

**RULE 61.1—INFORMING THE PROTESTEE**

- (a) **The protesting boat shall inform the other boat at the first reasonable opportunity. When her *protest* will concern an incident in the racing area, 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 at the time of the incident it is obvious to the protesting boat that a member of either crew is in danger, or that injury or serious damage resulted, 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.**
- (b) **If the race committee, technical committee or protest committee intends to protest a boat concerning an incident the committee observed in the racing area, it shall inform her after the race within the time limit of rule 61.3. In other cases the committee shall inform the boat of its intention to protest as soon as reasonably possible. A notice posted on the official notice board within the appropriate time limit satisfies this requirement.**

When you are involved in or see an incident in the racing area and you want to protest, you have to:

- 1) hail the word “Protest” at the first reasonable opportunity (unless the other boat wouldn’t be able to hear your hail in which case you have to tell the other boat at the first reasonable chance you have that you intend to protest them); and
- 2) if you are sailing a boat whose hull is 6 meters (19.68 feet) or longer, conspicuously display a red flag at the first reasonable opportunity.

Notice that rule 61.1(a) says you “shall” do these things. “Shall” means it is mandatory. If you do not correctly do these two things, your *protest* will not be valid and no hearing on the incident should occur. Rule 63.5 (Validity of the Protest or Request for Redress) states clearly, “*At the beginning of the hearing the protest committee shall take any evidence it considers necessary to decide whether all requirements for the **protest** or request for redress have been met. If they have been met, the **protest** or request is valid and the hearing shall be continued. If not, the committee shall declare the **protest** or request invalid and close the hearing.*” (See Appeal 66.)

There are two exceptions to the hail and flag requirements. If at the time of the incident it is obvious to the protesting boat that a member of either crew is in danger or that injury or serious damage resulted from the incident, then she does not need to hail “Protest” or fly a flag (rule 61.1(a)(4)). However, she must still try to inform the boat(s) being protested within the time limit for lodging protests that a *protest* will be lodged. The idea is that when there is an incident where someone is in danger or that clearly results in serious damage or injury, the boats are clearly aware of it and should be aware that one or more boats involved may have broken a *rule*. Often the focus of the situation is on separating the boats, checking the extent of the damage or injury, and getting on with the race if possible, etc. To require competitors to also make mandatory hails and fly flags in order to have the incident go to a protest hearing seemed unnecessary and undesirable. However, to be on the safe side, I would recommend that all boats considering protesting make the required hail and fly the flag if required to ensure that their *protest* will be heard.

The other exception is when you see a boat skip a *mark* or go around a *mark* the wrong way. Rule 61.1(a)(3) says, “*if the incident was an error by the other boat in sailing the course, [a boat intending to protest] 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.*”

## THE HAIL

Note that you must use the actual word “Protest.” Telling another boat to “do your penalty turns!” does not satisfy this rule. The purpose of the requirement is to be

sure that the other boat(s) in and near the incident clearly know you intend to protest. As with other mandatory hails in the *rules*, the hail should be loud and clear, and it should be unambiguous as to which boat is being pro-tested. When there could be confusion, I strongly suggest including in the hail the boat's number or name, or the person's name if you know it. Note that if the protest committee decides that you did not hail as required by rule 61.1(a), it is required to declare the protest invalid and close the hearing (rule 63.5, Valid-ity of the Protest or Request for Redress).

The hail must be made at "the first reasonable opportunity" after you become aware of the incident, whether you are involved in the incident or merely saw it ("third party protest"). Though some may exist, it is very difficult to imagine a situation in which the first reasonable opportunity to say the word "Protest" isn't **immediately** after the incident. Remember that you can always decide not to go through with a *protest*, including for the reason that you just aren't sure who it was that fouled you. But if you don't say the word "Protest" at the time of the incident, you lose the opportunity to protest that incident. Therefore, it is always prudent to simply say "Protest" immediately. (See Appeals 61 and 122.)

Note that rule 61.1(a)(1) anticipates that there may be an instance where the boat you intend to protest is so far away at the time of the incident that there is no way the sailor(s) on that boat could possibly hear a hail. This would depend of course on factors such as the distance between the boats, the amount of wind, and the relationship of the boats to the wind (sound travels farther downwind than upwind). In this case, the rule simply requires you to tell the other boat at the first reasonable chance you have that you intend to protest them. I expect that this exception will typically apply to "third-party" *protests*; i.e., situations where the protestor is not directly involved in the incident but, for instance, sees a boat hit another boat or cut a *mark*.

If you intend to protest based on an incident that either occurred in the racing area without you being aware of it, or did not occur in the racing area, you do not need to say the word "Protest," but you do need to inform the other boat of your intent to protest as soon as is reasonably possible after becoming aware of the incident. The purpose of this rule is to be sure that boats intending to protest make every prompt and reasonable effort to go tell the other boat that a *protest* will be lodged, so that all the boats involved can be prepared and present for the hearing.

*“So is it correct that if I am racing a dinghy I don’t need to fly a protest flag to protest; and if that’s correct, won’t sailors try to get out of protests by saying that they didn’t know they were being protested?”*



It is correct that if you are racing on a boat less than 20 feet long (6 meters or 19.68 feet to be exact), you do not have to fly a protest flag to protest (unless of course the notice of race or sailing instructions change rule 61.1(a)). The length refers to the hull length; i.e., from the bow to the stern, and does not include protrusions such as bowsprits, rudders, etc. This will encompass most dinghies, sailboards, catamarans and even some small keel boats.

My opinion is that with no flag requirement, more *protests* will be heard than fewer. Many *protests* get bogged down, and many get disallowed, on the issue of whether the flag was flown quickly enough or was big enough, leaving the actual *rules* issue unresolved. Not having to endure this frustrating situation should be a welcome relief to competitors and protest committees. Furthermore, often a dinghy was forced to sail a little more slowly or with a little less control while one of its sailors put up the flag, which was both unfair and a reason that often dinghy sailors chose not to protest.

In an incident, the boats are typically near each other such that a quick and audible hail of the word “Protest” should clearly inform the other boat that it is being protested. In college racing, where thousands of races a year have been run successfully for over fifty years with no protest flag requirement, when protestors say they hailed “Protest,” the protest committees take them at their word unless the protestee can satisfy the protest committees otherwise. This puts an end to the nefarious claims that the “protestor did not hail.” But sailors who say they hailed “Protest” when they know full well that they did not, do themselves and the sport a great disservice, and typically that lack of integrity catches up with them.

## **THE FLAG**

Now, in the event you are required to fly a flag to protest, let’s look at the flag requirements (rule 61.1(a), Informing the Protestee). When you are aware of an incident as it occurs in the racing area and want to protest because of it, you must conspicuously display a red flag at the first reasonable opportunity, whether you were involved in the incident or merely saw it (“third party protest”). Again, the purpose of the requirement is to provide a visual signal to

the other boat that you intend to protest her. The Appeals are loud and clear throughout that if you are required to fly a flag and do not, then the protest committee cannot hear your *protest*.

Notice that even if the incident involves a breach of a class rule or sailing instructions, etc., you must display your flag. (See rule 63.5, Validity of the Protest or Request for Redress, Case 39 and Appeal 67.)

On the other hand, if you intend to protest because of an incident that either occurred in the racing area without you being aware of it, or did not occur in the racing area, you do not need to display a flag. Remember that you do need to inform the competitor that you intend to protest at the first reasonable opportunity after becoming aware of the incident.



*“Just how quickly do I need to get my flag up?”*

Rule 61.1(a) requires that it be displayed “at the first reasonable opportunity” after the incident. My best advice is that the “first reasonable opportunity” is normally **immediately**. Remember that the purpose of the rule is to provide a visual signal to the other boat, and to any other boats in the incident or vicinity, that you intend to protest because of **that** incident. Any delay at all only raises the likelihood that the boat being protested won’t be aware of that fact, or that it won’t be clear for which incident your flag is being displayed.

The timeliness of the flag issue is the cause of some acrimony in our sport, generally arising when a boat’s protest is refused because the protest committee decides that her flag was not displayed soon enough after the incident. Often it is suggested that the flag requirement is less important when the other boat is fully aware of the protesting boat’s intent to protest; e.g., after a collision and an immediate hail of “Protest.” I agree that it is frustrating when a *protest* is refused on a validity issue rather than resolving the rules issue contained in the *protest*. But the *rules* are carefully worded to provide safe and fair racing, and that would be undermined if protest and appeals committees were permitted to overlook the requirements in *rules* when they decide that the “intent” of the *rule* was satisfied (see rule 63.5).

With a little attention and preparation, each boat can prepare a flag that can be easily displayed (Velcro is wonderful), and find a reasonable and convenient place to store their flag during a race so that members of the crew know where it is and so it can be displayed very quickly after an incident with a minimum of hassle (when all else fails put it in your windsuit pocket or rolled up around

your backstay). You may never use it, but if you do and you put it up immediately after an incident, you will not have your *protest* refused for that reason. As for examples of when it might be reasonable to delay the display of the flag for a brief time, in my opinion it would be reasonable to delay the display of the flag after a big collision until just after you and your crew finish checking to be sure things were OK; or could stop hiking without risk of capsizing, or when setting the spinnaker, when all hands were no longer involved putting it up. However, if after the collision or during the spinnaker set, at least one crew member is not doing anything, it is reasonable to expect that he or she can display the flag. Delaying because the flag is in the ditty bag, which is up in the bow under the anchor, is not reasonable to me. (See Appeals 67, 82 and 124.)

*“Can I just fly anything red and call it a protest flag?”*



Absolutely not. Case 72 reads, “QUESTION: What is the test of whether an object is a flag within the meaning of rule 61.1(a)? ANSWER: In the context of rule 61.1(a), a flag is used as a signal to communicate the message ‘I intend to protest.’ Only if the object used as a flag communicates that message, with little or no possibility of causing confusion on the part of those on competing boats, will the object qualify as a flag. A flag must be seen primarily to be a flag.” The bottom line is that whatever you display must be RED, and it must be obvious that it’s a flag, and not a telltale, baseball-type cap or piece of clothing.

*“Does the flag have to be flown on the starboard shroud or anywhere else in particular?”*



No. The flag must simply be “conspicuously displayed.” There is no requirement in the rule that the flag need be put anywhere in particular. The test of “conspicuous” is whether the flag is initially highly visible to the protested boat. In many cases the starboard side of the boat may be the worst (least conspicuous) place to display it. Notice also, that the flag can be displayed simply by holding it up and waving it at the other boat, which you can do as you head for the location where you will attach it.

Note that “conspicuous” applies not only to the location of the display but to the actual size of the flag. In Appeal 66, the Appeals Committee decided that a 2-inch by 8-inch flag on a 40-foot boat was not of sufficient size or of suitable proportions to be “conspicuously displayed.”

Also notice that you must keep your flag displayed until you are no longer *racing*; i.e., until you have *finished* and cleared the finishing line and *marks* or retired. If your flag blows off your shroud while you are still *racing*, **you can't protest**. My advice is to devise a good system and carry a spare. If your incident occurs so close to the finishing line that the first reasonable opportunity to display the flag doesn't occur until after you are no longer *racing*, you still need to display your flag because the incident occurred "in the racing area." Though often not required, it is prudent to ensure that the race committee sees that you have displayed your flag.



*"If the race or protest committee is going to protest me, do they have to hail 'Protest' at the time of the incident as well?"*

No. If the incident they observe occurs in the racing area, they need to inform you of their intention to protest you after the race and within the time limit for lodging protests, and they need to deliver their written *protest* to the race office within that time limit as well. If the incident does not occur in the racing area, then they need to inform you as soon as reasonably possible, and deliver their *protest* within two hours of learning of the possible *rules* breach (see rules 61.1(b) and 61.3, Protest Time Limit).