

IMPERIAL INDUSTRIES INC  
Form 10-K/A  
May 19, 2008

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

**FORM 10-K/A**

**(Amendment No. 2)**

**ý ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF  
THE SECURITIES EXCHANGE ACT OF 1934.**

**For the fiscal year ended December 31, 2007**

**Commission File Number 1-7190**

**IMPERIAL INDUSTRIES, INC.**

(Exact name of Registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of  
incorporation or organization)

**65-0854631**

(I.R.S. Employer  
Identification Number)

**3790 Park Central Boulevard North, Pompano Beach, Florida 33064**

(Address of principal executive offices)(Zip Code)

**Registrant s telephone number, including area code: (954) 917-4114**

Securities registered pursuant to Section 12(b) of the Act: None.

Securities registered pursuant to Section 12(g) of the Act: Common Stock, \$.01 par value

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Indicate by check mark whether the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Exchange Act. Yes  No

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, and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the Registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a small reporting company. See definition of large accelerated filer, accelerated filer and small reporting company in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer  (Do not check if a smaller reporting company) Smaller Reporting Company

Indicate by check mark whether the registrant is a shell company (as defined in Exchange Act Rule 12b-2) Yes  No

The aggregate market value of the voting stock of the Registrant held by non-affiliates computed by reference to the closing price of the registrant's Common Stock (\$.01 par value) on the NASDAQ Capital Market as of the last business day of the registrant's most recently completed second fiscal quarter (June 30, 2007) is: \$28,900,000

Number of shares of Imperial Industries, Inc. Common Stock (\$.01 par value) outstanding on March 28, 2008: 2,510,002.

### **DOCUMENTS INCORPORATED BY REFERENCE**

Certain information required for Part III of this Annual Report on Form 10-K is incorporated herein by reference to the Proxy Statement for the Registrant's 2008 Annual Meeting of Stockholders.

**EXPLANATORY NOTE**

The Imperial Industries, Inc. Annual Report on Form 10-K and Amendment No. 1 for the fiscal year ended December 31, 2007 were filed with the U. S. Securities and Exchange Commission on March 31, 2008 and April 1, 2008, respectively (collectively, the Original Filing ). The only purpose of this Amendment No. 2 to Form 10-K/A is to correct language omitted from the certifications required under Rule 13a-14 of the principal executive officer and chief financial officer contained in Exhibit 31.1 and 31.2 of the Original Filing (the Certifications ).

No other items of the Original Filing are being amended hereby.

The Certifications filed as exhibits to the Original Filing have been re-executed and are hereby re-filed with this Amendment No. 2.

This Amendment No. 2 should be read in conjunction with our other filings made with the Securities and Exchange Commission subsequent to the filing of the Annual Report on Form 10-K.

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**PART IV**

**Item 15.**

**Exhibits, Financial Statement Schedules**

(a)

(3) Exhibits

Certain of the following exhibits, designated with an asterisk (\*), are filed herewith. The exhibits not so designated have been filed previously with the Commission, and are incorporated herein by reference to the documents indicated in parentheses following the descriptions of such exhibits.

<b>Exhibit No.</b>	<b>Description</b>
2.1	Agreement and Plan of Merger, by and between Imperial Industries, Inc. and Imperial Merger Corp. dated October 12, 1998 (Form S-4 Registration Statement, Exhibit 2).
3.1	Certificate of Incorporation of the Company, (Form S-4 Registration Statement, Exhibit 3.1).
3.2	Amendment to Certificate of Incorporation of the Company. (Incorporated by reference to Form 10-K dated December 31, 2001, Exhibit 3.2)
3.3	By-Laws of the Company, (Form S-4 Registration Statement, Exhibit 3.2).
3.4	Amendment to Certificate of Incorporation of the Company. (Incorporated by reference to Form 10-K dated December 31, 2004, Exhibit 3.4)
3.5	Amendment to Certificate of Incorporation of the Company (Incorporated by reference to Form 10-Q for the quarter ended June 30, 2006, Exhibit 3.5)
10.1	Consolidating, Amended and Restated Financing Agreement by and between Congress Financial Corporation and Premix-Marbletite Manufacturing Co., Acrocrete, Inc., and Just-Rite Supply, Inc. dated January 28, 2000. (Form 10-K for the year ended December 31, 1999, Exhibit 10.1)
10.2	Employment Agreement dated July 26, 1993 between Howard L. Ehler, Jr. and the Company. (Form 8-K dated July 26, 1993)
10.3	License Agreement between Bermuda Roof Company and Premix-Marbletite Manufacturing Co., (Form S-4 Registration Statement, Exhibit 10.5).
10.4	Employee Stock Option Plan (Incorporated by reference to Form 10-K for the year ended December 31, 2000, Exhibit 10.4).
10.5	Directors Stock Option Plan (Incorporated by reference to Form 10-K for the year ended December 31, 2000, Exhibit 10.5).
10.6	Form of Promissory Note issued in Settlement of Preferred Stock Dissenters Rights. (Incorporated by reference to Form 10-Q dated March 31, 2003, Exhibit 10.4)
10.7	Amendment No. 3 to Consolidating, Amended and Restated Financing Agreement by and between Congress Financial Corporation and Premix-Marbletite Manufacturing CO., Acrocrete, Inc., and Just-Rite Supply, Inc. dated April 22, 2003. (Incorporated by reference to Form 10-Q dated March 31, 2003, Exhibit 10.5)
10.8	

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- Amendment No. 4 to Consolidating, Amended and Restated Financing Agreement by and between Congress Financial Corporation and Premix-Marbletite Manufacturing Co., Acrocrete, Inc. and Just-Rite Supply, Inc. dated as of September 15, 2004. (Incorporated by reference to Form 10-Q dated September 30, 2004, Exhibit 10.6)
- 10.9 Amendment No. 5 to Consolidating, Amended and Restated Financing Agreement by and between Congress Financial Corporation and Premix-Marbletite Manufacturing Co., Acrocrete, Inc. and Just-Rite Supply, Inc. dated as of October 20, 2004. (Incorporated by reference to Form 10-Q dated September 30, 2004, Exhibit 10.7)
- 10.10 Stipulation to Final Judgment and Permanent Injunction, Settlement and Release Agreement by and between Just-Rite Supply, Inc. and Dennis L. Robertson, Sr. et al dated as of September 27, 2004. (Incorporated by reference to Form 10-Q dated September 30, 2004, Exhibit 10.8)
- 10.11 Amendment No. 6 to Consolidating, Amended and Restated Financing Agreement by and between Wachovia Bank, National Association, successor by merger to Congress Financial Corporation, and Premix-Marbletite Manufacturing CO., Acrocrete, Inc. and Just-Rite Supply, Inc. (Incorporated by reference to Form 10-K for the year ended December 31, 2004, Exhibit 10.11)
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<b>Exhibit No.</b>	<b>Description</b>
10.12	Asset Purchase Agreement dated as of July 25, 2005 by and among Degussa Wall Systems, Inc. a Delaware corporation, Degussa Construction Chemical Operations, Inc., a Delaware corporation, and Acrocrete, Inc. a Florida corporation. (Incorporated by reference to Form 8-K dated July 25, 2005 filed on July 29, 2005, Exhibit 2.1)
10.13	Distribution Agreement between Degussa Wall Systems, Inc. and Just-Rite Supply, Inc. dated July 25, 2005, to be effective as of October 1, 2005. (Incorporated by reference to Form 10-Q for the quarter ended June 30, 2005, Exhibit 10.6)
10.14	Imperial Industries, Inc. Deferred Compensation Plan effective as of May 15, 2005. (Incorporated by reference to Form 10-Q for the quarter ended June 30, 2005, Exhibit 10.7)
10.15	Amendment No. 7 to Consolidating, Amended and Restated Financing Agreement by and between Wachovia Bank, National Association, successor by merger to Congress Financial Corporation, and Premix-Marbletite Manufacturing Co., DFH, Inc., formerly Acrocrete, Inc, and Just-Rite Supply, Inc. (Incorporated by reference to Form 10-K for the year ended December 31, 2005, Exhibit 10.15).
10.16	2006 Stock Award and Incentive Plan (Incorporated by reference to Form 8-K dated June 1, 2006.)
10.15	Amendment No. 8 to Consolidating, Amended and Restated Financing Agreement by and between Wachovia Bank, National Association, successor by merger to Congress Financial Corporation, and Premix-Marbletite Manufacturing Co., DFH, Inc., formerly Acrocrete, Inc, and Just-Rite Supply, Inc. (Incorporated by reference to Form 10-K for the year ended December 31, 2007, Exhibit 10.17)
14.1	Imperial Industries, Inc. Code of Business Conduct. (Posted on the Company's website at <a href="http://www.imperialindustries.com">www.imperialindustries.com</a> )
21	Subsidiaries of the Company. (Incorporated by reference to Form 10-K for the year ended December 31, 2007, Exhibit 21)
*31.1	Certification of the Company's Chief Executive Officer pursuant to Rule 13a - 14(a).
*31.2	Certification of the Company's Chief Financial Officer pursuant to Rule 13a - 14(a).
*32.1	Certification of the Company's Chief Executive Officer pursuant to Section 1350.
*32.2	Certification of the Company's Chief Financial Officer pursuant to Section 1350.

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**SIGNATURES**

Pursuant to the requirements of Section 13 or 15 (d) of the Securities Exchange Act of 1934, the registrant has duly caused this Report to be signed on its behalf by the undersigned, thereunto duly authorized.

**IMPERIAL INDUSTRIES, INC.**

May 19, 2007

By: /s/ HOWARD L. EHLER, Jr  
Howard L. Ehler, Jr.

Chief Operating Officer/

Principal Executive Officer

Pursuant to the requirements of the Securities and Exchange Act of 1934, this Report has been signed below by the following persons and behalf of the Registrant and in the capacities and on the dated indicated.

/s/ S. DANIEL PONCE                      Chairman of the Board of Directors                      May 19, 2007  
S. Daniel Ponce

/s/ LISA M. BROCK                      Director                      May 19, 2007  
Lisa M. Brock

/s/ NADINE GRAMLING                      Director                      May 19, 2007  
Nadine Gramling

/s/ MILTON J. WALLACE                      Director                      May 19, 2007  
Milton J. Wallace

/ s / M O R T O N L .                      Director                      May 19, 2007  
WEINBERGER  
Morton L. Weinberger

/s/ HOWARD L. EHLER, Jr.                      Director, Chief Operating Officer, Principal                      May 19, 2007  
Howard L. Ehler, Jr.                      Executive Officer, and Secretary

/s/ STEVEN M. HEALY, CPA                      Chief Financial Officer                      May 19, 2007  
Steven M. Healy, CPA