

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

**Technicolor Home Entertainment
Services Southeast LLC
Huntsville, Madison County, Alabama
EPA Identification Number ALD982098311**

Consent Order No. 21-XXX-CHW

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (“the Department” or “ADEM”) and Technicolor Home Entertainment Services Southeast LLC (“Technicolor”) pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-16, as amended, and the Alabama Hazardous Wastes Management and Minimization Act (“AHWMMA”), Ala. Code §§ 22-30-1 to 22-30-24, as amended, and the regulations promulgated pursuant thereto.

STIPULATIONS

1. Technicolor operated a DVD packaging facility (the “Facility”) with EPA Identification Number ALD982098311 located at 4905 Moores Mill Road in Huntsville, Madison County, Alabama (the “Facility”). Until July 2020, Technicolor also manufactured pre-recorded multimedia products (e.g. DVDs and Blue-ray discs) at the Facility. As a result of its operations and according to the definitions set forth in ADEM Admin. Code Div. 14, Technicolor was classified as a “Large Quantity Generator (“LQG”) of hazardous waste in 2019, a Small Quantity Generator (“SQG”) of hazardous waste in 2020, and an LQG of hazardous waste in 2021.

2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 to 22-22A-16, as amended.

3. Pursuant to Ala. Code § 22-22A-4(n), the Department is the state agency responsible for the promulgation and enforcement of solid and hazardous waste regulations in accordance with the federal Solid Waste Disposal Act §§ 1002 to 11012, 42 U.S.C. §§ 6901 to 6992k, as amended.

In addition, the Department is authorized to administer and enforce the provisions of the AHWMMMA, Ala. Code §§ 22-30-1 to 22-30-24, as amended.

DEPARTMENT'S CONTENTIONS

4. On April 13, 2021, a representative of the Department's Industrial Hazardous Waste Branch conducted a compliance evaluation inspection ("CEI") of Technicolor. The CEI and a review of Technicolor's compliance showed the following:

(a) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)10., an LQG must prevent unknowing entry into the central accumulation area for hazardous waste.

Technicolor stored hazardous waste, not in satellite accumulation, in the Central Plant Area and failed to adequately restrict access to that area.

(b) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)1.(vi)b., "No Smoking" signs must be conspicuously placed wherever there is a hazard from ignitable or reactive hazardous waste.

Technicolor failed to post "No Smoking" signs around hazardous waste stored in the Central Plant Area.

(c) In pertinent part, ADEM Admin. Code r. 335-14-3-.01(7)(a)10.(ii), provides that a sign with the legend "Danger--Unauthorized Personnel Keep Out" must be posted at each entrance to the central accumulation area, and at other locations, in sufficient numbers to be seen from any approach. The legend must be written in English and in any other language predominant in the workplace and the area surrounding the facility, and must be legible from a distance of at least 25 feet. Existing signs with a legend other than "Danger—Unauthorized Personnel Keep Out" may be used if the legend on the sign indicates that only authorized personnel are allowed to enter the active portion, and that entry onto the active portion can be dangerous.

Technicolor failed to post the required signage for hazardous wastes stored in the Central Plant Area.

(d) Pursuant to ADEM Admin. Code r. 335-14-3-01(7)(a)5.(i)a., an LQG must mark or label its containers with the words "Hazardous Waste".

Technicolor failed to label seven 55-gallon drums, one 35-gallon container, and one cubic yard box of hazardous waste stored in the Central Plant Area with the words “Hazardous Waste”.

(e) Pursuant to ADEM Admin. Code r. 335-14-3-01(7)(a)5.(i)b., an LQG must mark or label its containers with an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704).

Technicolor failed to mark seven 55-gallon drums, one 35-gallon container, and one cubic yard box of hazardous waste stored in the Central Plant Area with an identification of the hazards.

(f) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)5.(i)c., an LQG must mark or label its containers with the date upon which each period of accumulation begins clearly visible for inspection on each container.

Technicolor failed to mark seven 55-gallon drums, one 35-gallon container, and one cubic yard box of hazardous waste stored in the Central Plant Area with the accumulation start date.

(g) Pursuant to ADEM Admin. Code r. 335-14-3-.04(1)(a), LQGs and SQGs must keep a copy of each manifest signed in accordance with 335-14-3-.02(4)(a) for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.

Technicolor failed to provide for review all manifests for the last three years.

(h) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)1.(v), at least weekly, the LQG must inspect central accumulation areas. The LQG must look for leaking containers and

for deterioration of containers caused by corrosion or other factors. The LQG must record inspections in an inspection log or summary. The LQG must keep these records for at least three years from the date of inspection. At a minimum, these records must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

Technicolor failed to conduct and document weekly inspections of the following hazardous waste accumulation areas:

- Central Plant,
- 90-Day Hazardous Waste Storage Area.

(i) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)7.(i)a., LQG facility personnel must successfully complete a program of classroom instruction, online training (e.g., computer-based or electronic), or on-the-job training that teaches them to perform their duties in a way that ensures compliance with 335- 14-3. The LQG must ensure that this program includes all the elements described in the document required under 335-14-3-.01(7)(a)7.(iv).

Technicolor failed to provide training records for employees that handle hazardous waste.

(j) Pursuant to ADEM Admin. Code r. 335-14-3-.02(7), an LQG or SQG who initiates a shipment of hazardous waste must certify to one of the following statements in Item 15 of the uniform hazardous waste manifest: (a) "I am a large quantity generator. I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment." or (b) "I am a small quantity generator. I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford."

Technicolor failed to provide a waste minimization plan for review.

(k) Pursuant to ADEM Admin. Code r. 335-14-3-.14(10)(a), an LQG must submit a copy of the required contingency plan and all revisions to all local emergency responders

(i.e., law enforcement agencies, fire departments, hospitals and State and local emergency response teams that may be called upon to provide emergency services).

Technicolor failed to provide documentation that it had sent the facility's contingency plan and all revisions to all local emergency responders.

(l) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a)7.(iv)a., the LQG must maintain records of the job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job.

Technicolor failed to provide for review the job title for each position that handles hazardous waste.

(m) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)7.(iv)b., the LQG must maintain records of the written job description for each position listed under 335-14-6-.02(7)(7.(iv)a. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position.

Technicolor failed to provide for review the job description for each position that handles hazardous waste.

(n) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)7.(iv)c., the LQG must maintain records of the written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under 335-14-3-.01(7)(a)7.(iv)a.

Technicolor failed to provide a written description of the type and amount of training given to each person that handles hazardous waste.

(o) Pursuant to ADEM Admin. Code r. 335-14-3-.01(7)(a), an LQG may accumulate hazardous waste on site without a permit or interim status provided the generator accumulates hazardous waste on site for no more than 90 days, unless it has been granted an extension to the 90-day period. Pursuant to ADEM Admin. Code r. 335-14-3-.01(6)(b), an SQG may accumulate hazardous waste on site without a permit or interim status provided the generator

accumulates hazardous waste on site for no more than 180 days. ADEM Admin. Code r. 335-14-8-.01(1)(c) requires a permit for the "treatment", "storage", and "disposal" of any "hazardous waste" as identified or listed in Chapter 335-14-2.

Technicolor notified as a LQG of hazardous waste in 2019. The facility stored one 55-gallon drum of hazardous onsite since 12/12/2019 (more than 90 days) without a permit. Technicolor notified as an SQG in 2020. The facility stored one 55-gallon drum of hazardous waste onsite since 09/14/2020 (more than 180 days) without a permit.

5. On May 11, 2021, the Department issued a Notice of Violation to Technicolor, which cited violations of the hazardous waste regulations that were discovered during the CEI.

6. On August 31, 2021, the Department received Technicolor's response to the aforementioned Notice of Violation.

7. Pursuant to Ala. Code § 22-22A-5(18), as amended, in determining the amount of any penalty, the Department must give consideration to the seriousness of the violation(s), including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such person; the nature, extent, and degree of success of such person's efforts to minimize or mitigate the effects of such violation(s) upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty. Any civil penalty assessed pursuant to this authority shall not exceed \$25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the department shall not exceed \$250,000.00. Each day such a violation continues shall constitute a separate violation. In arriving at this civil penalty, the Department has considered the following:

(a) SERIOUSNESS OF THE VIOLATIONS: In arriving at the civil penalty, the Department considered the general nature and magnitude of the violation(s) along with the available evidence of irreparable harm to the environment and threat to the health or safety of the public.

(b) STANDARD OF CARE: In considering the standard of care manifested by Technicolor, the Department noted that the violations described above were non-technical and easily avoidable. Consequently, Technicolor has failed to exhibit a standard of care commensurate with the applicable regulatory standards.

(c) ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department has determined that there was no significant economic benefit gained by Technicolor as a result of the violations referenced herein.

(d) EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: There are no known environmental effects to mitigate as a result of the alleged violations.

(e) HISTORY OF PREVIOUS VIOLATIONS: Based on a review of Department records, Technicolor has a history of previous violations and the penalty reflects that history.

(f) ABILITY TO PAY: The Department does not have any evidence indicating that Technicolor is unable to pay the civil penalty.

(g) OTHER FACTORS: It should be noted that this Special Order by Consent is a negotiated settlement and, therefore, the Department has compromised the amount of the penalty that is warranted in the spirit of cooperation and the desire to resolve this matter amicably without incurring the unwarranted expense of litigation (see Attachment A, which is made a part of the Department's Contentions).

8. The Department neither admits nor denies Technicolor's contentions, which are set forth below. The Department has agreed to the terms of this Special Order by Consent in an effort to resolve the alleged violations cited herein without the unwarranted expenditure of State resources in further prosecuting the alleged violations. The Department has determined that the terms contemplated in this Special Order by Consent are in the best interest of the citizens of Alabama.

FACILITY'S CONTENTIONS

9. Technicolor has been and continues to be committed to operating the Facility and its other operations in full compliance with applicable laws and regulations governing the generation, storage, and disposal of hazardous and solid wastes. Technicolor strives to maintain good relationships with all of its various stakeholders and to conduct its operations in compliance with applicable laws and regulations. Technicolor has been forthcoming and transparent with ADEM regarding the closure of the Facility and challenges associated with closing the Facility while maintaining access to and control of certain records that must be maintained after the Facility is vacated.

10. At the time of the inspection, Technicolor had already announced the intention of the scheduled Facility closure and was working towards vacating and returning the Facility to the property owner. Employees were working diligently to close the Facility and ensure that the closure activities were in compliance with applicable requirements and was protective of human health and the environment. As of August 13, 2021, Technicolor has vacated the Facility and no longer generates any hazardous waste at the Facility.

11. Following the inspection and receipt of the Notice of Violation, Technicolor took all of the necessary steps prior to Facility closure to transport for disposal all hazardous waste generated at the Facility in accordance with applicable law. All records regarding the generation, storage, and disposal of hazardous wastes generated at the Facility during Technicolor's operation of the Facility and all records of employee training relating to hazardous waste management have been moved to an affiliate's facility located at 4155 East Holmes Road, Memphis TN 38118.

12. There were no leaks or releases of hazardous waste from the Facility. There was no harm to the environment or threat to the health or safety of the public as a result of the above violations or Technicolor's operation and closure of the Facility.

13. Technicolor neither admits nor denies the Department's contentions. Technicolor

consents to abide by the terms of this Special Order by Consent and to pay the civil penalty assessed herein.

ORDER

Therefore, without admitting that it has violated any statutes or regulations, Technicolor, along with the Department, desires to resolve and settle the alleged violations cited above. The Department has carefully considered the facts available to it and has considered the six penalty factors enumerated in Ala. Code § 22-22A-5(18)c. , as amended, as well as the need for timely and effective enforcement and the Department believes that the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and Technicolor agree to enter into this Special Order by Consent with the following terms and conditions:

A. Technicolor agrees to pay to the Department a civil penalty in the amount of \$13,320 in settlement of the violations alleged herein within forty-five days of the effective date of this Special Order by Consent. Failure to pay the civil penalty within forty-five days from the effective date may result in the Department's filing a civil action in the Circuit Court of Montgomery County to recover the civil penalty.

B. Technicolor agrees that all penalties due pursuant to this Special Order by Consent shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check or other payment methods acceptable to the Department and shall be remitted to:

Office of General Counsel

Alabama Department of Environmental Management

P.O. Box 301463

Montgomery, Alabama 36130-1463

Any payment submitted to the Department pursuant to this Special Order by Consent shall reference Technicolor's name and address, and the ADEM Administrative Order number of this action.

C. Technicolor agrees that, independent of this Special Order by Consent, Technicolor shall comply with all terms, conditions, and limitations of the AHWMMMA, Ala. Code §§ 22-30-1 to 22-30-24, as amended, and the regulations promulgated pursuant thereto.

D. That, within 45 days of the effective date of this Special Order by Consent, Technicolor shall provide all information to the Department required by ADEM Admin. Code r. 335-14-3-.01(7)(a)8.(i).

E. The Department and Technicolor (“parties”) agree that this Special Order by Consent shall apply to and be binding upon both parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Special Order by Consent certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this Special Order by Consent, to execute the Special Order by Consent on behalf of the party represented, and to legally bind such party.

F. The parties agree that, subject to the terms of these provisions and subject to provisions otherwise provided by statute, this Special Order by Consent is intended to operate as a full resolution of the alleged violations cited herein.

G. Technicolor agrees that it is not relieved from any liability if it fails to comply with any provision of this Special Order by Consent.

H. For purposes of this Special Order by Consent only, Technicolor agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in the Circuit Court of Montgomery County.

I. The parties agree that the sole purpose of this Special Order by Consent is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances referenced herein. Should facts and circumstances be discovered in the future which would constitute possible violations not addressed in this Special Order by Consent, then such future violations may be addressed in orders as may be issued by the Director, litigation initiated by the Department or such other enforcement actions as may be appropriate. Technicolor agrees not to object to such future orders, litigation, or enforcement actions based on the issuance of this Special

Order by Consent so long as such future orders, litigation, or other enforcement actions address new matters discovered after the effective date of this Special Order by Consent.

J. The parties agree that this Special Order by Consent shall be considered final and effective immediately upon signature of all parties. This Special Order by Consent shall not be appealable, and Technicolor does hereby waive any hearing on the terms and conditions of this Special Order by Consent.

K. The parties agree that this Special Order by Consent shall not affect Technicolor's obligation to comply with any federal, State or local laws or regulations.

L. The parties agree that final approval and entry into this Special Order by Consent are subject to the requirements that the Department give notice of proposed orders to the public, and that the public have at least thirty days within which to comment on the order.

M. The parties agree that, should any provision of this Special Order by Consent be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with federal or State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

N. The parties agree that any modifications of this Special Order by Consent must be agreed to in writing signed by both parties.

O. The parties agree that, except as otherwise set forth herein, this Special Order by Consent is not and shall not be interpreted to be a permit or modification of an existing permit under federal, State, or local law, and shall not be construed to waive or relieve Technicolor of its obligations to comply in the future with any permit.

Executed in duplicate, with each part being an original.

**TECHNICOLOR HOME ENTERTAINMENT
SERVICES SOUTHEAST LLC**

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

DocuSigned by:
Patricia Dave
A5051034EEEB446...

(Signature of Authorized Representative)

Lance R. LeFleur
Director

Patricia Dave

(Printed Name)

CFO

(Printed Title)

11/12/2021

(Date Signed)

(Date Executed)

Attachment A

Technicolor Home Entertainment Services Southeast LLC
Huntsville, Madison County
Facility ID No. ALD982098311

Violation	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violation*
Failure to prevent unknowing entry into the hazardous waste storage areas	1	\$1,000	\$500	\$0
Failure to post "No Smoking" signs	1	\$100	\$50	\$0
Failure to post required "Danger--Unauthorized Personnel Keep Out" signs	1	\$200	\$100	\$0
Failure to mark all hazardous waste containers with the words "Hazardous Waste"	1	\$200	\$100	\$0
Failure to mark all hazardous waste containers with an indication of the hazards	1	\$200	\$100	\$0
Failure to mark all hazardous waste containers with an accumulation start date	1	\$200	\$100	\$0
Failure to provide for review all manifests for the previous three years	1	\$500	\$250	\$0
Failure to conduct and document weekly inspections of all areas where hazardous waste is stored	1	\$1,000	\$100	\$0
Failure to provide training records for employees that handle hazardous waste	1	\$100	\$50	\$0
Failure to provide a waste minimization plan for review	1	\$100	\$50	\$50
Failure to provide documentation that the facility's contingency plan had been sent to all local emergency responders	1	\$100	\$50	\$0
Failure to provide for review the job title for each position that handles hazardous waste	1	\$100	\$50	\$0
Failure to provide for review the job description for each position that handles hazardous waste	1	\$100	\$50	\$0

Failure to provide a written description of the type and amount of training needed for each person that handles hazardous waste	1	\$100	\$50	\$0	
Failure to obtain a permit prior to storing hazardous waste	1	\$10,000	\$1,000	\$0	Total of Three Factors
TOTAL PER FACTOR		\$14,000	\$2,600	\$50	\$16,650

Adjustments to Amount of Initial Penalty

Economic Benefit (+)	\$0	Amount of Initial Penalty	\$16,650
Mitigating Factors (-)	\$0	Total Adjustments (+/-)	-\$3,330
Ability to Pay (-)	\$0	FINAL PENALTY	\$13,320
Other Factors (+/-)	-\$3,330		

Footnotes

* See the "FINDINGS" portion of the Order for a detailed description of each violation and the penalty factors.

