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VALLEY FORGE SCIENTIFIC CORP

Form 10-K/A

January 28, 2005

SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549  
FORM 10-K/A

(Mark One)

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

For the fiscal year ended September 30, 2004  
OR

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number: 001-10382

VALLEY FORGE SCIENTIFIC CORP.  
(Exact name of registrant as specified in its charter)

PENNSYLVANIA  
(State or other jurisdiction of  
incorporation or organization)

23-2131580  
(I.R.S. employer  
identification no.)

136 Green Tree Road, Oaks, Pennsylvania 19456  
(Address of principal executive offices and zip code)  
Telephone: (610) 666-7500  
(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Title of Each Class -----	Name of Each Exchange on which Registered -----
Common Stock, no par value	Boston Stock Exchange

Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the Registrant is an accelerated filer (as defined in Exchange Act Rule 12b-2).

Yes  No

The aggregate market value of voting stock held by non-affiliates of the Registrant, computed by reference to the closing bid and ask prices as reported

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by The Nasdaq Stock Market on December 16, 2004 was \$7,509,116.

At December 16, 2004 there were 7,913,712 shares of the Registrant's Common Stock outstanding.

### PART III

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#### Item 10. DIRECTORS OF THE REGISTRANT.

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The directors of the Company are as follows:

Name	Age	Position(s)
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Jerry L. Malis	72	Chairman of the Board, Chief Executive Officer and President
Leonard I. Malis	85	Director
Bruce A. Murray	68	Director
Robert H. Dick	61	Director
Louis Uchitel	79	Director

Members of the Board of Directors are elected annually by the stockholders of the Company.

#### BIOGRAPHICAL INFORMATION ON DIRECTORS AND EXECUTIVE OFFICERS

Jerry L. Malis, has served as Chief Executive Officer, President or Vice-President and a Director of the Company since its inception in March 1980. As of June 30, 1989, Mr. Malis was elected as Chairman of the Board of the Company. He has published over fifty articles in the biological science, electronics and engineering fields, and has been issued twelve United States patents. Mr. Malis coordinates and supervises the development, engineering and manufacturing of the Company's products and is in charge of the daily business operations of the Company. He devotes substantially all his business time to the business of the Company.

Leonard I. Malis, M.D., an advisor to the Company since its inception in March 1980, has been a director since June 30, 1989. Dr. Malis was Professor and Chairman of the Department of Neurosurgery at Mount Sinai School of Medicine, New York, New York, from 1971 until 1993, and is currently Professor and Chairman Emeritus of the Department of Neurosurgery. Dr. Malis designed and built the first commercial bipolar coagulator in 1955, and his original units were the standard in neurosurgery for many years. Dr. Malis has been issued five United States patents and has designed and trademarked over one hundred instruments. He has published over one hundred articles in medical journals and reviews and is the author of a textbook on neurosurgery.

Bruce A. Murray, a member of the audit committee and chairman of the compensation committee, has been a director of the Company since October 14, 1992. He was a Managing Member of The Change Management Group, LLC, a management consulting company, and was a Principal of Adair & Murray Associates, Inc., a management consulting company. Mr. Murray has held positions within the Pfizer Hospital Products Group, as Director of Engineering-Surgical Products, Corporate Vice President - Research and Development, and Senior Vice President and Business Manager - Surgical Products. He has also held senior management positions with Valleylab, Inc., Picker Corporation Electronics Division, Ball Brothers Research Corporation and IIT Research Institute. Mr. Murray received both his B.S. in Engineering and his M.B.A. from the Illinois Institute of Technology.

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Robert H. Dick, a member of the audit committee and the compensation committee, has been a director of the Company since June 25, 1997. Mr. Dick has served as President of R.H. Dick & Company since January 1998, which is an investment banking and management consulting firm based in Ocala, Florida. From 1996 to 1998, Mr. Dick was a partner with Boles, Knop & Company, Inc., an investment banking firm in Middleburg, Virginia. Prior to that Mr. Dick served as interim President, Chief Executive Officer and Chief Financial Officer of Biomagnetic Therapy Systems, Inc. (September 1995 - March 1996) and PharmX, Inc. (May 1994 - April 1995). Both companies were clients of Boles, Knop & Company. From 1982 until 1994, Mr. Dick served in various executive roles with Codman & Shurtleff, Inc., a subsidiary of Johnson & Johnson and a manufacturer of

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surgical instruments, implants, equipment and other surgical products. Mr. Dick's positions with Codman included Director, Vice-President - New Business Development, Vice President - U.S. Sales and Marketing, and Vice President - International. Mr. Dick retired from Johnson & Johnson in April 1994. From 1978 to 1982, Mr. Dick was President & Chief Executive Officer of Applied Fiberoptics, Inc., a company designing, manufacturing and marketing fiberoptic products for medical and defense applications, and surgical microscopes for microsurgery. Mr. Dick also serves on the board of Span-America Medical Systems, Inc., which designs and manufactures wound management products, and which has securities registered pursuant to Section 12 of the Securities Exchange Act of 1934.

Louis Uchitel, chairman of the audit committee and a member of the compensation committee, has been a director of the Company since June 12, 2001. He is a certified public accountant and the Secretary and Treasurer of Quaker State Environmental Equipment, Inc., a lessor of solid waste equipment. Mr. Uchitel was formerly the Executive Vice President and Chief Financial Officer of Accurate Industries, Inc.

Jerry L. Malis and Dr. Leonard I. Malis are brothers.

### AUDIT COMMITTEE FINANCIAL EXPERT

The Company has a standing Audit Committee comprised of three members: Louis Uchitel, Bruce A. Murray and Robert H. Dick. The Board of Directors has determined that it has an "audit committee financial expert" serving on its Audit Committee as defined by Item 401(h) of Regulation S-K. The Company's audit committee financial expert is Louis Uchitel. Mr. Uchitel is deemed to be "independent" under applicable rules of Nasdaq Stock Market.

### CODE OF ETHICS

Valley Forge Scientific Corp. has adopted a Code of Ethics and Business Conduct applicable to its directors, officers (including its Chief Executive Officer) and employees. A copy of the Code of Ethics and Business Conduct is available on the Company's website at <http://www.vlfg.com>. The Company intends to post on its website any amendments to, or waivers from, its Code of Ethics promptly following any such amendment or waiver.

### COMPLIANCE WITH SECTION 16(a) OF THE EXCHANGE ACT

Section 16(a) of the Securities Exchange Act of 1934, as amended (the "Exchange Act") requires the Company's directors and executive officers, and persons who own more than 10% of a registered class of the Company's equity securities, to file reports of ownership of, and transactions in, the Company's securities with the Securities and Exchange Commission and the Nasdaq Stock Market. Such directors, executive officers and 10% stockholder are also required

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to furnish the Company with copies of all Section 16(a) forms they file.

Based solely upon a review of reports furnished to the Company, and on written representations from certain reporting persons, the Company believes that, with respect to the fiscal year ended September 30, 2004, each director, executive officer and 10% stockholder of the Company's securities made timely filings of all reports require by Section 16 of the Exchange Act.

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### Item 11. EXECUTIVE COMPENSATION.

#### SUMMARY COMPENSATION TABLE

Summary Compensation Table. The following table sets forth the aggregate compensation paid by the Company with respect to the three fiscal years ended September 30, 2004 to the Company's Chief Executive Officer.

Name and Principal Position -----	Fiscal Year -----	Salary -----	Bonus -----	Number of Shares of Common Stock Underlying Options Granted -----
Jerry L. Malis, Chief Executive Officer and President	2004	\$220,000	0	---
	2003	220,000	0	---
	2002	199,000	\$25,000	---

Aggregate Fiscal Year End Option Values. The following table sets forth the value on September 30, 2004 of unexercised options for the Chief Executive Officer.

Name -----	Number of Shares of Common Stock Underlying Unexercised Options at September 30, 2004 -----	Aggregate Value of Unexercised Options at September 30, 2004 -----
Jerry L. Malis (1)	100,000	\$23,750

(1) Mr. Malis' options consist of the following:

- 50,000 shares granted on December 22, 1994 with an exercise price of \$2.375 per share, which expired on December 22, 2004, all of which were exercisable at September 30, 2004; and
- 50,000 shares granted on December 12, 2000 with an exercise price of \$1.125 per share and expiring December 12, 2010, all of which were exercisable at September 30, 2004.

#### DIRECTORS' COMPENSATION

The Company's Directors, who are neither employees of the Company or an immediate family member of an officer of the Company, are paid \$750 for each meeting of the Board of Directors and each meeting of a committee of the Board of Directors that they attend. In addition, all Directors are entitled to

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reimbursement for travel and lodging expenses incurred in connection with their attendance at meetings.

Non-Employee Directors' Stock Option Plan. The Company has adopted the 2000 Non-Employee Directors' Stock Option Plan which provides that each Director of the Company who is neither an employee of the Company or an immediate family member of an officer of the Company, will be granted options to purchase 10,000 shares of the Company's common stock, no par value, ("Common Stock") each year he is elected, appointed, or re-elected as a Board member. Each non-employee Director of the Company who served in such position on December 12, 2000, the effective date of this plan, received a grant of options as of that date. The exercise price of options granted under this plan is equal to the fair market value of the common stock on the date of grant. All options granted under this plan vest upon issuance.

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### Item 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT.

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The following table sets forth as of January 15, 2005 certain information with respect to the beneficial ownership of the Company's Common Stock by (i) each of the named executive officers and Directors, (ii) all executive officers and Directors as a group, and (iii) each person known by the Company to beneficially own more than 5% of the Company's Common Stock based on certain filings made under Section 13 of the Exchange Act. All such information provided by the stockholders who are not executive officers or Directors reflects their beneficial ownership as of the dates specified in the footnotes to the table.

Name and Address of Beneficial Owners (1)	Amount of Beneficial Ownership	Percentage Owned
-----	-----	-----
(i) Executive Officers and Directors		
Jerry L. Malis (2) (3)	1,182,276	14.8%
Dr. Leonard I. Malis (2) (6)	961,242	12.1%
Louis Uchitel (2) (7)	311,500	3.9%
Bruce A. Murray (2) (4)	54,000	*
Robert H. Dick (2) (5)	54,000	*
Marguerite Ritchie (8)	20,650	*
Michael Ritchie (9)	23,000	*
(ii) All Executive Officers and Directors as a Group (7 persons)		
	2,606,668	32%
(iii) Certain Beneficial Owners		
Russell U. Schenkman (10)	651,375	8.2%
Daniel Boyer, Ross L. Campbell, W. Ward Carey, Phillip N. Hudson and James I. Steele (11)	781,740	9.9%

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\* less than 1%

- (1) Except as indicated in the footnotes to this table, the persons named in the table have sole voting and investment power with respect to all shares of Common Stock shown as beneficially owned by them.
- (2) The mailing address of Messrs. Malis, Murray, Dick, Uchitel and Dr. Malis,

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directors of the Company, is 136 Green Tree Road, P.O. Box 1179, Oaks, Pennsylvania 19456-1179.

- (3) Includes 50,000 shares issuable to Mr. Malis subject to options exercisable currently or within 60 days. Also includes 200,000 shares held in the Malis Family, L.P., a limited partnership in which Jerry L. Malis is the general partner and possesses voting and investment power.
- (4) Represents 54,000 shares issuable to Mr. Murray subject to options exercisable currently or within 60 days.
- (5) Represents 54,000 shares issuable to Mr. Dick subject to options exercisable currently or within 60 days.
- (6) Includes 400,000 shares held in the Leonard and Ruth Malis Family, L.P., a limited partnership in which Dr. Malis is a general partner and possesses voting and investment power.

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- (7) Includes 40,000 shares issuable to Mr. Uchitel subject to options exercisable currently or within 60 days. Also includes: (i) 15,000 shares owned by Mr. Uchitel's daughter, (ii) 10,500 shares owned by a trust for Mr. Uchitel's granddaughter, and (iii) 31,000 shares owned by Mr. Uchitel's daughter and son-in-law, for which Mr. Uchitel possesses shared investment power.
- (8) Includes 19,750 shares issuable to Ms. Ritchie, subject to options exercisable currently or within 60 days.
- (9) Represents 23,000 shares issuable to Mr. Ritchie subject to options exercisable currently or within 60 days.
- (10) Russell U. Schenkman is the sole trustee of the Frances W. Gilloway Marital Trust and the Frances W. Gilloway Residue Trust (the "Trusts"), which are the record owners of 601,375 shares of the Common Stock and options to purchase 50,000 shares of Common Stock exercisable currently or within 60 days. The Trusts were created under the will of Thomas J. Gilloway to, among other things, own certain shares of the Common Stock beneficially owned by Mr. Gilloway. Mr. Schenkman in his capacity as trustee of the Trusts possesses sole voting and investment power with respect to the shares and therefore is deemed to beneficially own, under applicable regulations of the Securities and Exchange Commission, the 651,375 shares owned of record by the Trusts. Mr. Schenkman disclaims beneficial ownership of all shares owned of record by the Trusts. The address of Mr. Schenkman is 13 Roszel Road, Princeton, New Jersey 08540. Based on information set forth in a Schedule 13G filed under the Exchange Act on January 16, 2002.
- (11) These four persons have formed a stockholders' committee and have agreed to operate as a "group" for purposes of Section 13(d) of the Exchange Act. The beneficial ownership of each of these persons based on the information set forth in a Schedule 13D filed under the Exchange Act on February 22, 2002 is set forth below. Daniel Boyer, whose address is c/o Boenning & Scattergood, 601 High Street, Pottstown, PA 19464, beneficially owns 317,390 shares, including the following shares that he shares voting and investment power: 74,390 shares owned by his wife, Ute Boyer; 75,650 shares owned by his daughter, Kim Boyer; and 55,200 shares owned by his son, Alex Boyer. Ross L. Campbell, whose address is 675 Lewis Lane, Ambler, PA 19002, beneficially owns 158,100 shares, which includes 12,000 shares held by him as co-trustee for which he shares voting and investment power and the following shares for which he shares voting and dispositive power: 15,000 shares owned by his wife, Marcia W. Campbell; 6,000 shares owned by his daughter, Jan Campbell; and 6,000 shares owned by his son Ross L. Campbell, Jr. W. Ward Carey, whose address is 21 E. 66th Street, New York, NY 10021 beneficially owns 113,000 shares, which includes: 7,400 shares as to which he shares voting and investment power with his wife, Patricia Carey; 6,000 shares as to which he shares voting and investment power with his son, Alexander Carey; 16,700 shares as to which he shares voting and investment power with his daughter, Daphne Carey; and 2,900 shares as to which he

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shares voting and investment power with his daughter, Cynthia A. Carey. Phillip N. Hudson, whose address is P.O. Box 160892, San Antonio, TX 78280, beneficiary owns 140,600 shares. James I. Steele, whose address is 30982 Clubhouse Lane, Evergreen, CO 80439, beneficially owns 52,650 shares, including the following shares that he shares voting and investment power: 10,850 shares owned by his mother, F. Irene Steele; and 4,000 shares owned by his wife, Peggy Steele.

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### EQUITY COMPENSATION PLAN INFORMATION

Plan Category	Number of shares of common stock to be issued upon exercise of outstanding options, warrants and rights at September 30, 2004	Weighted average exercise price of outstanding options warrants and rights	Number of sh common stock a for future issu equity compe plans at Septe 2004 (excludin reflected in t column
-----	-----	-----	-----
Equity compensation plans approved by security holders	507,250	\$2.01	201,500
Equity compensation plans not approved by security holders	0	0	0
	-----	-----	-----
Total:	507,250 =====	\$2.01 =====	201,500 =====

#### Item 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS.

Since the late 1960's, Dr. Leonard I. Malis, one of the Company's directors, on an individual basis has been a party to consulting and other agreements with Codman & Shurtleff, Inc., the Company's principal customer. Since 1983, Dr. Malis has been a party to an agreement with Codman & Shurtleff, Inc. under which Dr. Malis receives royalty payments for the use of his Malis(R) trademark on products sold by Codman & Shurtleff, Inc. to end users, including products the Company sells to Codman & Shurtleff, Inc. Dr. Malis has developed and in the future may develop passive hand instruments for Codman & Shurtleff, Inc. with no pecuniary benefits to the Company. On October 22, 2004, the Company entered into an option agreement with Dr. Malis, under which, the Company was granted an option to acquire the Malis(R) trademark from Dr. Malis at any time over a period of five years. The Company paid Dr. Malis \$35,000 for the option and is required to pay an annual fee before each anniversary of the option agreement of \$20,000 for each of the first two anniversaries and increasing to \$60,000 before the fourth anniversary in order to continue the option in effect from year to year. In the event that the Company decides to exercise the option, Dr. Malis will be paid \$4,157,504, which includes interest, in twenty six equal quarterly installments of \$159,904, and which will be evidenced by a promissory note secured by a security interest in the trademark and certain of the Company's patents.

The Company has entered into a five year lease commencing on July 1, 2000 for approximately 4,200 square feet of office and warehouse space at a base

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monthly rent of \$4,643 with GMM Associates, a Pennsylvania general partnership. Two of the partners of GMM Associates are Jerry L. Malis and Leonard I. Malis, principal shareholders as well as directors of the Company. The related expense for this lease for the year ended September 30, 2004 was \$60,517. The Company believes the rental payments reflect fair rental value for the space.

For the year ended September 30, 2004, the Company paid legal fees in the amount of \$90,060, plus out-of-pocket expenses, to a law firm in which a son-in-law of Jerry L. Malis is a partner.

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For the 2002 and 2003 fiscal years and through May 2004, the Company retained R. H. Dick & Company, Inc., an investment banking and business consulting company owned by Robert H. Dick, one of the Company's directors, to perform investment banking and business consulting services. For the years ended 2003 and 2002, the Company incurred consulting expenses from these services of \$10,000 and \$10,000, respectively, and from October 1, 2003 to May 31, 2004, the Company incurred consulting expenses of \$7,500, excluding reimbursement of out-of-pocket expenses.

Commencing in June 2004, the Company engaged Bruce A. Murray, a director of the Company, to perform certain business consulting services. For the 2004 fiscal year, the fees for these services totaled \$30,025, excluding reimbursement of out-of-pocket expenses.

### Item 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES.

Audit Fees. During fiscal 2004 and 2003, the aggregate fees and expenses billed for professional services rendered by Samuel Klein and Company for the audit of the Company's annual financial statements and review of the Company's quarterly financial statements totaled \$95,568 and \$81,950, respectively.

Audit - Related Fees. Samuel Klein and Company did not bill the Company for any professional services during fiscal 2004 and 2003 that are reasonably related to the performance of the audit or review of the Company's financial statements and are not reported under the heading "Audit Fees", above.

Tax Fees. During fiscal 2004 and 2003, the aggregate fees and expenses billed for professional services rendered by Samuel Klein and Company to the Company for tax compliance, tax advice and tax planning totaled \$5,744, and \$4,114, respectively.

All Other Fees. Samuel Klein and Company did not bill the Company for any professional services during fiscal 2004 and 2003 other than those reported under the heading "Audit Fees" and "Tax Fees", above.

The Company's Audit Committee's policy is to pre-approve all audit and permissible non-audit services provided by the Company's independent auditors. These services may include audit services, audit-related services, tax services and other services. Pre-approval is generally provided for up to one year and any pre-approval is detailed as to the particular service or category of service. The independent auditor and management are required to periodically report to the Audit Committee regarding the extent of services provided by the independent auditor in accordance with this pre-approval.

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SIGNATURES



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Pursuant to the requirements of the Section 13 or 15(d) 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 on this 25th day of January, 2005.

VALLEY FORGE SCIENTIFIC CORP.

By: /s/ JERRY L. MALIS

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Jerry L. Malis, President

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