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| **NMMA Dissatisfied with U.S. Court of Appeals Decision to Dismiss Recreational Boating Industry Concerns about E15** |
| NMMA is disappointed by the decision released on Tuesday, October 21, 2014, of the U.S. Court of Appeals for the D.C. Circuit to dismiss the recreational boating industry’s challenge of the Environmental Protection Agency’s (EPA) [rule regarding misfueling mitigation plans](http://www.gpo.gov/fdsys/pkg/FR-2011-07-25/pdf/2011-16459.pdf) surrounding the sale of E15. The case specifically challenged the EPA’s plans to prevent misfueling including the use of what NMMA believes is a highly inadequate pump warning label amongst other insufficient means.  The court held that those bringing the case, including the American Petroleum Institute (API) and the Engine Products Group (EPG) which includes NMMA, failed to establish Article III standing—because they “cannot show members have suffered or are with suffering an injury in fact (due to sales of E-15) that is traceable to the misfueling regulation and redressable by a favorable decision.” With this decision the court has set an extremely high bar for industry challenges to regulatory action and fails to fully comprehend the seriously flawed misfueling rule by the EPA.  In 2012, this same group of industry stakeholders, including others such as the Grocery Manufacturers Association, legally challenged the EPA’s authority to grant a partial waiver permitting the sale of E15. That case was also dismissed on procedural grounds including a “lack of standing.”  This latest decision not only continues to allow the potentially dangerous E15 at gas pumps across the country, but continues to put consumers and retailers at extreme risk. The EPA’s rule does not make provisions to ensure that low ethanol fuels like E10 remain at the pump for consumers who may require them nor does it take any actionable steps towards educating consumers about how to choose the correct fuel for their needs.  EPA has done little to no work towards consumer education to prevent misfueling. E15 fuel was approved by the EPA in 2011 for use in a subset of on-highway motor vehicles including model years 2001 and newer. However, marine engines and other non-road engines such as snowmobiles, lawn and garden equipment remain unapproved, inevitably leading to concerns of widespread misfueling and confusion. In 2012, NMMA at its own cost distributed labels for the marine industry to warn against fueling marine engines with E15. This year, NMMA joined the Outdoor Power Equipment Institute in supporting the [Look Before You Pump campaign](http://www.lookbeforeyoupump.com/), again focused on helping consumers understand how to prevent hazards at the pump.  “NMMA will be working on behalf of the boating industry to do everything we can to prevent misfueling through education and to take the necessary actions to ensure that compatible, low ethanol fuels remain available and affordable for the 89 million boaters enjoying our waters across the United States.” said Nicole Vasilaros, director of federal and legal affairs for NMMA. “And while this decision is disheartening, the matter is far from over. NMMA continues to actively seek Congressional action that will reform the Renewable Fuel Standard and protect recreational marine products and consumers.” |