

Racing Rules of Sailing

New Case

A submission from US Sailing

Purpose or Objective

To provide a case that interprets the phrase “first reasonable opportunity” in rules 44.3(a) and 60.2(a)(1).

Proposal

Add the following new case to *The Case Book for 2025-2028*

Rule 44.3(a), Scoring Penalty Rule 60.2(a)(1), Intention to Protest

An interpretation of the phrase ‘first reasonable opportunity’ in rules 44.3(a) and 60.2(a)(1).

Question 1

How should the phrase ‘first reasonable opportunity’ in rule 60.2(a)(1) be applied?

Answer 1

The intention of the phrase is to require a protesting boat to signal its intention to protest soon after the incident so that the protested boat and others are aware of that intention. The term ‘reasonable’ gives the protest committee some discretion to consider what efforts the crew made to hail, and to display the protest flag when required, in a timely way, and what the circumstances were on board the boat at the time.

The term ‘immediate’ does not occur in rule 60.2(a)(1). Whereas it may be reasonable for a boat to hail ‘Protest’ immediately after an incident, it is just as reasonable for the crew to take a little more time to display a protest flag, for instance when the crew must leave their normal position to display the flag, or when the safety of the boat would be compromised or a boat handling manoeuvre would need to be delayed while the flag was being displayed.

Furthermore, while it is possible to store a flag such that it could be displayed immediately, rule 60.2(a)(1) does not require it. On the other hand, it is also possible to store a flag in such a way that the delay required in retrieving it would not be reasonable. For boats 6 metres or longer, it is prudent for boats to store their protest flags in a place and in such a way that a crewmember can promptly (but not necessarily immediately) access and display the flag after an incident.

Facts for Question 2

Boats S and P, two 25-foot keelboats, were approaching each other on opposite tacks. S bore away to avoid contact with P. S immediately hailed ‘Protest’ and the crew acted promptly to display the protest flag. The flag was displayed approximately ten seconds after the incident.

Question 2

Did S display her protest flag at the first reasonable opportunity in compliance with rule 60.2(a)(1)?

Answer 2

Yes. A protest flag displayed approximately ten seconds after an incident when a member of the crew is safely 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.'

Facts for Question 3

Boats S and P, two 23-foot scows, approached each other on opposite tacks at the windward mark. P tacked within the zone onto starboard tack. S had to sail above close-hauled to avoid P. S hailed 'Protest' immediately after the incident. The next leg was a short offset leg, set at approximately 110 degrees to the windward leg. Wind speed was 15–20 knots. S sailed the offset leg with all crew members hiking to windward to prevent the boat from capsizing. She then bore away around the offset mark, immediately set her spinnaker which required all crew members to be involved, and then promptly displayed her protest flag.

Question 3

Did S display her protest flag at the first reasonable opportunity in compliance with rule 60.2(a)(1)?

Answer 3

Yes. The flag was displayed promptly after the spinnaker was set. 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 boat handling manoeuvre that involved all of the crew.

Facts for Question 4

Boats A and B, two 21-foot boats, were approaching the windward mark with B clear astern of A. Just before rounding, B hit the transom of A. Immediately after the incident A's helmsman hailed 'Protest' and inspected the transom for damage, finding only minor damage. While he did so, for approximately 20 seconds, the two other crew members were unoccupied and could have displayed a protest flag. The spinnaker was then set, and after that the protest flag was displayed.

Question 4

Did A display her protest flag at the first reasonable opportunity in compliance with rule 60.2(a)(1)?

Answer 4

No. During the time before the spinnaker was hoisted, two crew members had a reasonable opportunity to display the protest flag, but did not do so.

Question 5

Are the timing considerations for displaying a protest flag the same for displaying a yellow flag under rule 44.3(a)?

Answer 5

Yes.

Facts for Question 6

Boats A and B were involved in an incident. Boat A hailed 'Protest' immediately after the incident. Boat B, which could have displayed a yellow flag right after the incident, waited to see if A was going to display a protest flag. Twenty seconds after the incident, A displayed a protest flag, at which time B displayed a yellow flag.

Question 6

Did B display her yellow flag at the first reasonable opportunity after the incident in compliance with rule 44.3(a)?

Answer 6

No. The flag must be displayed at the first reasonable opportunity for displaying the flag after the incident, not the first reasonable opportunity after the other boat displays its protest flag.

Facts for Question 7

Boats X and Y were approaching the starting line to start. Five seconds before the starting signal, X and Y had contact. Z, who was two lengths behind X and Y, immediately hailed for someone to do a penalty. When neither boat took a penalty, Z hailed that she would protest both boats if neither took a penalty. Approximately 15 seconds after the incident Z hailed 'Protest X and Y.'

Question 7

Did Z hail the word 'Protest' at the first reasonable opportunity in compliance with rule 60.2(a)(1)?

Answer 7

No. The second sentence of rule 60.2(a)(1) required Z to hail 'Protest' 'at the first reasonable opportunity' which means the first reasonable opportunity after the incident. The requirement is the same whether the protesting boat is involved in, or merely observed, the incident. No additional time is permitted for a protest by a boat that observed, but was not involved in, the incident.

The phrase 'first reasonable opportunity' in rule 60.2(a)(1) means the first time it is practicable for a boat to hail 'Protest.' Because hailing 'Protest' is relatively easy, there are few reasons that will justify a delay. Therefore, the first reasonable time a boat is able to hail 'Protest' is usually immediately after the incident.

Z made three hails. Although she used the word 'protest' in her second hail, the word 'protest' was used in a sentence that did not convey the meaning 'I intend to protest.' Her hail 'Protest' approximately 15 seconds after the incident, with no mitigating circumstances that prevented a hail of 'Protest' from being made much sooner, is later than the 'first reasonable opportunity' to make the hail. Therefore, Z did not comply with the hail requirement in rule 60.2(a)(1) and the protests against X and Y are both invalid.

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Current Position

None. The proposed case is new.

Reasons

In almost every protest, protest committees must apply the phrase "first reasonable opportunity" to decide if the hail 'Protest' and protest flag (if required) were made/displayed at the "first reasonable opportunity" after the incident. Currently there is no case that interprets this common and important phrase. As a result, protest committees are fairly inconsistent in their application of the phrase.

The same phrase is used in the same context in rule 44.3(a), so it is included in this case.
