



GOOD FAITH CHALLENGE
GENERAL CODE OF OPERATING RULES
RULE 1.4.1

GOOD FAITH CHALLENGE

The good faith challenge procedures have been implemented as part of the new FRA regulations regarding the handling of equipment, switches, and fixed derails.

The good faith challenge procedures are about establishing dialogue and resolving issues between employees.

EXPLANATION

Federal Regulations have provisions that allow an employee the right to challenge a directive which, based upon the employee's good faith determination, would violate a railroad operating rule relating to:

- Shoving movements.
- Leaving equipment foul of an adjacent track.

Or

- The handling of hand operated switches or fixed derails.

EMPLOYEE RESPONSIBILITIES

The employee shall inform the railroad whenever they make a good faith determination that they have been directed to take actions that would violate the railroad rules referenced in the above paragraph.

RAILROAD RESPONSIBILITIES

Affected employees will be instructed on the procedures required when a good faith challenge is issued. Employees will be provided a copy of current written procedures in Rule 1.4.1.

The Railroad will adopt and implement written procedures that guarantee each employee the right to challenge in good faith.

These federal Regulations are not intended to abridge any rights or remedies available to the employee under collective bargaining agreements or Federal Law.

GENERAL PROCEDURES

When an employee makes a good faith challenge the supervisor or manager will not require the employee making the challenge to comply with the directive until the challenge is resolved.

The supervisor or manager may:

- Require the challenging employee to perform other tasks not related to the challenge until the challenge is resolved.
- Direct an employee, other than the challenging employee, to perform the challenged task before the challenge is resolved.

The employee directed to perform this task, must be informed of the challenge, and determine that the challenged task does not violate the rules concerning:

- Shoving movements.
- Leaving equipment foul of an adjacent track.

Or

- The handling of hand operated switches or fixed derails.



RESOLUTION

The challenge may be resolved by:

- The supervisor's acceptance of the employee's request.
- An employee's acceptance of the directive.
- An employee's agreement to a compromise solution acceptable to the person issuing the directive.

In addition, the manager may direct the employee to perform the challenged directive if the manager making the railroad's final decision concludes that the challenged directive would not cause the employee to violate any requirement of the rules pertaining to:

- Shoving movements.
- Leaving equipment foul of an adjacent track.

Or

- The handling of hand operated switches or fixed derails.

The manager may direct the employee to perform the challenged directive.

The reviewing manager(s) decision shall not be subject to further immediate review.

If the challenge is not resolved:

- The manager will inform the employee that federal law may protect the employee from retaliation, if the employee refusal to do the work is a lawful, good faith act.
- The employee making the challenge must be afforded an opportunity to document either electronically or in writing any protest to the railroads final decision before the tour of duty is completed.

If the challenge cannot be resolved because the supervisor issuing the directive has determined that the employee's challenge has not been made in good faith or there is no alternative to the direct order, the Railroad will:

- Provide immediate review by at least one railroad manager, which must not be conducted by the supervisor issuing the challenged directive or that supervisor's subordinate.
- Resolve the challenge using the same options available for resolving the challenge as the initial supervisor.

WRITTEN PROCEDURE

Upon written request, the employee has the right to further review of the written protest by a "Designated Review Manager" within 30 days after the expiration of the month during which the challenge occurred.

The verification decision shall be made in writing to the employee. The employee shall be afforded the opportunity to retain a copy of the protest.

Procedure for Submitting Challenge:

- Log on to BRC Website - www.beltrailway.com
- Select Operating Department
- Select Good Faith Challenge

The challenging employee must fill out all required fields and submit.

CIVIL PENALTIES

Civil penalties may be assessed for both management and agreement employees for willful violations of the operating rules covered under GCOR 1.4.1.

RULE 1.4.1 GOOD FAITH CHALLENGE FLOW CHART

