

DUPONT E I DE NEMOURS & CO

Form 10-Q

October 26, 2010

[Table of Contents](#)

# UNITED STATES SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

## FORM 10-Q

**x** **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF  
THE SECURITIES EXCHANGE ACT OF 1934**

**For the quarterly period ended September 30, 2010**

**OR**

**o** **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF  
THE SECURITIES EXCHANGE ACT OF 1934**

**Commission File Number 1-815**

### **E. I. du Pont de Nemours and Company**

(Exact Name of Registrant as Specified in Its Charter)

**Delaware**

(State or other Jurisdiction of  
Incorporation or Organization)

**51-0014090**

(I.R.S. Employer  
Identification No.)

**1007 Market Street, Wilmington, Delaware 19898**

(Address of Principal Executive Offices)

**(302) 774-1000**

(Registrant's Telephone Number)

## Edgar Filing: DUPONT E I DE NEMOURS & CO - Form 10-Q

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that registrant was required to submit and post such files.) Yes ☒ No ☐

Indicate by check mark whether the Registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definitions of large accelerated filer, accelerated filer, and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

Large Accelerated Filer ☒

Accelerated Filer ☐

Non-Accelerated Filer ☐

Smaller reporting company ☐

Indicate by check mark whether the Registrant is a shell company (as defined by Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

The Registrant had 912,894,000 shares (excludes 87,041,000 shares of treasury stock) of common stock, \$0.30 par value, outstanding at October 15, 2010.

---

Table of Contents**E. I. DU PONT DE NEMOURS AND COMPANY****Table of Contents**

The terms "DuPont" or the "company" as used herein refer to E. I. du Pont de Nemours and Company and its consolidated subsidiaries, or to E. I. du Pont de Nemours and Company, as the context may indicate.

|  | <b>Page</b> |
|--|-------------|
| <b><u>Part I</u></b>   |             |
| <b><u>Financial Information</u></b>  |             |
| <b><u>Item 1.</u></b>  |             |
| <u>Consolidated Financial Statements (Unaudited)</u>   |             |
| <u>Consolidated Income Statements</u>  | 3           |
| <u>Condensed Consolidated Balance Sheets</u>   | 4           |
| <u>Condensed Consolidated Statements of Cash Flows</u>                                       | 5           |
| <u>Notes to the Consolidated Financial Statements</u>  |             |
| <u>Note 1.</u>   | 6           |
| <u>Note 2.</u>   | 6           |
| <u>Note 3.</u>   | 8           |
| <u>Note 4.</u>   | 8           |
| <u>Note 5.</u>   | 9           |
| <u>Note 6.</u>   | 10          |
| <u>Note 7.</u>   | 10          |
| <u>Note 8.</u>   | 11          |
| <u>Note 9.</u>   | 11          |
| <u>Note 10.</u>  | 19          |
| <u>Note 11.</u>  | 21          |
| <u>Note 12.</u>  | 26          |
| <u>Note 13.</u>  | 27          |
| <u>Note 14.</u>  | 28          |
| <u>Summary of Significant Accounting Policies</u>  | 6           |
| <u>Fair Value Measurements</u>   | 6           |
| <u>Other Income, Net</u>   | 8           |
| <u>Employee Separation / Asset Related Charges, Net</u>                                      | 8           |
| <u>Provision for Income Taxes</u>  | 9           |
| <u>Earnings Per Share of Common Stock</u>  | 10          |
| <u>Inventories</u>   | 10          |
| <u>Goodwill and Other Intangible Assets</u>  | 11          |
| <u>Commitments and Contingent Liabilities</u>  | 11          |
| <u>Stockholders' Equity</u>  | 19          |
| <u>Derivatives and Other Hedging Instruments</u>   | 21          |
| <u>Long-Term Employee Benefits</u>   | 26          |
| <u>Segment Information</u>   | 27          |
| <u>Subsequent Event</u>  | 28          |
| <b><u>Item 2.</u></b>  |             |
| <u>Management's Discussion and Analysis of Financial Condition and Results of Operations</u> | 29          |
| <u>Cautionary Statements About Forward-Looking Statements</u>                                | 29          |
| <u>Results of Operations</u>   | 29          |
| <u>Segment Reviews</u>   | 32          |
| <u>Liquidity &amp; Capital Resources</u>   | 35          |
| <u>Contractual Obligations</u>   | 37          |
| <u>PFOA</u>  | 37          |
| <b><u>Item 3.</u></b>  | 38          |
| <b><u>Item 4.</u></b>  | 39          |
| <u>Quantitative and Qualitative Disclosures About Market Risk</u>                            | 38          |
| <u>Controls and Procedures</u>   | 39          |
| <b><u>Part II</u></b>  |             |
| <b><u>Other Information</u></b>  |             |
| <b><u>Item 1.</u></b>  | 40          |
| <b><u>Item 1A.</u></b>   | 41          |
| <b><u>Item 6.</u></b>  | 44          |
| <b><u>Signature</u></b>  | 45          |
| <b><u>Exhibit Index</u></b>  | 46          |



Table of Contents**Part I. Financial Information****Item 1. CONSOLIDATED FINANCIAL STATEMENTS****E. I. du Pont de Nemours and Company****Consolidated Income Statements (Unaudited)***(Dollars in millions, except per share)*

|   | Three Months Ended<br>September 30, |          | Nine Months Ended<br>September 30, |           |
|---|-------------------------------------|----------|------------------------------------|-----------|
|   | 2010                                | 2009     | 2010                               | 2009      |
| Net sales   | \$ 7,001                            | \$ 5,961 | \$ 24,101                          | \$ 19,690 |
| Other income, net   | 66                                  | 195      | 890                                | 824       |
| Total   | 7,067                               | 6,156    | 24,991                             | 20,514    |
| Cost of goods sold and other operating charges            | 5,443                               | 4,560    | 17,223                             | 14,752    |
| Selling, general and administrative expenses              | 782                                 | 770      | 2,796                              | 2,584     |
| Research and development expense                          | 409                                 | 335      | 1,178                              | 989       |
| Interest expense  | 103                                 | 100      | 309                                | 312       |
| Employee separation / asset related charges, net          |                                     |          |                                    | 265       |
| Total   | 6,737                               | 5,765    | 21,506                             | 18,902    |
| Income before income taxes                                | 330                                 | 391      | 3,485                              | 1,612     |
| (Benefit from) provision for income taxes                 | (39)                                | (23)     | 811                                | 288       |
| Net income  | 369                                 | 414      | 2,674                              | 1,324     |
| Less: Net income attributable to noncontrolling interests | 2                                   | 5        | 19                                 | 10        |
| Net income attributable to DuPont                         | \$ 367                              | \$ 409   | \$ 2,655                           | \$ 1,314  |
| Basic earnings per share of common stock                  | \$ 0.40                             | \$ 0.45  | \$ 2.92                            | \$ 1.44   |
| Diluted earnings per share of common stock                | \$ 0.40                             | \$ 0.45  | \$ 2.89                            | \$ 1.44   |
| Dividends per share of common stock                       | \$ 0.41                             | \$ 0.41  | \$ 1.23                            | \$ 1.23   |

See Notes to the Consolidated Financial Statements.

Table of Contents**E. I. du Pont de Nemours and Company****Condensed Consolidated Balance Sheets (Unaudited)***(Dollars in millions, except per share)*

|  | September 30,<br>2010 | December 31,<br>2009 |
|--|-----------------------|----------------------|
| <b>Assets</b>  |                       |                      |
| <b>Current assets</b>  |                       |                      |
| Cash and cash equivalents  | \$ 4,088              | \$ 4,021             |
| Marketable securities  | 1,892                 | 2,116                |
| Accounts and notes receivable, net   | 7,498                 | 5,030                |
| Inventories  | 5,420                 | 5,380                |
| Prepaid expenses   | 127                   | 129                  |
| Income taxes   | 564                   | 612                  |
| Total current assets   | 19,589                | 17,288               |
| Property, plant and equipment, net of accumulated depreciation (September 30, 2010 - \$18,467; December 31, 2009 - \$17,821)                 | 10,976                | 11,094               |
| Goodwill   | 2,135                 | 2,137                |
| Other intangible assets  | 2,407                 | 2,552                |
| Investment in affiliates   | 1,108                 | 1,014                |
| Other assets   | 3,703                 | 4,100                |
| <b>Total</b>   | <b>\$ 39,918</b>      | <b>\$ 38,185</b>     |
| <b>Liabilities and Stockholders' Equity</b>  |                       |                      |
| <b>Current liabilities</b>   |                       |                      |
| Accounts payable   | \$ 3,545              | \$ 3,542             |
| Short-term borrowings and capital lease obligations  | 2,211                 | 1,506                |
| Income taxes   | 194                   | 154                  |
| Other accrued liabilities  | 3,371                 | 4,188                |
| Total current liabilities  | 9,321                 | 9,390                |
| Long-term borrowings and capital lease obligations   | 10,175                | 9,528                |
| Other liabilities  | 10,639                | 11,490               |
| Deferred income taxes  | 132                   | 126                  |
| Total liabilities  | 30,267                | 30,534               |
| <b>Commitments and contingent liabilities</b>  |                       |                      |
| <b>Stockholders' equity</b>  |                       |                      |
| Preferred stock  | 237                   | 237                  |
| Common stock, \$0.30 par value; 1,800,000,000 shares authorized; Issued at September 30, 2010 - 998,029,000; December 31, 2009 - 990,855,000 | 299                   | 297                  |
| Additional paid-in capital   | 8,763                 | 8,469                |
| Reinvested earnings  | 12,235                | 10,710               |
| Accumulated other comprehensive loss   | (5,610)               | (5,771)              |
| Common stock held in treasury, at cost (87,041,000 shares at September 30, 2010 and December 31, 2009)                                       | (6,727)               | (6,727)              |
| Total DuPont stockholders' equity  | 9,197                 | 7,215                |

Edgar Filing: DUPONT E I DE NEMOURS & CO - Form 10-Q

|                          |                  |                  |
|--------------------------|------------------|------------------|
| Noncontrolling interests | 454              | 436              |
| Total equity             | 9,651            | 7,651            |
| <b>Total</b>             | <b>\$ 39,918</b> | <b>\$ 38,185</b> |

See Notes to the Consolidated Financial Statements.

Table of Contents**E. I. du Pont de Nemours and Company****Condensed Consolidated Statements of Cash Flows (Unaudited)***(Dollars in millions)*

|   | <b>Nine Months Ended<br/>September 30,</b> |                   |
|---|--|-------------------|
|   | <b>2010</b>                                | <b>2009</b>       |
| <b>Operating activities</b>   |  |                   |
| Net income  | \$ 2,674                                   | \$ 1,324          |
| Adjustments to reconcile net income to cash provided by operating activities: |  |                   |
| Depreciation  | 904  | 938               |
| Amortization of intangible assets   | 142  | 219               |
| Contributions to pension plans  | (704)                                      | (243)             |
| Other non-cash charges and credits - net                                      | 442  | 848               |
| Change in operating assets and liabilities - net                              | (3,423)                                    | (2,163)           |
| Cash provided by operating activities   | 35   | 923               |
| <b>Investing activities</b>   |  |                   |
| Purchases of property, plant and equipment                                    | (899)                                      | (990)             |
| Investments in affiliates   | (71)                                       | (105)             |
| Payments for businesses - net of cash acquired                                |  | (12)              |
| Proceeds from sales of assets - net of cash sold                              | 173  | 51                |
| Net decrease (increase) in short-term financial instruments                   | 201  | (800)             |
| Forward exchange contract settlements   | 396  | (757)             |
| Other investing activities - net  | (94)                                       | (12)              |
| Cash used for investing activities  | (294)                                      | (2,625)           |
| <b>Financing activities</b>   |  |                   |
| Dividends paid to stockholders  | (1,122)                                    | (1,119)           |
| Net increase in borrowings  | 1,327                                      | 1,408             |
| Proceeds from exercise of stock options                                       | 199  |                   |
| Other financing activities - net  | (18)                                       | (14)              |
| Cash provided by financing activities   | 386  | 275               |
| Effect of exchange rate changes on cash                                       | (60)                                       | 31                |
| <b>Increase (decrease) in cash and cash equivalents</b>                       | <b>\$ 67</b>                               | <b>\$ (1,396)</b> |
| <b>Cash and cash equivalents at beginning of period</b>                       | <b>4,021</b>                               | <b>3,645</b>      |
| <b>Cash and cash equivalents at end of period</b>                             | <b>\$ 4,088</b>                            | <b>\$ 2,249</b>   |

See Notes to the Consolidated Financial Statements.



Table of Contents

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**

*(Dollars in millions, except per share)*

**Note 1. Summary of Significant Accounting Policies**

**Interim Financial Statements**

The accompanying unaudited consolidated financial statements have been prepared in accordance with generally accepted accounting principles in the United States of America (GAAP) for interim financial information and the instructions to Form 10-Q and Rule 10-01 of Regulation S-X. In the opinion of management, all adjustments (consisting of normal recurring adjustments) considered necessary for a fair statement of the results for interim periods have been included. Results for interim periods should not be considered indicative of results for a full year. These interim Consolidated Financial Statements should be read in conjunction with the Consolidated Financial Statements and Notes thereto contained in the company's Annual Report on Form 10-K for the year ended December 31, 2009, collectively referred to as the 2009 Annual Report. The Consolidated Financial Statements include the accounts of the company and all of its subsidiaries in which a controlling interest is maintained, as well as variable interest entities in which DuPont is considered the primary beneficiary. Certain reclassifications of prior years' data have been made to conform to current year classifications.

**Recent Accounting Pronouncements**

The Financial Accounting Standards Board (FASB) issued authoritative guidance on accounting for transfers of financial assets, which is applied to financial asset transfers on or after the effective date, which is January 1, 2010 for the company's financial statements. The new requirement limits the circumstances in which a financial asset may be de-recognized when the transferor has not transferred the entire financial asset or has continuing involvement with the transferred asset. The concept of a qualifying special-purpose entity, which had previously facilitated sale accounting for certain asset transfers, is removed by the new requirement. The adoption of this guidance did not have a material effect on the company's financial position or results of operations.

The FASB issued authoritative guidance on accounting for variable interest entities, which is effective for reporting periods beginning after November 15, 2009. The amendments change the process for how an enterprise determines which party consolidates a variable interest entity (VIE) to a primarily qualitative analysis. The party that consolidates the VIE (the primary beneficiary) is defined as the party with (1) the power to direct activities of the VIE that most significantly affect the VIE's economic performance and (2) the obligation to absorb losses of the VIE or the right to receive benefits from the VIE. Upon adoption, reporting enterprises must reconsider their conclusions on whether an entity should be consolidated. The adoption of this guidance did not have a material effect on the company's financial position or results of operations.

**Note 2. Fair Value Measurements**

## Edgar Filing: DUPONT E I DE NEMOURS & CO - Form 10-Q

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. The company uses the following valuation techniques to measure fair value for its financial assets and financial liabilities:

- |         |  |
|---------|--|
| Level 1 | Quoted market prices in active markets for identical assets or liabilities;  |
| Level 2 | Significant other observable inputs (e.g. quoted prices for similar items in active markets, quoted prices for identical or similar items in markets that are not active, inputs other than quoted prices that are observable such as interest rate and yield curves, and market-corroborated inputs); |
| Level 3 | Unobservable inputs for the asset or liability, which are valued based on management's estimates of assumptions that market participants would use in pricing the asset or liability.  |

Table of Contents**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS***(Dollars in millions, except per share)*

The company has determined that its financial assets and liabilities are level 1 and level 2 in the fair value hierarchy. At September 30, 2010, the following financial assets and financial liabilities were measured at fair value on a recurring basis using the type of inputs shown:

|                               | September 30,<br>2010 | Fair Value Measurements at<br>September 30, 2010 Using |                |
|-------------------------------|-----------------------|--|----------------|
|                               |                       | Level 1 Inputs   | Level 2 Inputs |
| <b>Financial assets</b>       |                       |  |                |
| Derivatives                   | \$ 96                 | \$   | \$ 96          |
| Available-for-sale securities | 18                    | 18   |                |
|                               | \$ 114                | \$ 18  | \$ 96          |
| <b>Financial liabilities</b>  |                       |  |                |
| Derivatives                   | \$ 323                | \$   | \$ 323         |

At December 31, 2009, the following financial assets and liabilities were measured at fair value on a recurring basis using the type of inputs shown:

|                               | December 31,<br>2009 | Fair Value Measurements at<br>December 31, 2009 Using |                |
|-------------------------------|----------------------|---|----------------|
|                               |                      | Level 1 Inputs  | Level 2 Inputs |
| <b>Financial assets</b>       |                      |   |                |
| Derivatives                   | \$ 128               | \$  | \$ 128         |
| Available-for-sale securities | 27                   | 27  |                |
|                               | \$ 155               | \$ 27   | \$ 128         |
| <b>Financial liabilities</b>  |                      |   |                |
| Derivatives                   | \$ 132               | \$  | \$ 132         |

The estimated fair value of the company's outstanding debt, including interest rate financial instruments, based on quoted market prices for the same or similar issues or on current rates offered to the company for debt of the same remaining maturities, was \$13,600 and \$11,600 as of September 30, 2010 and December 31, 2009, respectively. The carrying value of debt was approximately \$12,400 and \$11,000 as of September 30, 2010 and December 31, 2009, respectively.

See Note 22, Long-Term Employee Benefits to the company's 2009 Annual Report for information regarding the company's pension assets measured at fair value on a recurring basis.



Table of Contents**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS***(Dollars in millions, except per share)***Note 3. Other Income, Net**

|   | <b>Three Months Ended<br/>September 30,</b> |               | <b>Nine Months Ended<br/>September 30,</b> |               |
|---|---|---------------|--|---------------|
|   | <b>2010</b>                                 | <b>2009</b>   | <b>2010</b>                                | <b>2009</b>   |
| Cozaar®/Hyzaar® income  | \$ 109                                      | \$ 264        | \$ 397                                     | \$ 786        |
| Royalty income  | 36  | 20            | 89   | 71            |
| Interest income   | 28  | 22            | 68   | 68            |
| Equity in earnings of affiliates, excluding exchange gains/losses | 33  | 15            | 119  | 49            |
| Net gains on sales of assets                                      | 1   | 2             | 96   | 43            |
| Net exchange losses (1)   | (160)                                       | (128)         | (25)                                       | (202)         |
| Miscellaneous income and expenses, net (2)                        | 19  |               | 146  | 9             |
| <b>Total</b>  | <b>\$ 66</b>                                | <b>\$ 195</b> | <b>\$ 890</b>                              | <b>\$ 824</b> |

(1) The company routinely uses forward exchange contracts to offset its net exposures, by currency, related to its foreign currency-denominated monetary assets and liabilities. The objective of this program is to maintain an approximately balanced position in foreign currencies in order to minimize, on an after-tax basis, the effects of exchange rate changes on net monetary asset positions. The net pre-tax exchange gains and losses are partially offset by the associated tax impact.

(2) Miscellaneous income and expenses, net, includes interest items, insurance recoveries and other items.

**Note 4. Employee Separation / Asset Related Charges, Net**

At September 30, 2010, total liabilities relating to prior restructuring activities were \$120. A complete discussion of restructuring initiatives is included in the company's 2009 Annual Report in Note 5, Employee Separation / Asset Related Charges, Net.

**2009 Restructuring Program**

Account balances and activity for the 2009 restructuring program are summarized below:

Edgar Filing: DUPONT E I DE NEMOURS & CO - Form 10-Q

|                               |    | Employee<br>Separation<br>Costs |    | Other Non-<br>personnel<br>Charges(1) |    | Total |
|-------------------------------|----|---------------------------------|----|---------------------------------------|----|-------|
| Balance at December 31, 2009  | \$ | 150                             | \$ | 24                                    | \$ | 174   |
| Payments                      |    | (67)(2)                         |    | (20)                                  |    | (87)  |
| Net translation adjustment    |    | (5)                             |    |                                       |    | (5)   |
| Balance at September 30, 2010 | \$ | 78                              | \$ | 4                                     | \$ | 82    |

---

(1) Other non-personnel charges consist of contractual obligation costs.

(2) Payments to U.S. based employees are generally paid over a period of time not to exceed twelve months.

There were \$67 of employee separation cash payments related to the 2009 restructuring program during the nine months ended September 30, 2010. As of September 30, 2010, approximately 1,300 employees have been separated related to the 2009 restructuring program. The company expects this initiative to be substantially complete by the end of 2010 with payments continuing into 2011.

Table of Contents**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS***(Dollars in millions, except per share)***2008 Restructuring Program**

The account balances and activity for the company's 2008 global restructuring program are as follows:

|                               | <b>Employee<br/>Separation<br/>Costs</b> | <b>Other Non-<br/>personnel<br/>Charges(1)</b> | <b>Total</b> |
|-------------------------------|--|--|--------------|
| Balance at December 31, 2009  | \$ 105                                   | \$ 9   | \$ 114       |
| Payments                      | (73)(2)                                  | (5)  | (78)         |
| Net translation adjustment    | (7)                                      |  | (7)          |
| Balance at September 30, 2010 | \$ 25                                    | \$ 4   | \$ 29        |

(1) Other non-personnel charges consist of contractual obligation costs.

(2) Payments to employees of non-U.S. based subsidiaries are generally paid in lump sum amounts and are based on years of service. Payments to U.S. based employees are generally paid over a period of time not to exceed twelve months.

There were \$73 of employee separation cash payments related to the 2008 restructuring program during the nine months ended September 30, 2010. As of September 30, 2010, approximately 1,800 employees have been separated related to the 2008 restructuring program. The program and related payments are expected to be substantially complete by the end of 2010.

**Note 5. Provision for Income Taxes**

In the third quarter 2010, the company recorded a tax benefit of \$39, including \$157 of tax benefit primarily associated with the company's policy of hedging the foreign currency-denominated monetary assets and liabilities of its operations.

For year-to-date 2010, the company recorded a tax provision of \$811, including \$54 of tax expense primarily associated with the company's policy of hedging the foreign currency-denominated monetary assets and liabilities of its operations and \$49 net tax benefit related to the adjustment of income tax accruals associated with settlements of prior year tax contingencies.

## Edgar Filing: DUPONT E I DE NEMOURS & CO - Form 10-Q

In the third quarter 2009, the company recorded a tax benefit of \$23, including \$117 of tax benefit primarily associated with the company's policy of hedging the foreign currency-denominated monetary assets and liabilities of its operations.

For year-to-date 2009, the company recorded a tax provision of \$288, including \$117 of tax benefit primarily associated with the company's policy of hedging the foreign currency-denominated monetary assets and liabilities of its operations, \$91 net tax benefit related to 2008 and 2009 restructuring and \$17 net tax expense related to the hurricane adjustments.

Each year the company files hundreds of tax returns in the various national, state and local income taxing jurisdictions in which it operates. These tax returns are subject to examination and possible challenge by the taxing authorities. Positions challenged by the taxing authorities may be settled or appealed by the company. As a result, there is an uncertainty in income taxes recognized in the company's financial statements in accordance with accounting for income taxes and accounting for uncertainty in income taxes. It is reasonably possible that changes to the company's global unrecognized tax benefits could be significant, however, due to the uncertainty regarding the timing of completion of audits and possible outcomes, a current estimate of the range of increases or decreases that may occur within the next twelve months cannot be made.

Table of Contents**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS***(Dollars in millions, except per share)***Note 6. Earnings Per Share of Common Stock**

Set forth below is a reconciliation of the numerator and denominator for basic and diluted earnings per share calculations for the periods indicated:

|  | <b>Three Months Ended<br/>September 30,</b> |             | <b>Nine Months Ended<br/>September 30,</b> |             |
|--|---|-------------|--|-------------|
|  | <b>2010</b>                                 | <b>2009</b> | <b>2010</b>                                | <b>2009</b> |
| <b>Numerator:</b>  |   |             |  |             |
| Net income attributable to DuPont                            | \$ 367                                      | \$ 409      | \$ 2,655                                   | \$ 1,314    |
| Preferred dividends  | (3)   | (3)         | (8)  | (8)         |
| Net income available to DuPont common stockholders           | \$ 364                                      | \$ 406      | \$ 2,647                                   | \$ 1,306    |
| <b>Denominator:</b>  |   |             |  |             |
| Weighted-average number of common shares - Basic             | 908,366,000                                 | 904,615,000 | 906,991,000                                | 904,350,000 |
| Dilutive effect of the company's employee compensation plans | 10,134,000                                  | 5,676,000   | 7,996,000                                  | 3,646,000   |
| Weighted-average number of common shares - Diluted           | 918,500,000                                 | 910,291,000 | 914,987,000                                | 907,996,000 |

The following average number of stock options were antidilutive, and therefore, were not included in the diluted earnings per share calculations:

|                                 | <b>Three Months Ended<br/>September 30,</b> |             | <b>Nine Months Ended<br/>September 30,</b> |             |
|---------------------------------|---|-------------|--|-------------|
|                                 | <b>2010</b>                                 | <b>2009</b> | <b>2010</b>                                | <b>2009</b> |
| Average Number of Stock Options | 47,108,000                                  | 70,137,000  | 56,845,000                                 | 73,949,000  |

**Note 7. Inventories**

|                   | <b>September 30,<br/>2010</b> | <b>December 31,<br/>2009</b> |
|-------------------|-------------------------------|------------------------------|
| Finished products | \$ 3,277                      | \$ 2,893                     |

Edgar Filing: DUPONT E I DE NEMOURS & CO - Form 10-Q

|  |          |          |
|--|----------|----------|
| Semifinished products  | 1,862    | 2,231    |
| Raw materials and supplies                                     | 915      | 872      |
|  | 6,054    | 5,996    |
| Adjustment of inventories to a last-in, first-out (LIFO) basis | (634)    | (616)    |
| Total  | \$ 5,420 | \$ 5,380 |

Table of Contents**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS***(Dollars in millions, except per share)***Note 8. Goodwill and Other Intangible Assets**

There were no significant changes in goodwill for the nine month period ended September 30, 2010.

The gross carrying amounts and accumulated amortization of other intangible assets by major class are as follows:

|   | September 30, 2010 |                             |          | December 31, 2009 |                             |          |
|---|--------------------|-----------------------------|----------|-------------------|-----------------------------|----------|
|   | Gross              | Accumulated<br>Amortization | Net      | Gross             | Accumulated<br>Amortization | Net      |
| Intangible assets subject to amortization (Definite-lived):       |                    |                             |          |                   |                             |          |
| Purchased and licensed technology                                 | \$ 1,621           | \$ (809)                    | \$ 812   | \$ 1,622          | \$ (716)                    | \$ 906   |
| Patents   | 154                | (58)                        | 96       | 169               | (57)                        | 112      |
| Trademarks  | 57                 | (21)                        | 36       | 62                | (22)                        | 40       |
| Other (1)   | 584                | (272)                       | 312      | 642               | (302)                       | 340      |
|   | 2,416              | (1,160)                     | 1,256    | 2,495             | (1,097)                     | 1,398    |
| Intangible assets not subject to amortization (Indefinite-lived): |                    |                             |          |                   |                             |          |
| Trademarks / tradenames   | 176                |                             | 176      | 179               |                             | 179      |
| Pioneer germplasm (2)   | 975                |                             | 975      | 975               |                             | 975      |
|   | 1,151              |                             | 1,151    | 1,154             |                             | 1,154    |
| Total   | \$ 3,567           | \$ (1,160)                  | \$ 2,407 | \$ 3,649          | \$ (1,097)                  | \$ 2,552 |

(1) Primarily consists of sales and grower networks, customer lists, marketing and manufacturing alliances and noncompetition agreements.

(2) Pioneer germplasm is the pool of genetic source material and body of knowledge gained from the development and delivery stage of plant breeding. The company recognized germplasm as an intangible asset upon the acquisition of Pioneer. This intangible asset is expected to contribute to cash flows beyond the foreseeable future and there are no legal, regulatory, contractual, or other factors which limit its useful life.

The aggregate pre-tax amortization expense for definitive-lived intangible assets was \$32 and \$142 for the three and nine month periods ended September 30, 2010, respectively, and \$52 and \$219 for the three and nine month periods ended September 30, 2009, respectively. The estimated aggregate pre-tax amortization expense for 2010 and each of the next five years is approximately \$176, \$180, \$184, \$188, \$182 and

\$149.

**Note 9. Commitments and Contingent Liabilities**

**Guarantees**

*Product Warranty Liability*

The company warrants that its products meet standard specifications. The company's product warranty liability was \$17 as of September 30, 2010 and December 31, 2009. Estimates for warranty costs are based on historical claims experience.

*Indemnifications*

In connection with acquisitions and divestitures, the company has indemnified respective parties against certain liabilities that may arise in connection with these transactions and business activities prior to the completion of the transaction. The term of these indemnifications, which typically pertain to environmental, tax and product liabilities, is generally indefinite. In addition, the company indemnifies its duly elected or

Table of Contents

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**

*(Dollars in millions, except per share)*

appointed directors and officers to the fullest extent permitted by Delaware law, against liabilities incurred as a result of their activities for the company, such as adverse judgments relating to litigation matters. If the indemnified party were to incur a liability or have a liability increase as a result of a successful claim, pursuant to the terms of the indemnification, the company would be required to reimburse the indemnified party. The maximum amount of potential future payments is generally unlimited. The carrying amount recorded for all indemnifications as of September 30, 2010 and December 31, 2009 was \$99 and \$100, respectively. Although it is reasonably possible that future payments may exceed amounts accrued, due to the nature of indemnified items, it is not possible to make a reasonable estimate of the maximum potential loss or range of loss. No assets are held as collateral and no specific recourse provisions exist.

In connection with the 2004 sale of the majority of the net assets of Textiles and Interiors, the company indemnified the purchasers, subsidiaries of Koch Industries, Inc. (INVISTA), against certain liabilities primarily related to taxes, legal and environmental matters and other representations and warranties under the Purchase and Sale Agreement. The estimated fair value of the indemnity obligations under the Purchase and Sale Agreement was \$70 and was included in the indemnifications balance of \$99 at September 30, 2010. Under the Purchase and Sale Agreement, the company's total indemnification obligation for the majority of the representations and warranties cannot exceed \$1,400. The other indemnities are not subject to this limit. In March 2008, INVISTA filed suit in the Southern District of New York alleging that certain representations and warranties in the Purchase and Sale Agreement were breached and, therefore, that DuPont is obligated to indemnify it. DuPont disagrees with the extent and value of INVISTA's claims. DuPont has not changed its estimate of its total indemnification obligation under the Purchase and Sale Agreement as a result of the lawsuit.

*Obligations for Equity Affiliates & Others*

The company has directly guaranteed various debt obligations under agreements with third parties related to equity affiliates, customers, suppliers and other affiliated and unaffiliated companies. At September 30, 2010 and December 31, 2009, the company had directly guaranteed \$501 and \$684, respectively, of such obligations. In addition, the company had \$16 and \$119 relating to guarantees of historical obligations for divested subsidiaries as of September 30, 2010 and December 31, 2009, respectively. The \$103 decrease for the guarantees of historical obligations for divested subsidiaries was due to the termination of the guarantees for Consolidation Coal Sales Company in September 2010. These amounts represent the maximum potential amount of future (undiscounted) payments that the company could be required to make under the guarantees. The company would be required to perform on these guarantees in the event of default by the guaranteed party.

The company assesses the payment/performance risk by assigning default rates based on the duration of the guarantees. These default rates are assigned based on the external credit rating of the counterparty or through internal credit analysis and historical default history for counterparties that do not have published credit ratings. For counterparties without an external rating or available credit history, a cumulative average default rate is used.

At September 30, 2010 and December 31, 2009, a liability of \$116 and \$146, respectively, was recorded for these obligations, representing the amount of payment/performance risk for which the company deems probable. This liability is principally related to obligations of the company's polyester films joint venture, which are guaranteed by the company.



Table of Contents**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS***(Dollars in millions, except per share)*

In certain cases, the company has recourse to assets held as collateral, as well as personal guarantees from customers and suppliers. Assuming liquidation, these assets are estimated to cover approximately 37 percent of the \$230 of guaranteed obligations of customers and suppliers. Set forth below are the company's guaranteed obligations at September 30, 2010:

|  | Short- Term | Long- Term | Total  |
|--|-------------|------------|--------|
| Obligations for customers, suppliers and other affiliated and unaffiliated companies(1), (2):                  |             |            |        |
| Bank borrowings (terms up to 5 years)  | \$ 322      | \$ 133     | \$ 455 |
| Obligations for equity affiliates(2):  |             |            |        |
| Bank borrowings (terms up to 3 years)  | 7           | 15         | 22     |
| Leases on equipment and facilities (terms less than 1 year)  | 1           |            | 1      |
| Revenue bonds (terms up to 5 years)  |             | 23         | 23     |
| Total obligations for customers, suppliers, other affiliated and unaffiliated companies, and equity affiliates | \$ 330      | \$ 171     | \$ 501 |
| Obligations for divested subsidiaries(3):  |             |            |        |
| Conoco (terms up to 16 years)  |             | 16         | 16     |
| Total obligations for divested subsidiaries  |             | 16         | 16     |
|  | \$ 330      | \$ 187     | \$ 517 |

- 
- (1) Existing guarantees for customers, suppliers, and other unaffiliated companies arose as part of contractual agreements.
- (2) Existing guarantees for equity affiliates and other affiliated companies arose for liquidity needs in normal operations.
- (3) The company has guaranteed certain obligations and liabilities related to a divested subsidiary, Conoco, which has indemnified the company for any liabilities the company may incur pursuant to these guarantees.

**Litigation**PFOA

At September 30, 2010, DuPont has accruals of \$19 related to the PFOA matters described below.

**Regulatory and Environmental Actions**

## Edgar Filing: DUPONT E I DE NEMOURS & CO - Form 10-Q

In January 2009, the U.S. Environmental Protection Agency (EPA) issued a national Provisional Health Advisory for PFOA of 0.4 parts per billion (ppb) in drinking water. In March 2009, EPA and DuPont entered an Order on Consent under the Safe Drinking Water Act (SDWA) reflecting an action level of 0.40 ppb. Under the terms of the 2009 consent order, DuPont will conduct surveys, sampling and analytical testing in the area around its Washington Works site located in Parkersburg, West Virginia. If tests indicate the presence of PFOA, (collectively, perfluorooctanoic acids and its salts, including the ammonium salt), in drinking water at 0.40 ppb or greater, the company will offer treatment or an alternative supply of drinking water. The 2009 consent order supersedes the November 2006 Order on Consent between DuPont and EPA which established a precautionary interim screening level for PFOA of 0.50 ppb in drinking water sources in the area around the Washington Works site. All of DuPont's remaining obligations under the 2006 consent order have been incorporated into the 2009 consent order.

In late 2005, DuPont and EPA entered into a Memorandum of Understanding (EPA MOU) that required DuPont to monitor PFOA in the soil, air, water and biota around the Washington Works site. The required third party peer review of the data generated in the monitoring process has been completed. EPA issued its final report in September 2009 to which DuPont responded. EPA provided comments on DuPont's response in the first quarter 2010. EPA and the company are discussing a plan for further monitoring under the MOU.

In late 2009, DuPont received an Information Request from EPA under the Clean Water Act (CWA) regarding previously reported historic disposal practices for waste generated by the Washington Works site that may contain PFOA. In December 2009, a similar request was made under the Resource

Table of Contents

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**

*(Dollars in millions, except per share)*

Conservation and Recovery Act (RCRA) regarding the Chambers Works site in Deepwater, New Jersey. DuPont has responded to these requests.

In 2009, DuPont entered into a voluntary agreement with the New Jersey Department of Environmental Protection (NJDEP), to sample private wells within a two-mile radius of its Chambers Works site in Deepwater, New Jersey for the presence of PFOA and treat any wells with PFOA above 0.40 ppb. DuPont has completed its obligations under the agreement and is treating one well.

***EPA Administrative Complaints***

In July and December 2004, EPA filed administrative complaints against DuPont alleging that the company failed to comply with the technical reporting requirements of the Toxic Substances Control Act (TSCA) and the RCRA regarding PFOA. Under a 2005 agreement settling the matter, the company paid civil fines of \$10.25 and will complete two Supplemental Environmental Projects at a total cost of \$6.25.

***Civil Actions: Drinking Water***

In August 2001, a class action, captioned Leach v. DuPont, was filed in West Virginia state court against DuPont and the Lubeck Public Service District. DuPont uses PFOA as a processing aid to manufacture fluoropolymer resins and dispersions at various sites around the world including its Washington Works plant in West Virginia. The complaint alleged that residents living near the Washington Works facility had suffered, or may suffer, deleterious health effects from exposure to PFOA in drinking water. The relief sought included damages for medical monitoring, diminution of property values and punitive damages plus injunctive relief to stop releases of PFOA. DuPont and attorneys for the class reached a settlement agreement in 2004 and as a result, the company established accruals of \$108 in 2004. The agreement was approved by the Wood County Circuit Court on February 28, 2005 after a fairness hearing. The settlement binds a class of approximately 80,000 residents. As defined by the court, the class includes those individuals who have consumed, for at least one year, water containing 0.05 ppb or greater of PFOA from any of six designated public water sources or from sole source private wells.

In July 2005, the company paid the plaintiffs' attorneys' fees and expenses of \$23 and made a payment of \$70, which class counsel has designated to fund a community health project. The company is also funding a series of health studies by an independent science panel of experts in the communities exposed to PFOA to evaluate available scientific evidence on whether any probable link exists between exposure to PFOA and human disease. The company expects the independent science panel to complete these health studies between 2009 and year-end 2011 at a total estimated cost of \$32, of which \$5 was originally placed in an interest-bearing escrow account. In addition, the company is providing state-of-the-art water treatment systems designed to reduce the level of PFOA in water to six area water districts, including the Little Hocking Water Association (LHWA), until the science panel determines that PFOA does not cause disease or until applicable water standards can be met without such treatment. All of the water treatment systems are operating.

## Edgar Filing: DUPONT E I DE NEMOURS & CO - Form 10-Q

The settlement resulted in the dismissal of all claims asserted in the lawsuit except for personal injury claims. If the independent science panel concludes that no probable link exists between exposure to PFOA and any diseases, then the settlement would also resolve personal injury claims. If it concludes that a probable link does exist between exposure to PFOA and any diseases, then DuPont would also fund up to \$235 for a medical monitoring program to pay for such medical testing. In this event, plaintiffs would retain their right to pursue personal injury claims. All other claims in the lawsuit would remain dismissed by the settlement. DuPont believes that it is remote that the panel will find a probable link. Therefore, at September 30, 2010, the company had not established any accruals related to medical

Table of Contents

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**

*(Dollars in millions, except per share)*

monitoring or personal injury claims. However, there can be no assurance as to what the independent science panel will conclude.

In September 2007, LHWA refiled the suit it originally filed in Ohio state court and voluntarily dismissed in 2006. The suit claims that perfluorinated compounds, including PFOA, allegedly released from the Washington Works plant contaminated LHWA's well fields and underlying aquifer. In November 2009, LHWA sued DuPont in Ohio federal court alleging among other claims imminent and substantial endangerment to health and or the environment under RCRA based on detection of PFOA in its wells. LHWA seeks a variety of relief in both cases including compensatory and punitive damages, and an injunction requiring DuPont to provide a new pristine well field and the infrastructure to deliver it.

In the third quarter 2009, Emerald Coast Utilities Authority, owner and operator of public drinking water systems in Pensacola, Florida and nearby areas, filed suit against several defendants including the company alleging water contamination from PFOA and perfluorooctane sulfonate (PFOS). The case, originally filed in Florida state court, was removed to federal court in the fourth quarter 2009. DuPont does not have any facilities in the water district served by the Emerald Coast Utilities Authority that manufacture or use PFOA. DuPont does not and has not manufactured PFOS and does not use the compound in its processes. The complaint seeks testing, treatment, remediation and monitoring. In the third quarter 2010, the court granted defendants' motion for summary judgment and dismissed the case. Plaintiffs must decide whether to appeal by the end of October 2010.

In the second quarter 2006, three purported class actions were filed alleging that drinking water had been contaminated by PFOA in excess of 0.05 ppb due to alleged releases from certain DuPont plants. One of these cases was filed in West Virginia state court by three individual plaintiffs on behalf of customers of the Parkersburg City Water District, but was removed on DuPont's motion to the U.S. District Court for the Southern District of West Virginia. In September 2008, the U.S. District Court ruled that the case could not proceed as a class action. Plaintiffs' appeal of the ruling was denied. In the second quarter 2009, the plaintiffs added a claim based on public nuisance and moved for again class certification. In the third quarter 2009, the court granted summary judgment in DuPont's favor dismissing all claims brought by the three plaintiffs, including public nuisance and class certification, except for medical monitoring. In the fourth quarter 2009, plaintiffs voluntarily dismissed the medical monitoring claims. The court entered final judgment for DuPont in January 2010. In the first quarter 2010, plaintiffs appealed the final judgment to the U.S. Court of Appeals for the Fourth Circuit. A ruling is expected in 2011.

The other two purported class actions were filed in New Jersey. One was filed in federal court on behalf of individuals who allegedly drank water contaminated by releases from DuPont's Chambers Works plant in Deepwater, New Jersey. The second was filed in state court on behalf of customers serviced primarily by the Pennsville Township Water Department and was removed to New Jersey federal district court on DuPont's motion. The New Jersey cases have been combined for purposes of discovery and the complaints have been amended to allege that drinking water had been contaminated by PFOA in excess of 0.04 ppb. In December 2008, the court denied class action status in both cases, but ordered additional briefing on certain issues. In October 2009, the court granted class certification for certain sub-classes regarding public and private nuisance claims, while denying class certification for all other claims. The court also certified a legal question related to strict liability. In April 2010, the court allowed plaintiffs in both cases to add a claim under RCRA alleging imminent and substantial endangerment to health and or the environment. The court will set a trial date upon resolution of motions filed in the third and fourth quarter 2010. Pending further rulings by the court, the remedies sought by the class are expected to include abatement of the alleged nuisance, e.g. reduction of PFOA in drinking water to less than 0.04 ppb, and monetary damages for alleged property diminution.

Edgar Filing: DUPONT E I DE NEMOURS & CO - Form 10-Q

DuPont denies the claims alleged in these civil drinking water actions and is defending itself vigorously.

Table of Contents

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**

*(Dollars in millions, except per share)*

Elastomers Antitrust Matters

In 2002, the U.S., Canadian and European Union (EU) antitrust authorities began investigating companies competing in the synthetic rubber market including DuPont Dow Elastomers, LLC (DDE), a joint venture between The Dow Chemical Company (Dow) and DuPont. DDE became a wholly owned subsidiary of DuPont and was renamed DuPont Performance Elastomers, LLC (DPE) in 2005. In April 2004, DuPont and Dow entered into a series of agreements under which DuPont obtained complete control over directing DDE's response to these investigations and the related litigation and DuPont agreed to a disproportionate share of the venture's liabilities and costs related to these matters. Consequently, DuPont bears any potential liabilities and costs up to the initial \$150. Dow is obligated to indemnify DuPont for up to \$72.5 by paying 15 to 30 percent toward liabilities and costs in excess of \$150.

DDE entered a 2005 plea agreement with the U.S. Department of Justice that included a fine of \$84. The company elected to pay the fine in six equal installments; the last installment was paid during the first quarter 2010. In 2007, DPE pled guilty to conspiring to fix prices in the Canadian synthetic rubber market and paid a fine of CDN \$4, approximately \$3.8 USD.

In December 2007, the EU antitrust authorities imposed fines against DPE, Dow and DuPont totaling EURO 59.25 (\$90.9 USD). DuPont provisionally paid the fines in 2008 prior to appealing the EU decision. The EU antitrust authorities subsequently imposed an incremental fine of EURO 4.425 (\$6.5 USD) on Dow which was provisionally paid in 2008.

The company has resolved all criminal antitrust allegations involving the synthetic rubber market against it made by U.S., Canadian, and, pending resolution of the company's appeal, the EU antitrust authorities. At September 30, 2010, the company does not have an accrual related to this matter.

Benlate®

In 1991, DuPont began receiving claims by growers that use of Benlate® 50 DF fungicide had caused crop damage. DuPont has since been served with thousands of lawsuits, most of which have been disposed of through trial, dismissal or settlement. The status of Benlate® cases is indicated in the table below:

**Number of Cases**

|                              |    |
|------------------------------|----|
| Balance at December 31, 2009 | 13 |
| Filed                        |    |
| Resolved                     |    |

# Edgar Filing: DUPONT E I DE NEMOURS & CO - Form 10-Q

|                               |     |
|-------------------------------|-----|
| Balance at March 31, 2010     | 13  |
| Filed                         |     |
| Resolved                      | (1) |
| Balance at June 30, 2010      | 12  |
| Filed                         |     |
| Resolved                      |     |
| Balance at September 30, 2010 | 12  |

At September 30, 2010, there were twelve cases pending in Florida courts, nine of which involve allegations that Benlate® caused crop damage. At the 2006 trial of two cases involving twenty-seven Costa Rican fern growers, the plaintiffs sought damages in the range of \$270 to \$400. A \$56 judgment was rendered against the company, but was reduced to \$24 on DuPont's motion. In the fourth quarter 2009, on DuPont's motion, the judgment was reversed, vacated and the cases were remanded to be tried separately. Plaintiffs will likely seek further appellate review. Two other crop cases are scheduled for trial in 2011.

Table of Contents

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**

*(Dollars in millions, except per share)*

Two cases alleging damage to shrimping operations were decided in DuPont's favor on appeal, but in September 2007, the judge granted plaintiffs' motion for new trial thus reinstating the cases. Previously, these plaintiffs had been awarded unspecified attorneys' fees as sanctions for alleged discovery abuses by DuPont. In June 2009, the judge issued an order striking DuPont's pleadings and entering a default judgment against the company as to liability and causation. Therefore, only the issue of damages would have been tried in both cases. Shortly before the trial of the first case was to begin in August 2010, the parties agreed to arbitrate the issue of damages for both cases. The arbitration is scheduled for the fourth quarter 2010. The arbitrator's award will be binding on the parties.

In January 2009, a case was filed in Florida state court claiming that plaintiff's exposure to Benlate® allegedly contaminated with other fungicides and herbicides, caused plaintiff's kidney cancer and pancreatic and brain tumors. The case was tried to a verdict in September 2010 in federal court, to which it had been removed on DuPont's motion, and the jury unanimously rejected allegations that exposure to Benlate® caused plaintiff's diseases. Plaintiff may appeal the verdict.

The company does not believe that Benlate® caused the damages alleged in each of these cases and denies the allegations of fraud and misconduct. The company continues to defend itself in ongoing matters. As of September 30, 2010, the company has incurred costs and expenses of approximately \$2,000 associated with these matters, but does not expect additional significant costs or expenses associated with the remaining 12 cases. The company has recovered approximately \$275 of its costs and expenses through insurance and does not expect additional insurance recoveries, if any, to be significant. As a result of the agreement to enter binding arbitration, the company increased its accruals related to Benlate® in the third quarter 2010. At September 30, 2010, the company has accruals of \$15.1 related to Benlate®.

Spelter, West Virginia

In September 2006, a West Virginia state court certified a class action captioned Perrine v DuPont, against DuPont that seeks relief including the provision of remediation services and property value diminution damages for 7,000 residential properties in the vicinity of a closed zinc smelter in Spelter, West Virginia. The action also seeks medical monitoring for an undetermined number of residents in the class area. The smelter was owned and operated by at least three companies between 1910 and 2001, including DuPont between 1928 and 1950. DuPont performed remedial measures at the request of EPA in the late 1990s and in 2001 repurchased the site to facilitate and complete the remediation. The fall 2007 trial was conducted in four phases: liability, medical monitoring, property and punitive damages. The jury found against DuPont in all four phases awarding \$55.5 for property remediation and \$196.2 in punitive damages. In post trial motions, the court adopted the plaintiffs' forty-year medical monitoring plan estimated by plaintiffs to cost \$130 and granted plaintiffs' attorneys legal fees of \$127 plus \$8 in expenses based on and included in the total jury award.

In June 2008, DuPont filed its petitions for appeal with the West Virginia Supreme Court (the Court) seeking review of a number of issues associated with the trial court's decisions before, during and after the trial. The Court issued its decision on March 26, 2010, affirming in part and reversing in part the trial court's decision.

## Edgar Filing: DUPONT E I DE NEMOURS & CO - Form 10-Q

The Court conditionally affirmed the verdict, but reduced punitive damages to \$97.7 and gave plaintiffs the option to re-try punitive damages. In July 2010, plaintiffs accepted the reduced punitive damage award and, as a result, the issue of punitive damages will not be re-tried.

Also in its March 2010 decision, the Court reversed the trial court's order granting summary judgment to the adult plaintiffs on the issue of statute of limitations and ordered a new jury trial on the sole issue of when the plaintiffs possessed requisite knowledge to trigger the running of the statute. The trial has been set for March 7, 2011. If the jury determines that the adult plaintiffs had or should have had requisite knowledge more than 2 years prior to filing their case, then the trial court must set aside the verdict and render judgment in DuPont's favor. DuPont does not have a statute of limitations defense as to medical monitoring claims for plaintiffs who were minors when their claims accrued.

Table of Contents

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**

*(Dollars in millions, except per share)*

As of September 30, 2010, the company had recorded accruals of \$55, although given the uncertainties inherent in litigation there can be no assurance as to the final outcome.

*General*

The company is subject to various lawsuits and claims arising out of the normal course of its business. These lawsuits and claims include actions based on alleged exposures to products, intellectual property and environmental matters and contract and antitrust claims. Management has noted a nationwide trend in purported class actions against chemical manufacturers generally seeking relief such as medical monitoring, property damages, off-site remediation and punitive damages arising from alleged environmental torts without claiming present personal injuries. Such cases may allege contamination from unregulated substances or remediated sites. The company also has noted a trend in public and private nuisance suits being filed on behalf of states, counties, cities and utilities alleging harm to the general public. Although it is not possible to predict the outcome of these various lawsuits and claims, management does not anticipate they will have a materially adverse effect on the company's consolidated financial position or liquidity. However, the ultimate liabilities may be significant to results of operations in the period recognized. The company accrues for contingencies when the information available indicates that it is probable that a liability has been incurred and the amount of the liability can be reasonably estimated.

*Environmental*

The company is also subject to contingencies pursuant to environmental laws and regulations that in the future may require the company to take further action to correct the effects on the environment of prior disposal practices or releases of chemical or petroleum substances by the company or other parties. The company accrues for environmental remediation activities consistent with the policy set forth in Note 1 in the company's 2009 Annual Report. Much of this liability results from the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, often referred to as Superfund), RCRA and similar state and global laws. These laws require the company to undertake certain investigative and remedial activities at sites where the company conducts or once conducted operations or at sites where company-generated waste was disposed. The accrual also includes estimated costs related to a number of sites identified by the company for which it is probable that environmental remediation will be required, but which are not currently the subject of enforcement activities.

Remediation activities vary substantially in duration and cost from site to site. These activities, and their associated costs, depend on the mix of unique site characteristics, evolving remediation technologies, diverse regulatory agencies and enforcement policies, as well as the presence or absence of potentially responsible parties. At September 30, 2010, the Condensed Consolidated Balance Sheets included a liability of \$416, relating to these matters and, in management's opinion, is appropriate based on existing facts and circumstances. The average time frame, over which the accrued or presently unrecognized amounts may be paid, based on past history, is estimated to be 15-20 years. Considerable uncertainty exists with respect to these costs and, under adverse changes in circumstances, potential liability may range up to two to three times the amount accrued as of September 30, 2010.

*Other*

The company has various purchase commitments incident to the ordinary conduct of business. In the aggregate, such commitments are not at prices in excess of current market.

Table of Contents

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**

*(Dollars in millions, except per share)*

**Note 10. Stockholders Equity**

A summary of the changes in equity for the three and nine months ended September 30, 2010 and 2009 is provided below:

| Consolidated Changes in Equity for the<br>Three Months Ended September 30, 2010 | Total    | Comprehensive<br>Income | Preferred<br>Stock | Common<br>Stock | Additional<br>Paid-in-<br>Capital | Reinvested<br>Earnings | Accumulated<br>Other<br>Comprehensive<br>Loss | Treasury<br>Stock | Noncontrolling<br>Interests |
|---|----------|-------------------------|--------------------|-----------------|-----------------------------------|------------------------|---|-------------------|-----------------------------|
| Beginning balance   | \$ 9,276 |                         |                    |                 |                                   |                        |   |                   |                             |