Order Code RL32865

CRS Report for Congress
Received through the CRS Web

Renewable Fuels and MTBE: A Comparison of Selected Legislative Initiatives

Updated April 28, 2005

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Summary

This report responds to congressional interest in comparing the House energy bill (H.R. 6) provisions involving ethanol and the gasoline additive methyl tertiary butyl ether (MTBE) to three other bills in the 109th Congress, H.R. 1608, S. 606, and S. 650. On April 21, the House passed H.R. 6. This bill is similar to the 108th Congress bill of the same number, which came close to passage, but the conference report failed to pass in the Senate. As introduced, H.R. 1608 and S. 650 are identical companion bills.

Many provisions from Title XV of H.R. 6 are similar to those of the three other bills described in this report. All four bills would repeal the existing Clean Air Act requirement that reformulated gasoline (RFG) contain at least 2% oxygen, a requirement that led refiners and importers to use MTBE, and to a lesser extent ethanol, in their RFG. In place of this requirement, all of the bills would provide a major new stimulus for the use of ethanol — a provision that the annual production of motor fuels contain at least 5 billion gallons of renewable fuel in roughly seven years. In addition, the bills similarly require that the reductions in emissions of toxic substances achieved by RFG be maintained; and they allow ethanol credit trading among refiners and importers of fuels.

Major issues the bills treat differently include whether to ban MTBE (S. 606 would do so within four years, with some exceptions, while H.R. 6 allows 10 years and gives the President authority to determine that it should not be banned, and H.R. 1608/S. 650 would not ban its use); whether to provide a "safe harbor" from product liability lawsuits for producers of ethanol and other renewable fuels (H.R. 6 and S. 606 would do so, while H.R. 1608/S. 650 would not); whether to grant MTBE producers — in addition to ethanol producers — a similar safe harbor from product liability lawsuits (H.R. 6 does so, while S. 606 and H.R. 1608/S. 650 do not); whether to require manufacturers of fuels and fuel additives to evaluate their impacts on public health and the environment (S. 606 and H.R. 1608/S. 650 do so, H.R. 6 does not); and whether to allow EPA to control or prohibit fuels and fuel additives in order to protect water quality (present in S. 606, but not in H.R. 6 or H.R. 1608/S. 650).

In addition, H.R. 6 includes numerous amendments to the underground storage tank (UST) regulatory program and authorizes the use of funds from the Leaking Underground Storage Tank (LUST) Trust Fund for several new purposes, including remediation of UST leaks involving MTBE and other oxygenates. S. 606 authorizes LUST Trust Fund appropriations for MTBE cleanup and contains other UST and LUST provisions, while H.R. 1608 and S. 650 contain none.

This report will be updated as events warrant.

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Renewable Fuels and MTBE: A Comparison of Selected Legislative Initiatives

Introduction

This report[1] compares provisions concerning renewable fuel (e.g., ethanol) and the gasoline additive methyl tertiary butyl ether (MTBE) in Title XV of the House energy bill (H.R. 6, Barton), with three other bills in the 109th Congress, H.R. 1608 (Herseth), S. 606 (Thune), and S. 650 (Lugar). Markup on the discussion draft of H.R. 6 was completed by various House committees the week of April 11, 2005. The bill was introduced on April 18, 2005, and was passed by the House on April 21. S. 606 was introduced March 11, 2005; on March 16, 2005, it was ordered reported favorably, with amendments, by the Senate Committee on Environment and Public Works. S. 650 was introduced March 17, 2005, and was referred to the Senate Committee on Environment and Public Works. H.R. 1608 was introduced April 13, 2005, and was referred to the House Committee on Energy and Commerce. As introduced, H.R. 1608 and S. 650 are identical companion bills. (This report does not address other provisions of the comprehensive energy bill; for an overview of these provisions, see CRS Issue Brief IB10143.)

Under the Clean Air Act Amendments of 1990, gasoline sold in numerous areas of the country with poor air quality must contain MTBE, ethanol, or other substances containing oxygen as a means of improving combustion and reducing emissions of ozone-forming compounds and carbon monoxide. The act has two programs that require the use of oxygenates, but the more significant of the two is the reformulated gasoline (RFG) program, which took effect January 1, 1995. Under the reformulated gasoline program, areas with "severe" or "extreme" ozone pollution (90 counties with a combined population of 64.8 million) must use reformulated gasoline; areas with less severe ozone pollution may opt into the program as well, and many have done so. In all, portions of 17 states and the District of Columbia use reformulated gasoline; a little more than 30% of the gasoline sold in the United States is RFG.

Since the mid-1990s, the addition of MTBE to RFG and its use in conventional gasoline has become increasingly controversial. The additive has caused numerous incidents of water contamination across the nation. The primary source of MTBE in groundwater and drinking water has been petroleum releases from leaking underground storage tanks. MTBE has been detected in drinking water sources in

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[1] This report focuses on provisions that address Clean Air Act, renewable fuel, and underground storage tank leak prevention and cleanup issues. Of the four authors of this report, James McCarthy handles the Clean Air Act; Brent Yacobucci, renewable fuels; Mary Tiemann, underground storage tank issues; and Aaron Flynn, legal issues, including "safe harbor" provisions.

at least 36 states,[2] and 19 states have taken steps to ban or regulate its use. The most significant of these bans (in California and New York) took effect at the end of 2003, leading many to suggest that Congress revisit the issue to modify the oxygenate requirement and set more uniform national requirements regarding MTBE and its potential replacements (principally ethanol).

All four bills would repeal the Clean Air Act requirement that reformulated gasoline contain at least 2% oxygen — the requirement that forces refiners and importers to use MTBE, ethanol, or other oxygenates in their RFG. In place of this requirement, all four would provide a major new stimulus to promote the use of ethanol — a provision that the annual production of gasoline contain at least 5 billion gallons of renewable fuel. H.R. 6 would require 5 billion gallons by 2012; S. 606 would require 6 billion gallons in the same year, while H.R. 1608/S. 650 would require 8 billion gallons.

The bills use the term "renewable fuel" rather than ethanol, so the requirement could be met by other fuels. In fact, all of the bills specifically include natural gas produced from landfills, sewage treatment plants, feedlots, and other decaying organic matter in the definition. The renewable fuel definition also encompasses biodiesel, which can be made from soy oil or other cooking oils. However, ethanol is the only renewable motor fuel currently being produced in significant quantities. In 2004, roughly 3.4 billion gallons of ethanol were blended with gasoline.[3] Biodiesel, the next most significant renewable motor fuel, is consumed at a rate of about 50 million gallons annually, only about 2% of the amount of ethanol consumed.[4]

Besides the oxygenate and renewable fuel provisions, the bills are similar in requiring that reductions in emissions of toxic substances achieved by RFG be maintained; they all require the consolidation of summertime volatility standards for RFG produced for northern and southern markets; and they each allow ethanol credit trading among refiners and importers of fuels.

Major issues the bills handle differently include:

- whether to ban MTBE (H.R. 1608/S. 650 would not ban MTBE, S. 606 would ban its use four years after enactment, and H.R. 6 would allow use for 10 years and gives the President authority to determine that it should not be banned);

- how much (if any) to authorize for grants to assist merchant MTBE production facilities in converting to the production of other fuel

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[2] American Water Works Research Foundation, *Occurrence of MTBE and VOCs in Drinking Water Sources of the United States*, 2003.

[3] This is roughly 2% of total U.S. gasoline demand. Renewable Fuels Association, *Ethanol Industry Outlook 2005*, Washington, D.C., January 2005.

[4] For additional information on ethanol and biodiesel, see CRS Report RL30758, *Alternative Transportation Fuels and Vehicles: Energy, Environment, and Development Issues*, and CRS Report RL30369, *Fuel Ethanol: Background and Public Policy Issues*.

additives (H.R. 6 would authorize $2 billion in such assistance, as compared to $1 billion in S. 606, while H.R. 1608/S. 650 contain no such funding);

- whether to provide a "safe harbor" from product liability lawsuits for producers of ethanol and other renewable fuels (H.R. 6 and S. 606 would, but H.R. 1608/S. 650 would not);

- whether to grant MTBE producers — in addition to ethanol producers — a safe harbor (S. 606 and H.R. 1608/S. 650 would not, H.R. 6 would);

- whether to require manufacturers of fuels and fuel additives to evaluate their impacts on public health and the environment (S. 606 and H.R. 1608/S. 650 would do so, H.R. 6 would not);

- whether to allow EPA to control or prohibit fuels and fuel additives in order to protect water quality (S. 606 would, H.R. 6 and H.R. 1608/S. 650 would not); and

- what amount (if any) to authorize from the Leaking Underground Storage Tank (LUST) Trust Fund for MTBE cleanup (H.R. 6 would authorize $1 billion for the cleanup of underground storage tank (UST) leaks of fuels containing MTBE or other oxygenates, and another $1 billion for cleanup of leaks from petroleum USTs, generally; S. 606 would authorize $200 million for the cleanup of MTBE and other ether fuels (but not ethanol) from USTs and other sources, while H.R. 1608/S. 650 contain no such authorization).

In addition, H.R. 6 includes numerous amendments to the underground storage tank (UST) regulatory program and the leaking underground storage tank (LUST) cleanup program. S. 606 contains some UST and LUST provisions, while H.R. 1608 and S. 650 contain none. H.R. 6 would add new tank inspection and tank operator training requirements; prohibit fuel delivery to ineligible tanks; and require EPA, with Indian tribes, to develop and implement a strategy to address releases on tribal lands. H.R. 6 and S. 606 would authorize EPA and states to use LUST funds to enforce UST release prevention and detection requirements, and both bills would authorize appropriations from the LUST Trust Fund for this purpose.

The remainder of this report provides a side-by-side comparison of the MTBE and renewable motor fuel provisions of the three bills. (For additional information on MTBE, see CRS Report RL32787, *MTBE in Gasoline: Clean Air and Drinking Water Issues*. For information on ethanol, see CRS Report RL30369, *Fuel Ethanol: Background and Public Policy Issues*. For recent legislative actions, see CRS Issue Brief IB10128, *Alternative Fuels and Advanced Technology Vehicles: Issues in Congress.*)

Side-by-Side Comparison of Fuels and MTBE Provisions in H.R. 6, S. 606, and H.R. 1608/S. 650

Provision	H.R. 6 — Energy Policy Act of 2005, as passed the House	S. 606 — Reliable Fuels Act	H.R. 1608/S. 650 — Fuels Security Act of 2005
Renewable Content of Motor Vehicle Fuel	A new §211(o) is added to the Clean Air Act. Beginning in 2005, motor vehicle fuel must contain a certain amount of renewable fuel. In 2005, 3.1 billion gallons of renewable fuel must be sold annually, increasing to 5.0 billion gallons in 2012. After 2012, the percentage of renewable fuel required in the motor fuel pool must be the same as the percentage required in 2012. This standard will largely be met by ethanol, but other renewable fuels, such as biodiesel, are eligible. Ethanol from cellulosic biomass (including from wood and agricultural residue, animal waste, and municipal solid waste) is granted extra credits toward fulfilling the program's requirements. Further, the bill would establish a credit trading program to provide flexibility to refiners and blenders. **[§1501]**	Similar to H.R. 6, except that 3.8 billion gallons of renewable fuel would be required in 2006, increasing to 6.0 billion gallons in 2012. **[§101]**	Similar to H.R. 6, except that 4.0 billion gallons of renewable fuel would be required in 2006, increasing to 8.0 billion gallons in 2012. **[§101]**
Safe Harbor	Renewable fuels, MTBE, or fuels blended with renewable fuels or MTBE cannot be deemed a "defective product." Applicability of this "safe harbor" would be conditioned upon a party's compliance with EPA regulations issued under § 211 of the Clean Air Act and any applicable requests for information. Assuming these qualifications were met, any entity within the product chain, from manufacturers to retailers, would be shielded from products liability-based lawsuits, the approach that has been taken in most of the suits filed. Liability based on other grounds, such as negligence or breach of contract, to the extent it applies, would not be affected. **[§1502(a)]** The provision would apply retroactively to claims filed on or after September 5, 2003, thereby nullifying numerous pending lawsuits. **[§1502(b)]**	Renewable fuels and fuels blended with renewable fuels cannot be deemed to be "defective in design or manufacture." Applicability of this "safe harbor" would also be conditioned upon a party's compliance with EPA regulations issued under § 211 of the Clean Air Act and any applicable requests for information. So long as these qualifications were met, any entity in the product chain would be shielded from certain products liability-based lawsuits. Arguably, this language would not apply to one variety of products liability claims, those based	No comparable provision.

Provision	H.R. 6 — Energy Policy Act of 2005, as passed the House	S. 606 — Reliable Fuels Act	H.R. 1608/S. 650 — Fuels Security Act of 2005
		on failure to provide adequate warning of product hazards. This provision would not apply to MTBE or other ethers. The provision would not apply retroactively; thus, it would affect only claims filed after the date of enactment. **[§101]**	
MTBE Transition Assistance	Amends §211(c) of the Clean Air Act to authorize $250 million in each of FY2005-FY2012 for grants to assist merchant U.S. producers of MTBE in converting to the production of iso-octane, iso-octene, alkylates, renewable fuels, and other fuel additives. Amounts to remain available until expended. The Secretary of Energy may make grants available unless EPA determines that such additives may reasonably be anticipated to endanger public health or the environment. **[§1503]**	Similar provision, except that only conversions to produce iso-octane or alkylates would be eligible. $250 million is authorized for each of FY2005 through FY2008. **[§203(c)]**	No comparable provision.
Ban on Use of MTBE	Not later than December 31, 2014, the use of MTBE in motor vehicle fuel is prohibited except in states that specifically authorize it. EPA may allow MTBE in motor vehicle fuel in quantities up to 0.5% in cases the Administrator determines to be appropriate. **[§1504]**	Similar to H.R. 6, except that the ban would take effect no later than four years after enactment. **[§203(c)]**	No comparable provision.
Presidential Determination	Allows the President to make a determination, not later than June 30, 2014, that the restrictions on the use of MTBE shall not take place. **[§1505(b)]**	No comparable provision.	No comparable provision.
National Academy of Sciences Review	Separately, requires the National Academy of Sciences to conduct a review of MTBE's beneficial and detrimental effects on environmental quality or public health or welfare, including costs and benefits. The review shall be completed by May 31, 2014. **[§1505(a)]**	No comparable provision.	No comparable provision.

Provision	H.R. 6 — Energy Policy Act of 2005, as passed the House	S. 606 — Reliable Fuels Act	H.R. 1608/S. 650 — Fuels Security Act of 2005
Protection of Water Quality	No comparable provision.	Amends §211(c)(1) of the Clean Air Act to allow EPA to control or prohibit fuels and fuel additives in order to protect water quality, in addition to current authority based on protection of air quality. **[§203(c)]**	No comparable provision.
Oxygen Content	Amends §211(k) of the Clean Air Act to eliminate the requirement that reformulated gasoline contain at least 2% oxygen. Provision takes effect 270 days after enactment, except in California, where it takes effect immediately upon enactment. **[1506(a)]**	Nearly identical provision to H.R. 6. **[§204(a)]**	Similar provision to H.R. 6, except that the provision takes effect one year after enactment. **[§201(a)]**
Toxic Air Pollutants	Amends §211(k)(1) to require that each refinery or importer of gasoline maintain the average annual reductions in emissions of toxic air pollutants *achieved* by the reformulated gasoline it produced or distributed in 1999 and 2000. This provision is intended to prevent backsliding, since the reductions actually achieved in those years exceeded the regulatory requirements. Establishes a credit trading program for emissions of toxic air pollutants. **[§1506(b)]**	Substantially similar to H.R. 6. **[§204(b)]**	Similar to H.R. 6, except that the baseline for emissions reductions is 2001 and 2002 (as opposed to 1999 and 2000). **[§201(b)]**
Mobile Source Air Toxics	Requires EPA to promulgate final regulations to control hazardous air pollutants from motor vehicles and their fuels by July 1, 2005. **[§1506(b)]**	Identical provision. **[§204(b)]**	Identical provision, except that the deadline is July 1, 2006. **[§201(b)]**
Consolidation of RFG Requirements	Eliminates the less stringent requirements for volatility applicable to reformulated gasoline sold in VOC Control Region 2 (northern states) by applying the more stringent standards of VOC Control Region 1(southern states). **[§1506(c)]**	Identical provision. **[§204(d)]**	Nearly identical provision. **[§201(c)]**

Provision	H.R. 6 — Energy Policy Act of 2005, as passed the House	S. 606 — Reliable Fuels Act	H.R. 1608/S. 650 — Fuels Security Act of 2005
Analyses of Fuel Changes	A new §211(p) is added to the Clean Air Act. Within four years of enactment, the Administrator of the Environmental Protection Agency (EPA) must publish a draft analysis of the effects of the fuels provisions in the act on air pollutant emissions and air quality. Within five years of enactment, the Administrator is required to publish a final version of the analysis. **[§1507]**	Substantially similar to H.R. 6, except that the section would be §211(q) of the Clean Air Act. **[§206]**	Substantially similar to H.R. 6. **[§203]**
RFG Opt-In	No comparable provision.	Allows governors of 12 northeastern states to petition EPA to require RFG use in attainment areas in their states. The Administrator shall do so, unless he determines there is insufficient capacity to produce RFG, in which case the commencement date of the requirement shall be delayed. **[§207]**	Identical to S. 606. **[§204]**
Federal Enforcement of State Standards	No comparable provision.	At the request of a state, allows federal enforcement of state controls on fuels and fuel additives. **[§208]**	Identical to S. 606. **[§205]**
Renewable Fuels Surveys	Requires DOE to collect and publish monthly survey data on the production, blending, importing, demand, and price of renewable fuels, both on a national and regional basis. **[§1508]** Not later than December 1, 2006, and annually thereafter, requires the EPA Administrator to conduct a survey to determine the market shares of conventional gasoline and RFG containing ethanol and other renewable fuels in conventional and RFG areas in each state. **[§1501(c)]**	Similar to H.R. 6, except that the survey must include data on production, blending, and marketing costs. **[§103]** Substantially similar to H.R. 6. **[§102(b)]**	Substantially similar to H.R. 6. **[§103]** No comparable provision.

Provision	H.R. 6 — Energy Policy Act of 2005, as passed the House	S. 606 — Reliable Fuels Act	H.R. 1608/S. 650 — Fuels Security Act of 2005
Report on Renewable Motor Fuel	No comparable provision.	No comparable provision.	Requires the Secretary of Energy and the Secretary of Agriculture to report to Congress, by January 1, 2007, on recommendations for achieving 25% renewable content in U.S. gasoline by 2025. **[§208]**
Reducing the Proliferation of State Fuel Blends	A new provision is added to §211(c)(4) of the Clean Air Act. The EPA Administrator shall not approve a control or prohibition respecting the use of a fuel or fuel additive unless he finds that it will not cause fuel supply or distribution interruptions or have a significant adverse impact on fuel producibility in the affected area or contiguous areas. Within 18 months of enactment, the Administrator shall submit a report to Congress on the effects of providing a preference for RFG or either of two low volatility (7.0 and 7.8 Reid Vapor Pressure) gasolines. **[§1509]**	No comparable provision.	No comparable provision.
Reducing the Proliferation of Boutique Fuels	The EPA Administrator is permitted to temporarily waive fuel requirements, including state fuel requirements and RFG standards, in the case of a natural disaster, Act of God, pipeline or refinery equipment malfunction, or other unforseeable event. **[§1541(a)]** In addition, the Administrator may not approve a fuel standard under a State Implementation plan if that standard would increase the number of unique state formulations above the number as of September 1, 2004. **[§1541(b)]**	No comparable provision.	No comparable provision.

Provision	H.R. 6 — Energy Policy Act of 2005, as passed the House	S. 606 — Reliable Fuels Act	H.R. 1608/S. 650 — Fuels Security Act of 2005
Study of Harmonizing Fuel System Requirements	The EPA Administrator and the Secretary of Energy are required to conduct a study of federal, state, and local motor fuels requirements. They are required to analyze the effects of various standards on consumer prices, fuel availability, domestic suppliers, air quality, and emissions. Further, they are required to study the feasibility of developing national or regional fuel standards, and to provide recommendations on legislative and administrative actions to improve air quality, increase supply liquidity, and reduce costs to consumers and producers. A report must be submitted to Congress by December 31, 2007. **[§1510]**	Substantially similar to H.R. 6, except that the report must be submitted to Congress by June 1, 2008. **[§209]**	Substantially similar to H.R. 6, except that the report must be submitted to Congress by June 1, 2006. **[§206]**
Commercial Products from Solid Waste and Cellulosic Biomass Loan Guarantees	The Secretary of Energy is required to establish a loan guarantee program for the construction of facilities to produce fuel ethanol and other commercial byproducts from municipal solid waste and cellulosic biomass. Applicants for loan guarantees must provide assurance of repayment (at least 20%) in the form of a performance bond, insurance collateral, or other means. The section authorizes such sums as may be necessary for the program. **[§1511]**	Would authorize an unspecified amount of loan guarantees to be issued under the Federal Nonnuclear Energy Research and Development Act of 1974 for no more than three projects to commercially demonstrate the feasibility and viability of converting cellulosic biomass derived from agricultural residue into ethanol. The provision would set a maximum amount of $250 million per project, but in no case for more than 80% of a project's costs. **[§102(c)]**	No comparable provision.

Provision	H.R. 6 — Energy Policy Act of 2005, as passed the House	S. 606 — Reliable Fuels Act	H.R. 1608/S. 650 — Fuels Security Act of 2005
Bioconversion Technology	No comparable provision.	Authorizes $4 million for the University of Mississippi and the University of Oklahoma for each of FY2004-FY2006 for a resource center to further develop bioconversion technology using low-cost biomass for the production of ethanol. **[§102(d)]**	No comparable provision.
Research and Development	No comparable provision.	Authorizes $25 million in each of FY2006-FY2010 for research, development, and implementation of renewable fuel production technologies in RFG states with low rates of ethanol production. **[§102(e)]**	No comparable provision.
Cellulosic Biomass Ethanol Conversion Assistance	Allows the Secretary of Energy to provide grants for the construction of facilities to produce ethanol from cellulosic biomass, agricultural byproducts, agricultural waste, and municipal solid waste. A total of $750 million is authorized to be appropriated between FY2004 and FY2006. **[§1512]**	Similar to H.R. 6, except that only facilities that produce ethanol from cellulosic biomass would qualify. A total of $650 million is authorized for FY2005 and FY2006. **[102(f)]**	No comparable provision.
Blending of Compliant Reformulated Gasolines	Retailers may blend batches of gasoline with and without ethanol as long as both batches are compliant with the Clean Air Act. In a given year, retailers may only blend batches over two ten-day periods in the summer months. **[§1513]**	Retailers may blend batches of RFG with and without ethanol as long as both batches are compliant with the Clean Air Act, and as long as the retailer notifies EPA before such blending takes place. **[§204(c)]**	No comparable provision.

Provision	H.R. 6 — Energy Policy Act of 2005, as passed the House	S. 606 — Reliable Fuels Act	H.R. 1608/S. 650 — Fuels Security Act of 2005
Underground Storage Tanks (USTs)	Amends Solid Waste Disposal Act (SWDA) Subtitle I. New §9004(f) directs EPA to allot to the states at least 80% of the funds made available from the Leaking Underground Storage Tank (LUST) Trust Fund under §9014(2)(A).	No comparable provision.	No comparable provision.
New Uses of LUST Trust Fund	In addition to the current use of funds to carry out the response program for petroleum under §9003(h)(7)(A) (i.e., enforcing and carrying out corrective actions, and cost recovery), §9004(f) authorizes states to use funds to pay the reasonable costs incurred for (1) administrative expenses related to state funds or assurance programs; and (2) enforcing state UST programs. EPA may use funds not allotted to states to enforce any Subtitle I regulation.	No comparable provision.	No comparable provision.
Cost Recovery	New §9003(h)(6)(E) requires that, in determining the portion of cleanup costs to recover from a tank owner or operator, EPA or a state must consider the owner or operator's ability to pay and still maintain basic business operations. **[§1522]**	No comparable provision.	No comparable provision.
Tank Inspections	New SWDA §9005(c) requires states, within 2 years of enactment, as appropriate, to perform on-site compliance inspections of all tanks that have not been inspected since Dec. 1998 (when final UST regulations went into effect). Then, as appropriate, states must conduct inspections of tanks at least once every 3 years. EPA may grant a state a 1-year extension to the first 3-year inspection interval. **[§1523]**	No comparable provision.	No comparable provision.
State Compliance Reports	New §9003(i) requires states to prepare and submit to EPA compliance reports on government-owned tanks in the state. **[§1526(b)]**	No comparable provision.	No comparable provision.
LUST Trust Fund Authorization of Appropriations	§9014(2)(C) authorizes the appropriation of $100 million for each of FY2005-FY2009 to carry out §9003(i), §9004(f), and §9005(c). **[§1531]**	No comparable provision.	No comparable provision.

Provision	H.R. 6 — Energy Policy Act of 2005, as passed the House	S. 606 — Reliable Fuels Act	H.R. 1608/S. 650 — Fuels Security Act of 2005
Authorization of Appropriations for LUST Response Program	New SWDA §9014(2)(A) authorizes the appropriation of $200 million for each of FY2005-FY2009 from the LUST Trust Fund for EPA and states to carry out §9003(h), the response program for leaking petroleum tanks (except for MTBE and other oxygenated fuel remediation). **[§1531]**	No comparable provision.	No comparable provision.
Remediation of MTBE and Other Oxygenated Fuel Releases	New SWDA §9003(h)(12) authorizes EPA and states to use funds from the LUST Trust Fund made available under §9014(2)(B) to remediate underground storage tank releases of fuels containing *oxygenated fuel* additives (e.g., MTBE, other ethers, and ethanol). **[§1525]**	Similar provision. New SWDA §9003(h)(12) authorizes EPA and states to use funds from the LUST Trust Fund made available under §9013(1) to remediate MTBE and other *ether fuel* releases (does not include ethanol). Releases need not be from underground storage tanks to be eligible for assistance. **[§202(a)]** (Presumably, the authors intended to reference §9011(1).)	No comparable provision.
Authorization of LUST Trust Fund Appropriations	New §9014(2)(B) authorizes for this purpose the appropriation of $200 million annually for FY2005-FY2009. **[§1531(a)]**	New §9011(1) authorizes for this purpose an appropriation of $200 million for FY2005, to remain available until expended. **[§202(b)]**	No comparable provision.
Use of LUST Trust Fund for UST Program Enforcement	New SWDA §9011 authorizes EPA and states to use funds from the LUST Trust Fund to conduct inspections, issue orders, or otherwise enforce underground storage tank regulations. **[§1526(a)]**	Similar provision. New SDWA §9010 authorizes EPA and states to use LUST Trust Fund money available under §9013(2) to enforce tank regulations. **[202(b)]** (Presumably, the authors intended to reference §9011(2).)	No comparable provision.

Provision	H.R. 6 — Energy Policy Act of 2005, as passed the House	S. 606 — Reliable Fuels Act	H.R. 1608/S. 650 — Fuels Security Act of 2005
Other UST Requirements and Funding	Subtitle I makes several other changes to the UST regulatory program, imposing new requirements on state and federal governments, and tank owners, operators and installers.	No comparable provisions.	No comparable provisions.
UST Operator Training	Revised §9010 requires states to develop operator training requirements, based on EPA guidance (applicable to persons with primary and daily tank operation and maintenance responsibilities, and spill response responsibilities). **[§1524]**	No comparable provision.	No comparable provision.
Delivery prohibition	New §9012 prohibits product delivery to tanks that EPA or a state determines are ineligible for fuel delivery. Requires EPA and states to develop delivery prohibition rosters. Provides for civil penalties for violations of this prohibition. **[§1527]**	No comparable provision.	No comparable provision.
Tanks under Tribal Jurisdiction	New §9013 requires EPA, with Indian tribes, to develop and implement a strategy to address releases on tribal lands. **[§1529]**	No comparable provision.	No comparable provision.
Authorization of LUST Trust Fund Appropriations	New §9014(2)(D) authorizes the appropriation of $55 million for each of FY2005-FY2009 to carry out §9010, §9011, §9012 and §9013. **[§1531]**	New §9011(2) authorizes the appropriation of $30 million for each of FY2005-FY2009 to carry out §9010. **[§202(b)]**	No comparable provision.
Federal Facilities	Amends §9007 to clarify and expand compliance requirements for USTs under the jurisdiction of the Federal Government. **[§1528]**	No comparable provision.	No comparable provision.
Other Ground-water Protection Measures (Secondary Containment, Financial Responsibility)	New §9003(i) provides that, beginning 18 months after enactment, states that receive funding under Subtitle I must do one of the following: (1) require that newly installed or replaced tanks and piping are secondarily contained and monitored for leaks if the tank or piping is within 1,000 feet of a community water system or potable well; (2) require that UST manufacturers and installers maintain evidence of financial	No comparable provisions.	No comparable provisions.

Provision	H.R. 6 — Energy Policy Act of 2005, as passed the House	S. 606 — Reliable Fuels Act	H.R. 1608/S. 650 — Fuels Security Act of 2005
	responsibility to pay for corrective actions; and require that persons installing UST systems are certified or licensed, or that their UST system installation is certified by a professional engineer or inspected and approved by the state, or is compliant with a code of practice or other method determined by a state (or EPA) to be no less protective of human health and the environment. **[§1530]** [Note: §1526(b) and §1530 both create a new §9003(i).]		
Public Health and Environmental Impacts of Fuels and Additives	No comparable provision.	Amends §211(b) of the Clean Air Act to require manufacturers of fuels and fuel additives to conduct tests of their health and environmental impacts (currently, these tests are at EPA's discretion and do not include environmental effects), including the effects on sensitive populations. Also requires EPA, within two years, to conduct a study of the health and environmental effects of MTBE substitutes, including ethanol-blended RFG. **[§205]**	Similar provision, except that the section does not specify that the health effects on sensitive populations must be studied. **[§202]**
Federal Agency Ethanol-Blended Gasoline and Biodiesel Purchasing Requirement	No comparable provision.	No comparable provision.	Amends the Energy Policy Act of 1992 to require federal agencies to purchase and use ethanol-blended gasoline and blends of biodiesel and conventional diesel, if those fuels are available at a competitive price. **[§102]**

Provision	H.R. 6 — Energy Policy Act of 2005, as passed the House	S. 606 — Reliable Fuels Act	H.R. 1608/S. 650 — Fuels Security Act of 2005
Review of Federal Procurement	No comparable provision.	No comparable provision.	Requires the Administrator of General Services, 180 days after enactment, to report to Congress on efforts to implement procurement policies on government use of recycled products and federal vehicle fleet efficiency. **[§207]**