

IMPERIAL INDUSTRIES INC
Form PREM14A
August 08, 2012

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a) of the Securities Exchange Act of 1934

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material Pursuant to §240.14a-12

IMPERIAL INDUSTRIES, INC.
(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

- No fee required.
- Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

- (1) Title of each class of securities to which transaction applies:
Common Stock, par value \$.01, of Imperial Industries, Inc.
- (2) Aggregate number of securities to which transaction applies:
As of August 7, 2012, there were 2,566,210 shares of Imperial common stock outstanding
- (3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

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The maximum aggregate value was determined based upon 2,566,210 shares of common stock multiplied by \$.30 per share. In accordance with Rule 0-11 of the Securities Exchange Act of 1934, as amended, the filing fee was determined by multiplying .0001146 by the sum calculated in the preceding sentence.

(4) Proposed maximum aggregate value of transaction:
\$769,863

(5) Total fee paid:
\$88.23

.. Fee paid previously with preliminary materials.

.. Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

Amount Previously Paid:

Form, Schedule or Registration Statement No.:

Filing Party:

Date Filed:

PRELIMINARY PROXY STATEMENT, SUBJECT TO COMPLETION, AUGUST ____, 2012

Imperial Industries, Inc.

1259 NW 21st Street
Pompano Beach, Florida 33069

Dear Stockholder,

You are cordially invited to attend a special meeting of Imperial Industries, Inc. stockholders to be held on October ____, 2012, starting at ____ at the law offices of Legon, Ponce & Fodiman, P. A. located at 1111 Brickell Avenue, Suite 2150, Miami, Florida 33131.

At the special meeting, you will be asked to consider and vote upon a proposal to adopt the merger agreement under which Imperial would be acquired by Q.E.P. Co., Inc. Imperial entered into this merger agreement on July 30, 2012. If the merger is completed, you, as a holder of Imperial common stock, will be entitled to receive \$.30 in cash, without interest and less any applicable withholding taxes, for each share of Imperial common stock owned by you at the consummation of the merger, as more fully described in the enclosed proxy statement.

After careful consideration, Imperial's board of directors has unanimously determined that the merger and the other transactions contemplated by the merger agreement are fair to, advisable and in the best interests of Imperial and its stockholders and unanimously recommends that you vote "FOR" the adoption of the merger agreement.

Your vote is very important, regardless of the number of shares of common stock you own. Imperial cannot consummate the merger unless the merger agreement is approved by the affirmative vote of a majority of the outstanding shares of Imperial's common stock. Therefore, the failure of any stockholder to vote will have the same effect as a vote by that stockholder against the adoption of the merger agreement.

The attached proxy statement provides you with detailed information about the special meeting, the merger agreement and the merger. A copy of the merger agreement is attached as Annex A to this document. Imperial encourages you to read this document and the merger agreement carefully and in their entirety. You may also obtain more information about Imperial from documents Imperial has filed with the Securities and Exchange Commission.

Thank you in advance for your continued support and your consideration of this matter.

Sincerely,

S. Daniel Ponce
Chairman of the Board
Pompano Beach, Florida

Neither the Securities and Exchange Commission nor any state securities regulatory agency has approved or disapproved the merger, passed upon the merits or fairness of the merger or passed upon the adequacy or accuracy of the disclosure in this document. Any representation to the contrary is a criminal offense.

This proxy statement is dated August ____, 2012, and is first being mailed to stockholders on or about such date.

Imperial Industries, Inc.
1259 NW 21st Street
Pompano Beach, Florida 33069

To the Stockholders of Imperial:

A special meeting of stockholders of Imperial Industries, Inc., a Delaware corporation, or Imperial, will be held on October [___], 2012 starting at _____ at the law offices of Legon, Ponce & Fodiman, P. A. located at 1111 Brickell Avenue, Suite 2150, Miami, Florida 33131, for the following purposes:

1. To consider and vote on a proposal to adopt an Amended and Restated Agreement and Plan of Merger, dated as of August 8, 2012, among Imperial Industries, Inc., Q.E.P. Co., Inc. and wholly owned subsidiary of Q.E.P. Co., Inc., as it may be amended from time to time, pursuant to which Imperial will be acquired by Q.E.P. Co., Inc.
2. To consider and vote on a proposal to adjourn or postpone the special meeting to a later date or time, if necessary or appropriate, to solicit additional proxies in the event there are insufficient votes at the time of such adjournment or postponement to adopt the merger agreement.
3. To consider and vote on such other business as may properly come before the special meeting or any adjournment or postponement of the special meeting.

Imperial's board of directors has specified the close of business on [___], 2012 as the record date for the purpose of determining the stockholders who are entitled to receive notice of, and to vote at, the special meeting. Only stockholders of record at the close of business on the record date are entitled to notice of and to vote at the special meeting and at any adjournment or postponement thereof. Each stockholder is entitled to one vote for each share of Imperial common stock held on the record date.

Under Delaware law, Imperial stockholders who do not vote in favor of the merger agreement and the merger will have the right to seek appraisal of the fair value of their shares as determined by the Delaware Court of Chancery if the merger is completed, but only if they submit a written demand for such an appraisal prior to the vote on the merger agreement and the merger and comply with the other Delaware law procedures explained in the accompanying proxy statement.

Regardless of whether you plan to attend the special meeting in person, Imperial requests that you complete, sign, date and return the enclosed proxy or submit your proxy by telephone or the Internet prior to the special meeting to ensure that your shares will be present in person or represented at the special meeting. If you have Internet access, Imperial encourages you to record your vote via the Internet. Properly executed proxy cards with no instructions indicated on the proxy card will be voted "FOR" the adoption of the merger agreement and "FOR" the adjournment or postponement of the special meeting, if necessary or appropriate, to solicit additional proxies. If you attend the special meeting, you may revoke your proxy and vote in person if you wish, even if you have previously returned your proxy card. Your prompt attention is greatly appreciated.

THE IMPERIAL BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT YOU VOTE "FOR" THE ADOPTION OF THE MERGER AGREEMENT.

By Order of the Board of Directors,

S. Daniel Ponce
Chairman of the Board
Pompano Beach, Florida

ADDITIONAL INFORMATION

This document incorporates important business and financial information about Imperial from documents that are not included in or delivered with this document. See “Where You Can Find More Information” on page 44. You can obtain documents incorporated by reference in this document by requesting them in writing from Imperial Industries, Inc., 1259 NW 21st Street, Pompano Beach, Florida 33069 or by telephone at (954) 917-4114. You will not be charged for any of these documents that you request. If you wish to request documents, you should do so by [____], 2012 in order to receive them before the special meeting.

For additional questions about the merger, assistance in submitting proxies or voting shares of Imperial’s common stock, or additional copies of the proxy statement or the enclosed proxy card, please contact Imperial’s proxy solicitor:

Morrow & Co., LLC

470 West Avenue
Stamford, CT 06902
(800) 460-1014 (toll free)
(203) 658-9400 (collect)

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QUESTIONS AND ANSWERS ABOUT THE MERGER AND THE SPECIAL MEETING

The following questions and answers address briefly some questions you may have regarding the proposed merger and the special meeting. These questions and answers may not address all questions that may be important to you as a holder of shares of Imperial common stock. For important additional information, please refer to the more detailed discussion contained elsewhere in this proxy statement, the annexes to this proxy statement and the documents referred to in this proxy statement. Imperial sometimes makes reference to Imperial Industries, Inc. and its subsidiaries in this proxy statement by using the terms "Imperial," or the "Company."

Q: What is the transaction?

A: Imperial and Q.E.P. have entered into a definitive agreement pursuant to which, subject to the terms and conditions of the merger agreement, Q.E.P. will acquire Imperial through the merger of a wholly owned subsidiary of Q.E.P. with and into Imperial. Imperial will be the surviving corporation (which Imperial refers to as the surviving corporation) in the merger and will continue as a wholly owned subsidiary of Q.E.P.

Q: What will an Imperial stockholder receive when the merger occurs?

A: For every share of Imperial common stock held at the time of the merger, Imperial stockholders will be entitled to receive \$.30 in cash, without interest, less any applicable withholding taxes. This does not apply to shares held by Imperial stockholders, if any, who have perfected their appraisal rights under Delaware law.

Q: What will happen in the merger to Imperial's stock options?

A: Upon the consummation of the merger, the options to acquire Imperial common stock outstanding immediately prior to the effective time of the merger will be cancelled and each holder of options shall receive no consideration in exchange thereof as the exercise prices of all outstanding options exceed the price per share offered in connection with the merger.

Q: How does the merger consideration compare to the market price of Imperial common stock?

A: The merger consideration of \$.30 per share of Imperial common stock represents a 50% premium over the closing price per share of Imperial common stock on the over the counter market on July 27, 2012, the last trading day before the date the merger agreement was executed. You are encouraged to obtain current market quotations for Imperial common stock in connection with voting your shares.

Q: When do you expect the merger to be completed?

A: Imperial expects the merger to be completed by October ____, 2012. However, the merger is subject to various closing conditions, including Imperial stockholder approval, and it is possible that the failure to timely meet these closing conditions or other factors outside of Imperial's control could require Imperial to complete the merger at a later time or not at all.