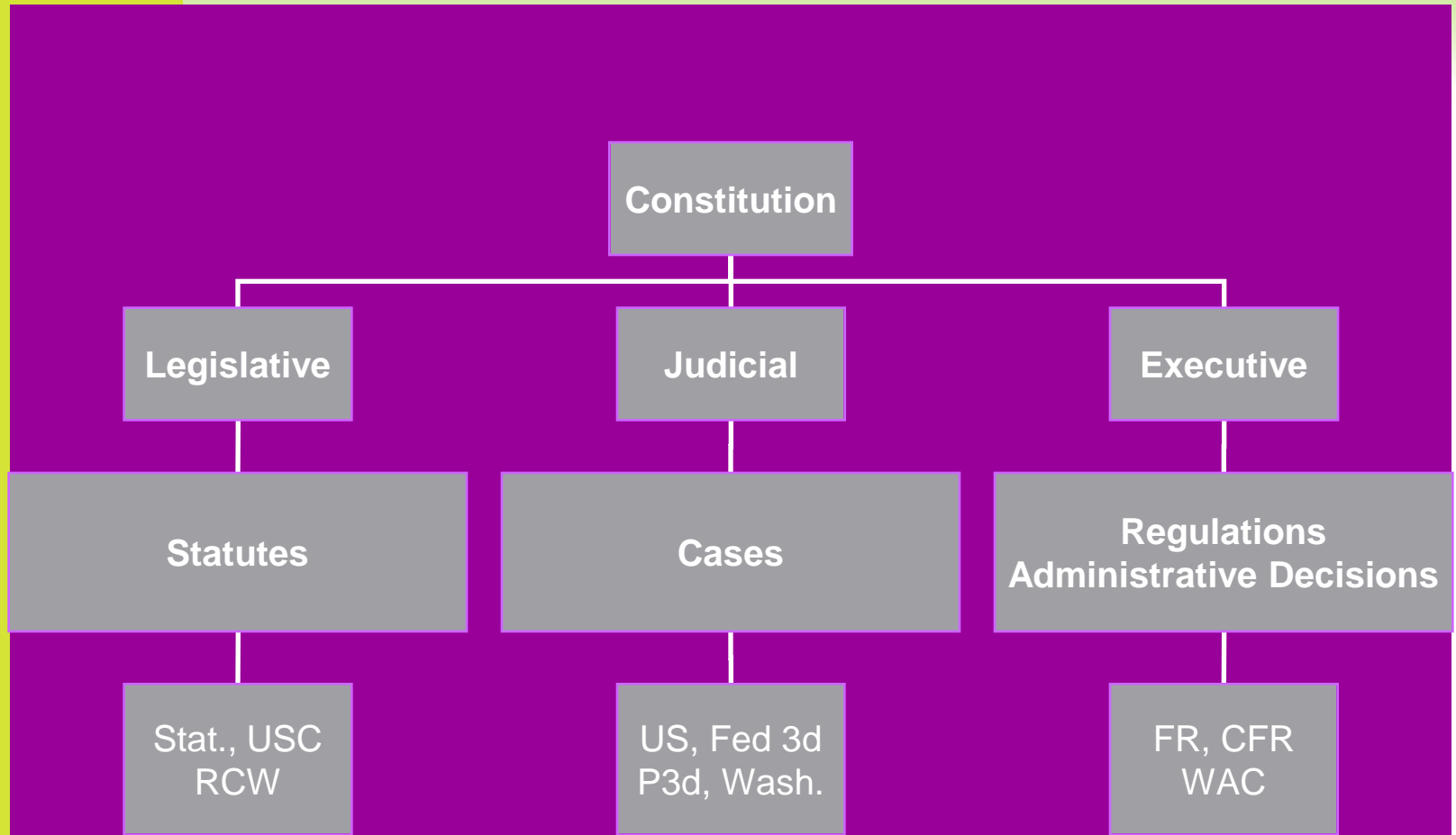


# FINDING THE LAW: PRIMARY & SECONDARY SOURCES IN PRINT

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Introduction to Environmental Law & Process (SMEA 476)  
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# ORGANIZATION OF GOVERNMENT



# PARALLEL SYSTEMS

## Federal

- ⊙ Legislative = US Congress
- ⊙ Executive
  - ⊙ President
  - ⊙ Executive branch & independent agencies
- ⊙ Judicial
  - ⊙ US Supreme Court
  - ⊙ US Courts of Appeals
  - ⊙ US District Courts
  - ⊙ Specialized courts

## Washington

- ⊙ Legislative = WA State Legislature
- ⊙ Executive
  - ⊙ Governor
  - ⊙ Executive branch & independent agencies
- ⊙ Judicial
  - ⊙ WA Supreme Court
  - ⊙ WA Court of Appeals
  - ⊙ District, county & municipal courts

# SOURCES OF LAW INTERACT

- ① Legislature writes statute in response to a case
- ① Court interprets a statute; may hold a statute unconstitutional
- ① Agency proposes and adopts regulations as directed by statute
- ① A higher court overrules a lower court decision

# PRIMARY & SECONDARY AUTHORITY

- ◎ **Primary**

- ◎ Statement of "the law" from bodies with law-making authority
- ◎ Examples: laws, regulations & court opinions

- ◎ **Secondary**

- ◎ Analyze, criticize, explain, interpret & refer to primary law
- ◎ Examples: books, government reports, law review articles & legal encyclopedias



# AGENCY PURPOSE

- ③ Environmental Protection Agency
  - ③ Coordinates government action on behalf of the environment
  - ③ Serves as the public's advocate for a livable environment

# CONGRESSIONAL FINDINGS

## **16 U.S.C. § 1531: Congressional findings and declarations of purposes and policy**

The Congress finds and declares that –

- (a)(1) Various species of fish, wildlife, and plants in the U.S. have been rendered extinct as a consequence of economic growth and development untempered by adequate concern and conservation...
- (b) The purposes of this chapter are to provide a means whereby the ecosystems upon which endangered species ... may be conserved ...

# DELEGATION OF AUTHORITY

The Secretary shall by **regulation** . . . Determine whether any species is an endangered species or a threatened species because of . . .

- (A) the present or threatened destruction, modification, or curtailment of its habitat or range;
- (B) overutilization for commercial, recreational, scientific, or educational purposes;
- (C) disease or predation . . . .

.....

(b)(3)(c)(iii) The **Secretary shall implement a system to monitor** effectively the status of all species with respect to which a finding is made under ...



# FINDING LAWS

- ① Indexes to the U.S. Code
- ① Footnotes in secondary sources

# LEGAL CITATIONS: STATUTES

## Endangered Species Act

- ⦿ Pub. L. No. 93-205
- ⦿ 87 Stat. 884
- ⦿ 16 U.S.C. § 1531 et seq. (2006)
  - 16 U.S.C. § 1538 Prohibited Acts

# LEGAL CITATIONS: STATUTES

## Endangered Species Act

- ◎ Pub. L. No. 93-205
- ◎ Pub. L. No. = Public Law Number
- ◎ 93 = 93<sup>rd</sup> Congress
- ◎ 205 = 205<sup>th</sup> law enacted during the 93<sup>rd</sup> Congress

# LEGAL CITATIONS: STATUTES

## Endangered Species Act

- ◎ 87 Stat. 884
- ◎ 87 = volume 87
- ◎ Stat. = U.S. Statutes at Large
- ◎ 884 = first page number

# LEGAL CITATIONS: STATUTES

## Endangered Species Act

- ① 16 U.S.C. § § 1531 et seq. (2012)
- ① 16 = Title 16
- ① U.S.C. = United States Code
- ① § § = sections
- ① 1531 et seq. = 1531 & the following sections
- ① (2012) = publication year

# DELEGATION OF AUTHORITY

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.....

(b)(3)(c)(iii) The **Secretary shall implement a system to monitor** effectively the status of all species with respect to which a finding is made under ...

# ADMINISTRATIVE LAW

- ⊙ Rules, regulations & decisions
- ⊙ Specific subject jurisdiction
  - ⊙ *U.S. Government Manual*
- ⊙ Administrative Procedure Act, 5 U.S.C. § 551 et seq.
  - ⊙ Notice of proposed rule
  - ⊙ Comment period
  - ⊙ Response to comments & final rule



# CODE OF FEDERAL REGULATIONS

- ⊙ Rules & regulations in force
- ⊙ Organized by topic
- ⊙ Published annually
- ⊙ Updated by the Federal Register
- ⊙ Index & finding tables



# FEDERAL REGISTER

- ③ Proposed rules & regulations
- ③ Updates the C.F.R.
- ③ Organized by agency
- ③ Published weekdays
- ③ Tables of contents, indexes & finding tables



# LEGAL CITATIONS: REGULATIONS

- ◎ Importation, Transportation & Exportation of Wildlife
  - ◎ 50 C.F.R. Part 14 (2014)
- ◎ 50 = Title 50
- ◎ C.F.R. = Code of Federal Regulations
- ◎ Part 14 = part number
- ◎ (2014) = publication year

# LEGAL CITATIONS: REGULATIONS

- ◎ Personally Owned Pet Birds,
  - ◎ 50 C.F.R. § 14.17 (2014)
- ◎ 50 = Title 50
- ◎ C.F.R. = Code of Federal Regulations
- ◎ § = section number
- ◎ (2014) = publication year



# LEGAL CITATIONS: PROPOSED REGULATIONS

- ◎ Mandatory Reporting of Greenhouse Gases, 75 Fed. Reg. 48744 (Aug. 11, 2010).
- ◎ 75 = volume 75
- ◎ Fed. Reg. = Federal Register
- ◎ 48744 = first page number
- ◎ (Aug. 11, 2010) = publication date

# FIND REGULATIONS USING THE CFR

## ⊙ Indexes

- ⊙ Last volume of the C.F.R.

- ⊙ CFR Index volume of the *U.S. Code Service*

## ⊙ Parallel Table of Authorities & Rules

- ⊙ In C.F.R. Index

- ⊙ U.S. Code > C.F.R.



# FIND REGULATIONS USING AN ANNOTATED CODE

1. Find the law
  - a. U.S. Code Annotated OR U.S. Code Service
  - b. Popular names table or index
2. Find the section authorizing regulations
  - a. Browse table of contents
3. Look in footnotes for references to C.F.R.

# COURT OPINIONS


- ③ Written opinions of judges deciding disputes
- ③ Interpret & apply relevant laws, regulations & legal principles
- ③ Published by jurisdiction, court & date
- ③ Gallagher guide on [Court Reporters](#)



# FIND COURT OPINIONS USING AN ANNOTATED CODE

1. Find the law
  - a. Use the popular names table or index
2. Find the section of interest
  - a. Browse the table of contents
3. Find case citations
  - a. Browse the notes
4. Find the case





# FIND COURT OPINIONS USING SECONDARY SOURCES

- ⊙ Books & government documents
  - ⊙ Search library catalogs
- ⊙ Law review articles
  - ⊙ Cited in annotated codes (USCA and USCS)
  - ⊙ Periodical indexes
- ⊙ Legal encyclopedias (*AmJur* & *CJS*)
  - ⊙ Start with indexes

# LEGAL CITATIONS: CASES

- ◎ Tennessee Valley Authority v. Hill,  
**437 U.S. 153**, 98 S.Ct. 2279, 57  
L.Ed.2d 117 (1978).
  - *Only need U.S.*
- ◎ San Carlos Apache Tribe v. U.S.,  
272 F.Supp.2d 860 (D.Ariz. 2003).

# LEGAL CITATIONS: CASES

Tennessee Valley Authority v. Hill,  
437 U.S. 153 (1978).

- ⊙ Tennessee . . . = parties
- ⊙ 437 = volume number
- ⊙ U.S. = U.S. Reports
- ⊙ 153 = first page number
- ⊙ (1978) = year of decision

# STARTING QUESTIONS

- ① What type of law governs this issue? (Hint: may be more than one)
  - ② Statutes — regulations — cases
- ① Which jurisdiction?
  - ② federal and/or state
- ① What secondary sources cover this topic?

# SECONDARY SOURCES

- ⊙ Articles
  - ⊙ 10 – 100+ pages
  - ⊙ Footnotes cite to primary & other secondary sources
  - ⊙ Cited in annotations to laws
- ⊙ Books
- ⊙ Government reports & studies

# ARTICLE CITATION

Elizabeth Lewis, *Whale Wars: Reconciling Science, Public Opinion, and the Public Display Industry under the Marine Mammal Protection Act*, 66 ADMIN. L. REV. 861 (2014).

# ARTICLE CITATION

- ⊙ Elizabeth Lewis = author
- ⊙ *Whale Wars* . . . = title of the article
- ⊙ 66 = volume number
- ⊙ ADMIN. L. REV. = Abbreviated title of the journal
- ⊙ 861 = first page of the article
- ⊙ (2014) = year of publication



# BOOKS & GOVERNMENT

- ① From general overviews to in-depth examination of specific topics
- ① Cite to primary sources & other secondary sources
- ① Use library catalogs



# HELP!

- ◎ Ask a Reference Librarian!
  - ◎ Gallagher Law Library Reference Office
  - ◎ 543-6794
  - ◎ [Ask Us link](#) on Law Library homepage
- ◎ Brief tour of the Law Library Reference Area