

IN THE
Supreme Court of the United States

MONSANTO COMPANY,

Petitioner,

v.

JOHN L. DURNELL,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
COURT OF APPEALS OF MISSOURI, EASTERN DISTRICT

BRIEF OF AMERICAN FARM BUREAU FEDERATION, AMERICAN
SOYBEAN ASSOCIATION, AMERICAN SUGARBEET GROWERS
ASSOCIATION, CHERRY MARKETING INSTITUTE, FLORIDA
FRUIT AND VEGETABLE ASSOCIATION, INTERNATIONAL
FRESH PRODUCE ASSOCIATION, NATIONAL ASSOCIATION OF
WHEAT GROWERS, NATIONAL CORN GROWERS ASSOCIATION,
NATIONAL COTTON COUNCIL OF AMERICA, NATIONAL SORGHUM
PRODUCERS, NORTH AMERICAN BLUEBERRY COUNCIL,
AND WESTERN GROWERS AS *AMICI CURIAE*
IN SUPPORT OF PETITIONER MONSANTO COMPANY

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INTEREST OF AMICI CURIAE¹

The Amici represent the interests of the agricultural industry and support FIFRA's preemptive effect. In total, Amici's constituents farmed more than 300 million acres across the United States in 2024. Scott Callahan, *Total cropland used for crops stood at 328 million acres in 2024*, U.S. DEP'T OF AGRIC., ECON. RSCH. SERV. (Apr. 23, 2025).² See also *Crop Acreage Data*, U.S. DEP'T OF AGRIC., FARM SERVICE AGENCY (Sept. 12, 2024).³

The American Farm Bureau Federation is the nation's largest general farm organization, representing farmers and ranchers in all 50 states and Puerto Rico. Its members rely on continued access to glyphosate for their agricultural operations. Am. Farm Bureau Fed'n, Comment on *Glyphosate Registration Review* at 1–2, EPA-HQ-OPP-2009-0361-0019 (Sept. 17, 2009).⁴

The American Soybean Association has 26 affiliated state associations and represents soybean farmers in 30 soybean-producing states. Glyphosate has played a key role in helping soybean farmers manage weeds that can rob crop yields and destroy livelihoods. Am. Soybean Ass'n,

1. Amici provided timely notice of its intention to file this brief to the parties. No counsel for either party authored this brief in whole or in part, nor did any party or other person or entity other than amicus curiae, its members, and its counsel make a monetary contribution intended to fund its preparation or submission.

2. Available at <https://perma.cc/K55E-BJMM>.

3. Available at <https://perma.cc/9DS5-F3FF>.

4. Available at <https://perma.cc/A67V-3FD3>.

Comment on *Glyphosate Proposed Interim Registration Review Decision* at 1–2, EPA-HQ-OPP-2009-0361-10905 (Aug. 23, 2019).⁵

The American Sugarbeet Growers Association represents family farmers across all 11 sugarbeet-producing states, which collectively produce approximately 55% of all sugar produced in the United States. Sugarbeet growers are completely dependent on glyphosate and could not continue to effectively farm sugarbeets without this essential crop-protection tool. Am. Sugarbeet Growers Ass’n, Comment on *Proposed Interim Registration Review Decision* at 1–2, EPA-HQ-OPP-2009-0361-12387 (Aug. 28, 2019).⁶

The Cherry Marketing Institute researches and promotes United States tart cherry growers and Michigan sweet cherry growers. Its members rely on glyphosate for best management practices. *Home*, CHERRY MARKETING INSTITUTE.⁷

The Florida Fruit & Vegetable Association’s grower-shipper membership represents the majority of fruit, vegetable, and other specialty crop production in Florida. For more than four decades, its members have relied on glyphosate as a critical, effective, and economical weed management tool. Fla. Fruit & Vegetable Ass’n, Comment on *Glyphosate Registration Review; Draft Endangered*

5. Available at <https://perma.cc/3HWK-8QQ4>.

6. Available at <https://perma.cc/L2AR-MT46>.

7. Available at <https://perma.cc/HK6E-UM23> (last visited May 8, 2025).

Species Act Biological Evaluations at 2, EPA-HQ-OPP-2020-0585-0817 (March 11, 2021).⁸

The International Fresh Produce Association is the largest association serving over 3,000 member companies in the fresh produce and floral industries. Its members rely on glyphosate for its weed control and conservation measures, such as reducing greenhouse emissions and sequestering carbon in the soil. *History*, INTERNATIONAL FRESH PRODUCE ASSOCIATION.⁹

The National Association of Wheat Growers is a federation of 20 state associations representing the needs of wheat producers nationwide. Its members rely on glyphosate for effective weed control. Nat'l Ass'n of Wheat Growers, Comment on *Glyphosate Proposed Interim Registration Review Decision* at 2, EPA-HQ-OPP-2009-0361-14421 (Sept. 3, 2019).¹⁰

The National Corn Growers Association represents nearly 40,000 dues-paying corn growers and the interests of more than 300,000 growers who contribute through corn checkoff programs in their states. Glyphosate is the cornerstone for many corn growers' comprehensive sustainable weed-management practices. Nat'l Corn Growers Ass'n, Comment on *Registration Review: Draft Human Health and/or Ecological Risk Assessments for Several Pesticides* at 1–2, EPA-HQ-OPP-2009-0361-2009 (Apr. 30, 2018).¹¹

8. Available at <https://perma.cc/QN4G-KLMU>.

9. Available at <https://perma.cc/XA5A-YNCN> (last visited May 8, 2025).

10. Available at <https://perma.cc/2AGU-SJLE>.

11. Available at <https://perma.cc/U59N-8TCQ>.

The National Cotton Council of America is the central organization representing the interests of the United States cotton industry, including farms and businesses that employ approximately 125,000 workers. Cotton growers widely rely on glyphosate as a critical component of successful crop production and environmental stewardship. Nat'l Cotton Council of Am., Comment on *Registration Review: Draft Human Health and/or Ecological Risk Assessments for Several Pesticides* at 1, EPA-HQ-OPP-2009-0361-1627 (Apr. 25, 2018).¹²

National Sorghum Producers represents sorghum producers and has affiliate organizations in 15 sorghum-producing states. Its members rely on glyphosate for effective weed-control and a variety of conservation measures, such as no-till or reduced-till farming systems. Nat'l Sorghum Producers, Comment on *Glyphosate Proposed Interim Registration Review Decision* at 1, EPA-HQ-OPP-2009-0361-13613 (Sept. 3, 2019).¹³

The North American Blueberry Council represents thought leaders in the blueberry industry, including growers, distributors, and suppliers. Its members rely on glyphosate as an essential tool to protect their crop from weeds and the other harmful effects. *See About North American Blueberry Council*, NORTH AMERICAN BLUEBERRY COUNCIL.¹⁴

12. Available at <https://perma.cc/EM9S-YRR4>.

13. Available at <https://perma.cc/X6TJ-W4VB>.

14. Available at <https://perma.cc/M7XT-UF59> (last visited May 8, 2025).

Western Growers is a 99-year-old trade organization representing growers and handlers of fresh fruits, vegetables, and tree nuts grown and sold from the States of California, Arizona, Colorado, and New Mexico. Glyphosate is “a crucial herbicidal compound that provides highly efficacious broad spectrum control of key weeds and is of economic importance to a wide variety of specialty fruit, nut, and vegetable crops.” Western Growers, Comment on *Glyphosate Proposed Interim Registration Review Decision* at 1, EPA-HQ-OPP-2009-0361-14369 (Aug. 30, 2019).¹⁵

Collectively, these Amici have a substantial interest in the outcome of this case. They hope their unique perspective will help the Court understand the agricultural context and practical implications of the question presented.

INTRODUCTION AND SUMMARY OF ARGUMENT

Agriculture has long been the bedrock industry of the United States. But with advances in modern technology, the industry has evolved drastically. The discovery of glyphosate’s benefits over 50 years ago revolutionized the agricultural industry. Glyphosate is the single most widely used herbicide for weed management in the United States and is essential to sustaining American farming in the 21st century. It’s registered for use on more than 100 crops—from asparagus, to zucchini, and everything in between. Weed scientists have described it as a “once-in-a-century herbicide,” given its effectiveness in controlling

15. Available at <https://perma.cc/RK6W-5UYG>.

nearly all weed types, its affordability, and its low toxicity to the environment and human health. Stephen O. Duke and Stephen B. Powles, *Glyphosate: a once-in-a-century herbicide*, PEST MANAGEMENT SCIENCE (Feb. 13, 2008). Glyphosate’s wide-ranging benefits cannot be overstated.

This broad coalition of Amici, who represent small and large row crop and specialty crop agricultural operations throughout the United States, support FIFRA’s preemptive effect. 7 U.S.C. § 136v(b). These Amici urge the Court to grant review, reverse the decision below, and enforce FIFRA’s “[u]niformity” provision to protect EPA’s reasoned registration and approval of glyphosate. To hold otherwise would allow states and plaintiffs to impose “requirements for labeling or packaging in addition to or different from those required under [FIFRA].” *Id.*

To remove glyphosate from the market would pose an immediate, devastating risk to America’s food supply. Farmers depend on this safe herbicide to support high-yield food and fiber production, season after season. Glyphosate is used on roughly 300 million acres of U.S. farmland, and glyphosate-tolerant seeds make up over 90 percent of U.S. corn, cotton, soybeans, sugarbeets, and canola. See EPA Memorandum, *Glyphosate: Response to Comments, Usage, and Benefits* at 2, 19 (Nov. 14, 2018);¹⁶ Laura Dodson, *Adoption of Genetically Engineered Crops in the United States – Recent Trends in GE Adoption*, U.S. DEP’T OF AGRIC., ECON. RSCH. SERV. (Jan. 4, 2025);¹⁷ Jorge Fernandez-Cornejo, et al., *The Adoption of Genetically Engineered Alfalfa, Canola, and Sugarbeets in the United States*, U.S. DEP’T OF AGRIC., ECON. RSCH.

16. Available at <https://perma.cc/G48P-N6Y4>.

17. Available at <https://perma.cc/EXD6-MGEK>.

SERV. (Nov. 2016).¹⁸ If farmers cannot use glyphosate, food yields in the next growing season will drop precipitously. The question presented is critically important for the American agricultural industry.

ARGUMENT

Federal law thoroughly regulates glyphosate. FIFRA mandates that products containing glyphosate be registered with EPA. 7 U.S.C. § 136a. EPA extensively studied glyphosate and reviewed and approved its labeling and packaging. To allow states to impose additional or different requirements on glyphosate's labeling and packaging would contradict both FIFRA and EPA. Glyphosate and industries benefitting from glyphosate are not the only ones directly affected by the Court's ruling. Without the Court's involvement, conflicts will proliferate concerning any pesticidal product whose safety EPA has reviewed and whose label it has approved.

A general discussion of America's agricultural industry will help the Court understand the importance of pesticidal tools, like glyphosate, and the need for EPA's uniform registration process. History and data illustrate how glyphosate transformed American agriculture's productivity, in turn, increasing food output for both small and large farming operations. Modern use of glyphosate highlights the potential harms in permitting false or misleading state labeling requirements that are fundamentally inconsistent with EPA's approval process. In light of this, the damaging implications of the Missouri Court of Appeals and Ninth and Eleventh Circuits'

18. Available at <https://perma.cc/Y8N3-JGUW>.

approaches cannot be ignored. The Court should grant the petition for writ of certiorari and resolve this growing split on FIFRA's preemptive effect.

I. Technological Advancements Are Vital to America's Evolving Agricultural Industry.

“The greatest industrial revolution in our history has occurred, with all its economic benefits and human costs, down on the farm, where productivity per full-time worker has increased at least tenfold since 1950.” Paul Conkin, *A Revolution Down on the Farm: The Transformation of American Agriculture Since 1929*, UNIV. PRESS OF KY. (2008). As the United States population has grown and the number of U.S. farms has steadily declined, technological developments like glyphosate have become vital to sustaining and boosting agricultural output.

A. Industrialization reshaped American agriculture.

In the United States in 1800, “one can only estimate the amount of labor devoted to agriculture. At least 90 percent of the population had some tie to agriculture, even if only part time.” *Id.*

Throughout the 19th century, preparing, tending, and yielding crops for one's family and the community was all-consuming and labor intensive. Row cropping, in particular, was hard on both the body and the land. For most row crops, like cotton, soybeans, and wheat, the work began long before, and lasted long after, planting. The farmer had to till his land to clear the residue from the year prior. Several tillage passes were often needed to remove dried and dead remains. The farmer then

fertilized his fields and planted the seed. As soon as mere inches of crop started to show, the real work of weeding began. “[T]he job simply involves chopping or hoeing the weeds out of the rows It is a menial, unskilled task which requires no aptitude, no training, and no ability to reason. It is a work of drudgery which can be performed by persons ranging from very young to quite old; it is accomplished with a simple instrument—the hoe.” *Castillo v. Givens*, 704 F.2d 181, 183–84 (5th Cir. 1983).

Technological advancements in the 1800s and early 1900s did not eliminate the amount of hand labor required to cultivate crops. Row cropping required farmers to make no less than five passes through the rows to keep the weeds and pests away. Farmers would cultivate between the rows to aerate the soil and tear up any young weeds to keep the crop safe.

Farmers zealously fought weeds in pursuit of protecting the harvest. Historians estimate that in 1800, it took 56 worker-hours to produce one acre of wheat, 86 worker-hours to produce one acre of corn, and 185 worker-hours to produce one acre of cotton. Statistical Bulletin No. 346, *Labor Used to Produce Field Crops*, (U.S.D.A. 1980).¹⁹ Accounting for the acreage of farming land in the United States, tending row crops required exponential labor and time. Although mechanized farming techniques increased productivity, the operational processes of tilling remained.

Combatting weed growth is necessary because uncontrolled weeds choke out the crop. Some weeds, like

19. Available at <https://perma.cc/WVS9-A2YC>.

Palmer amaranth, can quickly grow as tall as six feet and produce one million seeds per plant. *Palmer Amaranth*, NORTH DAKOTA STATE UNIV.²⁰ If left uncontrolled, these weeds can easily outcompete a crop for limited soil moisture, nutrients, and sunlight, before spreading millions of seeds across a field. These seeds can be viable in the soil for a decade. Palmer amaranth can reduce corn yields by as much as 91%, which is effectively a total crop failure. *Id.* Tilling and cultivating the weeds was essential to keep them from destroying an entire field for multiple growing seasons.

These tilling and cultivation practices did not, however, come without a cost to the land or environment. Intensive and repeated soil tillage posed additional risks, including “soil erosion, nutrient runoff into nearby waterways, and the release of greenhouse gases into the atmosphere,” as well as increased fuel use. Steven Wallander, *Crop & Livestock Practices – Soil Tillage and Crop Rotation*, U.S. DEP’T OF AGRIC. (Jan. 8, 2025).²¹ Most critically, increased tillage is detrimental to soil microbes because “[t]illing the soil is the equivalent of an earthquake, hurricane, tornado, and forest fire occurring simultaneously to the world of soil organisms.” *Soil Health Now and in the Future: A practical approach to improve Soil Health*, U.S. DEP’T OF AGRIC., NAT. RES. CONSERVATION SERV. (June 2012).²² These microbes are vital for nutrient cycling, decomposing crop residue, and promoting plant growth. *Understanding and*

20. Available at <https://perma.cc/C6MB-Y3N4> (last visited May 8, 2025).

21. Available at <https://perma.cc/WH7E-RHCW>.

22. Available at <https://perma.cc/3HRK-3VYF>.

Managing Soil Microbes, PENN STATE EXTENSION (April 22, 2021).²³ Tillage only diminishes soil health and harms current and future crop performance.

“Unquestionably, the notion of preventing soil erosion is not new. Plato worried about ‘the richer and softer portions of the soil having fallen away, and the mere skeletons of the land being left.’” *Latino Issues F. v. U.S. E.P.A.*, 558 F.3d 936, 950 (9th Cir. 2009) (Thomas, J., concurring) (quoting PLATO, CRITIAS (360 B.C.E.)). The Dust Bowl manifested, in stark terms, the risk of over tilling and highlighted need for soil conservation. As a result, techniques like conservation tillage or no-till developed, where the soil is only lightly tilled or avoided entirely, to reduce soil disturbance and erosion. Roger Claassen, et al., *Tillage Intensity and Conservation Cropping in the United States*, U.S. DEP’T OF AGRIC. (Sept. 2018).²⁴

Conservation tillage and no-till promotes soil health, but it also complicates weed management, as farmers can no longer rely on intensive tillage to terminate weeds. To minimize the need for tillage, herbicides began to play a larger role in the agricultural industry. *Id.* It wasn’t until the 1940s that herbicides were used as a widespread form of weed control. Despite the use of chemical and synthetic herbicides throughout the 1900s, discovery of glyphosate’s plant-killing capabilities was revolutionary. Glyphosate quickly became one of the most valuable, safe, effective herbicides available when it was brought to market in 1974. Farmers were now able to spray the weeds, minimizing the need for tillage.

23. Available at <https://perma.cc/5DEM-WJ7U>.

24. Available at <https://perma.cc/AGC4-JJ3W>.

Glyphosate's impact multiplied when plant seeds were genetically modified to tolerate glyphosate. Glyphosate-tolerant crop seeds were commercially introduced in 1996. Laura Dodson, *Adoption of Genetically Engineered Crops in the United States – Recent Trends in GE Adoption*, U.S. DEP'T OF AGRIC., ECON. RSCH. SERV. (Jan. 4, 2025).²⁵ Today, more than 90 percent of corn, cotton, soybeans, sugarbeets, and canola are produced using these glyphosate-tolerant seeds. *Id.* See also Jorge Fernandez-Cornejo, et al., *The Adoption of Genetically Engineered Alfalfa, Canola, and Sugarbeets in the United States*, U.S. DEP'T OF AGRIC., ECON. RSCH. SERV. (Nov. 2016).²⁶ These genetically modified seeds now permit farmers to spray their fields, over the top, with glyphosate to terminate weeds without posing any danger to the crops. Due to their glyphosate tolerance, the crops do not suffer from herbicide stress. This allows the plants to be more productive while remaining healthier and resistant to disease.

The ability to use herbicides to manage weeds plays a key role in reducing reliance on conventional tillage techniques. This in turn helps sequester greenhouse gasses in the soil, reduce tractor fuel use, protect soil microbes, increase precious water retention, reduce erosion, and maximize nutrient cycling. In addition to the environmental benefits, herbicides like glyphosate have increased productivity. Gone are the days of repeatedly hoeing the rows throughout the growing season.

Farmers of specialty crops, such as fruits and vegetables, are also significantly challenged by weed pressures. Glyphosate is as important to these producers—

25. Available at <https://perma.cc/EXD6-MGEK>.

26. Available at <https://perma.cc/Y8N3-JGUW>.

if not more so—than row crop farmers because often fewer pesticidal tools are registered for use on specialty crops. The smaller acreage of specialty crops creates a greater regulatory cost for registering a specialty crop pesticide use as compared to larger-acre row crops. As a result, maintaining access to glyphosate and the few other tools for which specialty crops have registered uses is critical to their farming operations. For example, glyphosate is the only product registered for blueberries in the United States to control emerged perennial weeds, some of which can cause yield losses as great as 80%. Thierry Besancon, *Fall control of perennial weeds with herbicides*, PLANT & PEST ADVISORY (Aug. 30, 2018).²⁷ Likewise, early season competition from weeds can reduce yields in bell peppers by 40% or more. W. Thomas Lanini & Michelle Le Strange, *Low-input management of weeds in vegetable fields*, CALIFORNIA AGRICULTURE (Jan. 1991).

Nor are fruit orchards immune to the difficulties of weeds. In addition to reducing fruit size and yield, weeds can stunt the growth of young trees; create refuges for other tree-damaging pests, such as insects and rodents; and can increase water irrigation needs by as much as 100,000 gallons per acre annually. *WSU Tree Fruit: Weed Management*, WASHINGTON STATE UNIV.²⁸ Further, weeds pose a hazard for farm workers by entangling ladders used to tend or harvest tree fruit. Glyphosate is an essential tool for these specialty crop farmers and others to ensure their crop is protected from weeds.

27. Available at <https://perma.cc/J3ZB-LK9M>.

28. Available at <https://perma.cc/3ATQ-JRGP> (last visited May 8, 2025).

Alternatives do not compare to this “once-in-a-century herbicide.” Stephen O. Duke and Stephen B. Powles, *Glyphosate: a once-in-a-century herbicide*, PEST MANAGEMENT SCIENCE (Feb. 13, 2008). All corners of America’s agricultural industry rely on, and benefit from, glyphosate.

B. Access to glyphosate is necessary to support a growing population.

Without technological developments, modern farmers would be unable to maintain output necessary to meet growing demand and to feed the country and the world.

Agriculture involves more than planting, growing, and harvesting crops. *Farmers Reservoir & Irrigation Co. v. McComb*, 337 U.S. 755, 760 (1949). The agricultural industry encompasses the “production of primary products from the soil, the conversion of feedstuffs into livestock products, and the marketing of products from farm to retail.” Harold F. Breimyer, *The Three Economies of Agriculture*, 44 J. OF FARM ECON. 679 (1962). Changes in field operations directly affect the availability and costs of foodstuffs, as agribusiness and productivity improvements remain central to commercial priorities. See John H. Davis & Ray A. Goldberg, *A Concept of Agribusiness* 2 (1957).

Notwithstanding the commercialization of farming, the number of farming operations has steadily declined in the last hundred years, from the peak of 6.8 million farms in the United States in 1935 to 1.88 million in 2024. Katherine Lacy, *The number of U.S. farms continues slow decline*, U.S. DEP’T OF AGRIC., ECON. RSCH. SERV. (Mar.

12, 2025).²⁹ Conversely, the United States population has almost tripled during that time from 123.2 million in 1930 to 340.1 million in 2024. *See Historical Population Change Data (1910 – 2020)*, U.S. CENSUS BUREAU (April 26, 2021);³⁰ Kristie Wilder, *New 2024 Population Estimates Show Nation’s Population Grew by About 1% to 340.1 Million Since 2023*, U.S. CENSUS BUREAU (Dec. 19, 2024).³¹

Despite this reduction in farming land, labor, and other inputs, the United States’s agricultural industry continues to satisfy the growing needs of both the United States and global populations. *See* Katherine Kassel, *Productivity growth is the major driver of U.S. agricultural growth*, U.S. DEP’T OF AGRIC., ECON. RSCH. SERV. (Jan. 12, 2024).³² Due in large part to technological developments like glyphosate and glyphosate-tolerant crops, farm output in 2021 nearly tripled that of 1948. *Id.*

Although “[w]eed control is one of the most expensive steps in crop production—directly affecting the price of food[.]”—glyphosate allows farming operations to manage growing demands without pushing significant costs on consumers. Klingman, G.C., and F.M. Ashton, *Weed Science: Principles and Practices*, JOHN WILEY & SONS, NEW YORK, NY (1975). Any restriction to glyphosate threatens to increase the costs to farmers, prices to consumers, and the availability of some foods. Without access to glyphosate, crop losses will inevitably

29. Available at <https://perma.cc/Q44S-PWFJ>.

30. Available at <https://perma.cc/54BL-YKJL>.

31. Available at <https://perma.cc/J3WK-2PCV>.

32. Available at <https://perma.cc/6T2Y-L2MC>.

occur, leading to further supply chain disruptions, food shortages, and higher consumer prices.

Put simply, America's agricultural industry could not operate without glyphosate. To remove glyphosate from the market would force farmers to either return to the conventional tilling methods or use "harsher, more toxic" chemicals. Blake Hurst, *Roundup Lawsuits Pose a Threat to My Missouri Farm*, WALL STREET JOURNAL (Sept. 13, 2024).³³ Immediate devastation will occur for agricultural operations and American food supply.

If agricultural operations face significant crop yield loss due to increased and uncontrollable weed pressures, producers may be forced to turn back to mechanical soil tillage to terminate weeds. This would lead to increased erosion, greenhouse gas emissions, and reduced soil health. Additionally, falling yields on U.S. farmland would require the conversion of environmentally sensitive lands, such as forests and prairies, to agriculture to feed our population. Alternatively, if producers wish to preserve conservation tilling or no-till techniques, they may turn to other chemicals that are harsher and more toxic to humans and vegetation. *Id.* Glyphosate's efficacy and safety cannot be replicated without significant costs.

In sum, removing glyphosate from the market would pose instant and substantial concerns for the American people, land conservation, and our environment.

33. Available at <https://perma.cc/NTC8-HFJU>.

II. FIFRA Thoroughly Regulates Pesticide Manufacturing and Its Use.

Pesticide manufacturing and use is a highly regulated industry. FIFRA requires all pesticides, including products containing glyphosate, be registered with EPA. 7 U.S.C. § 136a. This registration process is comprehensive and robust. It includes human health and ecological risk assessments that consider any available data sources, including from public comment, to ensure all registered uses do not pose “any unreasonable risk to man or the environment.” 7 U.S.C. § 136(bb).

Sound science shows glyphosate is a safe product. From this rigorous, science-based process, EPA has concluded on multiple occasions over the past 50 years that glyphosate does not pose a cancer risk. Numerous international regulatory authorities and health organizations have agreed, including assessments by the European Union, Canada, Australia, Germany, and New Zealand. *See Nat’l Ass’n of Wheat Growers v. Bonta*, 85 F.4th 1263, 1270 (9th Cir. 2023).

The approach of the Missouri Court of Appeals and Ninth and Eleventh Circuits is wrong. FIFRA preempts state law requirements that impose “any requirements for labeling or packaging in addition to or different from those required under this subchapter.” 7 U.S.C. §136v(b). Congress clarified in its report language for FIFRA that it intended that “state authority to change Federal labeling and packaging is completely preempted[.]” H.R. Rep. No. 92–511, at 1 (1971).³⁴

34. Available at <https://perma.cc/8T4Y-K7FQ>.

FIFRA prevents any pesticide from manufacturer misbranding, which includes “its labeling bear[ing] any statement . . . which is false or misleading in any particular.” 7 U.S.C. § 136(q)(1)(a). A state requirement to include a cancer warning on a glyphosate label would not only direct the manufacturer to label the product differently from EPA’s findings, but also to make a false and misleading statement on the label given EPA’s repeated findings that glyphosate is noncarcinogenic. Such a label is the result of Plaintiff’s failure-to-warn claim in Missouri.

FIFRA sought to ensure a uniform system of registration and labeling. Allowing state law to overwrite EPA’s registration would effectively impose “50 different labeling regimes” and “create significant inefficiencies for manufactures.” *Bates v. Dow Agrosciences LLC*, 544 U.S. 431, 452 (2005). This is not what Congress intended.

The Amici are deeply concerned with the resulting impact of the Missouri Court of Appeals and Ninth and Eleventh Circuits’ interpretation of FIFRA. A patchwork of state labeling requirements could lead to contradictory or mutually exclusive statements on pesticide packaging. *See id.* Further, the agricultural industry in the United States is an interstate business with its products, and sometimes the farmland itself, crossing state lines. Many of Amici’s constituents farm in two, sometimes three, states. It would be logistically impossible to conform to each state’s individualized labeling regime and would create risks if the incorrect pesticide package labeled for one state ended up in the wrong state. *See id.*

The greatest risk is if these legal challenges require manufacturers to stop selling farmers glyphosate or other necessary pesticidal products. Currently, manufacturers face a no-win situation of having to disregard a state pesticide labeling requirement or place a false and misleading statement on a package, contradicting EPA findings and contravening FIFRA. This uncertainty could cause manufacturers to exit the market, which will greatly harm the farmers they serve.

The consequences of this Court's ruling will affect not only farmers, but also manufacturers and consumers. To require agricultural operations and manufacturers to account for individualized state warnings—that are inconsistent with EPA's findings—will create unnecessary confusion and substantial harm to farmers, manufacturers, and the American public.

CONCLUSION

For the foregoing reasons, the Court should grant the petition for writ of certiorari.

Respectfully submitted,

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