

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-0649-IWD-E **TCEQ ID:** RN100218239 and RN100216035 **CASE NO.:** 37505

**RESPONDENT NAME:** DuPont Performance Elastomers L.L.C. and Lucite International, Inc.

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> DuPont Performance Elastomers, 5200 North Twin City Highway, Nederland, Jefferson County and DuPont Beaumont Works Industrial Park, 5470 North Twin City Highway, Nederland, Jefferson County</p> <p><b>TYPE OF OPERATION:</b> Synthetic rubber manufacturing facility and wastewater treatment facility</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondents have expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on October 19, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Kevin Cadien, Plant Manager, DuPont Performance Elastomers L.L.C., P.O. Box 4901, Beaumont, Texas 77704                      Marney Gillmore, Site Manager, Lucite International, Inc., 6350 North Twin City Highway, Nederland, Texas 77627  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

DOCKET NO.: 2009-0649-IWD-E

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> February 20, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> April 15, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WATER</b></p> <p>Failure to prevent an unauthorized discharge of industrial waste into water in the state. Specifically, it was documented that on February 20, 2009, DuPont Performance Elastomers L.L.C. experienced a discharge of sodium hypochlorite from their Hypalon Unit which flowed into the Lucite International, Inc. wastewater treatment facility. The discharge of sodium hypochlorite resulted in elevated total chlorine levels in the effluent from the wastewater treatment plant and in a fish kill in the Neches River Tidal Segment 0601 of the Neches River Basin [TEX. WATER CODE § 26.121(a)(3)].</p>	<p><b>Total Assessed:</b> \$10,000</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$10,000</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Orders Justification:</b> Environmental receptors have been exposed to pollutants which exceed levels that are protective.</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondents have implemented the following corrective measures at the Facility:</p> <p>a. Properly disposed of the dead fish and implemented an interim monitoring program for monitoring total chlorine on February 20, 2009; and</p> <p>b. Implemented an internal laboratory protocol for monitoring total chlorine and implemented revised operating procedures to provide guidance to operations personnel on wastewater system design and key response actions for total chlorine concentrations outside acceptable operating parameters on April 23, 2009.</p>

Additional ID No(s): 0



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>TCEQ</b>	<b>DATES</b>	<b>Assigned</b>	30-Jun-2009	<b>PCW</b>	2-Jul-2009	<b>Screening</b>	1-Jul-2009	<b>EPA Due</b>	
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<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	DuPont Performance Elastomers L.L.C. and Lucite International, Inc.
<b>Reg. Ent. Ref. No.</b>	RN100218239 and RN100216035
<b>Facility/Site Region</b>	10-Beaumont
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	37505	<b>No. of Violations</b>	1
<b>Docket No.</b>	2009-0649-IWD-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jorge Ibarra, P.E.
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$10,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	53.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$5,300
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**Notes** The Respondent was issued four NOV's without the same/similar type of violations, one 1660 Agreed Order, and one Findings Order.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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**Notes** The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$2,500
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts \$68  
 Approx. Cost of Compliance \$10,000  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$12,800
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>Adjustment</b>	
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Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

<b>Final Penalty Amount</b>	\$12,800
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$10,000
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$10,000
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Screening Date: 1-Jul-2009

Docket No.: 2009-0649-IWD-E

PCW

Respondent: DuPont Performance Elastomers L.L.C. and Lucite Interr

Policy Revision 2 (September 2002)

Case ID No.: 37505

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN100218239 and RN100218035

Media [Statute]: Water Quality

Enf. Coordinator: Jorge Ibarra, P.E.

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an Intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 53%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent was issued four NOVs without the same/similar type of violations, one 1660 Agreed Order, and one Findings Order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 53%

<b>Screening Date</b>	1-Jul-2009	<b>Docket No.</b>	2009-0649-IWD-E	<b>PCW</b>	
<b>Respondent</b>	DuPont Performance Elastomers L.L.C. and Lucite International, Inc			Policy Revision 2 (September 2002)	
<b>Case ID No.</b>	37505			PCW Revision October 30, 2009	
<b>Reg. Ent. Reference No.</b>	RN100218239 and RN100216035				
<b>Media [Statute]</b>	Water Quality				
<b>Enf. Coordinator</b>	Jorge Ibarra, P.E.				
<b>Violation Number</b>	1				
<b>Rule Cite(s)</b>	Tex. Water Code § 26.121(a)(3)				
<b>Violation Description</b>	Failed to prevent an unauthorized discharge of industrial waste into water in the state. Specifically, it was documented that on February 20, 2009, DuPont Performance Elastomers L.L.C. experienced a discharge of sodium hypochlorite from their Hypalon Unit which flowed into the Lucite International, Inc. wastewater treatment facility. The discharge of sodium hypochlorite resulted in elevated total chlorine levels in the effluent from the wastewater treatment plant and in a fish kill in the Neches River Tidal Segment 0601 of the Neches River Basin.				
		<b>Base Penalty</b>	\$10,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
OR		Harm			
	<b>Release</b>	Major	Moderate	Minor	
	<b>Actual</b>	<input checked="" type="checkbox"/>			<b>Percent</b> <input type="text" value="100%"/>
<b>Potential</b>					
<b>&gt;&gt; Programmatic Matrix</b>					
		Major	Moderate	Minor	
					<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	Failure to prevent an unauthorized discharge of industrial waste into water of the state resulted in the release of pollutants which exceeded levels that are protective of human health and the environment as a result of the violation.				
		<b>Adjustment</b>	\$0		
			\$10,000		
<b>Violation Events</b>					
	<b>Number of Violation Events</b>	<input type="text" value="1"/>	<b>Number of violation days</b>	<input type="text" value="1"/>	
mark only one with an x	<b>daily</b>	<input checked="" type="checkbox"/>		<b>Violation Base Penalty</b> <input type="text" value="\$10,000"/>	
	<b>weekly</b>				
	<b>monthly</b>				
	<b>quarterly</b>				
	<b>semiannual</b>				
	<b>annual</b>				
	<b>single event</b>				
One daily event is recommended.					
<b>Good Faith Efforts to Comply</b>		25.0% Reduction		\$2,500	
		Before NOV	NOV to EDPRI/Settlement Offer		
<b>Extraordinary</b>					
<b>Ordinary</b>	<input checked="" type="checkbox"/>				
<b>N/A</b>			(mark with x)		
<b>Notes</b>	The Respondent achieved compliance on February 20, 2009 for this violation.				
		<b>Violation Subtotal</b>	\$7,500		
<b>Economic Benefit (EB) for this violation</b>					
	<b>Estimated EB Amount</b>	<input type="text" value="\$68"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$12,800"/>	
		<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$10,000"/>			

### Economic Benefit Worksheet

**Respondent:** DuPont Performance Elastomers L.L.C. and Lucite International, Inc.  
**Case ID No.:** 37505  
**Reg. Ent. Reference No.:** RN100216239 and RN100216035  
**Media:** Water Quality  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Item Description:</b> No commas or 3						

**Delayed Costs**

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal	\$2,000	20-Feb-2009	20-Feb-2009	0.00	\$0	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)	\$8,000	20-Feb-2009	23-Apr-2009	0.17	\$68	\$68

**Notes for DELAYED costs:**  
 Estimated cost to properly dispose the dead fish and to implement an interim monitoring program for monitoring total chlorine (02/20/2009). Additional cost to implement an internal laboratory protocol for monitoring total chlorine, and to implement revised operating procedures to provide guidance to operations personnel on wastewater system design and key response actions for total chlorine concentrations outside acceptable operating parameters (04/23/2009). Date Required is the date of the discharge. Final Date is the compliance date.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$10,000	<b>TOTAL</b>	\$68
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# Compliance History Report

Customer/Respondent/Owner-Operator:	CN601448764	Lucite International, Inc.	Classification: AVERAGE	Rating: 6.02
Regulated Entity:	RN100216035	DUPONT BEAUMONT WORKS INDUSTRIAL PARK	Classification: AVERAGE	Site Rating: 6.1
ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	JE0033C	
	AIR OPERATING PERMITS	PERMIT	1959	
	AIR OPERATING PERMITS	PERMIT	1960	
	AIR OPERATING PERMITS	PERMIT	1961	
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD008081101	
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30010	
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50166	
	AIR NEW SOURCE PERMITS	PERMIT	16323	
	AIR NEW SOURCE PERMITS	PERMIT	18127	
	AIR NEW SOURCE PERMITS	PERMIT	24141	
	AIR NEW SOURCE PERMITS	PERMIT	29106	
	AIR NEW SOURCE PERMITS	PERMIT	29192	
	AIR NEW SOURCE PERMITS	PERMIT	31224	
	AIR NEW SOURCE PERMITS	PERMIT	31444	
	AIR NEW SOURCE PERMITS	PERMIT	36730	
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	JE0033C	
	AIR NEW SOURCE PERMITS	PERMIT	318	
	AIR NEW SOURCE PERMITS	PERMIT	1331	
	AIR NEW SOURCE PERMITS	PERMIT	1710	
	AIR NEW SOURCE PERMITS	PERMIT	1743A	
	AIR NEW SOURCE PERMITS	PERMIT	2053	
	AIR NEW SOURCE PERMITS	PERMIT	2324	
	AIR NEW SOURCE PERMITS	PERMIT	2340	
	AIR NEW SOURCE PERMITS	PERMIT	2672	
	AIR NEW SOURCE PERMITS	PERMIT	3310	
	AIR NEW SOURCE PERMITS	PERMIT	3879	
	AIR NEW SOURCE PERMITS	PERMIT	4351	
	AIR NEW SOURCE PERMITS	PERMIT	4351A	
	AIR NEW SOURCE PERMITS	PERMIT	4704	
	AIR NEW SOURCE PERMITS	PERMIT	4752	
	AIR NEW SOURCE PERMITS	PERMIT	5310	
	AIR NEW SOURCE PERMITS	PERMIT	5777	
	AIR NEW SOURCE PERMITS	PERMIT	6183	
	AIR NEW SOURCE PERMITS	PERMIT	6301	
	AIR NEW SOURCE PERMITS	PERMIT	8106	
	AIR NEW SOURCE PERMITS	PERMIT	8143	
	AIR NEW SOURCE PERMITS	PERMIT	10013	
	AIR NEW SOURCE PERMITS	PERMIT	11844	
	AIR NEW SOURCE PERMITS	PERMIT	12208	
	AIR NEW SOURCE PERMITS	PERMIT	12368	
	AIR NEW SOURCE PERMITS	PERMIT	12835	
	AIR NEW SOURCE PERMITS	PERMIT	12888	
	AIR NEW SOURCE PERMITS	PERMIT	12894	
	AIR NEW SOURCE PERMITS	PERMIT	12895	
	AIR NEW SOURCE PERMITS	PERMIT	12896	
	AIR NEW SOURCE PERMITS	PERMIT	13542	
	AIR NEW SOURCE PERMITS	PERMIT	14020	
	AIR NEW SOURCE PERMITS	PERMIT	14134	
	AIR NEW SOURCE PERMITS	PERMIT	14489	
	AIR NEW SOURCE PERMITS	REGISTRATION	75778	
	AIR NEW SOURCE PERMITS	REGISTRATION	75676	
	AIR NEW SOURCE PERMITS	AFS NUM	4824500003	
	AIR NEW SOURCE PERMITS	REGISTRATION	71190	

AIR NEW SOURCE PERMITS	REGISTRATION	71144
AIR NEW SOURCE PERMITS	PERMIT	52189
AIR NEW SOURCE PERMITS	PERMIT	54296
AIR NEW SOURCE PERMITS	PERMIT	50568
AIR NEW SOURCE PERMITS	PERMIT	52358
AIR NEW SOURCE PERMITS	PERMIT	71369
AIR NEW SOURCE PERMITS	PERMIT	54705
UNDERGROUND INJECTION CONTROL	PERMIT	WDW101
UNDERGROUND INJECTION CONTROL	PERMIT	WDW188
UNDERGROUND INJECTION CONTROL	PERMIT	WDW388
UNDERGROUND INJECTION CONTROL	PERMIT	WDW391
WASTEWATER	PERMIT	WQ0000473000
WASTEWATER	EPA ID	TPDES0004669
WASTEWATER	PERMIT	TPDES0004669
WASTEWATER	PERMIT	TX0004669
PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1230066
WATER LICENSING	LICENSE	1230066
IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	30010
INDUSTRIAL AND HAZARDOUS WASTE POST CLOSURE	PERMIT	50166
INDUSTRIAL AND HAZARDOUS WASTE COMPLIANCE PLANS	PERMIT	50166

Location: 5470 N TWIN CITY HWY, NEDERLAND, TX, 77627  
 TCEQ Region: REGION 10 - BEAUMONT  
 Date Compliance History Prepared: July 02, 2009  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: July 02, 2004 to July 02, 2006

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

**Site Compliance History Components**

- 1. Has the site been in existence and/or operation for the full five year compliance period? Yes
- 2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
- 3. If Yes, who is the current owner/operator? N/A
- 4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
- 5. When did the change(s) in owner or operator occur? N/A
- 6. Rating Date: 9/1/2008 Repeat Violator: NO

**Components (Multimedia) for the Site :**

- 1. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- 2. Any criminal convictions of the state of Texas and the federal government.  
N/A
- 3. Chronic excessive emissions events.  
N/A
- 4. The approval dates of Investigations. (CCEDS Inv. Track. No.)
 

1	08/30/2004	(351960)
2	09/02/2004	(285264)
3	09/23/2004	(290922)

59 04/18/2006 (439023)  
 60 05/01/2006 (498100)  
 61 05/12/2006 (465540)  
 62 05/16/2006 (461492)  
 63 05/16/2006 (465147)  
 64 05/26/2006 (498101)  
 65 06/08/2006 (461493)  
 66 06/08/2006 (465140)  
 67 06/09/2006 (464979)  
 68 06/23/2006 (481385)  
 69 06/23/2006 (483323)  
 70 06/27/2006 (498102)  
 71 06/27/2006 (498103)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 10/31/2004 (351963)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2004 (381783)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 01/10/2005 (345865)  
 Self Report? NO Classification: Moderate  
 Citation: PC 2(g) PERMIT  
 Description: Failure to contain wastewater from the acrylonitrile plant resulting in an unauthorized discharge.

Self Report? NO Classification: Moderate  
 Citation: PC 2(g) PERMIT  
 Description: Failure to contain steam condensate resulting in an unauthorized discharge along Dock Road.

Self Report? NO Classification: Moderate  
 Citation: PC 2(g) PERMIT  
 Description: Failure to contain steam condensate at the acrylonitrile dock in an unauthorized discharge.

Self Report? NO Classification: Moderate  
 Citation: PC 2(g) PERMIT  
 Description: Failure to contain diesel and hydrocarbon resulting in an unauthorized discharge.

Self Report? NO Classification: Minor  
 Citation: M&RR PERMIT  
 Description: Failure to report TSS 40% noncompliances to the TNRCC within the required notification period.

Self Report? NO Classification: Minor  
 Citation: M&RR 2 PERMIT  
 Description: Failure to perform total chlorine residual analysis using approved test procedures specified in 30 TAC 319.11 - 319.12.

Date: 01/31/2005 (381780)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2005 (381781)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

4	09/23/2004	(290929)
5	09/23/2004	(290932)
6	09/23/2004	(291787)
7	09/28/2004	(351961)
8	10/06/2004	(334229)
9	10/29/2004	(351962)
10	12/03/2004	(351963)
11	12/06/2004	(341765)
12	12/15/2004	(342892)
13	12/22/2004	(341799)
14	01/03/2005	(381782)
15	01/04/2005	(344102)
16	01/06/2005	(345865)
17	01/25/2005	(381783)
18	02/25/2005	(347899)
19	03/02/2005	(381780)
20	03/04/2005	(348330)
21	03/04/2005	(372053)
22	03/29/2005	(381781)
23	04/25/2005	(377489)
24	04/25/2005	(377491)
25	04/27/2005	(419609)
26	04/28/2005	(378691)
27	05/24/2005	(380302)
28	05/31/2005	(419610)
29	05/31/2005	(419612)
30	06/13/2005	(267115)
31	06/13/2005	(377480)
32	06/28/2005	(419611)
33	07/13/2005	(398792)
34	07/14/2005	(397732)
35	07/27/2005	(398824)
36	07/27/2005	(398839)
37	07/27/2005	(400272)
38	08/30/2005	(398843)
39	08/30/2005	(398952)
40	08/30/2005	(398956)
41	08/30/2005	(440751)
42	10/18/2005	(440752)
43	10/21/2005	(419148)
44	11/08/2005	(419146)
45	11/15/2005	(435807)
46	11/16/2005	(468290)
47	11/22/2005	(436056)
48	11/22/2005	(436069)
49	11/22/2005	(438124)
50	11/23/2005	(435758)
51	12/12/2005	(468291)
52	01/10/2006	(468292)
53	02/15/2006	(468293)
54	02/23/2006	(454153)
55	02/27/2006	(453635)
56	03/02/2006	(468288)
57	03/29/2006	(498099)
58	04/17/2006	(462368)

TWC Chapter 26 26.121(a)  
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2005 (419611)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 07/13/2005 (398792)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(2)(E)

Description: Failure to provide an air gap on the filter-to-waste pipe.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failure to maintain the interior of the surface water treatment plant (the number 1 mix tank, the sedimentation basins, and the filters) and the interior of the ground storage tank. This is a repeat violation from the February 18, 2003, investigation.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(10)(C)(iii)

Description: Failure to provide a theoretical detention time of at least two hours in the solids contact (tube settler) clarifier.

Date: 10/31/2005 (468291)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2005 (468292)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2005 (468293)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2006 (468288)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2006 (498099)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2006 (498100)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2006 (498102)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: TWC Chapter 26 26.121(a)  
Failure to meet the limit for one or more permit parameter

Date: 06/30/2006 (498103)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Environmental audits.

N/A

3. Type of environmental management systems (EMSs).

N/A

4. Voluntary on-site compliance assessment dates:

N/A

Participation in a voluntary pollution reduction program.

N/A

Early compliance.

N/A

Sites Outside of Texas

N/A

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603087438 DuPont Performance Elastomers L.L.C. Classification: AVERAGE Rating: 6.94

Regulated Entity: RN100218239 DUPONT PERFORMANCE ELASTOMERS Classification: AVERAGE Site Rating:

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	JE0693A
	AIR OPERATING PERMITS	PERMIT	1269
	AIR NEW SOURCE PERMITS	PERMIT	7721
	AIR NEW SOURCE PERMITS	PERMIT	26857
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	JE0693A
	AIR NEW SOURCE PERMITS	PERMIT	556A
	AIR NEW SOURCE PERMITS	AFS NUM	4824500163
	AIR NEW SOURCE PERMITS	REGISTRATION	80486
	AIR NEW SOURCE PERMITS	REGISTRATION	84692
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXR000011593
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	84194

Location: 5200 N TWIN CITY HWY, NEDERLAND, TX, 77627

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: April 21, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 21, 2004 to April 21, 2009

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

### Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 08/20/2006 ADMINORDER 2006-0329-AIR-E  
 Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
 5C THC Chapter 382, SubChapter A 382.085(b)  
 Rqmt Prov: 556 PERMIT  
 Description: Failure to maintain an emission rate below the allowable emission limits.

Effective Date: 07/21/2008 ADMINORDER 2007-1901-AIR-E  
 Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Rqmt Prov: 556A, Special Condition 1 PERMIT

O-01269, Special Condition 8 OP

Description: Failure to maintain emission rates below the allowable emission limits.

Any criminal convictions of the state of Texas and the federal government.

N/A

Chronic excessive emissions events.

N/A

The approval dates of investigations. (CCEDS Inv. Track. No.)

1	04/29/2004	(267385)
2	08/24/2004	(290740)
3	10/13/2004	(337162)
4	08/02/2005	(400258)
5	08/09/2005	(398833)
6	12/09/2005	(435893)
7	02/04/2006	(440128)
8	03/21/2006	(452358)
9	02/26/2007	(538996)
10	05/16/2007	(556050)
11	06/11/2007	(556604)
12	08/31/2007	(569800)
13	09/11/2007	(567600)
14	11/20/2007	(597342)
15	11/28/2007	(600145)
16	07/16/2008	(684144)
17	10/22/2008	(700992)
18	04/15/2009	(739805)

Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/24/2004 (290740) CN603087438  
Self Report? NO Classification: Moderate  
Citation: 5C THC Chapter 382, SubChapter A 382.085(a)  
Description: Failure to prevent unauthorized emissions during a recordable only emissions event.

Date: 08/02/2005 (400258) CN603087438  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
556A PERMIT  
5C THC Chapter 382, SubChapter A 382.085(b)  
O-01269 SC 12 PERMIT  
O-01269 SC 8 PERMIT  
Description: Failure to conduct CEMS quarterly accuracy testing for the second quarter in 2004.

Date: 05/17/2007 (556050) CN603087438  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
556A, Special Condition 4A PERMIT  
5C THC Chapter 382, SubChapter D 382.085(b)  
O-01269, Special Condition 8A OP  
Description: Failure to comply with permitted limits of VOC from the CA Stack.  
Date: 07/17/2008 (684144) CN603087438  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
30 TAC Chapter 122, SubChapter B 122.145(2)(C)

5C THSC Chapter 382.085(b)

O-01269, General Conditions OP

Description: Failure to report a deviation in a timely manner as listed in Semi-Annual Deviation Report for FOP O-01269 dated February 3, 2007, through August 2, 2007.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
DUPONT PERFORMANCE  
ELASTOMERS L.L.C. AND LUCITE  
INTERNATIONAL, INC.  
RN100218239 AND RN100216035

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BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2009-0649-IWD-E

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding DuPont Performance Elastomers L.L.C. and Lucite International, Inc. ("the Respondents") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondents presented this agreement to the Commission.

The Respondents understand that they have certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondents agree to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondents.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. DuPont Performance Elastomers L.L.C. owns and operates a synthetic rubber manufacturing facility located at 5200 North Twin City Highway in Nederland, Jefferson County, Texas (the



“Facility”) which discharges into a wastewater treatment facility owned by Lucite International, Inc. located at 5470 North Twin City Highway in Nederland, Jefferson County, Texas .

2. The Respondents have discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation on February 20, 2009, TCEQ staff documented that the Respondents did not prevent an unauthorized discharge of industrial waste into water in the state. Specifically, it was documented that on February 20, 2009, DuPont Performance Elastomers L.L.C. experienced a discharge of sodium hypochlorite from their Hypalon Unit which flowed into the Lucite International, Inc. wastewater treatment facility. The discharge of sodium hypochlorite resulted in elevated total chlorine levels in the effluent from the wastewater treatment plant and in a fish kill in the Neches River Tidal Segment 0601 of the Neches River Basin.
4. The Respondents received notice of the violations on April 20, 2009.
5. The Executive Director recognizes that the Respondents have implemented the following corrective measures at the Facility:
  - a. Properly disposed of the dead fish and implemented an interim monitoring program for monitoring total chlorine on February 20, 2009; and
  - b. Implemented an internal laboratory protocol for monitoring total chlorine and implemented revised operating procedures to provide guidance to operations personnel on wastewater system design and key response actions for total chlorine concentrations outside acceptable operating parameters on April 23, 2009.

## II. CONCLUSIONS OF LAW

1. The Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondents failed to prevent an unauthorized discharge of industrial waste into water in the state, in violation of TEX. WATER CODE § 26.121(a)(3).
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondents for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission’s jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Ten Thousand Dollars (\$10,000) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondents have paid the Ten Thousand Dollar (\$10,000) administrative penalty.



### III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondents are assessed an administrative penalty in the amount of Ten Thousand Dollars (\$10,000) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondents' compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: DuPont Performance Elastomers L.L.C. and Lucite International, Inc., Docket No. 2009-0649-IWD-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. DuPont Performance Elastomers L.L.C. and Lucite International, Inc. are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondents. The Respondents are ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondents if the Executive Director determines that the Respondents have not complied with one or more of the terms or conditions in this Agreed Order.
5. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondents in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.



DuPont Performance Elastomers L.L.C. and Lucite International, Inc.

DOCKET NO. 2009-0649-IWD-E

Page 4

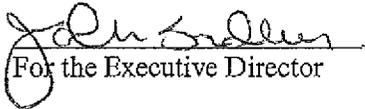
8. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.



## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
For the Executive Director

9/18/09  
Date

We, the undersigned, have read and understand the attached Agreed Order in the matter of DuPont Performance Elastomers L.L.C. and Lucite International, Inc. We are authorized to agree to the attached Agreed Order on behalf of DuPont Performance Elastomers L.L.C. and Lucite International, Inc., and do agree to the specified terms and conditions. We further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

We understand that by entering into this Agreed Order, DuPont Performance Elastomers L.L.C. and Lucite International, Inc. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. We agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

We also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



\_\_\_\_\_  
Signature

KEVIN CADIENT

\_\_\_\_\_  
Name (Printed or typed)

Authorized Representative of

DuPont Performance Elastomers L.L.C.

8/12/2009  
Date

PLANT MANAGER

\_\_\_\_\_  
Title

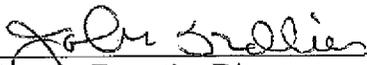
**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.



**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
Date 9/18/09

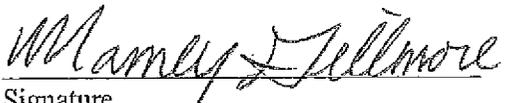
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- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date August 19, 2009

Marney Gillmore  
\_\_\_\_\_  
Name (Printed or typed)

Site Manager  
\_\_\_\_\_  
Title

Authorized Representative of  
Lucite International, Inc.

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

