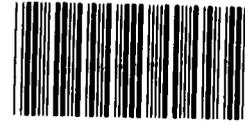


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The Honorable J. Bennett Johnston
United States Senate

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Dear Senator Johnston:

Subject: [Comments on sections 167 and 177 of
S. 932, 96th Congress] (EMD-80-B5)

To assist the Conference Committee in its deliberations on S. 932, "The Energy Security Act," we are providing comments on sections 167 and 177(b) of title I, "The Synthetic Fuels Corporation Act of 1979," relating to the General Accounting Office's authority and responsibilities.

TITLE I. PART B, SECTION 167

We are concerned that the new authority provided to the General Accounting Office by section 167 would compromise our primary responsibility to aid the Congress in reviewing and evaluating Government agency operations, programs, and activities. The section would authorize the Comptroller General to go into a United States district court in the event the Corporation (1) takes actions inconsistent with the purposes and policies of the act, (2) interferes with any authorized activities, or (3) fails to exercise its duties and responsibilities. In effect, we would be given authority to bring a mandamus or injunctive or other action with respect to certain Corporation activities and actions.

We have the following major concerns with being given such authority:

- We believe that such management or law enforcement functions are not an appropriate responsibility for an agency charged by the Congress with reviewing and evaluating Government programs and reporting its findings to the Congress. The provision has the potential for requiring that we make program and policy decisions affecting the Corporation's actions and activities. It could place us in the anomalous position of seeking to compel or restrain actions or activities which we must later evaluate.

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--The provision could create two standards for seeking court relief since both the Attorney General and the Comptroller General are empowered to obtain the aid of the district court. Conflicts in interpretation of the Corporation's activities may develop between the General Accounting Office and the Department of Justice which would make the task of providing appropriate relief difficult. Such conflicts would be avoided if the Department of Justice continues to have the responsibility to protect the public against agency abuse and mismanagement through seeking the aid of the Federal courts. GAO could of course bring potential problems to the Department's attention and inform Congress of its activities.

For these reasons, we believe it inappropriate that we be given such authority and recommend that it be deleted.

TITLE I. SECTION 177(b)

While section 177(b) provides GAO access to Corporation records and authority to make such audits as we deem necessary, we would prefer expanded language which more clearly recognizes the intent of the Congress regarding GAO involvement in the monitoring and evaluation of Corporation actions. In this regard, the Conferees may want to examine GAO's authorities in section 12 of the Federal Energy Administration Act of 1974 (P.L. 93-275), which was subsequently carried forward in section 207 of the Department of Energy Organization Act (P.L. 95-91), as well as title V of the Energy Policy and Conservation Act of 1975 (P.L. 94-163). We suggest the following language.

(a) the Comptroller General shall monitor and evaluate the operations of the Corporation. The Comptroller General shall have the authority to conduct program, policy, financial, and other reviews of the programs, activities, and operations of the Corporation. Notwithstanding the provisions of any other law, the Comptroller General, or any of his duly authorized representatives, shall have access to all books, accounts, records, reports, files, papers, property, data and other information, belonging to, or in the possession or control of, the Corporation, from any public or private source, as are

necessary to carry out his responsibilities under this act. The Comptroller General shall report to the Congress, at such times as he deems appropriate, with respect to such reviews. Financial reviews and audits shall be conducted, as the Comptroller General deems necessary, or as the Congress may request, but not less than every 3 years.

(b) In carrying out his responsibilities under subsection (a) and for purposes of audit, the Comptroller General, or any of his duly authorized representatives, shall have access to, and the right to examine, any books, documents, papers, records, or other recorded information, of any contractors or their subcontractors, or of any applicants for or recipients of financial assistance from the Corporation under any of the provisions of the act, pursuant to contract, cooperative agreement, or any other arrangement, which in the opinion of the Comptroller General may be related or pertinent to such financial transactions.

In summary, we recommend that you eliminate reference to the Comptroller General in section 167 of the act. We also recommend substituting language suggested herein for section 177(b) which more clearly recognizes GAO's oversight responsibilities and access-to-records authority.

Sincerely yours,

Comptroller General
of the United States

bc: Mr. Peach, EMD
Mr. McCullough, EMD
Mr. Boland, EMD

Mr. Griffith, OCR
Mr. Kasden, OGC
Mr. Socolar, OGC
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