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BREAKING

## Supreme Court won't review lawsuit over pesticide cancer risk labeling

By MATEUSZ PERKOWSKI Capital Press

Jun 21, 2022



The U.S. Supreme Court will not review a legal dispute about whether cancer risks may be required under state law regardless of federal pesticide labels.

Reed Saxon/Associated Press File

The U.S. Supreme Court will not review a \$25 million jury verdict that faulted Monsanto for not warning about the alleged cancer risk of its Roundup glyphosate herbicides.

The nation's court has let stand a 9th U.S. Circuit Court of Appeals ruling that pesticide manufacturers claim will allow for a hodgepodge of state labeling requirements for farm chemicals.

In 2019, a jury found that Monsanto was liable for failing to warn about the product's alleged cancer risks in a lawsuit brought by Edwin Hardeman, who claimed Roundup caused his non-Hodgkin's lymphoma.

Since then, Monsanto has tried to overturn the \$25 million legal judgment awarded to Hardeman, arguing that federal pesticide labeling regulations should have blocked the case from going to trial.

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The 9th U.S. Circuit Court of Appeals rejected Monsanto's legal arguments last year, ruling that the federal pesticide label doesn't conflict with cancer risk warnings required in California.

Monsanto and other pesticide manufacturers urged the Supreme Court to review the 9th Circuit's ruling, arguing it will effectively allow juries to decide different labeling requirements under the laws of the 50 states.

While the legal dispute pertains specifically to Roundup glyphosate herbicides, the pesticide industry expects it to serve as a "bellwether" for thousands of federal cases and "countless other products."

Though EPA has "exhaustively" studied glyphosate for decades and determined a cancer warning for glyphosate herbicides is "unwarranted," the 9th Circuit ruling allows for a California-specific label that refutes that conclusion, according to Monsanto.

Inconsistent labels will sow confusion among pesticide users and create onerous costs for manufacturers, since the case will establish a precedent for thousands of similar lawsuits, the company said.

That concern is shared by CropLife America, an organization representing pesticide manufacturers, which says the pre-emption questions “reach well beyond this particular case.”

The 9th Circuit’s decision will allow EPA’s findings to be “overridden by lay juries under state law,” creating liabilities for pesticide manufacturers in many other lawsuits, the group said.

While the 9th Circuit characterized the cancer warning as a “minor modification” to the pesticide label, juries could force manufacturers to add false cancer warnings to products, threatening to push chemicals that are “safe and economically vital off the market,” CropLife said.

“There is a real-world costs, in both economic and public health terms, to ‘crying wolf,’” the group said.

Originally, the U.S. Environmental Protection Agency stood with Monsanto in arguing that the \$25 million judgement is problematic, but it changed its mind due to the change in presidential administrations and the 9th Circuit’s reasoning.

State governments are pre-empted from allowing pesticide uses that are prohibited by federal label restrictions, but federal law doesn’t preclude state-level warnings for “chronic health risks like carcinogenicity,” the federal government said.

The Supreme Court specifically asked the federal government to weigh in on the case before the justices deliberated on whether to review the 9th Circuit’s ruling on June 16.

When the EPA shifted its position, Monsanto said it amounts to a “new national policy” that embraces an unworkable “50-state approach” to pesticide labeling.

The nation's highest court denied Monsanto's petition for review June 21.

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I've been working at Capital Press since 2006 and I primarily cover legislative, regulatory and legal issues.