

OVERVIEW

Glyphosate, a compound that can be found in liquid, acid, and salt forms, is the active ingredient used in herbicides to regulate plant growth and kill weeds and grasses. Used since the 1970s, it is the world's most commonly used herbicide – and one of the most widely used herbicides in the United States, with an estimated 250 million pounds sprayed on crops each year. Glyphosate is marketed in the United States and worldwide by many companies, with more than 750 products containing the compound for sale in the United States.

Pathways of exposure to glyphosate include the skin and eyes, as well as by ingestion or inhalation. It is alleged that short-term exposures can cause eye, nose, throat, or skin irritation, burns in the mouth or throat, nausea, vomiting, and diarrhea. Long-term or high-dose exposures can allegedly cause cancer, including non-Hodgkin lymphoma.

In 2015, the International Agency for Research on Cancer (IARC) classified glyphosate as “probably carcinogenic to humans.” In 2017, California listed it as “known to cause cancer”; however, a large cohort study published by the National Institutes of Health in November 2017 “observed no associations between glyphosate use and overall cancer risk.”

Despite the uncertainty as to its cancer risk, thousands of lawsuits have been filed claiming that glyphosate is unsafe and causes cancer. In fact, on August 10, 2018, a California jury found that Monsanto, the manufacturer of the popular weed killer Roundup®, failed to warn of the cancer risks of using Roundup. In that case, a school groundskeeper claimed that he developed non-Hodgkin lymphoma after repeatedly using large quantities of Roundup. The jury awarded him \$289 million in damages, and in so finding, did not require conclusive proof that glyphosate causes cancer to hold Monsanto liable for warning consumers of its risks; it required only a showing that glyphosate has the “potential” to harm consumers. Courts generally do not hold companies liable for failing to warn of “potential” dangers associated with their products.

Not only is glyphosate a target in herbicide litigation, it may also become a target in other products that contain it, including food. In a report released on August 15, 2018 by the Environmental Working Group (EWG), glyphosate was found in several popular breakfast foods, including granolas, instant oats, oat breakfast cereals, whole oats, and snack bars. Using a strict standard it developed, EWG's study found elevated levels of the pesticide in 31 of the 45 food products it tested – levels above what it considered safe.

HOW TUCKER ELLIS CAN HELP

In addition to employers who use products containing glyphosate, manufacturers and distributors of products containing glyphosate are also possible targets in litigation. The Tucker Ellis Mass Tort & Product Liability Group can assist clients with legal issues and help develop strategies to manage risks.

The Tucker Ellis Mass Tort & Product Liability Group represents product manufacturers in tens of thousands of cases filed in state and federal courts nationwide at both the trial and appellate levels. Our lawyers focus on the national, regional, and local defense of product liability cases involving industrial, commercial, and consumer products and toxic tort cases related to alleged exposure to naturally occurring substances such as asbestos, silica, coal mine dust, and talc, as well as welding fume, mold, and other claimed toxins.