Endangered Species Act

Relevant national laws for 'animals and the environment' issues

- Endangered Species Act (ESA)
  - CITES at the intl. level, and state ESA laws
- Marine Mammal Protection Act (MMPA)
- National Environmental Policy Act (NEPA)
- Migratory Bird Treaty Act (MBTA)
- The Lacey Act

State Agencies: MA Division of Fish/Wildlife, MA Environmental Police, MA State Police, and local law enforcement

Federal Investigative Agencies
- US Fish and Wildlife Service (FWS)
- Department of the Interior (DoI)
- National Oceanic and Atmospheric Administration (NOAA)
  - National Marine Fisheries Service (NMFS)
- For trafficking specifically: Department of Commerce (re. trade and the interstate commerce clause), FBI, DoJ, ICE, DHS, USPS, USDA, US Coast Guard

ESA Basics: to conserve "the ecosystems upon which endangered and threatened species [except for 'pest insects'] depend"
- Administered by FWS (terrestrial and freshwater) and NOAA's NMFS (marine)
- Recognizing the "esthetic, ecological, educational, recreational, and scientific value"
  - What are some examples of each of these, and what's missing from this list?
- **Listing**, based (ostensibly) on "the best scientific and commercial data available", and made 'solely on the basis of the species' biological status and threats to its existence'
  - Why is this one of the key provisions of the ESA's sociopolitical history?
- **Recovery**, consultation, **critical habitat,** exemptions, **habitat conservation plans** (HCPs) and 'incidental take'
- Defining "**take**": "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in any such conduct." (How might certain interpretations of this definition be very, very important, policy-wise?)

Czech and Krausman, "Traditional Analyses of the Endangered Species Act" (focus on chart on p. 42)
Five 'schools' of public policy: pluralism, policy, policy sciences, policy specialism, public choice, and critical theory
- What are the pros and cons of the various 'policy lenses'? (we'll come back to this next Monday…)
  - **Pluralism**: 'what public interest?'
  - **Policy sciences**: follow the **policy cycle**
  - **Policy specialism**: trust the science
  - **Public choice**: self-interested utility maximizers, cost-benefit analyses (CBAs), and positive externalities
  - **Critical theory**: oppression, instrumental rationality, and deep ecology
- Which of these 'schools' would have the most analyses of ESA law? The most useful ones (in your opinion)?

Schwartz, "The Performance of the Endangered Species Act"
- Legislative history: 1973, passed Senate 92-0 and House 355-4. Can you think of *anything* that would pass today with comparable support?
- Procedural overview: 1) listing, 2) designation of critical habitat, 3) formulation of recovery plan, 4) consultation to prevent 'take'
- What species were protected in the early years? More recently? How many taxa are currently represented? What's the majority of species' represented? (281-2)
- In 2004, "the top 100 taxa garnered nearly all recovery funding…and the bottom 478 taxa garnered $5,000 per species or less…1000-fold difference in spending between the tenth and 90th percentile species" (285) and "skewed funding was linked to the charisma of the species and political influence" (287)—the case of the bald eagle
- HCPs and "cooperation without trust" (Safe Harbor Agreements (SHA) and Candidate Conservation Agreements (CCA))

Optional focus on: statistical analysis (type I and type II errors, the 'null hypothesis', the p-value, the normal curve, etc…) and the case of dependent v. independent variables