



STATE OF DELAWARE
**DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL**

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OFFICE OF THE
SECRETARY

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Secretary's Order No: 2020-W-0009

RE: Application of NaturaLawn of America Inc., for a Distribution and Marketing Permit for the distribution and marketing of Class A/Exceptional Quality biosolids fertilizer products throughout the State of Delaware.

Date of Issuance: March 30, 2020

Effective Date: March 30, 2020

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department," "DNREC") pursuant to 7 *Del.C.* §§6003, 6004, 6006(4), and all other relevant statutory authority, the Department issues this Order, approving the Distribution and Marketing Permit to allow NaturaLawn of America Inc. ("Applicant," "NaturaLawn") to distribute and market Class A/Exceptional Quality biosolids fertilizer products throughout the State of Delaware. The following findings of fact based on the record, reasons and conclusions are entered as an Order of the Secretary in the above-referenced permitting proceeding.

Background, Procedural History and Findings of Fact

NaturaLawn of America Inc. seeks a Distribution and Marketing Permit for the distribution and marketing of biosolids that have been treated to meet "exceptional quality" or "EQ" standards ("Application"). The Applicant proposes the use of a Class A/ EQ biosolid, containing sludge that is treated at an out-of-state treatment plant.

Pursuant to Part III, 7 DE Admin. Code 7103, *Guidance and Regulations Governing the Land Treatment of Wastes* (“Biosolids Regulations”), the distribution of sludge, treated sludge or any product containing sludge generated outside the State of Delaware must meet the standards for EQ as outlined in the Biosolids Regulations. In accordance with the Biosolid Regulations, all applicers of sludge to land within the State of Delaware must comply with the requirements set forth by the United States Environmental Protection Agency (“EPA”) at 40 CFR Part 503 – “*Standards for the Use of Disposal of Sewage Sludge*” (“EPA’s 503 Regulations Governing Biosolids”).

The Applicant proposes to use a treated byproduct of the wastewater reclamation process at the Metropolitan Water Reclamation District of Greater Chicago’s Stickney Water Reclamation Plant located at Cicero, Illinois. The dewatered sludge will then be treated at Metropolitan Biosolids Management, LLC (“MBM”) where the sludge is processed to further reduce pathogens through a process known as heat drying. During the heat drying process, the sewage sludge is heated to at least 176°F and the solids content is increased to at least 90% solids, thus creating a “Class A” biosolids product. After analytical testing is completed and the applicable pollutant concentration standards meet the requirements set forth in the Biosolids Regulations, the biosolids product is designated as “EQ.” The EQ biosolids are then transported to blender formulators, where they are blended with fertilizers and packaged to distribute the resultant “exceptional quality” biosolids product throughout Delaware. Through certification from MBM, the Applicant’s biosolid meets the EQ/Class A requirements set forth in the EPA’s 503 Regulations Governing Biosolids.

The EPA is required by the *Clean Water Act*, Section 405(d)(2)(C), to refine its risk assessments by continually looking at contaminants that are present in biosolids, and to establish updates to numeric limits and management practices set forth in the EPA’s 503 Regulations Governing Biosolids. Accordingly, as Delaware Biosolid Regulations are required to be as stringent as the federal requirements, the Department shall adopt and enforce updates as established in the EPA’s 503 Regulations Governing Biosolids. Furthermore, the Department requires the Applicant to ensure that the proposed biosolids distributed and marketed within the State of Delaware meet the Distribution and Marketing Permit conditions.

Procedural History

The Department initially received the Application of NaturaLawn of America, Inc. on August 06, 2019. The Department's Division of Water, Surface Water Discharges Section ("SWDS") provided legal notice of the Application on August 18, 2019. A request for a public hearing was received by the Department on August 25, 2019. Accordingly, on October 20, 2019, the Department gave legal notice for both a public meeting and a public hearing to be held regarding NaturaLawn's pending permit application. Thereafter, the Department held a public meeting and a public hearing at the DNREC offices located at 89 Kings Highway, Dover, Delaware on Tuesday, November 13, 2019. Proper notice of the hearing was provided as required by law.

The Department's person primarily responsible for reviewing this Application, Brian Churchill, Environmental Scientist IV, Division of Water, developed the hearing record ("Record") with the relevant documents in the Department's files. There were five (5) members of the public in attendance at the public meeting and public hearing, and those expressed concerns regarding this matter at the hearing during the public comment period. At the conclusion of the public hearing, the Record was closed. Following the close of record, and at the request of Hearing Officer Theresa L. Newman, the technical experts in the SWDS prepared a Technical Response Memorandum ("TRM") to: (1) address the concerns associated with this pending Application, as set forth in the public comment received by the Department; (2) provide a formal regulatory review of the Applicant's proposed project; and (3) offer the Division of Water's conclusions and recommendations with regard to NaturaLawn's pending Application for the benefit of the Record generated in this matter.

Subsequent to the Department's TRM having been received for the inclusion into the Record, the Department's presiding Hearing Officer, Theresa Newman, prepared a Hearing Officer's Report dated February 13, 2020 ("Report"). Ms. Newman's Report set forth the procedural history, summarized and established the record of information ("Record") relied on in the Report, and provided findings of fact, reasons, and conclusions that recommend the Department approve this Application, subject to the conditions set forth in the draft Distribution and Marketing permit. The Report addressed the public comments received in this matter and concluded that the draft Distribution and Marketing Permit is protective of human health and the environment while being consistent with applicable State and Federal regulations.

Reasons and Conclusions

Based on the Record developed by the Department's experts and established by the Hearing Officer's Report, I find and conclude that the Record developed in this matter supports approval of NaturaLawn of America Inc.'s application for a Distribution and Marketing permit, consistent with Part III, 7 DE Admin. Code 7103, *Guidance and Regulations Governing the Land Treatment of Wastes*. Therefore, the recommendations of the Hearing Officer are hereby adopted, and I direct that a Distribution and Marketing Permit be issued to the Applicant to distribute and market Class A/Exceptional Quality biosolids fertilizer products throughout the State of Delaware.

The following reasons and conclusions are entered:

1. The Department has jurisdiction under 7 Del. C. §§6003, 6004, 6006(4) and all other relevant statutory authority, to make a final determination of the Application after holding a public hearing, considering the public comments, and reviewing all information contained in the Record generated in this matter;
2. The Department provided proper public notice of the Application submitted by NaturaLawn of America, Inc., and of the public meeting and public hearing held on November 13, 2019, and held said hearing to consider all public comment that may be offered on the Application, in a manner required by the law and regulations;

3. The Department has carefully considered the factors required to be weighed in issuing the permit required by this Application, and finds that the Record supports approval of the Application and the issuance of the Distribution and Marketing Permit associated with the same;
4. The Department shall issue the Distribution and Marketing Permit to the Applicant, NaturaLawn of America, Inc., for distribution and marketing of Class A/EQ biosolids throughout the State of Delaware, consistent with the Record developed in this matter. Furthermore, said permit shall include all conditions as set forth in the Department's draft permits, to ensure that Delaware's environment and public health will be protected from harm;
5. The Department has an adequate Record for its decision, and no further public hearing is appropriate or necessary; and
6. The Department shall serve and publish its Order on its internet site, and shall provide legal notice of the Order in the same manner that the Department provided legal notice of the Application.



Shawn M. Garvin
Secretary