

Rule Brief 5

Keep Clear Definition:

One boat keeps clear of another if the other can sail her course with no need to take avoiding action and, when the boats are overlapped on the same tack, if the leeward boat can change course in both directions without immediately making contact with the windward boat.

Keep Clear definition is another rule that deals with boats that are in the same proximity, one has the ROW and the other must Keep-Clear of the ROW boat. Remember, all of Part 2, Section A rules, are talking to the Keep Clear boat.

Rule 10, Boats on opposite tack, port tack boat must KEEP-CLEAR of a starboard boat boat.

Rule 11, Boats on the same tack and overlapped, windward tack boat must KEEP-CLEAR of a leeward tack boat.

Rule 12, Boats clear astern must KEEP-CLEAR of a boat clear ahead.

Rule 13, Boats tacking must KEEP-CLEAR of boats on a tack.

The question that is often asked is "how much room must the KEEP-CLEAR boat give the ROW boat?" In general, the ROW boat should be able to sail the course of her choice and the KEEP-CLEAR boat must not interfere with her. If the ROW boat, sailing her straight ahead course, must alter her course to avoid contact, the KEEP-CLEAR boat has broken one of the Section A rules! If the boats are on the same tack and the ROW boat cannot alter her course in either direction without immediately contacting the KEEP-CLEAR boat, the KEEP-CLEAR boat was too close and failed to KEEP-CLEAR. The actual distance between the overlapped boats can be difficult to determine and the KEEP-CLEAR definition does not place the onus of proof on either boat. If boats on the same tack and the leeward boat can bear off without her stern immediately contacting the leeward side of the windward boat, or if the leeward boat can luff without immediately contacting the leeward side of the windward boat, the windward boat has complied with the KEEP-CLEAR definition. Case 50 discusses how a protest committee should evaluate a protest, from the leeward boat, that the windward boat was sailing too close. If the boats are on opposite tacks, the KEEP-CLEAR boat must not sail so close as to cause the ROW boat to alter her course to avoid contact. One area of concern is at the weather mark where a port tack boat and a starboard tack boat are approaching the mark. This situation can lead to several problems for both boats. If the port tack boat tacks within the zone, even if she becomes the ROW boat after her tack, is limited by Rule 18.3. She would not be able to force the original starboard tack boat to sail above a close hauled course or prevent her from passing the mark on the correct side. The best way for a port tack boat to approach the weather mark, is to tack onto the starboard lay line prior to entering the zone. Rule 16 addresses the limitations to the ROW boat. This rule addresses the changing of course of the ROW boat. It is only addressing the "change of the compass course" of the ROW boat, not the change of her speed. If the ROW boat speeds up, the KEEP-CLEAR boat must ensure that the ROW boat has sufficient room and is not forced to alter her course to avoid the KEEP-CLEAR boat. In heavy weather, the KEEP-CLEAR boat must allow for a possible broach of the either boat. Broaching is not an excuse for failing to KEEP-CLEAR! Rule 14, that requires both boats to avoid contact, can also exonerate the ROW boat in a unforeseen broaching event, but does not help the KEEP-CLEAR boat, who will be penalized.

18.3 Tacking when Approaching a Mark

If two boats were approaching a mark on opposite tacks and one of them changes tack, and as a result is subject to rule 13 in the zone when the other is fetching the mark, rule 18.2 does not thereafter apply. The boat that changed tack

(a) shall not cause the other boat to sail above close-hauled to avoid her or prevent the other boat from passing the mark on the required side, and

(b) shall give mark-room if the other boat becomes overlapped inside her

16 CHANGING COURSE

16.1 When a right-of-way boat changes course, she shall give the other boat room to keep clear.

16.2 In addition, when after the starting signal a port-tack boat is keeping clear by sailing to pass astern of a starboard-tack boat, the starboard-tack boat shall not change course if as a result the port-tack boat would immediately need to change course to continue keeping clear.

14 AVOIDING CONTACT

A boat shall avoid contact with another boat **if reasonably possible**. However, a right-of-way boat or one entitled to room or mark-room

(a) need not act to avoid contact until it is clear that the other boat is not keeping clear or giving room or mark-room, and

(b) shall not be penalized under this rule unless there is contact that causes damage or injury.

CASE 50

Rule 10, On Opposite Tacks

Rule 14, Avoiding Contact

Definitions, Keep Clear

When a protest committee finds that in a port-starboard incident S did not change course and that there was not a genuine and reasonable apprehension of collision on the part of S, it should dismiss her protest. When the committee finds that S did change course and that there was reasonable doubt that P could have crossed ahead of S if S had not changed course, then P should be disqualified.

Summary of the Facts

On a windward leg, P met S and sailed a course to cross ahead of S. S bore away, displayed a protest flag, and hailed P her intent to protest. Both boats were identical 27-foot keel boats, and the wind strength was Force 3. S protested under rule 10, stating that she had to bear away to avoid colliding with P. The protest committee dismissed the protest by S, stating that: 'The need to change course could not be substantiated by the conflicting testimony of the two helmsmen.' S appealed.

Decision

Rule 10 protests involving no contact are very common, and protest committees tend to handle them in very different ways. Some place an onus on the port-tack boat to prove conclusively that she would have cleared the starboard-tack boat, even when the latter's evidence is barely worthy of credence. No such onus appears in rule 10. Other protest committees are reluctant to allow any rule 10 protest in the absence of contact, unless the starboard-tack boat proves conclusively that contact would have occurred had she not changed course. Both approaches are incorrect.

S's diagram, later endorsed by the protest committee, shows that S bore away to avoid contact. P's diagram, which was not endorsed by the protest committee, showed a near miss if S did not bear away. P did not deny or confirm that S bore away but said that, if she did, it was unnecessary.

A starboard-tack boat in such circumstances need not hold her course so as to prove, by hitting the port-tack boat, that a collision was inevitable. Moreover, if she does so she will break rule 14. At a protest hearing, S must establish either that contact would have occurred if she had held her course, or that there was enough doubt that P could safely cross ahead to create a reasonable apprehension of contact on S's part and that it was unlikely that S would have 'no need to take avoiding action' (see the definition Keep Clear).

In her own defence, P must present adequate evidence to establish either that S did not change course or that P would have safely crossed ahead of S and that S had no need to take avoiding action. When, after considering all the evidence, a protest committee finds that S did not change course or that there was not a genuine and reasonable apprehension of collision on her part, it should dismiss her protest. When, however, it is satisfied that S did change course, that there was reasonable doubt that P could have crossed ahead, and that S was justified in taking avoiding action by bearing away, then P should be disqualified.

On the facts, as shown in the diagram and the report of the protest committee, the ability of P to cross ahead of S was doubtful at best. S's appeal is upheld, and P is disqualified.