Electronic comments can be sent directly to EPA at:
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Electronic comments must be submitted as ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 7, 1997.

Stephen L. Johnson,

*Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 97–983 Filed 1–14–97; 8:45 am]
**BILLING CODE 6560–50–F**

**[PF–687; FRL–5580–4]**

## W. Neudorff GmbH KG; Pesticide Tolerance Petition Filing

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of filing.

**SUMMARY:** This notice announces the initial filing of a pesticide petition proposing the establishment of a regulation for an exemption from the requirement for a tolerance for residues of copper octanoate when used in accordance with good agricultural practice as an active ingredient in pesticide formulations applied to growing crops. This notice includes a summary of the petition that was prepared by the petitioner, W. Neudorff GmbH KG (''Neudorff'').

**DATES:** Comments, identified by the docket number [PF–687], must be received on or before February 14, 1997.

**ADDRESSES:** By mail, submit written comments to Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. In person, bring comments to Rm. 1132, CM #2. 1921 Jefferson Davis Highway, Arlington, VA 22202. Comments and data may also be submitted electronically be sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by docket number [PF–687]. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below this document.

Information submitted as a comments concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Philip V. Errico, Acting Product Manager (22), Rm. 229, CM#2, 1921 Jefferson Davis Highway, Arlington, VA. 22202, 703–305–5540, e-mail: errico.philip@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA has received a pesticide petition (PP 6F4734) from W. Neudorff GmbH KG (''Neudorff''), c/o Walter G. Talarek, 1008 Riva Ridge Drive, Great Falls, VA 22066, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. section 346a(d), to amend 40 CFR Part 180 by establishing an exemption from the requirement for a tolerance for residues of the fungicide copper octanoate when used in accordance with good agricultural as an active ingredient in pesticide formulations applied to growing crops.

As required by section 408(d) of the FFDCA, as recently amended by the Food Quality Protection Act, Neudorff included in the petition a summary of the petition and authorization for the summary to be published in the Federal Register in a notice of receipt of the petition. The summary represents the views of Neudorff. EPA is in the process of evaluating the petition. As required by section 408(d)(3) EPA is including the summary as a part of this notice of filing. EPA has made minor edits to the summary for the purpose of clarity.

I. Petition Summary

*A. Residue Chemistry*

1. *Magnitude of the residue anticipated at the time of harvest and method used to determine the residue.* No residues are expected at the time of harvest on crops treated with copper octanoate, because rainwater readily washes copper octanoate off plants, and this chemical is biodegraded by water hydrolysis into its copper ion and fatty acid components, and then the fatty acids are further degraded by two carbon units at a time until they eventually degrade to water and CO2. In addition, the physio-chemical properties of soils naturally modify copper ion availability, and when soils are adjusted/limed to the pH required for normal crop production, the effect is to reduce copper availability to the crop. Furthermore, toxic copper levels in plants induce an imbalance with iron which causes plant dwarfing, stunted roots and decreased growth and yields, which effects appear before significant copper buildup occurs, and consequently acts as a warning which prevents excess application of copper compounds to food/feed crops. Last, even if residues were to remain on plants, the copper ion is a trace element, or micronutrient, essential for the growth and well being of higher plants and animals, including man. Therefore, the amount of this chemical proposed for application to plants is highly unlikely to cause harm to plants or animals or to leave excess residues on the plants.

2. *Statement of why an analytical method for detecting and measuring the levels of the pesticide residue are not needed.* Neudorff has not proposed a new analytical method, because copper levels harmful to plants and animals are highly unlikely to occur when its copper octanoate product is applied according to label instructions. However, should EPA require such a method, because copper octanoate is a copper salt of a fatty acid, Neudorff would propose the use of the same analytical method submitted by registrants of products containing other copper salts of fatty acids.

*B. Toxicological Profile*

1. *Acute toxicity.* Result of studies conducted on a concentrate product containing copper octanoate and for which Neudorff has applied for registration indicate that this chemical has low acute toxicities.

2. *Genotoxicity, reproductive and developmental toxicity, subchronic toxicity, and chronic toxicity.* There is adequate information available from literature sources to characterize the toxicity of the copper ion. The available literature shows that copper is ubiquitous in nature and is a necessary nutritional element for both animals and plants. It is one of 26 elements found essential to life. The copper ion is present in the adult human body at levels of 80–150 mg. Oral ingestion of excessive amounts of the copper ion from pesticidal uses is unlikely; copper compounds are irritating to the gastric mucosa and emesis usually occurs promptly, thereby reducing the amount of copper ion available for absorption into the human body. Moreover, copper is a trace element essential for the growth and well being of man. However, man is protected from excess copper ion in the body by an effective homeostatic mechanism which integrates absorption, retention and excretion to stabilize the copper ion burden in the body. Only a small percentage of copper ingested is absorbed, and most of the absorbed copper is excreted. In view of the facts that the copper ion occurs naturally in most foods and the metabolism of copper is well understood, there is no reason to expect that long-term exposure to copper ion in the diet is likely to pose the risks of chronic or sub-chronic adverse effects.

*C. Aggregate Exposure*

1. *Dietary exposure.* a. *Food.* There is no known evidence of sub-chronic or chronic adverse health effects from dietary exposure to the copper ion, except in the case of massive intake disrupting the natural homeostatic mechanism controlling body level of copper.

b. *Drinking water.* As a copper salt of a fatty acid, copper octanoate can be washed off growing plants by rain and during processing of crops by water. However, as stated previously, copper octanoate is biodegraded first by water hydrolysis into the copper ion and fatty acid components, and then the fatty acids are further degraded by two carbon units at a time until they eventually degrade to water and $CO_2$. But, even if the chemical were to wash off plants and the copper ion were to get into a public drinking water source, EPA has promulgated Safe Drinking Water Act standards for copper which would be protective of pubic health.

2. *Non-dietary exposure.* The only non-dietary exposure expected is that to applicators. However, the protective measures prescribed by the product's label are expected to be adequate to minimize exposure and protect applicators of the chemical.

*D. Cumulative Effects*

No cumulative adverse effects are expected from long-term exposure to this chemical.

*E. Safety Determination*

1. *U.S. population.* The metabolism of copper in man and growing plants is well understood and documented in the available literature. The use of copper octanoate as a pesticide would have essentially the same results in terms of contribution of copper ion to growing crops as the use of copper sulfate and the Group II copper compounds that have already been granted exemptions from tolerance by EPA. Further, there is adequate information to show that there is no toxicological concern raised by the contribution of the copper ion to growing crops which is likely to result from application of pesticides containing copper, and consequently no tolerances should be required for the use of copper octanoate.

2. *Infants and children.* Because the fetus and newborn have elevated copper levels (Sternlieb, 1980), and since homeostatic mechanisms are not fully developed at birth (Underwood, 1977), the newborn represents a risk group that may not be able to cope with excess copper exposure. However, the fetus does not have a ''abnormal burden'' of copper; it needs a store of copper from which it will start fulfilling its requirements as a newborn (USEPA, 1987). Data show that in small children ingestion of approximately 10 mg Cμ/10 kg child/day from contaminated milk can cause severe liver disorders (Tanner et al, 1983). EPA theorizes that ''given that 1 mg/kg bw is an upper limit of exposure, it is conceivable that, for instance, 20 percent of this level (2 mg/child/day) could result in less severe, though still significant, liver damage. This intake is well within the normal adult recommended nutritional level, indicting that children may be more susceptible systematically to copper than adults. The main action my be the intestinal mucosa, especially in infants with preexisting GI tract disturbances.'' (USEPA, 1987).

*F. Existing Tolerances*

1. *Existing tolerances or tolerance exemptions.* EPA has not established a tolerance or an exemption from the requirement for a tolerance for this chemical. However, EPA has promulgated a tolerance exemption for a group of similar copper-based chemicals, *i. e.*, Bordeaux mixture, copper acetate, basic copper carbonate (malachite), copper hydroxide, copper-lime mixtures, copper linoleate, copper oleate copper oxychloride, copper sulfate basic, copper sulfate monohydrate, copper sulfate pentahydrate, copper-zinc chromate, cupric oxide, and cuprous oxide (two of these chemicals are copper salts of fatty acids), when they are applied to growing crops in accordance with good agricultural practice. See 40 CFR 180.1001(b)(1). In addition, EPA has promulgated a tolerance exemption for copper residues in meat, milk, poultry, eggs, fish, and irrigated crops when they result from the use of certain copper compounds, *i. e.*, copper sulfate, basic copper carbonate, copper triethanolamine, copper monoethanolamine, and cuprous oxide, at certain sites. See 40 CFR 180.1021. The common basis for EPA's tolerance exemptions for the compounds in these two classes of copper compounds appears to be the fact that the copper ion is the entity responsible for their fungicidal action, and there is adequate data on the copper ion upon which EPA can make judgments about its potential for causing unreasonable adverse effects on the environment.

2. *International tolerances.* No maximum residue level has been established for this substance by the Codex Alimentarius Commission.

II. Administrative Matters

Interested persons are invited to submit comments on the this notice of filing. Comments must bear a notation indicating the document control number, [PF–687]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8:30 a.m. to 4 p.m., Monday through Friday, except legal holidays.

A record has been established for this notice under docket number [PF–687] including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal

holidays. The public record is located in Rm. 1132 of the Public Response and Program resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 7, 1997.

Stephen L. Johnson,

*Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 97–985 Filed 1–14–97; 8:45 am]

BILLING CODE 6560–50–F

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**[FRL–5677–3]**

## CERCLA 104 (c)(9) Capacity Assurance Planning: National Capacity Assessment Report

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice.

**SUMMARY:** Section 104(c)(9) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) requires States to assure that adequate capacity exists to manage hazardous wastes generated in their State for 20 years before EPA can provide any Superfund Remedial Action Trust funds to the State. Under a program the Agency has implemented to help States fulfill this statutory mandate, States submit Capacity Assurance Plans (CAPs) as the basis for their assurance. On May 1, 1994, States submitted CAPs to EPA pursuant to the May 1993 *Guidance for Capacity Assurance Planning,* OSWER Directive 9010.02. On November 3, 1994, the Agency made available for comment a draft of the *National Capacity Assessment Report,* in which the Agency made a proposed determination that there existed adequate national capacity, and which presented the Agency's analysis of State data. Based on the information contained in the CAPs, internal Agency studies, and comments received on the draft *Assessment Report,* the Agency is today finalizing the determination that there exists adequate national capacity in all CAP management categories. Therefore, as with the proposed determination, all States continue to be eligible to receive Superfund Trust funds.

The Agency will continue to collect and evaluate additional data to ensure that the requirements of CERCLA 104 (c)(9) are satisfied. At this time, the Agency does not anticipate the need to conduct another CAP for the next few years. The *National Capacity Assessment Report,* which describes the entire CAP process, is available for public review in the RCRA Docket. The information collection activities that occurred for the Capacity Assurance Planning process were approved by the Office of Management and Budget (OMB) under OMB Control Number 2050–0099.

**ADDRESSES:** Supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, Virginia. Docket number F–94–CAGA–FFFFF. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, the public must make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $.15/page.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact the RCRA Hotline at 1–800–424–9346 or TDD 1–800–553–7672 (hearing impaired). In the Washington metropolitan area, call 703–412–9610 or TDD 703–412–3323.

For information on specific aspects of the Report, contact Robert Burchard, Office of Solid Waste (5302W), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (703) 308–8450.

**SUPPLEMENTARY INFORMATION:** For a paper copy of the *National Capacity Assessment Report,* please contact the National Technical Information Service (NTIS) at 1–703–487–4650. The document number is PB95–209672 (EPA530–R–95–016). The *Report* is also available in electronic format on the Internet. Follow these instructions to access the report: WWW: http://www.epa.gov/epaoswer; Gopher: gopher.epa.gov; Dial-up: (919) 558–0335.

If you are using the gopher or direct dialup method, once you are connected to the EPA Public Access Server, look for this report in the directory EPA Offices and Regions/Office of Solid Waste and Emergency Response (OSWER)/Office of Solid Waste (RCRA)/Subtitle C—Hazardous Waste/Treatment, Storage, and Disposal Facilities (TSDFs).

FTP: ftp.epa.gov.

Login: anonymous.

Password: Your Internet address.

Files are located in /pub/gopher/OSWRCRA.

Elliott P. Laws,

*Assistant Administrator.*

[FR Doc. 97–976 Filed 1–14–97; 8:45 am]

BILLING CODE 6560–50–P

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**[OPPT–59357A; FRL–5582–9]**

## Certain Chemical; Test Marketing Exemption Correction

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice; correction.

**SUMMARY:** The Environmental Protection Agency (EPA) is correcting a document publsished in the Federal Register of December 26, 1996, which contained an incorrect e-mail address for written comments and an incorrect FRL number for test marketing exemption (TME)–97–3. As a result of the incorrect e-mail address, EPA is extending the comment period.

**DATES:** This notice became effective on December 19, 1996. Written comments will now be received until January 30, 1997.

**FOR FURTHER INFORMATION CONTACT:** Darlene Jones, New Chemicals Branch, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–447, 401 M St. SW., Washington, DC 20460, (202) 260–2279; jones.darlene@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** In the Federal Register of December 26, 1996, (61 FR 68039), in FR Doc. 96–32794, on page 68039, in the first column, make the following corrections: