

108th Congress }  
1st Session }

SENATE

{ REPORT  
{ 108-120

**THE FEDERAL MARITIME COMMISSION  
AUTHORIZATION ACT OF 2003**

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R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND  
TRANSPORTATION

ON

S. 1244



JULY 31 (legislative day, JULY 21), 2003.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

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## Calendar No. 245

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### THE FEDERAL MARITIME COMMISSION AUTHORIZATION ACT OF 2003

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Mr. MCCAIN, from the Committee on Commerce, Science, and  
Transportation, submitted the following

### REPORT

[To accompany S. 1244]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1244) to authorize appropriations for the Federal Maritime Commission for fiscal years 2004 and 2005, having considered the same, reports favorably thereon with an amendment and recommends that the bill (as amended) do pass.

#### PURPOSE OF THE BILL

The primary purpose of S. 1244, as amended, is to authorize funds for the Federal Maritime Commission (FMC) for fiscal years 2004 through 2008.

#### BACKGROUND AND NEEDS

The FMC was established in 1961 as an independent governmental agency following the abolition of the Federal Maritime Board, then part of the Commerce Department. It is responsible for the regulation of shipping in the foreign trades of the United States. The Commission is comprised of 5 members appointed by the President, with the advice and consent of the Senate.

The FMC is primarily engaged in administering the Shipping Act of 1984 as amended by the Ocean Shipping Reform Act of 1996. It also enforces the Foreign Shipping Practices Act and section 19 of the Merchant Marine Act (1920). Under these authorities, the FMC protects shippers, carriers, and others engaged in the foreign commerce of the United States from restrictive rules and regulations of foreign governments and from the practices of foreign-flag carriers that have an adverse effect on shipping in United States

trades. Under the provisions of the Foreign Shipping Practices Act and section 19 of the Merchant Marine Act, 1920, the FMC has the authority to take action against the flag carriers of offending nations, including the imposition of per voyage fees and preventing such carriers from operating in trade with the United States.

In carrying out its duties in regulating the practices of ocean shippers, carriers, intermediaries, and ports, the FMC investigates—upon its own motion or upon the filing of a complaint—discriminatory, unfair, or unreasonable rates, charges, classifications, and practices of ocean common carriers, terminal operators, and freight forwarders operating in the foreign commerce of the United States; receives and reviews agreements among ocean common carriers or marine terminal operators and monitors them to assure that they are not substantially anticompetitive or otherwise in violation of the Shipping Act of 1984; reviews tariff publications under the access and accuracy standards of the Shipping Act of 1984; regulates rates, charges, classifications, rules, and regulations contained in tariffs of carriers controlled by foreign governments and operating in United States trades to ensure that such matters are just and reasonable; and licenses United States-based international ocean transportation intermediaries.

Finally, the FMC also enforces laws related to cruise vessel financial responsibility. Under sections 2 and 3 of P.L. 89-777, the FMC ensures that cruise vessel operators have sufficient resources to pay judgments to passengers for personal injury or death or for nonperformance of a voyage.

The Administration's fiscal year (FY) 2004 budget request for the FMC is \$18.4 million, a \$1,880,000 increase over the FY 2003 appropriated level. S. 1244 would authorize funding for FY 2004 consistent with the level requested by the Administration. The increases in FY 2005 through FY 2008 authorizations are to fund required annual salary and benefit adjustments.

#### SUMMARY OF PROVISIONS

S. 1244 would authorize funding for the activities of the FMC for fiscal years 2004 through 2008. It also would amend current law to provide that the designation of the Chairman of the Commission selected by the President under Section 102(b) of the Reorganization Plan No. 7 of 1961 (5 U.S.C. 903 nt) is subject to Senate confirmation.

Additionally, the bill would require the FMC to report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure on the status of any agreements or discussions with other Federal, State, or local government agencies concerning issues dealing with the sharing of ocean shipping information for the purpose of assisting law enforcement or anti-terrorism efforts.

#### LEGISLATIVE HISTORY

The bill was introduced by Senator McCain on June 11, 2003, and is cosponsored by Senators Hollings, Hutchison, and Inouye. The bill was referred to the Committee on Commerce, Science, and Transportation.

On June 19, 2003, the Committee ordered S. 1244 to be favorably reported with an amendment by a voice vote.

#### ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

#### *S. 1244—Federal Maritime Commission Authorization Act of 2003*

Summary: S. 1244 would authorize appropriations to the Federal Maritime Commission (FMC) for fiscal years 2004 through 2008. CBO estimates that appropriation of the authorized amounts would result in outlays of \$17 million in fiscal year 2004 and \$102 million over the 2004–2008 period. The bill would not affect direct spending or revenues.

The legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: S. 1244 would authorize the appropriation of \$18.4 million to the FMC for fiscal year 2004 and a total of \$104 million over the 2004–2008 period. The estimated budgetary impact of the bill is shown in the following table. The costs of this legislation fall within budget function 400 (transportation). For this estimate, CBO assumes that the amounts authorized by the bill will be appropriated for each year. Estimated outlays are based on historical spending patterns of the FMC.

	By fiscal year, in millions of dollars—					
	2003	2004	2005	2006	2007	2008
SPENDING SUBJECT TO APPROPRIATION						
FMC Spending Under Current Law:						
Budget Authority <sup>1</sup> .....	17	0	0	0	0	0
Estimated Outlays .....	17	1	0	0	0	0
Proposed Changes:						
Authorization Level .....	0	18	20	21	22	23
Estimated Outlays .....	0	17	19	21	22	23
FMC Spending Under S. 1244:						
Authorization Level <sup>1</sup> .....	17	18	20	21	22	23
Estimated Outlays .....	17	18	19	21	22	23

<sup>1</sup> The 2003 level is the amount appropriated for that year.

Intergovernmental and private-sector impact: S. 1244 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Deborah Reis; Impact on State, Local, and Tribal Governments: Greg Waring; and Impact on the Private Sector: Cecil McPherson.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

#### REGULATORY IMPACT STATEMENT

Because S. 1244 does not create any new programs, the legislation would have no additional regulatory impact, and would result in no additional reporting requirements. The legislation would have

no further effect on the number or types of individuals and businesses regulated, the economic impact of such regulation, the personal privacy of affected individuals, or the paperwork required from such individuals and businesses.

S. 1244 as reported by the Committee would authorize appropriations to continue existing Federal Maritime Commission Programs and makes only one change to current law. That change, made by section 3 of the reported bill, would require Senate confirmation of the President's designation of the Commissioner who will serve as Chairman.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

This section states that the Act may be cited as the "Federal Maritime Commission Authorization Act of 2003".

##### *Section 2. Authorization of appropriations*

Section 2 would authorize \$18,471,000 for the activities of the FMC for FY 2004, consistent with the President's budget request. It also would authorize \$19,500,000 for FY 2005; \$20,750,000 for FY 2006; \$21,500,000 for FY 2007; and \$22,575,000 for FY 2008.

##### *Section 3. Chairman designated with Senate confirmation*

Section 3 would make the President's designation of one of the Commissioners to serve as Chairman subject to Senate confirmation.

##### *Section 4. Report on ocean shipping information gathering efforts*

Section 4 would require the FMC to provide the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report within 90 days after the date of enactment on the status of any agreements, or discussions with, other Federal, State, or local government agencies concerning issues dealing with the sharing of ocean shipping information for the purpose of assisting law enforcement or anti-terrorism efforts. The Commission would be further required to include in the report its recommendations on how the Administration's ocean shipping information could be better utilized by it and other Federal agencies to improve port security.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

## REORGANIZATION PLAN NO. 7 OF 1961

## MARITIME FUNCTIONS

## PART I. FEDERAL MARITIME COMMISSION

**§ 101. Creation of Federal Maritime Commission**

(a) There is hereby established a Federal Maritime Commission, hereinafter referred to as the Commission.

(b) The Commission shall not be a part of any executive department or under the authority of the head of any executive department.

**§ 102. Composition of the Commission**

(a) The Commission shall be composed of five Commissioners, who shall be appointed by the President by and with the advice and consent of the Senate. Each Commissioner shall be removable by the President for inefficiency, neglect of duty, or malfeasance in office.

(b) The **【President】** *President, by and with the advice and consent of the Senate*, shall from time to time designate one of the Commissioners to be the Chairman of the Commission.

(c) Of the first five Commissioners appointed hereunder, one shall be appointed for a term expiring on June 30, 1962, one for a term expiring on June 30, 1963, one for a term expiring on June 30, 1964, and two for terms expiring on June 30, 1965. Their successors shall be appointed for terms of four years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the Commissioner whom he succeeds. Not more than three of the Commissioners shall be appointed from the same political party. A vacancy in the office of any such Commissioner shall be filled in the same manner as the original appointment.

(d) A vacancy or vacancies in the membership of Commission shall not impair the power of the Commission to execute its functions. The affirmative vote of a majority of the members serving on the Commission is required to dispose of any matter before the Commission.