SUMMARY: On October 7, 1996 (61 FR 52287), the Environmental Protection Agency published in the **Federal Register** a final significant new use rule under the Toxic Substances Control Act (TSCA) for benzidine-based substances. The rule established an effective date of November 20, 1996. This document corrects the effective date of the rule to December 30,1997 to be consistent with sections 801 and 808 of the Congressional Review Act (CRA), enacted as part of the Small Business Regulatory Enforcement Fairness Act.

EFFECTIVE DATE: December 30, 1997. Persons who begin commercial manufacture, importation, or processing of listed benzidine-based chemical substances for any significant new use listed in this between August 30, 1995, and December 30, 1997 must comply with the requirements of the final rule.

FOR FURTHER INFORMATION CONTACT: Angela Hofmann, Director, Regulatory Coordination Staff, Office of Prevention, Pesticides and Toxics, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. Telephone: (202) 260–2922.

SUPPLEMENTARY INFORMATION:

A. Background

Section 801 of the CRA precludes a rule from taking effect until the agency promulgating the rule submits a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the General Accounting Office (GAO). EPA recently discovered that it had inadvertently failed to submit the above rule as required; thus, although the rule was promulgated on the date stated in the October 7, 1996 **Federal Register** document, by operation of law, the rule did not take effect on November 20, 1996 as stated therein. After EPA discovered its error, the rule was submitted to both Houses of Congress and the GAO on December 11, 1997. This document amends the effective date of the rule consistent with the provisions of the CRA.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, an agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA merely is correcting the effective date of the promulgated rule to be consistent with the congressional review requirements of the Congressional Review Act as a matter of law and has no discretion in this matter. Thus, notice and public procedure are unnecessary. The Agency finds that this constitutes good cause under 5 U.S.C. 553(b). Moreover, since today's action does not create any new regulatory requirements and affected parties have known of the underlying rule since October 7, 1996, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 553(d)(3) and 808(2).

B. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the October 7, 1996 **Federal Register** document.

Pursuant to 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office; however, in accordance with 5 U.S.C. 808(2), this rule became effective on December 30, 1997. This rule is not a ''major rule'' as defined in 5 U.S.C. 804(2).

This final rule only amends the effective date of the underlying rule; it does not amend any substantive requirements contained in the rule. Accordingly, to the extent it is available, judicial review is limited to the amended effective date. Pursuant to section 19 of TSCA, challenges to this amendment must be brought within 60 days of today's publication of this rule.

Dated: December 30, 1997.

Carol M. Browner,

Administrator.

[FR Doc. 98–262 Filed 1–5–98; 10:55 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AL–045–1–9804a; FRL–5946–5]

Approval and Promulgation of Implementation Plans: Revisions to Several Chapters of the Alabama Department of Environmental Management (ADEM) Administrative Code for the Air Pollution Control Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On August 28, 1997, the State of Alabama through ADEM submitted a State implementation plan (SIP) revision of the ADEM Administrative Code for the Air Pollution Control Program. Revisions were made to Chapters 335–3–1—General Provisions, 335–3–3—Control of Open Burning and Incineration and 335–3–6—Control of Organic Emissions. The Environmental Protection Agency (EPA) is approving these revisions but is not taking action in this document on the revisions made to chapters 335–3–10—Standards of Performance for New Stationary Sources and 335–3–11—National Emissions Standards of Hazardous Air Pollutants because they are not a part of the federally approved SIP for Alabama.

DATES: This action will be effective March 9, 1998 unless adverse or critical comments are received by February 6, 1998. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Kimberly Bingham at the EPA Region 4 address listed below. Copies of the material submitted by ADEM may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460

Environmental Protection Agency, Atlanta Federal Center, Region 4 Air Planning Branch, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–3104

Alabama Department of Environmental Management, 1751 Congressman W.

L. Dickinson Drive, Montgomery, Alabama 36109

FOR FURTHER INFORMATION CONTACT: Kimberly Bingham, Regulatory Planning Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303. The telephone number is (404)562–9038.

SUPPLEMENTARY INFORMATION: On August 28, 1997, the State of Alabama through ADEM submitted numerous changes to their Air Division Administrative Code to be incorporated into their SIP. The changes include revisions to the definition of volatile organic compounds (VOC) in chapter 335–3–1, changes to the open burning rules in Chapter 335–3–3 and a technical amendment to Chapter 335–3–6. The following is a brief summary of the revisions made to the aforementioned Chapters.

Summary of Revisions

Chapter 335–3–1—General Provisions

ADEM is revising 335–3–1–.02(gggg) to add HFC 43–10mee and HCFC 225ca and cb to the list of compounds excluded from the definition of volatile organic compounds (VOC) on the basis that these compounds have been determined to have negligible photochemical reactivity. These compounds are solvents which could be used in electronics and precision cleaning. For a more detailed rationale on why these chemicals were found to have negligible photochemical reactivity see the document published in the **Federal Register** on October 8, 1996, (61 FR 52848), which explains the EPA's decision to add HFC 43–10mee and HCFC 225ca and cb to this list of excluded compounds.

Chapter 335–3–3—Control of Open Burning and Incineration

Rule 335–3–.01(9) was revised to incorporate regulations adopted by the local air program of Jefferson County, Alabama. This revision will prohibit open burning in Jefferson County, Alabama during the ozone season months of June, July and August.

Chapter 335–3–6—Control of Organic Emissions

Rule 335–3–6(5) was deleted because it addresses testing and monitoring procedures for perchloroethylene dry cleaning systems which are no longer needed because perchloroethylene was exempted from the list of VOCs by EPA on the basis that this compound has been determined to have negligible photochemical reactivity (See 61 FR 4590, February 7, 1996).

Final Action

The EPA is approving the aforementioned revisions because they meet the Agency requirements. This action is being published without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective March 9, 1998 unless, adverse or critical comments are received by February 6, 1998.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed rule published with this action. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective March 9, 1998.

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3).

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 9, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to

enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone.

Dated: December 5, 1997.

A. Stan Meiburg,

Acting Regional Administrator.

Chapter I, title 40, *Code of Federal Regulations,* is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart B—Alabama

2. Section 52.50 is amended by adding paragraph (c)(71) to read as follows:

§ 52.50 Identification of plan.

* * * * *

(c)* * *

(71) The State of Alabama submitted revisions to the ADEM Administrative Code for the Air Pollution Control Program on October 30, 1996. These revisions involve changes to Chapters 335–3–1, 335–3–3 and 335–3–6.

(i) Incorporation by reference. Chapters 335–3–1–.02(gggg)(24–27), 335–3–3–.01(9) and 335–3–6–.16 except for (5) were adopted on August 19, 1997.

(ii) Other material. None.

[FR Doc. 98–357 Filed 1–6–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300599; FRL–5764–5]

RIN 2070–AB78

Gamma Aminobutyric Acid; Pesticide Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for residues of the biochemical gamma aminobutyric acid (GABA) in or on all food commodities, when applied as a plant growth and crop yield enhancer in accordance with good agricultural practices. This exemption was requested by Auxein Corporation.

DATES: This regulation becomes effective February 6, 1998. Objections and requests for hearings must be received by EPA on or before March 9, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300599], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300599], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [OPP–300599]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Edward Allen, Regulatory Action Leader, Biopesticides and Pollution Prevention Division (7511W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Office location, telephone number, and e-mail: 5th Floor CS #1, 2800 Crystal Drive, Arlington, VA 22202, Telephone No. (703) 308-8699), e-mail: allen.edward@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Auxein Corporation, P.O. Box 27519, 3125 Sovereign Drive, Suite B, Lansing, MI 48911 had requested in pesticide petition 7F4843, the establishment of an exemption from the requirement of a tolerance for residues of the biochemical gamma aminobutyric acid (GABA). A notice of filing (PF–772) was published in the **Federal Register** of October 29, 1997 (62 FR 57170; FRL–5751–3), and the notice announced that the comment period would end on November 28, 1997; no comments were received. The data submitted in the petition and all other relevant material have been evaluated. Following is a summary of EPA's findings regarding this petition.

I. Summary

A. Proposed Use Practices

Gamma aminobutyric acid (GABA) will be incorporated into the end-use product, AuxiGro™ WP Plant Growth Enhancer as an active ingredient. AuxiGro WP is proposed for use in a variety of agricultural, horticultural, and floricultural applications to enhance plant growth and crop productivity.

Depending on the crop, the first application of AuxiGro is made at first bloom, first bud, at the 4-6 leaf stage, or at a prescribed growth stage. A subsequent application, for a maximum of two (2) applications, may be made 1-3 weeks later. The rate range is 0.10 - 0.75 pounds of formulated product/acre per treatment, not to exceed a maximum of 1.5 lb/acre per growing season. This equates to 0.4 lb/acre (0.2 kg) of GABA applied at the maximum use rate.

B. Product Identity/Chemistry

GABA is a non-protein amino acid that is ubiquitous in nature. It has been found in microorganisms, lower and higher plants, fish, birds, insects, and mammals. GABA is a white, crystalline powder with a pH of 6.5 to 7.5. It is freely soluble in water, but insoluble or poorly soluble in other solvents. The melting point for GABA is 202 degrees C on rapid heating.

II. Risk Assessment and Statutory Findings

New section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement of a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(c)(2)(B) requires EPA to give special