

Protests

At some point in your racing career, you are going to be involved in an incident where a rule is broken. If you are the boat that breaks the rule, you can (and should) either take a penalty or withdraw. If you believe the other boat broke a rule, you have the option of protesting.

The first thing to do is to hail “protest” and if your boat is 6m in length or more, put up a protest flag.

The requirements are listed in rule 61.1(a).

61.1 Informing the Protestee

- (a) A boat intending to protest shall inform the other boat 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. However,
- (1) if the other boat is beyond hailing distance, the protesting boat need not hail but she shall inform the other boat at the first reasonable opportunity;
 - (2) if the hull length of the protesting boat is less than 6 metres, she need not display a red flag;
 - (3) if the incident was an error by the other boat in sailing the course, she need not hail or display a red flag, but she shall inform the other boat either before or at the first reasonable opportunity after the other boat finishes;
 - (4) if as a result of the incident a member of either crew is in danger, or there is injury or serious damage that is obvious to the boat intending to protest, the requirements of this rule do not apply to her, but she shall attempt to inform the other boat within the time limit of rule 61.3.

It is important that both things are done quickly. The rule states that the requirement is **“at the first reasonable opportunity for each.”**

Various appeal decisions have clarified that the first reasonable opportunity is a short time, not a long one. Unless you are in danger, there are very few reasons for not hailing “protest” quickly.

The flag should be close at hand. If you go down below, rummage through a locker looking for the flag and then take a while to put it up, it is very likely that your protest will be found invalid.

The rule is designed to let the other boat know that you are protesting, in order to give them a chance to either take a penalty or prepare a defence.

There are lots of discussion about the purpose of this rule and questions about why it is applied so strictly, but the safest thing to do is to keep a flag close at hand (furled on the backstay is one good place) and bring it out quickly.

Optimist sailors seem to be able to get flags out very quickly so there is limited sympathy for 5 people on a J/24 who can't.

Remember also that a flag is a flag and only a flag is a flag. A red hat or T-shirt is not a flag.

If there is damage obvious to the boats involved, 61.1(a)(3) makes it clear that the flag requirement is waived, and the notification requirement is relaxed.

So, now you have hailed and flown your flag – what next? Look around for other boats that may have seen the incident. They may be good witnesses later.

Next, you may decide not to protest. There is no requirement to protest an incident (even if there is a collision with damage, though I recommend that all collisions with damage should be protested). There is no requirement to file a protest just because you hailed “protest” and put up the flag. Hail and put up the flag first, then decide later whether you want to follow through.

If you do decide to follow through, keep your flag up until you have finished. Some sailing instructions require you to inform the race committee at the finish. If you were out of hailing distance at the time you first hailed protest, make sure that you inform the other boat.

Once you have gone to shore, go to the PHS notice board and get a protest form from the draws below, and fill it out.

There is a time limit for filing. If it is not specified in the sailing instructions, it is two hours after the last boat in the race finishes.

61.2 Protest Contents

A protest shall be in writing and identify

- (a) the protestor and protestee;
- (b) the incident
- (c) where and when the incident occurred;
- (d) any rule the protestor believes was broken; and
- (e) the name of the protestor's representative.

However, if requirement (b) is met, requirement (a) may be met at any time before the hearing, and requirements (d) and (e) may be met before or during the hearing. Requirement (c) may also be met before or during the hearing, provided the protestee is allowed reasonable time to prepare for the hearing.

The protest must identify the boats involved and the incident.

It should identify the rule that you think was broken and the name of your representative.

The most important part (since it can't be fixed later) is to identify the incident.

I would suggest that this should include the location in the race (pre-start, first windward mark, third leeward leg, etc.) and a basic description of what happened.

A good, clear description may help your case later, but it is more important to get the protest filed than it is to write an elegant description or to create a great diagram.

John Barter
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