1. Full citation.
   1. Vogel, D. *The Politics of Precaution: Regulating Health, Safety, and Environmental Risks in Europe and the United States*. Princeton Univers. Press, 2012.
2. What are the topics of the text?
   1. This chapter of Vogel’s book focuses on the development of legislation regarding chemical and hazardous substances within the EU and US. In regards to chemicals, Vogel walks us through TSCA and REACH, commenting on the flaws of TSCA and the adversity which REACH faced. For hazardous substances, Vogel focused on two pieces of European legislation: WEEE and RoHS, which addressed e-waste and recycling, and hazardous materials respectively.
3. What is the main argument of the text?
   1. The main argument of this chapter seems to revolve around the flaws of the United States legislation in both chemical and hazardous substances. While the United States was the first global power which enacted legislation which intended to limit industries from using dangerous chemicals, Vogel quickly makes it quite clear that this legislation was insufficient and a tremendous failure. REACH on the other hand is glorified, representing the catalyst which he believes will change chemical usage on the global scale, despite the negotiations which were a part of passing it into a law. In terms of hazardous waste regulation, there is no doubt that Vogel believes the EU to be far ahead of the US. Further, Vogel illustrates that individual states of the United States are mimicking European legislation on both chemical and hazardous waste, as the EU is the global leader in both of these areas.
4. Describe at least three ways that the argument is supported.
   1. “First, while REACH required chemical companies to develop ands share with regulators information on the effects of the chemicals they produce on human health, TSCA generally does not…Second, REACH places the burden of proof on chemical firms to demonstrate that the chemicals they place in the market do not have adverse effects, while TSCA requires the EPA to demonstrate that chemicals pose risks to human health or the environment prior to issuing regulations that restrict their product, distribution, or use. Third, while the TCSA granted the EPA differential authority to control the risks posed by new or existing chemicals – specifically by making it more difficult to restrict existing chemicals – REACH makes no distinction between existing and new chemicals.”
   2. “The subsequent passage of REACH directly affected chemical regulation in California. In 2004, two California legislative committees commissioned a report on “Green Chemistry” that explored “the implications for California of chemical policy developments in Europe”…The public information provisions of REACH are likely to strengthen California’s regulatory efforts by giving state officials access to REACH’s public database, which will include data about the composition and health risks of many chemical products sold in California.”
   3. “In 2003, California became the first state to require producer responsibility for recycling electronic products. However, the California E-Waste Recycling ACT is narrower in scope than the EU Directive: it only covers video display products with a screen greater than four inches diagonally. The California Cell Phone Recycling Act made it unlawful for a retailer to sell a cell phone in the state if the retailer does not offer a take-back program to its customers. By 2007, more than half of all American states had enacted a total of more than fifty different “producer take backs.” While their details vary, most are based on the same principle that underlies WEEE, namely, that manufacturers should be responsible for the collection and reuse of their products. Other states have funded voluntary recycling projects.”
5. What three quotes capture the message of the text?
   1. ““The analytic burdens placed by the Fifth Circuit Court of Appeals effectively emasculated the TSCA regulation in the US and, for all intents and purposes, the EPA regard[s] TSCA as a ‘dead letter.’” According to one former EPA official, “TSCA currently places too high a bar for the EPA to jump to assure the health of the public and protection of the environment. Under TSCA, existing chemicals are assumed safe until proven guilty, even when found in breast milk and even as toxicological evidence accumulates.””
   2. “the “Implementation of the REACH regulation has informed and bolstered California’s chemical policy reform…it has provided model methods and structures…By controlling access to European markets, REACH sets what may become a de facto gold standard for information disclosure.”
   3. “It is outrageous more and more parents look for labels that say items meet Europe regulatory standards because American standards are not to be trusted. We want our families to be protected from chemical exposure.”
   4. “In contrast to the EU, as well as ten other countries including Japan, China, and Korea, no American federal regulations require electronic recycling. According to a GAO study, “federal regulatory requirements provide little incentive for environmentally preferable management of used electronics.” While federal policy does promote alternatives to waste disposal, and regulates the disposal of electronics by business and government agencies, no federal laws require e-waste recycling by households, which produce half of the e-waste generated each year in the United States. As a result, nearly all of it is disposed of with common household garbage in municipal solid waste landfills or in incinerators. The United States also generates more e-waste than any other nation.”
6. What three questions about environmental risk and precaution does this article leave you with?
   1. Are current risk analysis tools sufficient for such complex issues, or will we be forced to develop new methods to determine chemical risk?
   2. Who is ensuring that the research presented by industry is accurate? Are enough individuals trained in this field to appropriately evaluate thousands of chemicals?
   3. What techniques are used to evaluate the economic damages done as a result of removing a highly hazardous chemical from the market place? At any price, is it right to leave a known dangerous chemical in a position to harm the public despite the costs of removing it?
7. What three points, details or references from the text did you follow up on to advance your perspective on environmental risk and precaution? (Provide citations, with a brief explanation of what you learned.  One of these should be fully annotated, as your second required reading for each week.)
   1. Kid-Safe Chemical Bill
      1. This Act was initially introduced in 2008, but failed to result in any successful legislation. In 2011, it was reintroduced with new co-sponsors and was successfully passed in the Senate Environment and Public Works Committee in 2012. This act would require the EPA to identify and restrict the “worst of the worst” chemicals and basic health and safety information for all chemicals as a condition for entering or remaining on the market. It would upgrade scientific methods for testing and evaluating chemicals, and arm the EPA with the tools and resources it needs to restrict chemicals that pose health and environmental concerns. Unfortunately, this bill has still not been transformed into a law despite the results of various studies. For example, the Environmental Working Group has confirmed that babies in the United States are being born with more than 200 industrial chemicals in their bodies, and has also estimated that there are approximately 80,000 untested chemicals within the market which the public is constantly exposed to.
         1. <http://www.mnn.com/health/fitness-well-being/blogs/lautenberg-introduces-safe-chemicals-act>
         2. <http://greenschools.net/article.php?id=325>
   2. Proposition 65
      1. Also known as the Safe Drinking Water and Toxic Enforcement Act of 1986, this legislation was intended to protect California citizens and the State’s drinking water sources from chemicals unknown to cause cancer, birth defects or other reproductive harm, and to inform citizens about exposures to such chemicals. There are four ways to add a chemical to the list. The first is two have it proven by one of two authorized committees to clearly cause cancer, birth defects, or reproductive harm. The second way is for an organization which is designated as an “authoritative body” by the CIC or DART Identification committee to identify the chemical as causing cancer, birth defects or reproductive harm. The third way for a chemical to be listed is if an agency of the state or federal government requires that it be labeled or identified as causing cancer, birth defects or reproductive harm. The fourth way is if the chemical meets certain scientific criteria and is identified in the California Labor Code as causing cancer, birth defects or reproductive harm.
         1. http://oehha.ca.gov/prop65/background/p65plain.html
   3. The ‘perfect storm’ of REACH: charting regulatory controversy in the age of information, sustainable development, and globalization.
      1. Full citation.
         1. Fisher, Elizabeth. “The ‘Perfect Storm’ of REACH: Charting Regulatory Controversy in the Age of Information, Sustainable Development, and Globalization.” *Journal of Risk Research* 11.4 (2008): 541–563. Print.
      2. Where did/does the author work, what else has s/he written about, and what are her/his credentials?  (This question only has to be answered once for Vogel.)
         1. Ms. Elizabeth Fisher is a Reader in Environmental Law at Corpus Christi College and UL lecturer in the Faulty of Law. In addition, she is currently the General Editor of the Legislation and Reports Section of the Modern Law Review. Her primary areas of research are environmental law, risk regulation and administrative law. One of her more recent books, Risk Regulation and Administrative Constitutionalism, won the SLS Peter Brisk Prize for Outstanding Legal Scholarship 2008. In 2009 Ms. Fisher receives an Oxford University Teaching Award and was shortlisted for OUP National Law Teacher of the Year Award in 2011. Some of her other publications include *Climate Change Litigation, Obsession and Expertise: Reflecting on the Scholarly Response to Massachusetts v EPA’(2013) 39 Law and Policy in Press*, *The Enlightenment of Administrative Law: Looking Inside the Agency for Legitimacy*, and *Understanding Environmental Models in Their Legal and Regulatory Context.*
      3. What are the topics of the text?
         1. The article focused on how the controversy over REACH was actually centered around three different independent but interdependent regulatory aspects of it. These are: its placing the responsibility for information generation and assessment on private actors; its redefining of the conditions of entry into the market place in pursuit of sustainable development; and the fact that in an era of globalization, it has profound implications for other jurisdictions. Ms. Fisher achieves the purpose of her articles by the following steps: she highlights two key features of risk regulation regimes to keep in mind, she gives a brief overview of REACH, she examines the innovative and controversial nature of its information requirements, she analyzes the three aspects introduced above, and finally she discusses the lessons one can take from studying this regulation.
      4. What is the main argument of the text?
         1. Ms. Fisher relates REACH to the “perfect storm” of regulations, in that it represents the culmination of several intense sets of forces leading to the controversy associated with it. The importance of this lies in the lessons one can learn from this “perfect storm”: the challenges faced in technological risk regulation and that such profound legislation is bound to have global implications beyond its jurisdiction.
      5. Describe at least three ways that the argument is supported.
8. The inherently controversial nature of chemicals regulation as noted…is partially a catalyst for such demands for reform but the need for reform also arises out of two features of most chemicals regulation regimes. First, historically chemicals regulation has tended to be piecemeal in that it has been a series of specific legislative responses to particular problems as those problems emerged…The end result is a series of ‘fragmented and differentiated’ regulatory regimes which lack coherence. Indeed, a marked feature of most chemicals regulation regimes is that while ‘new’ chemicals have received some regulatory attention ‘old’ chemicals have not… The second related problem with much chemicals regulation is that due to this old/new distinction, there is very little comprehensive information about the health and environmental risks of chemicals that have been on the market for a long time.”
9. “The privatization of information is a departure from the historical situation where the duty to collect and assess information about the health and safety risks from chemicals has been on regulators, although private actors have often been a significant source of information. The heavy reliance on administrative bodies has not only overburdened them but also has led to a politics concerning the validity of regulators acting on different types of information…REACH represents a significant internalization of the costs of producing information about chemical safety, particularly because it operates as a precondition to entry into the internal market.”
10. As with the privatization of information provision and assessment, there are many reasons why the explicit pursuit of sustainable development is controversial. The first set of reasons for it being so have concerned whether the costs of REACH to private actors exceed the public benefits. A number of impact assessments were conducted by both Community institutions and others as part of the process of debate and the results of these assessments were themselves queried. This has resulted in a sub-politics concerned with the legitimacy of impact assessment as a regulatory technique and also highlights the difficulties of making these types of assessment… The second set of reasons why the sustainable development aspect of REACH has proved controversial has concerned whether environmental and economic concerns can be properly integrated…some have argued that the economic costs are too great, while there are those who have argued that REACH places too much emphasis on economic concerns at the cost of environmental protection… The final set of reasons for the controversial nature of REACH is to do with how the requirements of registration regulate the market. Historically, most environmental regulation operates as a limit on market activity, ‘you can do what you like but not x’. Such laws dictate what particular kinds of behavior are not allowed. In contrast, registration is operating as a precondition to market activity: without registration, a manufacturer cannot even begin to operate in the Community market.
    * 1. What three quotes capture the message of the text?
         1. “it is important to appreciate that the inter-jurisdictional impacts of REACH are not limited to one particular type of impact…The first is that by its very nature, REACH has implications for international trade in that a regulatory regime is, by itself, a non-tariff barrier…the second…is that it provides a blueprint for international initiatives in relation chemicals regulation…the third…is upon chemical regulations in other jurisdictions…the final…is due to the information it will produce.”
         2. “the information requirements of REACH are not only a regulatory response to widely recognized problems in chemicals regulation but those requirements are consistent with cutting edge regulatory strategies. Those strategies have often been promoted as being more win–win in nature but in relation to REACH, they gave rise to controversy far greater than any other regulatory initiative. Indeed, the REACH proposal is infamous for giving rise to a fundamentally new lobbying politics in the EU and the Commission was ‘flooded’ with submissions from a range of regulatory actors from all parts of the political spectrum although most significantly from industry.”
         3. “As Junger pointed out, the ‘perfect storm’ at the center of his book was a product of a set of weather and geographical conditions unique to that part of the Grand Banks. At the same time, weather in one place is also closely interrelated with weather in other locations both in being caused by weather in those other locations and also leading to knock on effects. The same is also true of regulatory reforms such as REACH. REACH is a product of, and embedded in, EU legal and regulatory culture. In particular, it is a regime which by internalizing the costs of information provision and assessment is reconfiguring the internal market. Such a reconfiguration is consistent with community concepts of market building, but REACH also has profound implications for other jurisdictions in that it reflects a proper attempt to deal with some real problems in chemicals regulation and because such large scale regulatory initiatives in an era of globalization must have an impact beyond their jurisdiction.”
      2. What three questions about environmental risk and precaution does this article leave you with?
         1. Is REACH good enough? While very broad, I cannot help but wonder if the amendments which were required to pass the legislation weakened it too much.
         2. Will there be any sort of method to measure the success of this bill? While a list of the chemicals which are prevented from being allowed into the market is one means, is there anything planned to detect the improvement in human health?
         3. Is it necessary to develop an economic assessment of putting legislation such as this into place? While it mentions in the article several times that it may not be possible, in our current economic system is that a viable conclusion?