

PROPOSALS FOR RULES CHANGES OF EQUINE ANTI DOPING AND CONTROLLED MEDICATION REGULATIONS

Introduction

This year, the FEI Equine Anti-Doping and Controlled Medication Regulations are undergoing a full review in line with the introduction of the new WADA Code on 1 January 2021.

No EADCMR proposals were received from NFs/MOU Stakeholders by the Rules Revision Policy deadline of 1 March 2020. However, prior to drafting the EADCMRs, the FEI Legal Department provided various proposals to stakeholders for feedback via this year's online FEI Sports Forum. All feedback that was received has been published on the online FEI Sports Forum page on the [FEI website](#)¹ and was considered when drafting the proposed rule changes.

A full mark-up showing all proposed changes to the EADCMRs has been provided, together with a clean version. While many of the changes to the EADCMRs are mandatory to ensure that the FEI remains WADA compliant, the FEI had scope in some areas to adapt the rules to reflect the specificities of equestrian sport.

A summary of the key changes are outlined in this memo.

Please note that National Federations will also **be required** to update their **own human and equine anti-doping rules** so that they are in line with the new WADA Code and EADCMRs.

We would appreciate you sending any comments you may have on these proposed rule changes by Monday, 31 August 2020. Please send your comments to rules@fei.org with a copy to me at aine.power@fei.org and Mikael Rentsch, FEI Legal Director, at mikael.rentsch@fei.org.

Thank you.



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Deputy Legal Director

¹ Click on the NF/Stakeholder Feedback icon at the bottom of the page

A. Contamination

The clear feedback from the FEI Sports Forum 2020 was that stakeholders wanted more flexibility in the EADCMRs for cases involving contamination.

This has been addressed in the EADCMRS in the following ways:

1. Atypical Findings (Articles 7.2 of the EAD Rules and the ECM Rules)

Atypical Findings (ATFs) occur when the laboratory provides the results of their testing of a Sample to the FEI and more investigation/review is needed before it can be treated as an Adverse Analytical Finding ("AAF" i.e. a positive case) Currently: only a very limited category of substances – those that are produced endogenously (e.g. testosterone) can be reported as ATFs. New WADA Code expands this concept.

Proposal: to expand the scope of substances that would be reported as ATFs to include those substances that we know are quite likely to be in a Sample because of contamination e.g. Specified Substances.

Samples with this category of substances would initially be treated as Atypical Findings (instead of Adverse Analytical Findings).

In practice this would allow the FEI to carry out a review/investigation before they are reported as a real positive (Adverse Analytical Finding) and before any proceedings are officially commenced.

Proposal to have a policy that would set out the process that would apply when the FEI reviews Atypical Findings (e.g. how substances are identified as Atypical Findings and who must be consulted during the investigation etc.). To the extent that the implementation of the policy would require changes to the FEI Equine Prohibited Substance List, such changes will be included in the 2021 List, to be published on 1 October 2020 (subject to the new EADCMR being approved at the FEI General Assembly).

2. Sanctions for cases involving Contamination (Articles 10.6.1.2 of the EAD Rules and the ECM Rules)

The Sports Forum feedback indicated that stakeholders are strongly in favour of introducing more flexibility in contamination cases but on the understanding that where there is Fault or Negligence on the part of the PR, a sanction must be imposed.

Currently reduction for contamination is only allowed if it came from a "Contaminated Product". The current definition of "Contaminated Product" is very narrow and does not cover environmental contamination (eg in feed).

Proposal: expand scope of this article to increase flexibility in sanctioning (see proposed changes to EAD Rule in red below, similar concept in ECM Rules)

10.6.1.2 Contaminated Products or other Contamination

In cases where the Person Responsible and/or member of the Support Personnel can establish both No Significant Fault or Negligence and that the detected Banned Substance came from a Contaminated Product or that the detected Banned Substance was caused by another form of contamination, then the period of Ineligibility shall be, at a minimum, a reprimand and no period of Ineligibility, and at a maximum, two (2) years Ineligibility, depending on such Person's and/or member of the Support Personnel's degree of Fault.

B. Disqualification

1. Automatic Disqualification of Results (Article 9 EAD Rules and ECM Rules)

In order to be WADA compliant, the FEI must disqualify the results of the relevant competition whenever there is a positive test (regardless of the level of fault), so only very minor clarifications have been made to this concept.

2. Disqualification of Results in the Event during which an ECM Rule Violation Occurs

The application of the disqualification rule has caused a lot of confusion and debate in recent years and the changes proposed to the EADCMRs aim to clarify this:

A positive test in the Olympic or Paralympic Games shall lead to Disqualification of all of the Person Responsible's results obtained in that Event, with any and all Horses with which the Person Responsible competed.

At all other Events where the EADCMR apply, a violation shall lead to Disqualification of all of the Person Responsible's obtained in that Event, unless the Horse(s) tested negative in another Competition(s) prior to the Competition in which the EAD Rules were violated, in which case the result(s) obtained by the Person Responsible in that Competition(s) will not be Disqualified.

3. Impact on Team Results where a team member has a positive test.

The feedback from Sports Forum on changes to impact of a positive test by a team member on the team result was mixed; there was no clear consensus on how to deal with this. Therefore, we propose not to make major changes.

The proposal is:

- At Olympic and Paralympic Games: the FEI Olympic (/Paralympic) Regulations will apply and the entire team will be disqualified (except in exceptional circumstances). In Tokyo, as there will be only 3 members per Team anyway, a "drop score" is not possible
- For all other Events, where the EADCMR apply, to clarify that the results of the Athlete who committed the violation is removed from the team and his/her score(s)/result(s) does not count towards the team score ("drop score") and the score of the next team Athlete will count instead. Therefore, the entire team is not automatically disqualified.

C. Administrative Procedure ("Fast Track") (Article 8.3 ECM Rules)

Currently only available to PRs with no prior violation.

Proposal 1: To make it available to PRs who had a prior violation but had No Fault or Negligence for that violation.

Proposal 2: A Fast Track case currently counts as a previous case so if a PR has a second Controlled Medication case they can actually receive a much higher sanction than if it was their first (up to double i.e. 1 year). Proposal to clarify that a Fast Track case does not count as a previous violation for the purpose of the multiple violations rule.

D. Sanctions

1. Base level of Sanctions

Via the FEI Sports Forum, stakeholders were asked: *"Do you want to increase the standard level for Banned Substance cases from 2 years to 4 years to align with the WADA Code and the FEI Anti-Doping Rules for Human Athletes?"*

Big majority against increasing "base sanctions" (currently 2 years Banned Substances, 6 months Controlled Medications). Therefore, no change has been proposed to the base level sanctions.

2. Harmonised Sanctions

Via the FEI Sports Forum, stakeholders were asked: *"Shall the same standard level (be it 2 years or 4 years) apply across all FEI Disciplines?"*

Big majority in favour of retaining the current system whereby the same sanctions are imposed across all disciplines. There was no support for a special sanctioning system for Endurance. Therefore, the FEI will not make any changes; the same sanctions will apply for all disciplines.

E. Other Changes to align with WADA Code

As mentioned on page 1, many of the changes are mandatory in order to remain FEI compliant. See below a summary of the changes incorporated to reflect changes to the WADA Code:

- New Offence: "Acts by a Person Responsible or Other Person to Discourage or Retaliate Against Reporting to Authorities" (Articles 2.10 EAD and ECM Rules)
- Right for FEI to take possession of Samples and Data (held by laboratories or other Anti-Doping Organisation) (Articles 6.9 EAD and ECM Rules)
- Results Management now split into two phases: (Articles 7.3 – 7.5 EAD and ECM Rules)
 - Notification
 - Charge (after review of PR's response to Notification)
- Case Resolution Agreements: entered into between FEI and PRs to settle cases (Articles 10.8.2 EAD and ECM Rules)
 - Clarification that FEI Tribunal's role is not to "approve" the settlement but just to confirm that it was made in accordance with the rules
- Confirmation of consequences of breaching Provisional Suspension (Articles 10.14.3 of EAD and ECM Rules)
 - No credit for the Provisional Suspension
 - Any results earned when participating when provisionally suspended – disqualified
- New Data Protection Provisions (Articles 14.4 of EAD and ECM Rules)
- New general responsibilities for FEI, NFs, PRs, Support Personnel to be familiar with the rules and inform those persons who should know about them (e.g. duty on PRs to inform their grooms, vets and Support Personnel of obligations) (Articles 19 – 21 EAD Rules and 18 – 20 ECM Rules)