

No. 24-1068

IN THE
Supreme Court of the United States

MONSANTO COMPANY,
Petitioner,

v.

JOHN L. DURNELL,
Respondent.

**On Writ of Certiorari to the
Missouri Court of Appeals**

**BRIEF OF *AMICI CURIAE* NATIONAL
AGRICULTURAL ASSOCIATIONS
IN SUPPORT OF PETITIONER**

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INTERESTS OF *AMICI CURIAE*¹

Amici Curiae are national trade associations that represent millions of farmers, ranchers, and their families throughout the U.S.

The American Farm Bureau Federation is the nation's largest general farm organization, representing farmers and ranches in all 50 states and Puerto Rico. Its members rely on continued access to glyphosate for their agricultural operations.

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.

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 U.S. Sugarbeet growers are completely dependent on glyphosate and could not continue to effectively farm sugarbeets without this essential crop-protection tool.

The Cherry Marketing Institute researches and promotes United States tart cherry growers and

¹ No part of this brief was authored in whole or in part by counsel for any party, and no person or entity has made any monetary contribution to the preparation or submission of this brief other than amici curiae and their counsel.

Michigan sweet cherry growers. Its members rely on glyphosate for best management practices.

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.

The International Fresh Produce Association is the largest association serving over 3,000 member companies that rely on glyphosate for its weed control and conservation measures, such as reducing greenhouse gas emissions and sequestering carbon in the soil.

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.

The National Corn Growers Association represents nearly 40,000 dues-paying corn growers and the interests of more than 500,000 growers who contribute through corn checkoff programs in their states. Glyphosate is the cornerstone for many corn growers' comprehensive sustainable weed-management practices.

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.

National Sorghum Producers represents 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.

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 crops from weeds and the other harmful effects.

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 is of economic importance to a wide variety of specialty fruit, nut, and vegetable crops.”

This case has serious implications for *Amici*'s members who rely on pesticide products, including glyphosate, to supply the growing global population with food, feed, and fiber. For over 50 years, glyphosate has been a critical crop protection tool for the agricultural community due to its effective control against various weed and grass species that cause billions of dollars of crop damage in the U.S. every year. By finding that the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”) does not preempt state failure-to-warn claims, the Missouri Court of Appeals’ decision below, and the federal court of appeals’ decision on which it relied, threaten the availability of not only glyphosate, but many other critical pesticides. *See* Pet.App-12-13. *Amici* submit this brief to offer the Court their unique perspective on glyphosate’s

importance to U.S. agriculture and the disruption that would result if plaintiff-driven policymaking continues to displace the authority of the U.S. Environmental Protection Agency (“EPA” or “Agency”) as the principal regulator of pesticides.

INTRODUCTION AND SUMMARY OF ARGUMENT

American farmers face many hurdles every growing season, including inclement weather, pests, unstable global markets, evolving trade policies, and persistent weeds. Of all these, growers rate weed control as their primary crop production challenge. Am. Sugarbeet Growers Ass’n, Comments on *Proposed Interim Registration Review Decision* (“ASGA Comments”) at 1, EPA-HQ-OPP-20009-0361-12387 (Aug. 28, 2019), <https://perma.cc/DN2H-NVS4>. Weeds compete with crops for light, nutrients, and water, particularly in the weeks following crop emergence. Univ. of Cal. Agric. & Nat. Res., Statewide Integrated Pest Management Program, Corn Pest Management Guidelines, *Integrated Weed Management* (July 2009), <https://perma.cc/LPE5-MS3H>. Experts estimate that, if left uncontrolled, weeds would cause tens of billions of dollars in economic losses to U.S. farmers annually, reducing yields for sugar beet by 72%, soybean by 52%, and corn by 50%. Weed Sci. Soc’y of Am., *Weed Impacts on Crop Yields*, <https://perma.cc/S78W-GLM8> (last visited Feb. 24, 2026). Effective weed control is therefore essential to meeting growing global demand for food and agricultural products.

Glyphosate has proven to be one of the most revolutionary chemistries for weed control. Since it was

first registered in 1974, glyphosate has been approved for use on more than 100 crops in the U.S.—including corn, soybean, cotton, canola, and sugar beet. EPA, *EPA Finalizes Glyphosate Mitigation* (Jan. 30, 2020), <https://perma.cc/KY3R-ZECJ>. Weed scientists have described it as a “once-in-a-century herbicide” given its effectiveness, affordability, and low toxicity to the environment and human health. Stephen O. Duke & Stephen B. Powles, *Glyphosate: A Once-In-A-Century Herbicide*, *Pest Mgmt. Sci.* (2008), <https://perma.cc/LQY6-TGSE>.

Together with glyphosate-resistant crops, glyphosate revolutionized farming by providing a highly effective, broad-spectrum, and low-cost weed control solution. Glyphosate enabled growers to apply the herbicide “over-the-top” on genetically modified, glyphosate-resistant soybean, corn, cotton, and other crops during the growing season (*i.e.*, post-emergence) to control weeds without harming the crop. Glyphosate is also widely used on non-glyphosate-resistant crops owing to its broad-spectrum efficacy against numerous weed and grass species, including for total vegetation control between crop rows and along field edges, and pre-plant burndown of existing vegetation before planting new seasonal crops. EPA, *Glyphosate: Response to Comments, Usage, and Benefits* (“EPA RTC”) at 19-20, EPA-HQ-OPP-2009-0361-2342 (Apr. 18, 2019), <https://perma.cc/K7NP-6DN4>. Glyphosate has also yielded significant environmental benefits by enabling conservation tillage practices that reduce soil erosion, fuel consumption, and greenhouse gas emissions, while supporting expanded adoption of cover cropping. Its widespread use across both glyphosate-resistant and conventional cropping

systems makes glyphosate a vital tool for the stability and resilience of the global food supply.

The benefits glyphosate provides to American farmers are now at risk. Bayer, the sole domestic manufacturer of glyphosate, has warned that mounting litigation costs threaten its continued participation in the U.S. market. If Bayer halts sales of glyphosate in the U.S., farmers would be left dependent on foreign imports—primarily from China and India—further exposing the domestic food supply to price volatility and supply disruptions. The federal government recently recognized this risk, designating glyphosate as critical to national defense under the Defense Production Act. Exec. Order No. 14387: *Promoting the National Defense by Ensuring an Adequate Supply of Elemental Phosphorus and Glyphosate-Based Herbicides* (Feb. 18, 2026). Farmers who lose access to affordable glyphosate would face sharply higher weed-control costs, operational disruptions, and reduced yields, with the heaviest burdens falling on smaller operations.

At the heart of this case lies a conflict between state tort law and federal pesticide regulation. FIFRA entrusts EPA with the authority to evaluate pesticide safety and determine what warnings product labels must carry. But when juries impose liability and enormous damage awards based on the failure to include warnings that go beyond—and even conflict with—what EPA has required on pesticide labels, they effectively override the Agency’s statutory authority and expert scientific judgments. This dynamic is inconsistent with FIFRA and threatens to destabilize the regulatory framework on which growers rely for long-term planning, and for the availability of affordable

and effective crop protection tools. Manufacturers facing open-ended litigation exposure may withdraw widely used pesticide products from the U.S. market even where EPA has found no unreasonable risk, and they may scale back investment and innovation in new chemistries. The resulting impacts on agriculture and the food supply would be devastating.

This Court should reverse the decision below and reaffirm that FIFRA preempts state failure-to-warn claims.

ARGUMENT

I. GLYPHOSATE'S NUMEROUS BENEFITS DEMONSTRATE ITS IMPORTANCE TO GROWERS AND U.S. AGRICULTURE.

Since EPA first registered it in 1974, glyphosate has become the most widely used and studied synthetic herbicide in the world. *See* U.S. Dep't of Health and Hum. Servs, *Glyphosate & Glyphosate Formulations*, Nat'l Toxicology Program, <https://perma.cc/N5ED-M78E> (last updated Apr. 23, 2025). According to the most recent agricultural chemical use surveys from the U.S. Department of Agriculture ("USDA"), 93% of soybean acres were treated with glyphosate in 2023, USDA, NASS Highlights, *2023 Agricultural Chemical Use Survey, Soybeans* (May 2024), <https://perma.cc/92MX-KNKH>, and 83% of cotton and 41% of corn acres were treated with glyphosate in 2021, USDA, NASS Highlights, *2021 Agricultural Chemical Use Survey, Cotton* (May 2022), <https://perma.cc/78JP-86Y9>; USDA, NASS Highlights, *2021 Agricultural Chemical Use Survey, Corn* (May 2022), <https://perma.cc/2PWF-98AZ>. After

glyphosate-resistant sugar beets became commercially available in 2007, growers rapidly adopted the weed control system and within two years, 95% of sugar beets produced in the U.S. were from glyphosate-resistant seed varieties. Koen Dillen et al., *Bred for Europe but Grown in America: The Case of GM Sugar Beet*, 30(2) *New Biotechnology* 131 (2013), <https://perma.cc/3H4K-Y6ED>. Glyphosate's availability has produced significant benefits for farmers, consumers, and the environment, and its ubiquity reflects the broad recognition that it is effective, economical, and environmentally benign compared to available alternatives.

Glyphosate's widespread adoption is attributable to several key advantages. It "has the one [sic] of the largest pest spectrums of all herbicides and is registered on more use sites than any other herbicide." EPA RTC, *supra*, at 6. It is also the leading herbicide used to control invasive weed species in the U.S., including in agricultural and wildland settings. *Id.* at 25. Glyphosate is particularly important to combat invasive weeds in aquatic systems because, unlike alternative systemic aquatic herbicides, it does not have irrigation water use restrictions. *Id.* at 24. Glyphosate also serves an important role in protecting various fruits and vegetables, often referred to as "specialty crops." It is the leading herbicide in orchard floor management because of its "broad spectrum, versatility of use, and cost." *Id.* at 20. In terms of total area treated, it is the leading herbicide in tree nuts, including almonds and citrus. *Id.* at 20-21. For many specialty crops that rely on glyphosate for weed control, "there are essentially no other [] registered" products available. Daniel Kunkel, Associate Director, IR-4 Project Headquarters, Rutgers Univ., Comments on

Proposed Interim Registration Review Decision, EPA-HQ-OPP-2009-0361-2371 (May 10, 2019). <https://perma.cc/U5DR-WL7T>.

In addition to its broad efficacy, glyphosate is invaluable to U.S. growers because of its cost-effectiveness, with per-acre application costs below other alternatives. EPA RTC, *supra*, at 18. Most alternative herbicides have a narrower control spectrum or lower efficacy and thus require higher application rates or multiple active ingredients to achieve comparable weed control, resulting in significantly greater per-acre costs. *See id.* Alternative herbicides also often have more stringent use restrictions that limit the timing and method of their application. *Id.* Thus, glyphosate provides operational efficiency benefits to growers by enabling flexible application timing and eliminating the narrow, early-season or pre-emergence application windows that many alternative herbicides require, which in turn reduces the risk of costly mistimed applications and the need for repeated field passes.

Glyphosate also delivers significant environmental benefits, most notably by enabling farmers to adopt conservation tillage practices and plant cover crops, both of which are central to conservation and regenerative agriculture. By providing effective, broad-spectrum weed control, glyphosate has facilitated the expansion of conservation tillage (*i.e.*, reduced or no tillage) across the U.S. Edward D. Perry et al., *Testing for Complementarity: Glyphosate Tolerant Soybeans and Conservation Tillage*, 98 *Am. J. Agric. Econ.* 765 (2016), <https://perma.cc/583Q-7JMP>. Before glyphosate, growers relied on conventional tillage—including plowing—to control weeds and

prepare fields for seeding. Conventional tillage has significant adverse effects on the environment and agriculture because it accelerates soil erosion from wind and water, releases significant amounts of stored carbon, and reduces soil moisture and overall soil health. ASGA Comments, *supra*, at 3. Conventional tillage practices also require farmers to make multiple passes over fields with heavy machinery, which not only result in significant fuel and labor costs, but also cause soil compaction, further degrading soil conditions. *See id.*

By contrast, conservation tillage minimizes environmental impacts and operational costs, while increasing crop yields. *See id.*; Jillian M. Deines et al., *Satellites Reveal a Small Positive Yield Effect from Conservation Tillage Across the US Corn Belt*, 14 Env't Res. Letters (2019), <https://perma.cc/UP3B-7HV4>. In the U.S. alone, conservation tillage attributable to glyphosate has resulted in a net annual reduction of nearly 10.5 billion kilograms of carbon dioxide equivalent emissions compared to conventional plowing. Graham Brookes, *Glyphosate Use in Agricultural Production: Its Contribution to Global Carbon Dioxide Emissions*, 17(1) GM Crops & Food 2594217 tbls. 10 & 11 (2026), <https://perma.cc/Q423-6WTE>.

Glyphosate is also essential to modern, large-scale cover cropping. In many no-till systems, farmers plant cover crops (*i.e.*, legumes, grasses, or brassicas) during fallow periods to improve soil health, manage erosion, suppress weeds, and enhance nutrient cycling. Glyphosate is a particularly effective herbicide for terminating grass cover crops and is often recommended for tank-mixing with other active ingredients for mixed-species and legume cover crops. Sarah Hill,

Glyphosate Still Most Effective Herbicide for Cover Crop Termination, Cover Crop Strategies (Oct. 5, 2021), <https://perma.cc/5GXJ-MFYG>. Its low residual soil activity allows growers to plant cash crops immediately after application, further supporting its widespread use as a cover crop burn-down tool. EPA RTC, *supra*, at 28. Indeed, the use of glyphosate nearly doubled the acreage of cover crops in South Dakota from 2012 to 2017, S.D. Corn Growers Ass’n, Comments on *Proposed Interim Registration Review Decision* at 1-2, EPA-HQ-OPP-2009-0361-14392 (Sep. 3, 2019), <https://perma.cc/2B42-5CCH>, and resulted in a “more than 20-fold increase” in the acres planted to cover crops in Iowa from 2011 to 2019, Iowa Farm Bureau Fed’n, Comments on *Proposed Interim Registration Review Decision*, EPA-HQ-OPP-2009-0361-4759 (Aug. 19, 2019), <https://perma.cc/674G-EJVU>.

Glyphosate’s environmental benefits extend beyond its facilitation of the aforementioned conservation practices; it also has a safer environmental profile compared to available alternatives. Glyphosate has long been considered a relatively safe compound in the environment because it is nonvolatile and stable in the air and is virtually biologically inactive in soil where it is rapidly inactivated by adsorption and degradation. See USDA, Comments on *Preliminary Risk Assessments for the Registration Review of Glyphosate* at 6, EPA-HQ-OPP-2009-0361-1618 (Apr. 25, 2018), <https://perma.cc/BB4K-4FM4>. In addition to its relatively short half-life, its strong binding to soil components reduces its potential for leaching or off-target impacts. *Id.*; see also EPA RTC, *supra*, at 25.

EPA is among numerous regulatory bodies worldwide that have determined that glyphosate, when used according to label requirements, is safe for humans. Glyphosate has been approved for use in over 130 countries, JA.41, and although the International Agency for Research on Cancer has classified glyphosate as “probably carcinogenic,” the European Union, Canada, New Zealand, Japan, and South Korea have all joined EPA in concluding that glyphosate is not likely to be carcinogenic to humans. *Nat’l Ass’n of Wheat Growers v. Bonta*, 85 F.4th 1263, 1270 (9th Cir. 2023). Moreover, glyphosate has been determined to have lower acute and chronic toxicity to mammals than the herbicides most commonly used in corn, soybean, and cotton. Andrew R. Kniss, *Long-term Trends in the Intensity and Relative Toxicity of Herbicide Use*, 8 Nature Comm’ns 28393866 (2017), <https://perma.cc/SYR5-SMGJ>. Accordingly, substituting alternative herbicides for glyphosate would not only diminish these environmental and safety advantages, but also increase health risks for pesticide applicators and the communities in which they operate.

Relatedly, glyphosate has enabled growers to use fewer and less toxic herbicides by simplifying their weed control strategies. Before glyphosate, growers used a combination of numerous herbicides selective to certain weed species. ASGA Comments, *supra*, at 1. These herbicide cocktails not only had greater environmental impacts but were also complicated and expensive for growers to implement. See Am. Crystal Sugar Co., Comments on *Draft Risk Assessments for the Registration Review of Glyphosate* at 2, EPA-HQ-OPP-2009-0361-2164 (Apr. 23, 2018), <https://perma.cc/Z2ED-SP39>. For example, some

growers would combat weeds by using a combination of up to 13 herbicides, all requiring complex application methods and timing. ASGA Comments, *supra*, at 1. With the introduction of glyphosate-resistant crops, glyphosate could be used alongside a smaller number of complementary herbicides. This resulted in aggregate reductions in both the volume of herbicides applied and the associated environmental impacts compared to pre-glyphosate herbicide programs.

In short, glyphosate has been indispensable to U.S. crop production because its broad-spectrum weed control reduces yield losses and improves operational efficiency across major row crops. At the same time, its compatibility with conservation tillage enables growers to conduct fewer field passes, thereby reducing fuel and water use, soil disturbance, erosion, and greenhouse-gas emissions across millions of acres. EPA RTC, *supra*, at 6–7. These agronomic and environmental benefits have strengthened farm productivity and resource stewardship while reducing inputs per acre.

II. LOSS OF DOMESTIC GLYPHOSATE PRODUCTION WOULD SEVERELY IMPAIR U.S. AGRICULTURE.

In recent years, U.S. farmers have faced significant price and supply volatility related to pesticide imports, driven primarily by increased global demand, trade policy, and logistical challenges (*e.g.*, congestion at ports and rail lines, labor shortages, etc.). These disruptions hinder growers' ability to produce a reliable supply of food and agricultural products and would be exacerbated if Bayer were forced to cease

selling its glyphosate products in the U.S. due to the mounting cost of tort litigation.

Glyphosate's supply-chain vulnerabilities are compounded by the fragility of domestic production. Bayer is the only domestic manufacturer of glyphosate, Bayer, *Open Letter on Glyphosate: American Agriculture at Risk*, <https://perma.cc/MD8M-BDVN>, and produces approximately 40% of the world's glyphosate, Patrick Thomas, *Farmers' Favorite Weedkiller Nears Its End, Bayer Warns*, Wall St. J. (Apr. 14, 2025), <https://perma.cc/PF82-P8UT>. Yet it has warned that the rising costs of tort litigation could soon force the company to stop selling Roundup in the U.S. altogether. *Id.* Indeed, Bayer has already shrunk its portfolio of U.S. glyphosate products to mitigate the mounting cost of tort litigation. In 2023, Bayer completed its phase-out of glyphosate from all U.S. consumer and residential Roundup products. Bayer, *Managing the Roundup™ Litigation, New Lawn & Garden (L&G) Formulations for the U.S.*, <https://perma.cc/R2JE-DT6E> (last visited Feb. 25, 2026). If Bayer were to also cease selling glyphosate for agricultural use in the U.S., growers would become dependent on imported glyphosate, primarily from China and India. This would in turn expose U.S. farmers and the agricultural industry to greater supply-chain disruptions and quality control issues. Complete reliance on imported glyphosate-based products would lead to higher, more volatile prices and product shortages, which in turn would reduce crop yield, increase costs for farmers and consumers, and cause adverse impacts to the environment.

The current Administration has recognized that any "[f]uture reduction or the cessation of domestic

production of . . . glyphosate-based herbicides would gravely threaten American national security by . . . having a debilitating impact on domestic agricultural capabilities.” Exec. Order No. 14387, § 1. Accordingly, on February 18, 2026, President Trump invoked the Defense Product Action to designate glyphosate-based herbicides as critical to national defense and ordered the Secretary of Agriculture to secure domestic supplies. *Id.* The Executive Order states that “[e]nsuring an adequate supply of . . . glyphosate-based herbicides is [] crucial to the national security and defense, including food-supply security,” reinforcing that the continued domestic availability of glyphosate is a matter of paramount national importance. *Id.*

Against this backdrop, the consequences of losing affordable and reliable access to glyphosate are stark: growers would be forced to rely on alternative herbicides, return to tillage agriculture, or adopt some combination of the two. EPA RTC, *supra*, at 18. Under any of these scenarios, farmers would incur increased production and operational costs. Notably, growers must determine which seed traits to plant years in advance based on long-term considerations such as seed purchasing contracts, crop rotation strategies, and the expected availability of crop protection technologies. Erratic prices and an unstable supply of glyphosate herbicides would severely disrupt growers’ pest management plans, particularly because growers cannot pivot mid-season or retroactively alter planting decisions to accommodate a different seed variety or cropping system.

As this Administration has aptly recognized, “[t]here is no direct one-for-one chemical alternative

to glyphosate-based herbicides.” Exec. Order No. 14387, § 1. Available glyphosate alternatives fall short in one or more critical respects: they offer less effective and narrower-spectrum weed control, impose more complex application requirements, or carry significantly higher costs—and in many cases, all of the above. EPA RTC, *supra*, at 18; *see also* Joe Neal & Andrew Senesac, *Are There Alternatives to Glyphosate for Weed Control in Landscapes?*, NC State Extension Publications, <https://perma.cc/P8C8-TFV4> (last updated Feb. 13, 2024).

Despite price fluctuations in recent years, glyphosate remains one of the most affordable broad-spectrum herbicides. If glyphosate were to become unavailable, growers would incur significantly higher operational costs due to the higher cost of alternative herbicides, along with the need to apply multiple herbicide active ingredients or use higher application rates to achieve comparable control. *See e.g.*, Malheur Cnty. Onion Growers Ass’n, Comments on *Draft Risk Assessments for the Registration Review of Glyphosate*, EPA-HQ-OPP-2009-0361-2163 (Apr. 30, 2018), <https://perma.cc/K9SQ-53HG>; Almond All. of Cal., Comments on *Glyphosate Proposed Interim Registration Review Decision* at 1, EPA-HQ-OPP-2009-0361-14399 (Sep. 3, 2019), <https://perma.cc/VZH9-5FYE>.

For example, extension weed scientists at North Carolina State University estimated that growers in the state would experience a cost increase of 62% for burndown programs, 73% for corn, 24% for cotton, and 38% for soybeans. Charlie Cahoon, *Potential Short-Term Economic Impact of Losing Glyphosate in North Carolina*, NC State Extension (May 7, 2025), <https://perma.cc/2KL9-DMUE>. In most scenarios,

growers would need to adopt two to four additional active ingredients for pre-emergence and post-emergence application. *Id.* Corn growers would face the largest cost increase due to limited alternatives for grass control and the resulting need to adopt a pre-emergence program with three or four active ingredients. *Id.* Another study predicting the impact of a 10% glyphosate tax determined that “[g]iven current availabilities in the corn-herbicide market, corn producers will be restricted to more expensive alternatives, and the increased production cost [will be] transmitted in part to consumers, resulting in a small but economically significant drop in corn quantity at the market equilibrium.” Ziwei Ye et al., *Environmental and Economic Concerns Surrounding Restrictions on Glyphosate Use in Corn*, Proc. Nat’l Acad. Sci. U.S.A. 118(18) e2017470118, at 6 (2021), <https://perma.cc/A2A4-AZ8M>.

Growers seeking to use alternative herbicides will encounter steep learning curves because alternative herbicides have narrower use windows and more complex application requirements that demand strong knowledge of the specific weed species present in their fields. For example, when using acetolactate synthase (ALS) inhibitor herbicides on corn, growers must apply the herbicide during the appropriate growth stages or risk significant crop injury. Gil Gullickson, *How to Cope with Herbicide Shortages*, Successful Farming (Feb. 25, 2022), <https://perma.cc/2Y3W-E5TV>. Other alternatives are primarily contact herbicides that lack glyphosate’s broad-spectrum, systemic root-kill effect and thus often require tank mixing for comparable levels of weed control. Neal & Senesac, *supra*. Tank-mixing is often complex, requiring growers to adhere to time-sensitive and

prescribed orders of addition to prevent negative reactions, separation, or foaming. Fred Whitford et al., *Avoid Tank Mixing Errors*, Purdue Univ., Coll. of Agric. (Sep. 2018), <https://perma.cc/2LEN-Y2FL>. The learning curve associated with adopting substitute herbicides translates directly into increased weed scouting time and greater risk of application errors.

The most significant operational consequence of relying on glyphosate alternatives is inadequate weed control. Because alternative herbicides target a narrower spectrum of weed and grass species, they require more complex, targeted management strategies such as direct application to achieve glyphosate's efficacy. Until new weed control methods are perfected, growers—particularly those operating glyphosate-resistant cropping systems—will face increased weed competition and reduced crop yields, threatening not only their livelihoods, but also their ability to provide a reliable and affordable supply of food and agricultural products.

In addition to—or as an alternative to—using different herbicide chemistries, the loss of reliable access to glyphosate would compel growers to adopt tillage-intensive agricultural practices that invariably increase production costs. A study from the University of Illinois at Urbana-Champaign shows that the cost of tillage-intensive practices in 2025 ranged from \$19.50 to \$54.40 for a single tillage pass on one acre, including overhead machinery, labor, and fuel costs. Gary Schnitkey & Laura Gentry, *The Hidden Costs of Extra Tillage Passes. Is it worth it?*, FARMDOC 4 (Oct. 17, 2025), <https://perma.cc/U82G-YYZL>. This represents an approximate 55% increase in the cost of tillage agriculture since 2019 and is driven in large

part by rising agricultural machinery costs. *Id.*; see also Gary Schnitkey et al., *Large Increase in Machinery Costs Suggests Need to Reconsider Machinery Purchase Decisions*, FARMDOC DAILY (15):189 (Oct. 14, 2025), <https://perma.cc/47HB-DG57>.

Importantly, conventional tillage requires growers to make several passes over the field to effectively control weeds, thereby rendering this method of weed control economically inefficient or, in many cases, cost prohibitive. In a study modeling the impacts of discontinuing glyphosate and substituting cultural control methods such as tillage in winter wheat production, the results showed that weed-control benefits “rarely translated into increased farm profits due to the associated higher costs.” Helen Metcalfe et al., *Trade-Offs Constrain the Success of Glyphosate-Free Farming*, 14 Sci. Rep. 8001, at 9 (Apr. 5, 2024), <https://perma.cc/DG2S-Z5KE>. Moreover, the study’s authors concluded that concerns over tillage’s adverse impacts on soil health would likely prevent farmers from adopting tillage as a primary method of weed control. *Id.*

There is no need to speculate about the severe consequences that would result from a complete halt in domestic glyphosate production. During the 2021-2022 growing season, pandemic-related supply chain issues caused a shortage of several herbicides, including glyphosate, which in turn caused prices to spike by nearly four-fold. Gabe Allen, *Herbicide Shortage Hamstrings American Industrial Agriculture*, Discover Magazine (Mar. 29, 2022), <https://perma.cc/ETP2-TUBG>. The glyphosate shortage was exacerbated when Bayer’s manufacturing plant in Luling, LA—the largest glyphosate

manufacturing facility in the U.S.—ceased operations for over a month due to Hurricane Ida. *Id.* Like other significant supply chain issues, these disruptions had ripple effects for several years. A university extension weed specialist correctly predicted that the next couple of years would see “a lot more weedy fields” and cautioned farmers to prepare to “accept about 70% weed control instead of 90% control for some weeds,” along with consequential reduction in crop yield. Chris Torres, *Glyphosate Shortage Looms Large*, FarmProgress (Nov. 23, 2021), <https://perma.cc/DZM5-E94K>.

The downstream effects of these shortages on farm operations were immediate and severe. Growers were forced to convert more fields to crops that cost less to grow or allow for more conventional weed control methods—but are not nearly as profitable—or scale back planted acreage. *Id.* For example, a Tennessee farmer was forced to abandon his plans to plant soybeans on 100 acres after waiting months to receive his herbicide order. Tom Polansek, *Focus: “Off the Charts” Chemical Shortages Hit U.S. Farms*, Reuters (June 27, 2022), <https://perma.cc/827G-A672>. When an Indiana farmer did not receive his usual 250-gallon containers, he spent seven hours emptying 2.5 gallons into a larger vat to spray his crops. *Id.* In some cases, growers reduced their application of glyphosate, *id.*, which experts have warned can lead to an increase in herbicide-resistant weeds in subsequent years. *Herbicide Resistance Basics*, Cornell Coll. of Agric. & Life Scis, <https://perma.cc/HE4P-CTT8> (last visited Feb. 25, 2026).

More recently, after the imposition of tariffs against Chinese-imported goods in early 2025,

growers in California’s Central Valley reported tight supplies and delivery delays in generic glyphosate formulations. *The Hidden Cost of Tariffs: How Herbicide Inflation Is Hitting California Fields*, AGC News (May 9, 2025), <https://perma.cc/LZ2Z-QMDJ>. This volatility will only worsen in the coming years if U.S. agriculture becomes more reliant on imported glyphosate products that are vulnerable to global supply-chain disruptions. The Farmers Business Network anticipated that in 2026, glyphosate prices are likely to increase while supplies will decrease due in large part to U.S.-China trade relations and global market turbulence. *2026 Crop Protection Market Outlook*, Farmers Bus. Network, <https://perma.cc/FGM4-7NNX> (last visited Feb. 24, 2026).

Critically, these supply-chain and cost pressures do not affect all farm operations equally. The loss of reliable and affordable access to glyphosate would impose disproportionate economic burdens on small and mid-size operations. Unlike larger-scale agricultural operations, which benefit from economies of scale, diversified revenue streams, and greater access to capital, small and mid-size farms typically operate on narrow profit margins. For these operations, crop protection costs already represent a substantial share of operating expenses—ranging from approximately 11 to 24 percent depending on the crop. USDA., Econ. Rsch. Serv., *Commodity Costs and Returns: Cost-of-Production Forecasts for Major U.S. Field Crops, 2025F-2026F* (Dec. 18, 2025), <https://perma.cc/9U7P-46PH>. Alternative herbicide programs would be more costly, *supra* at 16, and a transition to mechanical tillage would add expenses in the form of increased fuel consumption, additional labor, and capital investment in equipment that many smaller operations do not

currently own or lease, *supra* at 18. The cumulative effect of these dynamics is that the financial burden of glyphosate's removal would fall most heavily on smaller operations—the segment of the agricultural sector least equipped to absorb it.

III. ALLOWING PLAINTIFF-DRIVEN POLICY-MAKING TO OVERRIDE EPA'S PESTICIDE REGISTRATION PROCESS UNDER FIFRA WILL HAVE CASCADING CONSEQUENCES FOR U.S. AGRICULTURE.

A. Unfettered Tort Litigation Will Effectively Displace EPA's Science-backed FIFRA Registration Process.

Under FIFRA, EPA undertakes a comprehensive regulatory process to thoroughly assess the safety, efficacy, risks, and benefits of registering a pesticide. That process results in product-specific labels that provide both the floor and ceiling as to what warnings can be made to consumers. Accordingly, state-law failure-to-warn actions challenging the sufficiency of pesticide labels are inconsistent with FIFRA and undermine EPA's statutorily prescribed authority as the expert federal agency responsible for assessing and regulating pesticide products.

EPA possesses the scientific and technical expertise necessary to evaluate human health hazards and to develop pesticide label warnings that are anchored in sound science and protective of public health. *Ad hoc* determinations in product liability trials, however, allow lay judges and juries to second-guess the safety and carcinogenic determinations that EPA has made, often on behalf of a single plaintiff or group of

plaintiffs. Tort litigation effectively substitutes jury verdicts that are shaped by litigation dynamics for EPA's science-based risk assessments informed by decades of toxicological data. This undermines EPA's more than 40 years of experience in assessing carcinogenicity pursuant to the Agency's standardized scientific guidelines.

State tort litigation, which can result in staggering damages awards, should not displace EPA's regulatory process for classifying a pesticide's carcinogenic potential and EPA's determination that a particular pesticide is safe, effective, and beneficial. Pursuant to EPA's 2005 Guidelines for Carcinogen Risk Assessment, the Agency uses a weight-of-evidence approach combining human, animal, and mechanistic data to classify cancer risks and guide regulatory actions. See EPA, *Guidelines for Carcinogen Risk Assessment* (Mar. 2005), <https://perma.cc/86MQMG3W>; EPA, *Evaluating Pesticides for Carcinogenic Potential*, <https://perma.cc/X3CS-RXCD> (last updated Oct. 16, 2025). By contrast, state-court tort verdicts are premised on a preponderance of the evidence standard and a lay jury's assessment of disputed toxicological and epidemiological data without any deference to EPA's technical expertise. Permitting state tort judgments to operate as *de facto* mandatory warnings—warnings that contradict EPA's scientific assessments—effectively overrules the scientific processes and determinations that are the linchpin of a FIFRA registration.

State-law failure-to-warn suits have already eroded the representations made by Monsanto and confirmed by EPA regarding the safety profile of glyphosate, as well as EPA's requirements for labeling, all of which farmers rely on to make long-term

crop protection and weed management decisions. A study published in the *Journal of Agricultural and Applied Economics* found that glyphosate usage in California declined substantially in the wake of glyphosate class-action lawsuits in the state, with estimated treatment effects consistently negative and ranging from 65% to 74% reduction. Macy Rosselle et al., *The Effects of Class-Action Lawsuits on California Glyphosate Usage*, 57 J. Agric. & Applied Econ. 466, 475 (2025), <https://perma.cc/PH5J-PSYR>. The study concluded that “decisions in the courtroom regarding glyphosate users’ health risks” are already influencing “pesticide use decisions in the real world[,]” and that if the precedent set in California courts is accepted in other jurisdictions, there will be a reduction in glyphosate usage on a national level. *Id.* This behavioral evidence is significant because it demonstrates that the policy consequences of tort-driven scrutiny of EPA determinations are not hypothetical—they are already affecting farm-level weed management decisions that have agronomic consequences.

B. State-Law Failure-to-Warn Litigation Will Continue Expanding to Other Pesticides and Threaten the Availability of Crop Protection Tools on which U.S. Agriculture Depends.

The disruptive effects of tort litigation on the regulatory regime governing pesticides are not limited to glyphosate. Rather, any registered pesticide that EPA, exercising its expert judgment, has determined does not require a cancer or adverse-health warning could become the next target of failure-to-warn lawsuits, with the potential for massive damages awards.

At this time, there are thousands of tort suits related to the registration and distribution of the herbicide paraquat. Consumer Notice, *Paraquat Lawsuits*, <https://perma.cc/DP8E-XTEB> (last modified Feb. 5, 2026). Despite EPA's confirmation that paraquat is a safe and effective tool for weed control, one manufacturer has paid over \$187 million to settle a multi-plaintiff lawsuit and is still facing thousands of pending cases across the country. Jef Feeley, *Popular Weed Killer Could Cause Billions in Claims*, FarmProgress (Sep. 13, 2021), <https://perma.cc/UG4R-PXK8>.

Virtually any pesticide that has been in commercial use for over a decade has, by now, accumulated a body of epidemiological and toxicological literature that contains at least some studies with divergent findings. That is not a feature unique to glyphosate or chemical substances generally; rather, it is an inevitable characteristic of long-term epidemiological evidence, applying various methodologies, exposure populations, and study designs. The ongoing glyphosate litigation has shown, however, that some degree of scientific heterogeneity is all it takes to obtain enormous verdicts against a pesticide manufacturer whose product carries a valid FIFRA registration and whose product label reflects EPA's determination that no cancer warning is warranted.

As a result, manufacturers of pesticides with a long commercial history and a voluminous body of scientific literature must weigh the accumulated scientific literature as a source of substantial future litigation exposure. The risk associated with that uncertainty can affect the economic viability of continued investment in an EPA-registered pesticide, even where the Agency has concluded that the product

poses no unreasonable risk when used according to its label. Pesticide manufacturers may begin to remove products from their portfolios that EPA has determined do not present any unreasonable risks to human health, which could in turn shrink the crop protection tools on which farmers rely for their livelihoods and to sustainably grow food and other agricultural products necessary to meet growing global population demands.

Beyond affecting existing products, the increased exposure to state tort litigation chills pesticide innovation, incentivizing manufacturers to reallocate research and development from high-agronomic-value, broad-spectrum chemistries to products with lower litigation risk, such as pesticides with targeted application. Indeed, the products with the greatest agronomic value—and thus the greatest potential to protect yields across a broader range of crops and acres—carry the highest risk of litigation, deterring their development and distribution. This distortion of research and development priorities will deprive growers of versatile, effective crop protection tools, increase production costs and operational complexity, and ultimately undermine efforts to combat herbicide-resistant weeds and maintain agricultural productivity.

Finally, allowing state tort litigation to effectively drive removal of EPA-registered pesticide products from the market would erode the regulatory certainty that a FIFRA registration is intended to provide. This uncertainty would disrupt growers' multi-year crop-protection planning and complicate integrated pest- and resistance-management strategies. Growers who have made long-term investments—including

in specialized equipment and application technology, storage infrastructure, and seed supply contracts—based on the reasonable expectation that registered pesticides will remain available, could see those investments undermined. In short, allowing state tort litigation to displace EPA’s registration decisions under FIFRA would create untenable instability that harms agricultural productivity and long-term planning.

CONCLUSION

For the foregoing reasons, this Court should reverse the Missouri Court of Appeals’ decision and hold that FIFRA preempts state-law failure-to-warn tort claims.

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