

(f) NOTICE OF DEFECTIVE CONTAINER TO COUNTRY ISSUING SAFETY APPROVAL PLATE.—If the Secretary has reason to believe that a container bearing a safety approval plate issued by another country was defective at the time of approval, the Secretary shall notify that country. (Pub. L. 109-304, §11, Oct. 6, 2006, 120 Stat. 1695.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 80505, 46 App.:1504., Pub. L. 95-208, §5, Dec. 13, 1977, 91 Stat. 1477; Pub. L. 97-249, §1(2), Sept. 8, 1982, 96 Stat. 708.

In subsection (a), before paragraph (1), 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 ‘‘and regulations prescribed under this chapter’’ are added for clarity. In paragraph (1), the words ‘‘new . . . and existing containers which are subject to this chapter’’ are omitted as obsolete. Paragraphs (2) and (3) are substituted for ‘‘test, inspect, and approve designs for new containers and new containers being manufactured’’ to eliminate unnecessary words. In paragraph (4), before subparagraph (A), the words ‘‘is subject to this chapter’’ are omitted as unnecessary. In subparagraph (A), the word ‘‘valid’’ is omitted as unnecessary. In paragraph (5), the words ‘‘or regulations prescribed under this chapter’’ are added for consistency. In paragraph (6), the word ‘‘valid’’ is omitted as unnecessary.

In subsection (b)(3), the words ‘‘appropriation for the operating expenses of the Coast Guard’’ are substituted for ‘‘appropriations bearing the cost thereof’’ for clarity.

In subsection (d)(2), the word ‘‘reasonably’’ is omitted as unnecessary.

In subsection (e), the words ‘‘which first occurs’’ are omitted as unnecessary. In paragraph (1), the words ‘‘the Secretary declares’’ are substituted for ‘‘is declared by the Secretary, or under regulations promulgated by the Secretary’’ to eliminate unnecessary words.

§ 80506. Delegation of authority

(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating may delegate to any person, including a public or private agency or nonprofit organization, authority to grant initial approval for containers and designs and to attach safety approval plates.

(b) REGULATIONS.—Before making a delegation under this section, the Secretary shall prescribe regulations establishing—

- (1) criteria to be followed in selecting a person to whom authority is to be delegated;
(2) a detailed description of the duties and powers to be carried out by the person to whom authority is delegated, including the records the person shall keep; and
(3) the review the Secretary will conduct to decide whether the person is carrying out the delegated duties and powers properly.

(c) INSPECTION OF RECORDS.—A person delegated authority under this section shall make available to the Secretary for inspection, on request, records the person is required to keep.

(d) PENALTIES AND ORDERS.—A person delegated authority under this section may not—

- (1) assess or collect, or attempt to assess or collect, a penalty for violation of the Conven-

tion, this chapter, or an order issued by the Secretary under this chapter; or

- (2) issue or attempt to issue a detention or other order.

(e) PUBLICATION.—The Secretary shall publish in the Federal Register or other appropriate publication—

- (1) the name and address of each person to whom authority is delegated;
(2) the duties and powers delegated; and
(3) the period of the delegation.

(f) REVOCATION.—The Secretary may revoke a delegation of authority under this section at any time.

(Pub. L. 109-304, §11, Oct. 6, 2006, 120 Stat. 1696.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 80506, 46 App.:1503(c)(2), (d), Pub. L. 95-208, §4(c)(2), (d), Dec. 13, 1977, 91 Stat. 1477.

Subsections (a) and (f) are substituted for 46 App. U.S.C. 1503(c)(2) and (d) (1st sentence) to improve the organization of the section.

In subsection (b)(1), the words ‘‘person to whom authority is to be delegated’’ are substituted for ‘‘person, public or private agency, or nonprofit organization as a recipient of delegated functions under such subsection’’ to eliminate unnecessary words.

Subsection (b)(2) is substituted for ‘‘the manner in which such recipient shall carry out such delegated functions, including the records such recipient must keep, and a detailed description of the exact functions such recipient may exercise’’ to eliminate unnecessary words.

Subsections (c)–(e) are substituted for 46 App. U.S.C. 1503(d) (last par.) to improve the organization of the section and to eliminate unnecessary words.

§ 80507. Employee protection

(a) PROHIBITION.—A person may not discharge or discriminate against an employee because the employee has reported the existence of an unsafe container or a violation of this chapter or a regulation prescribed under this chapter.

(b) COMPLAINTS.—An employee alleging to have been discharged or discriminated against in violation of subsection (a) may file a complaint with the Secretary of Labor. The complaint must be filed within 60 days after the violation.

(c) ENFORCEMENT.—The Secretary of Labor may investigate the complaint. If the Secretary of Labor finds there has been a violation, the Secretary of Labor may bring a civil action in an appropriate district court of the United States. The court has jurisdiction to restrain violations of subsection (a) and order appropriate relief, including reinstatement of the employee to the employee’s former position with back pay.

(d) NOTICE TO COMPLAINANT.—Within 30 days after receiving a complaint under this section, the Secretary of Labor shall notify the complainant of the intended action on the complaint.

(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>
80507 .....	46 App.:1506.	Pub. L. 95-208, §7, Dec. 13, 1977, 91 Stat. 1479.

In subsection (a), the words “in any manner” and “to the Secretary or his agents” are omitted as unnecessary. The words “or a regulation prescribed under this chapter” are added for consistency.

**§ 80508. Amendments to Convention**

(a) PROPOSALS BY UNITED STATES.—The Secretary of State, with the concurrence of the Secretary of the department in which the Coast Guard is operating, may propose amendments to the Convention or request a conference for amending the Convention as provided in article IX of the Convention.

(b) PROPOSALS BY OTHER COUNTRIES.—An amendment communicated to the United States under article IX(2) of the Convention may be accepted for the United States by the President, with the advice and consent of the Senate. The President may declare that the United States does not accept an amendment.

(c) AMENDMENTS TO ANNEXES.—

(1) IN GENERAL.—The Secretary of State, with the concurrence of the Secretary of the department in which the Coast Guard is operating—

(A) may propose amendments to the annexes to the Convention;

(B) may propose a conference for amending annexes to the Convention; and

(C) shall consider and act on amendments to the annexes to the Convention adopted by the Maritime Safety Committee of the International Maritime Organization and communicated to the United States under article X(2) of the Convention.

(2) ACTION FOLLOWING APPROVAL OR OBJECTION.—If a proposed amendment to an annex is approved by the United States, the amendment shall enter into force as provided in article X of the Convention. If a proposed amendment 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.