

TENNANT CO
Form S-8
April 28, 2010

As filed with the Securities and Exchange Commission on April 28, 2010

Registration No. _____

U.S. SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM S-8

REGISTRATION STATEMENT

UNDER

THE SECURITIES ACT OF 1933

Tennant Company

(Exact name of registrant as specified in its charter)

Minnesota

(State or other jurisdiction of incorporation or
organization)

41-0572550

(I.R.S. Employer Identification No.)

701 North Lilac Drive

P.O. Box 1452

Minneapolis, Minnesota 55440

(Address of Principal Executive Offices) (Zip Code)

TENNANT COMPANY 2010 STOCK INCENTIVE PLAN

(Full title of the Plan)

Heidi M. Wilson

Vice President, General Counsel and Secretary

Tennant Company

701 North Lilac Drive

P.O. Box 1452

Minneapolis, Minnesota 55440

(Name and address of agent for service)

(763) 540-1200

(Telephone number, including area code, of agent for service)

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer Accelerated filer
 Non-accelerated filer (Do not check if a smaller reporting company) Smaller reporting company

CALCULATION OF REGISTRATION FEE

Title of Securities To Be Registered	Amount To Be Registered (1)	Proposed Maximum Offering Price Per Share (2)	Proposed Maximum Aggregate Offering Price (2)	Amount of Registration Fee
Common Stock, \$.375 par value	1,000,000	\$34.035	\$34,035,000	\$2,426.70

- (1) In addition, pursuant to Rule 416(c) of the Securities Act of 1933, as amended, this registration statement includes an indeterminate number of additional shares as may be issuable as a result of anti-dilution provisions described herein.
- (2) Estimated solely for the purpose of determining the registration fee pursuant to the provisions of Rule 457(h)(1) under the Securities Act of 1933, as amended, based on the average of the high and low prices per share of the Registrant's Common Stock as quoted on the New York Stock Exchange on April 22, 2010.

PART I-INFORMATION REQUIRED IN THE SECTION 10(A) PROSPECTUS

The documents containing the information specified in Part I of Form S-8 have been or will be sent or given to participants as specified by Rule 428(b)(1) under the Securities Act.

PART II-INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents previously filed (File No. 1-16191) with the Securities and Exchange Commission (the Commission) pursuant to the Securities Exchange Act of 1934 (the Exchange Act) are, as of their respective dates, incorporated by reference in this registration statement:

- (a) The Annual Report on Form 10-K of Tennant Company (the Company) for the fiscal year ended December 31, 2009 (which incorporates by reference certain portions of the Company s definitive proxy statement for the Company s 2010 Annual Meeting of Shareholders);
- (b) All other reports filed pursuant to Section 13(a) or 15(d) of the Exchange Act since the end of the fiscal year covered by the Annual Report referred to in (a) above; and
- (c) The description of the Company s common stock contained in a registration statement filed pursuant to the Exchange Act, together with any amendments or reports filed for the purpose of updating that description.

In addition, all documents filed by the Company pursuant to Sections 13(a), 13(c), 14, or 15(d) of the Exchange Act after the date of this registration statement and before the filing of a post-effective amendment that indicates that all shares of common stock offered have been sold, or that deregisters all shares of common stock then remaining unsold, shall be deemed to be incorporated by reference in, and to be a part of, this registration statement from the date of filing of those 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 incorporated herein by reference or in any other subsequently filed document that also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any 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.

Tennant Company's common stock is registered under Section 12 of the Exchange Act and, therefore, the description of securities is omitted.

Item 5. Interests of Named Experts and Counsel.

Heidi M. Wilson, Vice President, General Counsel, and Secretary of the Company, beneficially owns shares of the Company's common stock having a fair market value of approximately \$753,108 as of April 22, 2010.

Item 6. Indemnification of Directors and Officers.

Article VI of the Company's Amended and Restated By-Laws provides that the Company shall indemnify its directors and officers to the full extent required by Minnesota Statutes, Section 302A.521, or by other provisions of law. Section 302A.521 requires the Company to indemnify a person made or threatened to be made a party to a proceeding by reason of the former or present official capacity of the person with respect to the Company against judgments, penalties, fines (including, without limitation, excise taxes assessed against the person with respect to an employee benefit plan), settlements, and reasonable expenses, including attorneys' fees and disbursements, incurred by the person in connection with the proceeding, if certain criteria are met. These criteria, all of which must be met by the person seeking indemnification, are:

- (a) the person has not been indemnified by another organization for the same judgments, penalties, fines, settlements, and expenses;
- (b) the person must have acted in good faith;
- (c) no improper personal benefit was obtained by the person and, if applicable, certain statutory conflict-of-interest provisions have been satisfied;
- (d) in the case of a criminal proceeding, the person had no reasonable cause to believe that the conduct was unlawful; and
- (e) the person acted in a manner he or she reasonably believed was in the best interests of the corporation or, in certain limited circumstances, not opposed to the best interests of the corporation.

The determination as to eligibility for indemnification is made by the members of the Company's board of directors, or a committee thereof, who are at the time not parties to the proceedings under consideration, by special legal counsel, by the shareholders who are not parties to the proceedings or by a court.

Article VIII of the Company's Restated Articles of Incorporation provides that no director shall be personally liable to the Company or its shareholders for monetary damages for breach of fiduciary duty as director, except:

- (a) any breach of the director's duty of loyalty to the Company or its shareholders;
- (b) acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law;
- (c) dividends, stock repurchases and other distributions made in violation of Minnesota law or for violations of the Minnesota securities laws;
- (d) any transaction from which the director derived an improper personal benefit; or

(e) any act or omission occurring before the effective date of the provision in the Company's Restated Articles of Incorporation limiting such liability.

Article VIII does not affect the availability of equitable remedies, such as an action to enjoin or rescind a transaction involving a breach of fiduciary duty, although, as a practical matter, equitable relief may not be available. Nor does this Article limit the liability of directors for violations of, or relieve them from the necessity of complying with, federal securities laws.

Item 7. Exemption from Registration Claimed.

Not applicable. No securities are to be reoffered or resold pursuant to this registration statement.

Item 8. Exhibits.

<u>Exhibit No.</u>	<u>Description</u>	<u>Form of Filing</u>
4.1	Restated Articles of Incorporation	(1)
4.2	Certificate of Designation	(2)
4.3	Amended and Restated By-Laws	(3)
4.4	Rights Agreement, dated as of November 10, 2006, between the Company and Wells Fargo Bank, N.A., as Rights Agent	(4)
5	Opinion of Heidi M. Wilson	Filed with this Registration Statement
23.1	Consent of KPMG LLP, Independent Registered Public Accounting Firm	Filed with this Registration Statement
23.2	Consent of Heidi M. Wilson	Included in Exhibit 5
24	Power of Attorney	Filed with this Registration Statement
99	Tennant Company 2010 Stock Incentive Plan	(5)

- (1) Incorporated by reference to Exhibit 3i to the Company's report on Form 10-Q for the quarterly period ended June 30, 2006.
- (2) Incorporated by reference to Exhibit 3.1 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2006.
- (3) Incorporated by reference to Exhibit 4(c) to the Company's Registration Statement on Form S-3, Registration No. 333-160887 filed on July 30, 2009.
- (4) Incorporated by reference to Exhibit 1 to Form 8-A dated November 14, 2006.
- (5) Incorporated by reference to Exhibit 10.1 to the Company's report on Form 8-K dated April 28, 2010.

Item 9. Undertakings.

A. The 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 Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the 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 the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Securities and Exchange Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement; and

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

provided, however, that paragraphs (A)(1)(i) and (A)(1)(ii) do not apply if the registration statement is on Form S-8 and the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Securities and Exchange Commission by the Company pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, 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.

B. The Company hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the Company's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered herein, 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 Securities Act of 1933 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 Securities and Exchange Commission such indemnification is against public policy as expressed in the 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 Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant 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 Minneapolis, State of Minnesota, on April 28, 2010.

TENNANT COMPANY

By: /s/ HEIDI M. WILSON
Heidi M. Wilson
Vice President, General Counsel and Secretary

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the date indicated.

<u>Signature</u>	<u>Title</u>
/s/ H. CHRIS KILLINGSTAD* H. Chris Killingstad	President and Chief Executive Officer (Principal Executive Officer)
/s/ THOMAS PAULSON Thomas Paulson	Vice President and Chief Financial Officer (Principal Financial and Accounting Officer)
H. Chris Killingstad) William F. Austen) Jeffrey A. Balagna) Carol S. Eicher) James T. Hale) David Mathieson) Donal L. Mulligan) Stephen G. Shank) Steven A. Sonnenberg) David S. Wichmann)	The Board of Directors*

* Heidi M. Wilson, by signing her name hereto, does hereby sign this document on behalf of each of the above-named officers and/or directors of the registrant pursuant to powers of attorney duly executed by such persons.

By /s/ HEIDI M. WILSON
Heidi M. Wilson, Attorney-in-Fact

INDEX TO EXHIBITS

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