

Regs - CWA  
- CAA } Statute Law

↳ Derive from Common Law

prior rulings "reasons for decision"  
precedent cited to justify  
present decision

codified into Statute Law

Negligence - Hand

$$P_L \cdot \#L > C_A$$

Expected  
Losses

Avoidance  
Cost

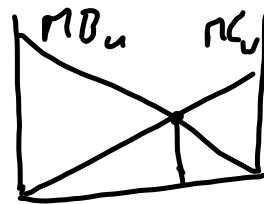
Contributory  
Negligence  
- barred  
from  
Compensatm  
Comparative  
Negligence

1913

Whalen v Union Bag & Paper  
stream pollution.

Lower court compared \$ value of W  
losses to Union output + investment  
ruled for Union Bag

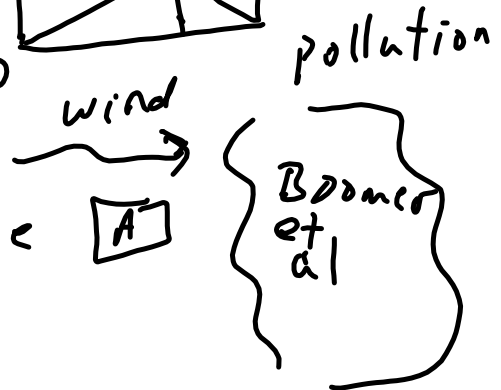
State Supreme Court  
 overturned lower court  
 w losses small in absolute value  
 but large as % of income big  
 - case - incentive to use cleaner  
 technology



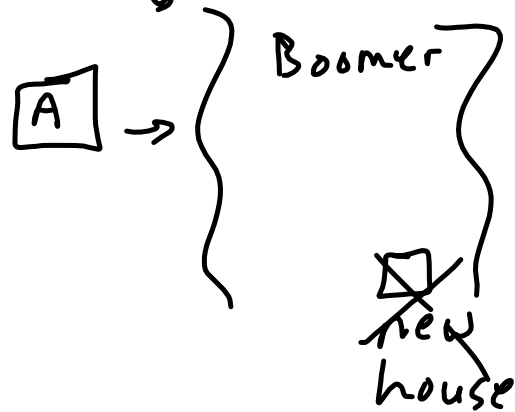
Boomer v Atlantic Cement Co  
 1970

CAA 1963

Court ruled CAA precedence  
 over private remedies



Court → injunction on Atlantic  
 until \$ paid to Boomer  
 current owners got comp for  
 loss of value - new owners  
 could not claim for damages  
 property rule vs (liability rule)



Orchard View Farms v

Martin Marietta Aluminum

Oregon SC 1980

- some prod costs shifted to others (externality)
  - efficiency argument - can't pay all cost + make a profit  
should shut down
  - interstate suits → Fed Court
- Milwaukee discharges sewage into  
Lake Michigan - IL + MI

CWA precedence - other states  
could not recover damages  
- Wrong - CWA allows states  
to set stds higher than  
CWA stipulates

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CAA

CWA

Toxics - CWA  
- CAA

↳ work place environment

OSHA → exposure to toxics

- asbestos
  - silica
  - benzene
- } long lags between exposure + symptoms  
- interactions effects

Karjala v Johns-Manville

8th Circ 1975

1948-1966 - statute of limitations  
damages to K  
S of L - lag in symptoms

joint  
tortfeasor  
joint  
liability  
market  
shares

CAA  
 ↳ mobile — cars, trucks }  
 ↳ stationary } Heavy trucks  
 } Farm equip.

→ 1975 → emissions were to be 90%  
 lower than 1970

Int'l Harvester v Ruckelshaus 1973  
 regulate technology? D.C. Circuit  
 emissions does not imply technology



Stationary - power plants  
- large factories

NAAQS - EPA sets stds

- non-attainment area  
permit to emit only if offset  
made

↳ private market for  
emissions  
↳ tradeable permits SO<sub>2</sub>

Chapter  
12



