

**§ 204.57-8**

compressors from subsequent batches pursuant to the initiating test request.

(d) The Administrator may terminate testing earlier than required in paragraph (b) of this section based on a request by the manufacturer accompanied by voluntary cessation of distribution in commerce, from all plants, of compressors from the configuration in question: *Provided*, That once production is reinitiated, the manufacturer must take the action described in §204.57-9 (a)(1) and (a)(2) prior to distribution in commerce of any compressors from any plant of the compressor category or configuration in question.

**§ 204.57-8 Continued testing.**

(a) If a batch sequence is rejected in accordance with paragraph (b) of §204.57-7, the Administrator may require that any or all compressors of that category, configuration or subgroup thereof produced at that plant be tested before distribution in commerce.

(b) The Administrator will notify the manufacturer in writing of his intent to require such continued testing of compressors pursuant to paragraph (a) of this section.

(c) The manufacturer may request a hearing on the issues of whether the selective enforcement audit was conducted properly; whether the criteria for batch sequence rejection in §204.57-7 have been met; and, the appropriateness or scope of a continued testing order. In the event that a hearing is requested, the hearing shall begin no later than 15 days after the date on which the Administrator received the hearing request. Neither the request for a hearing nor the fact that a hearing is in progress shall affect the responsibility of the manufacturer to commence and continue testing required by the Administrator pursuant to paragraph (a) of this section.

(d) Any tested compressor which demonstrates conformance with the applicable standards may be distributed into commerce.

(e) Any knowing distribution into commerce of a compressor which does

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not comply with the applicable standards is a prohibited act.

(Sec. 6, 13, Pub. L. 92-574 (42 U.S.C. 4912))

[41 FR 2172, Jan. 14, 1976, as amended at 42 FR 61455, Dec. 5, 1977; 44 FR 54295, Sept. 19, 1979]

**§ 204.57-9 Prohibition of distribution in commerce; manufacturer's remedy.**

(a) The Administrator will permit the cessation of continued testing under §204.57-8 once the manufacturer has taken the following actions:

(1) Submit a written report to the Administrator which identifies the reason for the noncompliance of the compressors, describes the problem, and describes the proposed quality control and/or quality assurance remedies to be taken by the manufacturer to correct the problem or follows the requirements for an engineering change. Such requirements include the following:

(i) Any change to a configuration with respect to any of the parameters stated in §204.55-3 shall constitute the addition of a new and separate configuration or category to the manufacturer's product line.

(ii) When a manufacturer introduces a new category or configuration to his product line, he shall proceed in accordance with §204.55-2.

(iii) If the configuration to be added can be grouped within a verified category and the new configuration is estimated to have a lower sound level than a previously verified configuration with the same category, the configuration shall be considered verified.

(2) Demonstrates that the specified compressor category, configuration or subgroup thereof has passed a retest conducted in accordance with §204.57 and the conditions specified in the initial test request.

(3) The manufacturer may begin testing under paragraph (a)(2) of this section, upon submitting such report, and may cease continued testing upon making the demonstration required by paragraph (a)(2) of this section: *Provided*, That the Administrator may require resumption of continued testing if he determines that the manufacturer has not satisfied the requirements of