

RESOLUTION # 12

PESTICIDES

1 **WHEREAS**, the Clean Water Act (CWA) controls water pollution by regulating point
2 sources that discharge pollutants in and around waters of the United States through the
3 National Pollutant Discharge Elimination System (NPDES) permit program; and

4 **WHEREAS**, the federal Environmental Protection Agency (EPA) has never required
5 NPDES permits for the application of pesticides for agricultural crop protection, mosquito
6 control, invasive aquatic weed control, forest canopy insect control, or other registered uses
7 of pesticides when properly applied following FIFRA-approved label directions; and

8 **WHEREAS**, a January 2009 U.S. Court of Appeals for the Sixth Circuit decision, in
9 the matter of *National Cotton Council of America et al. v. United States Environmental*
10 *Protection Agency*, vacated an EPA Rule which exempted certain pesticide applications
11 made in, over, or near “waters of the United States” in accordance with the Federal
12 Insecticide, Fungicide, and Rodenticide Act (FIFRA) from the federal Clean Water Act’s
13 permitting requirements; and

14 **WHEREAS**, the Court granted EPA a two-year stay of its decision, during which time
15 EPA was to develop a general permit for four aquatic pesticide uses in the states and
16 territories without delegated CWA authority, and states which have assumed CWA authority
17 may use this permit as a model in developing general permits for their states; and

18 **WHEREAS**, this change requires NJPDES permits for pesticide applications made to
19 or near the “Waters of the State,” meaning the ocean and its estuaries, all springs, streams
20 and bodies of surface or ground water and wetlands, whether natural or artificial, within the
21 boundaries of the State of New Jersey or subject to its jurisdiction, and this would place
22 additional burdens on applicators, impact crops in fields, pastures and forestlands adjacent
23 to farm ponds or wetlands, ditches, streams or rivers, and interfere with the timely application
24 of pesticides to control pests and diseases, and to control mosquitoes which may vector
25 diseases of humans or horses and other livestock.

26 **NOW, THEREFORE, BE IT RESOLVED**, that we, the delegates to the 103rd State
27 Agricultural Convention, assembled in Atlantic City, New Jersey, on February 7-8, 2018, do
28 hereby urge the New Jersey Congressional Delegation to support an effort to amend the
29 Clean Water Act to make it clear that pesticides applied in accordance with their labels are
30 not considered pollutants under the Act.

31 **BE IT FURTHER RESOLVED**, that we urge the New Jersey Congressional
32 Delegation to support all efforts in Washington to exempt agricultural operations and efforts
33 to control or eradicate invasive species and mosquitoes from NPDES permitting
34 requirements for applications of pesticides when applied in accordance with their labels.

35 **BE IT FURTHER RESOLVED**, that, failing such action, we urge the New Jersey
36 Congressional Delegation to support efforts to ensure that the resources required to process
37 these new permits are covered by federal funds and do not strain the already scarce
38 resources of state regulatory agencies or of New Jersey's hard-working farmers.

39 **BE IT FURTHER RESOLVED**, that if the need for a NJPDES permit for the
40 discharge of pesticides in or near waters of the United States is not eliminated by legislative
41 action, we urge the New Jersey Department of Environmental Protection to continue working
42 with the New Jersey Department of Agriculture, New Jersey Farm Bureau, Rutgers
43 University's New Jersey Agricultural Experiment Station and the agricultural industry leaders
44 on this issue to adopt NJPDES permits that are no more stringent than is required by federal
45 law and are as user-friendly as possible for those applying pesticides in or near waters of the
46 United States.

47 **BE IT FURTHER RESOLVED**, that we strongly urge New Jersey's U.S. Senators to
48 support any efforts to exempt agricultural operations and efforts to control or eradicate
49 invasive species and mosquitoes from NPDES permitting requirements for applications of
50 pesticides applied in accordance with their labels.