UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 13 2004

OFFICE OF
ENVIRONMENTAL INFORMATION

Mr. Gary N. Weinreich
Environmental Services Manager
BMW Manufacturing Corp.
P.O. Box 11000
Spartanburg, SC 29304-4100

Re: Response to Request for Reconsideration (RFR) on BMW's designation of Significant Non-compliance (SNC) in the Enforcement and Compliance History Online (ECHO) and Sector Facility Index Project (SFIP) sites pursuant to the Environmental Protection Agency (EPA) Information Quality Guidelines (IQG RFR #7421A)

Dear Mr. Weinreich:

This letter responds to your November 25, 2003, Request for Reconsideration (RFR) of the U.S. Environmental Protection Agency's ("EPA" or "Agency") response to your Request for Correction (RFC). Your RFR states, "We continue to be confused by EPA's position on the issue of 'Significant Non-compliance' as it relates to the July 2001 inspection of our facility." You indicate that BMW's historical compliance status does not meet the definition of Significant Non-compliance (SNC) and request the executive panel consider a number of legal questions "related to EPA's written criteria for determining significant non-compliance under RCRA."

Your request for reconsideration was presented to an executive panel comprised of myself as EPA's Chief Information Officer and Assistant Administrator of the Office of Environmental Information (Panel Chair), Jessica Furey, Economics Advisor to the Agency and Associate Administrator for Policy, Economics and Innovation, and Paul Gilman, Science Advisor to the Agency and Assistant Administrator for Research and Development. The executive panel reviewed your original request for correction and your request for reconsideration. This letter communicates the panel's decision on the request for reconsideration.

Your RFC raised a number of issues with respect to the objectivity, integrity, utility, and reproducibility of information posted on the EPA Enforcement and Compliance History Online (ECHO) and the Sector Facility Index Project (SFIP) Web sites showing BMW to be in significant non-compliance with the Resource Conservation and Recovery Act (RCRA). In your RFC you asked that the non-compliance designation for BMW be corrected on these Web sites. On August 27, 2003, on behalf of EPA, Walker B. Smith, Director of the Office of Regulatory Enforcement, informed BMW that it would not be designated as a SNC beginning with the July-September 2003 quarter (assuming that BMW remains compliant with its compliance schedules),

and that EPA would not be modifying or changing BMW's historical compliance status as it appeared in ECHO and SFIP (i.e., prior quarters of significant RCRA non-compliance), because the information accurately reflects BMW's compliance status based on EPA's compliance determination. It was determined that the information in EPA's ECHO and SFIP Web sites regarding BMW's compliance history is consistent with the EPA *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by the Environmental Protection Agency* (IQG). In the RFR you requested that EPA reconsider the response.

After careful deliberation, the executive panel agrees with the August 27, 2003, determination that the information in ECHO and SFIP accurately reflects EPA's compliance determination in regard to BMW. The executive panel noted that an EPA decision on the compliance status of a particular facility, including whether to designate a particular facility as a SNC under EPA's policy for determining timely and appropriate response for violations occurring pursuant to RCRA, is outside the scope of the EPA IQGs. Therefore, the Panel reaffirms the original decision that the information in ECHO and SFIP regarding BMW's compliance history accurately reflects EPA's compliance determination.

The panel acknowledges that EPA is aware of issues related to the presentation of compliance-related information on its public Web sites. As part of its ongoing efforts to improve the transparency of information presented to the public, EPA is in the process of reviewing the presentation of compliance data on the ECHO and SFIP Web sites. Additional ongoing efforts to improve the design and accuracy of ECHO are responsive to public review. As a result of these public comments some changes have already been implemented, and other changes are under consideration that we believe will improve the transparency and presentation of information in ECHO.

EPA has committed to continue to evaluate ways to make the ECHO site more transparent and useful, e.g. providing more text where needed. We continue to solicit ideas from stakeholders and customers to make ECHO work successfully.

Sincerely,

Kimberly T. Nelson
Assistant Administrator and
Chief Information Officer