

Chapter 1. Administrative Law and Administrative Agencies

- In this chapter, you will learn:
 - What is administrative law?
 - What is an administrative agency?
 - What are the major areas of administrative law?
 - What are substantive and procedural laws?
 - Why do legislatures create administrative agencies?
 - What is an enabling act/statute?
 - What are the powers of agencies?

THREE FUNCTIONS OF GOVERNMENT

- Make the law
 - Legislate
- Enforce the law
 - Execute
- Resolve Disputes under the Law
 - Adjudicate

THREE FUNCTIONS OF GOVERNMENT - MONARCHY

Make the law--The Monarch

(King or Queen)

Enforce the law--The Monarch

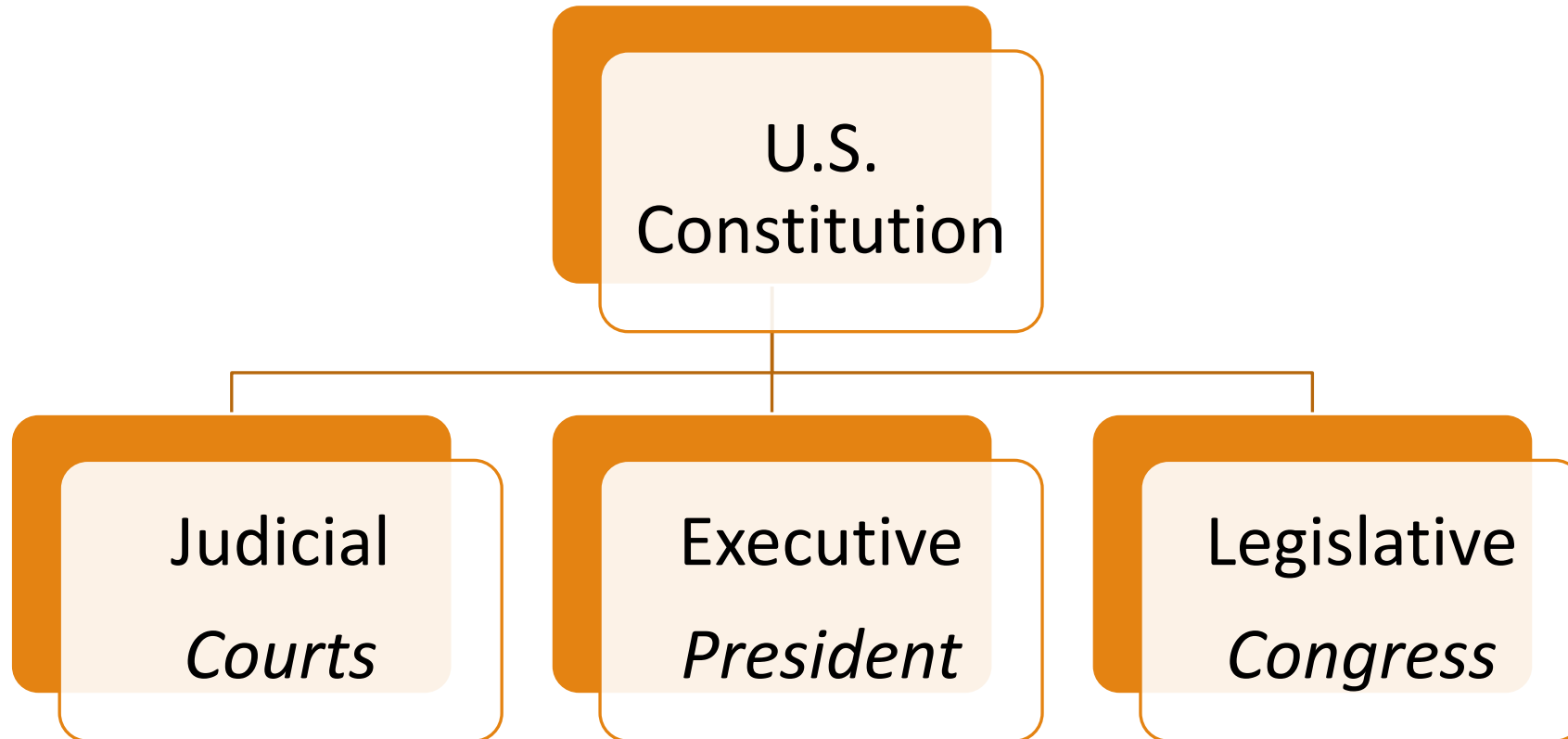
Resolve Disputes under the Law--The Monarch

THREE FUNCTIONS OF GOVERNMENT – AMERICAN DEMOCRACY

- Make the law
 - Legislative Branch
- Enforce the law
 - Executive Branch
- Resolve Disputes under the Law
 - Judicial Branch

Division of Powers

Primary Sources of Law



THE LAW STREAM

U.S. Constitution

Legislature (Congress)



Law (Statutes)



WHO DO YOU CALL.....

- To find out if you qualify for Social Security?
 - Social Security Administration
- To find out how many ounces of liquids you can carry onto an airplane?
 - Transportation Security Administration
- To find out if your 12 year old niece who lives with you while her mother is in Iraq can be claimed as a deduction on your taxes?
 - Internal Revenue Service

Alphabet Soup

How Many Can You Name

SSA	IRS	TSA	FCC	DEP
VA	OSHA	FAA	ATF	FBI
DHS	FTC	USDA	AoA	ICE
BLM	CDC	DHHS	DOE	DOL
DOI	DEA	FEMA	GSA	USGA
HUD	FDIC	NASA	NIH	NOAA
SEC	SBA	SSS	USPS	

http://www.usa.gov/Agencies/Federal/All_Agencies/W.shtml

TITLE 15 U.S.C. §Sec. 1824: PROTECTION OF HORSES

The HPA prohibits horses subjected to a process called “soring” from participating in exhibitions, sales, shows, or auctions.

http://www.law.cornell.edu/uscode/html/uscode15/usc_sup_01_15_10_44.html

Enabling Rules and Regulations- Horse Protection.

TITLE 15--COMMERCE AND TRADE CHAPTER 44--PROTECTION OF HORSES Sec. 1828.
Rules and regulations -

The Secretary is authorized to issue such rules and regulations as he deems necessary to carry out the provisions of this chapter.

Title 9 C.F.R. 11.1 – Horse Protection Regulations

[Code of Federal Regulations] Table of Contents

11.1 Definitions.

11.2 Prohibitions concerning exhibitors.

11.3 Scar rule.

11.4 Inspection and detention of horses.

11.5 Access to premises and records.

11.6 Inspection space and facility requirements.

11.7 Certification and licensing of designated qualified persons 11.20 Responsibilities and liabilities of management.

11.21 Inspection procedures for designated qualified persons

11.22 Records required and disposition thereof.

11.23 Inspection of records.

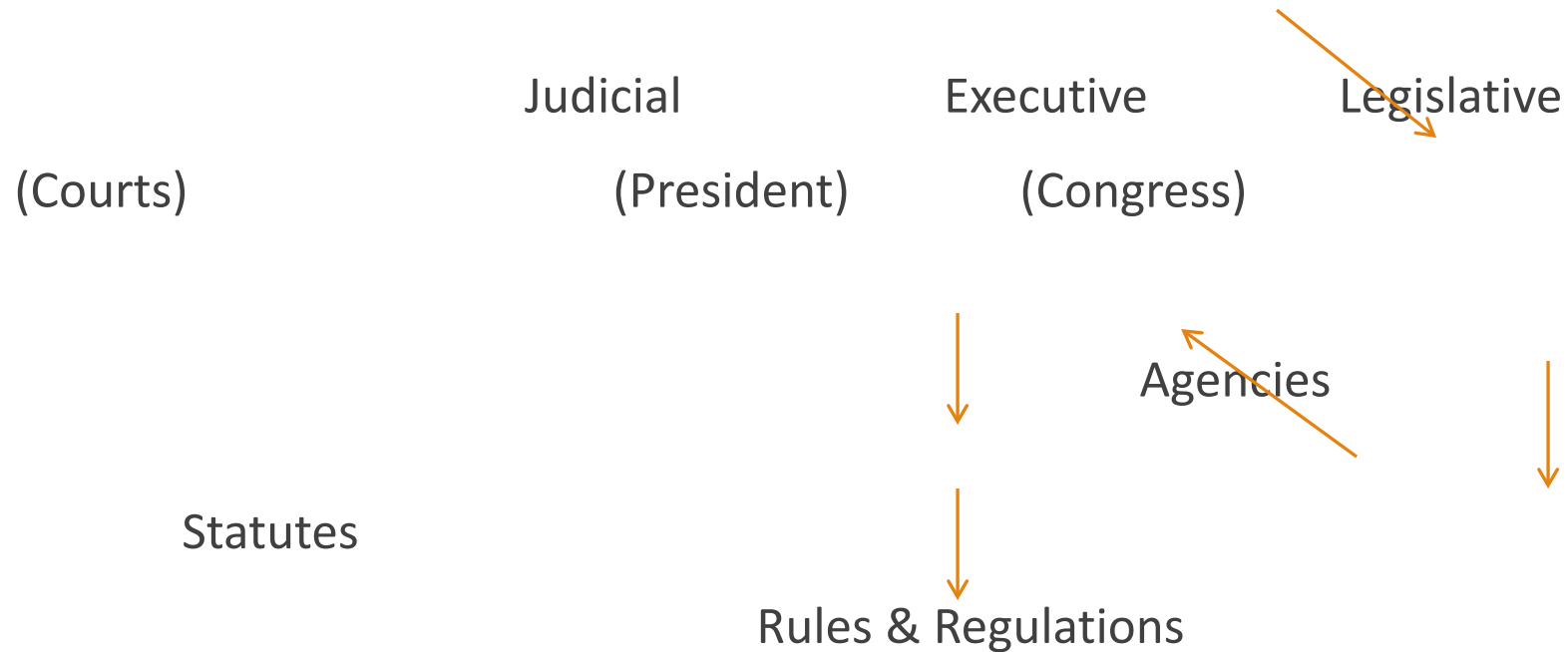
11.24 Reporting by management.

11.40 Prohibitions and requirements concerning persons involved in transportation of certain horses.

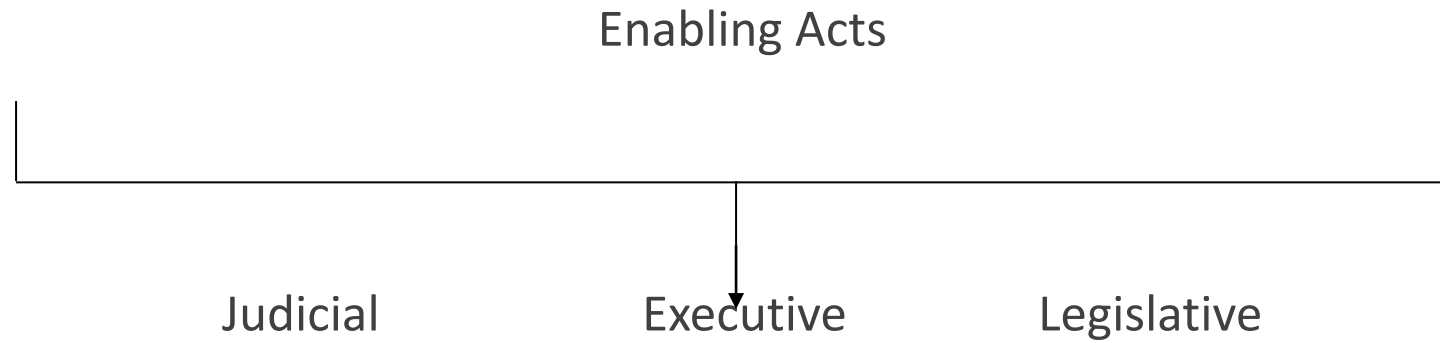
11.41 Reporting required of horse industry organizations or associations.

THE LAW STREAM REVISITED

U. S. CONSTITUTION



DIVISION OF POWERS?



often give agencies each of these powers

Agency Adjudication: Horse Protection Act – 15

U.S.C. §1825

Take for example the Horse Protection Act. It gives the Secretary of Agriculture the power to hold trial like hearings and enact penalties:

- **(b) Civil penalties; review and enforcement (1)** Any person who violates section [1824](#) of this title shall be liable to the United States for a civil penalty of not more than \$2,000 for each violation.

No penalty shall be assessed unless such person is given notice and opportunity for a hearing ***before the Secretary*** with respect to such violation.

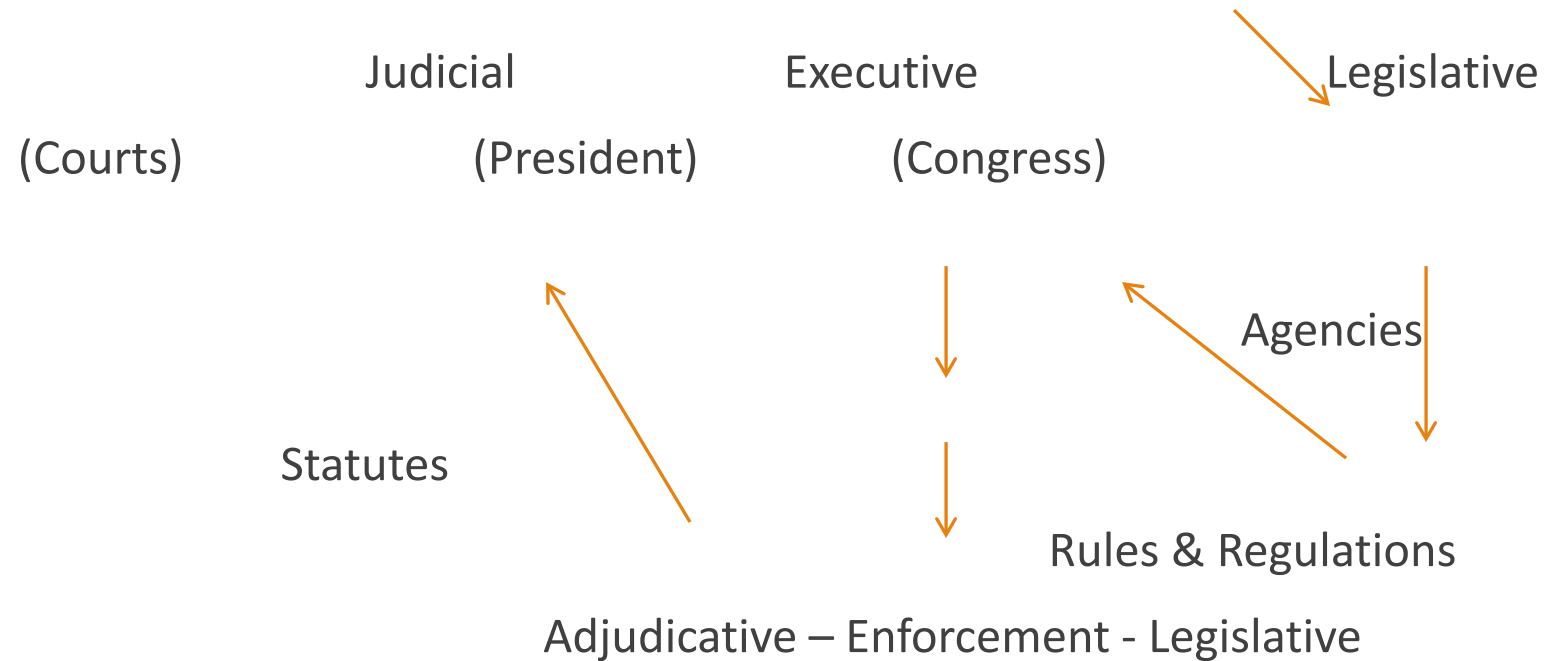
Court Review: Horse Protection Act – 15 U.S.C. §1825

One check of that power is the ability of a party to appeal the decision of the Secretary. Exactly how and when that can happen, and the limitations on judicial review of agency action will be an important topic of study this semester.

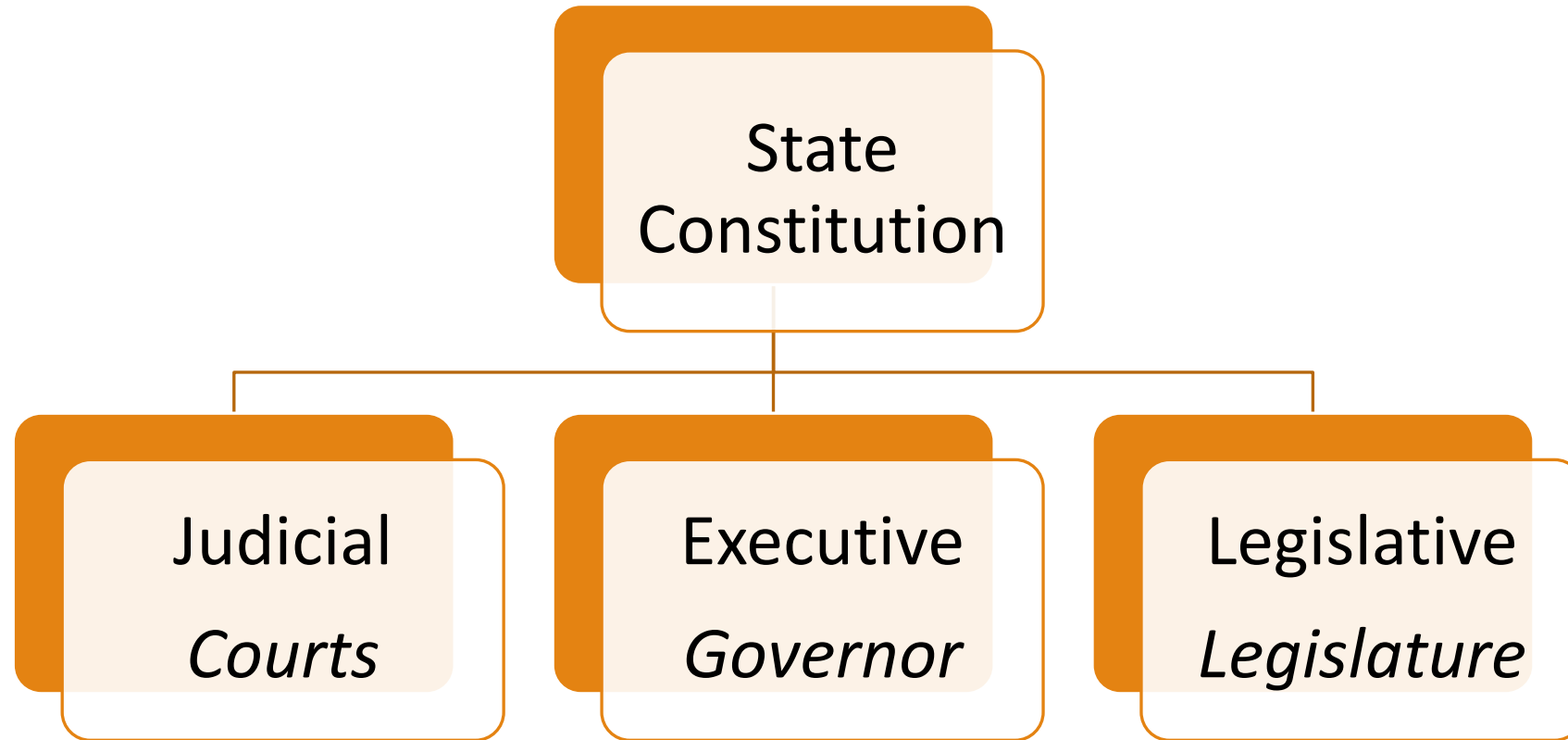
- **(2)** Any person against whom a violation is found and a civil penalty assessed under paragraph (1) of this subsection may obtain review in the court of appeals of the United States for the circuit in which such person resides or has his place of business or in the United States Court of Appeals for the District of Columbia Circuit by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary.

THE LAW STREAM REVISITED

U. S. CONSTITUTION

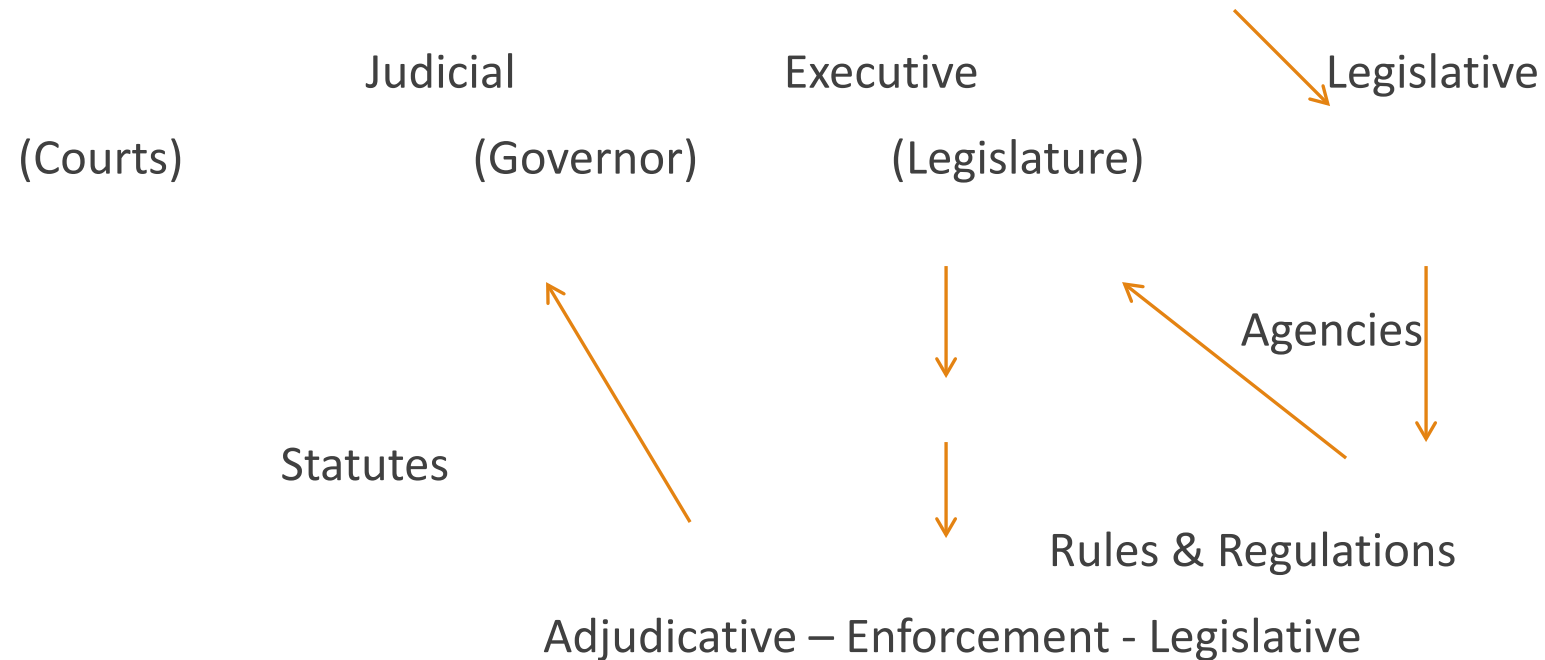


Rinse and Repeat: State Agencies



RINSE AND REPEAT: THE LAW STREAM REVISITED

STATE CONSTITUTION



Swimming Up Stream

- In order to be valid Agency action must
 - Comply with Agency's rules and regulations that
 - Comply with an Enabling Act that
 - Complies with the State Constitution and
 - Complies with the U.S. Constitution

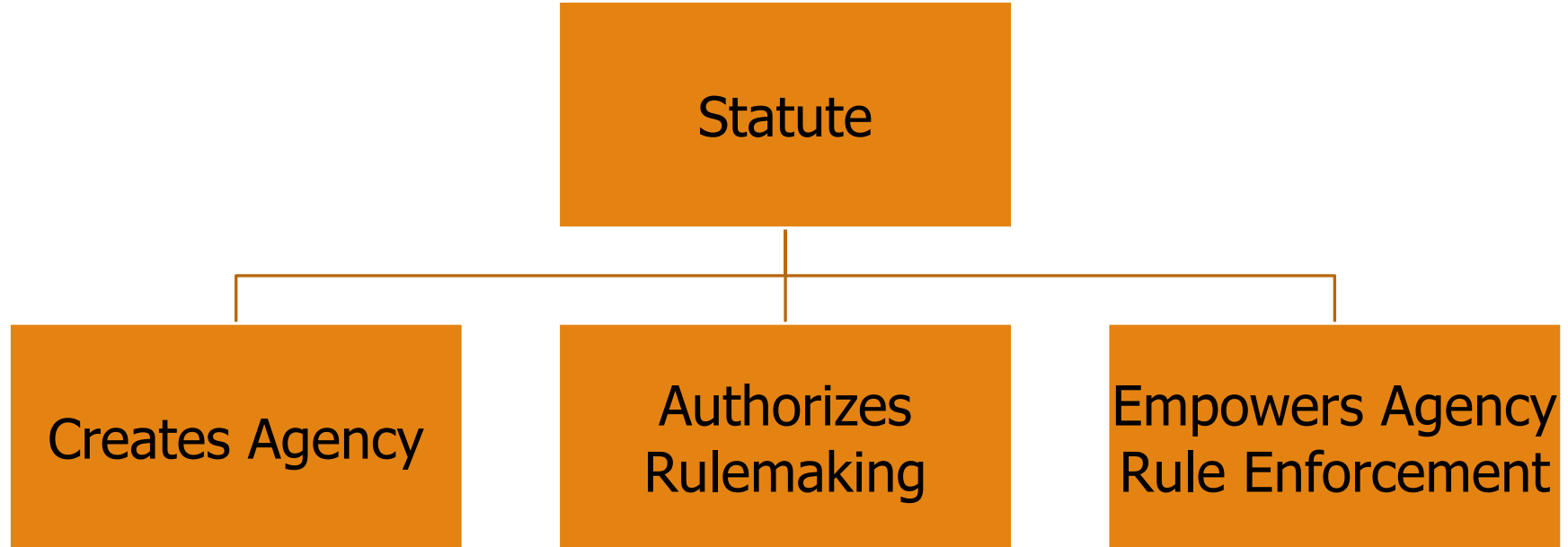
Questions for this course:

- When and how can the legislative branch delegate rule-making authority to an agency?
- When and how can the agency use that delegated power?
- When and how does the agency use its investigative and enforcement powers?
- When and how does the agency use its adjudicative powers?
- When and how is an agency subject to court review?

Administrative Law

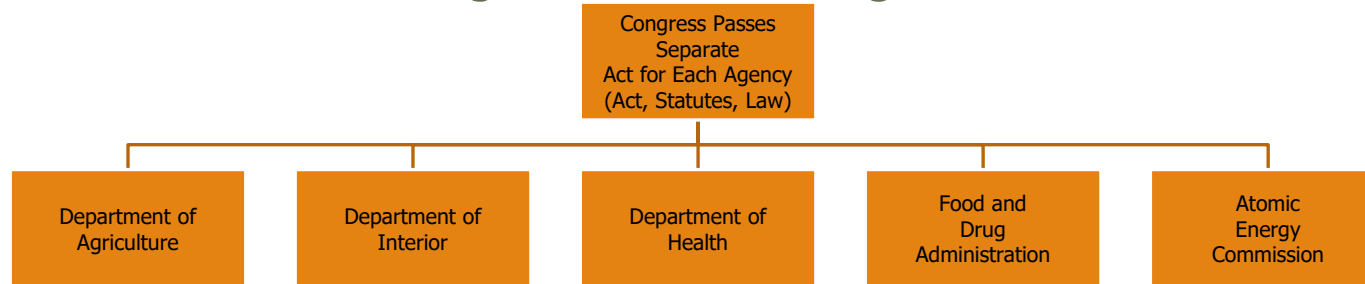
The laws that define the legal powers of government agencies and the limits of these powers are collectively called [administrative law](#).

Powers Enabling Statute (Act/Law)



Creating Agencies through a Statute

Legislature Creates Agencies

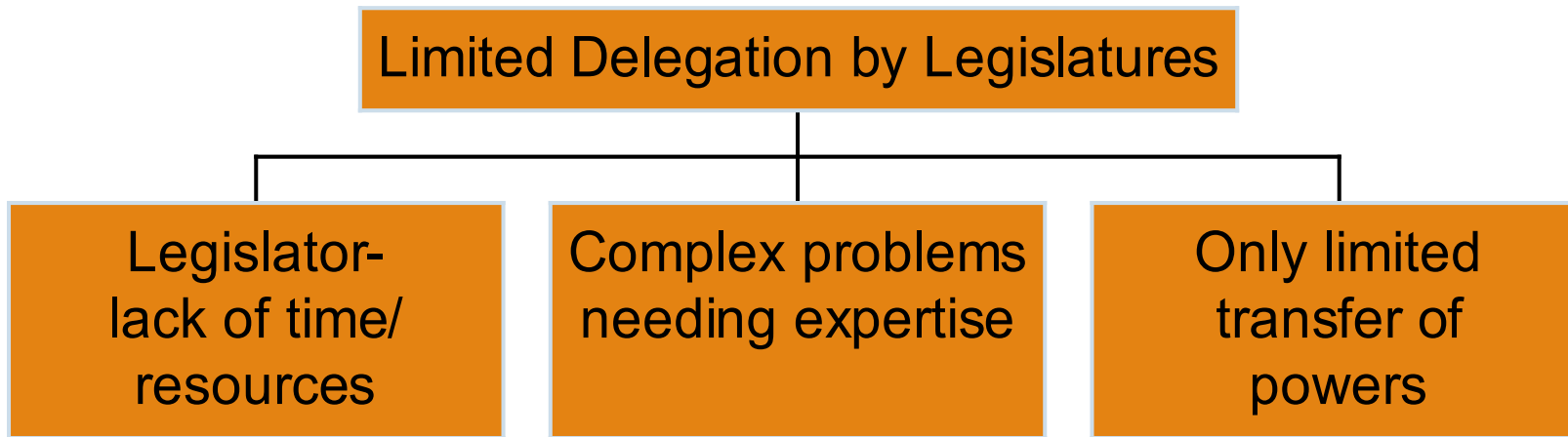


Agency Powers

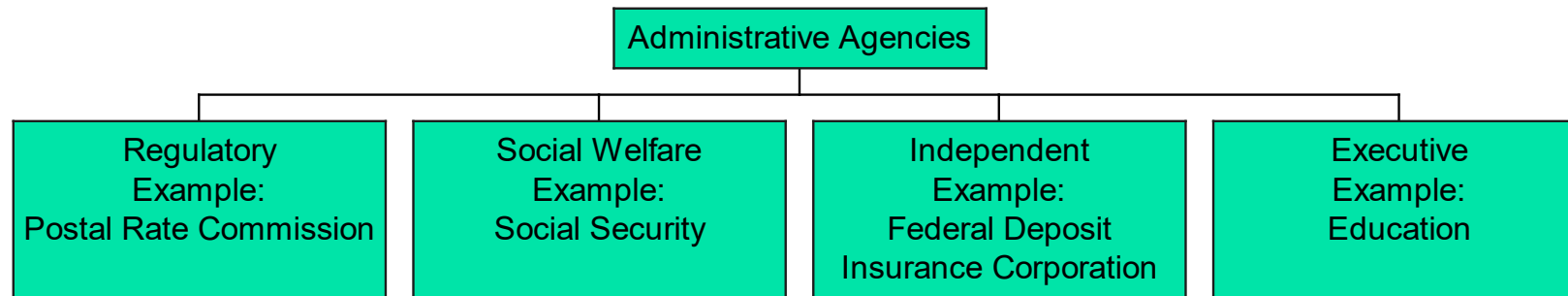
If mandated by a legislature, an agency has diverse powers to:

- Set standards
- Make rules and regulations
- Prosecute against those who refuse to obey the regulations
- Make decisions on those actions that come before it in claims and hearings
- Investigate complaints

Why Legislatures Give Power to Agencies



Major Concentration of Administrative Agencies



Powers of Federal and State Regulatory Agencies

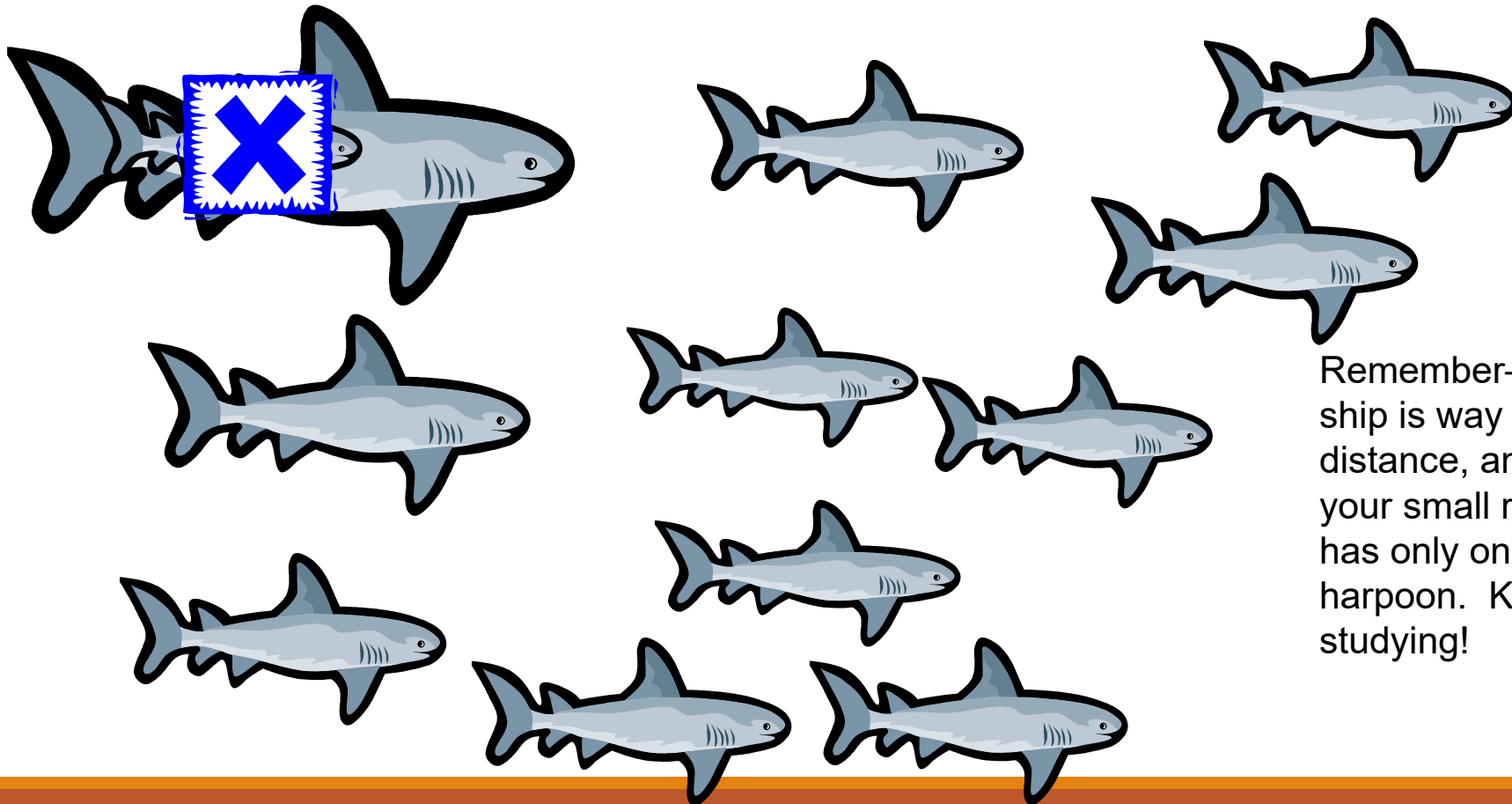
Define and establish regulations

Monitor compliance with regulations

Prosecute if regulations are violated

Harpooned Sharks for Chapter 1: One Shark Harpooned!

There are 12 Office Sharks after your job. If you answered all the Statements in Chapter 1 correctly—on your first try—you may cross out one shark. Knowledge wins!



Remember—that ship is way in the distance, and your small raft has only one harpoon. Keep studying!