

ment is objected to, the Secretary of State promptly shall communicate the objection as provided in article X(3) of the Convention.

(d) APPOINTMENT OF ARBITRATOR.—The Secretary of State, with the concurrence of the Secretary of the department in which the Coast Guard is operating, shall appoint an arbitrator when one is required to resolve a dispute within the meaning of article XIII of the Convention.

(Pub. L. 109-304, §11, Oct. 6, 2006, 120 Stat. 1697.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
80508	46 App.:1507.	Pub. L. 95-208, §8, Dec. 13, 1977, 91 Stat. 1479.

§ 80509. Civil penalty

(a) IN GENERAL.—An owner, agent, or custodian who has been notified of an order issued under section 80505 of this title and fails to take reasonable and prompt action to prevent or stop a container subject to the order from being moved in violation of the order is liable to the United States Government for a civil penalty of not more than \$5,000 for each container moved. Each day the container remains in service while the order is in effect is a separate violation.

(b) ASSESSMENT AND COLLECTION.—

(1) IN GENERAL.—After notice and an opportunity for a hearing, the Secretary of the department in which the Coast Guard is operating shall assess and collect any penalty under this section.

(2) FACTORS TO CONSIDER.—In determining the amount of the penalty, the Secretary shall consider the gravity of the violation, the hazards involved, and the record of the person charged with respect to violations of the Convention, this chapter, or regulations prescribed under this chapter.

(3) REMISSION, MITIGATION, OR COMPROMISE.—The Secretary may remit, mitigate, or compromise a penalty under this section.

(4) ENFORCEMENT.—If a person fails to pay a penalty under this section, the Secretary shall refer the matter to the Attorney General for collection in an appropriate district court of the United States.

(Pub. L. 109-304, §11, Oct. 6, 2006, 120 Stat. 1698.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
80509	46 App.:1505.	Pub. L. 95-208, §6, Dec. 13, 1977, 91 Stat. 1478.

In subsection (a), the words “On and after the date the instrument of ratification is deposited by the United States in accordance with the provisions of article VII of the Convention” are omitted as obsolete. The words “liable to the United States Government for a civil penalty” are substituted for “subject to a civil penalty” for consistency in the revised title.

In subsection (b)(2), the words “In determining the amount of” are substituted for “In assessing, remitting, mitigating, or compromising” to eliminate unnecessary words.