



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Glyphosate/Federal Food, Drug, and Cosmetic Act: Environmental Working Group Judicial Petition for Writ of Mandamus Alleging Unreasonable Delay by EPA

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The Environmental Working Group (“EWG”) filed a Petition for Writ of Mandamus (“Petition”) before the United States Court of Appeals for the District of Columbia Circuit against the United States Environmental Protection Agency (“EPA”).

The Petition alleges that EPA has unreasonably delayed agency action in regard to its previously filed petition related to glyphosate.

EWG states that it seeks a Writ of Mandamus compelling EPA to take action for its unlawfully withholding and/or unreasonably delaying its response to EWG’s original petition requesting that the federal agency revoke or modify the tolerance for glyphosate on oats and restrict pre-harvest uses that drive dietary exposure. The organization states that such action is required under the Federal Food, Drug, and Cosmetic Act (“FFDCA”) and the Administrative Procedure Act.

EWG stated that it, along with co-petitioners, filed a formal administrative petition under the FFDCA in 2018. The petition is stated to have requested that EPA revoke or modify the glyphosate tolerance for oats and restrict the use of glyphosate as a pre-harvest desiccant.

The petition is stated to have been amended in 2019 to present evidence that existing tolerance levels are not protective of infants and young children and that pre-harvest use of glyphosate predictably increases dietary exposure in foods commonly consumed by children.

EPA is alleged to have declined to resolve the petition and has:

... tethered any response to a broader registration review process, stating only that it anticipates addressing the petition in connection with a possible decision in 2026.

EPA’s response is described by EWG as neither a deadline, nor a commitment. Instead, it is characterized as an open-ended deferral entirely within the agency’s control.

The Petition seeks a Writ of Mandamus compelling EPA to perform what it describes as a discrete act required by law by issuing a final, reviewable response resolving the petition.

A copy of the Petition can be found [here](#).

