

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

FORM 8-K

CURRENT REPORT PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934

DATE OF REPORT: October 31, 2004
(Date of earliest event reported)

POWELL INDUSTRIES, INC.
(Exact Name of Registrant as Specified in Its Charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

0-6050
(Commission File Number)

88-0106100
(I.R.S. Employer
Identification Number)

8550 Mosley Drive
Houston, Texas
(Address of Principal
Executive Offices)

77075-1180
(Zip Code)

(713) 944-6900

(Registrant's Telephone Number, Including Area Code)

N/A
(Former Name or Former Address, if Changed Since Last Report)

Item 8.01 Other Events.

On October 31, 2004, Powell Industries, Inc., a Nevada corporation ("Powell Nevada") and the sole stockholder of the Registrant, merged with and into the Registrant for the purpose of changing Powell Nevada's state of incorporation from Nevada to Delaware (the "Reincorporation"). The Reincorporation was accomplished pursuant to an Agreement and Plan of Merger, which was approved by Powell Nevada's stockholders at its 2004 annual meeting and a copy of which is attached hereto as Exhibit 2.1 and incorporated herein by reference. Pursuant to Rule 12g-3(a) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), the common stock of the Registrant, par value \$0.01 per share ("Common Stock"), is deemed to be registered under Section 12(g) of the Exchange Act.

The Registrant's currently effective certificate of incorporation, bylaws and form of stock certificate for the Common Stock are attached hereto as Exhibits 3.1, 3.2 and 4.1, respectively.

Item 9.01 Financial Statements and Exhibits.

(c) Exhibits.

The following exhibits are filed with this Form 8-K:

- 2.1 Agreement and Plan of Merger, dated October 31, 2004, between the Registrant and Powell Industries, Inc., a Nevada corporation and the Registrant's predecessor in interest.
- 3.1 Certificate of Incorporation of the Registrant (filed as Exhibit 3.1 to the Registrant's Form 8-A/A filed November 1, 2004 and incorporated herein by reference).
- 3.2 Bylaws of the Registrant (filed as Exhibit 3.2 to the Registrant's Form 8-A/A filed November 1, 2004 and incorporated herein by reference).

- 4.1 Form of Powell Industries, Inc. Common Stock Certificate (filed as Exhibit 4.1 to the Registrant's Form 8-A/A filed November 1, 2004 and incorporated herein by reference).
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SIGNATURES

Pursuant to the requirements 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.

POWELL INDUSTRIES, INC.

Date: October 31, 2004

By: /s/ DON R. MADISON

Don R. Madison
Vice President/Treasurer/
Chief Financial Officer
(Principal Accounting and Financial Officer)

EXHIBIT INDEX

<u>Exhibit Number</u>	<u>Description</u>
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3.1	Certificate of Incorporation of the Registrant.
3.2	Bylaws of the Registrant.
4.1	Form of Powell Industries, Inc. Common Stock Certificate.

AGREEMENT AND PLAN OF MERGER

This AGREEMENT AND PLAN OF MERGER ("Agreement") dated as of October 31, 2004, is made and entered into by and between Powell Industries, Inc., a Nevada corporation ("Parent") and Powell Industries, Inc., a Delaware corporation ("Subsidiary").

WHEREAS, Parent is a corporation organized and existing under the laws of Nevada;

WHEREAS, Subsidiary is a corporation organized and existing under the laws of Delaware and is a wholly owned subsidiary of Parent;

WHEREAS, Parent and Subsidiary and their respective Boards of Directors deem it advisable and to the advantage, for the welfare and in the best interests of the corporations and their respective stockholders to merge Parent with and into Subsidiary pursuant to the provisions of Nevada Revised Statutes ("NRS") and the Delaware General Corporation Law ("DGCL") upon the terms and conditions set forth in this Agreement;

NOW THEREFORE, in consideration of the premises, the mutual covenants herein contained and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree that Parent shall be merged into Subsidiary (the "Merger") upon the terms and conditions set forth below.

ARTICLE 1 PRINCIPAL TERMS OF THE MERGER

Section 1.1 Merger. On the Effective Date (as defined in Section 4.1 below), Parent shall be merged into Subsidiary, the separate existence of Parent shall cease and Subsidiary (the surviving entity following the Merger is referred to in this Agreement as the "Surviving Corporation") shall operate under the name "Powell Industries, Inc." by virtue of, and shall be governed by, the laws of Delaware. The address of the registered office of the Surviving Corporation in Delaware will be Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle, and the registered agent in charge thereof shall be The Corporation Trust Company.

Section 1.2 Certificate of Incorporation of the Surviving Corporation. The certificate of incorporation of the Surviving Corporation shall be the certificate of incorporation of Subsidiary as in effect on the date hereof without change unless and until amended in accordance with applicable law.

Section 1.3 Bylaws of the Surviving Corporation. The bylaws of the Surviving Corporation shall be the bylaws of Subsidiary as in effect on the date hereof without change unless and until amended or repealed in accordance with applicable law.

Section 1.4 Directors and Officers. At the Effective Date of the Merger, the directors and officers of Parent in office at the Effective Date of the Merger shall become the directors and officers, respectively, of the Surviving Corporation, each of such directors and officers to hold office, subject to the applicable provisions of the certificate of incorporation and bylaws of the Surviving Corporation and the DGCL, until his or her successor is duly elected or appointed and qualified.

ARTICLE 2 CONVERSION, CERTIFICATES AND PLANS

Section 2.1 Conversion of Shares. At the Effective Date of the Merger, each of the following transactions shall be deemed to occur simultaneously:

(a) **Common Stock.** Each share of Parent's common stock, \$0.01 par value per share ("Parent Stock"), issued and outstanding immediately before the Effective Date of the Merger shall, by virtue of the Merger and without any action on the part of the holder thereof, be converted into and become one validly issued, fully paid and nonassessable share of the Surviving Corporation's common stock, \$0.01 par value per share (the "Surviving Corporation Stock").

(b) **Options.** Each option to acquire shares of Parent Stock outstanding immediately before the Effective Date of the Merger shall, by virtue of the Merger and without any action on the part of the holder thereof, be converted into and become an equivalent option to acquire, upon the same terms and conditions, the number of shares of Surviving Corporation Stock that is equal to the number of shares of Parent Stock that the optionee would have received had the optionee exercised such option in full immediately before the Effective Date of the Merger (whether or not such option was then exercisable) and the exercise price per share under each such option shall be equal to the exercise price per share thereunder immediately before the Effective Date of the Merger, unless otherwise provided in the instrument granting such option.

(c) **Other Rights.** Any other right, by contract or otherwise, to acquire shares of Parent Stock outstanding immediately before the Effective Date of the Merger shall, by virtue of the Merger and without any action on the part of the holder thereof, be converted into and become a right to acquire, upon the same terms and conditions, the number of shares of Surviving Corporation Stock that is equal to the number of shares of Parent Stock that the right holder would have received had the right holder exercised such right in full immediately before the Effective Date of the Merger (whether or not such right was then exercisable) and the exercise price per share under each such right shall be equal to the exercise price per share thereunder immediately before the Effective Date of the Merger, unless otherwise provided in the agreement granting such right.

(d) **Subsidiary Stock.** Each share of Subsidiary Stock issued and outstanding immediately before the Effective Date of the Merger and held by Parent shall be canceled without any consideration being issued or paid therefor.

Section 2.2 Stock Certificates. After the Effective Date of the Merger, each certificate theretofore representing issued and outstanding shares of Parent Stock will thereafter be deemed to represent the same number of shares of the same class and series of capital stock of Subsidiary. The holders of outstanding certificates theretofore representing Parent Stock will not be required to surrender such certificate to Parent or the Surviving Corporation.

Section 2.3 Employee Benefit and Compensation Plans. At the Effective Date of the Merger, each employee benefit plan, incentive compensation plan and other similar plans to which Parent is then a party shall be assumed by, and continue to be the plan of, the Surviving Corporation. To the extent any employee benefit plan, incentive compensation plan or other similar plan of Parent provides for the issuance or purchase of, or otherwise relates to, Parent Stock, after the Effective Date of the Merger such plan shall be deemed to provide for the issuance or purchase of, or otherwise relate to, Surviving Corporation Stock.

ARTICLE 3
TRANSFER AND CONVEYANCE OF ASSETS
AND ASSUMPTION OF LIABILITIES

Section 3.1 Effects of the Merger. At the Effective Date of the Merger, the Merger shall have the effects specified in the NRS, the DGCL and this Agreement. Without limiting the generality of the foregoing, and subject thereto, at the Effective Date of the Merger, the Surviving Corporation shall possess all the rights, privileges, powers and franchises, of a public as well as a private nature, and shall be subject to all the restrictions, disabilities and duties of each of the parties to this Agreement; the rights, privileges, powers and franchises of Parent and Subsidiary, and all property, real, personal and mixed, and all debts due to each of them on whatever account, shall be vested in the Surviving Corporation; and all property, rights, privileges, powers and franchises, and all and every other interest shall be thereafter the property of the Surviving Corporation, as they were of the respective constituent entities, and the title to any real estate, whether by deed or otherwise vested in Parent and Subsidiary or either of them, shall not revert or be in any way impaired by reason of the Merger; but all rights of creditors and all liens upon any property of the parties hereto shall be preserved unimpaired, and all debts, liabilities and duties of the respective constituent entities shall thenceforth attach to the Surviving Corporation and may be enforced against it to the same extent as if such debts, liabilities and duties had been incurred or contracted by it.

Section 3.2 Additional Actions. If, at any time after the Effective Date of the Merger, the Surviving Corporation shall consider or be advised that any further assignments or assurances in law or any other acts are necessary or desirable (a) to vest, perfect or confirm, of record or otherwise, in the Surviving Corporation, title to and possession of any property or right of Parent acquired or to be acquired by reason of, or as a result of, the Merger, or (b) otherwise to carry out the purposes of this Agreement, Parent and its proper officers and directors shall be deemed to have granted to the Surviving Corporation an irrevocable power of attorney to execute and deliver all such proper deeds, assignments and assurances in law and to do all acts necessary or proper to vest, perfect or confirm title to and possession of such property or rights in the Surviving Corporation and otherwise to carry out the purposes of this Agreement. The proper officers and directors of the Surviving Corporation are fully authorized in the name of Parent or otherwise to take any and all such action.

ARTICLE 4
APPROVAL BY STOCKHOLDERS;
AMENDMENT; EFFECTIVE DATE

Section 4.1 Approval. This Agreement and the Merger contemplated hereby are subject to approval by the requisite vote of stockholders in accordance with the NRS and the DGCL. As promptly as practicable after approval of this Agreement by stockholders in accordance with applicable law, duly authorized officers of the respective parties shall make and execute Articles of Merger and a Certificate of Merger and shall cause such documents to be filed with the Secretary of State of Nevada and the Secretary of State of Delaware, respectively, in accordance with the laws of Nevada and Delaware. The effective date ("Effective Date") of the Merger shall be the date on which the Merger becomes effective under the laws of Nevada or the date on which the Merger becomes effective under the laws of Delaware, whichever occurs later.

Section 4.2 Amendments. The Board of Directors of Parent may amend this Agreement at any time before the Effective Date, *provided, however, that* an amendment made subsequent to the approval of the Merger by the stockholders of Parent shall not (a) alter or change the amount or kind of shares to be received in exchange for or on conversion of all or any of the shares of Parent Stock, (b) alter or change any term of the certificate of incorporation of Subsidiary or (c) alter or change any of the terms and conditions of this Agreement if such alteration or change would adversely affect the holders of Parent Stock.

ARTICLE 5
MISCELLANEOUS

Section 5.1 Termination. This Agreement may be terminated and the Merger abandoned at any time before the filing of this Agreement with the Secretary of State of Nevada and the Secretary of State of Delaware, whether before or after stockholder approval of this Agreement, by the consent of the Boards of Directors of Parent and Subsidiary.

Section 5.2 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be considered to be an original instrument.

Section 5.3 Descriptive Headings. The descriptive headings are for convenience of reference only and shall not control or affect the meaning or construction of any provision of this Agreement.

Section 5.4 Governing Law. This Agreement shall be construed in accordance with the laws of Delaware, except to the extent the laws of Nevada shall apply to the Merger where mandated by the NRS.

IN WITNESS WHEREOF, the undersigned officers of each of the parties to this Agreement, pursuant to authority duly given by their respective boards of directors, have caused this Agreement to be duly executed on the date set forth above.

POWELL INDUSTRIES, INC.,
a Delaware corporation

By: /s/ THOMAS W. POWELL
Thomas W. Powell, President

POWELL INDUSTRIES, INC.,
a Nevada corporation

By: /s/ THOMAS W. POWELL
Thomas W. Powell, President