

AVON PRODUCTS INC
Form S-8
April 18, 2005

As filed with the Securities and Exchange Commission on April 18, 2005

Registration No. 333-_____

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-8

REGISTRATION STATEMENT

UNDER

THE SECURITIES ACT OF 1933

AVON PRODUCTS, INC.

(Exact Name of Registrant as specified in its charter)

New York
(State or other jurisdiction of
incorporation or organization)

13-0544597
(I.R.S. Employer
Identification No.)

1345 Avenue of the Americas

New York, NY 10105-0196

(Address including zip code of Principal Executive Offices)

AVON PERSONAL SAVINGS ACCOUNT PLAN

(Full title of the plan)

Gilbert L. Klemann, II, Esq.

Senior Vice President and General Counsel

Avon Products, Inc.

1345 Avenue of the Americas

New York, New York 10105-0196

(212) 282-5000

(Name, address and telephone number, including area code, of agent for service)

Copy to:

Edward P. Smith, Esq.

Chadbourne & Parke LLP

30 Rockefeller Plaza

New York, New York 10112

212-408-5100

CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered	Amount to be Registered(1)(2)	Proposed Maximum Offering Price Per Share(3)	Proposed Maximum Aggregate Offering Price(3)	Amount of Registration Fee
Common Stock, par value \$0.25 per share (common stock)(4)	11,000,000 shares	\$41.12	\$452,320,000	\$53,239

- (1) Plus an indeterminate number of additional shares which may be offered or issued to prevent dilution from stock splits, stock dividends or similar transactions.

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- (2) In addition, pursuant to Rule 416(c) under the Securities Act of 1933, as amended (the 1933 Act), this Registration Statement on Form S-8 (the Registration Statement) also covers an indeterminate amount of interests to be offered or sold pursuant to the Avon Personal Savings Account Plan (the Plan).
 - (3) Estimated solely for the purpose of determining the registration fee pursuant to Rule 457(h) under the 1933 Act, based upon the average of the high and low prices of the common stock for New York Stock Exchange-Composite Transactions on April 15, 2005.
 - (4) This Registration Statement on Form S-8 also pertains to rights to purchase shares of Series B Junior Participating Preferred Stock (the Rights). Until the occurrence of certain prescribed events, the Rights are not exercisable and will only be transferred with the Company's common shares. Thereafter, separate Rights certificates will be issued.
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PART I

The information specified in Item 1 and Item 2 of Part I of the Registration Statement is omitted from this filing in accordance with the provisions of Rule 428 under the Securities Act of 1933, as amended (the "1933 Act") and the introductory note to Part I of the Registration Statement. The documents containing the information specified in Part I will be delivered to the participants in the plan covered by this Registration Statement as required by Rule 428(b)(1).

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

ITEM 3. INCORPORATION OF DOCUMENTS BY REFERENCE

The following documents filed with the Securities and Exchange Commission (the "Commission") by Avon Products, Inc. (the "Company") or the Avon Personal Savings Account Plan (the "Plan") pursuant to the Securities Exchange Act of 1934, as amended (the "1934 Act"), are incorporated herein by reference:

- (1) The Plan's Annual Report on Form 11-K for the year ended December 31, 2003.
- (2) The Company's Annual Report on Form 10-K for the year ended December 31, 2004.
- (3) All reports filed by the Company pursuant to Section 13(a) or 15(d) of the 1934 Act since December 31, 2004.
- (4) The description of the Company's common stock and of the Rights, each contained in the Company's Registration Statement on Form 8-A, dated March 18, 1998, as amended.

All documents subsequently filed by the Company or the Plan pursuant to Sections 13(a), 13(c), 14 and 15(d) of the 1934 Act, prior to the filing of a post-effective amendment which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference herein and to be a part hereof from the date of filing of such documents.

Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any other subsequently filed document which also is incorporated or deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

ITEM 4. DESCRIPTION OF SECURITIES

Not applicable.

ITEM 5. INTEREST OF NAMED EXPERTS AND COUNSEL

Gilbert L. Klemann, II, Senior Vice President and General Counsel, has given his opinion about certain legal matters affecting the shares of the Company's common stock registered under this Registration Statement. Gilbert L. Klemann, II owns, or has the right to acquire, a number of shares of the Company's common stock which represents less than 1% of the total outstanding common stock of the Company.

ITEM 6. INDEMNIFICATION OF DIRECTORS AND OFFICERS

New York Business Corporation Law. Section 721 of the New York Business Corporation Law (NYBCL) provides that, in addition to indemnification provided in Article 7 of the NYBCL, a corporation may indemnify a director or officer by a provision contained in its certificate of incorporation or by-laws or by a duly authorized resolution of its shareholders or directors or by agreement, provided that no indemnification may be made to or on behalf of any director or officer if a judgment or other final adjudication adverse to the director or officer establishes

that his acts were committed in bad faith or were the result of active and deliberate dishonesty and material to the cause of action, or that such director or officer personally gained in fact a financial profit or other advantage to which he was not legally entitled.

Section 722(a) of the NYBCL provides that a corporation may indemnify a director or officer made, or threatened to be made, a party to any action other than a derivative action, whether civil or criminal, against judgments, fines, amounts paid in settlement and reasonable expenses actually and necessarily incurred as a result of such action, if such director or officer acted, in good faith, for a purpose which he reasonably believed to be in, or not opposed to, the best interests of the corporation and, in criminal actions or proceedings, in addition, has no reasonable cause to believe that his conduct was unlawful.

Section 722(c) of the NYBCL provides that a corporation may indemnify a director or officer, made or threatened to be made a party in a derivative action, against amounts paid in settlement and reasonable expenses actually and necessarily incurred by him in connection with the defense or settlement of such action or in connection with an appeal therein if such director or officer acted, in good faith, for a purpose which he reasonably believed to be in, or not opposed to, the best interests of the corporation, except that no indemnification will be available under Section 722(c) of the NYBCL in respect of a threatened or pending action which is settled or otherwise disposed of or any claim as to which such director or officer shall have been adjudged liable to the corporation, unless and only to the extent that the court in which the action was brought, or, if no action was brought, any court of competent jurisdiction, determines, upon application, that, in view of all the circumstances of the case, the director or officer is fairly and reasonably entitled to indemnity for such portion of the settlement amount and expenses as the court deems proper.

Section 723 of the NYBCL specifies the manner in which payment of indemnification under Section 722 of the NYBCL or indemnification permitted under Section 721 of the NYBCL may be authorized by the corporation. It provides that indemnification may be authorized by the corporation. It provides that indemnification by a corporation is mandatory in any case in which the director or officer has been successful, whether on the merits or otherwise, in defending an action. In the event that the director or officer has not been successful or the action is settled, indemnification must be authorized by the appropriate corporate action as set forth in Section 723.

Section 724 of the NYBCL provides that, upon application by a director or officer, indemnification may be awarded by a court to the extent authorized under Section 722, and 723 of the NYBCL contains certain other miscellaneous provisions affecting the indemnification of directors and officers.

Section 726 of the NYBCL authorizes the purchase and maintenance of insurance to indemnify (1) a corporation for any obligation which it incurs as a result of the indemnification of directors and officers under the above section, (2) directors and officers in instances in which they may be indemnified by a corporation under such section, and (3) directors and officers in instances in which they may not otherwise be indemnified by a corporation under such section, provided that the contract of insurance covering such directors and officers provides, in a manner acceptable to the New York State Superintendent of Insurance, for a retention amount and for co-insurance.

By-Laws. Article XII of the Company's By-Laws provides, in part, that the Company shall indemnify any person made, or threatened to be made, a party to an action or proceeding, whether civil or criminal (other than one by or in the right of the corporation to procure a judgment in its favor), including an action by or in the right of any other corporation of any type or kind, domestic or foreign, or any partnership, joint venture, trust, employee benefit plan or other enterprise, which any director, officer or employee of the corporation served in any capacity at the request of the corporation, by reason of the fact that he is or was a director or officer of the corporation, or is or was serving such other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise in any capacity, against judgments, fines, including excise taxes, amounts paid in settlement and expenses, including attorneys' fees, incurred in connection with any such action or proceeding, or any appeal therein, provided that no indemnification may be made to or on behalf of such person if a judgment or other final adjudication adverse to such person establishes that (i) his acts were committed in bad faith or were the result of his active or deliberate dishonesty and were material to such action or proceeding or (ii) he personally gained in fact a financial profit or other advantage to which he was not legally entitled.

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Subject to the foregoing exceptions, the Company must also indemnify any person described above who is made or threatened to be made a party to an action by or in the right of the Company to procure a judgment in its

favor, against amounts paid in settlement and expenses, including attorneys' fees, incurred in connection with such action or any appeal thereof.

Expenses incurred by a director or officer in defending an action or proceeding will be paid by the Company in advance of the final disposition of such action or proceeding upon receipt of any undertaking by or on behalf of such director or officer to repay the amount advanced in case he or she is ultimately found not to be entitled to indemnification or, where indemnity is granted, to the extent the expenses so paid exceed the indemnification to which he or she is entitled. The right to indemnification or advancement of expenses is enforceable by the director or officer in any court of competent jurisdiction if the Company denies his or her request or if no disposition thereof is made within 60 days.

If Article XII of the Bylaws or any portion thereof is invalidated on any ground by any court of competent jurisdiction, the Company must nevertheless indemnify each director or officer to the full extent permitted by any applicable portion of the Bylaws that has not been invalidated and to the full extent permitted by applicable law.

Restated Certificate of Incorporation. Article VIII of the Company's Restated Certificate of Incorporation provides that no person who is or was a director of the Company shall have personal liability to the Company or its shareholders for damages for any breach of duty in such capacity, provided that the foregoing shall not limit the liability of any such person (i) if a judgment or other final adjudication adverse to him establishes that his acts or omissions were in bad faith or involved intentional misconduct or a knowing violation of law or that he personally gained, in fact, a financial profit or other advantage to which he was not legally entitled or that his acts violated Section 719 of the NYBCL or (ii) for any act or omission occurring prior to the adoption of such Article VIII. No amendment to or repeal of Article VIII shall apply to or have any effect on the liability or alleged liability of any such person to the Company for or with respect to any acts or omissions of such person occurring prior to such amendment or repeal. If the NYBCL is amended hereafter to expand or limit the liability of a director, then the liability of a person who is or was a director of the Company shall be deemed to be expanded to the extent required or limited to the extent permitted by the NYBCL, as so amended.

Insurance. The Company maintains, at its expense, insurance which insures its directors and officers (up to certain amounts per year and subject to certain exclusions and deductions) against certain liabilities which may be incurred in their capacities as directors and officers.

Plan Provisions. The Plan provides that the members of the committee administering the Plan and any other employees deemed fiduciaries under the Plan shall be indemnified by the Company against liability and certain expenses reasonably incurred in connection with the defense of any proceeding involving them by reason of any act, omission or conduct they or their duly appointed agents performed in good faith under or in connection with the Plan, provided that no such person shall voluntarily assume or admit liability or, except at his or her own expense, make any payment or incur any expense without the prior consent of the Company's Board of Directors.

ITEM 7. EXEMPTION FROM REGISTRATION CLAIMED

Not applicable.

ITEM 8. EXHIBITS

- 4.1 Restated Certificate of Incorporation of the Company, filed with the Secretary of State of the State of New York on May 7, 2004 (incorporated by reference to Exhibit 3.1 to the Company's Annual Report on Form 10-K for the year ended December 31, 2004).*

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- 4.2 By-laws of the Company, as restated, effective December 2, 1999 (incorporated by reference to Exhibit 3.2 to the Company's Annual Report on Form 10-K for the year ended December 31, 1999).*
- 4.3 Rights Agreement, dated as of March 30, 1998, between the Company and Equiserve Trust Company, N.A., as successor Rights Agent to First Chicago Trust Company of New York (incorporated by reference to Exhibit 4 to the Company's Registration Statement on Form 8-A, filed March 18, 1998).*
- 4.4 Avon Personal Savings Account Plan, as amended.
- 5.1 Opinion of Gilbert L. Klemann, II.

- 5.2 In lieu of an opinion concerning compliance with the requirements of the Employee Retirement Income Security Act of 1974, as amended, or a determination letter of the Internal Revenue Service (the IRS) that the Plan is qualified under Section 401 of the Internal Revenue Code, as amended, the Company hereby undertakes to submit the Plan and any amendment thereto to the IRS in a timely manner and to make all changes required by the IRS in order to qualify the Plan.
- 23.1 Consent of PricewaterhouseCoopers LLP.
- 23.2 Consent of Gilbert L. Klemann, II (included in Exhibit 5.1).
- 24 Powers of Attorney.
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* Incorporated by reference.

ITEM 9. UNDERTAKINGS

(a) The undersigned Company hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

(i) To include any prospectus required by Section 10(a)(3) of the 1933 Act;

(ii) To reflect in the prospectus any facts or events arising after the effective date of this Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in this registration statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in this Registration Statement or any material change to such information in this Registration Statement;

provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the information required to be included in a post-effective amendment by those clauses is contained in periodic reports filed with or furnished to the Commission by the Company pursuant to Section 13 or 15(d) of the 1934 Act that are incorporated by reference in this Registration Statement.

(2) That, for the purpose of determining any liability under the 1933 Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

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(b) The undersigned Company hereby undertakes that, for purposes of determining any liability under the 1933 Act, each filing of the Company's annual report pursuant to Section 13(a) or Section 15(d) of the 1934 Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the 1934 Act) that is incorporated by reference in this Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(c) Insofar as indemnification for liabilities arising under the 1933 Act may be permitted to directors, officers and controlling persons of the Company pursuant to the foregoing provisions, or otherwise, the Company has been advised that, in the opinion of the Commission, such indemnification is against public policy as expressed in the 1933 Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Company of expenses incurred or paid by a director, officer or controlling person of the Company in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Company will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the 1933 Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the 1933 Act, the Company certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of New York, State of New York, on the 18th day of April, 2005.

By: /s/ GILBERT L. KLEMANN, II
Name: Gilbert L. Klemann, II
Title: Senior Vice President and General Counsel

Pursuant to the requirements of the 1933 Act, the Plan Administrator has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of New York, State of New York, on the 18th day of April, 2005.

AVON PERSONAL SAVINGS ACCOUNT PLAN

By: /s/ STACY ISQUITH
Name: Stacy Isquith
Title: Director of Global Benefits, Avon Products, Inc.,
as Plan Administrator

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Pursuant to the requirements of the 1933 Act, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
ANDREA JUNG*	Chairman of the Board, Chief Executive Officer and Director - Principal Executive Officer	April 18, 2005
Andrea Jung		
SUSAN J. KROPF*	President and Chief Operating Officer and Director	April 18, 2005
Susan J. Kropf		
ROBERT J. CORTI*	Executive Vice President and Chief Financial Officer - Principal Financial Officer	April 18, 2005
Robert J. Corti		
JANICE MAROLDA KLETTNER*	Vice President and Controller - Principal Accounting Officer	April 18, 2005
Janice Marolda Klettner		
FRED HASSAN*	Director	April 18, 2005
Fred Hassan		
ANN S. MOORE*	Director	April 18, 2005
Ann S. Moore		
LAWRENCE A. WEINBACH*	Director	April 18, 2005
Lawrence A. Weinbach		
W. DON CORNWELL*	Director	April 18, 2005
W. Don Cornwell		
STANLEY C. GAULT*	Director	April 18, 2005
Stanley C. Gault		
PAULA STERN*	Director	April 18, 2005
Paula Stern		
EDWARD T. FOGARTY*	Director	April 18, 2005
Edward T. Fogarty		
MARIA ELENA LAGOMASINO*	Director	April 18, 2005
Maria Elena Lagomasino		

*By: /s/ GILBERT L. KLEMAN, II

Gilbert L. Klemann, II

Attorney-in-fact

EXHIBIT INDEX

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