



### **Q&A 2009-034**

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#### Situation:

The following sailing instructions apply:

##### SI 8.1

The diagram in attachment A shows the courses, including the approximate angles between legs, the order in which marks are going to be passed, and the side on which each mark is going to be left. (Start at leeward between the RC and the pin end mark, windward to be left to port, gate mark as leeward mark and finish at windward between the RC and windward mark).

##### SI 9

Mark 1 (windward) and Mark 2 (pin end mark) will be yellow pyramidal buoys; gate marks (leeward gate) 3p & 3s will be small red pyramidal marks.

#### Incident:

On the first downwind leg with several boats approaching the gate, one of the marks blows up and sinks because of the intense heat. The race committee did not replace the mark or substitute it with an object flying flag M as provided for in rule 34.

#### Question 1

On which side of the only remaining mark should the boats pass? (Rule 28.1 (c))

#### Answer 1

In the absence of any relevant sailing instruction, the remaining buoy is no longer a mark. When the sailing instructions describe a gate, the boats are required to pass between the gate marks in order to comply with rule 28.1(c). When one of two gate marks disappears, the other no longer has a required side. Boats may leave the buoy on either side and may even touch it.

To avoid this problem, race committees are recommended to specify a required side when only one buoy of a gate is present, so that there will still be a mark with a required side. Boats would then round the remaining mark as any other single rounding mark, and they would also not be allowed to touch it.

When there is no such sailing instruction, then it is proper for the race committee to consider abandonment under rule 32.1(d). However, if it does not do so, and if all boats choose to leave the remaining buoy either to port or to starboard (or a mixture thereof) without incident and they then sail the rest of the course, post race redress could be considered at the instigation of the race committee, the protest committee, or by a request by a boat.

If one or more boats decided to sail a shorter course than others, such as not rounding the remaining buoy, or were otherwise disadvantaged by, for example, searching for the missing buoy, that would constitute grounds for abandonment. Otherwise, if the protest committee is satisfied after taking appropriate evidence that all boats have had a fair race, and no boat was prejudiced by the race committee's actions, it would be appropriate to decide that the fairest arrangement as possible was to let the results stand.

The requirement that at least one boat must sail the course in order for a race to be scored, assumes that it is possible for at least one boat to do so. That is not the case here, and a protest committee is entitled to ignore that in these circumstances.

## Question 2

If the answer is any side, is it correct that rule 18 does not apply any more and the rules of Part 2 Section A apply if there are boats leaving the mark to port and to starboard at the same time?

## Answer 2

If boats choose to round the remaining buoy, the rules of Part 2 Section A will apply between them, both when boats leave it on the same side and when it is left on different sides. The rules of Part 2 Section B will equally apply.

It should be noted that the rules of Part 2, Section A and B also apply when the rules of Section C (including rule 18) apply. When rule 18 applies, a boat entitled to mark-room will in some circumstances be exonerated for breaking some of those rules. Since the remaining buoy is no longer a mark, rule 18 (including rule 18.5) does not apply.