

U.S. Department of Labor
Occupational Safety and Health Administration
1648 Tri Park Way
Appleton, WI 54914
Phone: 920-734-4521 Fax: 920-734-2661



Citation and Notification of Penalty

To:
Imperial Industries Inc.
P.O. Box 1685
Wausau, WI 54402

Inspection Number: 1008403
Inspection Date(s): 11/12/2014 - 12/12/2014
Issuance Date: 05/11/2015

Inspection Site:
505 Industrial Park Ave.
Rothschild, WI 54474

The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.

This Citation and Notification of Penalty (this Citation) describes violations of the Occupational Safety and Health Act of 1970. The penalty(ies) listed herein is (are) based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties proposed, unless within 15 working days (excluding weekends and Federal holidays) from your receipt of this Citation and Notification of Penalty **you either call to schedule an informal conference (see paragraph below) or** you mail a notice of contest to the U.S. Department of Labor Area Office at the address shown above. Please refer to the enclosed booklet (OSHA 3000) which outlines your rights and responsibilities and which should be read in conjunction with this form. Issuance of this Citation does not constitute a finding that a violation of the Act has occurred unless there is a failure to contest as provided for in the Act or, if contested, unless this Citation is affirmed by the Review Commission or a court.

Posting - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and Federal holidays), whichever is longer.

Informal Conference - An informal conference is not required. However, if you wish to have such a conference you may request one with the Area Director during the 15 working day contest period. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation(s) and/or penalty(ies).

If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must take care to schedule it early enough to allow time to contest after the informal conference, should you decide to do so. Please keep in mind that a written letter of intent to contest must be submitted to the Area Director within 15 working days of your receipt of this Citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete, remove and post the Notice to Employees next to this Citation and Notification of Penalty as soon as the time, date, and place of the informal conference have been determined. Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far. If conditions warrant, we can enter into an informal settlement agreement which amicably resolves this matter without litigation or contest.

Right to Contest – You have the right to contest this Citation and Notification of Penalty. You may contest all citation items or only individual items. You may also contest proposed penalties and/or abatement dates without contesting the underlying violations. **Unless you inform the Area Director in writing that you intend to contest the citation(s) and/or proposed penalty(ies) within 15 working days after receipt, the citation(s) and the proposed penalty(ies) will become a final order of the Occupational Safety and Health Review Commission and may not be reviewed by any court or agency.**

Penalty Payment – Penalties are due within 15 working days of receipt of this notification unless contested. (See the enclosed booklet and the additional information provided related to the Debt Collection Act of 1982.) Make your check or money order payable to “DOL-OSHA”. Please indicate the Inspection Number on the remittance. You can also make your payment electronically on www.pay.gov. On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type "OSHA" and click Go. From the results, click on **OSHA Penalty Payment Form**. The direct link is:

<https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=53090334>.

You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of \$25,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

OSHA does not agree to any restrictions or conditions or endorsements put on any check, money order, or electronic payment for less than the full amount due, and will process the payments as if these restrictions or conditions do not exist.

Notification of Corrective Action – For each violation which you do not contest, you must provide ***abatement certification*** to the Area Director of the OSHA office issuing the citation and identified above. This abatement certification is to be provided by letter within 10 calendar days after each abatement date. Abatement certification includes the date and method of abatement. If the citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item. The abatement certification letter must be posted at the location where the violation appeared and the corrective action took place or employees must otherwise be effectively informed about abatement activities. A sample abatement certification letter is enclosed with this Citation. In addition, where the citation indicates that ***abatement documentation*** is necessary, evidence of the purchase or repair of equipment, photographs or video, receipts, training records, etc., verifying that abatement has occurred is required to be provided to the Area Director.

Employer Discrimination Unlawful – The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 30 days after the discrimination occurred with the U.S. Department of Labor Area Office at the address shown above.

Employer Rights and Responsibilities – The enclosed booklet (OSHA 3000) outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

Notice to Employees – The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The contest must be mailed to the U.S. Department of Labor Area Office at the address shown above and postmarked within 15 working days (excluding weekends and Federal holidays) of the receipt by the employer of this Citation and Notification of Penalty.

Inspection Activity Data – You should be aware that OSHA publishes information on its inspection and citation activity on the Internet under the provisions of the Electronic Freedom of Information Act. The information related to these alleged violations will be posted when our system indicates that you have received this citation. You are encouraged to review the information concerning your establishment at www.osha.gov. If you have any dispute with the accuracy of the information displayed, please contact this office.

U.S. Department of Labor
Occupational Safety and Health Administration



NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with OSHA to discuss the citation(s) issued on 05/11/2015. The conference will be held by telephone or at the OSHA office located at 1648 Tri Park Way, Appleton, WI 54914 on _____ at _____. Employees and/or representatives of employees have a right to attend an informal conference.

CERTIFICATION OF CORRECTIVE ACTION WORKSHEET

Inspection Number: 1008403

Company Name: Imperial Industries Inc.
Inspection Site: 505 Industrial Park Ave., Rothschild, WI 54474
Issuance Date: 05/11/2015

List the specific method of correction for each item on this citation in this package that does not read "Corrected During Inspection" and return to: **U.S. Department of Labor – Occupational Safety and Health Administration, 1648 Tri Park Way, Appleton, WI 54914**

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

Citation Number _____ and Item Number _____ was corrected on _____
By (Method of Abatement): _____

I certify that the information contained in this document is accurate and that the affected employees and their representatives have been informed of the abatement.

Signature

Date

Typed or Printed Name

Title

NOTE: 29 USC 666(g) whoever knowingly makes any false statements, representation or certification in any application, record, plan or other documents filed or required to be maintained pursuant to the Act shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment of not more than 6 months or both.

POSTING: A copy of completed Corrective Action Worksheet should be posted for employee review

U.S. Department of Labor
Occupational Safety and Health Administration

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Inspection Date(s): 11/12/2014 - 12/12/2014
Issuance Date: 05/11/2015



Citation and Notification of Penalty

Company Name: Imperial Industries Inc.
Inspection Site: 505 Industrial Park Ave., Rothschild, WI 54474

Citation 1 Item 1 Type of Violation: **Serious**

29 CFR 1910.107(c)(5): 29 CFR 1910.107(c)(5): Electrical equipment not approved for locations containing both deposits of readily ignitable residues and explosive vapors was present in spraying area(s):

a) On or about 11/12/2014, a Honeywell thermostat control, its flexible wiring, and the metal box it was installed in, were not approved for locations containing both deposits of readily ignitable residues and explosive vapors and was located in a spraying area in the Industrial Paint building.

Date By Which Violation Must be Abated:
Proposed Penalty:

06/02/2015
\$4500.00

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

U.S. Department of Labor
Occupational Safety and Health Administration

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Citation and Notification of Penalty

Company Name: Imperial Industries Inc.

Inspection Site: 505 Industrial Park Ave., Rothschild, WI 54474

Citation 1 Item 2 Type of Violation: **Serious**

29 CFR 1910.107(g)(2): All spraying areas were not kept as free from the accumulation of deposits of combustible residues as practical, with cleaning conducted daily if necessary. Scrapers, spuds, or other such tools used for cleaning purposes were not of nonsparking material:

- a) On or about 11/12/2014, the walls and floors of the Industrial Paint building were not kept free from accumulations of deposits of combustible residue.
- b) On or about 1/20/2015, employees used potentially sparking tools such as steel air chisels and steel scrapers to remove accumulations of deposits of combustible residues from walls and the floor of the Industrial Paint building.

Date By Which Violation Must be Abated:

06/02/2015

Proposed Penalty:

\$4500.00

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

U.S. Department of Labor
Occupational Safety and Health Administration

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Citation and Notification of Penalty

Company Name: Imperial Industries Inc.
Inspection Site: 505 Industrial Park Ave., Rothschild, WI 54474

Citation 1 Item 3 Type of Violation: **Serious**

29 CFR 1910.1026(d)(2)(vi): The employer did not perform additional monitoring when there had been a change in the production process, raw materials, equipment, personnel, work practices, or control methods that resulted or may have resulted in new or additional exposures to chromium (VI), or when the employer had any reason to believe that new or additional exposures had occurred:

a) On or about 11/19/2014, the employer had not performed additional monitoring when there had been a change in the production process such as when Calumet welding employees for the first time fabricated a stainless steel DOT tank.

Date By Which Violation Must be Abated:
Proposed Penalty:

Corrected During Inspection
\$4500.00

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

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Occupational Safety and Health Administration

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Company Name: Imperial Industries Inc.
Inspection Site: 505 Industrial Park Ave., Rothschild, WI 54474

Citation 1 Item 4 Type of Violation: **Serious**

29 CFR 1910.1026(e)(1): The employer did not establish a regulated area wherever an employee's exposure to airborne concentrations of chromium (VI) was, or could reasonably be expected to be, in excess of the permissible exposure limit:

a) On or about 11/12/2014, the employer did not establish regulated areas in the Calumet building when an employee plasma cutting stainless steel in the DOT area was exposed to airborne concentrations of chromium (VI) at a level of 5.6 ug/m³ as an 8-hour TWA which exceeded the PEL 1.1 times.

Date By Which Violation Must be Abated:
Proposed Penalty:

06/02/2015
\$4500.00

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.



Citation and Notification of Penalty

Company Name: Imperial Industries Inc.
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The alleged violations below have been grouped because they involve similar or related hazards that may increase the potential for injury or illness.

Citation 2 Item 1 a Type of Violation: **Willful**

29 CFR 1910.1026(c): Employees were exposed to an airborne concentration of chromium (VI) which exceeded 5 micrograms per cubic meter of air, as an 8-hour time-weighted average:

- a) In the Calumet area, a DOT plasma cutter employee was exposed to airborne chromium (VI) at a level of 5.6 ug/m³ as an 8-hour TWA on 11/19/2014, approximately 1.1 times the PEL of 5 ug/m³. This exposure was determined by air sampling conducted over 439 minutes during one shift, with zero exposure being assumed for the unsampled 41 minutes of an 8-hour work shift.

- b) In the Industrial 2nd Stage area, a welder employee was exposed to airborne chromium (VI) at a level of 8.3 ug/m³ as an 8-hour TWA on 02/24/2015, approximately 1.6 times the PEL of 5 ug/m³. This exposure was determined by the employers air sampling conducted over 458 minutes during one shift, with zero exposure being assumed for the unsampled 22 minutes of an 8-hour work shift.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:	06/17/2015
Proposed Penalty:	\$49500.00



Citation and Notification of Penalty

Company Name: Imperial Industries Inc.

Inspection Site: 505 Industrial Park Ave., Rothschild, WI 54474

Citation 2 Item 1 b Type of Violation: **Willful**

29 CFR 1910.1026(f)(1)(i): Feasible engineering controls and work practices were not instituted to reduce and maintain employee exposures to chromium (VI) at or below the permissible exposure limit. Where feasible engineering and work practice controls would not reduce employee exposure to chromium (VI) to or below the permissible exposure limit, the employer did not apply these feasible controls to reduce employee exposures to the lowest chromium (VI) levels achievable:

- a) In the Calumet area, a DOT plasma cutter employee was exposed to airborne chromium (VI) at a level of 5.6 ug/m³ as an 8-hour TWA on 11/19/2014, approximately 1.1 times the PEL of 5 ug/m³. This exposure was determined by air sampling conducted over 439 minutes during one shift, with zero exposure being assumed for the unsampled 41 minutes of an 8-hour work shift.
- b) In the Industrial 2nd Stage area, a welder employee was exposed to airborne chromium (VI) at a level of 8.3 ug/m³ as an 8-hour TWA on 02/24/2015, approximately 1.6 times the PEL of 5 ug/m³. This exposure was determined by the employer's air sampling conducted over 458 minutes during one shift, with zero exposure being assumed for the unsampled 22 minutes of an 8-hour work shift.

Applicable administrative or engineering controls may include, but are not limited to the following:

- 1) Utilize the downdraft ventilated plasma cutting table in Guardrail area to plasma cut stainless steel pieces. Train employees to not conduct plasma cutting of stainless steel and ensure employees follow the work practice controls.
- 2) Utilize fume extraction guns, fume extraction hoods, and/or other local ventilation controls for use in areas where they are able to be used.
- 3) Substitute MIG welding on stainless steel for TIG or Sub Arc welding to reduce exposures to chromium (VI) during welding operations.
- 4) Institute combinations of the controls listed above to reduce exposures. Conduct exposure monitoring and employee surveys to determine what the most effect combination of controls are for the dynamic work environment.

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

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Company Name: Imperial Industries Inc.

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ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:

06/17/2015

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

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Citation and Notification of Penalty

Company Name: Imperial Industries Inc.

Inspection Site: 505 Industrial Park Ave., Rothschild, WI 54474

Citation 2 Item 2 Type of Violation: **Willful**

29 CFR 1910.1026(d)(2)(iv): The employer used the scheduled monitoring option, and monitoring revealed employee exposures to chromium (VI) to be above the permissible exposure limit; however, the employer did not perform periodic monitoring at least every three months:

a) On or about 11/12/2014, the employer did not perform periodic monitoring at least every three months when employees were conducting welding operations on a stainless steel tanks in Industrial Tops/Cones and Industrial Upper Bay and after the employer's last air monitoring on 01/08/2014 revealed an employee's exposure to chromium (VI) was above the PEL.

ABATEMENT DOCUMENTATION REQUIRED FOR THIS ITEM

Date By Which Violation Must be Abated:

06/17/2015

Proposed Penalty:

\$49500.00

A handwritten signature in cursive script that reads "Robert J. Bonack". The signature is written in black ink and is positioned above a horizontal line.

Robert J. Bonack
Area Director

U.S. Department of Labor
Occupational Safety and Health Administration
1648 Tri Park Way
Appleton, WI 54914
Phone: 920-734-4521 Fax: 920-734-2661



INVOICE / DEBT COLLECTION NOTICE

Company Name: Imperial Industries Inc.
Inspection Site: 505 Industrial Park Ave., Rothschild, WI 54474
Issuance Date: 05/11/2015

Summary of Penalties for Inspection Number	1008403
Citation 1, Serious	\$18000.00
Citation 2, Willful	\$99000.00
TOTAL PROPOSED PENALTIES	\$117000.00

To avoid additional charges, please remit payment promptly to this Area Office for the total amount of the uncontested penalties summarized above. Make your check or money order payable to: "DOL-OSHA". Please indicate OSHA's Inspection Number (indicated above) on the remittance. You can also make your payment electronically on www.pay.gov. On the left side of the pay.gov homepage, you will see an option to Search Public Forms. Type "OSHA" and click Go. From the results, click on **OSHA Penalty Payment Form**. The direct link is <https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=53090334>. You will be required to enter your inspection number when making the payment. Payments can be made by credit card or Automated Clearing House (ACH) using your banking information. Payments of \$25,000 or more require a Transaction ID, and also must be paid using ACH. If you require a Transaction ID, please contact the OSHA Debt Collection Team at (202) 693-2170.

OSHA does not agree to any restrictions or conditions or endorsements put on any check, money order, or electronic payment for less than the full amount due, and will cash the check or money order as if these restrictions or conditions do not exist.

If a personal check is issued, it will be converted into an electronic fund transfer (EFT). This means that our bank will copy your check and use the account information on it to electronically debit your account for the amount of the check. The debit from your account will then usually occur within 24 hours and will be shown on your regular account statement. You will not receive your original check back. The bank will destroy your original check, but will keep a copy of it. If the EFT cannot be completed because of insufficient funds or closed account, the bank will attempt to make the transfer up to 2 times.

Pursuant to the Debt Collection Act of 1982 (Public Law 97-365) and regulations of the U.S. Department of Labor (29 CFR Part 20), the Occupational Safety and Health Administration is required to assess interest, delinquent charges, and administrative costs for the collection of delinquent penalty debts for violations of the Occupational Safety and Health Act.

Interest: Interest charges will be assessed at an annual rate determined by the Secretary of the Treasury on all penalty debt amounts not paid within one month (30 calendar days) of the date on which the debt amount becomes due and payable (penalty due date). The current interest rate is one percent (1%). Interest will accrue from the date on which the penalty amounts (as proposed or adjusted) become a final order of the Occupational Safety and Health Review Commission (that is, 15 working days from your receipt of the Citation and Notification of Penalty), unless you file a notice of contest. Interest charges will be waived if the full amount owed is paid within 30 calendar days of the final order.

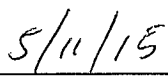
Delinquent Charges: A debt is considered delinquent if it has not been paid within one month (30 calendar days) of the penalty due date or if a satisfactory payment arrangement has not been made. If the debt remains delinquent for more than 90 calendar days, a delinquent charge of six percent (6%) per annum will be assessed accruing from the date that the debt became delinquent.

Administrative Costs: Agencies of the Department of Labor are required to assess additional charges for the recovery of delinquent debts. These additional charges are administrative costs incurred by the Agency in its attempt to collect an unpaid debt. Administrative costs will be assessed for demand letters sent in an attempt to collect the unpaid debt.



Robert J. Bonack

Area Director



Date