Usage of imported food processing waste and food wastes on dairy CAFO farms
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Updates to the New York Environmental Conservation Law General Permit No. GP-0-22-001 (effective January 23, 2023) and other state regulations affect the usage of off-farm food wastes on concentrated animal feeding operation (CAFOs) and in anaerobic digesters (ADs).

BACKGROUND
The 2022 New York Food Donation and Food Scraps Recycling Law requires business and institutional generators of more than two tons of food waste per week (based on an annual average) to recycle food scraps if local capacity is available. Dairy farms can provide food processing waste and food waste generators with acceptable recycling options, including composting, anaerobic digestion, land application and the feeding of non-animal wastes to dairy cattle. In return, farms can benefit from the value of tipping fees and imported nutrients. However, to remain covered under the CAFO permit and exempt from further regulatory oversight, the following parameters must be met.

If food processing waste is imported for land application to a CAFO farm:

- Records of all imported food processing waste must be kept on the farm, which includes the name and address of the waste generator, date, amount of waste, and specify if the waste was introduced into the manure storage or directly land-applied.
- Off-site food processing waste introduced into the manure storage may not exceed 50 percent of the annual volume of waste put in each manure storage.
- Food processing waste imports onto the farm must be considered in the CNMP and application rates planned according to the NRCS NY 590 Standard. Any land applications should be treated like manure, digestate, and process wastewater (or other forms of nutrients) in the plan and follow the same requirements laid out in the CNMP and CAFO permit.
- Land application of food processing waste shall consider all necessary measures to minimize odors, such as incorporation, injection, and appropriate use of timing to avoid creating a nuisance.
- In addition to standard nutrient testing, imported food wastes containing salts should be tested for chloride as chloride loading cannot exceed 170 lbs. per acre per year.
• Waste without nutritive benefits to crops or soil, such as undigested fats, oils, and grease (FOG), cannot be directly land applied without treatment.

For CAFO farms that own and operate an anaerobic digester (AD), import food processing waste, food waste, or FOG, as a feedstock:
• Records of all materials (manure, food waste, FOG, etc.) entering the AD must be kept on-site, including the type of material, source of the material, and the amount accepted.
• Non-manure waste must not exceed 50 percent of the total annual volume of AD feedstocks.
• Digestate from food waste is not limited to the annual storage volume threshold.

If the AD or manure storage is not owned and operated by the CAFO, or any of the above criteria are not met, such as more than 50 percent of the storage volume or AD feedstock is imported food processing waste, then the facility is no longer exempt from the State’s Solid Waste Regulations (NY-DEC 6 NYCRR Part 361) and registration or permitting with the New York State Department of Environmental Conservation is required. Registration is typically a straightforward process. To help determine if a farm is exempt, needs to register, or needs a permit, a decision chart is here: dec.ny.gov/docs/materials_minerals_pdf/ad361.pdf

If food waste or digestate is exported, sold, or given away, records that include the date, amount, and recipient must be maintained on-site for five years. Provide recipients' representative information on the nutrient content of the material.

If food wastes are fed to dairy cattle, the food wastes must not include animal or poultry wastes (garbage, offal or carcasses) in accordance with Agriculture and Market rules (AGM Article 5 Section 72-a). Furthermore, a Beneficial Use Determination (BUD) petition must be filed, which explains the source and type of food waste, and how it will be stored and used on the farm.

RESOURCES
For brief summaries of the regulatory criteria for organics recycling facilities that fall under 6NYCRR Part 361, visit: dec.ny.gov/chemical/97488.html

For a more comprehensive resource on regulatory oversight of organics recycling facilities in NYS, visit: dec.ny.gov/chemical/98069.html

For complete CAFO permit language, access GP-0-22-001 here: dec.ny.gov/docs/water_pdf/cafopermitgp022001.pdf

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