

affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief.” *Id.* § 22.31(a) (effect of final order); *see also id.* 22.3(a) (defining “[f]inal order” to include “[a] final order issued in accordance with §22.18”); *id.* 22.18(b)(3) (requiring, in these circumstances, a final order from the Board ratifying the parties’ consent agreement).

The Consent Agreement states that Respondent’s compliance with the Consent Agreement and Final Order shall “fully settle *all civil claims or civil causes of action* alleged in Section V” of the Consent Agreement. Consent Agreement ¶ 37 (emphasis added). That language does not state that the settlement resolves only Respondent’s liability for federal civil penalties and could be read to subsume the ability to pursue “appropriate injunctive or other equitable relief” for any violations of law. 40 C.F.R. § 22.18(c). Given that ambiguity, the Board’s staff consulted with the parties as to their intent. Based on the parties’ representations, the Board concludes that the settlement resolves only federal civil penalties, not *all* civil claims or civil causes of action. The Board therefore incorporates by reference the attached Consent Agreement into this Final Order and ratifies the Consent Agreement.


The Board cautions the parties, however, and particularly EPA counsel, to ensure that the terms of and language in all future consent agreements executed under the Consolidated Rules expressly conform to the Rules’ requirements, including those set forth at 40 C.F.R. § 22.18.

Respondent is ORDERED to comply with all terms of the Consent Agreement, effective immediately.

So ordered.²

ENVIRONMENTAL APPEALS BOARD

Dated: 09/29/16



Aaron P. Avila
Environmental Appeals Judge

² The three-member panel ratifying this matter is composed of Environmental Appeals Judges Aaron P. Avila, Mary Kay Lynch, and Mary Beth Ward.

CERTIFICATE OF SERVICE

I certify that copies of the foregoing "Consent Agreement" and "Final Order," in the matter of Proctor & Gamble, Co., Docket No. FIFRA-HQ-2016-5018, were filed and copies of the same were sent to the following persons in the manner indicated:

**By First Class Certified Mail/
Return Receipt Requested:**

Matthew J. Spriggs
Senior Counsel
C9
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By Interoffice Mail:

Christina E. Cobb
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Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
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Dated: SEP 29 2016



Annette Duncan
Secretary