AMPCO PITTSBURGH CORP
Form S-8
May 09, 2016

As filed with the Securities and Exchange Commission on May 9, 2016

Registration No. 333-

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-8

REGISTRATION STATEMENT

UNDER

THE SECURITIES ACT OF 1933

AMPCO-PITTSBURGH CORPORATION

(Exact name of registrant as specified in its charter)

Pennsylvania	**25-1117717**
(State or other jurisdiction of	**(I.R.S. Employer**
incorporation or organization)	**Identification No.)**
726 Bell Avenue, Suite 301	
Carnegie, Pennsylvania	**15106**

(Address of Principal Executive Offices) (Zip Code)

AMPCO-PITTSBURGH CORPORATION

2016 OMNIBUS INCENTIVE PLAN

(Full title of the plan)

Maria Trainor

Vice President, General Counsel and Secretary

Ampco-Pittsburgh Corporation

726 Bell Avenue, Suite 301

Carnegie, PA 15106

(Name and address of agent for service)

(412) 456-4400

(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 the 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 x
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**	**Proposed maximum aggregate**	**Amount of registration fee**

		per share (2)	offering price	
Common Stock, par value $1.00 per share	1,100,000	$18.70	$20,570,000	$2,071

(1) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the Securities Act), this Registration Statement also covers an indeterminate number of additional shares of Common Stock, par value $1.00 per share (the Common Stock), of the Registrant as may be offered or issued under the Ampco-Pittsburgh Corporation 2016 Omnibus Incentive Plan (the Plan) to prevent dilution resulting from stock splits, stock dividends or similar transactions.

(2) The maximum offering price per share is estimated solely for purposes of calculating the registration fee pursuant to Rules 457(c) and (h) under the Securities Act, on the basis of the average of the high and low prices of the Common Stock as reported on the New York Stock Exchange Composite Tape on May 5, 2016, which were $19.00 and $18.40, respectively.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents filed by the Registrant with the Securities and Exchange Commission (the Commission) pursuant to the Securities Act are incorporated by reference into this Registration Statement:

(a) the Registrant s Annual Report on Form 10-K filed with the Commission for the fiscal year ended December 31, 2015 (File No. 001-00898);

(b) the Registrant s Current Reports on Form 8-K filed with the Commission on March 7, 2016, April 25, 2016, May 3, 2016, and May 6, 2016 (only with respect to information filed under Item 5.07); and

(c) the description of the Registrant s Common Stock contained in any Registration Statement filed pursuant to Section 12 of the Securities Exchange Act of 1934, as amended (the Exchange Act), including all amendments and reports updating such description.

All documents subsequently filed by the Registrant with the Commission pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act, after the date of this Registration Statement, but prior to the filing of a post-effective amendment to this Registration Statement which indicates that all securities offered by this Registration Statement have been sold or which deregisters all such securities then remaining unsold, shall be deemed to be incorporated by reference into this Registration Statement; provided, however, that the Registrant is not incorporating by reference any information furnished (but not filed) under Item 2.02 or Item 7.01 of any Current Report on Form 8-K. Each document incorporated by reference into this Registration Statement shall be deemed to be a part of this Registration Statement from the date of filing of such document with the Commission until the information contained therein is superseded or updated by any subsequently filed document which is incorporated by reference into this Registration Statement or by any document which constitutes part of the prospectus relating to the Plan meeting the requirements of Section 10(a) of the Securities Act.

Item 4. Description of Securities.

The class of securities to be offered under this Registration Statement is registered under Section 12(b) of the Exchange Act.

Item 5. Interests of Named Experts and Counsel.

Certain legal matters with respect to the securities will be passed upon for the Company by Maria Trainor, Vice President, General Counsel and Secretary of the Company. As of April 30, 2016, Ms. Trainor owned or had the right to acquire, directly or indirectly, an aggregate of less than 0.1% of the Company s Common Stock. Ms. Trainor is eligible to receive awards under the Company s 2011 Omnibus Incentive Plan and the Plan.

Item 6. Indemnification of Directors and Officers.

Sections 1741 and 1742 of the Pennsylvania Business Corporation Law (the PBCL) provide that a business corporation shall have the power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or proceeding whether civil, criminal, administrative or investigative, by reason of the fact that such person is or was a director, officer, employee or agent of another domestic or foreign corporation for profit or not-for-profit, partnership, joint venture, trust or other enterprise, against expenses (including

attorneys fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such proceeding, if such person acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best

interests of the corporation, and, with respect to any criminal proceeding, has no reasonable cause to believe his conduct was unlawful. In the case of an action by or in the right of the corporation, such indemnification is limited to expenses (including attorneys fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person has been adjudged to be liable to the corporation, unless, and only to the extent that, a court determines upon application that, despite the adjudication of liability but in view of all the circumstances, such person is fairly and reasonably entitled to indemnity for the expenses that the court deems proper.

PBCL Section 1744 provides that, unless ordered by a court, any indemnification referred to above shall be made by the corporation only as authorized in the specific case upon a determination that indemnification is proper in the circumstances because the director, officer, employee or agent of the corporation has met the applicable standard of conduct. Such determination shall be made:

(1) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to the proceeding; or

(2) if such a quorum is not obtainable or if obtainable and a majority vote of a quorum of disinterested directors so directs, by independent legal counsel in a written opinion; or

(3) by the shareholders.

Notwithstanding the above, PBCL Section 1743 provides that to the extent that a director, officer, employee or agent of a business corporation is successful on the merits or otherwise in defense of any proceeding referred to above as contained in sections 1741 and 1742, or in defense of any claim, issue, or matter therein, such person shall be indemnified against expenses (including attorneys fees) actually and reasonably incurred by such person in connection therewith.

PBCL Section 1745 provides that expenses (including attorneys fees) incurred by an officer, director, employee or agent of a business corporation in defending any such proceeding may be paid by the corporation in advance of the final disposition of the action or proceeding upon receipt of an undertaking to repay the amount advanced if it is ultimately determined that the director, officer, employee or agent of the corporation is not entitled to be indemnified by the corporation.

PBCL Section 1746 provides that the indemnification and advancement of expenses provided by, or granted pursuant to, the foregoing provisions is not exclusive of any other rights to which a person seeking indemnification may be entitled under any bylaw, agreement, vote of shareholders or disinterested directors or otherwise both as to action in such person s official capacity and as to action in another capacity while holding office, and that indemnification may be granted under any bylaw, agreement, vote of shareholders or directors or otherwise for any action taken whether or not the corporation would have the power to indemnify the person under any other provision of law and whether or not the indemnified liability arises or arose from any threatened, pending or completed action by or in the right of the corporation, provided, however, that no indemnification may be made in any case where the act or failure to act giving rise to the claim for indemnification is determined by a court to have constituted willful misconduct or recklessness.

The Articles of Incorporation and Amended and Restated By-Laws (the By-Laws) of the Registrant provide that, except as prohibited by law and as described below, the directors and officers of the Registrant shall be indemnified as of right in connection with any actual or threatened claim, action, suit or proceeding, civil, criminal, administrative, investigative or other (whether brought by or in the right of the Registrant or otherwise) arising out of their service to the Registrant or to another enterprise at the request of the Registrant, except no right to indemnification shall exist in any case where the act or failure to act giving rise to the claim to indemnification is determined by a court to have constituted willful misconduct or recklessness and no such indemnification shall exist with respect to an action

brought by such officer or director against the Registrant.

PBCL Section 1747 permits a Pennsylvania business corporation to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation or is or was serving at the request of the corporation as a director, officer, employee or agent of another enterprise, against any liability asserted against such person and incurred by him in any such capacity, or arising out of his status as such, whether or not the corporation would have the power to indemnify the person against such liability under the provisions described above.

The Articles of Incorporation and By-Laws of the Registrant also provide that the Registrant may purchase and maintain insurance to protect itself and any director or officer entitled to indemnification under the By-Laws against any liability or expense asserted against such person and incurred by such person in respect of the service of such person to the Registrant whether or not the Registrant would have the power to indemnify such person against such liability or expenses by law or under the provisions of the By-Laws.

The Registrant maintains directors and officers liability insurance covering its directors and officers with respect to liabilities, including liabilities under the Securities Act, which they may incur in connection with their serving as such. Under this insurance, the Registrant may receive reimbursement for amounts as to which the directors and officers are indemnified by the Registrant under the foregoing By-Law indemnification provision. Such insurance also provides certain additional coverage for the directors and officers against certain liabilities even though such liabilities may not be covered by the foregoing By-Law indemnification provisions.

Item 7. Exemption From Registration Claimed.

Not applicable.

Item 8. Exhibits.

The following exhibits are filed herewith or incorporated by reference as part of this Registration Statement:

Exhibit No.	Description
4.1	Articles of Incorporation, as corrected by a Certificate of Correction filed on January 20, 2016 Incorporated by reference to the Quarterly Report on Form 10-Q for the quarter ended March 31, 1983; the Quarterly Report on Form 10-Q for the quarter ended March 31, 1984; the Quarterly Report on Form 10-Q for the quarter ended March 31, 1985; the Quarterly Report on Form 10-Q for the quarter ended March 31, 1987; the Registration Statement on Form 8-A dated September 30, 1998.
4.2	Amended and Restated By-laws Incorporated by reference to Form 8-K dated December 23, 2015.
4.3	Ampco-Pittsburgh Corporation 2016 Omnibus Incentive Plan Incorporated by reference to Annex I to the Definitive Proxy Statement on Schedule 14A filed on March 23, 2016, as supplemented by the Definitive Proxy Statement on Schedule 14A filed on March 25, 2016.
5.1	Opinion of Maria Trainor, Vice President, General Counsel and Secretary of Ampco-Pittsburgh Corporation regarding the legality of the shares being registered hereunder.
23.1	Consent of Maria Trainor (included in the Opinion filed as Exhibit 5.1).
23.2	Consent of Deloitte & Touche LLP.

Item 9. Undertakings.

(a) The undersigned registrant 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;

(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 Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20% change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective Registration Statement.

(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) of this section do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in the Registration Statement.

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

(b) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant s annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan s annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in the 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 Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant 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 Registrant 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 Securities Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act, 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 Borough of Carnegie, Commonwealth of Pennsylvania, on this 9th day of May, 2016.

Ampco-Pittsburgh Corporation

By: /s/ John S. Stanik
John S. Stanik
Chief Executive Officer

We, the undersigned directors and officers of Ampco-Pittsburgh Corporation, do hereby constitute and appoint Maria Trainor our true and lawful attorney and agent, to do any and all acts and things in our name and on our behalf in our capacities as directors and officers and to execute any and all instruments for us and in our names in the capacities indicated below, which said attorney and agent may deem necessary or advisable to enable said corporation to comply with the Securities Act and any rules, regulations and requirements of the Commission, in connection with this Registration Statement, including specifically, but without limitation, power and authority to sign for us or any of us in our names in the capacities indicated below, any and all amendments (including post-effective amendments) hereto and we do hereby ratify and confirm all that said attorney and agent shall do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act, this Registration Statement and the foregoing Power of Attorney have been signed by the following persons in the capacities and on the date(s) indicated:

SIGNATURE	TITLE	DATE
/s/ John S. Stanik John S. Stanik	Chief Executive Officer and Director (Principal Executive Officer)	May 9, 2016
/s/ Michael G. McAuley Michael G. McAuley	Vice President, Chief Financial Officer and Treasurer (Principal Financial Officer)	May 9, 2016
/s/ Marliss D. Johnson Marliss D. Johnson	Vice President and Chief Accounting Officer (Principal Accounting Officer)	May 9, 2016
/s/ James J. Abel James J. Abel	Director	May 9, 2016
/s/ Leonard M. Carroll Leonard M. Carroll	Director	May 9, 2016

/s/ Michael I. German	Director	May 9, 2016
Michael I. German		
/s/ Paul A. Gould	Director	May 9, 2016
Paul A. Gould		
/s/ William K. Lieberman	Director	May 9, 2016
William K. Lieberman		

SIGNATURE	TITLE	DATE
/s/ Laurence E. Paul	Director	May 9, 2016
Laurence E. Paul		
/s/ Stephen E. Paul	Director	May 9, 2016
Stephen E. Paul		
/s/ Carl H. Pforzheimer, III	Director	May 9, 2016
Carl H. Pforzheimer, III		
/s/ Ernest G. Siddons	Director	May 9, 2016
Ernest G. Siddons		
/s/ J. Fredrik Strömholm	Director	May 9, 2016
J. Fredrik Strömholm		

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