UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1 – NEW ENGLAND

In the Matter of:	)	
Quick Plug N.A., Inc.	)	Docket Number:
165 Pleasant Avenue, Unit B South Portland, Maine 04106	)	CAA-01-2021-0013
Respondent.	)	
Proceeding under Section 113 of the Clean Air Act	)	

CONSENT AGREEMENT AND FINAL ORDER

1. The United States Environmental Protection Agency, Region 1 ("EPA" or "Complainant") and Quick Plug N.A., Inc. ("Respondent" or "Quick Plug") consent to the entry of this Consent Agreement and Final Order ("CAFO") pursuant to 40 C.F.R. § 22.13(b) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Suspension of Permits, 40 C.F.R. Part 22 ("Consolidated Rules of Practice"). This CAFO resolves Respondent's liability for alleged violations of Sections 112(r)(1) and 112(r)(7) of the Clean Air Act ("CAA"), 42 U.S.C. §§ 7412(r)(1) and (r)(7).

2. EPA and Respondent hereby agree to settle this matter through this CAFO without the filing of an administrative complaint, as authorized under 40 C.F.R. §§ 22.13(b) and 22.18(b).

3. EPA and Respondent agree that settlement of this matter is in the public interest, and that entry of this CAFO without further litigation is the most appropriate means of resolving this matter.

4. Therefore, before taking any testimony, upon the pleadings, without adjudication or admission of any issue of fact or law, it is hereby ordered as follows:

I. PRELIMINARY STATEMENT

5. This Consent Agreement and Final Order is entered into under Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice, 40 C.F.R. Part 22.

6. EPA and the U.S. Department of Justice jointly determined that this matter is appropriate for administrative penalty assessment. 42 U.S.C. § 7413(d)(1); 40 C.F.R. § 19.4.

7. The Regional Judicial Officer is authorized to ratify this CAFO, which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b).

8. This CAFO both initiates and resolves an administrative action for the assessment of monetary penalties, pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d). As more thoroughly discussed in Sections IV and V below, the CAFO resolves alleged CAA violations that Complainant asserted occurred in conjunction with Respondent's storage and handling of toluene diisocyanate, an extremely hazardous substance, at its former plant growth media manufacturing facility in South Portland, Maine (the "Facility"). Respondent reports that the Facility ceased operations on or about December 3, 2020. Respondent also reports that subsequently, all equipment, inventory, raw materials (including commercial chemical products), packaging and other materials have been removed from the Facility, the premises have been vacated, and the lease terminated.

II. STATUTORY AND REGULATORY AUTHORITY

9. The purpose of Section 112(r) of the CAA and its implementing regulations is "to prevent the accidental release and to minimize the consequences of any such release" of an "extremely hazardous substance." 42 U.S.C. § 7412(r)(1).

General Duty Clause

10. Section 112(r)(1) of the Act is referred to as the "General Duty Clause" or the "GDC." Pursuant to the GDC, owners and operators of stationary sources producing, processing, handling, or storing substances listed pursuant to Section 112(r)(3) of the Act, 42 U.S.C. § 7412(r)(3), or any other extremely hazardous substance, have a general duty, in the same manner and to the same extent as 29 U.S.C. § 654, to: (a) identify hazards that may result from accidental releases of such substances using appropriate hazard assessment techniques; (b) design and maintain a safe facility taking such steps as are necessary to prevent releases; and (c) minimize the consequences of accidental releases that do occur.

11. The term "have a general duty in the same manner and to the same extent as section 654 of title 29" of the United States Code means owners and operators must comply with the General Duty Clause in the same manner and to the same extent as employers must comply with the Occupational Safety and Health Act administered by the Occupational Safety and Health Administration ("OSHA").

12. The term "extremely hazardous substance" means an extremely hazardous substance within the meaning of Section 112(r)(1) of the CAA, including any chemical which may, as a result of short-term exposures associated with releases to the air, cause death, injury, or property damage due to its toxicity, reactivity, flammability or corrosivity.[1] The term includes, but is not

[1] Senate Committee on Environment and Public Works, Clean Air Act Amendments of 1989, Sen. Report No. 228, 101st Congress, 1st Session 211 (1989).

limited to, regulated substances listed in CAA Section 112(r)(3) and in 40 C.F.R. § 68.130. In addition, the release of any substance that causes death or serious injury because of its acute toxic effect or as a result of an explosion or fire or that causes substantial property damage by blast, fire, corrosion or other reaction would create a presumption that such substance is extremely hazardous.[2] Under Section 112(r)(3) of the CAA, the term "extremely hazardous substances" also includes, without limitation and in addition to substances listed in 40 C.F.R. § 68.130, those substances listed in 40 C.F.R. Part 355, Appendices A and B, published under Section 302 of the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11002.

13. The term "accidental release" is defined by Section 112(r)(2)(A) of the CAA, 42 U.S.C. § 7412(r)(2)(A), as an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

14. The term "stationary source" is defined by Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), in pertinent part, as any buildings, structures, equipment, installations, or substance-emitting stationary activities, located on one or more contiguous properties under the control of the same person, from which an accidental release may occur.

15. The General Duty Clause is a performance standard with requirements that often can be achieved in a variety of ways. EPA routinely consults chemical Safety Data Sheets ("SDSs"), codes, standards, and guidance issued by chemical manufacturers, trade associations, and fire prevention associations (collectively, "industry standards") to understand the hazards posed by using various extremely hazardous substances. The industry standards also are evidence of the standard of care that industry, itself, has found to be appropriate for managing those hazards.

[2] Id.

These industry standards are consistently relied upon by industry safety and fire prevention experts and are sometimes incorporated into state building, fire, and mechanical codes.

Risk Management Plan Regulations

16. Section 112(r) of the CAA also authorizes EPA to promulgate regulations and establish programs to prevent and minimize the consequences of the accidental release of certain regulated substances. Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), requires EPA to promulgate requirements for the prevention, detection, and correction of accidental releases of regulated substances, including a requirement that owners or operators of certain stationary sources prepare and implement a Risk Management Plan ("RMP").

17. The regulations promulgated pursuant to CAA Section 112(r)(7) are found at 40 C.F.R. §§ 68.1-68.220 ("Part 68" or "RMP regulations"). Under Section 112(r)(7)(E) of the CAA, 42 U.S.C. § 7412(r)(7)(E), it is unlawful for any person to operate a stationary source, subject to the regulations promulgated pursuant to Section 112(r) of the CAA, in violation of such regulations.

18. A list of the substances regulated under Part 68 ("RMP chemicals" or "regulated substances") and their associated threshold quantities ("TQs") for accidental release prevention is provided in 40 C.F.R. § 68.130.

19. A "process" is defined by 40 C.F.R. § 68.3 as any activity involving a regulated substance, including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities.

20. Under 40 C.F.R. § 68.10, an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process must comply with the requirements of Part 68 by no later than the latest of the following dates: (a) June 21, 1999; (b)

three years after the date on which a regulated substance is first listed under 40 C.F.R. § 68.130; (c) the date on which a regulated substance is first present above a threshold quantity in a process; or (d) for any revisions to Part 68, the effective date of the final rule for the revision.

21. Each process in which a regulated substance is present in more than a threshold quantity is a "covered process" under Section 68.3 of the RMP regulations, subject to one of three Risk Management Program levels. Program 1 is the least comprehensive, and Program 3 is the most comprehensive. Pursuant to 40 C.F.R. § 68.10(g), a covered process is subject to Program 1 if, among other things, the distance to a toxic or flammable endpoint for a worst-case release assessment is *less* than the distance to any "public receptor" within the meaning of Section 68.3. Under 40 C.F.R. § 68.10(i), a covered process is subject to Program 3 if the process does not meet the eligibility requirements for Program 1 and is either in a specified NAICS code or subject to the OSHA process safety management ("PSM") standard at 29 C.F.R. § 1910.119. Under 40 C.F.R. § 68.10(h), a covered process that meets neither Program 1 nor Program 3 eligibility requirements is subject to Program 2.

22. Pursuant to 40 C.F.R. § 68.12, the owner or operator of a stationary source subject to the chemical accident prevention provisions of Part 68 is required to submit to EPA a single Risk Management Plan, as provided in 40 C.F.R. §§ 68.150 to 68.185. The RMP documents compliance with Part 68. Under 40 C.F.R. § 68.12(a), the owner or operator is required to submit an RMP that includes all covered processes.

23. Toluene diisocyanate ("TDI") is an extremely hazardous substance listed in Section 112(r)(3) of the CAA and at 40 C.F.R. § 68.130, having a threshold quantity of 10,000 pounds. TDI is toxic and a possible carcinogen and can cause respiratory irritation or breathing difficulties if inhaled. It is also reactive and incompatible with water, among other substances.

Sensitization may result from even brief exposure to high concentrations of TDI. Chronic exposure to isocyanates can cause occupational asthma; once a worker is sensitized to diisocyanates, subsequent exposures can trigger severe asthma attacks. TDI is also highly toxic by skin contact. When heated to decomposition it emits toxic fumes of carbon monoxide, carbon dioxide, hydrogen cyanide and nitrogen oxides. TDI is explosive in the form of vapor-air mixture when exposed to heat, flame or sparks. It is combustible and classified by the National Fire Protection Association ("NFPA") as a Class IIIB Combustible Liquid.

24. The unanticipated emission of TDI into the ambient air from the Facility would constitute an "accidental release," as that term is defined by Section 112(r)(2)(A) of the CAA, 42 U.S.C. § 7412(r)(2)(A).

25. Sections 113(b) and (d) of the CAA, 42 U.S.C. §§ 7413(b) and (d), provide for the assessment of civil penalties for violations of CAA Section 112(r).

III. GENERAL FACTUAL ALLEGATIONS

26. Respondent formerly manufactured growth media for seedlings and small plants at a Facility located at 165 Pleasant Avenue, Unit B, South Portland, Maine. Respondent is incorporated under the laws of Delaware. Respondent formerly operated the Facility and the Facility was a "stationary source" as that term is defined Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C). As of December 3, 2020, the Facility ceased operations; Respondent reports that it subsequently has removed all equipment and materials, and has vacated the leased premises.

27. On November 8, 2018, EPA and its contractors conducted an inspection (the "Inspection") at the Facility. The principal purpose of the Inspection was to determine whether Respondent was operating the Facility in compliance with federal environmental laws and

regulations administered by EPA, including but not limited to Sections 302 – 312 of EPCRA, 42 U.S.C. §§ 11002 – 11022, and Section 112(r) of the Clean Air Act.

28. During the Inspection and based on information submitted after the Inspection, several areas of concern were noted for the Facility, as described in a May 22, 2019 EPA Inspection Report ("Inspection Report"), including failure to submit a Risk Management Plan for periods when TDI was allegedly present over the RMP threshold of 10,000 pounds, and some potentially hazardous conditions, set out in Attachment A.

29. Based on EPCRA Tier II reports submitted in 2016 and 2017, over 10,000 pounds of TDI (mixed isomers) were reported as present at the Facility for use in a process by Respondent in calendar years 2016 and 2017;[3] however, the 2016 and 2017 Tier II forms do not acknowledge the Facility is subject to RMP regulations. On the day of the Inspection in 2018, less than 10,000 pounds of TDI were present.

30. The former use, handling, and storage of TDI to manufacture growth media trays at the Facility falls within the meaning of a "process" under 40 C.F.R. § 68.3. To manufacture the growth media trays, Respondent combined a peat moss slurry with polyol and TDI in a machine that pumped the mixture through a pouring nozzle and into tray molds that move along a rotary carousel. The mixture hardened into a spongy-type foam material called a seed plug. Filled and hardened trays were then packaged for retail sale. Totes and drums of TDI were stored in a storage cabinet and a chemical storage hut adjacent to the manufacturing area.

31. The closest "public receptor," as defined in 40 C.F.R. § 68.3, was less than 0.1 mile from the Facility. The Facility was located within a half-mile of numerous residences and businesses, an elementary school, and an interstate highway (Rt. 1).

[3] The Facility's 2018 Tier II report also showed over 10,000 pounds of TDI present at the Facility. However, the 2018 form was later revised to report less than 10,000 pounds.

32. In Section IV below, the CAFO alleges (a) violations of the RMP regulations for the period of time when Respondent had TDI in amounts that exceeded the RMP threshold of 10,000 pounds and (b) violations of the GDC for periods of time (including the date of the Inspection), when Respondent had less than 10,000 pounds of TDI.

IV. ALLEGED VIOLATIONS

COUNT 1: Failure to Submit an RMP

33. Complainant realleges and incorporates by reference Paragraphs 1 through 32.

34. Respondent's operation of the Facility involved the handling, storage, and use of TDI, a "regulated substance" within the meaning of 40 C.F.R. § 68.3, in an amount which, at certain periods covered by this action, exceeded the chemical's threshold quantity (TQ) listed in 40 C.F.R. § 68.130.

35. The manufacture of growth media trays and the co-located storage of TDI, as partially described in Paragraph 30 ("Process") at the Facility is a "covered process," as defined by 40 C.F.R. § 68.3. At all times relevant to the allegations herein, the Process was subject to the Program 2 requirements of the RMP regulations at 40 C.F.R. § 68.10 because: (a) the distance to a toxic or flammable endpoint for a worst-case release of TDI was more than the distance to a public receptor such that the Process was ineligible for Program 1; and (b) the Process was not subject to OSHA's PSM regulations or in a specified NAICS code.

36. Pursuant to 40 C.F.R. § 68.12(a), the owner or operator of a stationary source subject to the requirements of Part 68 is required to submit an RMP to EPA, as provided in 40 C.F.R. § 68.150. The RMP documents compliance with Part 68 in a summary format and, for a Program 2 process such as the Process at the Facility, must document compliance with the elements of the Program 2 Risk Management Program including, but not limited to: 40 C.F.R. Part 68.12

(General Requirements); 40 C.F.R. Part 68.15 (Management Requirements); 40 C.F.R. Part 68.20 through 68.42 (Hazard Assessment); 40 C.F.R. Part 68.48 through 68.60 (Program 2 Prevention Program); and 40 C.F.R. Part 68.90 to 96 (Emergency Response Program).

37. Based on the allegations in Paragraph 29, for at least two years (2016 and 2017), Respondent did not prepare and submit to EPA an RMP for the Process at the Facility and, therefore, is alleged to have violated Section 112(r)(7) of the Clean Air Act and the RMP regulations at 40 C.F.R. Part 68.

COUNT 2: Failure to Identify Hazards under the General Duty Clause

38. Complainant realleges and incorporates by reference Paragraphs 1 through 37.

39. Pursuant to the General Duty Clause in Section 112(r)(1) of the CAA, owners and operators of stationary sources producing, processing, handling, or storing extremely hazardous substances have a general duty, in the same manner and to the same extent as Section 654 of Title 29, to identify hazards that may result from accidental releases of such substances, using appropriate hazard assessment techniques.

40. To identify hazards that may result from accidental releases of extremely hazardous substances under the GDC and Section 112(r)(1) of the CAA, owners and operators of stationary sources should determine: (a) the intrinsic hazards of the chemicals used in the processes; (b) the risks of accidental releases from the processes through possible release scenarios; and (c) the potential effect of these releases on the public and the environment, using appropriate hazard assessment techniques, as identified in Attachment A.

41. As part of the Process, Respondent used, handled, or stored TDI, an extremely hazardous substance, without identifying the hazards that may have resulted from accidental

releases or otherwise conducting a process hazard review using appropriate, industry-recognized hazard assessment techniques.

42. By failing to identify hazards that may result from accidental releases of an extremely hazardous substance that had been used, handled, or stored as part of the Process, Respondent violated the General Duty Clause at Section 112(r)(1) of the Clean Air Act.

Count 3: Failure to Design and Maintain a Safe Facility to Prevent Releases

43. Complainant realleges and incorporates by reference Paragraphs 1 through 42.

44. Pursuant to the General Duty Clause in Section 112(r)(1) of the CAA, owners and operators of stationary sources producing, processing, handling, or storing extremely hazardous substances have a general duty, to the same extent as 29 U.S.C. § 654, to design and maintain a safe facility to prevent releases.

45. The recommended standard of care for designing and maintaining a safe facility is to base design considerations upon applicable design codes, federal and state regulations, and recognized industry practices, to prevent releases or minimize their impacts, and to develop and implement standard operating procedures, preventative maintenance programs, personnel training programs, management of change practices, incident investigation procedures, and self-auditing procedures. The National Fire Protection Association ("NFPA"), manufacturers of TDI, the Center for Chemical Process Safety, and the American Chemistry Council have published standards and guidance for this purpose, as set out in Attachment A. See also U.S. EPA, *Guidance for Implementation of the General Duty Clause Clean Air Act Section 112(r)(1)* (May 2000) ("EPA's General Duty Clause Guidance").

46. The instances when Respondent failed in its general duty to design and maintain the Facility as a safe facility, taking such steps as are necessary to prevent a release of an extremely hazardous substance are summarized below and further described in Attachment A.

a. Missing NFPA diamonds on TDI storage areas;

b. Fire hazards caused by use of extension cords on the carousel line and inside the chemical storage hut, use of a portable electric space heater inside the chemical storage hut, improper storage of combustible wood pallets, and electrical hazards;

c. Lack of ventilation in TDI storage area;

d. Failure to maintain equipment such that it was leaking TDI; and

e. Open drums of TDI-containing chemicals.

47. By failing to design and maintain a safe facility to prevent accidental releases of an extremely hazardous substance used, handled, or stored as part of the Process, Respondent violated the General Duty Clause at Section 112(r)(1) of the Clean Air Act.

Count 4: Failure to Minimize the Consequences of Accidental Releases

48. Complainant realleges and incorporates by reference Paragraphs 1 through 47.

49. Pursuant to the General Duty Clause in Section 112(r)(1) of the CAA, owners and operators of stationary sources producing, processing, handling, or storing extremely hazardous substances have a general duty, to the same extent as 29 U.S.C. § 654, to minimize the consequences of accidental releases that do occur.

50. Industry standards for minimizing the consequences of an accidental release from TDI are found in Attachment A. Among other things, they include measures such as standards for labeling, ventilation, reducing fire hazards, keeping containers of TDI closed, maintaining equipment so as to prevent TDI spills, and access to emergency eye wash stations and showers.

Some of these measures are also cited in Count 3 as they can both help prevent releases from occurring and minimize the consequences of releases that do occur.

51. The instances in which Respondent failed in its general duty to minimize the consequences of releases, taking such steps as are necessary to prevent a release of an extremely hazardous substance, include those cited above in paragraph 46, and the failure to have safety showers available, and a lack of secondary containment for TDI containers in several areas. The instances of violation are further described in Attachment A.

52. By failing to minimize the consequences of accidental releases of TDI, Respondent violated the General Duty Clause at Section 112(r)(1) of the Clean Air Act.

V. TERMS OF SETTLEMENT

53. The provisions of this CAFO shall apply to and be binding on EPA, and on Respondent and its officers, directors, agents, successors, and assigns.

54. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in this CAFO and that this CAFO states a claim, upon which relief may be granted, against Respondent. Respondent hereby waives any defenses it might have as to jurisdiction and venue relating to the violations alleged in this CAFO.

55. Respondent neither admits nor denies the specific factual allegations contained in Section III of this CAFO or the violations alleged in Section IV of this CAFO. Respondent consents to the assessment of the penalty stated herein.

56. Respondent hereby waives its right to a judicial or administrative hearing on any issue of law or fact set forth in this CAFO and waives its right to appeal the Final Order.

57. In lieu of a compliance certification, Respondent certifies that it has ceased operations, closed the Facility and vacated the previously leased premises.

58. Pursuant to Section 113(e) of the CAA, 42 U.S.C. § 7413(e), and taking into account the relevant statutory penalty criteria, the facts alleged in this CAFO, and such other circumstances as justice may require, EPA has determined that it is fair and proper to assess a civil penalty of $137,294 for the violations alleged in this matter.

59. Respondent agrees to the issuance of this CAFO and to the payment of the civil penalty cited in Paragraph 60.

60. Within thirty (30) days of the effective date of this CAFO, Respondent shall pay the total penalty amount of $137,294 using any method or combination of methods, provided on the website http://www2.epa.gov/financial/additional-instructions-making-payments-epa. Respondent shall include the case name ("*In re Quick Plug N.A., Inc.*") and docket number (CAA-01-2021-0013) on the face of each check or wire transfer confirmation. In addition, at the time of payment Respondent shall simultaneously send notice of proof of payment[4] to Len Wallace, Environmental Scientist at U.S. EPA, Region 1, 5 Post Office Square, Suite 100, Mail Code 05-1, Boston, MA 02109-3912, and by e-mail to Wallace.Len@epa.gov and to Wanda I. Santiago, Regional Hearing Clerk by email at R1_Hearing_Clerk_Filings@epa.gov.

61. In the event that any portion of the civil penalty amount described in Paragraph 60 is not paid by the required due date, the total penalty amount of $137,294, plus all accrued interest shall become due immediately to the United States upon such failure. Then interest, as calculated in Paragraph 62, shall continue to accrue on any unpaid amounts until the total amount due has been received by the United States. Respondent shall be liable for such amount regardless of whether EPA has notified Respondent of its failure to pay the penalty amount by

[4] Proof of payment means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with Docket No. CAA-01-2021-0013.

the due date or made a demand for payment. All payments to the United States under this paragraph shall be made by company, bank, cashier's, or certified check, or by electronic funds transfer, as described in Paragraph 60.

62. In the event that any portion of the civil penalty amount relating to the alleged CAA violations is not paid when due without demand, pursuant to Section 113(d)(5) of the CAA, Respondent will be subject to an action to compel payment, plus interest, enforcement expenses, and a nonpayment penalty. Interest will be assessed on the civil penalty if it is not paid when due. In that event, interest will accrue from the due date at the "underpayment rate" established pursuant to 26 U.S.C § 6621(a)(2). In the event that a penalty is not paid when due, an additional charge will be assessed to cover the United States' enforcement expenses, including attorney's fees and collection costs. In addition, a quarterly nonpayment penalty will be assessed for each quarter during which the failure to pay the penalty persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of Respondent's outstanding civil penalties and nonpayment penalties hereunder accrued as of the beginning of such quarter. In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

63. The civil penalty under this CAFO and any interest, nonpayment penalties, and other charges described herein shall represent penalties assessed by EPA and shall not be deductible for purposes of federal taxes. Accordingly, Respondent agrees to treat all payments made pursuant to this CAFO as penalties within the meaning of Section 1.162-21 of the Internal Revenue Code, 26 C.F.R § 1.162-21, and further agrees not to use these payments in any way as, or in furtherance of, a tax deduction under federal, state, or local law.

64. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 113(d) of the CAA for the violations alleged herein. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to federal laws and regulations administered by EPA for matters not addressed in this CAFO.

65. This CAFO in no way relieves Respondent or its employees of any criminal liability, and EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to undertake any action against Respondent in response to conditions which may present an imminent and substantial endangerment to the public health, welfare, or the environment.

66. This CAFO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local law; nor shall it be construed to be a ruling on, or determination of any issue related to any federal, state, or local permit.

67. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both Parties, and approval of the Regional Judicial Officer.

VI. EFFECT OF CONSENT AGREEMENT AND ATTACHED FINAL ORDER

68. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondent's liability for federal civil penalties for the violations specifically alleged above.

69. By signing this CAFO, Respondent acknowledges that this document will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.

70. By signing this CAFO, the undersigned representative of Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party he or she represents to this CAFO.

71. By signing this CAFO, Respondent certifies that the information it has supplied concerning this matter was at the time of submission true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

72. Except as qualified by Paragraph 62 (collection of unpaid penalty), each party shall bear its own costs and fees in this proceeding including attorney's fees. Respondent specifically waives any right to recover such costs from EPA pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable laws.

73. Complainant and Respondent, by entering into this Consent Agreement, each give their respective consent to accept digital signatures hereupon. Respondent further consents to accept electronic service of the fully executed CAFO, by e-mail to its attorney, at: dvanslyke@preti.com. Respondent understands that this e-mail address may be made public when the CAFO and Certificate of Service are filed and uploaded to a searchable database.

VII. EFFECTIVE DATE

74. Respondent and Complainant agree to issuance of the attached Final Order. Upon filing, EPA will electronically transmit a copy of the filed CAFO to the Respondent. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer, on the date of filing with the Regional Hearing Clerk.

FOR RESPONDENT:

Keith D Cable
Signature

March 8, 2021
Date

Printed Name: KEITH D. CABLE

Title: PRESIDENT - DUNMEN ORANGE - NORTH AMERICA

Address: 250 SOUTH HIGH STREET SUITE 650, COLUMBUS OHIO 43215

FOR COMPLAINANT:

JAMES CHOW

Digitally signed by JAMES CHOW
Date: 2021.03.11 11:25:30 -05'00'

Signature Date

James Chow, Deputy Director *for* Karen McGuire, Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency
Region 1 – New England

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1 – NEW ENGLAND

In the Matter of:	)	
Quick Plug N.A., Inc.	)	
165 Pleasant Avenue, Unit B South Portland, Maine 04106	)	Docket Number: CAA-01-2021-0013
Respondent.	)	
Proceeding under Section 113 of the Clean Air Act	)	

FINAL ORDER

Pursuant to 40 C.F.R. §§ 22.18(b) and (c) of EPA's Consolidated Rules of Practice, Section 113(d) of the CAA, 42 U.S.C. § 7413(d), the Consent Agreement is incorporated by reference into this Final Order and is hereby ratified. Respondent, Quick Plug N.A., Inc., is ordered to pay the civil penalty of $137,294 in the manner indicated. The terms of the Consent Agreement will become effective on the date it is filed with the Regional Hearing Clerk.

SO ORDERED THIS ___ DAY OF _____ 2021.

SHARON WELLS Digitally signed by SHARON WELLS
Date: 2021.03.11 16:42:57 -05'00'

Sharon Wells, Acting Regional Judicial Officer
U.S. EPA, Region 1