

The meaning of “livestock” as used in the definition of “Agricultural Commodity”

Agricultural commodity is defined in § 395.2 as “any agricultural commodity, nonprocessed food, feed, fiber, or livestock (including livestock as defined in sec. 602 of the Emergency Livestock Feed Assistance Act of 1988 [7 U.S.C. 1471] and insects).” The current definition of the term “livestock” in § 395.2 restates, without substantive change, the definition of livestock as set forth in the 1988 Act, which FMCSA initially adopted in 2007. As part of the 2018 farm bill, Congress amended the definition of “livestock” in the 1988 Act (Section 12104 of the Agriculture Improvement Act of 2018 [Pub. L. 115-334, 132 Stat. 4490, Dec. 20, 2018]). The 2018 amendment to the 1988 Act deleted the term “fish used for food,” added “llamas, alpacas, live fish, and crawfish,” and removed certain discretion from the Secretary of Agriculture. Because the amendment was self-executing and therefore effective upon enactment on December 20, 2018, transporters of llamas, alpacas, live fish, and crawfish, are covered by the HOS exemption set forth in § 395.1(k)(1) as of as of that date. In a final rule, FMCSA recently revised the definition of “livestock” in § 395.2 to conform to the language of the 2018 amendment (“General Technical, Organizational, Conforming, and Correcting Amendments to the Federal Motor Carrier Safety Regulations” (84 FR 51427, 51430 (Sept. 30, 2019))).

Question: Does the definition of “livestock” in § 395.2 include llamas, alpacas, live fish, and crawfish, as added by the 2018 amendment to the Emergency Livestock Feed Assistance Act of 1988?

Guidance: Yes. The changes made to the definition of “livestock” in the Emergency Livestock Feed Assistance Act of 1988 by the 2018 farm bill, described above, are self-executing and therefore effective as of December 20, 2018. Transporters of llamas, alpacas, live fish, and crawfish, are included within the HOS exemption for drivers transporting agricultural commodities, as set forth in § 395.1(k)(1).

The definition of “livestock” in § 395.2, revised to incorporate the 2018 statutory changes, now reads as follows:

Livestock means cattle, elk, reindeer, bison, horses, deer, sheep, goats, swine, poultry (including egg-producing poultry), llamas, alpacas, live fish, crawfish, and other animals that are part of a foundation herd (including dairy producing cattle) or offspring; or are purchased as part of a normal operation and not to obtain additional benefits under the Emergency Livestock Feed Assistance Act of 1988, as amended.