

alarming rate, I find recent decisions by the administration to lower the duties, as a result of administrative reviews, to be particularly egregious and out of line. These decisions have exacerbated an already terrible crisis, and weakened my confidence in the administration's willingness to help our timber workers.

Simply put, I believe it is time to move toward a fix for a system that currently appears to be broken.

STATEMENT OF INTENTION ON
S. 2796

Mr. CRAIG. Mr. President, as our colleagues know, Senator DURBIN and I have introduced S. 2796, pertaining to the legal treatment of certification marks, collective marks, and service marks.

Federal law protects all four kinds of marks equally. Specifically, 15 U.S.C. §1503 and 15 U.S.C. §1504 provide that service marks, collective marks, and certification marks "shall be entitled to the protection provided" to trademarks, except where Congress provides otherwise by statute. However, the clarity of the Federal laws on this point has been confused by a recent decision of the Second Circuit Court of Appeals in the case of Idaho Potato Commission v. M&M Produce Farm and Sales. That decision interpreted the Lanham Act as requiring that certification marks should be treated differently from trademarks with respect to "no challenge" provisions.

We introduced S. 2796 to underscore the policy that Congress clearly intended in the first place. I ask the distinguished Senator from Illinois, is that not the case?

Mr. DURBIN. Mr. President, the Senator from Idaho is correct. Let me say to all our colleagues, this bill does not change current law. Our purpose in drafting S. 2796 was to make it clear that, in our view, the Second Circuit reached an incorrect decision in its interpretation of the Lanham Act. S. 2796 would simply restate the original intent of Congress when we enacted the Lanham Act, and indicate our support of the view that these marks are to be given equal legal treatment by the courts, not the anomalous reading that the Second Circuit gave to it in the Idaho Potato Commission decision.

Mr. CRAIG. I thank the Senator for his clarification and hope all our colleagues will join us in this effort to protect important public policy interests.

Mrs. LINCOLN. Mr. President, I thank the chairman for bringing up for consideration legislation providing multiyear reauthorization of the Economic Development Administration. EDA provides critical resources to communities experiencing significant economic distress and dislocation. The partnership between the planning and development districts in my State of Arkansas and the EDA has been a successful one. It is my hope that this

partnership will continue to provide the flexibility that is needed to respond to constantly changing economic conditions.

Mr. BAUCUS. It is my understanding that this legislation preserves current EDA practices and administration of the Planning Partners Program for economic development districts, as currently authorized under Public Works and Economic Development Act of 1965. This is a critical program providing important continual professional and technical assistance to rural and distressed communities to assist in developing economic strategies and implementing infrastructure improvements. It is essential that the legislation maintain this program consistent with current authorization, practices and policies.

Mr. INHOFE. Mr. President, that is correct. The EDA planning program is an important program which provides technical assistance to communities to develop and implement comprehensive economic development strategies. As a matter of fact this bill will provide an historic increase in funding for this important program and will give planning partners the additional resources to address local needs and improve the delivery of federal economic development efforts.

Mrs. LINCOLN. I thank the chairman for his strong leadership and attention to this important matter.

LOCAL LAW ENFORCEMENT ACT
OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On August 27, 2000, Christopher Weninger, who is not gay, was walking home from a party when three men approached him and one asked him for a cigarette. As Weninger handed the man a cigarette, another man punched him in the face and called him "queer." Weninger suffered a broken nose and eye socket. Police investigated the beating as a hate crime.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

NINETY YEARS OF MUSICAL
SUCCESS

Mr. LEAHY. Mr. President, I am proud to salute the American Society of Composers, Authors and Publishers, better known as ASCAP, on its anniversary of 90 years of successful rep-

resentation of America's songwriters and music publishers.

ASCAP formally began when a group of noted songwriters and their supporters gathered at the Hotel Claridge in New York City on February 13, 1914, at a monumental event that would forever change music history. These visionaries, whose members included some of that era's most active and talented songwriters, such as Irving Berlin, James Weldon Johnson, Jerome Kern and John Philip Sousa, began a tradition of outstanding public advocacy on behalf of songwriters that continues to this very day.

Soon after its founding, a prominent member of ASCAP, Victor Herbert, brought a lawsuit against Shanley's Restaurant that established the legal basis for songwriters to protect their "performing right" in the music they created. In a legal battle that took 2 years to reach the U.S. Supreme Court, ASCAP finally prevailed in a unanimous opinion written by Justice Oliver Wendell Holmes. Once their legal authority to protect the musical performing right was secure, ASCAP provided its owner-members with several ways to be compensated for the performances of their copyrighted works.

In advancing its members' interests, ASCAP has traditionally welcomed the marketing of new technologies as opportunities to expand the reach of their musical entertainment to new audiences. With the advent of radio, ASCAP began an interdependent relationship that remains one of its most important sources of revenue to this very day. Today, under the leadership of its distinguished chairman and award winning songwriter, Marilyn Bergman, ASCAP licenses over 11,500 local commercial radio stations and 2,000 non-commercial radio stations and ASCAP music is a dominant entertainment feature of our airwaves.

With the Internet explosion, ASCAP responded with its own technological innovations. It fielded ACE, the first interactive online song database, and EZ-Seeker software for tracking Internet performances. Most recently, it has developed Mediaguide which is probably the world's most comprehensive and accurate broadcast tracking system. Thus, creative innovation and vigilance on behalf of its members have been an ASCAP hallmark since its formation.

While ASCAP has had a deep involvement with the innovative telecommunications technologies and the marvels they have added to our lives, its institutional essence is its people. We have all been admirers of many of the more renowned ASCAP members who now number in the many hundreds over the years. They include such extraordinary talents as: Billy Joel, Hal David, Cy Coleman, Garth Brooks, Irving Berlin, Prince, Lyle Lovett, Henry

Mancini, Marvin Hamlich, Louis Armstrong, Arturo Sandoval, Duke Ellington, Madonna, Jimmy Webb, Cole Porter, and, or course, the late Jerry Garcia and his bandmates in the Grateful Dead.

However, as a national organization with international impact ASCAP actually represents an additional 185,000 individual songwriter and music publisher members, who are less well known. They are the critical mass of individual talents that extend into every city, town and hamlet in our country.

Its member-owners and the officers and employees who support them are all a part of the traditional ASCAP family. And they are especially deserving of the congratulations we extend on this auspicious event. In addition, those millions of us who appreciate and enjoy the fruits of their creators' talents have become a part of ASCAP's vast extended family of enthusiasts.

So I am wishing a very happy ninety-third birthday anniversary to ASCAP's members, officers, and employees on behalf of its huge extended family for its years of music success in America and around the world.

GRANT DOLLARS AT EPA

Mr. INHOFE. Mr. President, pursuant to my remarks of October 4 on the management of Federal grant dollars at the U.S. Environmental Protection Agency, I ask unanimous consent that the document entitled "Grants Management at the Environmental Protection Agency—A New Culture Required to Cure a History of Problems" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GRANTS MANAGEMENT AT THE
ENVIRONMENTAL PROTECTION AGENCY
A NEW CULTURE REQUIRED TO CURE A HISTORY
OF PROBLEMS

On March 3, 2004, the U.S. Senate Environment and Public Works Committee held an oversight hearing into grants management at the Environmental Protection Agency (EPA). Testimony offered at the hearing referenced the need for a cultural shift within EPA necessary for new and effective grants management and oversight within EPA. These remarks are compiled from testimony from that hearing and information derived from subsequent oversight conducted by Environment and Public Works Committee (EPW) Majority Staff following that hearing.

EPA GRANTS MANAGEMENT

Each year, the EPA awards over half of its annual budget, totaling over \$4 billion, in grants. This amounts to between seven to eight thousand grants or grant actions taken each year. EPA awards both discretionary and non-discretionary grants to recipients such as state, local, and tribal governments, educational institutions, non-profit organizations, foreign recipients, and individuals among other types of recipients. The U.S. General Accounting Office (GAO) completed a comprehensive report on EPA grant management which it issued in August 2003, compiling ninety-three GAO and EPA Inspector General reports, 1,232 reviews of records of

awarded grants ending in fiscal year 2002, and interviews with EPA grant officials. According to the GAO report, the majority of EPA grant awards are non-discretionary grants awarded to government entities to fund infrastructure and the implementation of federal and state environmental programs. These grant funds are awarded according to statutory or regulatory formulas to the receiving governmental entities. The GAO reported that in fiscal year 2002, the EPA awarded nearly \$3.5 billion in non-discretionary grants. The remaining approximately \$700 million in fiscal year 2002 was awarded in discretionary grants in which EPA officials have the discretion to determine the grant amounts and recipients. Primarily, EPA awards discretionary grants to non-profit organizations, universities, and governmental entities.

EPA grants are awarded and managed both through EPA headquarters and through the ten regional EPA offices. The EPA Office of Administration and Resources Management's Office of Grants and Debarment within agency headquarters develops agency policy for grants management. Overall the program offices within EPA headquarters and the regional offices employ 109 grants specialists responsible for financial oversight of grant awards and over 1,800 project officers responsible for providing technical and programmatic oversight of grant recipients and to monitor the progress of individual grants.

EPA GRANTS MANAGEMENT HISTORY

The EPA Inspector General (OIG), the Office of Management and Budget (OMB), and the GAO have consistently identified deficiencies in EPA grant management in numerous audits and reports. The EPA has consistently identified grants management as either an agency or material weakness in recent annual Federal Managers Financial Integrity Act reports. As recently as September 2003, the OIG again recommended that the EPA again reflect that grants management is a "material weakness."

In its August 2003 comprehensive report on grants management, the GAO provided a condensed history of grants management within the EPA. As described in the report, the OIG first recommended in 1995 and subsequently provided congressional testimony in July 1996 that EPA demonstrated a significant weakness in grants management. This resulted in EPA identifying grants management as a "material weakness" in its 1996 Integrity Act report. In response, the EPA instituted new policies for monitoring grant recipients, providing grants training for project officers, and reviewing grants management effectiveness. Although EPA reported in its 1999 Integrity Act report that weaknesses in grants management had been corrected, the OIG again provided congressional testimony in November 1999 where it disclosed that OIG audits revealed management problems persisted despite new EPA policies. The EPA continued to designate grants management as an "agency weakness" in its 2000 Integrity Act report. In 2002, the OIG and the OMB recommended that EPA designate grants management as a "material weakness" within the agency. Additionally, in its August 2003 report, the GAO stated that EPA continues to encounter the problems in the following areas: (1.) selecting the most qualified applicants, (2.) effectively overseeing grantees, (3.) measuring the environmental results of grants, and (4.) effectively managing grants staff and resources. The U.S. House of Representatives Committee on Transportation and Infrastructure Subcommittee on Water Resources and Environment held a series of hearings in June 2003, October 2003, and July 2004 concerning the continued deficiencies in EPA

grants management based in large part on the GAO findings.

In the President's 2004 Budget submission, the OMB identified four EPA grant programs in which it reported EPA could not adequately measure the effectiveness of those programs. Additionally, in the President's 2005 Budget submission, the OMB evaluated a total of twenty EPA programs including ten grant-based programs. Again, the OMB reported that EPA exhibits weakness in measuring the effectiveness of its grants programs.

On March 3, 2004, the Senate Environment and Public Works Committee held its first oversight hearing into grants management at the EPA. With such a troubling history in EPA grants management, the testimony offered at the hearing led Chairman James Inhofe to characterize the previous 10 years of grant management at EPA in the following manner:

"[F]or the last ten years, the story of grants management is seemingly a revolving door of the EPA IG audits, GAO reports, Congressional hearings, and new EPA policies in response. Even with this constant cycle of criticism, hearings, and new policies, the GAO reported later last year that the EPA continues to demonstrate the same persistent problems in grants management. These problems include a general lack of oversight of the grantees, a lack of oversight of the Agency personnel, a lack of any measurement of environmental results, and a lack of competition in awarding grants. It is imperative that Agency personnel are accountable for monitoring grants—that measurable environmental results are clearly demonstrated."

NEW EPA RESPONSES

In September 2002, the EPA issued a new grant award competition policy which focused on requiring competition in grant awards over \$75,000 with certain exceptions and created the position of grant competition advocate to enforce the policy and recommend changes. Additionally, the GAO reports that in 1998, 1999, and in February 2002, the EPA has issued oversight policies designed to increase grant baseline monitoring, increase in-depth reviews, create annual monitoring plans, and create a grantee compliance database.

In April 2003, the EPA issued its first five-year grants management plan. This plan incorporates the new grants competition and oversight policies establishing the following principal Objectives and Activities for grants management:

Enhance the skills of EPA personnel involved in grants management; promote competition in the award of grants; leverage technology to improve program performance; strengthen EPA oversight of grants; support identifying and achieving environmental outcomes.

SENATE ENVIRONMENT AND PUBLIC WORKS
COMMITTEE OVERSIGHT

At the March 3, 2004, Senate Environment and Public Works Committee oversight hearing into grants management at the EPA, Chairman Inhofe stated:

"I want to announce to all of you today that this Committee is going to take this oversight responsibility seriously in regards to grants management. . . . I am going to make a personal commitment that it is going to change this time. . . . We are going to have accountability and the revolving door will stop."

The Committee heard testimony from the OIG, EPA Office of Administration and Resources Management, GAO, and a representative from Taxpayers for Common Sense. GAO and OIG reiterated the much of the same themes that have characterized their consistent criticisms of grant management at