

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>In the Matter of:</b>	)	<b>Docket No.</b>
	)	
<b>Playtec, LLC and</b>	)	
<b>Commercial Recreation Specialists, Inc.</b>	)	<b>Proceeding to Assess a Civil Penalty</b>
<b>Verona, Wisconsin,</b>	)	<b>Under Section 14(a) of the Federal</b>
	)	<b>Insecticide, Fungicide, and Rodenticide</b>
<b>Respondent.</b>	)	<b>Act, 7 U.S.C. § 136l(a)</b>
	)	

**Consent Agreement and Final Order**  
**Preliminary Statement**

1. This is an administrative action commenced and concluded under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136l(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules) as codified at 40 C.F.R. Part 22.
  
2. The Complainant is the Director of the Enforcement & Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5.
  
3. The Respondents are Playtec, LLC (Playtec) and Commercial Recreation Specialists, Inc (CRS), corporations doing business in the State of Wisconsin, and both located at 807 Liberty Drive, Suite 101, Verona, Wisconsin, 53593-9160.
  
4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).
  
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondents consent to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

### **Jurisdiction and Waiver of Right to Hearing**

7. Respondents admit the jurisdictional allegations in this CAFO and neither admit nor deny the factual allegations in this CAFO.

8. Respondents waives their right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and their right to appeal this CAFO.

9. Respondents certify that they are complying with FIFRA, 7 U.S.C. §§ 136 to 136y.

### **Statutory and Regulatory Background**

10. Section 3(a) of FIFRA, 7 U.S.C. § 136a(a), states that no person in any State may distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA.

11. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), states, in pertinent part, it is unlawful for any person in any state to distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA or whose registration has been canceled.

12. Section 2(s) of FIFRA, 7 U.S.C. § 136(s), defines the term “person” as “any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.”

13. Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg), defines the term “distribute or sell” as “to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver.” Also see 40 C.F.R. § 152.3.

14. Section 2(u) of FIFRA, 7 U.S.C. § 136(u), defines the term “pesticide” as, among other things, “any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.” Also see 40 C.F.R. § 152.3.

15. Section 2(t) of FIFRA, 7 U.S.C. § 136(t), defines the term “pest” as “any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism which the Administrator [of the EPA] declares to be a pest” under Section 25(c)(1) of FIFRA. Also see 40 C.F.R. § 152.5.

16. The Administrator of EPA may assess a civil penalty against any registrant, wholesaler, dealer, retailer, importer, or other distributor who violates any provision of FIFRA of up to \$21,805 for each offense that occurred after November 2, 2015, and assessed on or after January 12, 2022, pursuant to Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), and 40 C.F.R. Part 19.

### **Factual Allegations and Alleged Violations**

17. Respondent, Playtec, is a “person” as defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

18. Respondent, CRS, is a “person” as defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

19. On or about January 31, 2022, and February 8, 2022, an inspector employed by the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) inspected CRS’s facility, located at 807 Liberty Drive, Suite 101, Verona, Wisconsin 53593.

20. During the inspections and subsequent phone calls on or about February 9, 2022, and February 14, 2022, the inspector collected, amongst other things, distribution/shipping records for two products, **Recresol** and **Aqusol**.

21. At all times relevant to this CAFO, Respondents were purchasing a pesticide, **SabreTech QS**, EPA Reg. No. 92057-3, with an alternative name of **PENETREXX**.
22. Upon receipt, Respondents were placing Playtec labels on the **PENETREXX** product.
23. Some **PENETREXX** product was being relabeled as Playtec **Recresol**.
24. Some **PENETREXX** product was being relabeled as Playtec **Aqusol**.
25. The Playtec **Recresol** and **Aqusol** labels stated “Playtec Sanitize & Protect.”
26. The **Recresol** label stated “Recresol Sanitize & Protect Indoor/Outdoor Recreation Environments & Equipment.”
27. The **Aqusol** label stated “Aqusol Sanitize and Protect Aquatic Environments & Equipment.”
28. On or about June 2020, CRS announced a partnership with “PLAYTEC™ LLC, provider of antimicrobial products.” The announcement described product features including but not limited to “Effective against bacteria, viruses, and other microbials.”
29. **Recresol** is a “pesticide” as that term is defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u), because it is intended for preventing, destroying, repelling, or mitigating certain pests.
30. **Aqusol** is a “pesticide” as that term is defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u), because it is intended for preventing, destroying, repelling, or mitigating certain pests.
31. **Recresol** is not a registered pesticide as required by Section 3 of FIFIRA and its underlying regulations.
32. **Aqusol** is not a registered pesticide as required by Section 3 of FIFIRA and its underlying regulations.

33. On or about September 9, 2020; October 19, 2020; December 15, 2020; February 23, 2021; February 26, 2021; March 1, 2021; March 15, 2021; March 23, 2021; March 24, 2021; March 24, 2021 (to a different customer than the prior listed distribution); April 6, 2021; and April 7, 2021, Respondents distributed or sold the unregistered pesticide **Recresol** to customers throughout the United States.

34. On or about July 9, 2020; July 10, 2020; July 15, 2020; August 13, 2020; August 27, 2020; September 9, 2020; September 9, 2020 (to a different customer than the prior listed distribution); October 2, 2020; December 1, 2020; December 1, 2020 (to a different customer than the prior listed distribution); and February 18, 2021, Respondents distributed or sold the unregistered pesticide **Aquasol** to customers throughout the United States.

#### Counts 1-12

35. Complainant incorporates the above paragraphs of this CAFO, as if set forth in this paragraph.

36. From on or about September 9, 2020, through on or about April 7, 2021, Respondents distributed or sold the unregistered pesticide **Recresol** to various persons on 12 separate occasions.

37. Respondents' distribution or sale of the unregistered pesticide **Recresol** on 12 separate occasions, constitutes 12 separate unlawful acts pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136l(a)(1)(A).

38. Respondents' violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), on 12 separate occasions subjects Respondents to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. § 136l(a) for each of the 12 violations.

### **Counts 13-23**

39. Complainant incorporates the above paragraphs of this CAFO, as if set forth in this paragraph.

40. From on or about July 9, 2020, through on or about February 18, 2021, Respondents distributed or sold the unregistered pesticide **Aqusol** to various persons on 11 separate occasions.

41. Respondents' distribution or sale of the unregistered pesticide **Aqusol** on 11 separate occasions, constitutes 11 separate unlawful acts pursuant to Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

42. Respondents' violation of Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), on 11 separate occasions subjects Respondents to the issuance of an Administrative Complaint assessing a civil penalty under Section 14(a) of the FIFRA, 7 U.S.C. § 136l(a), for each of the 11 violations.

### **Civil Penalty and Other Relief**

43. Pursuant to Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), Complainant determined that an appropriate civil penalty to settle this action is \$120,000. In determining the penalty amount, Complainant considered the appropriateness of the penalty to the size of Respondents' business and the effect on Respondents' ability to continue in business. Complainant also considered EPA's FIFRA Enforcement Response Policy, dated December 2009.

44. Complainant agrees that the appropriate penalty to settle this action is \$120,000.

45. Within 30 days after the effective date of this CAFO, Respondents must pay a \$120,000 civil penalty for the FIFRA violations. Respondents must pay the penalty by electronic funds transfer, payable to the “Treasurer, United States of America,” and sent to:

Federal Reserve Bank of New York  
ABA No. 021030004  
Account No. 68010727  
SWIFT address FRNYUS33  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read:  
"D 68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state “Playtec, LLC and Commercial Recreation Specialists, Inc.” and the docket number of this CAFO. To pay on-line, go to [www.pay.gov](http://www.pay.gov). Use the Search Public Forms option on the tool bar and enter SFO 1.1 in the search field. Open the form and complete the required fields. In the comment or description field of the electronic funds transfer, state “Playtec, LLC and Commercial Recreation Specialists, Inc.” and the docket number of this CAFO.

46. Respondents must send a notice of payment that states Respondents’ name and the case docket number to EPA at the following addresses when it pays the penalty:

Juliane Grange  
Regional Hearing Clerk (E-19J)  
[R5hearingclerk@epa.gov](mailto:R5hearingclerk@epa.gov)

Claudia Niess  
[niess.claudia@epa.gov](mailto:niess.claudia@epa.gov)

Nidhi K. O’Meara  
[omeara.nidhi@epa.gov](mailto:omeara.nidhi@epa.gov)

47. This civil penalty is not deductible for federal tax purposes.

48. If Respondents do not pay the civil penalty in a timely manner, EPA may refer the matter to the Attorney General who will recover such amount by action in the appropriate United States district court under Section 14(a)(5) of FIFRA, 7 U.S.C. § 136l(a)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

49. Pursuant to 31 C.F.R. § 901.9, Respondents must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury. Respondents must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondents must pay a 6 percent per year penalty on any principal amount 90 days past due.

#### **General Provisions**

50. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: Nidhi O'Meara at [omeara.nidhi@epa.gov](mailto:omeara.nidhi@epa.gov) (for Complainant), and J. Wesley Webendorfer at [jww@dewittllp.com](mailto:jww@dewittllp.com) (for Respondents). Respondents understand that the CAFO will become publicly available upon filing.

51. The Respondents' full compliance with this CAFO resolves only Respondents' liability for federal civil penalties for the violations alleged in the CAFO.

52. This CAFO does not affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

53. This CAFO does not affect Respondents' responsibility to comply with FIFRA and other applicable federal, state, and local laws.

54. This CAFO is a "final order" for purposes of EPA's Enforcement Response Policy for FIFRA.



55. The terms of this CAFO bind Respondents, their successors, and assigns.

56. Each person signing this agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

57. Each party agrees to bear its own costs and attorney's fees, in this action.

58. This CAFO constitutes the entire agreement between the parties.

**In the Matter of:  
Playtec, LLC and Commercial Recreation Specialists, Inc.**

1/19/2023

\_\_\_\_\_  
Date



\_\_\_\_\_  
Ron Romens  
Sole Member of Playtec, LLC and  
President of Commercial Recreation Specialists, Inc.

**In the Matter of:  
Playtec, LLC and Commercial Recreation Specialists, Inc.**

**United States Environmental Protection Agency, Complainant**

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Date

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Michael D. Harris  
Director  
Enforcement and Compliance Assurance Division

**In the Matter of:  
Playtec, LLC and Commercial Recreation Specialists, Inc.  
Docket No.**

**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

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Ann L. Coyle  
Regional Judicial Officer  
United States Environmental Protection Agency  
Region 5