

# Bringing EPA To Court To Save People & Wildlife From Glyphosate

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CENTER FOR  
FOOD SAFETY

The Center for Food Safety is a national nonprofit membership organization working to empower people, support farmers, and protect the environment from harmful industrial food production and by promoting truly sustainable agriculture, like organic and beyond.

### **Center for Food Safety Policy & Litigation Program Areas**

- Animal Factories
- Pesticides & Pollinators
- Food Labeling and Food System Transparency
- Organic & Beyond
- Genetically Engineered Foods, Crops, and Animals
- Food Safety and Foodborne Illness
- “Cool” Foods (Climate and Agriculture)
- Aquaculture
- Emerging Technologies like Nanotechnology and Synthetic Biology

# US Federal Pesticide Law

## Federal Insecticide Fungicide and Rodenticide Act (FIFRA)

- Amendments to FIFRA in 1996 and 2007 require EPA to review older pesticides and reevaluate periodically
- “Interim registration review” requires EPA to review all registered pesticide every 15 years and determine whether the pesticide still meets the FIFRA standard for registration: that the pesticide **not cause “unreasonable adverse effects on the environment.”** 7 U.S.C. § 136a(a),(g)
- EPA must ensure that each pesticide’s registration “is based on **current scientific and other knowledge** regarding the pesticide, including its effects on human health and the environment.” 40 C.F.R. § 155.40(a)(1).

# Glyphosate Regulatory History

- Glyphosate first registered in 1974 and was re-registered in 1993
- Interim registration review (due every 15 years) was supposed to be complete in 2009
- EPA started interim review in 2009 and anticipated it would take 6 years – it has taken nearly twice as long
- In 2020 EPA issued its final “interim registration review decision” which finalized...
  - (1) the human health risk assessment finding **NO OCCUPATIONAL RISKS;**
  - (2) ecological risk assessment finding **no unreasonable adverse risks based on mitigation measures;**
  - (3) cost/benefit analysis that was a **single sentence;** and
  - (4) issued a few interim mitigation measures for the label → The mitigation measures were not only inadequate, but **EPA never actually required the manufacturers to update their labels.**

# EPA Finds NO Human Health Impacts

- EPA originally characterized glyphosate as potential carcinogen and liver/kidney toxin
  - Later changed after Monsanto rat studies...
- But in 2015 the World Health Organization's cancer experts (**IARC**) concluded that glyphosate is "**probably carcinogenic**," and it is associated with increased risk of the cancer **non-Hodgkin lymphoma** in the pesticide's users
- 10s of 1000s of plaintiffs suing Monsanto/Bayer for failing to warn of the NHL risk, and Bayer has lost all three initial trials. Bayer announced \$10 billion settlement and end to homeowner use of glyphosate.
  - But major use is in agriculture and no farmworkers are yet part of these class actions, so just the tip of the iceberg
- **Despite this new evidence, EPA's conclusion in its interim registration review human health assessment was that glyphosate is "not likely to cause cancer" and has no other impacts to people who are exposed at work**

# EPA Failed to Require Testing

- EPA's no health risk conclusion did not include any **skin penetration studies**
- But skin contact is a major route of exposure for people exposed at work, like farmworkers
- EPA also failed to assess impacts from the **formulated product** which actually gets sprayed in the real world – only assessed impacts from glyphosate the active ingredient
  - But even Monsanto's own scientists recognize that other ingredients in the products (i.e. "**inerts**") increase the absorption of glyphosate into the bloodstream – that is what ingredients like surfactants are *designed* to do.
  - No way to know the amount of glyphosate absorbed without skin penetration studies
- **EPA essentially determined that workers can bathe in glyphosate without injury, which is ridiculous given the latest scientific evidence, especially of NHL**

# Internal Disagreement at EPA

- Scientists within EPA agreed with IARC's designation, including experts from the **Office of Research & Development**
  - Memo from EPA's ORD surfaced last year due to EPA whistleblowers, in a series in the Intercept. Showed that this office agreed that epidemiological evidence of increased NHL risk among glyphosate users meant that EPA should change its designation from "not likely to cause cancer" to at least "suggestive evidence" of cancer, or even "probable" like IARC.
- EPA's own **Scientific Advisory Panel**, which reviewed EPA's cancer assessment for glyphosate, also had members that agreed with IARC's designation and came to NO consensus agreeing with EPA's "not likely" designation
  - EPA rejected numerous epidemiological studies and meta-analyses showing increased NHL risk
  - Blasted EPA for its treatment of animal studies because it violated its own Cancer Guidelines to reject over 15 animal studies showing carcinogenicity

# Ecological Harms

- EPA's Ecological Risk Assessment also found no unreasonable adverse risks to environment, despite destruction of monarch habitat and other impacts to wildlife and endangered species
- No consultation under ESA
  - But draft evaluation released later found **100% of the 1,795 endangered and threatened species exposed to glyphosate may be affected**. And of those species, **93% will likely experience adverse effects**, meaning they may be harmed, perhaps enough to jeopardize their very existence.
- Biden Administration admitted that its ecological risk assessment was not good enough

# CFS Litigation

## ***Rural Coalition v. EPA, Nos. 20-70787, 20-70801 (9th Cir.)***

- We sued in March 2020 alleging violations of FIFRA and Endangered Species Act (ESA) because EPA failed to consult with the expert wildlife services when it issued its interim registration review decision
  - Consolidated with NRDC's similar challenge to interim reg review decision
- Sued on behalf of farmworkers and wildlife conservation organizations: Rural Coalition, Organización en California de Líderes Campesinas, Farmworker Association of Florida, Beyond Pesticides, and Center for Food Safety
- Biden Admin transition → motion for voluntary remand on ecological risk assessment and cost-benefit analysis, not granted yet but we only briefed human health and ESA issues
- Briefing completed May 2021 and oral argument held on Jan 10, 2022 → still awaiting decision

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**Thank You!**

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[Centerforfoodsafety.org](http://Centerforfoodsafety.org)