



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

AUG 27 2003

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

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

Re: Response to Request for Correction (RFC) regarding Enforcement and Compliance History Online (ECHO) and Sector Facility Index Project (SFIP) Web sites pursuant to the Environmental Protection Agency (EPA) Information Quality Guidelines (IQG RFC #7421)

Dear Mr. Weinreich:

As you know, we have received BMW Manufacturing Corporation's February 7, 2003 RFC submitted pursuant to the *Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by the Environmental Protection Agency* (EPA Information Quality Guidelines). In the RFC, you raised a number of issues with respect to the objectivity, integrity, utility, and reproducibility of information posted on the EPA ECHO and SFIP Web sites, showing BMW to be in significant non-compliance (SNC) of the Resource Conservation and Recovery Act (RCRA). Further, you requested that EPA change the SNC designation for your facility.

The information described in your request is associated with a July 2001 State of South Carolina-EPA joint inspection of your facility. EPA has updated the publicly disseminated information in the ECHO and SFIP Web sites to reflect a Consent Agreement that BMW and the State of South Carolina recently signed, and we have determined that the information about BMW currently being disseminated through these Web sites is consistent with EPA Information Quality Guidelines and the Office of Management and Budget (OMB) information quality guidelines.

Under the EPA Information Quality Guidelines, "objectivity" focuses on whether information disseminated by EPA is presented in an accurate, clear, complete, and unbiased manner, and as a matter of substance, is accurate, reliable, and unbiased. In a March 17, 2003 letter to you, EPA reiterated (listed) the violations identified during the July 2001, inspection (enclosed). As you know, we disagreed with the State of South Carolina interpretation of the relevant requirements, and we determined that your facility was in

significant noncompliance. The information from the EPA ECHO and SFIP Web sites accurately reflects EPA's determination and is thus consistent with the provisions for "objectivity" in the EPA Information Quality Guidelines.

We note that a number of your arguments express disagreement with the EPA interpretation of the relevant requirements and with EPA's determination regarding BMW's compliance status. However, expressing a disagreement with an EPA decision does not in itself demonstrate that information regarding that decision is inconsistent with the EPA Information Quality Guidelines. In addition, we disagree with your specific arguments. First, we did not consider the BMW Spartanburg facility to be in non-compliance with any EPA guidance memoranda; rather, we inspected the facility and found it to be in non-compliance with relevant requirements. Second, we do not agree that there were no environmental consequences to the violations. RCRA and authorized state hazardous waste regulations are designed to prevent releases of hazardous waste and other adverse environmental impacts, and violation of those requirements creates the risk of such impacts. Third, although EPA has authorized the South Carolina hazardous waste program, the State is not a delegated agent of EPA, and EPA retains the authority to ensure that the program is carried out in a manner that is not less stringent than the federal program. Finally, the SNC designation is based on EPA's determination that BMW's violations were significant. A number of BMW's July 2001 violations (e.g., BMW's failure to properly identify its hazardous waste and mismanagement of hazardous waste tanks) involve exposure to, or substantial likelihood of exposure to, hazardous waste. In addition, the nature of deviations was a factor in the SNC designation; for example, BMW's failure to comply with hazardous waste tank standards is a substantial deviation from applicable requirements.

Under the EPA Information Quality Guidelines, "integrity" refers to information security, such as the protection of information from unauthorized access or revision to ensure that the information is not compromised through corruption or falsification. "Utility" refers to the usefulness of the information to the intended users. Your complaint regarding the integrity of BMW's information does not allege that the information has been subject to unauthorized access or revision or otherwise compromised. Rather, this portion of your request in essence expresses disagreement with EPA's substantive position on the relevant provisions of RCRA and alleges that EPA uses the ECHO Web site to force companies to sign settlement agreements. Similarly, your complaint regarding the utility of the information is based on your disagreement with EPA's determination regarding BMW's compliance status. Disagreements with EPA's policy and programmatic decisions do not in themselves demonstrate a problem with the security or utility of BMW's compliance information under the EPA Information Quality Guidelines. The allegations regarding EPA's use of the ECHO Web site are speculative and in any event do not relate to the security of information. Additionally, the concept of "reproducibility" does not apply to BMW's compliance information. "Reproducibility" under the EPA Information Quality Guidelines refers to the higher standard of quality applicable to influential scientific, financial, or statistical information. We do not consider BMW's compliance information to be influential scientific, financial, or statistical information.

We understand that your facility is now in compliance with a compliance schedule established in an April 30, 2003 Consent Agreement signed by BMW Manufacturing Corporation and the State of South Carolina. As a result, your facility is no longer designated a SNC on the ECHO and SFIP Web sites. This data is reflected by the use of the word "No" in the "Current SNC/HPV?" field of the "Compliance Summary Data" section of ECHO and similar data fields of SFIP (see enclosures). The ECHO and SFIP Web sites provide eight quarters of compliance history (see the "Two Year Compliance Status by Quarter" section). Since your facility was designated as a SNC during the first 29 days of the current reported (April-June 2003) quarter, this section of ECHO and SFIP reflects a "SNC" designation for the April-June 2003 quarter. When the next reported quarter (July-September 2003) is added to the "Two Year Compliance Status by Quarter" section of the data bases, it will indicate that BMW is not designated as a SNC during that quarter assuming your facility remains compliant with the compliance schedules in the April 30, 2003 Consent Agreement and complies with all other relevant RCRA requirements. Accordingly, these Web sites provide an accurate characterization of your compliance history.

ECHO was designed to be easy to use and to present information in a way to be readily understood. Care was taken to lead the user to proper interpretation of the information by providing Frequently Asked Questions, defining terms and acronyms, and providing other information about the information on those Web sites. ECHO is now being evaluated after a six month pilot period to see what modifications are appropriate and to respond to a large number of user comments. We anticipate making contextual modifications to further improve the reports offered through ECHO and SFIP.

In light of these developments with regard to BMW and the revision of the SNC designation, we believe that the information in EPA's ECHO and SFIP Web sites regarding BMW's compliance history is consistent with the EPA Information Quality Guidelines. If you are dissatisfied with this response to your RFC, you may submit a Request for Reconsideration (RFR). EPA recommends that this request be submitted within 90 days of the date on this letter. To do so, send a written request to the Agency's Information Quality Guidelines Processing Staff via electronic mail (quality.guidelines@epa.gov), mail (Information Quality Guidelines Staff, Mail Code 28220T, U.S. EPA, 1200 Pennsylvania Ave., N.W., Washington, D.C., 20460), or fax (202- 566-0255). The RFR should reference the request number assigned to the original RFC. Additional information that should be included in the request is listed on the EPA Information Quality Guidelines Web site (<http://www.epa.gov/oei/qualityguidelines>).

If you have any questions regarding this letter, please contact David Nielsen at
(202) 564-2220.

Sincerely,



Walker B. Smith, Director
Office of Regulatory Enforcement

Enclosures

cc: Carl W. Flesher, Vice President
BMW Manufacturing Corporation

R. Lewis Shaw, Deputy Commissioner
Environmental Quality Control South Carolina Department of Health
& Environmental Control

Bob King, Assistant Deputy Commissioner
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