

From The Jury Desk – The CYA Judges Newsletter

Notice 25 – March 2010

Not On Time – But Issued

From the Editor - One of the advantages of being late with a newsletter is one can report something that otherwise would not have happened. There are two items in this newsletter that would not have been reported if the newsletter had been on time. The Judges Seminar that took place in Ontario April 10th and the e-mail received regarding US Sailings new prescriptions.

ISAF Rule Changes for 2010

In December's newsletter you were told of the changes to the RRS effective January 1, 2010 – what they were and why they were made. If you haven't gone to the ISAF's or CYA's website to copy the latest rule changes a PDF version is attached to the e-mail. The 'original Cut & Paste' method can be used to update your rule book.

CYA Appeals

The CYA Appeals have been updated to include the latest changes in the rules that became effective January 1, 2010. Look to the CYA's website for the updated version.

The Judges Program – Revised - Effective January 1, 2010

The Judges Program requires a Regional Judge or National Judge to do at least two events in a four-year cycle outside their home region. The regions were defined by the 2009 CYA Long Term Athlete Development strategy as: West (BC, AB, SK, MB), Central (ON, QC), and East (NB, NS, PE, NL).

Also counting as a Regional event regardless of its location would be:

- a) CYA titled events, World or NA's Championships if there is:
 - i) a minimum of 5 races scheduled, and
 - ii) a 5 person protest committee, the majority being IJs or from outside the region
- b) National Championship subject to the additional conditions:
 - i) a dinghy fleet of 50 or more boats, OR
 - ii) a multi-hull or keel boat fleet of 25 or more boats

Judge Seminars

Club Judge Seminar

A Club Judge Seminar was held at Burlington Sailing and Boating Club on April 10th. Twelve people were in attendance including four from the Race Management Program. This was the first 'real life' use of the seminar and tests material under the 2010 Judges Program. A number of comments were received during the seminar and during the marking of the test. The comments are appreciated and will be discussed during the debriefing session. The goal is to ensure the seminar and test, in addition to covering the designated material, remains relevant to the situations encountered by a Club Judge.

National Judge Seminar

The 2010 Judges Program requires that a Regional Judge or a National Judge attend a sanctioned Judge Seminar within their four year certification cycle. The seminar will target those who are seeking certification or recertification as a Regional or National Judge within the next three years.

CORK has offered to host a National Judge Seminar.

The seminar will run Thursday evening and all day Friday.

August 19, 2010 – 1800 to 2100

August 20, 2010 – 0900 to 1700

The cost for the seminar is \$25 payable to CORK. Details will be posted on CORK's website.

Meals and accommodations are extra.

This is a unique opportunity. Anyone who is planning to attend the seminar, and who would like to be part of the jury for CORK International should make their intentions known by e-mailing the CORK Office at sail@cork.org. CORK International runs from August 16 to 19. As part of the jury, CORK will contribute to their travel and accommodation costs for successful candidates.

There may be additional opportunities to volunteer for CORK.

There are three events:

International August 16 – 19 inclusive

CORK OCR August 21 – 25 inclusive

CORK Offshore August 26 to 29 inclusive.

To attend the course or to volunteer for one of the events contact the CORK Office - sail@CORK.org

New Prescriptions for US Sailing

Editor's Note – I received the notice below on April 16, 2010. It is shown below in its entirety. The e-mail is repeated here because there are a number of judges receiving this newsletter who attend events in the USA on a regular basis and were familiar with the events that caused this

change. The US judges who are recipients of the newsletter will have also received the e-mail below from direct sources.

Repeating for Non-USA judges – these prescription effect only the US events detailed in the e-mail.

From US Sailing

Attention: Race Officers, Judges, and Umpires

Please read the press release below that detail the new US SAILING prescriptions that will go into effect on July 1, 2010.

We (US Sailing) anticipate that you may have specific questions regarding the new prescriptions and their application. We would ask that you send these to:

raceadmin@ussailing.org <<mailto:raceadmin@ussailing.org?subject=New%20Prescriptions>>

by April 30, 2010 so we can provide additional answers.

Two initial questions that have come to our attention:

1. **What is a racing sailor?** *A racing sailor is person who has competed in at least one race, in the last year.*

2. **What events will require a protest committee to follow the ‘additional procedures’ referred to in the release?** *Events designated ahead of time by US SAILING, which qualify sailors for US SAILING teams competing at international competitions such as ISAF Championships and Pan Am Games, will be required to follow the additional procedures. The list of events, additional procedures and a point of contact at US SAILING will be available at a later date.*

US SAILING Announces New Protest and Redress

Hearing Prescriptions and Procedures

US SAILING President Gary Jobson and US Sailing Team AlphaGraphics member Farrah Hall today announced that the United States Olympic Committee (USOC) has agreed to Hall’s request to dismiss her February 2008 complaint that The Racing Rules of Sailing do not comply with the Ted Stevens Act, a federal law, and USOC’s Bylaws. Hall’s request followed US SAILING’s adoption of three prescriptions regarding the conduct of protest and redress hearings.

The prescriptions will become official for certain events on July 1, 2010 (see below).

When the prescriptions apply at an event, these new protest and redress hearing practices will be in effect. The new protest and redress hearing procedures are:

Notification of redress hearings: Protest committees must make a reasonable attempt to notify all boats in a race when redress is to be considered for another boat. This notice, which will likely be posted on the official notice boards commonly used at events, must allow reasonable time for the other boats to make written requests to participate in the redress hearing.

Participation in redress hearings: Boats that request to participate in a redress hearing must be allowed to do so, and may present evidence, call witnesses, and fully participate. The request must be made in writing before the redress hearing begins.

Evidence from Protest Committee members: A protest committee member who brings an incident to the attention of the protest committee, or gives evidence at a protest or redress hearing, will not serve on the protest committee for that hearing if that is practical.

Redress based on protest committee decisions: If a boat requests redress based on a protest committee decision, the request must be heard by a different protest committee if that is practical.

In addition to these prescriptions, US SAILING will encourage all event organizers to appoint protest committees that are comprised of at least 20% racing sailors. Finally, US SAILING will follow additional procedures at events conducted in the United States that are designated by US SAILING as a direct qualifier for funding or one of its international teams. Sailors competing in these qualifiers will be advised of the additional procedures.

“These new prescriptions establish practices that are good for the sport, racing sailors, event organizers and race officials,” said Jobson. “Many event organizers, from local to the highest level, have been following these practices for years. For those events that may not presently follow these practices, US SAILING is confident that they will be able to do so comfortably.”

Jobson stressed the importance of racing sailors participating on protest committees. “US SAILING hopes that this common practice will become universal. Racing sailors add a valuable perspective to protest committees, and should be encouraged to volunteer in support of this great sport. The basic principle underlying the racing rules states that competitors are expected to follow and enforce those rules. Serving on a protest committee is one important way in which racing sailors can uphold that principle.”

“Farrah Hall has been resolute in her quest to resolve an issue in the racing rules,” said Jobson. “Although she lost the opportunity to compete in the 2008 Olympics, her efforts have culminated in a positive outcome for all sailors.”

The changes result from a redress hearing decision in October 2007 at the U.S. Olympic Trials for sailing in the RS:X Windsurfing class, which took place at the Alamitos Bay Yacht Club in Long Beach, Calif. After the 16th and final race, Hall led the regatta. She was dropped to second place after the redress decision about a collision, neither of which she was involved. As a result of the decision, Hall was not named to the 2008 U.S. Olympic Team.

“The new prescriptions and the procedures that will apply at US SAILING’s qualifying events resulted from a lot of hard work to find common ground. I’m pleased with the result,” said Hall.

Hall (Annapolis, Md.) is a member of the US Sailing Team AlphaGraphics and the highest ranked American women’s windsurfer on the ISAF World Sailing Rankings. She has her sights set on representing the United States at the 2012 Olympic Games in London.

ACTUAL TEXT OF PRESCRIPTIONS, EFFECTIVE JULY 1, 2010:

Prescription to rule 60:

US SAILING prescribes that when redress has been requested or is to be considered, any boat may participate in the hearing provided she makes a written request before the hearing begins. When she does so, the protest committee shall act under rule 60.3(b) to consider redress for her at that hearing.

Prescription to rule 63.2:

US SAILING prescribes that when redress has been requested or is to be considered, the protest committee shall make a reasonable attempt to notify all boats of the time and place of the hearing and the nature of the request or the grounds for considering redress. Before holding the hearing, the committee shall allow reasonable time for boats to make written requests to participate.

Prescription to rule 63.4:

US SAILING prescribes that when practicable:

- (a) *no person who brings an incident to the attention of the protest committee or who will give evidence at the hearing shall be a member of the protest committee; and*
- (b) *if a boat files a request for redress based on a protest committee decision, her request for redress shall be heard by a new committee that contains no members of the original committee.*

Protest Forms, Protest Decisions and Diagrams

If it was not for an ISAF Case and two appeals that were dealt with this year by the CYA Appeals Committee, this topic may never have been discussed – protest decisions and diagrams.

ISAF Case 104 speaks directly to protest committees and appeal committees. The précis states: *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.*

The CYA Appeals Committee dealt with two cases recently, which on the surface, appear to be somewhat the same, but a closer look showed a difference.

In case one, a diagram was not produced at the time of the hearing and one was requested by a regional appeal committee. The protest committee felt obligated to create one but in order to do so had to establish some “new” facts and did so without the protest or protestee being present. This diagram was then used by the regional appeal committee to calculate a time that directly contradicted one written by the protest committee.

In the second case, the written facts found by the protest committee disagreed with the diagram also drawn by the protest committee and the regional appeals committee asked for the difference to be clarified.

The full appeals can be found on the CYA website – CYA Appeals 104 and 106.

This is not the first time that written facts and diagrams have been at odds. ISAF Case 104 is clear neither the facts found nor the diagram takes precedent. They should match. The catch is they so often don't, one wonders at the value of creating a diagram in the first place.

Nowhere in the rules is it written that the protest committee must create a diagram. The nearest statement is in RRS 65.2 "... when relevant, a diagram of the incident prepared or endorsed by the committee." The next question is, "What does when relevant mean?" Does it mean when there are boats involved, or more simply, when the written facts alone cannot sufficiently explain the incident?

The answer is not perfectly clear. In a quest for some guidance a series of questions were asked of a group of judges. This is a summary of the answers received.

- Question - When is a diagram relevant?

This is the central question – RRS 65.1 requires that the PC inform the parties to the hearing of the facts found, the applicable rules, the decision and the reasons for it, and the penalty or redress given. A diagram is only mentioned in RRS 65.2 with two conditions necessary – a) a party must ask for a copy of the decision and b) the diagram must be considered relevant to the hearing. The rule does not state what makes a diagram relevant.

- Question - Can the written facts be made clear enough that a diagram need not be drawn?

It was pointed out although the protest form invites the protest committee to endorse a diagram or draw its own, it is not mandatory. It is clear that facts can be written, a conclusion reached and a decision made without the necessity of a diagram. It is just as clear that some hearings would probably benefit greatly from a diagram. However, for the most hearings a drawing is neither made nor endorsed by the protest committee before the close of the hearing.

- Question - If a protest is found invalid and the hearing is closed, can a diagram be drawn?

One response was "I suppose it could but it would not be relevant".

The little boxes on the 'back' of the protest form leading to the test of validity are split into two groups.

Example

Remarks

No objection about interested party	No
Written protest or request identifies incident	Yes
'Protest' hailed at first reasonable opportunity	within 1
second	

No hail needed; protestee informed at first reasonable opportunity Applicable	Not
Red flag conspicuously displayed at first reasonable opportunity seconds	within 5

For the first two questions, the 'answers' are facts – “No Objection” and “Identifies Incident”. For the next the next three questions however, the answers are conclusions that require a fact to be written – but only as it pertains to the validity.

The facts of the incident cannot be described without entering the hearing therefore the protest committee would lack exact distances, tracks, timing etc – all those items necessary to draw a diagram.

- Question - What advice should we give to a Club Judge asking these questions?

Obviously – if a diagram is relevant one should be endorsed or drawn. If it is drawn, ensure it is done from the fact found and they are in agreement.

- Question - Is there any reason a diagram could not be marked “For illustration purposes only”?

All respondents advised against this statement.

- Question - Under F2.2 one of the documents to be sent by the appellant is a diagram “prepared or endorsed by” the protest committee – if available. Under F3, the appeals committee can ask for a diagram if not sent by the appellant. If one was not produced or endorsed by the PC and the appeals committee asks for one, how should the PC respond?

If a diagram was not produce or endorsed and an appeals committee asks for one, then proper would be – “We considered a diagram not to be relevant and one was neither endorsed nor drawn at the time of the hearing.” But this of course becomes a circular argument and relates to the first question – “What makes a diagram relevant?”

- Question - If no diagram was contained in the protest and one was not produced during the hearing or presented after the hearing, can the protest committee draw one from the facts found without the parties being present?

It was thought that a diagram could be drawn after the fact without reopening the hearing, **if and only if**, it is done based on the facts found and does not introduce anything new.

We are still no closer to a definitive answer to the question “What makes a diagram relevant?” Perhaps looking at the ISAF Cases or the CYA Appeals would provide one by example.

ISAF Cases

ISAF Cases are split about 50/50 between boat-on-boat cases and those that might be called administrative; dealing with SI's NORs, measurements, questions, etc. In general, boat-on-boat cases have diagrams and administrative cases do not, although there are a few examples where the general statement for either does not hold.

To the question – “Are they illustrations or drawn to scale? or Can the diagrams be used to establish facts?”

Most diagrams lack a scale reference other than the length of the boat in the drawing. Where an actual scale could be measured, the drawing is not to scale. When the zone is involved, the 3 boat length is accurate – more or less – depending on where on the mark the starting point is and that point is not the same for each drawing.

The average number of positions for the boats is between 2 and 3. Seven diagrams are drawn with a single position – three are shown with 5 or 6 positions – the balance is in the middle.

When a boat tacks, less than 20% of the drawings show a head-to-wind position - the others contain a before and after position sometimes connected with a right-angled line showing the track of the boat.

A possible conclusion – the drawings are illustrations – not to scale and any measurement or calculation based on them to draw a conclusion would have to be treated with caution.

CYA Appeals

CYA's published appeals are 60% administrative and 40% boat-on-boat. About 15% of our boat-on-boat appeals do not have drawings.

Most diagrams lack a scale reference other than the length of the boat in the drawing. About 30% of our drawings have a reference such that a scale could be calculated but when calculated the drawing is not-to-scale. When the zone is involved, the 3 boat length is accurate – more or less – depending on where on the mark the starting point is and that is not the same for each drawing.

The average number of positions for the boats is 3.

When tacking, our drawing show before and after and when connected are with a right-angled line showing the track of the boat.

A possible conclusion – the drawings are illustrations – not to scale and any measurement or calculation based on them to draw a conclusion would have to be treated with caution.

USSA Appeals

A look at the first 15 or so of the USSA Appeals suggested that they would follow similar pattern as ISAF or CYA with regard to the drawings so an analysis was not done.

In defense of ISAF, CYA and USSA, it was suggested by one of the respondents that the diagrams contained in the appeals and cases were never meant to serve the same purpose as one attached to a protest hearing but were there to facilitate a better understanding of the rules involved. That may be a valid comment but we are still no closer to the answer to the original question – “When or what make a diagram relevant?”

The best suggestions that can be offered are this:

- A diagram is relevant if it serves to better illustrate the incident and provide a better understanding of the particulars involved rather than relying on the words of the facts found alone.
- Just as a diagram is not a necessary part of the protest, a diagram is not a necessary part of the decision. The protest committee need not endorse or draw a diagram if it is not relevant.
- The best guidance to endorsing a diagram on the protest form is to remember it is often drawn under duress, by someone less skilled than an artist and without a drawing program. Treat the diagram as a schematic of the event – not to scale and definitely not perfect.
- As to a diagram drawn by the protest committee, follow a very common procedure used by experienced juries in the hearing room - walk through the written ‘facts found’ with the models positioning the models with each fact read. Draw the diagram from the facts found, positioning the boats accordingly.

If anyone has studied this question, we would be please to hear your findings.

Log Book Entry

Men of genius are admired; men of wealth are envied; men of power are feared; but only men of character are trusted.

- Author Unknown

Certification Renewals

All CYA Judge Certifications expire on Dec 31 of the four year cycle. The data base of judges held by the office is set to automatically drop anyone whose certification has expired. **Have you checked yours lately?**

Race Officials

Have you checked you Member Profile? Are you listed? In order for you to be listed as an available judge on the CYA website, you must respond YES to “**List CYA Certifications (in member's area)**” within your member profile.

Please take a moment to update your Member Profile on our website at www.sailing.ca.

If you require assistance or are not sure of your username and password, please contact admin@sailing.ca.

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From the Jury Desk is posted on the CYA Website. Previous issues can be found at http://www.sailing.ca/education_and_training/race_officials

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You have received this message because you are recognized as a certified judge by the CYA, your MNA, or ISAF.

You may have noticed on the copy you received a notation buried in the subject line, Group X Copy, Foreign Copy, PSA Copy or Coaches Copy. You did not receive a different version. This is just an identification used to send the group e-mails in smaller lots to avoid being classed as spam because of the number of recipients.

From the Jury Desk is also distributed to Provincial Sailing Associations that may want to distribute it to their provincial team members or to their provincial team coach. Coaches, by request, may receive the newsletter directly.

If you have received this message from a colleague or other organization, your e-mail information contained in our database is not current. To receive it directly please reply and provide your address details.

If you have received this message in error or if you prefer not to continue receiving e-mails containing information for the judging community, please reply to this message and request your address be removed from the group list.

Keeping your e-mail address current will allow us to continue to provide updates. Please notify us of any change.

This newsletter may be copied, in whole or in part, or re-distributed providing the source is acknowledged.

If you have a question regarding the Judges Program, RRS, or have information you think should be shared, reply to this e-mail.

CYA Judges Committee

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