



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

FEB - 7 2012

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Ms. Rebekah Michel, PHR  
Director, Human Resources  
TS3 Technology  
1870 General George Patton Drive  
Franklin, Tennessee 37067

RE: TS3 Technology  
Consent Agreement and Final Order  
Docket No. EPCRA-04-2012-2019(b)

Dear Ms. Michel:

Enclosed please find an executed copy of the Consent Agreement and Final Order that resolves the Emergency Planning and Community Right-to-Know Act of 1986 matter (Docket No. EPCRA-04-2012-2019(b)) involving TS3 Technology. The CAFO was filed with the Regional Hearing Clerk, as required by 40 C.F.R. Part 22 and became effective on the date of the filing.

Also enclosed, please find a copy of the "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of your potential duty to disclose to the Security and Exchange Commission any environmental enforcement actions taken by the Environmental Protection Agency. If you have any questions with regards to the SEC's environmental disclosure requirements, you may refer to the contact phone number at the bottom of the SEC Notice.

If you have any questions, please call Ms. Deanne Grant at (404) 562-9291.

Sincerely,

A handwritten signature in black ink, appearing to read "Caron B. Falconer".

Caron B. Falconer  
Chief  
EPCRA Enforcement Section

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

IN THE MATTER OF: )  
 )  
 TS3 Technology, Inc. )  
 )  
 Respondent. )  
\_\_\_\_\_ )

Docket Number: EPCRA-04-2012-201(9)

HEARING CLERK

2012 FEB -7 AM 7:19

RECEIVED  
EPA REGION IV

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 325 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11045, and pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), codified at 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region 4, United States Environmental Protection Agency (EPA). Respondent is TS3 Technology, Inc.

2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18(b) and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § § 22.13(b) and 22.18(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

3. The authority to take action under Section 325 of EPCRA, 42 U.S.C. § 11045, is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under EPCRA to the Regional Administrators by EPA Delegation 22-3-A, dated May 11, 1994. The Regional Administrator, Region 4, has redelegated this authority to the Director, Air, Pesticides and Toxics Management Division, by EPA Region 4 Delegation 22-3-A, dated November 8, 1994. Pursuant to that delegation, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an enforcement action as the Complainant in this matter.

4. Respondent is TS3 Technology, Inc., a corporation doing business in the State of Tennessee.

5. Respondent is a "person" as defined in Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

6. Respondent owns and operates a "facility" as that term is defined by Section 329(4) of EPCRA, 42 U.S.C. § 11049(4).

7. Respondent's facility is located at 1870 General George Patton Drive, Franklin, Tennessee.

### III. EPA's Allegations of Violations

8. Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. §§ 372.22 and 372.30, require the owner or operator of a facility that (a) has 10 or more full-time employees; (b) is in a Standard Industrial Classification (SIC) major group or industry listed in 40 C.F.R. § 372.23(a) for which the corresponding North American Industry Classification System (NAICS) subsector and industry codes are listed in 40 C.F.R. §§ 372.23(b) and 372.23(c); and (c) manufactured, processed, or otherwise used a toxic chemical listed in Section 313(c) and 40 C.F.R. § 372.65, in excess of an applicable threshold quantity established under EPCRA Section 313(f) and set forth in 40 C.F.R. § 372.25, during the calendar year, to complete and submit a toxic chemical release inventory reporting Form R (EPA Form 9350-1) to the Administrator of EPA and to the State in which the facility is located, by July 1 for the preceding calendar year for each toxic chemical known by the owner or operator to be manufactured, processed, or otherwise used in quantities exceeding the established threshold quantity during the preceding calendar year.

9. As set forth at EPCRA Section 313(i) and 40 C.F.R. § 372.28, the reporting threshold amount for lead, a chemical of special concern, manufactured, processed, or otherwise used at a facility is 100 pounds per calendar year.

10. Respondent has 10 or more full-time employees, as defined at 40 C.F.R. § 372.3 at its facility.

11. Respondent's facility is classified under NAICS code 334419.

12. Respondent's facility is classified in a covered NAICS code as described at 40 C.F.R. § 372.23.

13. Lead is a toxic chemical listed under EPCRA Section 313(c) and 40 C.F.R. § 372.65.

14. Respondent's facility processed lead in excess of the 100 pound threshold quantity established under EPCRA section 313(f) and 40 C.F.R. 372.28, during calendar years 2008, 2007, and 2006.

15. Respondent failed to submit a Form R for lead to the Administrator of EPA and to the official designated by the Governor of the State of Tennessee by July 1 of the required reporting years 2009, 2008 and 2007.

16. Respondent violated the reporting requirements of Section 313 of EPCRA, 42 U.S.C. § 11023, at its facility for calendar years 2008, 2007 and 2006, for lead and is therefore subject to the assessment of penalties under Section 325 of EPCRA, 42 U.S.C. § 11045.

17. Pursuant to Section 325(b) of EPCRA, 42 U.S.C. § 11045(b), and 40 C.F.R. Part 19, EPA may assess a penalty of not more than \$37,500 for each violation of Section 304(a) and (c) of EPCRA, 42 U.S.C. § 11004(a) that occurred after January 12, 2009. Each day a violation of Section 313 continues constitutes a separate violation. Civil penalties under Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), may be assessed by an Administrative Order.

#### IV. Consent Agreement

18. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out above but neither admits nor denies the factual allegations set out above.

19. Respondent waives any right to contest the allegations and its right to appeal the proposed final order accompanying the Consent Agreement.

20. Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CAFO.

21. Respondent agrees to complete the Supplemental Environmental Project (SEP) set forth in this CAFO.

22. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with all relevant requirements of EPCRA at the facility.

23. Compliance with this CAFO shall resolve the allegations of violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States other than as expressed herein. Neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for a violation of any federal or state statute, regulation or permit; to initiate an action for imminent and substantial endangerment; or to pursue criminal enforcement.

24. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of EPCRA.

#### V. Final Order

25. Respondent shall pay a civil penalty of SEVENTEEN THOUSAND NINE HUNDRED THIRTY EIGHT DOLLARS (\$17,938), for the violations alleged in Section III. Payment shall be paid within thirty (30) days of the effective date of this CAFO.

26. Respondent shall pay the penalty by forwarding a cashier's or certified check, payable to: "Treasurer, United States of America," to one of the following addresses:

BY MAIL

U.S. Environmental  
Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

BY OVERNIGHT

U.S. Bank  
Government Lockbox 979077 US  
EPA Fines & Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101  
(314) 418-1028

The check shall reference on its face the name and the Docket Number of the CAFO.

27. At the time of payment, Respondent shall send a separate copy of the check, and a written statement that payment has been made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk  
U.S. EPA, Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

Deanne Grant  
U.S. EPA, Region 4  
Air, Pesticides & Toxics Management Division  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

Saundi Wilson  
U.S. EPA, Region 4  
Office of Environmental Accountability  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

28. For the purposes of state and federal income taxes, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.

VI. Supplemental Environmental Project

29. Respondent shall undertake and complete an Emergency Planning and Preparedness SEP within 45 days of the effective date of this CAFO. Cash donations shall not be used to satisfy the terms and conditions of this CAFO. Respondent shall expend not less than SIXTY SEVEN THOUSAND TWO HUNDRED SIXTY FIVE DOLLARS (\$67,265) for the purchase and donation of the following equipment to the City of Franklin Holmen Fire Department, located at 907 Murfreesboro Road, Franklin, Tennessee:

1	Deluxe Hot Tap Rollover Kit	DHTK2"
1	Stringer Assembly	STASY10"
1	Megger DET3D Resistance Tester	DET3TD
2	Flash Suites	Onesuit Flash XL
2	Flash Suites	Onesuit Flash 2XL
1	Flash Suit Test Kit	2240
1	Tank Pipe & Drum Sealing Kit	Paratech 22-891715
1	Red Sled	R-31 w/ Deluxe equipment Rack
2	Super Vac mountain Mister	mm64
1	Air Compressor	77808
10	Hard Hats	AFR3145 Red
4	Racks	319477
40	Totes	218216
3	Sump pumps	313507
1	Polaris Ranger 6x6	Polaris Ranger 6x6
8	Life Jacket Large	350344
8	Life Jacket Xlarge	350354
1	Snake Eye II Inspection Camera w/C-mount camera	AQBK01CW
1	Snake Eye 4'-7' Telescoping Wand	AQOA074
1	Trailer	TLCB 6'4 x 12 AFJ Gate
1	HD HERO Digital Camera	CHDNH-001
1	Skid Unit	FD-11
1	Prism Lighting	PIL1000g
1	CD Simultest Set I	HMS1805
1	CD Simultest Set V	HMS1806
1	Hazmat Simultest I	HMS1801
1	Hazmat Simultest II	HMS1802
1	Hazmat Simultest III	HMS1803
2	SKED	SKED stretcher complete
1	4 in 1 Velocity Meter	HHF81
1	Utility Thermocouple Handle Prodes	KHSS-18E-RSC-12
1	K Thermocouples	5SRTC-TT-K-24-26
1	General Purpose Thermocouple	KTSS-HH
1	Mini Thermocouple Conentors	SMPW-K-M
1	Hazardous Chemical Desk Reference	
1	Handbook for FR	
1	SAX Dangerous Prop of Industrial Materials	
1	Condensed Chemical Dictionary	
1	Decontamination Showers	HM1001C
1 (unit)	Lettering for Vehicle	Extreme Signs
1 (unit)	Emergency Lighting	American Motor Sports

30. Respondent agrees to the following language concerning the SEP:

Respondent certifies that it is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEP. Respondent further certifies that, to the best of its knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEP, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date of this settlement (unless the project was barred from funding as statutorily ineligible). For the purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee, or other mechanism for providing federal financial assistance whose financial performance period has not yet expired.

31. Respondent agrees that EPA may conduct an inspection at any time in order to confirm that the SEP is being undertaken in conformity with the representations made herein.

32. No later than thirty (30) calendar days after the completion of the project, Respondent shall submit to EPA a SEP Completion Report. The Report shall be sent to the EPCRA Enforcement Section, to the attention of Deanne Grant at the address provided above. The Report shall include the following:

a) an affidavit from an authorized company official, attesting that the SEP has been completed or explaining in detail any failure to complete it; and

(b) copies of appropriate documentation, including invoices and receipts, showing a total expenditure of SIXTY SEVEN THOUSAND TWO HUNDRED SIXTY FIVE DOLLARS (\$67,265), or greater, was spent to purchase and donate equipment to the City of Franklin – Holmen Fire Department described in paragraph 29.

Upon request, Respondent shall send EPA any additional documentation requested by EPA.

33. For Federal Income Tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.

34. Respondent certifies that, as of the date this CAFO is signed, it is not required to perform any part of the SEP by any federal, state or local law, regulation, permit or order, or by any agreement or grant. Respondent further certifies that, as of this date, it has not received and is not negotiating to receive, credit for any part of the SEP in any other enforcement action of any kind.

35. Any public statement, oral or written, by Respondent making any reference to the SEP shall include the following language:

"This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for violations of Section 313 of the Emergency Planning and Community Right-to-Know Act of 1986."

36. If Respondent fails to timely and fully complete any part of the SEP, including failure to spend the minimum amount of SIXTY SEVEN THOUSAND TWO HUNDRED SIXTY FIVE DOLLARS (\$67,265), Respondent shall pay to the United States a stipulated penalty of the difference between \$67,265 and the actual SEP expenditure.

37. If Respondent fails to timely submit a SEP Completion Report as required by this CAFO, Respondent shall pay to the United States a stipulated penalty of \$100 for each calendar day that the report is late.

38. Respondent shall pay any stipulated penalties that accrue under this CAFO within 15 calendar days of the receipt by Respondent of written demand from EPA for such penalties. Such penalties shall be paid in accordance with the procedures set forth above for the payment of the civil penalty.

39. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the effective date of this CAFO if the penalty is not paid by the date required. Interest will be assessed at the rate established by the Secretary of Treasury pursuant to 31 U.S.C. § 3717. A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorney fees. In addition, a penalty charge will be assessed on any portion of the debt that remains delinquent more than ninety (90) days after payment is due.

40. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

41. This CAFO shall be binding upon the Respondent, its successors and assigns.

42. The following individual is authorized to receive service for EPA in this proceeding;

Caron B. Falconer  
U.S. EPA, Region 4  
Air, Pesticides & Toxic Management Division  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303  
(404) 562-8451

43. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally bind that party to it.



VI. Effective Date

44. The effective date of this CAFO shall be the date upon which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

TS3 Technology, Inc.

By: David Brunson Date: 1/24/12  
Name: David Brunson (Typed or Printed)  
Title: Chairman CEO (Typed or Printed)

U.S. Environmental Protection Agency

By: Beverly H. Banister Date: 1/23/2012  
Beverly H. Banister  
Director  
Air, Pesticides & Toxics  
Management Division

APPROVED AND SO ORDERED this 6<sup>th</sup> day of February, 2012.

Susan B. Schub  
Susan B. Schub  
Regional Judicial Officer

CERTIFICATE OF SERVICE

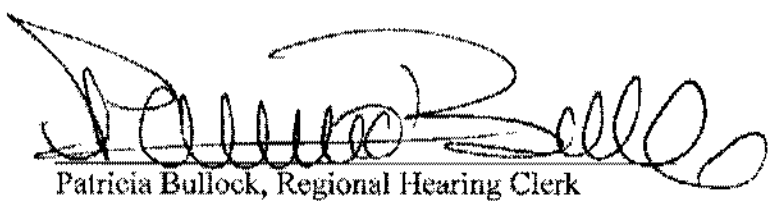
I hereby certify that I have this day served a true and correct copy of the foregoing  
Consent Agreement and Final Order: in the Matter of TS3 Technology, Inc., Docket Number  
EPCRA-04-2012-2019(b), on the parties listed below in the manner indicated:

Caron B. Falconer (Via EPA's internal mail)  
U.S. EPA, Region 4  
Air, Pesticides & Toxics Management Division  
61 Forsyth Street  
Atlanta, GA 30303

Robert Caplan (Via EPA's internal mail)  
U.S. EPA, Region 4  
Office of Environmental Accountability  
61 Forsyth Street  
Atlanta, GA 30303

Ms. Rebekah Michel, PIIR (Via Certified Mail - Return Receipt  
Director, Human Resources Requested)  
TS3 Technology  
1870 General George Patton Drive  
Franklin, TN 37067

Date: 2-7-12



Patricia Bullock, Regional Hearing Clerk  
United States Environmental  
Protection Agency, Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, GA 30303  
(404) 562-9686