

HOME (/)  
ABOUT  
JOURNAL (/ABOUT)  
MASTHEAD (/NEW-PAGE)  
PROSPECTIVE MEMBERS (/PROSPECTIVE-MEMBERS)  
SUBSCRIBE (/SUBSCRIBE)  
STAFF RESOURCES (/STAFF-RESOURCES)  
PUBLICATIONS  
PUBLICATION ARCHIVE (/PUBLICATION-ARCHIVE)  
VOLUME 1 (2009) (/VOLUME-1-2008-2009)  
VOLUME 2 (2010) (/VOLUME-2-2009-2010)  
VOLUME 3 (2011) (/VOLUME-3-2010-2011)  
VOLUME 4 (2012) (/VOLUME-4-2011-2012)  
VOLUME 5 (2013) (/VOLUME-5-2012-2013)  
VOLUME 6 (2014) (/VOLUME-6-2013-2014)  
VOLUME 7 (2015) (/VOLUME-7-2014-2015)  
VOLUME 8 (2016) (/VOLUME-8-2015-2016)  
VOLUME 9 (2017) (/VOLUME-9-2016-2017)  
VOLUME 10 (2018) (/VOLUME-10-2018)  
SYMPOSIUM  
INFORMATION (/SYMPOSIUM)  
BLOG  
FULL BLOG (/FULL-BLOG)  
BLOG ARCHIVE (/BLOG-ARCHIVE-1)  
  
SUBMISSIONS (/SUBMISSIONS)

February 25, 2013 (/full-blog/2013/02/update-dc-circuit-continues-to.html)

## UPDATE: D.C. Circuit Continues to Adjudicate E15 Case, Hurting Domestic Industries and Consumers (/full-blog/2013/02/update-dc-circuit-continues-to.html)

"E15" (/full-blog?category=%22E15%22), "Grocery Mfrs. Ass'n v. EPA" (/full-blog?category=%22Grocery+Mfrs.+Ass%27n+v.+EPA%22)



(<https://static.squarespace.com/static/53fe85a0e4b0516a0c4fed1a/54002444e4b0123f9872f024/5400244ee4b0123f9872f136/1409295438567/1000w/>)

Image Source ([http://www.kjeanrl.com/green\\_autoblog.com/media/2012/05/gas-cap-e15-1337355368.jpg](http://www.kjeanrl.com/green_autoblog.com/media/2012/05/gas-cap-e15-1337355368.jpg))

By: Tyler Brewer, Staff Member

My post last October concerned how the D.C. Circuit refused to adjudicate a suit where the EPA illegally authorized E15 (15% ethanol, 85% gasoline) into our domestic fuel supply (click for link (<http://www.kjeanrl.com/2012/10/epa-approved-e15-gasoline-does-more.html>)).[1] The decision by the D.C. Circuit to dismiss the case for lack of standing led Petitioners to appeal. Unfortunately, on

January 15, 2013, the D.C. Circuit in *Grocery Mfrs. Ass'n v. EPA* denied petitions for a rehearing en banc.[2]

In his dissenting opinion, Judge Kavanaugh reiterated the fundamental flaws in denying the rehearing. Particularly, he discusses how the holding handed down last August "is problematic not only because of the erroneous standing law that it creates, but also because it is outcome-determinative in a case with significant economic ramifications for the American food and petroleum industries, as well as for American consumers who will ultimately bear some of the costs." [3] Judge Kavanaugh frames the decision as outcome-determinative because the "EPA will lose if [the case] reach[es] the merits." [4] This argument is quite persuasive when considering the E15 partial waivers' effects on the national economy, both at the industrial and consumer levels.[5]

The D.C. Circuit's denial for rehearing sparked initiative in U.S. Senators Roger Wicker (R-Miss.) and David Vitter (R-La.) to repeal the E15 partial waivers via legislation.[6] Yet, the most promising path to reign in the EPA's exercise of power is the Supreme Court. The Petitioners in *Grocery Mfrs. Ass'n* have until April 15, 2013 (ninety days from being denied a rehearing) to seek the Supreme Court's review.[7] According to one of the Petitioners, there is anticipation for at least one of the groups affiliated with the suit to file by April 15.[8]

Until the E15 is repealed through legislation or struck down by the courts, we are at the mercy of the EPA and the ramifications E15 will have on our economy. While this may seem like an over-exaggerated statement, merely consider one of the many effects E15 imposes; many automotive manufacturers will void your vehicle's warranty if E15 is used.[9]

---

[1] Tyler Brewer, *EPA Approved E15 Gasoline Does More Harm Than Good*, Kv. J. Eq. Ac. & Nat'l. Res. L. (Oct. 16, 2012, 8:50 PM), <http://www.kjeanrl.com/2012/10/epa-approved-e15-gasoline-does-more.html>.

[2] *Grocery Mfrs. Ass'n v. EPA*, No. 10-1380, 2013 WL 163744, at \*1 (D.C. Cir. 2013).

[3] *Id.* at \*3 (Kavanaugh, J., dissenting) (footnote omitted).

[4] *Id.* at \*3 (Kavanaugh, J., dissenting).

[5] See Brewer, *supra* note 1.

[6] *Wicker, Vitter to Introduce Bill to Roll Back Ethanol Requirement for Gasoline*, [www.wicker.senate.gov](http://www.wicker.senate.gov/public/index.cfm?FuseAction=NewsRoom.PressReleases&ContentRecord_id=da972b-e16c-053c-f435-581ca633c2fb) (Feb. 14, 2013), [http://www.wicker.senate.gov/public/index.cfm?FuseAction=NewsRoom.PressReleases&ContentRecord\\_id=da972b-e16c-053c-f435-581ca633c2fb](http://www.wicker.senate.gov/public/index.cfm?FuseAction=NewsRoom.PressReleases&ContentRecord_id=da972b-e16c-053c-f435-581ca633c2fb).

[7] Reagan Haynes, *Push to Stop E15 Could Head to Supreme Court*, [TRAD ONLY TODAY](http://www.tradonlytoday.com/home/523811-push-to-stop-e15-could-head-to-supreme-court) (February 11, 2013), <http://www.tradonlytoday.com/home/523811-push-to-stop-e15-could-head-to-supreme-court>.

[8] *Id.*

[9] Gary Strauss, *AAA Warns E15 Could Cause Car Damage*, [USA TODAY](http://www.usatoday.com/story/news/nation/2012/11/30/aaa-e15-gas-harm-cars/1735793/) (Nov. 30, 2012, 11:40 AM), <http://www.usatoday.com/story/news/nation/2012/11/30/aaa-e15-gas-harm-cars/1735793/>.

♥ 0 Likes   ↩ Share

COMMENTS (0)

Newest First   Subscribe via e-mail

[Preview](#)   [POST COMMENT...](#)

Newer Post

[Instant Racing Now Before Kentucky Supreme Court \(/full-blog/2013/02/instant-racing-to-go-before-kentucky.html\)](/full-blog/2013/02/instant-racing-to-go-before-kentucky.html)

Older Post

[The Aftermath of California's Proposition 37 and Overview of New State Proposals for Labeling Mandates on Genetically Modified Foods \(/full-blog/2013/02/the-aftermath-of-californias.html\)](/full-blog/2013/02/the-aftermath-of-californias.html)

[SEARCHABLE ARCHIVE \(/PUBLICATION-ARCHIVE-1\)](#)

631 SOUTH LIMESTONE, LEXINGTON, KY

40508 (859) 257-4747 [BLOG.KJEANRL@GMAIL.COM](mailto:BLOG.KJEANRL@GMAIL.COM) ([MAILTO:BLOG.KJEANRL@GMAIL.COM](mailto:BLOG.KJEANRL@GMAIL.COM))