

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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AMERICAN PETROLEUM INSTITUTE,)		
CHAMBER OF COMMERCE OF THE)		
UNITED STATES OF AMERICA,)		
INDEPENDENT PETROLEUM)		
ASSOCIATION OF AMERICA, and)		
NATIONAL FOREIGN TRADE COUNCIL)	Civ. Action No. 12-1668	
)	(JDB)	
Plaintiffs,)		
)		
v.)		
)		
SECURITIES AND EXCHANGE)		
COMMISSION,)		
)		
Defendant.)		
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**DEFENDANT SECURITIES AND EXCHANGE COMMISSION'S
CROSS-MOTION FOR SUMMARY JUDGMENT**

Defendant Securities and Exchange Commission hereby respectfully cross-moves this Court to enter summary judgment in favor of the Commission on all of the claims of plaintiffs American Petroleum Institute *et al.* Plaintiffs have consented to the Commission filing this cross-motion for summary judgment.

1. For the reasons set forth in the plaintiffs' motion for summary judgment, summary judgment is the appropriate procedure for resolving a challenge to an agency rulemaking such as this case presents.

2. Moreover, for the reasons set forth in the Commission's Opposition to Plaintiffs' Motion for Summary Judgment and Memorandum of Points and Authorities in Support of Cross-Motion for Summary Judgment—which is filed concurrently herewith and is substantively identical to the response brief that the Commission filed in the U.S. Court of Appeals for the D.C. Circuit in *American Petroleum Inst. et al. v. Securities and Exchange Commission* (D.C. Cir. 2012)—summary judgment should be entered for the Commission.¹

Respectfully Submitted,

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May 2013

¹ With the limited exception specified in the Commission's Response Regarding the Court's Order Directing the Parties to State Their Views on Oxfam Americas, Inc.'s Request to Intervene (docketed on May 10, 2013), the Commission will not seek to file further briefing in this case.

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the District of Columbia by using the CM/ECF system on May 10, 2013. Notice of this filing will be sent by e-mail to all parties by operation of the Court's CM/ECF system.

/s/ William K. Shirey
William K. Shirey

May 10, 2013