

Racing Rules of Sailing

Rule 62.2, 63.2 and the definition Party

A submission from US Sailing

Proposals 1 and 2 are independent of one another.

Purpose or Objective for Proposal 1

To improve the fairness of hearings on redress, and to reformat rule 63.2 into three logical sub-parts, (a), (b) and (c).

Proposal 1

Change rule 63.2 as follows:

63.2 Time and Place of the Hearing; Time for Parties to Prepare

- (a)** All *parties* to the hearing shall be notified of the time and place of the hearing, the *protest* or redress information or the allegations shall be made available to them, and they shall be allowed reasonable time to prepare for the hearing. ~~When two or more hearings arise from the same incident, or from very closely connected incidents, they may be heard together in one hearing. However, a hearing conducted under rule 69 shall not be combined with any other type of hearing.~~
- (b)** When the hearing is a redress hearing, the protest committee shall make a reasonable attempt to notify all boats of the time and place of the hearing and the reason for the request or for considering redress, and boats shall be allowed reasonable time to prepare for the hearing. Any boat may come to the hearing, and any boat that does so becomes a *party* to the hearing.
- (c)** When two or more hearings arise from the same incident, or from very closely connected incidents, they may be heard together in one hearing. However, a hearing conducted under rule 69 shall not be combined with any other type of hearing.

Change the definition Party as follows:

Party A *party* to a hearing is

- (a) *[no change]*
- (b) for a redress hearing: a boat requesting redress or for which redress is requested; a boat for which a hearing is called to consider redress under rule 60.3(b); any boat that comes to the hearing under rule 63.2(b); a race committee acting under rule 60.2(b); a technical committee acting under rule 60.4(b);

[no further changes]

Consequential Changes

In rule 63.9 and in rule 69.2(e), change '63.2' to '63.2(a), 63.2(c)'.

Current Position

As above.

Reasons for Proposal 1

Rule 63.2(b): Proposed rule 63.2(b) is the substance of a US prescription that has been in existence since 2010. After the prescription was first introduced, many organizers deleted it in their notice of race on the grounds that the requirement to notify all other boats of the grounds for the redress request was too onerous. However, with the advent of electronic communications, notification of competitors has become quite easy, and this prescription has gained wide acceptance in the US.

While it is theoretically possible that proposed rule 63.2(b) might lead to a hearing with a multitude of parties presenting an unmanageable number of arguments, in practice this does not occur. In more than a decade, we have not heard of a single instance of such a hearing except when finishing places were in question, when it was valuable to have all the boats represented in the hearing.

The nature of protest hearings is adversarial: The protest committee depends on the parties to present arguments and evidence in favour or against the protest. Redress hearings are conducted in the same manner, but frequently with only one party present. As a result, the protest committee only hears one side of the story and generally only sees evidence in favour of redress. Proposed rule 63.2(b) provides a mechanism for boats who are opposed to granting redress to present their case. It may be that they know of factors that the protest committee does not know and that the requester does not present, or they may simply have good arguments why redress should not be given. In either case, they should be allowed to present their case. It is not at all clear that they are entitled to do so under the current rule, and without proper notification they cannot present arguments against redress even if the current rule is interpreted as allowing them to do so.

It is true that under the current rules, boats opposed to the granting of redress could request redress for that decision after it is granted, on the grounds that granting redress was an improper action of the protest committee, but that can lead to a cascade of such requests, which is undesirable. Also, rule 62.1 raises considerable bars to such requests: the requester must demonstrate that her own score was made significantly worse by the granting of redress and that the protest committee decision was improper, not merely wrong. This means that the protest committee may never hear good arguments against redress that a boat might have presented had she been at the original hearing.

Definition Party: This change enables proposed new rule 63.2(b).

Reformatting rule 63.2 to include a separate rule 63.2(c): The last two sentences in current rule 63.2, about combining hearings, raise an entirely separate issue from the rest of rule 63.2, and deserve to be a separate sub-rule. (Note that the two sentences deleted from rule 63.2(a) are identical to the two sentences in new rule 63.2(c).)

Purpose or Objective for Proposal 2

For clarity and ease of reading.

Proposal 2

Change rule 62 as follows:

62 REDRESS

62.1 *[no change]*

62.2 A request **for redress** shall be in writing and identify the reason for making it. If the request is.....*[no further change]*.

Current Position

As above.

Reason for Proposal 2

For clarity. Where possible, one part of a rule should be easily readable by itself without need to refer to an earlier part of the rule.
