**RESOLUTION # 33**

**PESTICIDE USAGE IN OR NEAR WATERS OF THE UNITED STATES**

**WHEREAS**, pesticides, when applied by knowledgeable farmers or their designated licensed applicators, have proven to be a safe and invaluable tool for decreasing pest pressures on crops and thereby increasing yields, allowing farmers to use less land to produce more marketable crops and feed an ever-growing population; and

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

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

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

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

**WHEREAS**,this change requires NJPDES permits for pesticide applications made to or near the “Waters of the State,” meaning the ocean and its estuaries, all springs, streams and bodies of surface or ground water and wetlands, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction, and this would place

additional burdens on applicators, impact crops in fields, pastures and forest lands adjacent to farm ponds or wetlands, ditches, streams or rivers, and interfere with the timely application of pesticides to control pests and diseases, and to control mosquitoes which may vector diseases of humans or horses and other livestock; and

**WHEREAS,** various attempts to have Congress remedy this situation, including urging Congress to add corrective language to the most recent five-year Farm Bill, were not successful, meaning the new permitting requirement remains in place; and

**WHEREAS**, the New Jersey Department of Agriculture, New Jersey Farm Bureau and New Jersey Department of Environmental Protection and commodity representatives worked collaboratively to arrive at favorable interpretations for farmers should the permitting requirement be applied broadly to include agricultural modified wetlands areas.

**NOW, THEREFORE, BE IT RESOLVED**, that we, the delegates to the 109th State Agricultural Convention, assembled in Atlantic City, New Jersey, on February 7-8, 2024, do hereby urge the New Jersey Congressional Delegation to support an effort to amend the Clean Water Act to make it clear that pesticides applied in accordance with their labels are not considered pollutants under the Act.

**BE IT FURTHER RESOLVED**, that we urge the New Jersey Congressional Delegation to support an effort to amend the Clean Water Act to make it clear that pesticides applied in accordance with their labels are not considered pollutants under the Act.

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

**BE IT FURTHER RESOLVED**, that we urge Congress to remedy this situation, including adding corrective language addressing it in the upcoming five-year Farm Bill.

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