

(b) Notwithstanding the provision of paragraph (c) of this section, the requirements and prohibitions of this part do not apply with respect to the engines identified in paragraphs (a)(1) and (2) of this section where such engines are:

(1) Marine engines with rated power below 37 kW; or

(2) Marine engines on foreign vessels.

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3. Section 94.2 is amended by adding, in alphabetical order, definitions to paragraph (b) for “Annex VI Technical Code”, “Brake-specific fuel consumption”, “Hydrocarbon standard”, “Maximum test speed”, “Residual fuel”, “Round”, “Tier 1”, “Vessel operator”, and “Vessel owner”, and revising the definitions for “Designated Officer”, “Diesel fuel”, and “New vessel” to read as follows:

§ 94.2 Definitions.

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(b) As used in this part, all terms not defined in this section shall have the meaning given them in the Act:

Annex VI Technical Code means the “Technical Code on Control of Emission of Nitrogen Oxides from Marine Diesel Engines,” adopted by the International Maritime Organization (incorporated by reference in § 94.5).

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Brake-specific fuel consumption means the mass of fuel consumed by an engine during a test segment divided by the brake-power output of the engine during that same test segment.

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Designated Officer means the Manager of the Engine Programs Group (6405-J), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., Washington, DC 20460.

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Diesel fuel means any fuel suitable for use in diesel engines which is commonly or commercially known or sold as diesel fuel or marine distillate fuel.

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Hydrocarbon standard means an emission standard for total hydrocarbons, nonmethane hydrocarbons, or total hydrocarbon equivalent; or a combined emission standard for NO_x and total hydrocarbons, nonmethane hydrocarbons, or total hydrocarbon equivalent.

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Maximum test speed means the engine speed defined by § 94.107 to be the maximum engine speed to use during testing.

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New vessel means:

(1)(i) A vessel, the equitable or legal title to which has never been transferred to an ultimate purchaser; or

(ii) For vessels with no Category 3 engines, a vessel that has been modified such that the value of the modifications exceeds 50 percent of the value of the modified vessel. The value of the modification is the difference in the assessed value of the vessel before the modification and the assessed value of the vessel after the modification. Use the following equation to determine if the fractional value of the modification exceeds 50 percent:

Percent of value = [(Value after modification) – (Value before modification)] × 100% (Value after modification)

(iii) For vessels with Category 3 engines, a vessel that has undergone a modification, which:

(A) Substantially alters the dimensions or carrying capacity of the vessel; or

(2) Changes the type of vessel; or

(3) Substantially prolongs the vessel’s life.

(2) Where the equitable or legal title to a vessel is not transferred to an ultimate purchaser prior to its being placed into service, the vessel ceases to be new when it is placed into service.

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Residual fuel means a petroleum product containing the heavier compounds that remain after the

distillate fuel oils (e.g., diesel fuel and marine distillate fuel) and lighter hydrocarbons are distilled away in refinery operations.

Round means to round numbers according to ASTM E29–02 (incorporated by reference in § 94.5), unless otherwise specified.

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Tier 1 means relating to an engine subject to the Tier 1 emission standards listed in § 94.8.

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Vessel operator means any individual that physically operates or maintains a vessel, or exercises managerial control over the operation of the vessel.

Vessel owner means the individual or company that holds legal title to a vessel.

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4. Section 94.5 is revised to read as follows:

§ 94.5 Reference materials.

We have incorporated by reference the documents listed in this section. The Director of the Federal Register approved the incorporation by reference as prescribed in 5 U.S.C. 552(a) and 1 CFR part 51. Anyone may inspect copies at the U.S. EPA, Air and Radiation Docket and Information Center, 1301 Constitution Ave., NW., Room B102, EPA West Building, Washington, DC 20460 or the Office of the Federal Register, 800 N. Capitol St., NW., 7th Floor, Suite 700, Washington, DC.

(a) *ASTM material*. Table 1 of § 94.5 lists material from the American Society for Testing and Materials that we have incorporated by reference. The first column lists the number and name of the material. The second column lists the sections of this part where we reference it. Anyone may purchase copies of these materials from the American Society for Testing and Materials, 100 Barr Harbor Dr., PO Box C700, West Conshohocken, PA 19428. Table 1 follows:

TABLE 1 OF § 94.5.—ASTM MATERIALS

Document No. and name	Part 94 reference
ASTM D 86–01, Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure	94.108
ASTM D 93–02, Standard Test Methods for Flash-Point by Pensky-Martens Closed Cup Tester	94.108
ASTM D 129–00, Standard Test Method for Sulfur in Petroleum Products (General Bomb Method)	94.108
ASTM D 287–92 (Reapproved 2000), Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method).	94.108
ASTM D 445–01, Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids (the Calculation of Dynamic Viscosity).	94.108
ASTM D 613–01, Standard Test Method for Cetane Number of Diesel Fuel Oil	94.108
ASTM D 1319–02a, Standard Test Method for Hydrocarbon Types in Liquid Petroleum Products by Fluorescent Indicator Adsorption.	94.108