

KVH INDUSTRIES INC \DE\

Form S-3MEF

February 10, 2004

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As filed with the Securities and Exchange Commission on February 10, 2004

Registration No. 333-_____

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-3

**REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933**

KVH INDUSTRIES, INC.

(Exact name of registrant as specified in its charter)

Delaware
*(State or other jurisdiction
of incorporation or organization)*

05-0420589
*(I.R.S. Employer
Identification Number)*

**50 Enterprise Center
Middletown, Rhode Island 02842
(401) 847-3327**

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

**Martin A. Kits van Heyningen
President and Chief Executive Officer
KVH Industries, Inc.
50 Enterprise Center
Middletown, Rhode Island 02842
(401) 847-3327**

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

Copies to:

**Adam Sonnenschein, Esq.
John D. Hancock, Esq.
Foley Hoag LLP
155 Seaport Boulevard
Boston, Massachusetts 02210
Telephone: (617) 832-1000
Fascimile: (617) 832-7000**

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Approximate date of commencement of proposed sale to the public: As soon as practicable after this registration statement becomes effective.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. 333-110802

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box.

CALCULATION OF REGISTRATION FEE

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| Title of each class of securities to be registered | Amount to be registered | Proposed maximum offering price per share | Proposed maximum aggregate offering price | Amount of registration fee |
|---|--------------------------------|--|--|-----------------------------------|
| Common stock, \$.01 par value | 162,500 (1) | \$ 18.75 | \$3,046,875 | \$386.04(2) |

- (1) This registration statement relates to the same offering we are conducting under our registration statement on Form S-3, Registration No. 333-110802 (the Initial Registration Statement). In accordance with Rule 462(b) under the Securities Act of 1933, as amended, this registration statement registers additional shares of common stock in an amount and at a price that together represent no more than 20% of the maximum aggregate offering price set forth in the Calculation of Registration Fee table contained in the Initial Registration Statement, which maximum aggregate offering price was \$85,350,000.
- (2) The registrant hereby certifies to the Securities and Exchange Commission (the Commission) that it has given irrevocable instructions to its bank to transmit to the Commission the applicable filing fee for this registration statement by wire transfer to the Commission s account as soon as practicable but no later than the close of business on February 11, 2004; that it will not revoke such instructions; that it has sufficient funds in its account to cover the amount of the filing fee; and that it will confirm receipt of its instructions by its bank during regular business hours on or before February 11, 2004.

The registration statement shall become effective upon filing with the Securities and Exchange Commission in accordance with Rule 462(b) under the Securities Act of 1933, as amended.

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Ex-5.1 Opinion of Foley Hoag LLP

Ex-23.1 Consent of KPMG LLP

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EXPLANATORY NOTE

This registration statement is being filed to register an additional 162,500 shares of our common stock, par value \$0.01 per share, pursuant to Rule 462(b) under the Securities Act of 1933, as amended. In accordance with Rule 462(b), this registration statement incorporates by reference the contents of our registration statement on Form S-3 (File No. 333-110802), which was declared effective on December 5, 2003, including all amendments and exhibits thereto and all information incorporated by reference therein, other than the exhibits included herein.

The required opinions and consents are listed on the Exhibit Index attached to and filed with this registration statement.

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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-3 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of Middletown, Rhode Island, on February 9, 2004.

KVH INDUSTRIES, INC.

By: /s/ Martin A. Kits van Heyningen

Martin A. Kits van Heyningen,
President and Chief Executive Officer

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 dates indicated.

| <u>SIGNATURE</u> | <u>TITLE</u> | <u>DATE</u> |
|---|---|------------------|
| <u>/s/ Martin A. Kits van Heyningen</u> Martin A. Kits van Heyningen | President, Chief Executive Officer and Director (principal executive officer) | February 9, 2004 |
| <u>/s/ Patrick J. Spratt</u> Patrick J. Spratt | Chief Financial Officer (principal financial and accounting officer) | February 9, 2004 |
| <u>*</u> Arent H. Kits van Heyningen | Chairman of the Board | February 9, 2004 |
| <u>*</u> Robert W.B. Kits van Heyningen | Director | February 9, 2004 |
| <u>*</u> Mark S. Ain | Director | February 9, 2004 |
| <u>*</u> Stanley K. Honey | Director | February 9, 2004 |
| <u>*</u> Bruce J. Ryan | Director | February 9, 2004 |
| <u>*</u> Charles R. Trimble | Director | February 9, 2004 |

* By: /s/ Martin A. Kits van Heyningen

Martin A. Kits van Heyningen,
Attorney-in-Fact

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INDEX TO EXHIBITS

| Exhibit Number | Exhibit Description |
|-----------------------|---|
| 5.1 | Opinion of Foley Hoag LLP |
| 23.1 | Consent of KPMG LLP, independent auditors |
| 23.2 | Consent of Foley Hoag LLP (included in Exhibit 5.1) |
| 24.1 | Power of Attorney (previously filed on the signature page to our registration statement on Form S-3 (SEC No. 333-110802) filed with the SEC on November 26, 2003) |