Testimony of William W. Walker, Ph.D.

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BEFORE THE
HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON WATER RESOURCES AND THE ENVIRONMENT

Mr. Chairman, Honorable Ranking Member Mica, Madam Chairwoman, Honorable Ranking Member Duncan, and distinguished Committee Members, I am Bill Walker, Executive Director of the Mississippi Department of Marine Resources. The Mississippi Department of Marine Resources is a governing agency designed to enhance, protect and conserve marine interests of the state. We manage all marine life, public trust wetlands, adjacent uplands and waterfront areas, and provide for the balanced commercial, recreational, educational and economic uses of these resources consistent with environmental concerns and societal needs.

I am here today on behalf of the commercial and recreational vessel operators of the State of Mississippi. However, the current situation transcends the borders of my state and, if not solved, will have disastrous consequences to all commercial and recreational boaters throughout our great nation. Thank you for inviting me to testify today regarding this very important issue.

As I understand the situation, without Congressional action, small commercial and recreational vessel operators will, effective September 30, 2008, be required to obtain a U.S. Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) permit under the Clean Water Act (CWA) to be able to discharge materials incidental to the normal operation of their vessels. Regulated discharges would include deck washes, grey water, and similar materials.

My job as the Executive Director for the Department of Marine Resources in Mississippi is to protect our coastal waters and the marine resources that inhabit them, and to ensure that the health and safety of residents and visitors who utilize our waters are protected as well. I believe federal and state regulations currently in place are more than adequate to protect our nation's coastal waters as required by the Clean Water Act. Yogi Berra and other wise sages have suggested over the years, "If it ain't broke, don't fix it." Clearly, the provision under the Clean Water Act to exempt small boat operators from having to have NPDES permits to discharge materials incidental to the operation of their vessels has worked quite well for some 34 years and does not need changing at this time. If action is not taken quickly to continue the exemption of small vessels from this NPDES requirement, some 81,000 commercial fishing vessels and 18 million recreational boats currently operating in U.S. waters will be negatively impacted.

This Congress has been given very little time to address this situation, and I applaud the work that has been done so far. To my knowledge, at least four bills have been introduced to date. Senator Ted Stevens has introduced S. 2645 that would provide an exemption for commercial fishing vessels less than 79 feet in length and all recreational boats. Senators Bill Nelson and Barbara Boxer have introduced S. 2766 that exempts all recreational boats from the NPDES requirement, and Congressman Steven LaTourette recently introduced the same bill in the House (H.R. 5949). Finally, Congressman Don Young has introduced H.R. 5594 that would exempt commercial vessels less than 125 feet in length and all recreational boats. Of these four, Congressman Young's bill is the most comprehensive and fair. All small boats, whether commercial or recreational, need to be exempted.

In Mississippi, and I suggest across our nation, commercial and recreational fishermen are under duress. Mississippi's shrimp industry has been a vital part of the economy of Coastal Mississippi throughout its history. This industry, and while I am using shrimp as an example, this is true for ALL of our fisheries, presently faces increasing fuel prices and the continued dumping of foreign shrimp into U.S. markets largely without penalty. Many of these commercial fishermen, after generations have passed the trade down the line, are being forced out of this historical profession. According to NOAA Fisheries data, the shrimp fishing effort in the Gulf of Mexico has declined by 78% since 2003. In Mississippi, shrimp licenses today are roughly half what they were prior to Hurricane Katrina. Those who remain do so by the slimmest of economic margins and are ill-positioned to accept additional financial burdens due to unnecessary permit fees. In terms of all licenses sold in the five Gulf states, total license sales dropped from 6.8 million in 2004 to 5.0 million in 2006, a reduction of 1.8 million licenses sold.

My perception is that this action is lawsuit-driven and that the intent of this litigation was never directed at recreational and smaller commercial vessels. Further, I doubt very much that EPA supports including these vessels under the NPDES requirement, and I further suggest that EPA has neither the desire nor the budget to develop a system to issue and enforce some 13 to 18 million permits to regulate the discharge of materials that are not even considered pollutants by the Agency. In short, it's just good common sense that recreational and smaller commercial vessels continue to be exempted from the NPDES permit requirement, as they have for the past 34 years, and I respectively urge you to move forward quickly with legislation to make that a reality.

Specifically, I ask that you support legislation that exempts all recreational vessels and commercial vessels less than 125 feet in length from the requirement to possess NPDES permits to discharge materials associated with the incidental operations of these vessels.

Again, I would like to thank the Chairman, Honorable Ranking Member Mica, Madam Chairwoman and Honorable Ranking Member Duncan for giving me the opportunity to present this testimony and for their leadership on this issue. If I can be of further service to the Committee as you work toward a reasonable solution of this issue, I stand ready to do so.