

Validity the Seven Tests (2021-2024)

There are seven validity tests on the World Sailing Hearing Checklist, which are listed below with the WS Cases and USA Appeals that relate to each.

World Sailing Judges Manual - K8.1 General Principles

The protest committee must address the validity of a protest before the hearing can proceed according to rule 61.1. It is not sufficient to simply obtain the protestor's opinion that the protest is valid. This may require that the chairman investigates deeper if the response to the question "When did you hail protest?" is "Immediately."

When the protested boat admits that she knew she was being protested and did not take a penalty, the protest committee may review each of the validity requirements less strictly.

When the protest is valid the hearing must proceed unless a party accepts a penalty in the incident, such as retiring prior to the hearing. When the protest or request does not meet the requirements for validity, the committee shall declare it invalid and close the hearing. However, if the protest is invalid but the incident resulted in serious damage or injury, the protest committee may protest any boat or boats involved (rule 60.3(a)(1)).

When the protest appears to be invalid, give the protesting boat the opportunity to give evidence on the failed validity requirements. If there is conflicting evidence on the question of validity, ask the parties and any observers to leave the room while the protest committee decides on whether or not the protest is valid. Then recall the parties and announce the decision.

Once the validity of the protest or request has been determined, do not let the subject be introduced again unless truly new evidence is available.

The Seven Validity Tests

1. **Are the contents adequate?** (rule 61.2, 62.2)
 - a. **WS Case 22** – *It is not relevant to the validity of a protest that a rule the protestor believes was broken is not one of the rules that the protest committee later determines to have been broken.*
 - b. **WS Case 80** – *A hearing of a protest or a request for redress must be limited to the alleged incident, action or omission. Although a boat may be scored DNF if she does not finish according to that term's definition, she may not be scored DNF for failing to sail the course correctly.*
 - c. **USA Appeal 46** – *The failure of a boat to take a Two-Turns Penalty does not break a rule. A boat may not be disqualified for an incident not described in a valid protest.*
 - d. **USA Appeal 65** – *The test of whether two occurrences were one or two incidents is whether the second occurrence was the inevitable result of the first. A boat intending to protest another boat for two incidents during a race, no matter how close in time, must inform the protested boat that two protests will be lodged.*
2. **Delivered in time? If not, is there good reason to extend?** (rule M3.1, 61.3, 62.2)
 - a. **WS Case 102** – *When a boat requests redress because of an incident she claims affected her score in a race, and thus in a series, the time limit for making the*

request is the time limit for the race, rather than a time limit based on the posting of the series results.

- b. **WS Case 128** – *If a boat makes an error under rule 28.2 or breaks rule 31 at the finishing line and finishes without correcting her error or taking a penalty, she must be scored points for the place in which she finished. She can only be penalized for breaking rule 28.2 or rule 31 if she is protested and the protest committee decides that she broke the rule.*
 - c. **USA Appeal 41** – *Competitors are entitled to reasonable means to fulfill whatever time requirements there are for delivering a protest. The protest committee must extend the time if there is good reason to do so.*
 - d. **USA Appeal 90** – *"Incident" in rule 62.2 refers to an occurrence that fits within one of the four categories listed in rule 62.1. When a boat is scored OCS and requests redress, the incident is the alleged race committee error made soon after the start of the race. When there is good reason to do so, the protest committee is required to extend the time limit for delivering a request for redress.*
 - e. **USA Appeal 94** – *At a radio sailing regatta, the race director may be both the chairman of the race committee and the protest committee, and may be a committee of one. Properly submitted protests and requests for redress must be heard by the protest committee. Redress can be given for more than one race. The protest committee must provide its decision in writing if properly requested by a party.*
3. **When required, was the protestor involved in or witness to the incident? (rule 61.1(a))**
a. **USA Appeal 116** – *A boat may protest boats that are sailing in a different race.*
4. **When necessary, was 'Protest' hailed? (rule 61.1(a))**
There is currently no World Sailing Case to interpret the word 'reasonable' in rule 61.1(a), '... she shall hail "Protest" and conspicuously display a red flag at the first reasonable opportunity for each.'
- Judges must use their own common sense to interpret the requirement, but it does not take long to make a hail.
- a. **USA Appeal 61** – *"First reasonable opportunity" means as soon as practicable, not as soon as convenient.*
 - b. **USA Appeal 65** – *The test of whether two occurrences were one or two incidents is whether the second occurrence was the inevitable result of the first. A boat intending to protest another boat for two incidents during a race, no matter how close in time, must inform the protested boat that two protests will be lodged.*
 - c. **USA Appeal 122** – *The "first reasonable opportunity" to hail "Protest" is the first reasonable time after an incident when a boat is able to hail "Protest," which is usually immediately.*
5. **When necessary, was a red flag displayed correctly? (rule 61.1(a))**

A red flag must be conspicuously displayed at the first reasonable opportunity after the incident and the flag must be displayed until the boat is no longer racing. A protest flag must be seen primarily to be a flag (World Sailing Case 72). No protest flag is required

from boats less than six meters unless specifically stated in the Sailing Instructions or in the Class rules as allowed by rule 87.

- a. **WS Case 39** – *A race committee is not required to protest a boat. The primary responsibility for enforcing the rules lies with the competitors.*
 - b. **WS Case 72** – *Discussion of the word “flag”.*
 - c. **WS Case 85** – *If a racing rule is not one of the rules listed in rule 86.1(c), class rules are not permitted to change it. If a class rule attempts to change such a rule, that class rule is not valid and does not apply.*
 - d. **WS Case 104** – *Attempting to distinguish between facts and conclusions in a protest committee's findings is sometimes unsatisfactory because findings may be based partially on fact and partially on a conclusion. A national authority can change a protest committee's decision and any other findings that involve reasoning or judgment, but not its findings of fact. A national authority may derive additional facts by logical deduction. Neither written facts nor diagrammed facts take precedence over the other. Protest committees must resolve conflicts between facts when so required by a national authority.*
 - e. **USA Appeal 66** – *A 2 inch by 8 inch protest flag on a 40-foot boat is not of sufficient size or of suitable proportions to be “conspicuously displayed.”*
 - f. **USA Appeal 67** – *Failure to display a protest flag during a period of time when some member of the crew is not otherwise occupied is a failure to display it “at the first reasonable opportunity.” If a protest flag is not displayed at the first reasonable opportunity, the protest is invalid and the hearing must be closed.*
 - g. **USA Appeal 82** – *A boat is not obligated to give priority to displaying a protest flag at the cost of the crew failing to act to keep the boat under control or delaying a spinnaker set.*
 - h. **USA Appeal 124** – *A protest flag flown 10–15 seconds after an incident when a member of the crew is able to retrieve and display the flag in that time and acts to do so is consistent with displaying the flag at the “first reasonable opportunity.”*
6. **When the flag or hail was not necessary, was the protestee informed? (61.1)**
- a. **WS Case 19** – *Interpretation of the term “damage”.*
 - b. **WS Case 112** – *A boat that makes, and does not correct, an error in sailing the course does not break rule 28 until she finishes. If a boat makes such an error, a second boat may notify the first that she intends to protest before the first boat finishes, or at the first reasonable opportunity after the first boat finishes.*
 - c. **WS Case 141** – *Interpretation of the term ‘serious’ in the phrase ‘serious damage’.*
 - d. **USA Appeal 65** – *The test of whether two occurrences were one or two incidents is whether the second occurrence was the inevitable result of the first. A boat intending to protest another boat for two incidents during a race, no matter how close in time, must inform the protested boat that two protests will be lodged.*
 - e. **USA Appeal 84** – *An appeals committee cannot require a protest committee to protest a boat. A protest committee can decide that a boat not a party to the hearing broke a rule, although it cannot penalize her. A protest committee*

complying with rule R5.4 by reopening a hearing to provide additional facts is not entitled to change the decision it made in the original hearing.

7. Did the Board inform the race committee of her intention to protest as soon as practicable after she finished or retired? (B5)

Rule B5.60 changes Rule 60.1(a) by deleting 'or saw'.

60.1 A boat may

(a) protest another boat, but not for an alleged breach of a rule of Part 2 or rule 31 unless she was involved in ~~or saw~~ the incident; or

(b) request redress.'

Rule B5.61 changes the first three sentences of rule 61.1(a) to:

61.1(a) A ~~boat~~ board intending to protest shall inform the other ~~boat~~ board at the first reasonable opportunity. When her protest will concern an incident in the racing area that she was involved in or saw, she shall hail 'Protest'. ~~and conspicuously display a red flag at the first reasonable opportunity for each. She shall display the flag until she is no longer racing.~~ She shall also inform the race committee of her intention to protest as soon as practicable after she finishes or retires.

a. No Cases or Appeals.

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