

Sample Letter to Solicit Comments on Engineering Analysis

Certified Return Receipt Requested

Name
Company
Address
Address

On (Month, Day) , (Year) , investigators of the Federal Motor Carrier Safety Administration (FMCSA), visited your manufacturing plant in _____, and conducted a review and analysis of your Department of Transportation (DOT) specification cargo tank designs for compliance with the requirements of 49 C.F.R. part 178, subpart J. This review was conducted pursuant to authority in 49 U.S.C. §§ 5101 et seq., as delegated to the FMCSA by the Secretary of Transportation in 49 C.F.R. § 1.73(d)(1). The FMCSA's analysis of the data examined during this review indicates that _____ cargo tank designs manufactured and certified as complying with the requirements applicable to DOT 400 series cargo tanks, fail to meet DOT specifications in several areas. Our report of the analysis is enclosed for your review.

The enclosed analysis indicates a possible noncompliance with DOT specifications in the following areas:

(1) **Inadequate** _____, as defined in 49 C.F.R. § 178._____, in that the _____ on ___ of the ___ tanks is not _____;

(2) **Inadequate** _____, as defined in 49 C.F.R. § 178._____, in that the _____.

Before initiating enforcement action against your company and carriers using DOT 400 series cargo tanks manufactured by your company, the FMCSA would like to give you the opportunity to review and respond in writing to our analysis and findings. We recommend that your written response address each of the areas discussed above and be supported by adequate analysis conducted by an independent Registered Design Certifying Engineer (a licensed professional engineer). Areas where there are no disputes to our analysis and findings, we would ask that you include proposed corrective actions. Any written response will be given adequate and immediate

attention.

If no written response is received within 45 days from the date of receipt of this letter, the FMCSA may commence enforcement action against your company, which may include civil and criminal penalties pursuant to 49 U.S.C. §§ 5122-5124. Additionally, we may move for an injunction and/or the imposition of punitive penalties in the appropriate United States District Court against your continued certification of the deficient cargo tanks as meeting the DOT specifications, as authorized by 49 U.S.C. § 5122. Finally, the FMCSA may also initiate enforcement actions against those companies and individuals that have purchased and/or currently own and use the identified cargo tanks in transportation.

If you have any questions concerning the above matter, please contact _____ (Name and title) at _____.

Sincerely,

Field Administrator

Enclosure