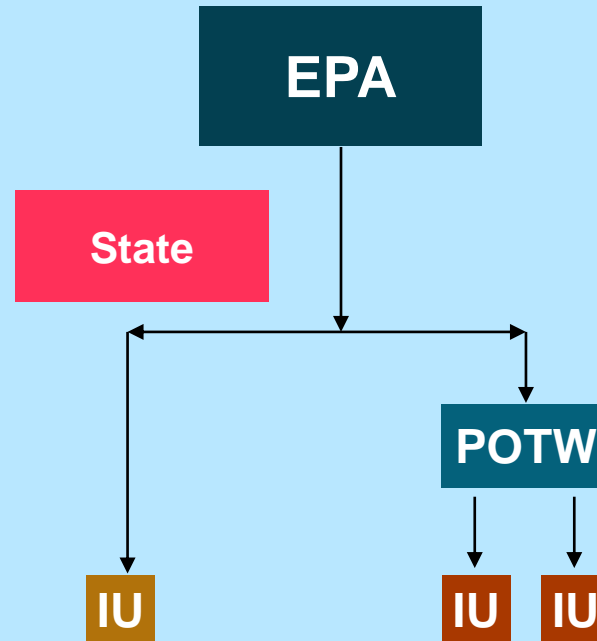
**EPA or the State
Approval Authority
or
Control Authority**

Authorized States



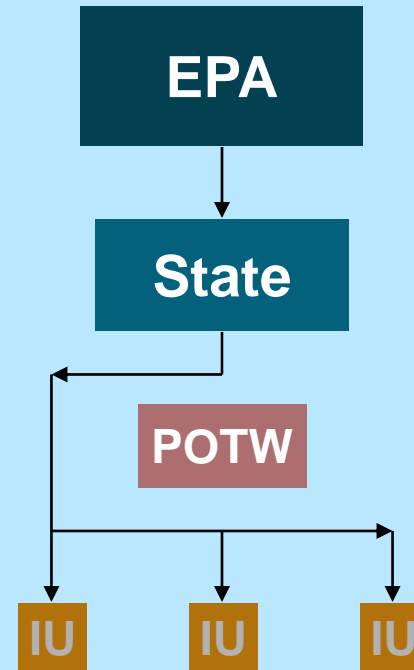
■ - Approval & Control Authority ■ - Industrial User in approved program
■ - Approval Authority ■ - Control Authority ■ - Industrial User

Non-Authorized States



- - Approval & Control Authority
- - Industrial User in approved program
- - Control Authority
- - Industrial User
- - Non-Delegated States

40 CFR § 403.10(e), States



■ - Approval Authority

■ - Industrial User

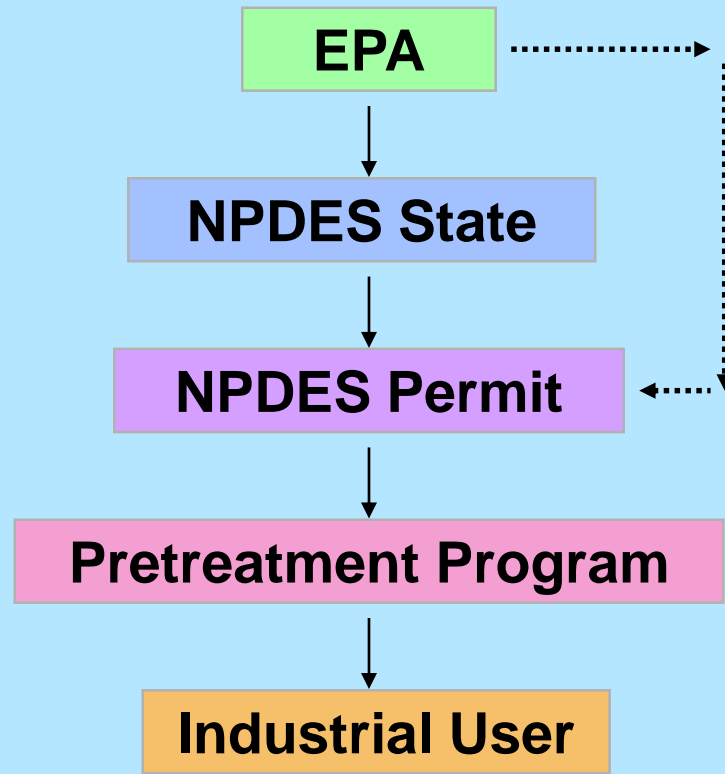
■ - Control Authority

■ - No Pretreatment Program

National Pollutant Discharge Elimination System(“NPDES”) [40 CFR Part 122]

- NPDES applies to all “point sources discharging pollutants” into “waters of the United States”
- Point sources must obtain an NPDES permit from EPA or their authorized State
- NPDES permits require development of Pretreatment Programs

The connection: 40 CFR Part 122



Pretreatment Regulations - History

1973 - 40 CFR Part 128 promulgated

1978 - 40 CFR Part 403 promulgated

1983 - POTW program approval deadline

1985 - Pretreatment Implementation Review Task Force (“PIRT”) report released

1986 - Domestic Sewage Study (DSS) Report to Congress

1988 - PIRT Rules promulgated

1990 - DSS regulations promulgated

1993 - Removal credit/pollutant eligibility revised

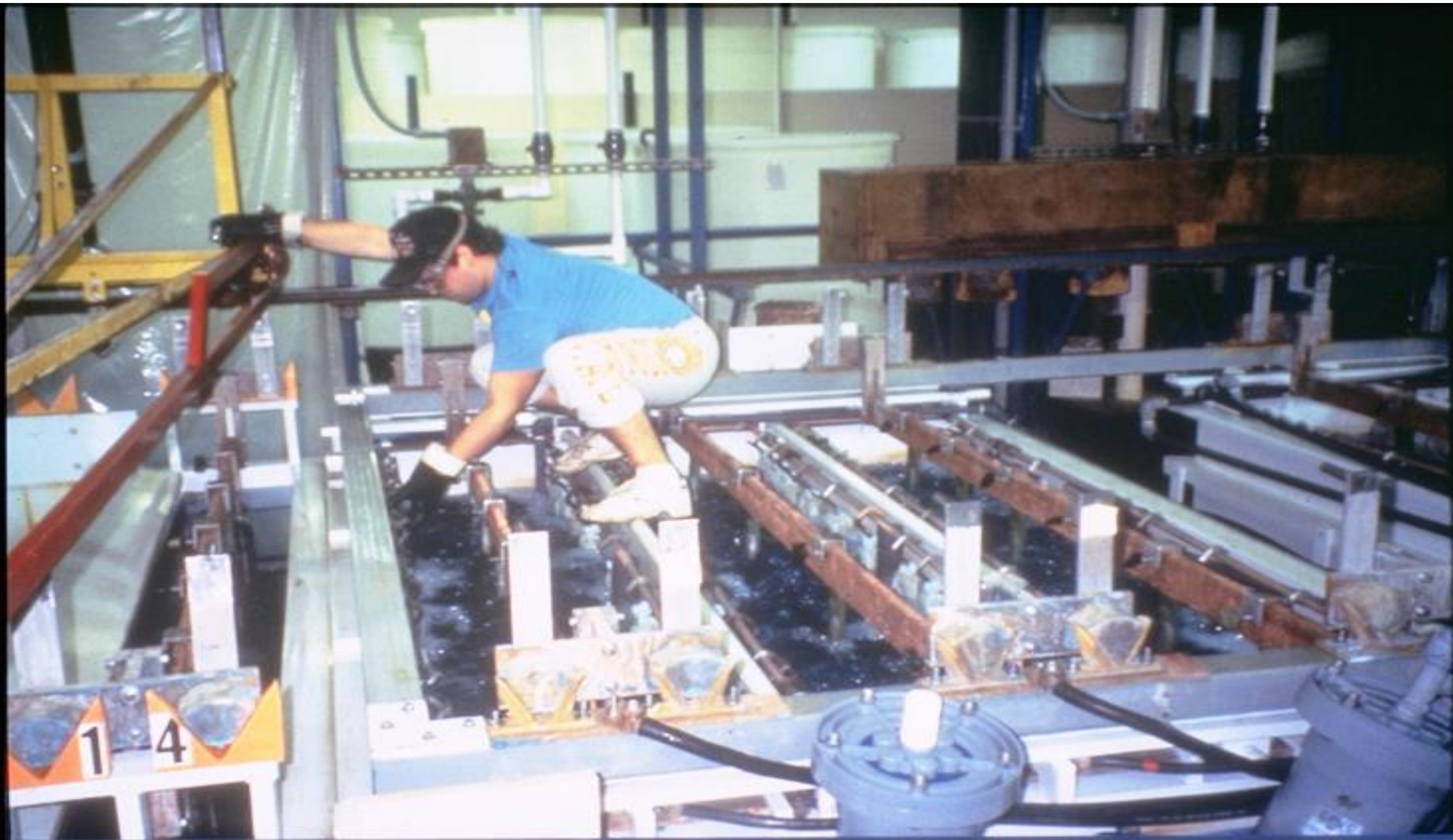
2005 - Streamlining

40 CFR Part 403

- U.S. Code of Federal Regulations(CFR)
 - Title 40 - Protection of the Environment
 - Chapter I - Environmental Protection Agency
 - Subchapter N - Effluent Guidelines and Standards
 - Part 403 - General Pretreatment Regulations for Existing and New Sources of Pollution

40 CFR Part 403 Objectives

- (a) To prevent the introduction of pollutants into POTWs which will interfere with the operation of a POTW, including interference with its use or disposal of municipal sludge;
 - (b) To prevent the introduction of pollutants into POTWs which will pass through the treatment works or otherwise be incompatible with such works; and
 - (c) To improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges.
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- **To protect POTW workers.**







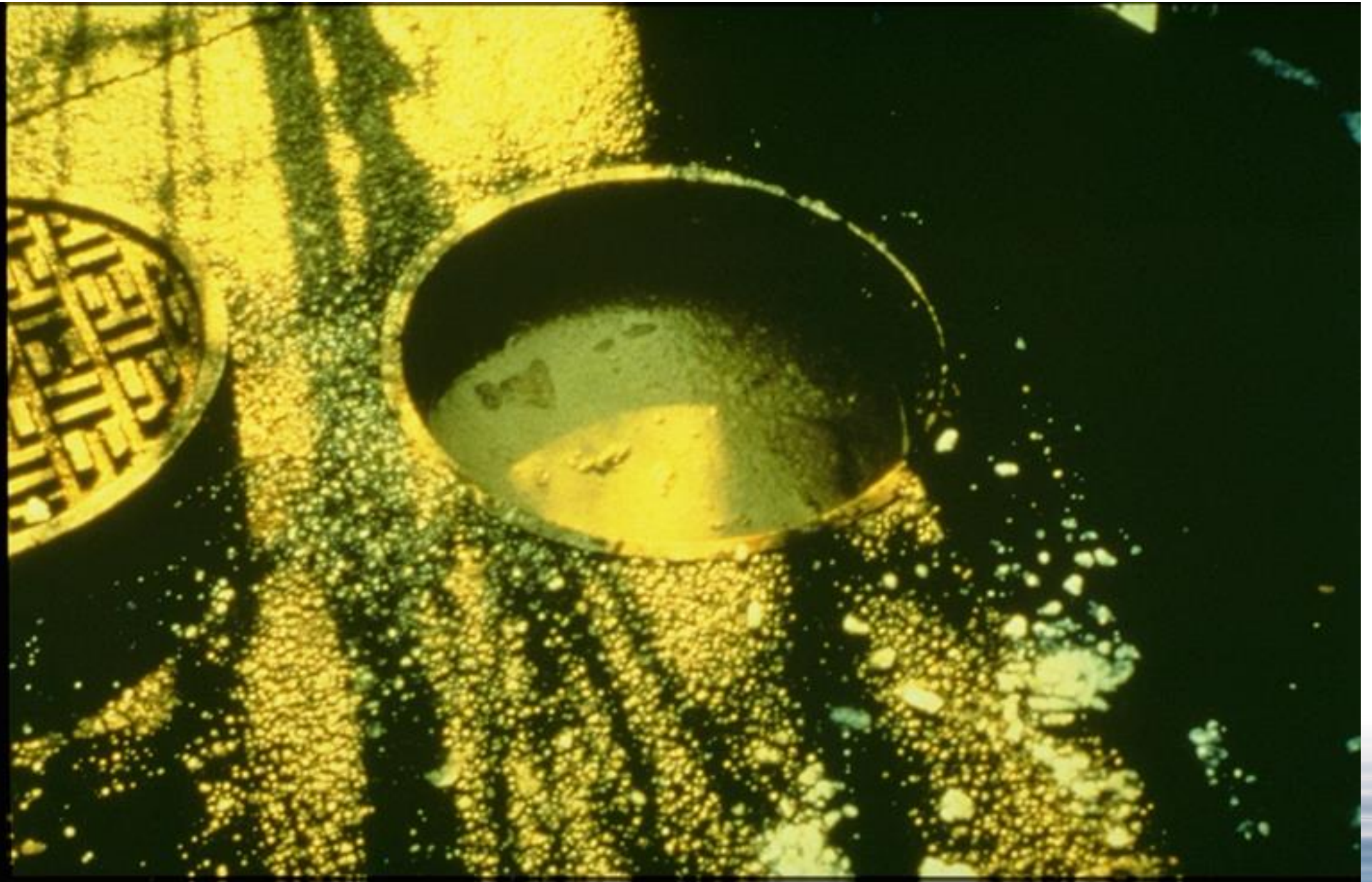


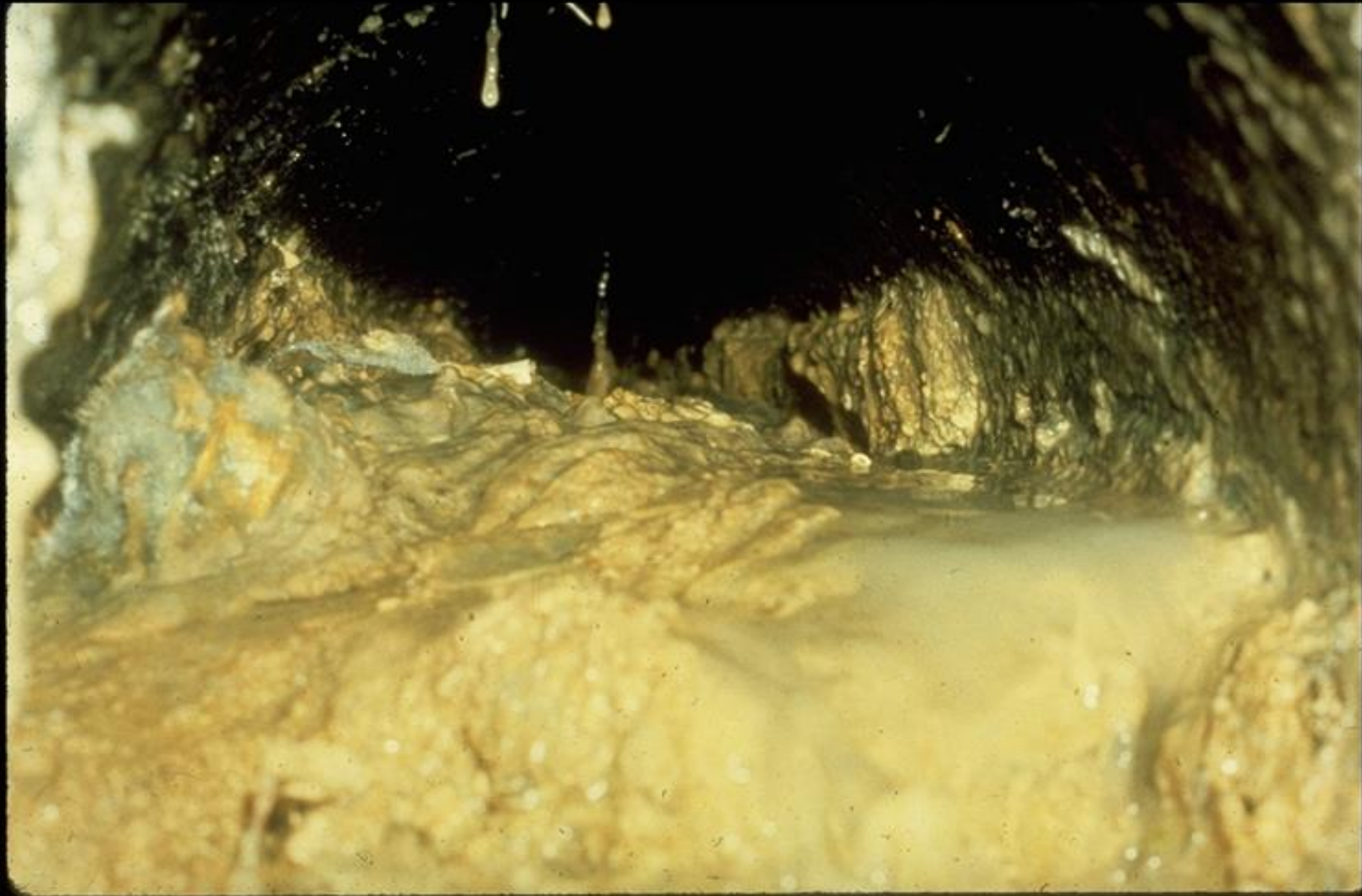










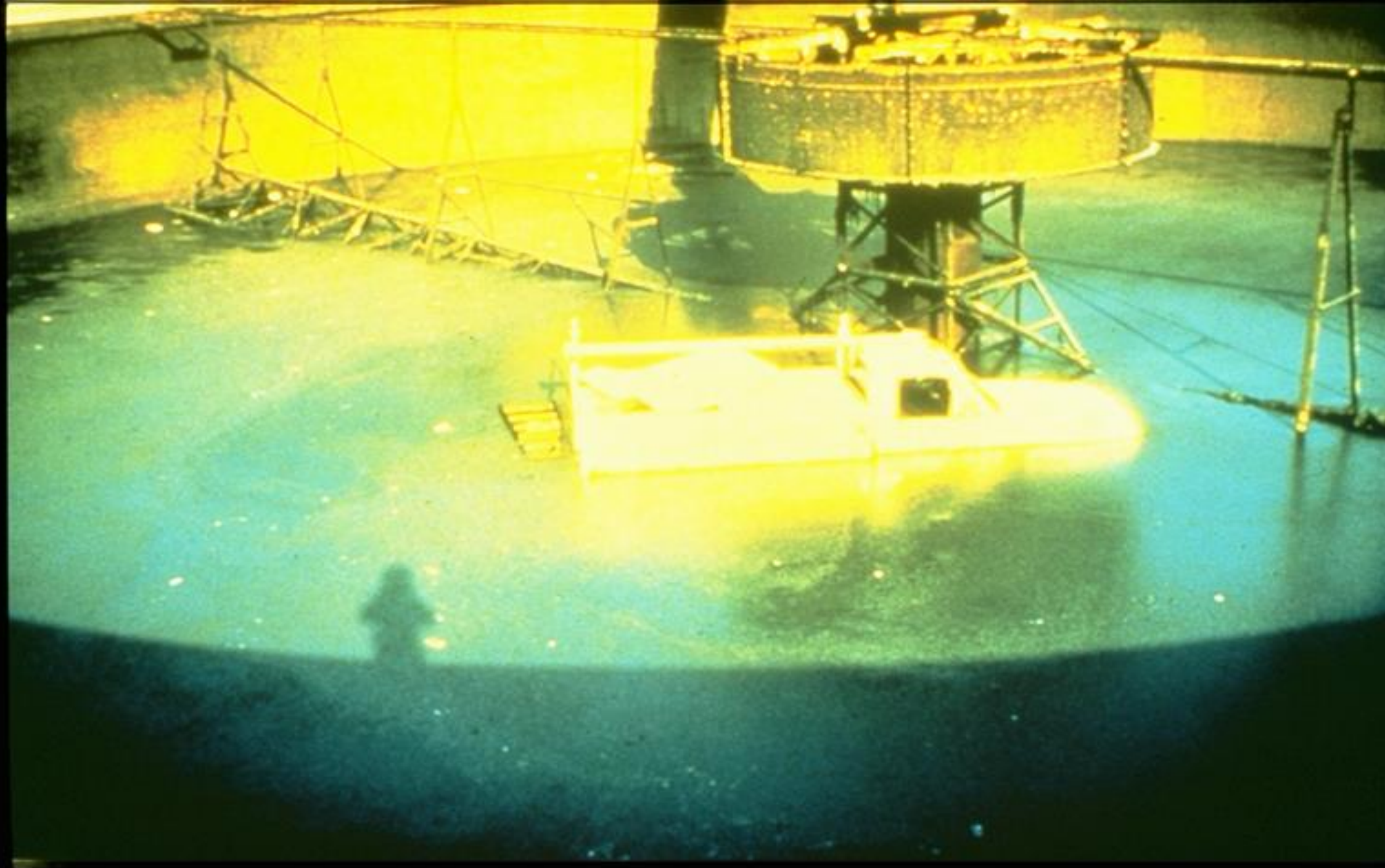


















Who Must Develop a Program?

- POTWs with:
 - combined design flow > 5 MGD, and
 - receiving flow from CIUs, and/or
 - receiving pollutants which pass through or interfere.
- Approval Authority may require program be developed, regardless.
- NPDES State's may assume responsibility. (See 40 CFR 403.10(e))

Pretreatment Program Regulations Overview

[40 CFR Part 403]

Overview of the Section

- Regulations specific to the local program
- Requirements affecting Industrial Users (IUs) independent of local regulations/requirements
- Reporting requirements affecting IUs and POTWs
- Exceptions to the regulations specific to IUs.
- Stuff that does not fit any of the above categories (miscellaneous)
- Procedures and legal authority to support the procedures
- Prohibitions, limits, etc.
- Enforcement
- Jurisdictional issues

Local Pretreatment Programs

- § 403.8 ▶ Requirements of a POTW developed pretreatment program
- § 403.9 ▶ Contents/legal authority of a POTW pretreatment program
- § 403.11 ▶ POTW pretreatment program approval procedures
- § 403.18 ▶ Modifications of POTW Pretreatment Programs

Program Requirements Affecting IUs

- § 403.5 ▶ General & specific prohibitions
- § 403.6 ▶ Categorical standards
- § 403.7 ▶ Removal credits
- § 403.13 ▶ Variances for fundamentally different factors
- § 403.15 ▶ Net/Gross calculation



POTW and IU Requirements

§ 403.12

- POTW & IU reporting requirements



Specific IU Rights

§ 403.16 ► Upset provisions

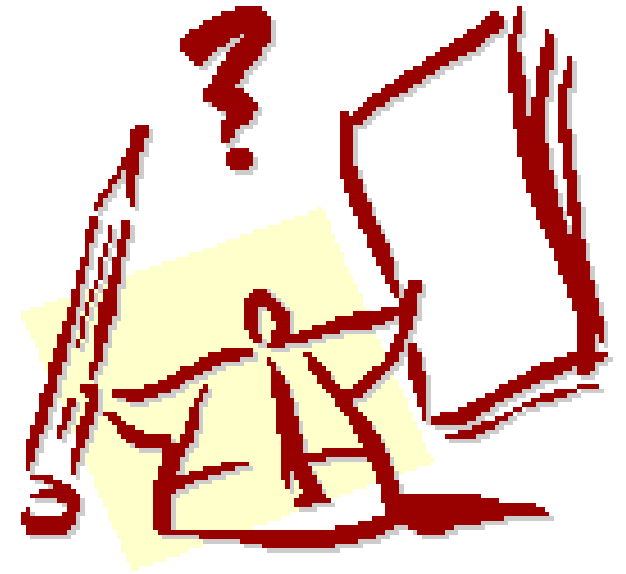
§ 403.17 ► Bypass provisions

Miscellaneous Requirements

- § 403.2
 - Objectives of regulations
- § 403.3
 - Definitions
- § 403.4
 - State or local law
- § 403.14
 - Confidentiality

What Minimum Procedures Make Up a Pretreatment Program? [40 CFR § 403.8(f)(2)]

- **Industrial Users**
 - Identify, locate, and notify
 - Receive, sample, and analyze
 - Survey, investigate, and enforce
- **Public**
 - Allow participation
 - Notify of violators



Minimum Pretreatment Program Procedures, continued

[40 CFR § 403.8(f)(2)]

- **Additional procedures:**
 - **Funding**
 - **Local limits**
 - **Enforcement Response Plan**
 - **SIU list**

Legal Authority, a Must

- **State law**
- **Local regulations**
 - **Sewer Use Ordinance(“SUO”)**
or
 - **Rules and Regulations**

POTW Legal Authority

[40 CFR § 403.8(f)(1)]

- **Deny or condition discharges**
- **Require compliance**
- **Control through permit or similar means**
- **Require compliance schedules to comply**
- **Inspect, survey, and monitor**
- **Enforce**
- **Comply with confidentiality requirements**

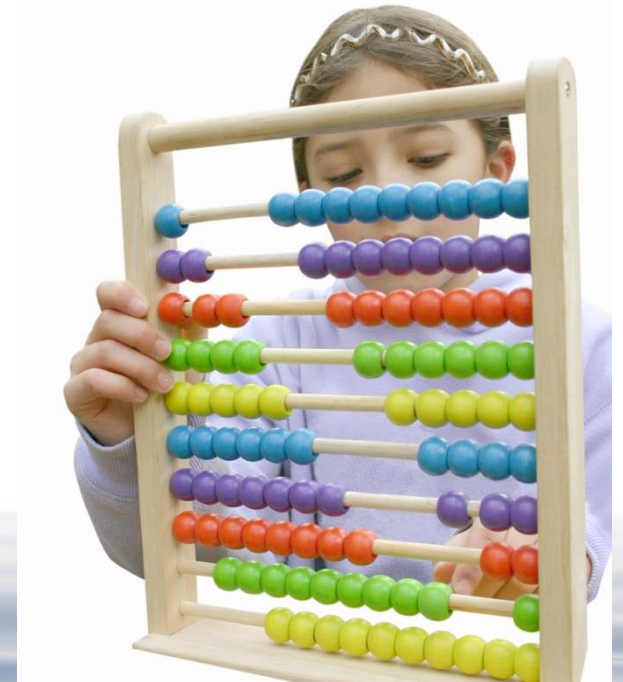
Local Regulations

- Sewer Use Ordinance
- Rules and Regulations



Prohibitions and Limitations

- General/Specific
- Categorical Standards
- Local Limits



Control Discharges

- **Deny/condition new or increased contributions**
- **Issue control mechanisms/compliance schedules**
- **Require development of slug/spill control plans**
- **Require pretreatment facilities**

Reports & Notices

- **BMRs/90 day compliance reports**
- **Compliance schedule progress reports**
- **Periodic compliance reports**
- **Notice of potential problems**
- **Notice of limit violations and resampling**
- **Notice of changed conditions/discharge**
- **Notice of hazardous waste discharged**



Compliance Monitoring

- **Right of entry**
- **Right to inspect**
- **Right to sample**
- **Right to require installation of monitoring/flow measuring equipment**
- **Right to inspect and copy record**




Remedies for Noncompliance (Enforcement)

- **Non-emergency response**
 - Injunctive relief
 - Civil/criminal penalties
- **Emergency response**



Other Requirements

- ▶ **Test procedures**
 - ▶ **Signatory**
 - ▶ **Record keeping**
 - ▶ **Confidentiality**
 - ▶ **Annual publishing of IUs in SNC**
 - ▶ **Public participation/access to information**
- 

Local Regulations- Approval Process

- **Submission to Approval Authority**
- **Public notice**
- **Approval Authority decision**
- **Public access to information**

Ancillary Issues

- **Chamber of Commerce**
- **Big Business**
- **Politics**
- **Attorney familiarity with subject**
- **Special interest groups**

Interjurisdictional Issues

Accept discharges from IUs located outside the Control Authority's legal jurisdiction (program is in town A and industry is in town B).

Interjurisdictional Control

- **Direct authority**
- **Multijurisdictional agreements**
- **Industrial user contracts**
- **Coordination/cooperation**

Questions/Discussion

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