



**National Farmers Union
Special Orders of Business 2011**

FARMER AND RANCHER BILL OF RIGHTS – GIPSA RULE

WHEREAS, the Grain Inspection, Packers and Stockyards Administration (GIPSA) was created in 1994 as a merger of the Packers and Stockyards Program, established in 1921 under the Packers and Stockyards Act to regulate livestock marketing activities at public stockyards and the operations of meat packers and live poultry dealers, and of the Federal Grain Inspection Service, founded in 1976; and

WHEREAS, the number of U.S. beef and hog operations has been rapidly declining, from 660,000 hog farms in 1980 to only 67,000 today, and, in the same period, 1.27 million beef cattle operations to only 742,000; and

WHEREAS, National Farmers Union commissioned an economic report in 2007 to gauge market concentration by the percentage of the marketplace controlled by the top four participants (known as CR4) which found that the CR4 for beef packing is 81 percent and 65 percent for pork processing; it should be noted that economists consider a CR4 in the range of 40 to 60 percent to be the level at which competition is lost; and

WHEREAS, the Government Accountability Office found in 2000 GIPSA's investigations were planned and conducted primarily by economists without the formal involvement of attorneys from USDA's Office of General Counsel, resulting in a lack of emphasis on assessing potential violations when investigations were initiated and conducted; and

WHEREAS, in several lawsuits filed by producers against processors in the recent past, a 12-person jury found unanimously in favor of the producer due to unfair practices by integrators, but then later an appellate court of three judges reversed the decisions by stripping authority away from the Packers and Stockyards Act (PSA) despite dissenting views from the USDA, the agency that has regulatory authority over the law; and

WHEREAS, the authors of the 2008 Farm Bill recognized certain aspects of the PSA needed clarification and directed USDA to write regulations with respect to the PSA to establish criteria that the secretary of agriculture will consider in determining if certain actions taken by packers, processors or integrators constitute a violation of the PSA; and

WHEREAS, NFU submitted comments to the USDA in response to the GIPSA rule and asked for greater explanation of what business records must be disclosed by packers and processors to justify differential pricing schemes, more clarity with regard to the required submissions of sample contracts, and to ameliorate the consequences a producer may directly or indirectly experience from a full ban on packers selling to other packers; and

WHEREAS, USDA and the Department of Justice held five joint listening sessions throughout the country in 2010 to examine the issue of concentration and competition in agriculture, which was an unprecedented signal that the federal government intends to seriously enforce the PSA;

THEREFORE, BE IT RESOLVED that the secretary of agriculture should push forward with full implementation of the GIPSA rule to return protections to producers from the misuse of market power and consolidation of the beef, pork and poultry industries, as the original law intended; and

BE IT FURTHER RESOLVED that the secretary of agriculture and attorney general are requested to act posthaste on the findings from the five workshops held on consolidation and lack of competition in the agriculture industry in 2010; and

BE IT FURTHER RESOLVED that USDA should recognize that many livestock buyers have multiple independent livestock operator clients and should be treated differently than the buyers representing major packers; and

BE IT FURTHER RESOVLED that USDA should calculate the CR4 for all of the major meat sectors on an annual basis and publish the data in a user-friendly format.